From:	Taylor, Rachael (Appropriations)
To:	"Hall, Tricia"
Subject:	RE: Interior Department Announces Broader Plan to Review Management of Lands in Northwestern New Mexico
Date:	Thursday, October 20, 2016 11:16:46 AM

Was there contact with the personal office? I'm quite unhappy that this is the first I'm hearing about this.

From: Hall, Tricia [mailto:tricia_hall@ios.doi.gov]
Sent: Thursday, October 20, 2016 11:09 AM
To: Taylor, Rachael (Appropriations); Hunt, Ryan (Appropriations)
Subject: Interior Department Announces Broader Plan to Review Management of Lands in Northwestern New Mexico

Rachael,

The press release below is expected to go out shortly this morning. We wanted to flag it for you as it is specific to New Mexico.

Thanks!

Date: October 20, 2016
Contact: Interior_Press@ios.doi.gov

Interior Department Announces Broader Plan to Review Management of Lands in Northwestern New Mexico

Unique intra-agency effort will include a comprehensive analysis of oil & gas leasing and management on public and tribal lands in sensitive areas adjacent to Chaco Canyon

WASHINGTON -- To address concerns regarding mineral leasing and development activity adjacent to Chaco Culture National Historic Park, Deputy Secretary of the Interior Michael L. Connor today announced the U.S. Department of the Interior will expand the resource management planning effort underway in the Farmington, New Mexico area.

For the first time, the Bureau of Land Management's (BLM) Farmington Field Office and the Bureau of Indian Affairs' (BIA) Navajo Regional Office will jointly conduct an expanded analysis of management in the area that covers both public and tribal lands.

"Today's announcement is an important step forward toward addressing the longstanding concerns surrounding oil and gas development around Chaco Canyon," said Deputy Secretary Connor. "I heard these concerns firsthand when I visited Chaco last summer to participate in a public listening session with Senator Udall. BIA's decision to join BLM's planning effort as a co-lead reflects the complex land tenure around the park and demonstrates the Department's commitment to ensuring that the region's rich cultural and archaeological resources are protected."

The BLM initiated a process to update its Resource Management Plan for the area – which guides development activities on public lands there – in 2014. In support of expanding the planning effort to include tribal lands in the area, the BLM and the BIA are seeking public comments to identify issues and concerns related to including BIA-managed mineral leasing and associated activities in the Environmental Impact Statement (EIS) which is being prepared as part of the Resource Management Plan Amendment (RMP) Amendment. This expanded effort will look at the whole planning area, and will include mineral leasing and development activity around Chaco Culture

National Historic Park.

The joint effort also reflects the Department of the Interior's emphasis on working with Native American leaders to provide expanded opportunities for integrating traditional knowledge and expertise in the management of public lands that have a special historical, cultural or geographic connection with indigenous communities.

In June of 2015, Deputy Secretary Connor and Senator Tom Udall toured the Chaco Canyon area to see the sensitive archeological site and view the area beyond the park where drilling is proposed. After the visit to Chaco, Connor and Udall held meetings with interested stakeholders.

A Notice of Intent to prepare the RMP Amendment and conduct an EIS will be published in the Federal Register on October 21, 2016, which will formally open a 60-day public scoping period ending on December 20, 2016. The information gathered during this new scoping process will be added to the information already gathered as part of the BLM's prior scoping process for the EIS.

As part of the scoping process, the BLM and the BIA will be hosting public scoping meetings at the following locations, dates, and times:

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Navajo Nation Museum Highway 264 and Loop Road Window Rock, AZ 86515	December 2	10:00am-2:00pm

(Tentative)		

The BLM and BIA are asking that input be received within the 60-day scoping period, ending December 20, 2016, or 15 days after the last meeting, whichever is later.

- Input may be submitted by mail to BLM Farmington Field Office, Attention: Mark Ames, Project Manager, 6251 North College Blvd., Suite A, Farmington, New Mexico 87402; by email to BLM_NM_FFO_Comments@blm.gov, or by fax to 505-564-7608.
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From: Taylor, Rachael (Appropriations)
To: "Tricia Hall"
Cc: Adrianne Moss
Subject: RE: Interior Department Announces Broader Plan to Review Management of Lands in Northwestern New Mexico
Date: Thursday, October 20, 2016 11:39:58 AM

I heard that BLM gave a heads up awhile ago, though no timing. We appreciate the mention of Senator Udall. I don't want to make a big deal about it, but this is a very good thing, and we appreciate you being so respectful of the work Senator Udall did, so it would have been better to get a little more heads up that this is going out. (Given that the release is pretty much in the can, you had to know it was coming for more than a couple hours…) A gentle reminder though that real heads up's – not just pro forma emails right before a release goes out - are appreciated and kind of expected. I think our folks are also going to do a statement.

From: Tricia Hall [mailto:tricia_hall@ios.doi.gov]
Sent: Thursday, October 20, 2016 11:36 AM
To: Taylor, Rachael (Appropriations)
Cc: Adrianne Moss
Subject: Re: Interior Department Announces Broader Plan to Review Management of Lands in Northwestern New Mexico

Rachael,

I will check and get back to you.

Thanks!

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From:	Taylor, Rachael (Appropriations)
To:	"Moss, Adrianne"
Cc:	Tricia Hall
Subject:	RE: Interior Department Announces Broader Plan to Review Management of Lands in Northwestern New Mexico
Date:	Thursday, October 20, 2016 11:45:54 AM

Thanks. I don't want the process foul to obscure my appreciation for you guys recognizing Senator Udall, but would have been nice to get real advance warning.

From: Moss, Adrianne [mailto:adrianne_moss@ios.doi.gov]
Sent: Thursday, October 20, 2016 11:42 AM
To: Taylor, Rachael (Appropriations)
Cc: Tricia Hall
Subject: Re: Interior Department Announces Broader Plan to Review Management of Lands in Northwestern New Mexico

Thank you. Just saw this ourselves. Trish was just reaching out to BLM to find out what coordination was done.

I will let folks know this is not great.

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From:	Taylor, Rachael (Appropriations)
To:	"Moss, Adrianne"; Tricia Hall
Subject:	FW: Udall: Interior Department to Review Management of Lands in Northwestern NM
Date:	Thursday, October 20, 2016 3:30:57 PM
Attachments:	F162EC06-C9AF-4EF1-9375-A6AB7063DE4B.png

Thanks. I told you we were excited.

From: Tom Udall Press Office
Sent: Thursday, October 20, 2016 1:55 PM
To: Tom Udall Press Office
Subject: Udall: Interior Department to Review Management of Lands in Northwestern NM

For Immediate Release
October 20, 2016
Contact: Jennifer Talhelm
202.228.6870 | news@tomudall.senate.gov | @SenatorTomUdall

Udall: Interior Department to Review Management of Lands in Northwestern NM

Joint BLM-BIA review will examine land-use issues, including oil & gas leasing near Chaco Culture National Historical Park

ALBUQUERQUE, NM — Today, **U.S. Senator Tom Udall** welcomed an announcement that the Department of the Interior will conduct a joint review of the resource management of public and Tribal lands in Northwestern New Mexico, including the impact of potential oil and gas leasing near the Chaco Culture National Historical Park. The analysis will be the first-ever joint review by the Bureau of Land Management's (BLM) Farmington Field Office and the Bureau of Indian Affairs' (BIA) Navajo Regional Office.

Udall has urged Interior Department officials to ensure that oil and gas leasing near this iconic site is handled with the utmost consideration for Chaco Canyon's archaeological value as the Department completes its new Resource Management Plan (RMP) for the San Juan Basin.

"I appreciate the Interior Department's commitment to address concerns about the impact that oil and gas leasing could have on Chaco's irreplaceable archeological sites and its spiritual importance to Native American culture and history," Udall said. "Chaco Canyon is an incredibly rich cultural destination that is important to the heritage of many New Mexicans, including many Tribes and all Americans who wish to learn about ancient Native American culture. It's also important to the economy and the future of the region and the state. It is significant that this review will be done cooperatively between the BLM and BIA; this is an important step that I hope will result in a

balanced approach as the agency writes its resource management plan for the area."

The announcement was made by Deputy Interior Secretary Mike Connor, and it comes a year after Udall hosted Connor at Chaco for a listening session about concerns surrounding oil and gas leasing near the park. A center of Native American history and culture, Chaco includes sensitive archeological sites, is a UNESCO World Heritage site, and is one of the world's four Dark Sky Parks. During their visit last summer, Udall and Connor toured the Chaco Canyon area to see the sensitive archeological remains and view the area beyond the park where drilling is proposed.

Click HERE and HERE for photos and information about Udall and Connor's visit to Chaco. Click HERE for video of Udall pressing Interior Department officials to visit Chaco and listen to New Mexicans.

"It's important to note that Deputy Secretary Connor took this step after hearing from New Mexicans. The BLM and BIA plan future opportunities to hear from the public in New Mexico, including near Chaco and within the Navajo Nation, and I encourage all New Mexicans and Tribal members with strong feelings about the future of Chaco and resource development in Northwestern New Mexico to get out and make their voices heard," Udall said.

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###

TOM UDALL
SENATOR FOR NEW MEXICO
tomudall.senate.gov | SenatorTomUdall | TomUdallPress

From:	Vecera, Andrew
To:	"Bauserman, Trent D. EOP/WHO"; "Distefano, Nichole"
Cc:	"Mendoza Felipe"; "Walsh, Jason M. EOP/WHO"; Hoffman, Josh; "Harding, Stephenne S. EOP/CEQ"; Knox, Jason
Subject:	RE: Good Sam followup
Date:	Wednesday, October 26, 2016 2:01:57 PM
Attachments:	image001.png CNR Comments on Technical Assistance_10-11-16_Draft House Bill on Good Sam.docx Title 3 - Good Sam Provision CNR Comments 102616.pdf

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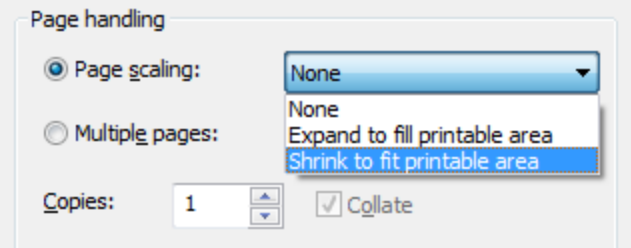
We are looking forward to seeing y'all tomorrow at 1:30 PM.

As promised, attached are two documents we view as initial responses to your comments. The first is the document Trent circulated with the Committee's comments to each point. The page numbers in the comments reflect where you can find the changes we have proposed in the second document, which is comprised of proposed edits/changes to the Good Sam title.

Word of advice (because I have had to reprint these documents a couple of times), make sure when printing the PDF document you select "Shrink to fit printable area" under page scaling as shown below:



Thanks, and let Josh or me know if you have any questions!

-----Original Message-----
From: Vecera, Andrew
Sent: Thursday, October 20, 2016 9:33 AM
To: 'Bauserman, Trent D. EOP/WHO'; 'Distefano, Nichole'
Cc: Mendoza Felipe; Walsh, Jason M. EOP/WHO; Hoffman, Josh; Harding, Stephenne S. EOP/CEQ
Subject: RE: Good Sam followup

If that's the only time then we can do 2 PM next Friday. Plan on meeting in 1327.

In advance of our meeting, Josh and I will put together draft legislative text that we view as responsive to your concerns/questions to help guide the discussion on Friday.

-----Original Message-----
From: Bauserman, Trent D. EOP/WHO [mailto:[redacted]
Sent: Thursday, October 20, 2016 9:29 AM
To: Vecera, Andrew; 'Distefano, Nichole'
Cc: Mendoza Felipe; Walsh, Jason M. EOP/WHO; Hoffman, Josh; Harding, Stephenne S. EOP/CEQ
Subject: Re: Good Sam followup

+ Stephenne at CEQ who will also participate

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.
Original Message
From: Vecera, Andrew
Sent: Thursday, October 20, 2016 9:23 AM
To: 'Distefano, Nichole'; Bauserman, Trent D. EOP/WHO
Cc: Mendoza Felipe; Walsh, Jason M. EOP/WHO; Hoffman, Josh
Subject: RE: Good Sam followup

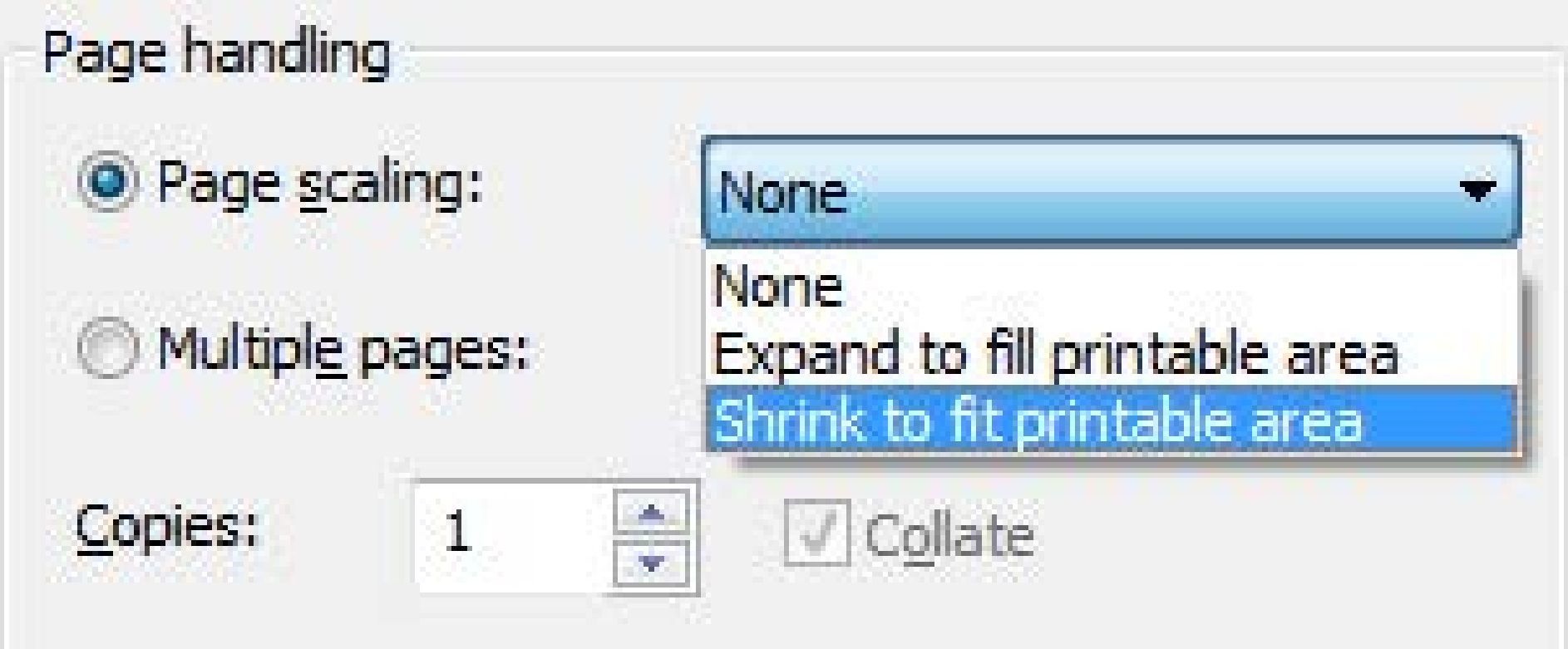
If Friday is the best day for you, could I propose an earlier meeting (9:30 AM)?

-----Original Message-----
From: Distefano, Nichole [mailto:DiStefano.Nichole@epa.gov]
Sent: Wednesday, October 19, 2016 6:28 PM
To: Bauserman, Trent D. EOP/WHO
Cc: Mendoza Felipe; Walsh, Jason M. EOP/WHO; Vecera, Andrew; Hoffman, Josh
Subject: Re: Good Sam followup

Any way we could do next week, next Friday at 2:00? One of our key program folks will be in DC. I'd like to bring him along and capitalize on him being in DC since in person is always better than on the phone.

Sent from my iPhone

> On Oct 17, 2016, at 4:52 PM, Bauserman, Trent D. EOP/WHO
<[redacted]> wrote:
>
> All
>
> Putting us on the same page to followup on our Good Sam comments. What do folks calendars look like in the morning to meet w Admin and HNR to talk through comments?
>
> Trent
>
> Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.


Page handling
Page scaling:
None
Multiple pages:
None
Expand to fill printable area
Shrink to fit printable area
Copies:
1
Collate

Technical Assistance on Draft House Bill for Coal Communities Abandon Mine Lands

Adding a new Good Samaritan permit program to CERCLA, which is not a permit program, makes establishing an effective Good Samaritan program more complex. Many provisions of the proposed program in the draft bill are overly broad, undefined, or would be difficult to implement. Overall, the EPA strongly believes that there is no need for this draft bill to create a Good Samaritan program. The EPA has already developed administrative tools to address potential CERCLA and Clean Water Act liability concerns associated with potential Good Samaritan cleanup projects. These tools include the 2007 CERCLA guidance and a 2012 Clarification Memo that supplemented the initial Agency guidance. The current draft bill also raises significant legal and policy issues.

Specific problematic provisions and issues:

- Good Samaritan Definition: The House bill defines a Good Sam in a manner that is inconsistent with, and undermines, the CERCLA section 107 liability provisions (e.g., permittee subject to gross negligence or intentional misconduct standard, not strict/joint and several liability). This approach, taken together with other provisions (e.g., liability definition, permitting provisions), could result in shielding a CERCLA PRP (e.g., current owner) from liability and cleanup responsibilities, and/or shifting the cost/responsibility for cleanup to EPA where, for example, the Good Sam does not properly address the contamination problems at a site. A prospective Good Samaritan should not be eligible if they are an owner/operator of the site if they are a potentially liable party under any federal, state, tribal or local law. The House draft bill fails this principle since it allows a current site owner or operators to qualify as Good Samaritans, as long as they did not participate in the creation of, or cause, historic mine residue at the site. This definition is completely antithetical to all previous Good Samaritan definitions and all previous legislative efforts.

- Other Definitions: The Historic Mine Residue definition uses the terms pollute the environment and polluted, both of which are too vague and need greater specificity (such as a reference to CERCLA pollutants/contaminants/hazardous substances or CWA equivalent). This also causes uncertainty when identifying baseline conditions for eligible projects under §322(b)(1)(ii), in the permit application, and in the monitoring section of a permit.

- Cleanup Standards: A cleanup done pursuant to a permit is based on appropriate water quality or other environmental benchmarks and does not require attainment of water quality standards, which is less protective of human health and the environment than CERCLA s ARAR provisions. There is a conflicting provision that states the permit must require that the remediation project attain applicable water quality standards to the extent reasonable and practicable. This term is undefined and could lead to very different results, depending on the variability among state or tribal permit programs.

Commented [AV1]: Page 17. The Committee's goal is to not shield a CERCLA PRP or enable potentially liable/liable persons an opportunity to escape responsibility. We seek further input and clarity from the Administration.

Commented [AV2]: Page 18. We now cite specific definitions within CERCLA for "environment", "release", and "hazardous substances."

Commented [AV3]: Pages 16 and 20, with further clarification added to pages 23, 24, and 32. Added new definitions of "baseline conditions" and "pre-mining conditions" to provide greater definition and actual benchmarks.

- Permitting: The primary goal for a project is to "improve the environment." However, this is not defined and there is no other specification. The proposed permit application is woefully inadequate in many areas, including: the ability to determine an applicant's eligibility; identification of all potentially liable parties; confusing language about persons with "contractual ties," and "legal relationships" who would also be eligible; and language to determine baseline conditions. There is also an unrealistic requirement for EPA to approve a State/Tribal application to undertake a Good Sam permit program within 120 days.

  The permitting process in the bill represents a completely different approach to cleanup compared to the CERCLA response selection process. It is very problematic to allow permits at sites where the agency plans to take an action, or where an enforcement or response action is underway. At best, this would likely lead to inconsistent results and unprotective cleanups at an NPL site, given that discretion could be left to a state or tribal permitting authority.[1] Agency consultation provisions apply only to a federal land management agency (not EPA) and do not require concurrence by the federal agency on the permitting decision. This could lead to confusion where EPA is the lead decision maker at NPL sites, if a state or tribal permitting agency determines a Good Samaritan project did not interfere with, or was not inconsistent with, other remediation projects, but the EPA does not concur. It is also not clear how a newly-issued permit would co-exist with an existing CERCLA consent decree at a site in terms of cleanup requirements, as well as any Clean Water Act permitting in and around the site.

- Investigative Sampling: There is no provision requiring the Good Sam to address any problems caused by, or waste generated during, investigative sampling, including if the Good Sam decides not to proceed with their application and/or project.

- State or Tribal Programs: In order to be approved, a state or tribal program does not need to demonstrate how its laws ensure protection of human health and the environment. There is no provision for withdrawing an approved program if later it is found that the state/tribal laws do not ensure protection of human health and the environment for carrying out a Good Samaritan permit program. Also, there is no provision for "overfiling" if the EPA determines there is a need for federal response action at a site being addressed inappropriately by a Good Sam. Draft consultation language suggests that if the permitting authority is a state or a tribe, and not the Administrator, then EPA would not necessarily be involved in this consultation.

- Financial Assurance: The draft bill does not have any financial responsibility provisions to ensure that a Good Sam would have adequate resources available to complete the project or pay for an improperly conducted project (i.e., if the Good Sam makes the contamination problems worse through incomplete or careless work, or by accident). If there is no financial assurance required, the burden of responding and providing clean up falls on the respective state and the federal government, essentially on the backs of taxpayers.

[1] Draft bill language allows a permit at these sites if the permitting authority determines that the Good Samaritan project would not interfere with, or be inconsistent with, other remediation projects at the site As written, it is not clear whether this includes a site proposed for the NPL

Commented [AV4]: In general, we seek greater input/clarification from the Administration on improving this section.

Commented [AV5]: Pages 21 - 22. Struck the exception that would authorize a permitting agency the ability to override federal designations.

Commented [AV6]: Page 28. Added clarification that any such investigative sampling must be "minimally invasive."

Commented [AV7]: Page 38. Added a clause requiring the "laws of the State or Indian tribe" to "ensure the protection of human health and environment." Seek input from the Administration on revocation of a program.

Commented [AV8]: Open to further input from the Administration – perhaps requiring applicants to hold funds in an escrow account subject to forfeit for violations.

- Liability: The draft bill would provide the Good Samaritan permit holder liability protection from, and deem them to be in compliance with, environmental laws associated with project activities. A permit holder would not be considered in compliance, nor protected from liability, if site pollution is exacerbated (not defined) as a result of gross negligence or intentional misconduct, or if the permit application is determined to have contained dishonest, fraudulent, or materially misleading statements or omissions. However, if the permit holder causes an accidental release or fails to improve environmental conditions at the site, they apparently still enjoy liability protection. The EPA finds this extremely problematic. It is all the more troubling because of the lack of a financial assurance requirement for Good Samaritan permit applicants, as noted above.

- Enforcement: The bill lacks necessary elements creating and describing any judicial or administrative penalty enforcement process i.e., if administrative, notice and opportunity for a hearing, appeal rights, etc. As written, enforcement provisions are too vague for a number of important points that are routinely described in federal environmental legislation, including the scope of any administrative enforcement authority (e.g., authority to require cleanup, as opposed to complying with the violated permit provision which may not be fully developed), which court (federal or state) has jurisdiction to enforce the terms of a permit (or order, if one can be issued), the judicial standard of review to be used. In addition, the provisions would limit potential relief (repair to the extent practicable damage caused by a permit violation) and are generally weaker than CERCLA enforcement and abatement authorities (e.g., amount of civil penalties available). The civil penalties are inconsistent with current CERCLA and CWA NPDES penalty provisions.

- Tribal authority: Inclusion of Alaska Native Corporations (ANCs) within the definition of Indian Tribe is problematic. Under the terms of the Bill, Indian Tribes, like States, may seek approval from EPA to administer a Good Samaritan permitting program, which appears to include an exercise of governmental jurisdiction (including potential enforcement authorities). ANCs, however, are typically not governmental entities, and any that are governments would already be included in Section 321(9)(A) as federally recognized tribes. ANCs are, in fact, corporate entities generally chartered under State law. It would be highly anomalous to authorize ANCs to submit and administer Good Samaritan programs. It is unclear how such entities would demonstrate the requisite legal authorities to carry out the program. Importantly, the lands that ANCs hold are generally not Indian country. Thus, there is an internal incongruity in the bill with regard to any approval of an ANCs Good Samaritan program.

- Public Participation: The bill does not provide any legal mechanism (e.g., citizen suit provision) to challenge the issuance of the permit. Citizen suit provisions are a hallmark of all of our environmental statutes.

- Re-mining: There are no provisions that prohibit re-mining at the site. This is a protection that is included in the EPA Administrative Tools. There should not be the opportunity for a mining company to come on to a site under the guise of being a Good

Commented [AV9]: Page 34. Replaced "gross negligence" with "negligence" and removed the confusing clause concerning when a permit holder "may be liable."

Commented [AV10]: Page 42. Struck Section 326, NEPA waiver, but in general, we seek greater input/clarification from the Administration on improving this section.

Commented [AV11]: Page 37. Struck ANCs from inclusion.

Commented [AV12]: The Committee views citizen suits as adverse to Good Samaritan work.

Commented [AV13]: The Committee does not seek to authorize "re-mining," but does recognize the reality of tailings and what such material may be used for.

Samaritan and taking any remaining tailings or other potential ore deposits and profiting from them without meeting all applicable environmental requirements.

TITLE III—LOCATABLE MINERALS CLAIM LOCATION AND MAINTENANCE FEES

Subtitle A—Mining Claim Location and Maintenance Fees

SEC. 301. DEFINITIONS.

In this subtitle:

(1) CLAIM.—The term ''claim'' means an unpatented lode mining claim, placer claim, mill site, or tunnel site located under the general mining laws.

(2) CLAIM HOLDER AND CLAIMANT.—The terms ''claim holder'' and ''claimant'' mean the owner or holder of a claim.

(3) CERTIFIED MINERAL EXAMINER.—The term ''Certified Mineral Examiner'' means an employee of the Federal Government who—

(A) possesses sufficient college education to qualify as a geologist, mining engineer, or metallurgical engineer; and

(B) has completed training specified by the Chief Mineral Examiner of the Bureau of Land Management, Department of the Interior.

(4) CERTIFIED REVIEW MINERAL EXAMINER.—The term ''Certified Review Mineral Examiner'' means a Certified Mineral Examiner who is deter-

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mined by the Bureau of Land Management Mineral Examiner Certification Panel to possess an additional breadth of training and experience that is sufficient to review mineral potential reports and mining claim validity exam reports.

(5) FEDERAL LANDS.—The term ''Federal lands'' means lands and interests in lands owned by the United States that are open to mineral entry and location, or that were open to mineral entry and location at the time of entry or location.

(6) GENERAL MINING LAWS.—The term ''general mining laws'' means those Acts that generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of title 30, United States Code, all Acts that are amendatory of or supplementary to any of the foregoing Acts, and the judicial and administrative decisions interpreting such Acts.

(7) LOCATABLE MINERALS.—The term ''locatable minerals'' means those minerals held by the United States and not subject to disposition under—

(A) the Mineral Leasing Act (30 U.S.C. 181 et seq.);

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(B) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.);

(C) the Materials Act of 1947 (30 U.S.C. 601 et seq.); or

(D) the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

(8) MINERAL ACTIVITIES.—The term ''mineral activities'' means any activity on Federal lands under a claim with or without a discovery, or off of claims, for mineral prospecting, exploration, development, mining, extraction, milling, beneficiation, processing, storage of mined or processed materials, or reclamation activities for any locatable mineral and uses that are reasonably incident thereto, including the construction and use of roads, transmission lines, water wells, pipelines, utility corridors, and other means of access across Federal lands for ancillary facilities used in conjunction with such activity.

(9) MINERAL POTENTIAL REPORT.—The term ''mineral potential report'' means a report described in section 204(c)(2)(12) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714(c)(2)(12)).

(10) MINING CLAIM VALIDITY EXAM.—The term ''mining claim validity exam'' means an exam-

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ination of a mining claim to determine if it establishes a valid existing right in a valuable mineral deposit (as that term is used in section 2319 of the Revised Statutes (30 U.S.C. 22)).

(11) PERSON.—The term ''person'' means an individual, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative, or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(12) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, unless otherwise specified.

(13) UNITED STATES MINERAL DEPOSIT DATABASE PROJECT.—The term ''United States Mineral Deposit Database Project'' means the interactive database of mines and mineral deposits in the United States administered by the United States Geological Survey Mineral Resources Program.

SEC. 302. CLAIM LOCATION AND MAINTENANCE FEES.

(a) LOCATION FEE.—For each claim located after the date of enactment of this title, a claimant shall pay the Secretary a location fee of $37 not later than 90 days

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after the date of location, at the time the location notice is recorded with the Bureau of Land Management.

(b) ANNUAL CLAIM MAINTENANCE FEE.—Commencing the first calendar year after the date of enactment of this title, a claimant shall pay the Secretary on or before September 1 of each year, a claim maintenance fee of $155 per 20.66-acre claim or fraction thereof to maintain the claim for the following assessment year beginning at noon on September 1. Payment of such claim maintenance fee shall be in lieu of the assessment work requirement contained in the general mining laws and the related filing requirements contained in subsections (a) and (c) of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744).

(c) WAIVER FOR HOLDERS OF 10 OR FEWER CLAIMS.—

(1) IN GENERAL.—The claim maintenance fee required under this section shall be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due—

(A) the claimant was—

(i) the holder of not more than 10 lode claims on Federal lands; or

(ii) an association that held less than or equal to 320 acres; and

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(B) the claimant has performed assessment work sufficient to maintain the claims held by the claimant for the assessment year ending on noon of September 1 of the calendar year in which the claim maintenance fee payment was due.

(2) HOLDER.—As used in paragraph (1), the term ''holder'' includes—

(A) the claimant;

(B) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986) of the claimant; and

(C) a person affiliated with the claimant, including—

(i) a person controlled by, controlling, or under common control with the claimant; and

(ii) a subsidiary or parent company or corporation of the claimant.

(3) CERTIFICATION PROCESSING FEE.—The Secretary shall charge a certification processing fee of $30 for the filing of a certification under this subsection.

(d) SUSPENSION OF CLAIM MAINTENANCE AND WAIVER OF COST RECOVERY FEES.—

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(1) CLAIM MAINTENANCE FEE.—The claim maintenance fees required under this section shall be suspended for any claims of a claimant for an area that was open to mineral entry and location at the time of entry or location that has subsequently been segregated or withdrawn from mineral entry and location by order of the Secretary or a law enacted after the date of the enactment of this title until such time as the area is reopened to mineral entry, or the claimant has submitted a notice or permit to explore or develop his or her claims or is actively mining.

(2) COST RECOVERY FEES.—The fees required by part 3000 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this title, and any substantially similar fee charged for a mining claim validity exam, shall be waived for any claimant with claims in an area that was open to mineral entry and location at the time of claim location that has subsequently been segregated or withdrawn from mineral entry and location by order of the Secretary or a law enacted after the date of the enactment of this title.

(e) EFFECTS OF PAYMENT.—

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(1) IN GENERAL.—Timely payment of the location and claim maintenance fees under this section secures the rights of the holder of a mining claim against the Federal Government after discovery of valuable mineral deposits, to use and occupy Federal lands under the provisions of the general mining laws for all mineral activities. This section shall not be construed to amend section 910 of the Revised Statutes (30 U.S.C. 53) or in any way affect the law of possession or the doctrine of pedis possessio.

(2) WAIVER OF CLAIM MAINTENANCE FEE.—In the case of a claim holder who qualifies for a waiver of payment of the claim maintenance fee under subsection (c), timely payment of the location fee and compliance with the assessment work required under the general mining laws (30 U.S.C. 28–28e) secures the rights of the holder of a claim, both prior to and after discovery of valuable mineral deposits, to use and occupy Federal lands under the provisions of the general mining laws for all mineral activities.

(f) FORFEITURE OF UNPATENTED CLAIM FOR FAILURE TO PAY MAINTENANCE FEE.—

(1) FAILURE TO PAY.—Failure to pay a claim maintenance fee or a location fee under this section for an unpatented mining claim shall subject the

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claim to forfeiture by the claim holder as provided in this subsection.

(2) NOTICE.—The Secretary of the Interior shall provide the claim holder—

(A) notice of the failure; and

(B) the opportunity to correct the failure within 45 days after the claim holder's receipt of the notice.

(3) AMOUNT.—To correct the failure the claim holder must, within such 45-day period, pay twice the amount of claim maintenance fee that would otherwise have been required to be timely paid. The Secretary shall specify the amount that must be paid in the notice under paragraph (2).

(4) FORFEITURE.—Failure by the claim holder to make a timely and proper payment in the amount specified in the notice, within 45 days after the claim holder's receipt of the notice, shall constitute a forfeiture of the mining claim by the claim holder by operation of law.

(g) EFFECTIVE PERIOD OF FEES.—The fees imposed under this section shall apply during the period beginning September 1, 2016, and ending August 31, 2022.

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SEC. 303. MINING CLAIM VALIDITY EXAMS AND MINERAL REPORTS FOR AREAS SEGREGATED OR WITHDRAWN FROM MINERAL ENTRY.

All mining claim validity exams shall be completed by Certified Mineral Examiners and reviewed by Certified Review Mineral Examiners.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of the Interior to carry out mining law administration program operations $40,000,000 for each of fiscal years 2016 through 2022.

SEC. 305. MINERAL POTENTIAL REPORTS AND MINING CLAIM VALIDITY EXAMS.

Mineral potential reports for areas withdrawn from mineral entry, and any mining claim validity exam on claims located within those areas, must be completed or prepared by a Certified Mineral Examiner and reviewed by Certified Review Mineral Examiner.

SEC. 306. UNITED STATES MINERAL DEPOSIT DATABASE.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this title, the Director of the United States Geological Survey shall enter into separate memoranda of understanding to share data for the purpose of expanding and maintaining the United States Mineral Deposit Database, with each of—

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(1) the Director of the Bureau of Land Management;

(2) the Director of the Office of Surface Mining Reclamation and Enforcement; and

(3) the Chief Forester of the Forest Service.

(b) FUNDING.—From amounts available for each of fiscal years 2016 through 2022 for operations to administer the mining laws, the Secretary may use not more than $1,000,000 to support the United States Mineral Deposit Database of which not more than 5 percent may be used for overhead expenses.

Subtitle B—Department of the Interior Inactive and Abandoned Noncoal Mine Lands Program

SEC. 311. DEFINITIONS.

In this subtitle:

(1) ENVIRONMENTAL HAZARD.—The term ''environmental hazard'' means degradation of air, soil, or water resources resulting from the effects of past mining practices.

(2) HISTORIC MINE RESIDUE.—The term ''historic mine residue'' means mine residue, or conditions related to an inactive or abandoned mine site that pollute the environment, resulting from prior mining activities, including—

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(A) tailings or mine waste piles;

(B) abandoned equipment (or materials in such equipment); and

(C) acidic or otherwise polluted flows in surface or ground water.

(3) INACTIVE AND ABANDONED NONCOAL MINE LANDS.—The term ''inactive and abandoned noncoal mine lands'' means any location of a noncoal mine, including mill sites and processing sites, that was inactive or abandoned before January 1, 1981, and that—

(A) contains historic mine residue;

(B) is not owned by any person who caused or contributed to the historic mine residue;

(C) was used for the production of a noncoal mineral; and

(D) is no longer in operation and is not subject to a temporary shutdown, as determined by the Secretary.

(4) PHYSICAL SAFETY HAZARD.—The term ''physical safety hazard'' means any dangerous condition or effect resulting from past mining practices, that poses a risk of death or serious injury to the public, livestock, or wildlife.

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(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) WATER RESOURCES.—The term ''water resources'' means any watershed, ground water, water course, or lake.

SEC. 312. ESTABLISHMENT OF INACTIVE AND ABANDONED NONCOAL MINE LANDS PROGRAM.

(a) ESTABLISHMENT.—There is established in the Department of the Interior a program to be known as the Abandoned Noncoal Mine Lands Program (referred to in this section as the ''Program''). The Program shall be administered by the Secretary of the Interior acting through the Director of the Bureau of Land Management.

(b) DESCRIPTION OF PROGRAM.—Under the Program, the Secretary shall—

(1) identify, secure, and remediate physical safety hazards and environmental hazards associated with inactive and abandoned noncoal mine lands that are located on, or affecting, Federal public lands, including such hazards on other lands that are adjacent to such Federal lands;

(2) maintain an inventory of the sites of such inactive and abandoned noncoal mines, affected Federal public lands, and other lands that are adjacent to such Federal public lands, including such sites

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that have been remediated in whole or in part, and associated water resources; and

(3) identify the persons, if any, who are responsible for paying the costs to remediate such hazards.

(c) PRIORITIES.—In securing and remediating hazards under this subtitle, the Secretary shall give priority (in the following order of priority) to—

(1) the protection of public health, safety, and general welfare from the adverse effects of inactive and abandoned noncoal mine lands; and

(2) the reclamation of land and water resources degraded by the adverse effects of such mine lands.

SEC. 313. INACTIVE AND ABANDONED MINE LAND PROGRAM PARTNERS.

The Secretary, where appropriate, shall seek out Federal agencies or departments, State agencies, Indian tribes, nonprofit organizations, individuals, and corporations to participate as partners, including partners that are Good Samaritans (as that term is defined in subtitle C), to facilitate remediation and securing of physical safety or environmental hazards under this subtitle.

SEC. 314. PRIORITY SITES FOR GOOD SAMARITAN PROJECTS ON FEDERAL LANDS.

(a) IDENTIFICATION REQUIRED.—Not later than 120 days after the date of the enactment of this title, the Sec-

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retary of the Interior, acting through the Director of the Bureau of Land Management, and the Secretary of Agriculture, acting through the Chief of the Forest Service, in consultation with other Federal land management agencies, shall identify a minimum of 20 priority sites on Federal land containing inactive or abandoned mine sites suitable for Good Samaritan projects under subtitle C.

(b) NOMINATIONS.—In identifying priority sites under subsection (a), the Secretaries shall accept nominations from the public.

(c) ANNUAL REVIEW.—The Secretaries shall annually review the sites identified under subsection (a) and identify additional priority sites as appropriate.

SEC. 315. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $17,000,000 for each of fiscal years 2016 through 2020.

Subtitle C—Good Samaritan Remediation of Abandoned Mine Lands

SEC. 321. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

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(2) COOPERATING PERSON.—The term ''cooperating person'' means any person (other than a Federal agency) that—

(A) is a Good Samaritan;

(B) assists another Good Samaritan in a remediation project; and

(C) is identified as a cooperating person in a permit issued under this subtitle.

(3) ENVIRONMENTAL LAWS.—The term ''environmental laws'' means—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and any State law implementing a permit program under section 402(b) or 404(g) of such Act; and

(B) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(4) FEDERAL LAND MANAGEMENT AGENCY.—The term ''Federal land management agency'' means any agency of the Federal Government authorized by statute to exercise jurisdiction, custody, or control over lands of the United States.

(5) GOOD SAMARITAN.—The term ''Good Samaritan'' means any person that did not participate in any way in the creation of, or activities that

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caused, any historic mine residue at the inactive or abandoned mine site and that—

(A) has an ownership interest in the inactive or abandoned mine site, but—

(i) is not liable or potentially liable for remediation costs related to the historic mine residue at the inactive or abandoned mine site, or affiliated with any other person potentially so liable through any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which the ownership interest in the inactive or abandoned mine site is conveyed or financed or by a contract for the sale of goods or services); and

(ii) is not a successor entity to a business entity that was liable or potentially liable for such remediation costs;

(B) has an ownership interest in the inactive or abandoned mine site that was acquired through the inheritance of a patented mining claim; or

(C) has no ownership interest in the inactive or abandoned mine site and had no such an

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interest at any time during or since the creation of the historic mine residue at the site.

(6) HISTORIC MINE RESIDUE.—The term ''historic mine residue'' means mine residue, or conditions related to an inactive or abandoned mine site that ~~pollute~~ the ~~environment~~ resulting from prior mining activities, including—

(A) tailings or mine waste piles;

(B) abandoned equipment (or materials in such equipment); and

(C) ~~acidic or otherwise polluted flows in surface or ground water~~.

(7) INACTIVE OR ABANDONED MINE SITE.—The term ''inactive or abandoned mine site'' means any mine site, including any mill or processing site, that—

(A) contains historic mine residue;

(B) is not owned by any person who caused or contributed to the historic mine residue;

(C) was used for the production of a mineral-bearing ore or coal; and

(D) is no longer in operation and is not subject to a temporary shutdown, as determined by the permitting authority.

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(8) INDIAN COUNTRY.—The term ''Indian country'' has the meaning given the term in section 1151 of title 18, United States Code.

(9) INDIAN TRIBE.—The term ''Indian tribe'' means an Indian tribe that—

~~(A)~~ is federally recognized~~; or~~

~~(B) is an Alaska Native Corporation as defined under section 1602 of title 43, United States Code.~~

(10) LEAD AGENCY.—The term ''lead agency'' means a State or tribal agency designated under section 323(c)(1) as the lead agency responsible for carrying out permitting responsibilities of the State or Indian tribe under this subtitle.

(11) OFFSITE MITIGATION REQUIREMENT.—The term ''offsite mitigation requirement'' means a requirement imposed under another Federal law to improve, enhance, restore, or create a wetland, stream, or habitat conservation area to offset or compensate for adverse impacts to similar ecosystems resulting from the development of a natural resource or other commercial activity.

(12) PERMITTING AUTHORITY.—The term ''permitting authority'' means the Administrator or, in the case of a State or tribal program authorized by

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the Administrator under section 323, the lead agency.

(~~13~~) REMEDIATION.—The term ''remediation'' means activities to clean up or otherwise mitigate the impacts of historic mine residue.

(14) STATE.—The term ''State'' means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

SEC. 322. PERMITS FOR REMEDIATION OF INACTIVE OR ABANDONED MINE LANDS BY GOOD SAMARITANS.

(a) IN GENERAL.—A permitting authority may issue a permit to a Good Samaritan to carry out a project in accordance with this section.

(b) ELIGIBLE PROJECTS.—

(1) PURPOSE OF PROJECT.—

(A) IN GENERAL.—A permitting authority may issue a permit under this section for a project to improve the environment (including water quality) by carrying out remediation at or related to an inactive or abandoned mine site.

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(B) WATER QUALITY.—A permitting authority shall ensure that remediation carried out pursuant to a permit issued under this section—

(i) assists in the attainment of applicable water quality standards to the extent reasonable and practicable under the circumstances; and

(ii) does not result in water quality that is worse than the baseline water condition.

(2) LIMITATION ON ELIGIBILITY.—A permitting authority may not issue a permit under this section for a project at or related to a mine site included on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)) or a mine site at which the Administrator of the Environmental Protection Agency or another Federal, State, or tribal agency is taking an environmental enforcement or response action~~, unless the permitting authority determines, after consultation with any other interested agency, that—~~

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~~(A) the proposed project is not inconsistent, and will not interfere, with any other planned remediation at the mine site that is reasonably likely to occur; and~~

~~(B) the proposed project will accelerate environmental improvements~~.

(c) PERMIT APPLICATIONS.—

(1) CONTENTS.—A permitting authority shall require an application for a permit under this section to include—

(A) a description of the project site (including the boundaries of the project site and any degraded waters related to the project site);

(B) an identification of—

(i) any current owner of the property on which the project is proposed to be carried out;

(ii) any person with a legal right to exclude other persons from the project site or affect activities on the project site, with a description of those legal rights;

(iii) for project sites on Federal lands, the Federal land management agency; and

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(iv) based on the conduct of an inquiry that is reasonable under the circumstances—

(I) all persons that may be legally responsible for remediation of the project site; and

(II) any relationship between those persons and the applicant;

(C) a description of any contractual ties or other legal relationship between the applicant and all persons with responsibility for compliance with environmental laws at the project site;

(D) a general description of the known and identifiable baseline ~~conditions, including conditions existing prior to the commencement of mining activities, as of the date of submission of the application, of the environment affected by the historic mine residue to be remediated, including, if available, any sampling data or information regarding the nature and extent of the effects on the water quality of any body of water caused by the drainage of historic mine residue or other discharges from the inactive or abandoned mine site~~;

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(E) a description of—

(i) the historic mine residue proposed to be remediated;

(ii) the nature and scope of the proposed remediation, including—

(I) any proposed recycling or reprocessing of the historic mine residue, how the recycling or reprocessing relates to the remediation, and where the recycling or reprocessing will occur; and

(II) the manner in which the proposed remediation will mitigate the drainage from the inactive or abandoned mine site to ~~improve water quality, if applicable~~;

(iii) the remediation alternatives, if any, considered in developing the proposed remediation plan for the project site;

(iv) engineering plans for the project, bearing the seal of a Professional Engineer;

(v) in the case of a remediation activity that requires plugging, opening, or otherwise altering the portal or adit of an in-

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active or abandoned mine, an evaluation of inactive or abandoned mine site conditions, including an assessment of any pooled water or hydraulic pressure in the inactive or abandoned mine;

(vi) how any material related to the inactive or abandoned mine site that is identified or listed as hazardous waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) will be disposed of;

(vii) a monitoring program proposed to be carried out following completion of the remediation, if applicable, that will be implemented to evaluate the effects of the remediation on the environment; and

(viii) the capacity (including technical and administrative) of the applicant to carry out the proposed activities and any terms of the permit for which the application is being submitted;

(F) a plan for any operation and maintenance related to the proposed remediation;

(G) a proposed schedule for activities to be carried out under the project, including an expected completion date for the remediation;

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(H) a budget for the project;

(I) evidence satisfactory to the permitting authority that the applicant has sufficient financial resources to ensure that the activities proposed to be carried out by the applicant, including any operation and maintenance activities related to the remediation, will be carried out under the permit;

(J) an identification of any cooperating persons and a description of activities proposed to be carried out by such persons;

(K) a description of—

(i) any recognition for excellence in environmental compliance, reclamation, or remediation received by the applicant or any cooperating person identified under subparagraph (J); and

(ii) the history of any noncompliance with environmental laws by the applicant or any cooperating person identified under subparagraph (J) during the 5-year period preceding submission of the application;

(L) if the applicant intends to use the project to comply with an offsite mitigation re-

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quirement, a reference to the offsite mitigation requirement and any related permit; and

(M) a specific contingency plan that—

(i) includes provisions on emergency actions, response, and notification; and

(ii) is designed to be used in response to unplanned adverse events, including the sudden release of historic mine residue.

(2) NOTICE REQUIREMENTS.—

(A) STATE, LOCAL, AND TRIBAL COMMUNITIES.—As soon as practicable after receiving an application under this section, a permitting authority shall provide notice of the application, including a copy of the application, to—

(i) each local government located within a radius of 20 miles of the project site;

(ii) each Federal, State, and tribal agency that the permitting authority determines may have an interest in the application; and

(iii) if the project site lies in the headwater area of a major drainage basin, local governments located outside of the 20-mile radius of the project site that are down-

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stream of the project site and may be affected by a discharge resulting from activities carried out pursuant to the project.

(B) PUBLIC NOTICE.—Not later than 30 days after receiving an application under this section, a permitting authority shall provide to the public notice of the application.

(3) INVESTIGATIVE SAMPLING.—

(A) IN GENERAL.—A permitting authority may, upon request, authorize a person to carry out ~~investigative sampling~~ 1 as determined appropriate by the permitting authority, prior to submitting an application for a permit under this section.

(B) EFFECT OF AUTHORIZATION.—An authorization to carry out investigative sampling under this section shall, with respect to the authorized activities, have the same effect as a permit for the purposes of subsection (g).

(d) PUBLIC PARTICIPATION.—

(1) HEARING.—Prior to issuing a permit under this section, a permitting authority shall conduct a public hearing in the vicinity of the proposed project site, and shall give public notice of the hearing not later than 30 days before the date of the hearing.

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(2) DRAFT PERMIT.—The permitting authority shall include a draft permit in the notice of a hearing to be conducted under this section.

(3) COMMENTS.—The permitting authority shall provide the applicant and the public with the opportunity to—

(A) comment on the draft permit at the public hearing; and

(B) submit written comments to the permitting authority during the 30-day period following the hearing.

(e) PERMIT ISSUANCE.—

(1) DEADLINE.—A permitting authority shall issue a permit or deny a permit application under this section not later than—

(A) the date that is 180 days after the date on which the permitting authority receives a complete application for the permit, as determined by the permitting authority; or

(B) such later date as may be determined by the permitting authority, with the agreement of the applicant.

(2) CONSTRUCTIVE DENIAL.—If the permitting authority does not issue a permit or deny the permit application by the applicable date described in para-

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graph (1), the application shall be considered to be denied by the permitting authority.

(3) AGENCY CONSULTATION.—

(A) CONSULTATION.—In considering whether to issue a permit for a project to be carried out on Federal lands, a permitting authority shall consult with any applicable Federal land management agency.

(B) OBJECTION.—A permitting authority may not issue a permit under this section if—

(i) the proposed project site is not a priority site designated under section 314; and

(ii) the permitting authority receives an objection to the proposed permit from a Federal land management agency with jurisdiction over the project site.

(f) PERMIT CONTENTS.—

(1) IN GENERAL.—A permitting authority shall include in a permit issued under this section—

(A) a description of the activities authorized by the permit, including a description of any activities to be carried out by a cooperating person in accordance with paragraph (5);

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(B) a schedule for the activities to be carried out under the project, in accordance with paragraph (3), including an end date by which the permittee shall complete the permitted activities;

(C) conditions requiring the permittee to—

(i) secure, for all activities authorized under the permit, all authorizations, licenses, and permits required under law;

(ii) establish and maintain records, conduct monitoring (as described in paragraph (4)), and provide such other information as may be reasonably necessary to ensure the project will result in improvement to the environment; and

(iii) minimize any short-term adverse environmental impacts from the remediation, to the extent practicable;

(D) a right of entry to the project site for the permitting authority to inspect and collect such information as is reasonably necessary to carry out this subtitle;

(E) if the project to be carried out under the permit will be used by the permittee to comply with an offsite mitigation requirement, a

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reference to the offsite mitigation requirement and any related permit; and

(F) any other terms and conditions determined appropriate by the permitting authority.

(2) BENCHMARKS.—A permitting authority shall ensure that a permit issued under this section is site- and situation-specific, relying on pre-mining ~~conditions and conditions existing as of the date of issuance of the permit to determine appropriate water quality or other environmental benchmarks to achieve in~~ carrying out remediation under the permit.

(3) TIMING.—A permitting authority shall require activities authorized by a permit issued under this section to—

(A) commence not later than the date that is 1 year after the date on which the permit is issued; and

(B) continue until completed, with temporary suspensions permitted during adverse weather or other circumstances, as approved by the permitting authority.

(4) MONITORING.—

(A) IN GENERAL.—A permitting authority shall require a permittee to take such actions as

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the permitting authority determines are necessary to ensure, where appropriate, baseline, remedial alternative, and postremediation monitoring of the environment.

(B) ADMINISTRATION.—In selecting the type and frequency of monitoring requirements to be included in a permit under this paragraph, the permitting authority shall—

(i) balance the utility of information obtained through monitoring against the cost of the monitoring, based on the circumstances relating to the project; and

(ii) take into account the scope of the project.

(5) COOPERATIVE ACTIVITIES.—A permitting authority may approve in a permit the conduct of project activities by cooperating persons if, as determined by the permitting authority, the cooperative arrangement will effectively accomplish the purposes of this subtitle.

(g) EFFECT OF PERMIT.—

(1) IN GENERAL.—A person authorized by a permit issued under this section to carry out activities—

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(A) shall be deemed to be in compliance with environmental laws with respect to such activities; and

(B) shall not be liable under environmental laws with respect to such activities, including for any costs or damages deriving from the prior, present, or future activities of others at the project site.

(2) LIMITATION.—Paragraph (1) shall not apply if—

(A) the person impedes or fails to facilitate a response action, remediation, or other natural resource restoration activity at the project site;

(B) the person exacerbates the pollution from historic mine residue as a result of negligence or intentional misconduct~~, in which case the person may be liable under environmental laws for costs or damages resulting from such gross negligence or intentional misconduct~~;

(C) information supplied to the permitting authority in the permit application is subsequently determined to contain a dishonest, fraudulent, or materially misleading statement or omission, in which case the permit shall be deemed to have been invalid beginning on the

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date the permit was issued, and shall have no force or effect; or

(D) the person intentionally violates the express [~~contents/~~terms~~?~~] of the permit.

(h) ADMINISTRATION OF PERMITS.—

(1) MODIFICATION OR TERMINATION OF PERMITS.—

(A) AUTHORITY.—A permitting authority may—

(i) extend the period during which a permit is valid under procedures established for such purpose by the permitting authority;

(ii) modify or terminate a permit for cause, including misrepresentation or a violation of a permit; and

(iii) upon the request of the Good Samaritan, and subject to a 30 day public notice and comment period, modify a Good Samaritan permit to take into account any event or condition that—

(I) significantly reduces the feasibility or significantly increases the cost of completing the remediation work at the inactive or abandoned

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mine site that is the subject of the Good Samaritan permit;

(II) was not—

(aa) contemplated by the Good Samaritan; or

(bb) taken into account in the remediation plan of the Good Samaritan; and

(III) is beyond the control of the Good Samaritan, as determined by the permitting authority.

(B) TERMINATION.—Unless the permitting authority has extended the period during which a permit is valid, the authority to carry out activities under a permit issued under this section shall terminate—

(i) if the activities do not commence by the date that is 1 year after the date on which the permit is issued;

(ii) if the activities are discontinued or not completed by the end date specified in the permit; or

(iii) on any other grounds determined appropriate by the permitting authority.

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(2) TRANSFER OF PERMITS.—A permit may be transferred to another person only if—

(A) the appropriate permitting authority determines that the transferee will satisfy all of the requirements of the permit;

(B) the transferee is a Good Samaritan;

(C) the transferee accepts all of the requirements of the permit;

(D) the permitting authority includes in the transferred permit any additional or modified conditions determined to be appropriate by the permitting authority; and

(E) any Federal, State, or tribal land management agency with jurisdiction over the project site is notified of the proposed transfer and does not object to the permitting authority before the date that is 30 days before the proposed transfer is to take effect.

(3) MAINTENANCE OF RECORDS.—A permitting authority shall maintain all records relating to permits and the permit process under this section.

(i) OTHER ACTIVITIES.—A permit issued under this section may not authorize any new mining activities other than those activities directly related to carrying out reme-

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diation at or related to the inactive or abandoned mine site.

SEC. 323. STATE OR TRIBAL PROGRAMS.

(a) IN GENERAL.—A State or Indian tribe may issue a permit under this subtitle if the State or Indian tribe has in effect a Good Samaritan permit program approved by the Administrator under this section.

(b) APPLICATION.—

(1) SUBMISSION.—The Governor of any State or the head of an Indian tribe's governing body may submit to the Administrator an application to carry out a Good Samaritan permit program within its jurisdiction at any time.

(2) CONTENTS.—An application under this section shall include—

(A) a full and complete description of the Good Samaritan permit program it proposes to administer under State or tribal law; and

(B) a statement from the State Attorney General, or, for an Indian tribe, the equivalent official authorized to represent the tribe in court pertaining to the application, that the laws of the State or Indian tribe provide sufficient legal authority to carry out the described ~~program.~~ 1

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(3) APPROVAL.—Not later than 120 days after receiving an application submitted under this subsection, the Administrator shall approve the Good Samaritan permit program unless the Administrator determines that the requirements of this section are not met.

(c) REQUIREMENTS.—To meet the requirements of this section, a State or Indian tribe shall—

(1) designate a lead agency that is responsible for carrying out permitting responsibilities under this section; and

(2) have in effect laws providing sufficient legal authority to carry out a Good Samaritan permit program in accordance with this subtitle.

(d) DELEGATION OF AUTHORITY.—Upon approval of a State or tribal Good Samaritan permit program under this section, the Administrator shall transfer all authority to issue permits under this subtitle for the State or relevant area of Indian country to the lead agency designated under subsection (c)(1).

(e) ADMINISTRATION.—A State or tribal Good Samaritan permit program approved under this section shall be administered in accordance with this subtitle, except that nothing in this subtitle precludes a State or Indian

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tribe from imposing more stringent requirements on permit applicants or permittees.

SEC. 324. ENFORCEMENT.

(a) IN GENERAL.—A permitting authority may enforce any violation of this subtitle, with respect to which the permitting authority has jurisdiction, by—

(1) issuing an order to comply with the violated provision; or

(2) commencing a civil action for appropriate relief, including a permanent or temporary injunction.

(b) MINIMUM REQUIREMENT.—In the event of a permit violation, and absent extraordinary circumstances, the court shall, at a minimum, require the person to repair, to the extent practicable, the damage to any part of the environment caused by an action of the person in violation of the permit.

(c) CIVIL PENALTY.—Any person who violates this subtitle shall be subject to a civil penalty of up to $5,000 for each day of the violation (except in cases of knowing conduct, in which case the civil penalty shall be $32,500 for each day of the violation).

SEC. 325. GRANTS ELIGIBILITY.

A project authorized by a permit issued under this subtitle is eligible for funding pursuant to section 319 of

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the Federal Water Pollution Control Act (33 U.S.C. 1329).

~~**SEC. 326. CONSTRUCTION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.**~~

~~No action of the Administrator taken pursuant to this subtitle shall be required to comply with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).~~

SEC. 327. USE OF PROJECTS TO MEET OFFSITE MITIGATION REQUIREMENTS.

A project authorized by a permit issued under this subtitle shall be considered to satisfy all or part of any offsite mitigation requirement of the permittee, upon approval by the authority imposing the offsite mitigation requirement.

SEC. 328. STATE AND TRIBAL RECLAMATION PLANS UNDER THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977.

No State or Indian tribe conducting remediation of an inactive or abandoned mine site pursuant to an approved State or tribal abandoned mine reclamation plan approved under title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) shall, with respect to the remediation activities, be required to

Notes

obtain a permit under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 329. SAVINGS PROVISIONS.

(a) EMERGENCY AUTHORITY.—Nothing in this subtitle affects the authority of a Federal, State, tribal, or local agency to carry out any emergency authority, including an emergency authority under environmental laws.

(b) LIABILITY UNDER OTHER LAWS.—Except as provided in section 322(g), nothing in this subtitle or a permit issued under this subtitle limits the liability of any person under any other provision of law.

SEC. 330. SUNSET.

(a) IN GENERAL.—No permitting authority may issue a permit under this subtitle after the date that is 7 years after the date of enactment of this subtitle.

(b) STUDY; REPORT.—

(1) STUDY.—Not earlier than 5 years after the date of enactment of this subtitle, the Administrator, the Secretary of the Interior, and the Secretary of Agriculture, in consultation with the Interstate Mining Compact Commission, shall enter into an arrangement with the National Academy of Sciences, for execution by the Board on Earth Sciences and Resources, to conduct a detailed, com-

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prehensive study of the effectiveness of the permitting activities carried out under this subtitle.

(2) REPORT.—Not later than 7 years after the date of enactment of this subtitle, the Board on Earth Sciences and Resources shall submit to Congress, the appropriate Federal agencies, and the Governors of each of the States represented by the Interstate Mining Compact Commission a report containing—

(A) the results of the study conducted under paragraph (1); and

(B) any recommendations regarding whether the permitting activities carried out under this subtitle should be reauthorized and, if so, any changes that should be made to improve the effectiveness of the activities.

(3) FUNDING.—From the funds collected as claim location fees and maintenance fees under section 302, the Secretary of the Interior shall provide to the National Academy of Sciences such funds as it requests, not to exceed $2,000,000, for the purpose of conducting the study required under this section.

Notes

From:	Ripchensky, Darla (Energy)
To:	felipe_mendoza@ios.doi.gov
Cc:	"Salotti, Christopher"
Subject:	ACTION RQSTD: Status of Responses to Questions for the Record for Mr. Lyons from the 6/28/16 SENR Cmte PLFM Subcmte Hearing
Date:	Friday, November 04, 2016 3:26:39 PM
Attachments:	QFRs for Mr. Lyons from the 6-28-16 ENR Cmte PLFM Subcmte Hrg.docx

Good afternoon, Felipe and Chris!! I hope you are having a good recess!! We are in the process of finalizing the June 28, 2016 hearing transcript, and I do not show a record of receiving Mr. Lyon's responses to QFRs. If you have previously sent them to me, can you please possibly resend them? If not, can you please be so kind as to provide me with a date we can expect to receive them?

Many thanks and have a terrific weekend!!

Sincerely,
Darla Ripchensky

From: Ripchensky, Darla (Energy)
Sent: Thursday, June 30, 2016 4:45 PM
To: Mendoza, Felipe <felipe_mendoza@ios.doi.gov>
Cc: Kearney, Christopher (Energy) <Christopher_Kearney@energy.senate.gov>; Gray, Spencer (Energy) <Spencer_Gray@energy.senate.gov>; Matthews, Fayenisha (Energy) <Fayenisha_Matthews@energy.senate.gov>; Christopher Salotti <chris_salotti@ios.doi.gov>
Subject: Re: Questions for the Record for Mr. Lyons from the 6/28/16 SENR Cmte PLFM Subcmte Hearing

Thank you!

Darla Ripchensky
202.224.3607

From: Mendoza, Felipe
Sent: Thursday, June 30, 2016 4:16 PM
To: Ripchensky, Darla (Energy)
Cc: Kearney, Christopher (Energy); Gray, Spencer (Energy); Matthews, Fayenisha (Energy); Christopher Salotti
Subject: Re: Questions for the Record for Mr. Lyons from the 6/28/16 SENR Cmte PLFM Subcmte Hearing

Thank you! We'll share these with Mr. Lyons.

Best,
Felipe

On Thu, Jun 30, 2016 at 4:04 PM, Ripchensky, Darla (Energy) <Darla_Ripchensky@energy.senate.gov> wrote:

> Good afternoon, Felipe. Attached are Questions for the Record which have been submitted

to Mr. Lyons by various Members of the Senate Energy Committee from Tuesday's PLFM Subcommittee hearing regarding the status of the Bureau of Land Management and Forest Service's efforts to implement amendments to land use plans and specific management plans regarding sage grouse conservation, and those agencies' coordination activities with affected states. I respectfully request that you provide Mr. Lyons' responses to these questions directly to me by **Tuesday, July 19, 2016** for inclusion in the official hearing record.

Please do not hesitate to contact me if you have any questions. Thank you for your assistance with this request.

Sincerely,

Darla Ripchensky, PMP
Chief Clerk
U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510
202.224.3607

--

Felipe Mendoza, Deputy Director
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240
202-208-3337 | felipe_mendoza@ios.doi.gov

U.S. Senate Committee on Energ□ and Natural Resources
Subcommittee on Public Lands□Forests and Mining
Hearing on □une □□□016□Oversight on the Status of the Bureau of Land Management and Forest Service□s Efforts to Implement Amendments to Land Use Plans and Specific Management Plans regarding Sage Grouse Conservation□ and those Agencies□Coordination Activities □ith Affected States
□uestions for the Record Submitted to Mr. □im L□ons

□uestions from Senator Lisa Mur□o□s□i

□uestion 1□ I understand this 10-million-acre withdrawal would be the largest in FLPMA history. The Department has justified this figure by saying there does not appear to be significant mineral development potential.

- What science or geological data informed that statement, and is there a complete geological and mineral inventory of the 10 million acres?

- Which agency conducted that mineral inventory?

□uestion □□ How does the BLM intend to complete the nearly 6000 mineral examinations triggered by this withdrawal in the face of such a significant backlog?

□uestion 3□ What are the agencies doing to engage stakeholders and state representatives prior to finalization of any guidance documents?

□uestion 4□ Mitigation is a significant part of both the BLM and Forest Service□s plans. How does the BLM intend to measure the concept of □net conservation gain□in mitigation? Are there specific benchmarks and if so, who developed those benchmarks?

□uestion 5□ In your testimony, you highlighted the years of work the Administration has undertaken on the issue of sage grouse conservation. I think your point is that the Resource Management Plans and Land Use Plan Amendments announced last fall were a culmination of years of work.

- If that is true, why then have we waited nearly another whole year for agency guidance if you□ve been working on this issue for more than a decade?

□uestion 6□ One of the focal points of the conversation surrounding the sage grouse conservation plans is the 10-million-acre mineral withdrawal. Under FLPMA, such a withdrawal, or any action that precludes a specific land use, requires proper Congressional notification of both the Senate and House of Representatives. Has such a notice been issued?

□uestion □□ What was the process for review and consideration of the state plan consistency reviews of BLM□s plans?

□uestion □□ By state, what percentage would you estimate recommendations of each of the consistency reviews are reflected in the management plans and amendments?

U.S. Senate Committee on Energ and Natural Resources
Subcommittee on Public Lands Forests and Mining
Hearing on une 016 Oversight on the Status of the Bureau of Land Management and Forest Service s Efforts to Implement Amendments to Land Use Plans and Specific Management Plans regarding Sage Grouse Conservation and those Agencies Coordination Activities ith Affected States
uestions for the Record Submitted to Mr. im L ons

uestion In your testimony you state that the BLM plans are the product of extensive coordination and engagement among federal agencies, sates, and other partners and stakeholder Do you believe that means the state s views are reflected in the plans? If so how?

uestion 10 Why did you completely reject five 50 percent -- of the 10 state plan consistency reviews? Please be specific in explaining your rejection of each state s comment. Also, does the agency believe coordination and engagement mean communication with stakeholders but not necessarily agreement or consensus?

uestion 11 Given the years of successful state and federal collaboration outlined in your testimony, and the fact that data shows the population of sage grouse has been stable for the last decade -- in fact, there has been an increase in leks in recent years -- what specifically led to the agency s decision to modify the land management plans to include mandatory regulatory mechanisms ?

uestion 1 In your testimony you indicate the plans will require mitigation that provides a net conservation gain to the species. You also indicate that the plans call for monitoring and evaluation of various criteria so voluntary and required conservation actions can be assessed. How is net conservation gain going to be measured? What are the benchmarks, and are they in place now? And, are the processes for assessment of conservation actions in place?

uestion 13 The Administration has touted predictability as a benefit of its recent policy on mitigation pursuant to the Presidential Memorandum: Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment. How do you reconcile the predictability as argued by the Administration, and your written statement on page 6, in which you argue that pre-determined benchmarks will be developed to ensure the agency s ability to immediately respond to and correct identified declines in population? How will the ability to change course translate to predictability for industry and project proponents?

uestion 14 In your oral testimony, you told Senator Daines that the agency objective is to ensure the sage grouse populations do not warrant (Endangered Species) listing in the future, and that effective management means sustaining habitat and population of sage grouse. If sustainment rather than growth of habitat and population is effective, why is it necessary to seek a net conservation gain? Under what legal authority is the Bureau of Land Management permitted to seek a net conservation gain? And, how do you define net conservation gain as you discuss on page 6 of your written statement?

U.S. Senate Committee on Energ□ and Natural Resources
Subcommittee on Public Lands□Forests and Mining
Hearing on □une □□□016□Oversight on the Status of the Bureau of Land Management and Forest Service□s Efforts to Implement Amendments to Land Use Plans and Specific Management Plans regarding Sage Grouse Conservation□ and those Agencies□Coordination Activities □ith Affected States
□uestions for the Record Submitted to Mr. □im L□ons

□uestions from Senator □ohn Barrasso

□uestion 1□ Given that mitigation is a significant part of the restoration activities proposed in the federal plans, how does the BLM intend to measure the concept of □net conservation gain□as a result of mitigation? Are there specific quality or quantity benchmarks that will be required, and if so, who developed those benchmarks?

□uestion □□What specific components of the BLM Resource Management Plans will be enacted to reduce cheatgrass prevalence to decrease fire threat and address other ecosystem imbalance issues?

□uestion 3□ Mr. Lyons, given that the 10-million-acre withdrawal is currently only segregated, and not actually withdrawn from production/use potential, how is the agency able to preclude or stall permitting activities on lands that may or may not ultimately be included in a mining-use withdrawal?

□uestion 4□ When does the agency intend to notice the mining withdrawal?

□uestion 5□During the hearing it became apparent that many stakeholder groups feel they have been left out of the process during the development of instructional memoranda and agency guidance documents. Why do you feel stakeholder input is inappropriate during this stage of the process and what, if anything, does the BLM plan to do to engage stakeholders prior to the finalization of field guides or instructional memoranda?

□uestion 6□From the Department□s perspective, what is the status of the Greater Sage Grouse population (e.g., location, population size, density) across the West at this time?

□uestion □□Please provide for the record a copy of any instructional memoranda, field guide, guidance document, or any other media currently under development that will affect implementation of the Department of Interior□s sage grouse conservation efforts.

□uestions from Senator Ron W□den

□uestion 1: Over the last four months, the Bureau of Land Management has held a series of public outreach meetings on implementation of the sage grouse conservation plans. What has been the response at these meetings from stakeholders to the plans?

U.S. Senate Committee on Energ□ and Natural Resources
Subcommittee on Public Lands□Forests and Mining
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□uestions for the Record Submitted to Mr. □im L□ons

□uestions from Senator □ames E. Risch

□uestion 1□ I haven□t seen the Grazing Instruction Memorandum, yet there was a Greenwire story from April 20, 2016 that mentions a leaked grazing memo. Can you send the Grazing Instruction Memorandum to my office?

□uestion □□ Will there be a seven inch stubble requirement in every lek buffer zone?

□uestion 3: Will there be a 3.1 mile buffer zone around every lek?

□uestion 4□ At the time of the announcement of the 10 million acre mineral withdrawal in conjunction with the sage grouse land use plans, DOI officials went on record saying that the □withdrawn areas do not appear to be highly prospective for miners. On what specific information were such statements based as there is abundant USGS and state data indicating otherwise? Does DOI still believe that statement is correct? Who is conducting the mineral potential report required under FLPMA to determine mineral potential?□

□uestions from Senator □ohn Hoeven

□uestion 1□In the hearing, I referenced North Dakota□s specific concerns with the federal land use plan for sage grouse conservation in the state. You pledged to provide a more specific response to the state□s issues, discuss with Montana/Dakotas Director Jamie Connell about how the response was prepared, and explain why □despite □extensive state-federal collaboration□□North Dakota□s concerns were discounted or dismissed by BLM.

- Please provide a response detailing the process, decision justifications, and future opportunities for the state to provide meaningful input during the next stages of implementation.

□uestion □□One concern for North Dakota centers on the federal land use plan□s refusal to allow an □adaptive management strategy□, which would provide flexibility to future oil and gas development and operations.

North Dakota has over 61,000 acres of BLM-managed land in its core sage grouse area that are already leased for oil and gas development. That is the highest percentage of acreage of any other state in the West. Under the federal plan, all of these acres would be subject to new leasing and development restrictions.

Yet, unlike other states, the federal land use plan for North Dakota does not allow for that broader □adaptive management strategy□. This denies the state flexibility for future oil and gas development and operations based upon changed circumstances.

- Why does the federal rule treat North Dakota differently and not allow the state to have adaptive monitoring and response for the sage grouse?

- Under the current plan, what specific ways can the state provide flexibility without an allowable □adaptive management strategy□?

□uestion 3: Another concern for North Dakota involves the federal land use plan□s effect on unleased federal lands. The rule stipulates □No Surface Occupancy□within the core sage grouse region.

North Dakota has close to 10,000 acres that are not currently leased for oil and gas development. Those are acres that could be leased in the future. The federal rule□s □No Surface Occupancy□requirement could unilaterally modify a mineral owner□s existing contract rights by requiring no new surface impacts.

North Dakota has argued that this stipulation may actually be detrimental to sage grouse habitat. By contrast, North Dakota□s current state plan allows for a □case-by-case□ analysis and adapts accordingly □an outcome the federal rule does not allow.

In fact, BLM□s official response to the state dismissed such concerns stating that, □case-by-case□flexibility is inconsistent with the purposes, policies, and programs of federal laws.□

- How do you justify BLM□s □No Surface Occupancy□stipulation with the BLM□s statutory principles of multiple use and sustained yield for public lands?

- Will the cumulative effects of this federal rule make further energy development on federal lands uneconomic and infeasible? To what extent? If not, why do many states and industry organizations disagree?

- Conversely, did BLM evaluate any negative effects on private oil and gas development in areas intermixed with large amounts of federal lands? If so, what are those effects and to what extent?

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□uestion 4: The federal plan also requires that sage grouse mitigation produce a □net conservation gain□ This means that land users □like holders of federal oil and natural gas leases □are required to offset impacts and express a □net conservation gain□

- Does the federal plan require landowners to pay any type of compensation to fulfil the mitigation requirements of the conservation area □including in states that currently do not have this requirement in their sage grouse plans?

- Please provide examples of compensatory mitigation options likely to occur under this provision.

- Please outline how the agency will determine the value and cost-effectiveness of those mitigation options.

- Please detail the process landowners and developers would be required to document, submit, and receive agency approval for those mitigation options.

□uestion 5: I am also concerned about the effect the federal plan might have on livestock grazing on public lands.

Over 22,000 ranchers graze cattle and sheep on federal lands. In North Dakota, our grazing associations work closely with federal agencies to allow their livestock to graze on public lands in a manner that both benefits the health and vitality of the grasslands and ranchers. For instance, well-managed grazing can increase wildlife diversity and populations, control invasive weeds, and reduce the risk of wildfire.

Several hearing witnesses mentioned that some of the most significant threats to the greater sage grouse are wildfire and invasive plants.

- Do the federal land use plan amendments curtail grazing in the Rocky Mountain Region? If so, to what estimated extent?

- Does the Interior Department agree grazing can help mitigate threats of wildfire and invasive plants?

□uestions from Senator Eli□abeth Warren

Deputy Assistant Secretary Lyons, you stated in your testimony that development of the BLM Greater Sage-Grouse plan decisions reflected an effort to work at a landscape-level,

to incorporate new science and information in the planning process, and to emphasize close coordination and collaboration with other federal agencies and with the states. This increased coordination and planning created a new paradigm in the way lands and resources can be managed.

Most people think of the Endangered Species Act (ESA) as a listing for species that are identified as endangered or threatened with extinction, but a critical component of the ESA its ability to take a comprehensive approach to protecting the ecosystems that provide sustainable habitats for these vulnerable species.

You further stated in your testimony that a comprehensive approach to species conservation is reflective of the goals of the ESA and that a stated purpose of the ESA is □to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved.□

□uestion 1□ The federal government employed a comprehensive habitat strategy to conserve greater sage-grouse habitat across the West on public lands, which resulted in avoiding the necessity of placing the species on the ESA listing. Do you believe that this habitat model can be duplicated in other regions across our country and how important was the ESA in driving this plan?

□uestion □□ While preserving the sage-grouse was the primary goal, the habitat protection and restoration components of the BLM□s plan have provided additional benefits for other species. Do you believe that Congressional efforts to eliminate federal plans would not only imperil the primary species targeted for protection, but also potentially jeopardize the long term sustainability of other species in the ecosystem?

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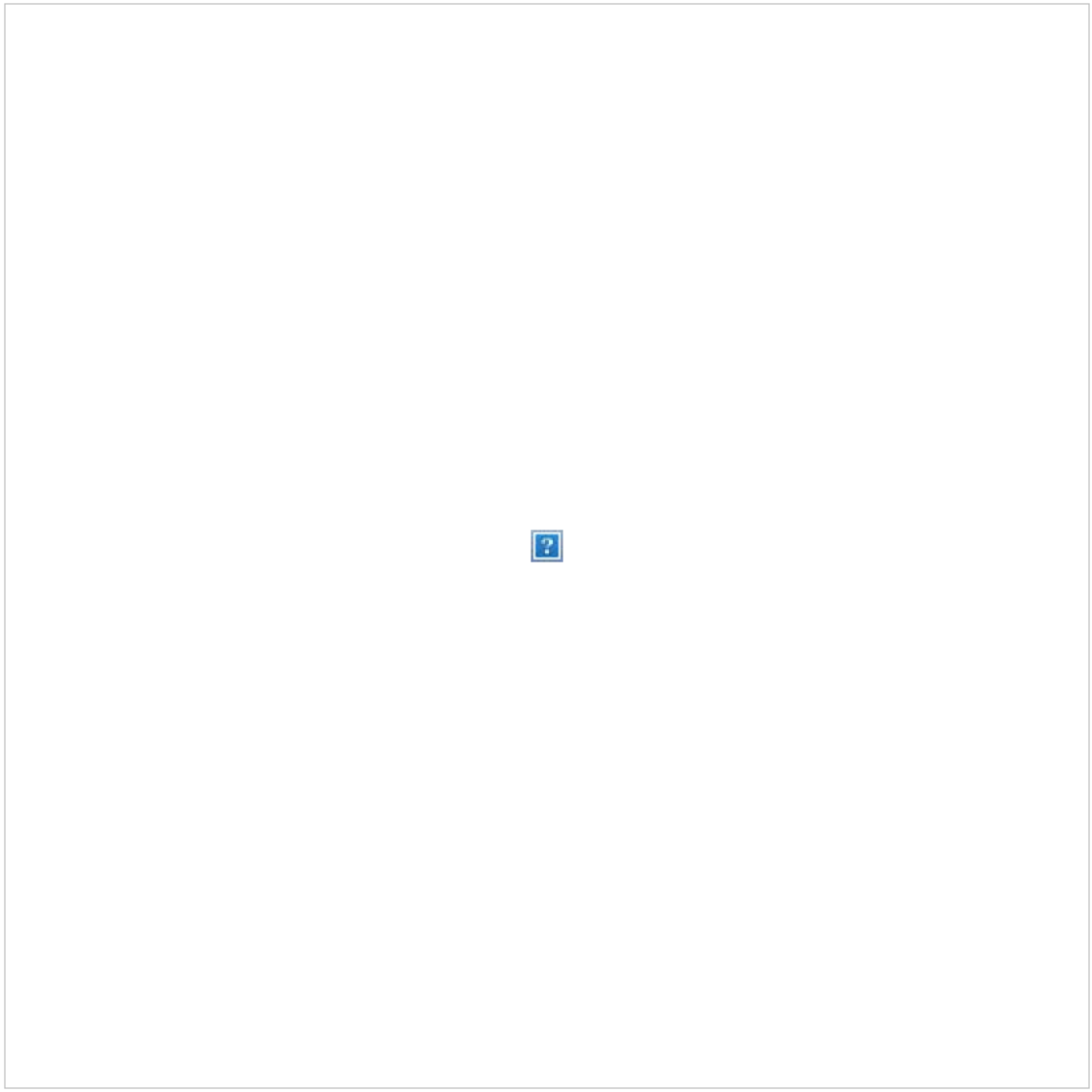

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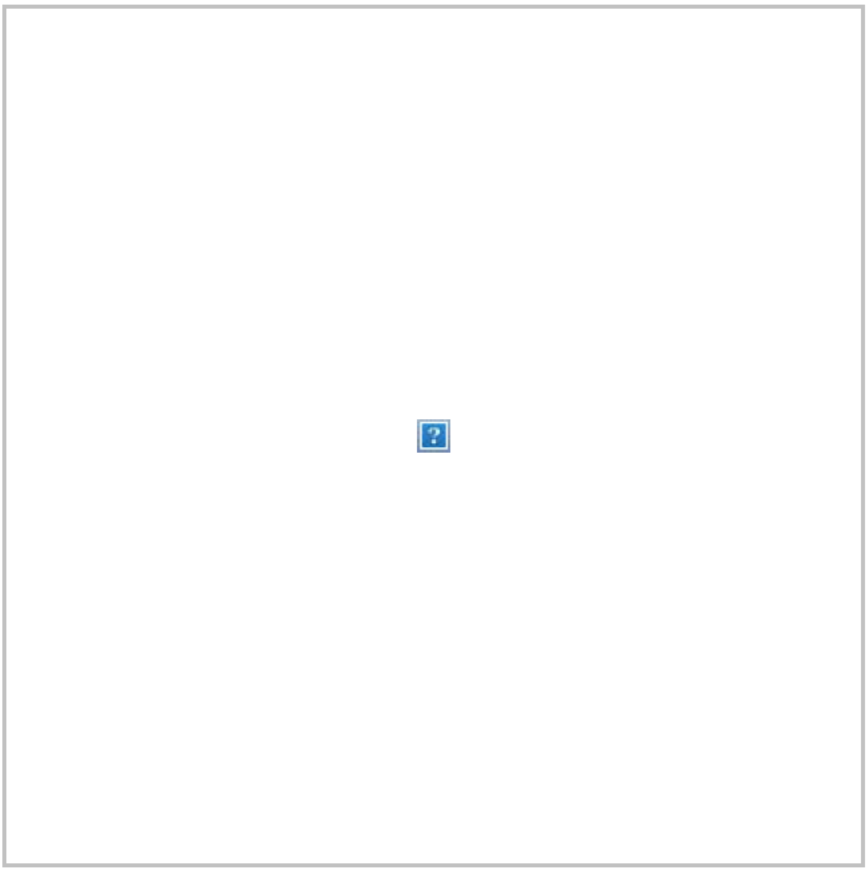

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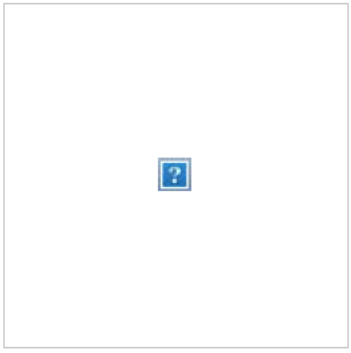
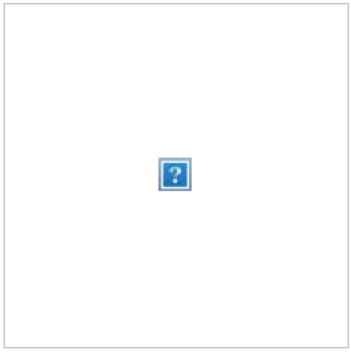
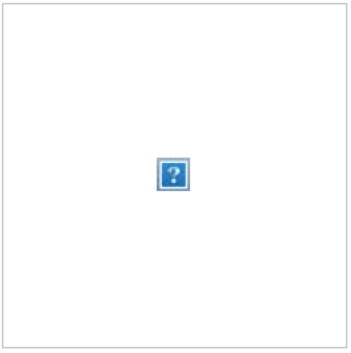

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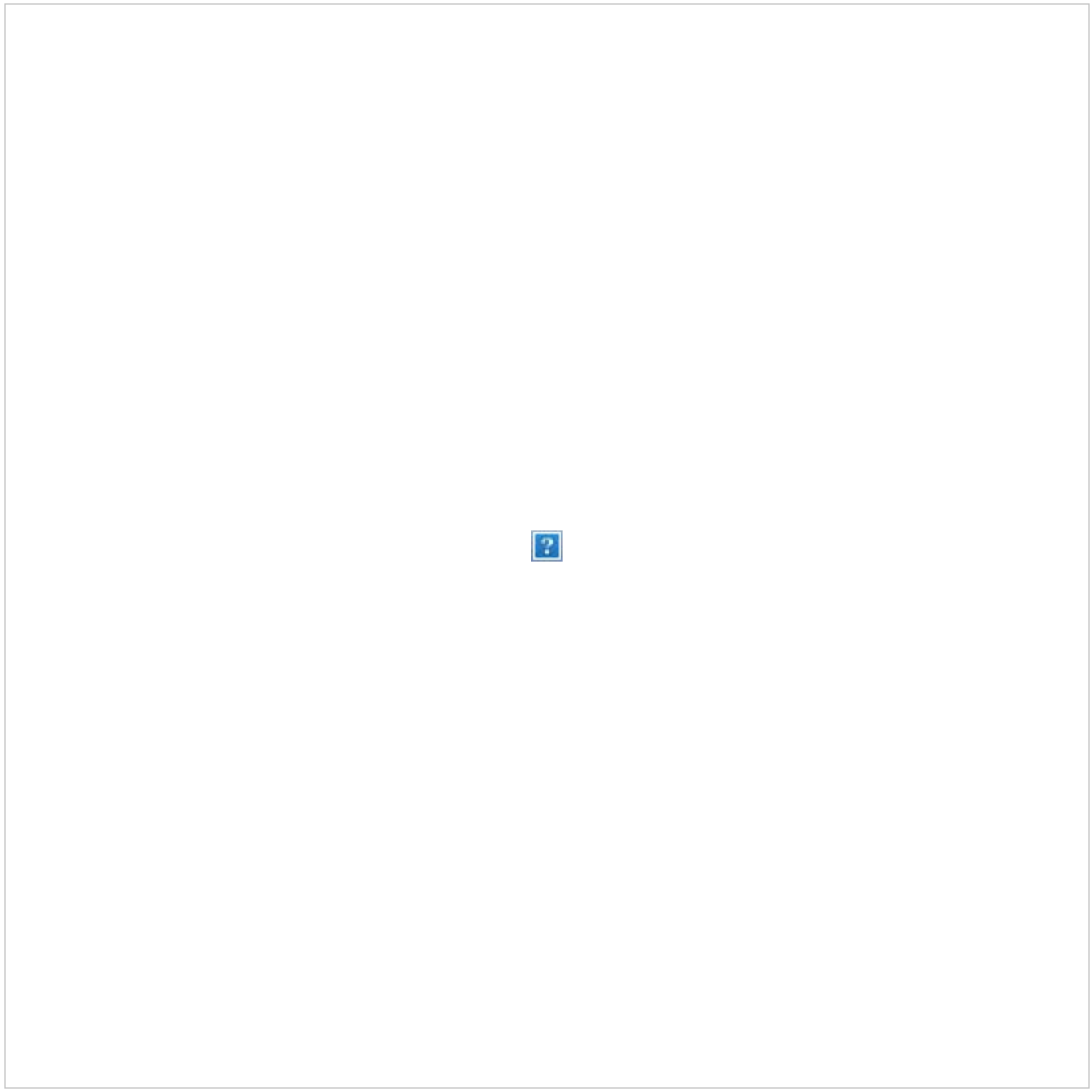

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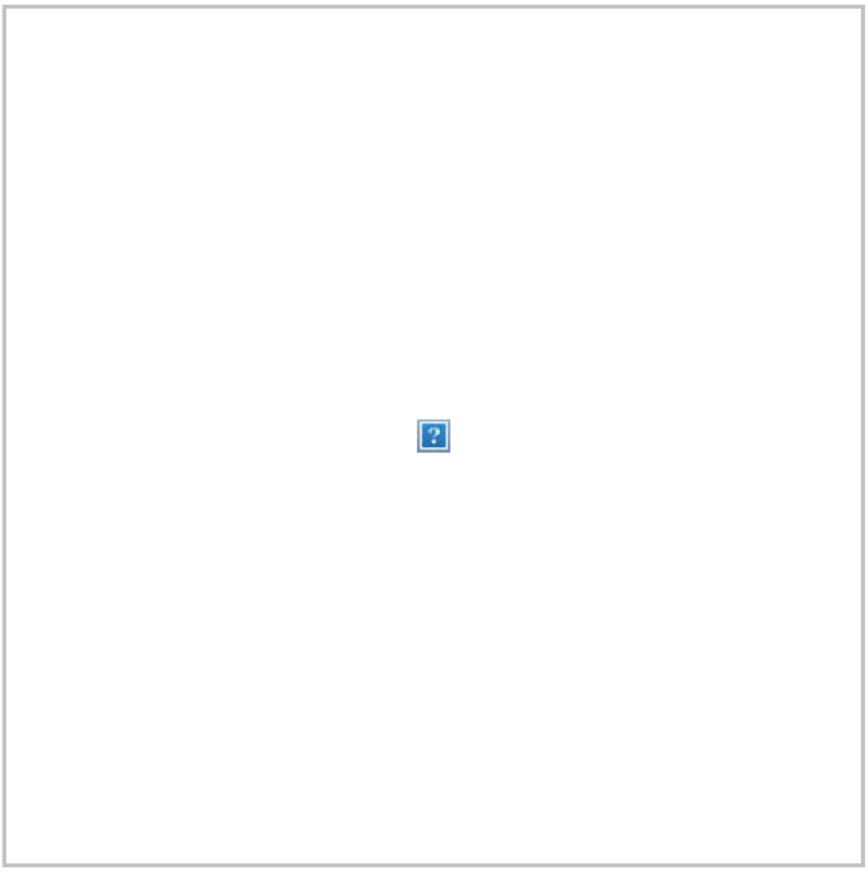

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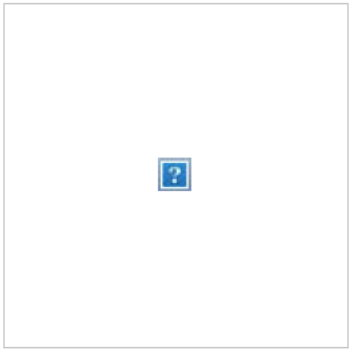
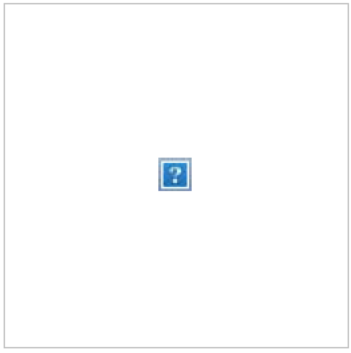
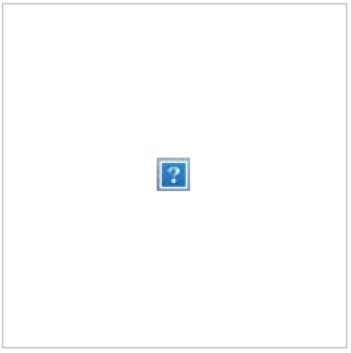

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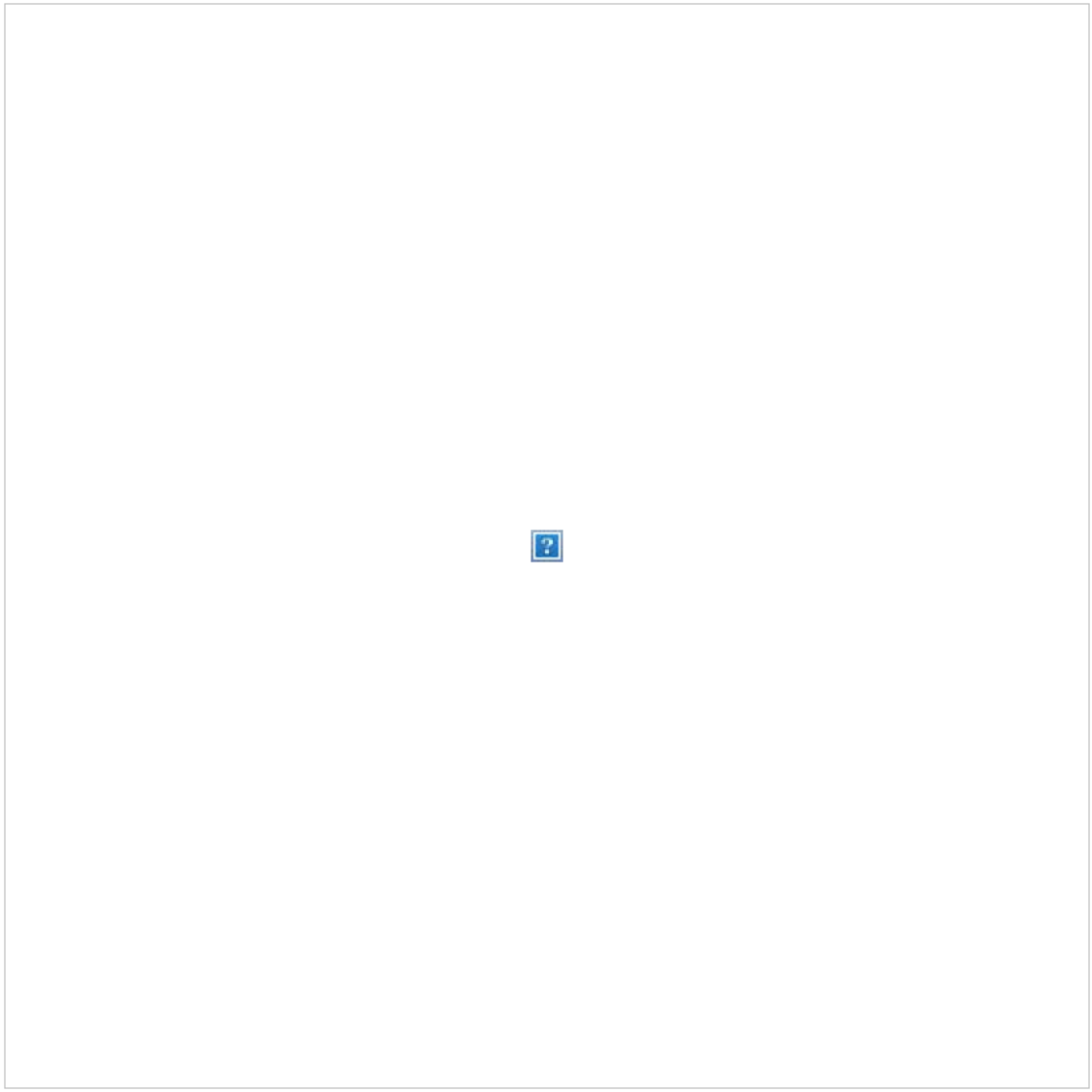

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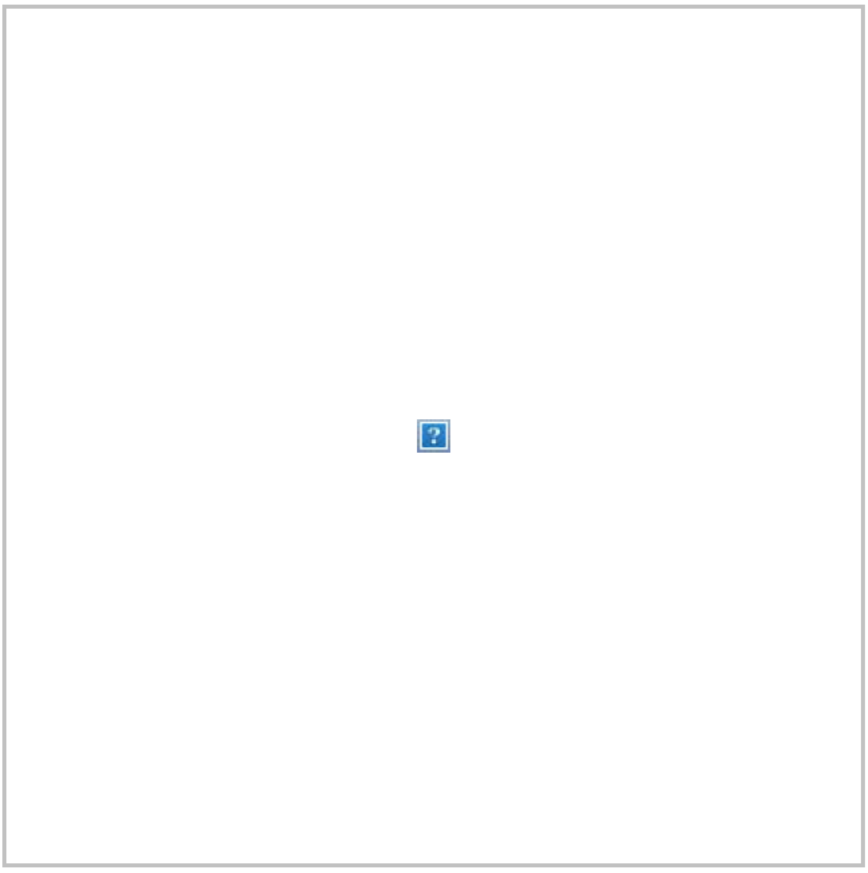

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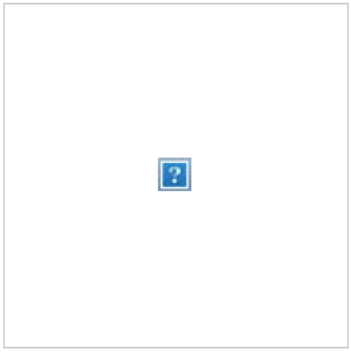
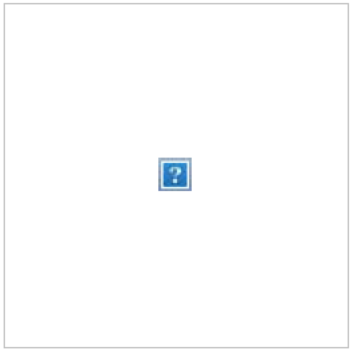
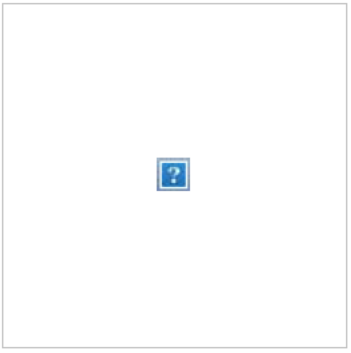

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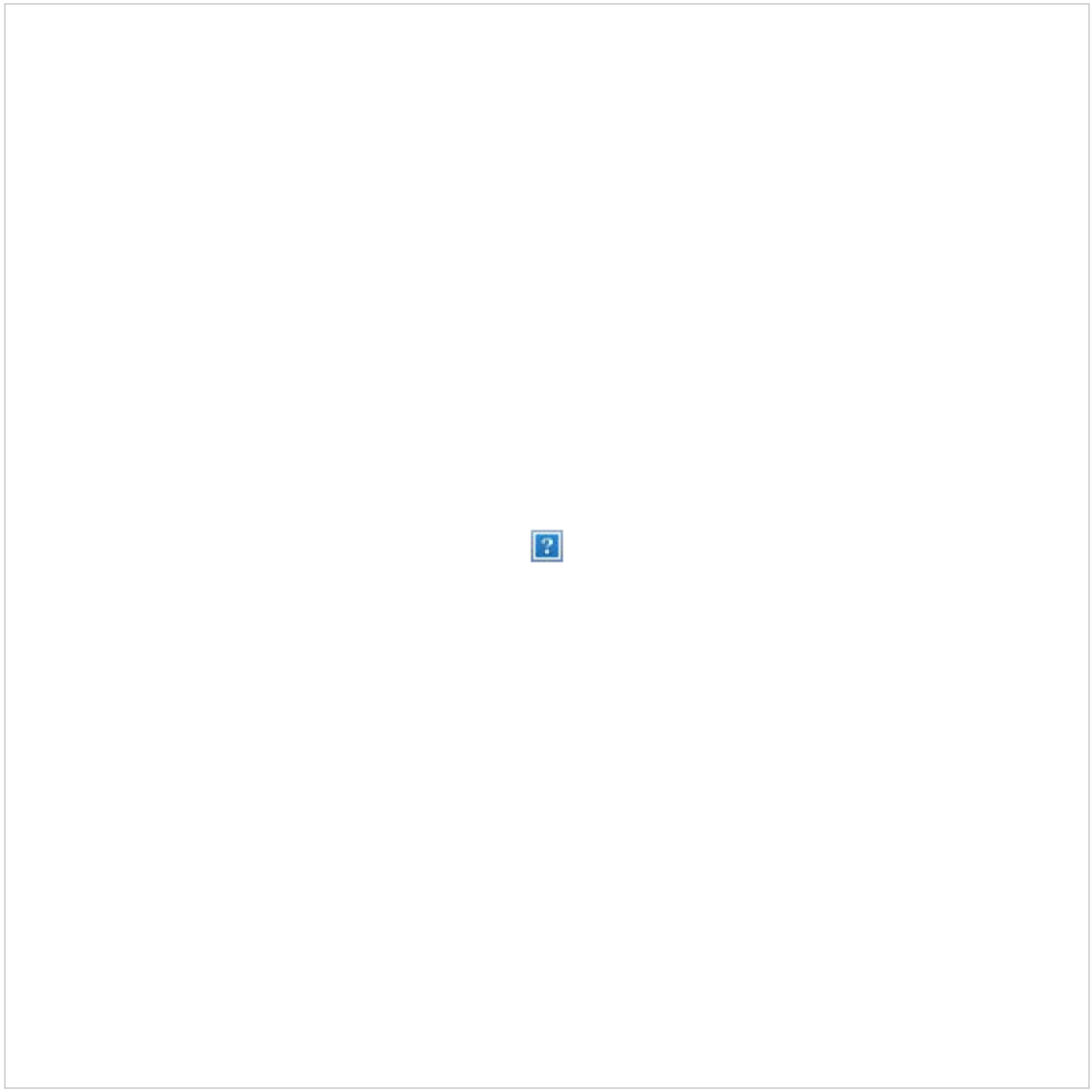

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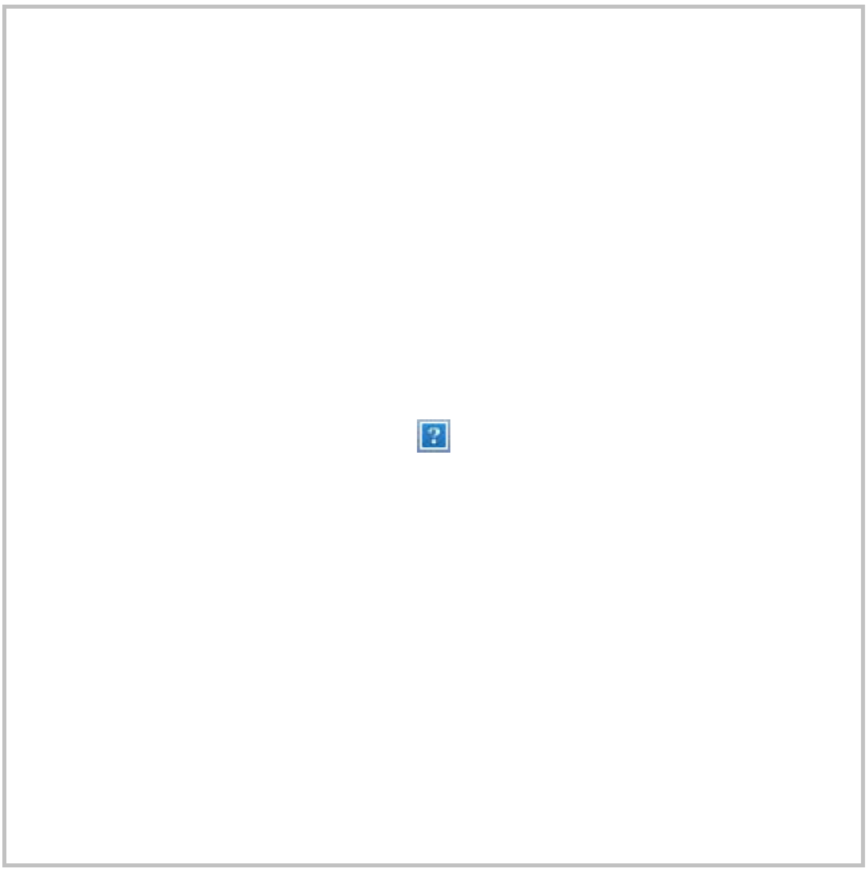

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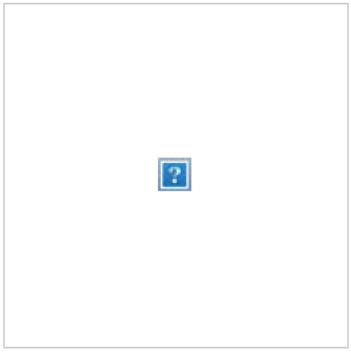
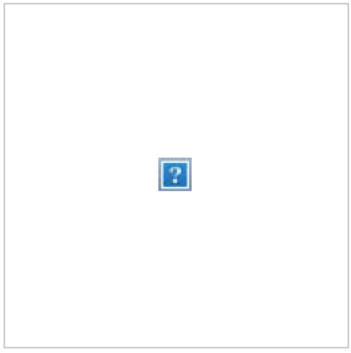
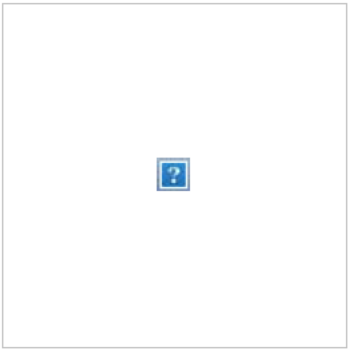
Subcommittee on Federal Lands
Legislative Hearing on the "Central Wasatch National Conservation and Recreation Area Act"

11:30 AM
1334 Longworth House Office Building
Subcommittee on Energy and Mineral Resources
Legislative Hearing on H.R. 866 and H.R. 1484

4:00 PM
1324 Longworth House Office Building
Full Committee
Markup

Wednesday, November 16, 2016
10:00 AM
1324 Longworth House Office Building
Full Committee

Markup

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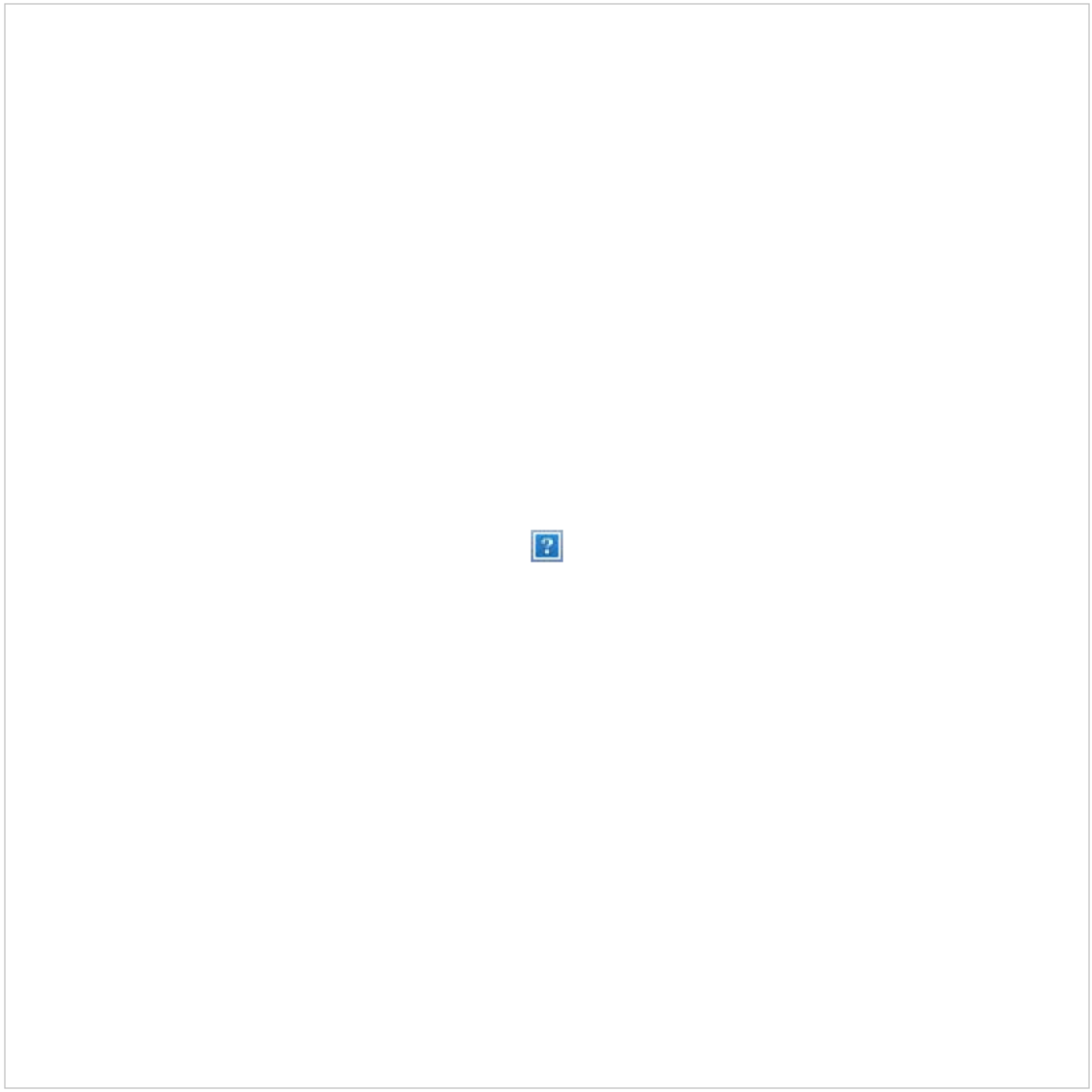
From: Elise Daniel
To: stephenne_harding@ios.doi.gov
Subject: The Source (America First)
Date: Thursday, November 10, 2016 4:31:33 PM

The Source from The House Committee on Natural Resources

View this email in your browser



For eight years, President Obama levied a smothering regulatory attack on the one sector that's kept the American economy afloat: energy. American families took a back seat to Putin and OPEC as the administration erected barrier after barrier to responsible domestic energy and natural resource development. On Tuesday, voters overwhelmingly rejected four more years of oppressive regulations that have exacerbated the country's economic decline. Instead, they chose "America First."

Here's a look at what a Trump administration could mean for important issues within the

Committee's jurisdiction.

OIL & GAS

Fortune: *"Trump […] wants to remove regulations that have previously blocked opening up federal lands and offshore areas for oil and gas exploration and production…"*

Forbes: *"We will see an abrupt end to the Bureau of Land Management's efforts to grab authority to regulate hydraulic fracturing on federal lands...A Trump victory is bad news for OPEC. More American oil will compete head-to-head with the cartel."*

COAL

The Hill: "Trump has pledged to bring the coal industry back from the brink and save coal miners' jobs, after years of decline due to competition from cheap natural gas and President Obama's policies."

Bloomberg: *"Trump, meanwhile, has released numerous economic and energy-related plans touting an end to the coal-related federal lands leasing moratorium."*

TRIBAL ENERGY

The Washington Times: *"The Trump administration will ease restrictions on American energy reserves worth trillions of dollars...and will block the bureaucrats holding Native American businesses back and bring new jobs into our communities."*

DROUGHT & WILDFIRE

USA Today: *"Trump said state officials were simply denying water to Central Valley farmers to prioritize the Delta smelt, a native California fish nearing extinction — or as Trump called it, "a certain kind of three-inch fish."*

"We're going to solve your water problem. You have a water problem that is so insane. It is so ridiculous where they're taking the water and shoving it out to sea," Trump said.

Bloomberg: *"After several years of stalled action on wildfires and forests...Trump's election victory changed the prospects for legislative action in 2017."*

ENERGY INFRASTRUCTURE

The Hill: *"Keystone was central to the national debate over energy and environmental policy. [...]*

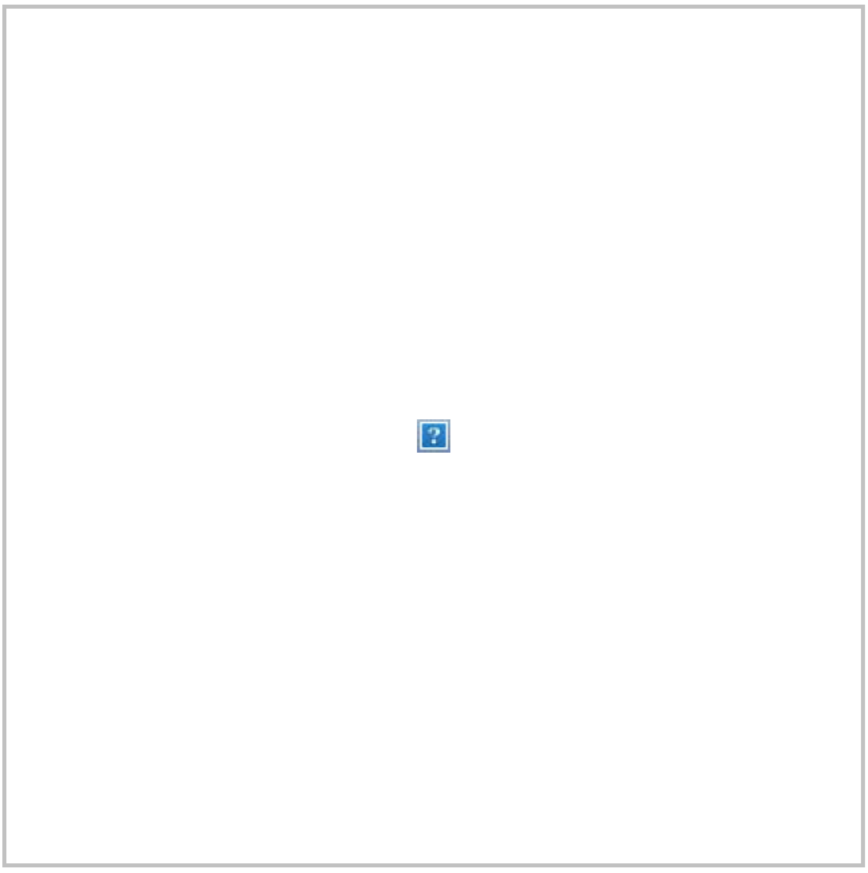
Congressional Republicans tried numerous times to force approval of the project, but Obama always blocked their attempts."

E&E News: *"With a President Trump in the White House, the nation's fossil fuel debate will likely shift from "keep it in the ground" to putting pipelines in the ground..."*

Natural Gas Intelligence: *"Congressional critics of the Obama administration's final guidance to federal agencies for quantifying greenhouse gas emissions accused the White House in a*

hearing Wednesday of giving environmental groups ammunition to bring lawsuits against energy projects.

"The November presidential election could decide whether the GHG rule prevails, with Republican Donald Trump likely to potentially eliminate it."



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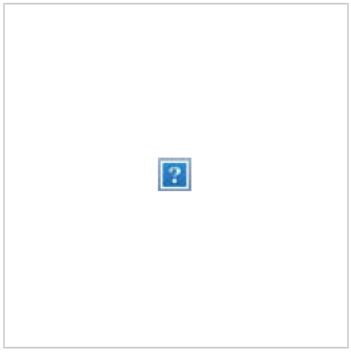
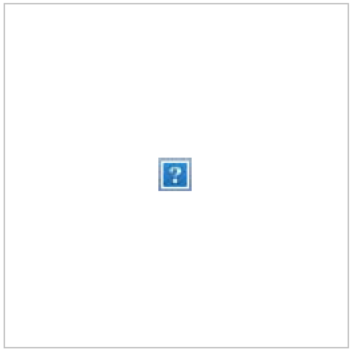
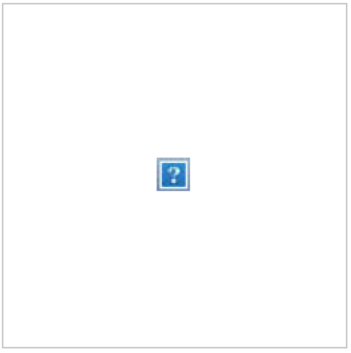

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From:	Alpert, Dan (Heinrich)
To:	chelsea_welch@ios.doi.gov
Subject:	FW: EMBARGOED 12pm: Interior Dept Announces Final Rule to Reduce Methane Emissions & Wasted Gas on Public, Tribal Lands
Date:	Tuesday, November 15, 2016 1:10:51 PM
Attachments:	Methane & Waste Prevention Rule Factsheet Final Rule v2.docx
Importance:	High

Ms. Welch:

It appears you sent us an out of date version of the fact sheet on the final rule (what you sent is attached, please note "proposed rule" on page 3). A different version is now posted on your website.

https://www.doi.gov/pressreleases/interior-department-announces-final-rule-reduce-methane-emissions-wasted-gas-public

regards,

dan alpert

From: Hermann, Maya (Heinrich)
Sent: Tuesday, November 15, 2016 11:53 AM
To: Alpert, Dan (Heinrich); Dumont, Jim (Heinrich); Sullivan, Michael (Heinrich); McCartin, Jude (Heinrich); Ventura, Diane (Heinrich); Britton, Joe (Heinrich); Potter, Whitney (Heinrich)
Subject: FW: EMBARGOED 12pm: Interior Dept Announces Final Rule to Reduce Methane Emissions & Wasted Gas on Public, Tribal Lands

From: Welch, Chelsea [mailto:chelsea_welch@ios.doi.gov]
Sent: Tuesday, November 15, 2016 11:15 AM
Subject: EMBARGOED 12pm: Interior Dept Announces Final Rule to Reduce Methane Emissions & Wasted Gas on Public, Tribal Lands

Good morning,

U.S. Secretary of the Interior Sally Jewell will today announce the Methane and Waste Prevention Rule – a final rule that will reduce the wasteful release of natural gas into the atmosphere from oil and gas operations on public and Indian lands. The rule updates 30-year old regulations governing venting, flaring, and leaks of natural gas, and will help curb waste of public resources, reduce harmful methane emissions, and provide a fair return on public resources for federal taxpayers, tribes and states.

A press release and fact sheet are attached. This announcement is embargoed until 12pm EST today.

Thank you,

Chelsea Welch
Special Assistant

Office of Congressional and Legislative Affairs
Department of the Interior
chelsea_welch@ios.doi.gov
(202) 208-5348

FACT SHEET ON METHANE AND WASTE PREVENTION RULE

OVERVIEW The Bureau of Land Management (BLM) has updated its regulations to reduce the waste of natural gas from flaring, venting, and leaks from oil and gas production operations on public and Indian lands. The final requirements, which will be phased in, will help curb waste of our nation's natural gas supplies; reduce harmful air pollution, including greenhouse gases; and provide a fair return on public resources for federal taxpayers, Tribes, and States.

The BLM's final rule requires oil and gas producers to take commonsense and cost-effective measures to reduce this waste of gas, modernizing the existing, more than 30-year-old oil and gas production rules and bringing them in line with technological advances in the industry. In addition, the rule modifies the existing royalty rate provisions to better align with the BLM's authority and enhance flexibility, but the rule would not raise royalty rates.

FACT The BLM's onshore oil and gas management program is a ma or contributor to our nation's oil and gas production. Domestic production from almost 100,000 federal onshore oil and gas wells accounts for five percent of the nation's oil supply and eleven percent of its natural gas. In Fiscal Year 2015, the production value of this oil and gas was worth almost $21 billion and generated over $2 billion in royalties.

FACT Large uantities of natural gas are asted during oil and gas production. Between 2009 and 2015, oil and gas producers on public and Indian lands vented, flared and leaked about 462 billion cubic feet (Bcf) of natural gas. That's enough gas to supply about 6.2 million households for a year. These losses create a myriad of problems, including: releasing harmful emissions, including methane, into the atmosphere; safety issues, if not properly handled; and waste of a valuable domestic energy resource.

FACT Ta pa ers are losing out. States, Tribes and federal taxpayers also lose royalty revenues when natural gas is wasted as much as $23 million annually in royalty revenue for the Federal Government and the States that share it, according to a 2010 Government Accountability Office (GAO) report.

FACT The rule minimi es aste of natural gas. The final rule will save and put to productive use up to 41 Bcf of gas a year enough to supply up to about 740,000 households each year. Overall, the rule will reduce flaring by an estimated 49 percent and venting and leaks by roughly 35 percent (compared to 2014 rates).

FACT Inaction is not an option. Methane, a powerful greenhouse gas about 25 times more potent than carbon dioxide, accounts for nine percent of all U.S. greenhouse gas emissions, and almost one-third of that is estimated to come from oil and gas operations. U.S. methane emissions are projected to rise substantially without additional steps to lower them. Several states, including North Dakota, Colorado, Wyoming, Utah and most recently Pennsylvania, as well as the U.S. Environmental Protection Agency (EPA), have also taken steps to limit venting, flaring and/or leaks.

FACT: The rule will reduce emissions that worsen climate change. BLM estimates that this rule could avoid an estimated 175,000-180,000 tons of methane emissions per year, roughly equivalent to 4.4-4.5 million metric tons of carbon dioxide emissions. This is also roughly equivalent to eliminating the greenhouse gas emissions from 924,000 to 950,000 vehicles.

FACT: The rule's benefits are projected to outweigh its costs. Using conservative assumptions, the BLM estimates that the rule's net benefits could range from $46 to $204 million per year. Benefits include revenues for operators from sale of recovered natural gas and environmental benefits of reducing methane emissions and other air pollutants.

FACT: Impacts to operators are expected to be minimal. Many oil and gas operators are voluntarily taking steps required in the rule to reduce wasted gas and improve operations. The BLM estimates that the annual cost to industry of implementing the rule will be $110-279 million. Individual, small business operators may see profit margins reduced by less than two-tenths of one percent, on average. About 40 percent of natural gas now vented or flared from onshore Federal leases could be economically captured with currently available technologies, according to the 2010 GAO report.

FACT: The rule reflects stakeholder outreach through public meetings and tribal consultations. The BLM conducted public and tribal meetings in 2014 and again in 2015 during the public comment period. The BLM received over 300,000 comments on the proposed rule. The BLM has also coordinated with individual states, as well as the Environmental Protection Agency, to avoid inconsistency or redundancy in regulations.

PROPOSED RULE OVERVIEW

The Mineral Leasing Act requires the BLM to ensure that operators "use all reasonable precautions to prevent waste of oil or gas." Important elements of the proposed rule include:

LIMITING ROUTINE GAS FLARING

- Currently, there is no upper limit on how much an operator can flare. The proposal would phase in, over several years, a flaring limit per development oil well, averaged across all of the producing wells on a lease.
    - Year one limit: 7,200 thousand cubic feet (Mcf)/month/well;
    - Year two limit: 3,600 thousand cubic feet (Mcf)/month/well; and
    - Year three limit (and thereafter): 1,800 thousand cubic feet (Mcf)/month/well.
- Estimated to affect about 16% of existing wells, which account for about 87% of gas flared.
- Applies only to flared associated gas from production wells, not flaring from exploration or wildcat wells or during emergencies.
- Provides an exemption if meeting the limit would cause an operator to cease production and abandon significant recoverable oil reserves under a lease.
- Operators could comply with the proposed flaring limits by: expanding gas-capture infrastructure (e.g. installing compressors to increase pipeline capacity, or connecting wells to existing infrastructure through gathering lines); adopting alternative on-site capture technologies (e.g. compressing the natural gas or stripping out natural gas liquids and trucking the product to a gas processing plant); or temporarily slowing production at a well to minimize losses until capture infrastructure is installed.
- Also improves disclosure of flared volumes by requiring metering when flared volumes reach 50 Mcf/day.

PRE-DRILLING PLANNING FOR GAS CAPTURE

- Currently, there is no mechanism to better align timing of well development and pipeline installation.
- Before drilling a development oil well, operators would need to evaluate opportunities for gas capture and prepare a waste minimization plan, which must be submitted with an Application for Permit to Drill.
- The plan must meet various requirements, and must be shared with midstream gas capture companies to facilitate timely pipeline development, but plan details would not be enforceable elements of the permit to drill.

DETECTING LEAKS

- The proposed rule will require operators to use an instrument-based leak detection program to find and repair leaks. Operators could use infrared cameras or other methods approved by the BLM; smaller operators (fewer than 500 wells) could alternatively use portable analyzers assisted by audio, visual and olfactory inspection.
- Operators would begin by inspecting twice a year. If they consistently find few leaks, they would be allowed to inspect annually, while if they consistently find more leaks, they would be required to inspect quarterly.

- The proposal is similar to EPA's recent proposed rule requiring leak detection and repair for new wells and facilities, as well as leak detection and repair requirements in Colorado and Wyoming.

REDUCING VENTING

- Except in narrowly specified circumstances, operators would be prohibited from venting natural gas. Exceptions include emergencies and venting from certain equipment subject to proposed limits.
- Operators would have to replace all "high bleed" pneumatic controllers with "low bleed" controllers within one year in most instances, tracking requirements in Colorado and Wyoming.
- Operators would generally have to replace certain pneumatic pumps with solar pumps, if adequate for the function, or route the pumps to a flare (if one is available on-site), similar to Wyoming and proposed EPA requirements for new and/or existing pumps.
- Within six months of rule's effective date, operators would have to capture or flare gas from storage tanks that vent more than six tons of volatile organic compounds (Volatile Organic Compounds)/year. This is expected to affect fewer than 300 tanks and is similar to EPA requirements for new tanks and Colorado and Wyoming requirements for new and existing tanks.
- Operators of new wells (drilled after rule's effective date) would generally not be allowed to purge those wells into the atmosphere; and operators unloading liquids from existing wells would be required to use best management practices.
- Operators would be required to capture, flare, use, or re-inject gas released during well completions. This would affect only conventional well completions, assuming that EPA finalizes its proposed rule for all hydraulically fractured well completions and recompletions.

CLARIFYING AND REVISING ROYALTY RATES

- The proposal revises existing royalty provisions for onshore oil and gas leases to specify a royalty rate at or above 12.5 percent for new competitive leases, consistent with the statutory authority in the Mineral Leasing Act.
- This modifies the existing regulation, which sets the rate at 12.5 percent and leaves the BLM no discretion to raise the rate as conditions change.
- The proposal responds to findings and recommendations in audits from the Government Accountability Office and Department of Interior Office of Inspector General.
- The BLM does not currently propose to raise royalty rates for new competitive leases.
- The proposed rule also clarifies that royalties would apply only to gas flared from wells already connected to gas capture infrastructure. This reduces burden on operators to submit applications for approval to flare royalty-free.

###

From:	Walters, Anthony (Indian Affairs)
To:	Mendoza, Felipe
Subject:	RE: Update on badger two medicine
Date:	Tuesday, November 15, 2016 3:57:09 PM

Thanks, that makes sense. Appreciate it.

From: Mendoza, Felipe [mailto:felipe_mendoza@ios.doi.gov]
Sent: Tuesday, November 15, 2016 3:51 PM
To: Walters, Anthony (Indian Affairs) <Anthony_Walters@indian.senate.gov>
Subject: Re: Update on badger two medicine

Tony,

We are cancelling the 15 leases held by Devon Energy. These are the leases that had the potential to be developed for oil and gas. We are still trying to determine how we will proceed with the 2 remaining leases.

Thanks,
Felipe

On Tue, Nov 15, 2016 at 3:05 PM, Walters, Anthony (Indian Affairs) <Anthony_Walters@indian.senate.gov> wrote:

> Hey Felipe,
>
> Can you confirm that DOI, by cancelling 17 leases, is cancelling all the remaining ones? Just trying to confirm the numbers for our press team.
>
> -Tony
>
> **From:** Mendoza, Felipe [mailto:felipe_mendoza@ios.doi.gov]
> **Sent:** Monday, November 14, 2016 3:39 PM
> **To:** Walters, Anthony (Indian Affairs) <Anthony_Walters@indian.senate.gov>
> **Subject:** Fwd: Update on badger two medicine
>
> Tony,
>
> Left you a voice message about giving me a call to chat about the below. When you have a chance, I'm at 208-3337.
>
> Thanks,
> Felipe
>
> **From:** "Walters, Anthony (Indian Affairs)" <Anthony_Walters@indian.senate.gov>

Date: November 12, 2016 at 10:56:13 AM EST
To: "joshua_mahan@ios.doi.gov" <joshua_mahan@ios.doi.gov>
Subject: Update on badger two medicine

Can you let me know the latest on badger two medicine?

I had thought that only the one lease was still canceled but that the department was figuring out how to do all of them.

Any ideas on what might be coming out in the next couple months or around the event next week.

Thanks,
Tony

Sent from my Verizon, Samsung Galaxy smartphone

--
Felipe Mendoza, Deputy Director
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240
202-208-3337 | felipe_mendoza@ios.doi.gov

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Felipe Mendoza, Deputy Director
Office of Congressional and Legislative Affairs
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1849 C Street, NW
Washington, DC 20240
202-208-3337 | felipe_mendoza@ios.doi.gov

From: Aoki, Lenna (Schatz)
To: Kaloi Kaiini
Subject: Fw: Pro Report: House Republicans unify behind Ryan — Barrasso to become chairman of EPW — Tom Price for HHS?
Date: Wednesday, November 16, 2016 6:46:01 AM

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

Hey Kimo,

Hope of Murkowski as scia chair is dead. ..

Barrasso was able to get epw chair because of vitter runoff in LA so leaves enr to Murkowski (Barrasso will not challenge her) and opens up scia for hoeven. Very tough line up for NH issues...

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Pro Report <politicoemail@politicopro.com>
Sent: Tuesday, November 15, 2016 5:59 PM
To: Aoki, Lenna (Schatz)
Reply To: POLITICO subscriptions
Subject: Pro Report: House Republicans unify behind Ryan — Barrasso to become chairman of EPW — Tom Price for HHS?

By Maggie Chan | 11/15/2016 05:57 PM EDT

With help from John Lauinger

Good afternoon and welcome to Pro Report, your daily rundown of the day's top policy news. I'm your host, Maggie Chan. Send feedback and song recs to mchan@politico.com and follow me @_maggiechan on Twitter. Don't forget to follow @POLITICOPro. "Better staple it together." Let's get started.

IT'S UNANIMOUS: RYAN REMAINS SPEAKER: House Republicans sent a strong sign of unity today by unanimously nominating Paul Ryan for a second term as speaker. Ryan said during a closed-door meeting with the conference that Vice President-elect Mike Pence told him that President-elect Donald Trump supports him and the current leadership regime. Ryan still must win a floor vote in January — he needs the support of 218 Republicans, giving him little wiggle room with his conference — to officially retain his gavel.

BARRASSO TO CHAIR SENATE EPW: Sen. John Barrasso told Pro Energy's Anthony Adragna today that he will chair the Environment and Public Works Committee in the next Congress, and one of his first priorities will be confirming a new EPA administrator. Barrasso said he knows who the ranking member will be but wouldn't name names. Sen. Tom Carper has right of first refusal for that role." Current Chairman Jim Inhofe is term-limited, and current ranking member Barbara Boxer is retiring.

TRUMP CONSIDERING TOM PRICE FOR HHS: House Budget Chairman Tom Price, who has been one of the top voices in the GOP calling for Obamacare repeal and was an early supporter of Donald Trump, is in contention for HHS secretary, sources say. Price, an orthopedic surgeon, "was one of the first Republicans to introduce an alternative to

Obamacare when Democrats were debating health care reform in 2009 and 2010," Jennifer Haberkorn and Rachael Bade write for Pro Health Care. Former Louisiana Gov. Bobby Jindal is another name being floated, while Ben Carson, who has frequently been mentioned as a possible HHS or Education secretary, has taken himself out of the running for any Cabinet post or any position in a Trump administration.

On the national security front, Trump's transition team has "contacted several hawkish Iran experts to explore options for imposing new sanctions on the Islamic Republic," a sign Trump will back up his campaign pledge to crack down on Iran, reports Pro's Andrew Hanna. And House Homeland Security Chairman Mike McCaul told POLITICO he's expressed interest in becoming the head of the Homeland Security Department. And ICYMI Monday night, Sen. Jeff Sessions is Trump's leading choice for Defense secretary. For all things about the next administration, head to Pro's Transition page and sign up for the newsletter.

TIMING IS EVERYTHING FOR METHANE RULE: Any regulations released in the waning days of the Obama administration face potentially short lives — and that could be the case with Interior's final Methane Waste Prevention rule, out today. If Trump makes good on his campaign pledge to scrap the Obama administration's energy policies — and "unleash an energy revolution" that would expand oil and gas production, he's said — the rule could be a goner, Pro Energy's Alex Guillén reports . It's designed to reduce emissions of methane that is vented or flared from oil and gas drilling wells on federal lands. The Bureau of Land Management says it will bring climate benefits and boost federal royalty revenue by hundreds of millions of dollars. But, Alex notes, "industry quickly piled on criticisms, blunting Interior's argument that the rule will benefit industry," and its eleventh-hour status makes it "vulnerable to a Congressional Review Act challenge early next year."

That didn't take long: Shortly after the rule was released, two industry groups filed suit in federal court, arguing that air quality is supposed to be regulated via the Clean Air Act by EPA and states, not BLM.

Q&A WITH SEC CHAIR MARY JO WHITE: Days before White announced Monday she would step down as head of the SEC, she sat down for an interview with Pro Financial Services' Patrick Temple-West to discuss her remaining priorities and political pressure, among other topics. Her priorities include adoption of the market surveillance tool known as the "consolidated audit trail," and work on Title VII of the Dodd-Frank Act (derivatives rules). Read it here.

SEC APPROVES CAT: Speaking of that surveillance tool ... the SEC today approved a plan to build the so-called consolidated audit trail, which Democratic Commissioner Kara Stein said would be "the Hubble telescope" for securities markets. The commission "first envisioned it in 2010 as one of its responses to the 'flash crash' in the stock market that year," but businesses argue CAT could leave investors' private financial information vulnerable to hackers, Patrick reports. "Now, stock exchanges must hire a company to build and operate the CAT. They can either go to the Financial Industry Regulatory Authority, or to one of two technology companies, SunGard or Thesys."

BRADY: DEFICIT-NEUTRAL TAX REFORM IS COMING: "Tax reform is going to happen in 2017," House Ways and Means Chairman Kevin Brady confidently predicted today, though he did not lay out a timeline for action, saying that's still being worked out. He said of his plan: "We're designing this to break even. We're already in the ballpark [of neutrality] with the blueprint — I feel comfortable where we're at." As for the possibility of using the revenue

raised by tax reform to finance infrastructure, he said: "I have not seen the details of the package being developed by the Trump administration — I think it's under construction as we speak right now and so we'll have that discussion." But Brady noted that diverting revenue to pay for highways would leave less for reducing tax rates, saying, "In our blueprint, we applied those revenues to more growth and more competitive rates."

Over in the Senate, Finance Chairman Orrin Hatch is nearly finished with his long-awaited "corporate integration" tax reform plan. A top Hatch aide said today the plan will be deficit-neutral, using conventional budgeting techniques, and will keep the same income distribution as under current law. The aide said the draft would include legislative language, as well as a dynamic and conventional budget score.

WATCHDOG: FAA'S NEXTGEN FALLING SHORT: A report from DOT's inspector general says "the bulk of the FAA's 'transformational' NextGen programs haven't been very effective at transforming air traffic management so far," reports Pro Transportation's Jennifer Scholtes. "The IG's follow-up report explained that the agency has made changes to cost and schedules for NextGen programs since the agency was dinged in a 2012 assessment . But the six most pivotal NextGen programs still don't have final price tags or ultimate deadlines and have yet to live up to their lofty goals, the IG reported in this newest take. ... The FAA now has initial baseline costs for each NextGen program and has approved nearly $2 billion — for example — for the first segment of the DataComm initiative to enable air traffic controllers to send digital messages to pilots. However, each program's total cost, timeline and ultimate benefits remain unclear, the IG explained."

MORE GOOD NEWS FOR FHA'S MORTGAGE INSURANCE PROGRAM: For the fourth year, the Federal Housing Administration's Mutual Mortgage Insurance Fund showed improved health, which could increase calls to lower the premium again, after President Barack Obama did so last year. "Clearly these very strong results do indicate there is room to return to pricing that reflects risk in the program," said Ed Golding, who leads the fund. Pro Financial Services' Lorraine Woellert reports that there were fewer defaults and a surge of new borrowers, leading the "capital cushion" to grew to 2.32 percent in fiscal 2016, up from 2.07 percent. "It was only the second year since 2008 that the capital ratio, a proxy for the fund's health, exceeded the 2 percent minimum required by law," Lorraine writes. "The net worth of the fund, which stands behind the $1 trillion in U.S. home loans and serves as a sort of savings account to pay lender claims if borrowers default, grew by $3.8 billion, to $27.6 billion."

KING TO COLLEGES: 'RESPOND AGGRESSIVELY' TO RACIAL HARASSMENT: "After a week of heightened tension on college campuses, Education Secretary John B. King Jr. [today] urged public university leaders to 'respond aggressively' to any cases of racial harassment," reports Pro Education's Benjamin Wermund. "In his first comments since Donald Trump was elected president, the Education secretary called on university leaders to take it upon themselves to protect students — many of whom, he said, feel unsafe following the election. 'We've got to make sure all of our students feel like our campuses are a place they belong and will feel supported all the way through to graduation. We've got to respond aggressively to incidents where that safety is violated and we have to set a tone on all of our campuses that we see diversity as an asset.' The racially charged incidents in the past week included a cyberbullying attack that targeted a group of black freshman students at the University of Pennsylvania, and a profanity-laced flier that appeared at Utah Valley University. The flier warned 'liberals' to 'shut the f--- up' about Muslim rights and gay rights."

CALENDAR FOR WEDNESDAY

— Senate Democrats hold leadership elections.

— U.S. Trade Representative Michael Froman attends the Asia-Pacific Economic Cooperation meetings in Lima, Peru. Nov. 16-20.

— 8 a.m.: POLITICO event: Tax Reform in the New Washington: Participants including House Ways and Means Oversight Subcommittee Chairman Peter Roskam and Stephen Moore, the economic adviser to Donald Trump, will discuss whether there's common ground on tax reform. The W Hotel, Washington, D.C. RSVP here. Livestream here.

— 12:30 p.m.: Commerce Secretary Penny Pritzker delivers remarks on online privacy focusing on the United States, the U.S.-European Union relationship and big data. Council on Foreign Relations.

— 2:30 p.m.: NHTSA Administrator Mark Rosekind testifies at a Senate Appropriations THUD Subcommittee hearing on "The Automated and Self-Driving Vehicle Revolution: What Is the Role of Government?" 192 Dirksen.

— 4 p.m.: Treasury Secretary Jack Lew presides over a meeting of the Financial Stability Oversight Council. Treasury Department.

That's all for today.

To view online:
https://www.politicopro.com/tipsheets/pro-report/2016/11/house-republicans-unify-behind-ryan-020147

Stories from POLITICO Pro

House GOP unanimously nominates Paul Ryan for Speaker Back

By Rachael Bade and Kyle Cheney | 11/15/2016 03:25 PM EDT

House Republicans on Tuesday afternoon unanimously nominated Paul Ryan for a second term as Speaker. The GOP conference gave the Wisconsin Republican voice-vote approval, forgoing a secret ballot tally that would have shown how many Republicans oppose Ryan leading the chamber.

The vote sends a strong signal of GOP unity under President-Elect Donald Trump and puts to rest speculation that Ryan's speakership is in jeopardy. Ryan told the conference during a closed-door meeting Tuesday that he and the current leadership regime have the support of Trump and Vice President-elect Mike Pence, according to a source in the room.

Ryan still must win a floor vote in January to officially retain his gavel. That will require him to garner the support of a majority of the House, typically 218 Republicans — giving him little wiggle room with his conference.

Ryan ran unopposed for the post.

Although some conservatives have said they don't like the way Ryan has run the House, or are

unhappy with him for distancing himself from Trump during the election season, none of them ended up opposing his bid.

"I've got mixed emotions," said Rep. Louie Gohmert (R-Texas) of voting for Ryan after emerging from a meeting of the Republican conference earlier Tuesday. Toward the end of the closed-door conference, Gohmert used an open mic to accuse Ryan of being soft on border security after Trump won and "insulting" the President-elect by suggesting in press conferences and on TV that Trump "heard a voice" no other politicians had.

Despite any lingering doubts, the GOP conference is moving on. House Republicans — known for devolving into feuding factions in recent years — have indicated they would like to put those fractures behind them.

And that means Ryan is in the clear. He's benefited from Trump's apparent desire to keep him on, despite their previous chilly relationship. Ryan said he's been speaking daily with Trump since Election Day, and Republicans said their seemingly renewed relationship had strengthened Ryan's reelection bid.

Ryan also told the conference that Vice President-elect Mike Pence told him that Trump supports the entire House leadership team — a major boon for Ryan that should help tamp down any lingering opposition.

"I think that if the speaker's good enough for Donald Trump, I think he ought to be good enough for the conference," said Rep. Trent Franks (R-Ariz.), a member of the Freedom Caucus who has previously expressed support for Ryan.

Rep. Scott DesJarlais (R-Tenn.), a member of the Freedom Caucus, said Trump's backing of Ryan's speakership clearly helped stave off division among Republican lawmakers. He credited Trump for opting against holding a grudge. But he called the truce "tenuous."

"A month and a half is an eternity in politics," he said, referring to the start of the next Congress.

In a show of unity, GOP Conference Chairwoman Cathy McMorris Rodgers (R-Wash.) put red and white "Make America Great" hats on every chair during a conference meeting Tuesday morning ahead of the vote — a nod to the President-elect. Coming out of the meeting Tuesday morning, Rep. Peter King (R-N.Y.) said they were shipped in overnight.

Officials from the incoming Trump administration, meanwhile, have been reaching out to Capitol Hill to get acquainted and gauge potential allies. Even Steve Bannon, the former Breitbart boss who reportedly was pushing for retribution against Ryan for the speaker's criticisms of Trump, has been telling senior Republicans that he wants to work with them, POLITICO's Playbook reported Tuesday morning. The controversial Trump adviser has reportedly been saying he's no longer planning to be a thorn in the side of Hill Republicans, who he often criticized as soft or weak, and instead wants to work with them.

Trump's economic adviser Stephen Moore, who authored Trump's tax plan, also met with a group of Republican whips early Tuesday morning on Capitol Hill. The room was packed, sources said, as he discussed with them a potential tax reform and infrastructure package.

During the Tuesday morning conference, Ryan also announce a newly created position —

congressional liaison to the Trump transition team. He chose Rep. Chris Collins (R-N.Y.) for the post, an early Trump supporter who is also close with Ryan. Collins, Ryan announced, would now serve as the clearing house for legislative and staffing requests to Trump's team from the Hill. Collins, for his part, sought to bolster Ryan by conveying Trump's support.

"Paul Ryan's future is as bright as ever. He has no opposition today. I'm seconding Paul Ryan's nomination today as a sign of Trump's support of Mr. Ryan," he said. "This is a team effort."

Back

Barrasso to chair Senate environment panel next Congress Back

By Anthony Adragna | 11/15/2016 02:10 PM EDT

Sen. John Barrasso will become the next chairman of the Environment and Public Works Committee in January, he told POLITICO today.

Barrasso said he knows who his ranking member will be, but declined to name them. Sen. Tom Carper has right of first refusal for that role.

Among his first priorities will be confirming a new EPA administrator, he said. Barrasso replaces the term-limited Sen. Jim Inhofe atop the panel, while current ranking member Sen. Barbara Boxer is retiring.

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Tom Price being considered for HHS secretary Back

By Jennifer Haberkorn and Rachael Bade | 11/15/2016 01:45 PM EDT

Rep. Tom Price is being considered for Donald Trump's secretary of Health and Human Services, two sources tell POLITICO.

"Tom Price has been loyal to Donald Trump from the outset and his knowledge of health care is second to none," said a Republican source on the Hill close to the Trump campaign. "Him being in contention for HHS secretary makes perfect sense."

The Georgia Republican, who chairs the House Budget Committee, was an early Trump supporter. He and several other House committee chairmen endorsed Trump in May. Price also campaigned with Trump at an Obamacare repeal rally a week before the election.

Price, an orthopedic surgeon, has been one of the GOP's top voices on Obamacare repeal and other health care issues. He was one of the first Republicans to introduce an alternative to Obamacare when Democrats were debating health care reform in 2009 and 2010.

Former Louisiana Gov. Bobby Jindal is among other possible candidates for HHS secretary.

A Price spokesman did not return a request for comment.

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Aide: Carson won't serve in Trump administration Back

By Paul Demko | 11/15/2016 11:42 AM EDT

Ben Carson will not serve in the Trump administration, according to a longtime confidant of the retired neurosurgeon.

"He has no interest in a Cabinet position, or any position in the administration," Carson adviser Armstrong Williams told POLITICO.

Carson has been frequently mentioned as a possible HHS or Education secretary. But Williams said Carson believes he can better serve President-elect Donald Trump as an outside adviser, given Carson's lack of governing experience.

"It's not an issue of him turning down anything," Williams said. "It was clear that he had his pick of what he wanted to do."

Carson ran for the 2016 Republican nomination after becoming a conservative icon for his harsh criticism of Obamacare. After dropping out of the race, Carson became an enthusiastic supporter of Trump.

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Trump transition reaches out to hawks on Iran Back

By Andrew Hanna | 11/15/2016 02:06 PM EDT

In an early sign that Donald Trump intends to follow through on his campaign pledge to crack down on Iran, his transition team has contacted several hawkish Iran experts to explore options for imposing new sanctions on the Islamic Republic.

"The Iran deal can now be legally and effectively be reversed," said Mark Dubowitz, executive director of the Foundation for Defense of Democracies, which was behind the failed effort to kill the nuclear deal last year and is now in contact with the Trump transition team.

Opposition to Mr. Trump's candidacy among Republican national security figures has given way to those who now see an opportunity to push a hardline approach toward Iran.

The Joint Comprehensive Plan of Action brought together the five permanent members of the United Nations Security Council plus Germany last year to halt Iran's nuclear weapons program.

The deal was the hallmark of President Barack Obama's Middle East foreign policy, showcasing his preference for diplomacy over military action. But now, his legacy is jeopardized by a successor who has blasted the accord as "the stupidest deal of all time" and threatened to dismantle it once in office.

As president, Trump has a wide range of options available to ramp up the pressure on Iran. He could limit Iran's access to dollars, redesignate Iranians removed from the Treasury Department's sanctions list and pressure international companies to cease business with

Iranian banks.

"A Trump administration could reinstate some sanctions that were terminated and could also look at designating new entities, like going beyond the designation of the Qods Force to include the full IRGC," said Matthew Levitt, a counterterrorism expert at the Washington Institute for Near East Policy. The Iranian Revolutionary Guard Corp has ties to major sectors of the Iranian economy.

The new Trump administration could also threaten "secondary sanctions" on European allies that are determined to do business with the Islamic Republic.

"The secondary sanctions essentially force every other country in the world and every other business in the world to choose between doing business with Iran and doing business with the United States." said Georgetown University professor Matthew Kroenig, who has been in discussions with the Trump transition team. "That's not really much of a choice."

Continued Republican control of Congress may offer Mr. Trump even wider latitude for punitive action against Iran.

"Iran continues to test the limits of the nuclear deal to see what it can get away with because they've been emboldened by President Obama's concessions and weakness," said Sen. Tom Cotton (R-Ark.). "In January, a President Trump and a Republican Congress will begin a new policy of resolve toward Iran's ayatollahs."

Bipartisan support exists for even harsher sanctions. Sens. Bob Menendez (D-N.J.) and Joe Manchin (D-W.Va.) are cosponsors of a bill introduced by Senate Foreign Relations Chairman Sen. Bob Corker (R-Tenn.) that would step up sanctions related to Iran's ballistic missile program and cyber espionage.

"The prospects for a bipartisan approach to Iran's illicit behavior in a number of the non-nuclear areas is good," said John Hannah, a senior counselor at the Foundation for Defense of Democracies.

Efforts to open up Iran to world markets are likely to be on hold while the new administration determines the path forward on sanctions. And international businesses will be wary of starting any new ventures in Iran under a Trump presidency.

"The mere election of Donald Trump is a powerful deterrent and sanction in its own right," Dubowitz said.

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McCaul: 'I've expressed my interest' in DHS chief Back

By Cory Bennett and Martin Matishak | 11/15/2016 10:25 AM EDT

House Homeland Security Chairman Mike McCaul is pushing to become head of the federal agency he oversees in Congress.

"I've expressed my interest, and I think the process is taking place," McCaul told POLITICO this morning outside a House Republican Conference meeting, when asked whether he was

open to becoming Homeland Security secretary.

"I think I have both a good skill set, and I know the department very well, know what needs to be done," added the Texas Republican, who has chaired the Homeland Security Committee for four years.

During the 2016 campaign, McCaul advised Trump and his team on national security issues.

McCaul made headlines when he mentioned that Trump had dismissed his efforts to convince the candidate that Russia was responsible for the spate of election-season hacks that roiled the Democratic Party. But McCaul has continued to advise the president-elect's transition team.

"I've demonstrated my loyalty to the campaign," he said.

His remarks would seem to shut the door on the possibility that McCaul might challenge fellow Texas Republican, Sen. Ted Cruz in 2018. Reportedly, former Texas Gov. Rick Perry had been encouraging him to run.

In Congress, McCaul has been out front on a variety of cybersecurity issues, most notably shepherding through last year's landmark cybersecurity information-sharing law. He's also the co-sponsor of a compromise bill on encryption that would create an independent commission to study how law enforcement can access secure communications without endangering Americans' digital safety and right to privacy.

Back

Sessions leading choice for Defense secretary Back

By Jeremy Herb and Connor O'Brien | 11/14/2016 06:58 PM EDT

Sen. Jeff Sessions of Alabama is the leading contender for Donald Trump's secretary of Defense, sources close to the transition say — a choice that would reward the president-elect's most outspoken congressional loyalist but offer few olive branches to a Trump-wary Republican national security establishment.

The two men haven't seen eye to eye on everything: Sessions is a budget hawk who favors caps on defense spending, while Trump has called for an arms and troops buildup that could cost $55 billion or more per year. But sources say the three-term Alabama Republican senator has still emerged as the top candidate for Pentagon leader, perhaps the most important post in the upcoming Trump Cabinet.

Sessions hasn't said publicly whether he wants the job, but sources say they expect him to have his pick of Cabinet posts — which also could include attorney general or Homeland Security secretary — and that he's leaning toward running the Defense Department.

Establishment Republican defense officials may still try to push back against a Sessions nomination as Pentagon chief, sources close to the transition say. The main alternative is Stephen Hadley, one of George W. Bush's former national security advisers, who unlike many other Bush alums shrewdly refrained from criticizing Trump during the campaign. Other possibilities include Bill Clinton's hawkish CIA director, Jim Woolsey, who endorsed Trump in September, as well as former Sen. Jim Talent of Missouri and outgoing Sen. Kelly Ayotte

of New Hampshire.

Some Republican national security figures were quick to express misgivings about Sessions, after days of media speculation that Trump would pick Hadley in an attempt to build relations with mainstream defense Republicans.

"Sessions can't attract anybody, especially never-Trumpers, to come off the fence," said one Republican defense official, who like several others requested anonymity to offer their candid assessment of Trump's team. "He's going to need at least a fraction of them."

Said another GOP defense official: "Everyone I am talking to is saying they will consider [joining the administration] but only if it's a serious SecDef. ... We need to work for someone we trust and would be proud of."

Sessions said in a brief interview at the Capitol on Monday that he would be "pleased to consider" a Cabinet post. But when asked about any particular positions, Sessions demurred: "I'm just not talking about that."

Later Monday evening, Sessions was spotted at Trump Tower in New York. "I'm looking forward to going upstairs and chatting with folks and sharing some information. It's an exciting time," Sessions said, according to the pool report.

The Trump transition office did not respond to a request for comment.

Trump's ultimate choice "has implications for who would take the second, third levels of jobs," said Richard Fontaine, a former aide to Sen. John McCain and president of the Center for a new American Security. He said that Hadley, unlike Sessions, "has a whole pantheon of people who worked for him on the National Security Council staff and previously at the Pentagon."

Many consider the Defense secretary post the most crucial job Trump will fill as he picks his Cabinet, and not just because it will affect who else decides to join his national security brain trust. The Pentagon is still running a war in Afghanistan and stepping up its military campaign against ISIL. The U.S. military is also confronting a far more belligerent Russia and a Chinese military buildup.

The Defense secretary is the only person aside from the president with the legal authority to order the military into action, and is the official who must confirm any decision by the commander-in-chief to launch nuclear weapons.

"This choice is crucial," said Jim Jeffrey, a member of the Pentagon's Defense Policy Board who served as deputy national security adviser under Bush. "The secretary of Defense is in the chain of command, which the chairman of the Joint Chiefs is not."

"You have to have somebody who knows the military, who knows hardware, and could make good judgments," added Jeffrey, a former ambassador to Iraq and Turkey. "And in terms of foreign policy, frankly a lot of the substance is hard power. The secretary of Defense has a huge say in how we organize ourselves and in strengthening allies."

Sessions chairs the subcommittee on the Armed Services Committee overseeing nuclear weapons policy — experience that would come in handy as the Defense chief. He's also much closer to Trump than any of the other options, and the president-elect may be wary about

inserting someone into the key Cabinet post whom he's not comfortable with.

Last week, Trump named Sessions a vice-chair of his transition's executive committee. Sessions' chief of staff, Rick Dearborn, joined the transition team as executive director, while former Sessions aide Stephen Miller served on Trump's campaign and is now national policy director for the transition.

Sessions, a former prosecutor, is best known in the Senate for his work on the Judiciary Committee and his tough stance on illegal immigration — a key Trump campaign plank. He's also a budget hawk more than a defense hawk**,** and has praised spending limits that that Trump wants to bust through to finance a major military buildup.

Sessions "is opposed to the president elect's own plan for defense," said the first GOP official. "He's a Judiciary guy, that's where his heart is. That's his baby, not defense. If he goes to Defense, it's a disaster."

The debate between defense hawks and budget hawks has been a major dividing line in the Republican Party in recent years, and Trump has fallen solidly on the defense-hawk side. He has called for adding more than 50,000 new soldiers to the Army and 20,000 more Marines, boosting the Navy to 350 ships up from about 280, and adding more fighter jets to the Air Force's arsenal.

Defense budget analysts have predicted his plans would conservatively add $55 billion or more annually to the Pentagon's budget. While Trump has vowed to find offsets through cutting waste — a notion that Sessions would support — the analysts say that's an unlikely if not impossible prospect at such a high price tag.

In the lead-up to the election, Sessions said in an interview with Defense News that he would — reluctantly — support an increase in defense spending to put Trump's plans in place.

"Well it would be a need for a spending increase, there is just no doubt about it. And it is painful for me as a budget person to acknowledge that we can't stay at a sequester-like level," Sessions said. He added that the defense increase would not come with an equal increase for domestic spending, as the Obama White House has demanded.

Hadley made his own evident calculations during the campaign, refusing to join numerous other former Bush national security officials who criticized Trump or even endorsed Clinton. Hadley is now chairman of the board for the U.S. Institute of Peace and run a consulting firm with former Bush Cabinet officials Condoleezza Rice and Robert Gates.

"I don't think he was having it both ways," said Peter Feaver, another National Security Council official in the Bush administration who is close to Hadley. "It was a principled decision, and in hindsight it was very wise."

Feaver was among multiple GOP national security officials who publicly opposed Trump. "I signed those letters. It is like swallowing a position pill," Feaver said. "It is like splashing poison pill juice on your face. You take yourself out of being able to help the administration if they win. But if they win, you and everyone else in America want them to have the best team possible."

Asked at a POLITICO Playbook breakfast in August whom he was endorsing, Hadley

declined to take a position one way or another. Though he said endorsing Clinton was a "legitimate approach" for national security Republicans, he said it also has drawbacks.

"The problem with that approach is that Republicans will then say, 'Well, you know, you really weren't a Republican anyway' and shelve them," he said. "And you then deal yourself out of the debate within the Republican Party about what should the Republican Party stand for."

Trump's decision Sunday to insert Republican National Committee Chairman Reince Priebus as White House chief of staff could be a boost to Hadley, according to one source close to the transition team. "I think Priebus increases Hadley's chances a great deal," the source said.

Still, Hadley and Trump would have some awkwardness when it comes to the 2003 invasion of Iraq, which Trump has repeatedly called a disaster but which Hadley played a key role in while in the White House. In a 2013 op-ed, Hadley wrote that "ultimately, the United States achieved its national security objectives" in the Iraq War — an assertion that's at odds with Trump's assessment.

Hadley, who declined to comment for this story, is also highly regarded by members of both parties. "If the country is deeply divided, you want someone who is respected on both sides of that divide," Feaver said.

Another candidate who fits that category is Talent, who also did not criticize Trump. Talent is arguably the option closest to the Republican defense establishment, and was a leading contender for the secretary's job for 2012 Republican presidential nominee Mitt Romney.

But that could also work against him. The week before the election, Talent penned an op-ed explaining why he was voting for Trump. It was hardly a ringing endorsement. "I have a conviction that it's the right thing to do — not an easy thing, but the right thing," he wrote.

But he did praise Trump's defense plans. "Trump has announced a plan for rebuilding America's armed forces that on its face, sounds excellent," Talent wrote. "There is good reason to believe he will carry it out."

Since leaving government, Talent has been active in the policy ranks. He's a senior fellow at the American Enterprise Institute and served on the 2014 National Defense Panel, a bipartisan advisory group that Trump has cited that called for increased defense spending**,** as well as a 2010 Quadrennial Defense Review that examined the Pentagon's overall strategy.

Also in the mix is Woolsey, who endorsed Trump and advised the campaign.

Woolsey is more of a wild card, as he's been out of government since serving as Clinton's CIA director. He is close to former House Speaker Newt Gingrich, a major Trump advocate.

An adviser to McCain's 2008 presidential campaign, Woolsey joined the Trump campaign as a national security adviser in September. He said that was because he favored Trump's proposal to lift the caps on defense spending.

Woolsey did not respond to calls seeking comment, although he wrote an op-ed Friday in the South China Morning Post headlined: "Under Donald Trump, the U.S. will accept China's rise — as long as it doesn't challenge the status quo." That article was not in coordination with the campaign, a source said.

Other dark horses are possible, too, especially after last week's transition shake-up could bring a fresh set of eyes to the potential candidates. Ayotte's name has come up for example, although she's an unlikely selection given that she pulled her endorsement of Trump late in the campaign.

Another possibility, retired Lt. Gen. Michael Flynn, is probably more in line for national security adviser or a top intelligence post. He would require Congress to approve his service as Defense secretary since federal law requires military officers to wait seven years before becoming the Pentagon's civilian leader.

Back

BLM finishes methane rule, but GOP opposition looms Back

By Alex Guillén | 11/15/2016 01:20 PM EDT

The Interior Department issued a rule Tuesday aimed at reducing emissions of methane that is vented or flared from oil and gas drilling wells on federal lands — but it may have a short life if President-elect Donald Trump's fulfills his promise to scrap the Obama administration's energy policies.

The Bureau of Land Management says the final Methane Waste Prevention rule will bring climate benefits while also boosting federal royalty revenue by potentially hundreds of millions of dollars.

"This rule to prevent waste of our nation's natural gas supplies is good government, plain and simple," said Interior Secretary Sally Jewell. Natural gas recovered under the rule can feed power plants, while preventing wasted emissions and increasing revenue for production on federal lands, she added.

However, the rule's release in the waning days of the Obama administration makes it vulnerable to a Congressional Review Act challenge early next year. Republicans and the oil and gas industry have criticized the regulation, and Trump has promised to "unleash an energy revolution" that would to expand oil and gas production.

Industry quickly piled on criticisms, blunting Interior's argument that the rule will benefit the industry.

Dan Naatz, senior vice president of government relations at the Independent Petroleum Association of America, said that the industry lacks infrastructure needed to gather waste gas and transport it to market.

"This is an 11th hour shot by an administration that doesn't fully understand how its rules impact our businesses," Naatz said. "Furthermore, potentially raising royalties on an industry that has been financially hurting is counterintuitive to any business certainty."

Erik Milito of the American Petroleum Institute called the rule rushed and "an example of poor government policy and a left hand not knowing what the right hand is doing." He suggested instead that BLM "focus on on fixing permitting, infrastructure and pipeline delays that slow our nation's ability to capture more natural gas and deliver affordable energy to

consumers."

Set to take effect on Jan. 17, the rule for the first time phases in limits on flaring of methane, which is a major component of natural gas and a potent greenhouse gas. Drillers will be allowed to flare 5,400 thousand cubic feet of gas per well per year in 2018. That rate phases down to 750 MCf per well per year in 2025, a significantly lower figure than in the rule proposed earlier this year. Those capture targets can be met by individual leases or averaged across state-wide operations on federal lands, which BLM says will allow operators to find the least expensive ways to comply.

The rule requires operators to capture 85 percent of their total volume of gas produced each month in 2018, ramping up to 98 percent in 2026. The final rule appears to be structured somewhat differently from the proposal, which set across-the-board flaring limits per well. BLM says the changes were based on industry suggestions to make the rule less costly.

BLM also gave itself authority to set up alternative requirements for operators that may not be able to meet the baseline flare reductions.

The agency says its rule will capture 41 billion cubic feet of gas annually, enough to supply almost a quarter-million homes. The flaring portion of the rule would cover 16 percent of existing wells, but those sources make up 87 percent of flared gas.

Flaring will drop by 49 percent, while venting and leaks will drop 35 percent compared to 2015 levels, according to BLM. The rule also largely prohibits venting natural gas, and includes new requirements for equipment to directly monitor, locate and repair leaks, as well as regular inspections that would become less frequent if few leaks are discovered.

It does not apply to wells on private land, only those on federally owned land, which the Congressional Research Service said accounted for 16 percent of all U.S. gas production in 2015.

Environmentalists and taxpayer groups praised the regulation.

Taxpayers for Common Sense President Ryan Alexander argued that the federal government and states have lost out on billions of dollars' worth of revenue from flared and vented methane.

"It is BLM's job to prevent the waste of natural gas from federal lands and to ensure that taxpayers are fairly compensated for these resources," he said.

Despite the threat that the incoming Trump administration and the Republican Congress could overturn it, several environmentalists remained optimistic the rule could survive by appealing to conservative fiscal values.

Jon Goldstein, a senior policy manager at the Environmental Defense Fund, argued it was too early to say for sure it would be killed, since the issue that has "such a direct positive impact to the taxpayer and goes to what is really a bedrock conservative value of protecting taxpayers and reducing waste from federal government, I think ought to stand."

"Once members of Congress take a look at the final standards — which are quite flexible, quite common sense and really just about modernizing the development of energy to prevent our publicly owned resources from going up in smoke — they will decide to support them,"

said Sarah Uhl of the Clean Air Task Force.

Back

Industry sues over BLM flaring rule just minutes after release Back

By Alex Guillén | 11/15/2016 12:56 PM EDT

Two industry groups filed a lawsuit over the Interior Department's methane venting and flaring rule today just minutes after the department released the rule.

The suit, filed by the Western Energy Alliance and the Independent Petroleum Association of America in the U.S. District Court in Wyoming, argues that the rule is "unlawful and unconstitutional."

Air quality is supposed to be regulated via the Clean Air Act by EPA and states, not BLM, the groups argued.

They also argue that it "places arbitrary limits on flaring, relies on flawed scientific, engineering, and economic assumptions and methodologies to estimate regulatory impacts, improperly relies on EPA air quality rules and the administrative record underlying those rules, which themselves are being litigated; and conflicts with or unlawfully usurps the primary jurisdiction of state and tribal governments."

Back

SEC releases plan for 'CAT' market surveillance tool Back

By Patrick Temple-West | 11/15/2016 03:00 PM EDT

The Securities and Exchange Commission today released the details of its plan to create a market surveillance tool known as the "consolidated audit trail."

The SEC's three commissioners are meeting this afternoon to approve the plan. The agency first envisioned it in 2010 as one of its responses to the "flash crash" in the stock market that year.

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POLITICO Pro Q&A: SEC Chair Mary Jo White Back

By Patrick Temple-West | 11/15/2016 10:40 AM EDT

In one of her first public remarks as head of the SEC in 2013, Mary Jo White dedicated a speech to the importance of independence at the agency and her commitment to preserving its political objectivity.

"We make our decisions based on an impartial assessment of the law and the facts and what we believe will further our mission — and never in response to political pressure, lobbying, or

even public clamor," White said.

At the time, White could not have imagined that in 2015 the public clamor would include a billboard truck driving around Washington, named the "Dump (Mary Jo) Truck," that called for President Barack Obama to replace White over the SEC's enforcement settlements.

That same year, liberal-leaning advocacy groups bought advertisements in Washington's Union Station portraying White as a superhero who needed to advance a political disclosure spending rule at the SEC to combat hidden company campaign contributions.

Days before she announced she would be stepping down from the SEC, White sat down for an interview with POLITICO in her 10th-floor office at the agency. She declined to take any parting shots at the political forces that dogged her tenure at the agency. Nor did White give a specific date for her last day at the SEC, but said: "I'm going to basically follow what prior chairs have done for the last five decades, and my plan is to step down around the end of the Obama administration."

The following has been edited for length and clarity.

Is your SEC departure contingent on the next president naming a successor?

The plan is around the end of the Obama administration. I can't say more than that.

Are you stepping down with something lined up afterward? Do you have any idea what you'll do next?

I'm really not even thinking about that until I actually leave. I plan to drive the agenda until the day I do leave.

With your pending departure, is this "pencils down" for regulations in the works?

Not at all.

What will you prioritize in the weeks and months ahead?

What I expect to certainly emphasize in the coming few months is the adoption of CAT [the "consolidated audit trail"]. Title VII [of the 2010 Dodd-Frank Act] and in particular finishing the dealer regime. [And] derivatives in our asset-management space. Those are the ones that come to the top of my mind.

Is there anything on the CAT proposal that might be changed or repurposed? The exchanges have been bickering about costs, and some of the investor advocates said it was not strong enough. Is there anything that would be changed from the proposal?

I can't comment specifically to get ahead of the action the commission does take. Clearly we listen to all the comments that we get before reaching a final decision.

Did you feel pressure from Sen. Elizabeth Warren to step down?

Not at all.

Were you planning to step down before her letter to Obama?

The answer is normal course, assuming I was still here this late in the Obama administration, I always planned to step down at the end of the administration. Again, chairs have done that for five decades.

Do you feel the political pressure from Democrats and Republicans got worse as your tenure went on? How did that make this job harder?

It comes with the territory. I don't think it makes the job harder. You want to listen to all constituents, including all constituents on the Hill, very seriously. The SEC does a lot of very significant rulemaking that people have very different views about. The answer is it is up to us — not just me — but my fellow commissioners to do what they think is the right thing at the end of the day having gotten full input to further our mission in the most optimal way for investors and markets.

What is your No. 1 piece of advice for your successor?

I'm not a person who gives advice particularly. But I would say be true to yourself and true to the SEC's mission.

I wanted to ask about the attorney general opening because I hear frequently people say that you wanted the attorney general job. Can you set the record straight now? Did you want the job?

I really can't comment on that. I was asked, and was privileged to be asked, to do this job, and I'm doing it.

In a couple of interviews before Congress left for recess, I asked Rep. Scott Garrett about your tenure here. He applauded you for taking the political spending disclosure rule off the SEC agenda. But Sen. Sherrod Brown said, "We are all flummoxed and confused about why she does not want to move on it." Do you stand by your decisions on that rule and do you have any advice for your successor about how to proceed on that issue?

In terms of any rulemaking, any policy decision, that will be up to whoever my successor is.

Brown also said the SEC has granted too many waivers. He cited the Wells Fargo scandal as just the latest evidence that financial firms do not feel threatened by regulators. He said: "There seems to be a disincentive for them to behave. I put part of the blame for that on the SEC." What is your response?

The SEC very rigorously applies the legal criteria for granting or not granting waivers when there is a disqualification.

Does the issue get too much attention from Democrats?

I don't fault anyone for paying attention to any and all of the issues that are before the SEC.

Going back to the political disclosure rule, is there anything you could have done differently or would have done differently to navigate that better?

I've said the chronology the agency followed with respect to that subject and I don't think I have anything to add.

There has been criticism of you and [SEC enforcement director] Andrew Ceresney for ties to the private sector. Do you believe such criticism will discourage people in the private sector from looking to do public service in the future?

I don't think so and I certainly hope not. We want the best people for public service jobs wherever they may come from.

Is there one item on the regulatory agenda that you regret you won't be able to finish?

The one that I would mention is the uniform fiduciary duty rule for investment advisers and broker dealers. The current status of that is the [SEC] staff has given a very detailed outline to my fellow two commissioners as to how they would proceed. But I think it will have to wait until [there is] a full commission to be carried forward.

Garrett criticized the SEC for not moving on that and Brown said Republicans wanted to SEC to move that rule because Republicans knew the agency would never get it finished. What's your response?

I made a decision about a year and a half ago for myself that I thought it was important for the SEC to move forward on the uniform fiduciary duty rule for broker-dealers and investment advisers under section 913 of the Dodd-Frank Act. It was a difficult, not quick rule to do, and we certainly didn't want to end up at the end of the day driving away from retail investors, reliable, reasonably priced advice. But I also made clear that I was just one vote with respect to that point of view and my fellow commissioners have spoken on that subject themselves. So there are different points of view on that within the commission. For that rule to advance would require a full commission.

Garrett and Brown also split over your work at FSOC. Brown applauded your work on FSOC, but Garrett suggested maybe FSOC was driving the asset-manager rules. What's your response to the lawmakers over the control that FSOC might have over the SEC?

First, I think FSOC is an enormously important entity to be there for the safety of our financial system. And I'm very glad to be a voting member of FSOC. In terms of the asset-management space, obviously that's one of our core responsibilities of the SEC. It has been since 1940. We're quite a ways through a very aggressive rulemaking agenda on that of our own to really modernize regulation of the asset management industry. FSOC comes from a different perspective, which is basically what in the asset-management space may present systemic risks to our financial system. As I've said before, what FSOC is looking at in the asset-management space is complementary to what the SEC is doing. And we're proceeding with our authorities to strengthen our own regime.

Can you talk about the derivatives rulemaking? Commissioner [Michael] Piwowar said last month the SEC might not get that done this year.

I can just say that it is a priority to complete this year.

Going back to enforcement, there were a handful of cases that you did not participate in

this year. There was a JPMorgan settlement in January ($4 million), Qualcomm in March ($7.5 million), Novartis AG in March ($25 million) and the Bank of New York Mellon in June ($30 million). Why didn't you participate in these votes?

We don't comment on recusals or the basis for them.

Given that only two commissioners approved those settlements, could the SEC have gotten more money out of those settlements if you had participated?

I'm recused so I can't really comment.

Looking ahead to the politics of the agency, what advice might you have to your successor about how to ameliorate the divisiveness so that they will not face some of the same tensions that you did during your term?

Again, the commission structure is built to have different points of view expressed. You can't have more than three members be from the same political party as the president. So you want that. You want that exchange of different points of view. We've certainly had that in this commission. But I think again you look at what we accomplished with both the commission that is three members now and prior to that. It is an extraordinary record of accomplishments. It is probably the most ambitious rulemaking the agency has ever faced. It is a structure built for expressing different points of view and coming out with stronger rules as a result.

Can you think of one day as the best for your time at the agency? And a day that was the most troubling for you and why?

I tend not to think in terms of one day or one accomplishment standing out above others. I certainly can think of any number of our rulemaking actions or enforcement actions that I think redounded significantly to benefit investors and the financial system. I think our money market reforms are enormously important. Our SCI rulemaking, "security compliance and integrity," to enhance the resiliency of our critical market infrastructures is another. Any number of those redounds to the huge benefit of investors. A troubling day? You can run into a barrier in an enforcement case you have to work your way through, but nothing particularly stands out.

You prioritized diversity on corporate boards. If the U.S. does not mandate that, what is a way to get more diversity on corporate boards without forcing companies?

The SEC does not have the power to essentially say who you should put on your boards. That is more a subject of state law. We do have disclosure power. We have used those in that space. As you know I have had the staff look at the issue of whether we shouldn't enhance those disclosures to be more explicit with respect to gender race and ethnicity. That is something that is proceeding. Stepping back, this is something that is in the hands of CEOs and boards to fix. A very significant positive development was the Business Roundtable saying we're going to put this front and center. It's not a supply issue. There are lots of diverse candidates — gender, diversity, racially — who are highly qualified to be on boards. I look to CEOs and boards to not necessarily go to their traditional sources of candidates, but to look more broadly. One cannot ignore the study after study that is showing that boards function better on behalf of shareholders if they do have a diverse boards.

You mentioned the disclosure effectiveness review, and I know there is a FAST Act

report on how to improve and make changes to disclosures, but I'm wondering if you believe disclosure should include sustainability and ESG (environmental, social and governance) issues that are out there? That is something Garrett is worried about — that disclosure will stretch too far beyond what's material.

We have, in terms of climate change, guidance that we published some time ago that if the risks presented by climate change are material then they need to be disclosed. Now we're looking very hard at those issues. In our S-K concept released in April, we specifically teed up sustainability. And the reason, from my point of view, that we teed them up was that they are enormously important issues. And for the SEC to decide after studying really the points of view of all the constituents what really are our next best steps in that space. But it is an enormously important area.

The most recent survey of employee satisfaction at executive-branch agencies shows that morale at the SEC has improved during your tenure. How do you rank the SEC's morale ratings against the CFTC, CFPB or other agencies? Is there a jockeying going on in government agencies?

It's really not a jockeying. I'm enormously pleased that by all measures and indications the SEC's morale, the staff's morale, has risen significantly since 2013. When I came there seemed to be, and there were, issues. We've spent a fair amount of time focusing on that. We instituted the "all invested" initiative, which is really the umbrella name for paying more attention to acknowledging accomplishments. We did a campaign where staff members, line staff people, talked about the values of the SEC — integrity, excellence. It really made a big difference. I've certainly walked the halls to chat with people informally. Write notes to people, thanking them for their hard work on particular matters. Letting them know when we have an open rulemaking so that not only the press knows we are going to do that but the entire agency does. We are now, I think, third of 37 in terms of positive employee engagement and attitudes. Of the large agencies, it's not a competition, you just want morale to be very high, and I'm pleased to see it has gotten back to where it should be.

Back

SEC approves stock market's 'Hubble Telescope' Back

By Patrick Temple-West | 11/15/2016 04:27 PM EDT

The Securities and Exchange Commission today unanimously approved a plan to build a stock market surveillance tool.

Known as the "consolidated audit trail," the tool was first envisioned by the SEC in 2010 as a response to the "flash crash" in the stock market that year.

"Regulators will now have state-of-the-art capabilities to ensure that our capital markets remain the most robust and reliable in the world," SEC Chair Mary Jo White said at the meeting this afternoon.

Democratic Commissioner Kara Stein said the CAT would be "the Hubble telescope" for the securities markets.

"Market participants should be pleased with where things have landed," Republican SEC Commissioner Michael Piwowar said.

Now, stock exchanges must hire a company to build and operate the CAT. They can either go to the Financial Industry Regulatory Authority, or to one of two technology companies, SunGard or Thesys.

Back

Brady says tax reform will be deficit-neutral Back

By Brian Faler | 11/15/2016 02:40 PM EDT

House Ways and Means Committee Chairman Kevin Brady predicted tax reform will happen next year, and said the plan he's working on is designed to be deficit-neutral.

"Tax reform is going to happen in 2017," he said today at a tax conference sponsored by Bloomberg BNA and KPMG. "We're designing this to break even."

"We're already in the ballpark [of neutrality] with the blueprint — I feel comfortable where we're at," he said.

Brady said he couldn't lay out a timeline for action next year, such as when his committee would act or when the entire House would vote. That's still to be determined, Brady said.

Asked about the possibility of financing a major infrastructure package with revenue raised by reform, he said: "I have not seen the details of the package being developed by the Trump administration — I think it's under construction as we speak right now and so we'll have that discussion."

Diverting revenue to pay for highways would leave less for reducing tax rates, which Brady alluded to, saying, "in our blueprint, we applied those revenues to more growth and more competitive rates."

Brady also said he's not interested in reviving a rump group of tax extenders in a lame-duck session of Congress, and expressed hope a President Donald Trump would kill the Obama administration's recently released "earnings stripping" regulations.

"I'm hopeful that he stops those regulations cold because, while the revised regulations are better than the proposed ones initially, they are still damaging to the economy."

Back

Hatch aide: Corporate integration draft almost done Back

By Brian Faler | 11/15/2016 03:59 PM EDT

A long-incubating "corporate integration" tax reform plan by Senate Finance Chairman Orrin Hatch is almost completed, according to a top aide.

The plan will be deficit-neutral, using conventional budgeting techniques, and it will keep the same income distribution as under current law, Mark Prater said today at a tax conference sponsored by Bloomberg BNA and KPMG.

Hatch has not yet signed off on releasing the proposal, he added.

"We're very close to completion," said Prater. "We will meet with him and he will make the final call on whether the draft goes out."

The draft would include legislative language, a dynamic as well as conventional budget score and technical explanation, he said.

Back

DOT watchdog: Core NextGen programs falling short Back

By Jennifer Scholtes | 11/15/2016 12:15 PM EDT

The bulk of the FAA's "transformational" NextGen programs haven't been very effective at transforming air traffic management so far, DOT's inspector general reported today.

The IG's follow-up report explained that the agency has made changes to cost and schedules for NextGen programs since the agency was dinged in a 2012 assessment. But the six most pivotal NextGen programs still don't have final price tags or ultimate deadlines and have yet to live up to their lofty goals, the IG reported in this newest take.

"FAA originally identified the transformational programs as efforts that would fundamentally change the way the agency would manage air traffic," the IG reported. "However, our review has found that, at least until 2020, most of the transformational programs will not transform how air traffic is managed ..."

The FAA now has initial baseline costs for each NextGen program and has approved nearly $2 billion — for example — for the first segment of the DataComm initiative to enable air traffic controllers to send digital messages to pilots. However, each program's total cost, timeline and ultimate benefits remain unclear, the IG explained.

"Since our last report, FAA has not adjusted anticipated benefits for its transformational programs, and many benefits remain unquantified, broad, or uncertain for improving the flow of air traffic and reducing Agency operating costs," the IG concluded.

Senate Commerce Committee leaders from both sides of the aisle requested the IG update.

The FAA "non-concurred" with the inspector general's recommendations, and the IG is asking the agency to reconsider its response.

Back

FHA fund shows strong gains Back

By Lorraine Woellert | 11/15/2016 01:00 PM EDT

The Federal Housing Administration's mortgage insurance program showed improved health for the fourth year amid rising home prices, fewer defaults and a surge of new borrowers.

The capital cushion of the Mutual Mortgage Insurance Fund grew to 2.32 percent in fiscal 2016, up from 2.07 percent. It was only the second year since 2008 that the capital ratio, a proxy for the fund's health, exceeded the 2 percent minimum required by law.

The net worth of the fund, which stands behind $1 trillion in U.S. home loans and serves as a sort of savings account to pay lender claims if borrowers default, grew by $3.8 billion to $27.6 billion.

"The Obama administration has turned this fund around," HUD Secretary Julian Castro said. "The FHA is stronger, it's able to offer greater opportunity to responsible borrowers. We're in a much different position today from what we were just a few years ago."

In 2013, losses forced FHA to seek financial aid from Congress for the first time in its 82-year history. The $1.7 billion cash infusion helped right the program, which had been hobbled by weakness in reverse mortgages, which allow elderly homeowners to convert their home equity to cash without making payments.

By January 2015, the FHA fund had rebounded to such a degree that President Barack Obama ordered the agency to cut its mortgage insurance premiums from 1.35 percent to 0.85 percent as a way to make home loans more affordable.

Despite this year's strong performance, the agency signaled no immediate plans to lower the premium again, despite calls from mortgage and real estate lobbyists.

"Clearly, these very strong results do indicate there is room to return to pricing to that reflects risk in the program," said Ed Golding, who leads the FHA program.

At the same time, because excess premiums help fund the federal budget, a premium reduction would have to be made up with spending cuts.

Castro has yet to hear from President-elect Donald Trump's transition team, but said it's too early to draw the conclusion that housing is low on the next administration's agenda.

"My hope is it will be a smooth transition," Castro said.

Back

Obama administration: Colleges must 'respond aggressively' to racially charged incidents Back

By Benjamin Wermund | 11/15/2016 02:08 PM EDT

After a week of heightened tension on college campuses, Education Secretary John B. King Jr. on Tuesday urged public university leaders to "respond aggressively" to any cases of racial harassment.

In his first comments since Donald Trump was elected president, the Education secretary called on university leaders to take it upon themselves to protect students — many of whom,

he said, feel unsafe following the election.

The "challenging national moment ... has left many of our students feeling vulnerable," King told a crowd of public university administrators at the Association of Public and Land-grant Universities meeting in Austin. "We've got to make sure all of our students feel like our campuses are a place they belong and will feel supported all the way through to graduation. We've got to respond aggressively to incidents where that safety is violated and we have to set a tone on all of our campuses that we see diversity as an asset."

The racially charged incidents in the past week included a cyber-bullying attack that targeted a group of black freshman students at the University of Pennsylvania, and a profanity-laced flier that appeared at Utah Valley University. The flier warned "liberals" to "shut the f--- up" about Muslim rights and gay rights.

In his speech Tuesday, King called on university leaders to be "loud voices" for undocumented students now living in fear of deportation. Trump has vowed to swiftly crack down on illegal immigration, saying he would deport as many as 3 million people immediately.

"The political rhetoric of the last year and a half has been very scary, I think, to our undocumented students and to their families," King said. "We've got to try to make our campuses safe for them and then we've got to be loud voices in the political discourse, not just at a national level, but at the state level — advocating on behalf of those students, their safety and their educational opportunity.

"We would be a worse country for giving up on our undocumented students and a better country for seeing their hope and promise, and investing in them," King said.

King also said he hopes the Trump administration will "understand that the department has a responsibility to enforce civil rights and to protect students." During the campaign, Trump's surrogates called for eliminating the Education Department's Office for Civil Rights.

"What I would ultimately urge all of us to do is, regardless of the position the department takes on any specific procedural matters, all of us have the responsibility to make our schools safe places," King said.

The Education secretary began his speech by pointing to what he said was the historical context "as we reflect on this moment." Specifically, he pointed to President James Buchanan's veto of the Morrill Act that created land-grant universities. Buchanan, he said, is now regarded as one of the least-effective leaders in American history.

The veto, he said, is "a reminder that sometimes our democracy does not always produce leaders with the right judgment."

Back

Schumer's leadership team in flux ahead of elections Back

By Burgess Everett and Elana Schor | 11/15/2016 05:53 PM EDT

Senate Democrats are scrambling to recruit a leader for their campaign arm and some

Democrats say they are in the dark as Chuck Schumer assembles his leadership team with the party's elections just a day away.

The most pressing issue: No one seems to want to take over the Democratic Senatorial Campaign Committee. The party faces a daunting 2018 map and the prospect of Republicans padding their majority.

Also unresolved is what Sen. Patty Murray (D-Wash.) will do as she pointedly refuses to take a challenge to Senate Minority Whip Dick Durbin (D-Ill.) off the table.

Senior Democrats have been eyeing Rep. Chris Van Hollen (D-Md.), who was just elected to the Senate, for the DSCC post. But in an interview on Tuesday, Van Hollen said there's no plan in place for him to take the position. Democrats will be defending 25 seats, including 10 in states that Trump won.

"I'm really focused right now on orientation. I really haven't had a chance to focus on it. I'm not planning on that," Van Hollen said. "Nothing's been decided."

Van Hollen would be an attractive choice for Democrats. He has good relationships with donors from his time chairing the House Democrats' campaign arm.

Though it would be highly unusual for a freshman senator to take the job, several Democrats said Van Hollen is "likely" to be selected for the position.

Other high-profile senators such as Cory Booker of New Jersey and Al Franken of Minnesota have passed on the job. Sen. Chris Coons (D-Del.), another possibility, officially ruled out the job on Tuesday as well.

"This is really not the right time for my family to be taking on the challenging role of chairing the DSCC for the 2018 cycle. And I've conveyed that to my caucus leadership," said Coons, who wants to spend time with his children while they are still in school. "I just think taking a chairmanship of a role that would be so demanding ... is just not the right choice."

Another Democrat who could head the DSCC is Sen. Jeanne Shaheen (D-N.H.), who won a brutal reelection race against former Sen. Scott Brown in 2014.

But Shaheen said "stop that rumor," making clear she would not take the position.

Murray (D-Wash.), the No. 4 Democrat in leadership, has refused to say what her plans are beyond talking to Senate Democrats about the party's future. Most Democrats believe she will not challenge Durbin, because she is not actively working to round up supporters.

"Nobody's fighting for votes," said one senator who has spoken to Murray.

Democrats said it was unusual that so many of them are in the dark going in, although one senator said "we've got bigger fish to fry" than focusing on palace intrigue.

Senate Minority Leader Harry Reid's retirement has opened up a vacancy in the upper rungs of leadership, and Murray is set to move up regardless.

Schumer (D-N.Y.) declined to answer questions about the leadership limbo his caucus is in. He said he will not speak until after Wednesday morning's leadership elections. Some senators

said privately they have not been briefed on his plans.

Durbin's office has repeatedly asserted he has the votes locked up to keep the whip job. Only the top two jobs are elected positions in the Democratic leadership — the rest are up to Schumer.

Sen. Bernie Sanders (I-Vt.) is also pursuing a leadership role, Democrats said, but he appears unlikely to leapfrog Murray. Still, there is some talk of adding new blood to the leadership team, either with Sanders or perhaps the elevation of Sen. Jeff Merkley (D-Ore.), another prominent liberal.

Asked about his possible leadership aspirations Tuesday, Sanders said: "If the question is, will I contest Sen. Schumer or Sen. Durbin, no, I've never had any intention of doing that."

Sanders later declined to rule out seeking another spot in leadership, telling reporters that "we're thinking about it."

Merkley also shrugged off talk of adding himself or another liberal to Democratic leadership. "I'm just happy to have Sen. Schumer lay out his plan" for steering the caucus, Merkley said. "There are many, many ways I can express my opinions and my involvement."

Sen. Sheldon Whitehouse (D-R.I.), another leading liberal, sought to quash discontent on the left over Schumer's close ties to Wall Street. The Democratic leader's "support for the No. 1 target of big banks," the Dodd-Frank financial regulations bill passed after the market meltdown of 2008, shows he can stand up to Wall Street, Whitehouse told reporters.

The likely ascension of Murray and Sen. Debbie Stabenow (D-Mich.) would open up a slot in the lower tier of Democratic leaders. Currently, Sens. Elizabeth Warren of Massachusetts, Mark Warner of Virginia and Amy Klobuchar of Minnesota are also on Reid's team.

Back

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From: Banks, Marnee (Tester)
To: "Degroff, Amanda"
Cc: Jessica Kershaw; Leah Duran; Kuntz, Dave (Tester)
Subject: RE: Badger Two Medicine Signing Ceremony - Tomorrow
Date: Wednesday, November 16, 2016 9:24:29 AM

This looks awesome. Thank you.

Dave will be staffing the Senator at the event. He is cc-ed on this.

From: Degroff, Amanda [mailto:amanda_degroff@ios.doi.gov]
Sent: Wednesday, November 16, 2016 9:07 AM
To: Banks, Marnee (Tester) <Marnee_Banks@tester.senate.gov>
Cc: Jessica Kershaw <jessica_kershaw@ios.doi.gov>; Leah Duran <leah_duran@ios.doi.gov>
Subject: Re: Badger Two Medicine Signing Ceremony - Tomorrow

Hi Marnee-
We plan to re-issue our advisory this morning, including the link for the live-stream of the event, as well as your boss' participation. We'd like to get this out around 9:30.

Thanks!
Amanda

Date: November 15, 2016
Contact: Interior_press@ios.doi.gov

TODAY: Secretary Jewell, Senator Tester to Announce Milestone with Blackfeet Tribe, Devon Energy Corporation Regarding Oil and Gas Leases

WASHINGTON – Today, Wednesday, November 16, U.S. Secretary of the Interior Sally Jewell and Senator Jon Tester will hold an event with the Blackfeet Nation and Devon Energy Corporation in Washington, D.C. to announce a milestone related to oil and gas leases in the Badger-Two Medicine area of the Lewis and Clark National Forest in northwest Montana.

The Badger-Two Medicine Area is a 130,000-acre area along the Rocky Mountain Front within the Lewis and Clark National Forest. Glacier National Park, the Bob Marshall Wilderness and the Blackfeet Indian Reservation surround the area, which is considered sacred by the Blackfeet Tribe and is part of a recognized Traditional Cultural District. These characteristics caused Congress to legislatively withdraw the area from mineral development in 2006.

Earlier this year, Secretary Jewell announced the cancellation by the Bureau of Land Management of an oil and gas lease in the Badger-Two Medicine area. All of the originally issued leases in the area have been the subject of a variety of administrative, legal and legislative actions since they were issued over 30 years ago because of the significance of the resources in the area and concerns about the circumstances surrounding leasing ordinance.

WHO: **Sally Jewell**, U.S. Secretary of the Interior
Jon Tester, U.S. Senator, Montana
Harry Barnes, Chairman, Blackfeet Nation
Dave Hager, CEO, Devon Energy Corporation

WHAT: Announcement regarding oil and gas leases in Badger-Two Medicine Area

WHEN: Today, Wednesday, November 16, 2016
10:45 AM EDT – Media check-in
11:00 AM EDT – Signing ceremony

WHERE: U.S. Department of the Interior

1849 C. Street NW
Washington, D.C. 20240

MEDIA: Credentialed members of the media are encouraged to RSVP here. For those unable to attend, the event will be livestreamed.

On Wed, Nov 16, 2016 at 9:01 AM, Iacobucci, Francis <francis_iacobucci@ios.doi.gov> wrote:

> Quick view below - let me know if you need anything else. My cell is (202) 304-4166 if you have any questions. Thanks!
>
> **Participants:**
> Sec Jewell
> Sen Tester
> Chairman Barnes, Blackfeet Nation
> Dave Hager, CEO, Devon Energy Corp
>
> **Format** (Ceremony will take place in Secretary Jewell's office):
>
> - 11:00am - Tribal Prayer
> - 11:05am: Secretary Jewell will offer remarks; introduce Senator Tester
> - 11:10am: Senator Tester will offer remarks; introduce Chairman Barnes
> - 11:15am: Chairman Barnes will offer remarks; introduce Dave Hager
> - 11:20am: Dave Hager will offer remarks
> - 11:25am: Secretary Jewell will invite participants to signing table for photo op and signing of document
> - 11:30am: Informal Press Gaggle to the side of the podium area
>
> **Other Attendees:**
> Allen Wright, Vice President for Public & Government Affairs, Devon Energy Corp
> Earl Old Person, Chief of the Blackfeet Tribe
> Harry Bares, Chairman of the Blackfeet Tribal Business Council
> Tyson T. Running Wolf, Secretary of the Blackfeet Tribal Business Council
> Roland F. Kennerly, Jr., Member of the Blackfeet Tribal Business Council
> Timothy F. Davis, Member of the Blackfeet Tribal Business Council
> John Murray, Tribal Historical Preservation Officer, Blackfeet Tribe
> Kendall Edmo, Member of the Blackfeet Tribe
> Gerald Lunak, Resource Monitoring Director, Blackfeet Tribe
> Jana Barnes (Wife of Harry Barnes)
> Earl Old Person, Jr. (Son of Earl Old Person)
> Michael Jamison, National Parks Conservation Association
> Casey Perkins, Montana Wilderness Association
> Josh Schott, Glacier Two Medicine Alliance
> Katie Gilman, The Wilderness Society
> Jamie Williams, President, The Wilderness Society
> Chase Huntley, The Wilderness Society
> Barrett Kaiser, Partner, Hilltop Public Solutions
> Aaron Murphy, Hilltop Public Solutions
>
> **Press:**
> Open to the media, and will also be live streamed
>
> On Wed, Nov 16, 2016 at 8:44 AM, Laslovich, Dylan (Tester) <Dylan_Laslovich@tester.senate.gov> wrote:
>
> > I have also looped in Senator Tester's Comms Director Marnee Banks. I will defer press questions to her.
> >
> > Alex, cc'd from our team, can reach out separately to Mr. Hargrave to discuss potential parking.
> >
> > Thanks all.

From: Francis Iacobucci [mailto:francis_iacobucci@ios.doi.gov]
Sent: Wednesday, November 16, 2016 8:42 AM
To: Laslovich, Dylan (Tester) <Dylan_Laslovich@tester.senate.gov>
Cc: Sarah Neimeyer <sarah_neimeyer@ios.doi.gov>; Rugoff, Alex (Tester) <Alex_Rugoff@tester.senate.gov>; McEvoy, Trecia (Tester) <Trecia_McEvoy@tester.senate.gov>; DeGroff Amanda <amanda_degroff@ios.doi.gov>; Tim Nigborowicz <timothy_nigborowicz@ios.doi.gov>; Steve Hargrave <steve_t_hargrave@ios.doi.gov>; Jessica Kershaw <jessica_kershaw@ios.doi.gov>
Subject: Re: Badger Two Medicine Signing Ceremony - Tomorrow

Great news, Dylan - we'd love to have Senator Tester speak. I'm in a meeting but will send you the agenda/briefing when I'm back at my desk shortly.

Re: parking, I've copied Mr. Hargrave who may be able to arrange garage parking it C St parking (C St is easier, in my opinion).

I'm also copying our Comms leads in case you all have Q's related to press.

Be back in touch shortly.

Francis Iacobucci
Director | Scheduling & Advance
U.S. Department of the Interior

On Nov 16, 2016, at 08:34, Laslovich, Dylan (Tester) <Dylan_Laslovich@tester.senate.gov> wrote:

> Hey Francis:
>
> Senator Tester would like to attend. Do you have an agenda for this event? We would be happy to have the boss give a quick two minute speech if possible. Fortunately I work for a guy who talks for a minute when you offer him two so I hope this works. Finally, our boss will have to be in and out relatively quick so I'm curious if there are any parking arrangement we can set up ahead of time.
>
> ---
>
> **From:** McEvoy, Trecia (Tester)
> **Sent:** Tuesday, November 15, 2016 9:14 PM
> **To:** Wise, James (Tester) <James_Wise@tester.senate.gov>; Laslovich, Dylan (Tester) <Dylan_Laslovich@tester.senate.gov>
> **Subject:** Fwd: Badger Two Medicine Signing Ceremony - Tomorrow
>
> Sent from my Verizon, Samsung Galaxy smartphone
>
> -------- Original message --------
> From: "Iacobucci, Francis" <francis_iacobucci@ios.doi.gov>
> Date: 11/15/16 5:36 PM (GMT-05:00)
> To: "McEvoy, Trecia (Tester)" <Trecia_McEvoy@tester.senate.gov>
> Cc: Sarah Neimeyer <sarah_neimeyer@ios.doi.gov>
> Subject: Badger Two Medicine Signing Ceremony - Tomorrow
>
> Trecia -
>
> Secretary Jewell is hosting Blackfeet Nation, Devon Energy, and other stakeholders for a signing ceremony around Badger Two Medicine tomorrow at 11:00am, in her office. We'd like

to invite the Senator to attend and speak, if his schedule allows.

Apologies for the late notice here (a complete oversight on our end).

Many thanks,
Francis

--
Francis Iacobucci
Director | Scheduling and Advance
Office of the Secretary, U.S. Department of the Interior
202.208.5723 (direct)

***All scheduling requests for Secretary Jewell should be sent to scheduling@ios doi gov

--
Francis Iacobucci
Director | Scheduling and Advance
Office of the Secretary, U.S. Department of the Interior
202.208.5723 (direct)

***All scheduling requests for Secretary Jewell should be sent to scheduling@ios doi gov

--
Amanda DeGroff
U.S. Department of the Interior
202-208-5205 (Desk)
202-568-0168 (Cell)

From: Banks, Marnee (Tester)
To: "Degroff_Amanda"
Cc: Jessica Kershaw; Leah Duran; Kuntz_Dave (Tester)
Subject: RE: Badger Two Medicine Signing Ceremony - Tomorrow
Date: Wednesday, November 16, 2016 10:33:02 AM

Looks great. Thank you. Here is the Senator's quote:

"There are special places in this world where we just shouldn't drill, and the Badger-Two Medicine is one of those places. This region carries great cultural and historical significance to the Blackfeet Tribe and today's announcement will ensure that the Badger-Two Medicine will remain pristine for both the Tribe and the folks who love to hunt, hike, and fish near Glacier Park and the Bob Marshall Wilderness."

From: Degroff, Amanda [mailto:amanda_degroff@ios.doi.gov]
Sent: Wednesday, November 16, 2016 9:33 AM
To: Banks, Marnee (Tester) <Marnee_Banks@tester.senate.gov>
Cc: Jessica Kershaw <jessica_kershaw@ios.doi.gov>; Leah Duran <leah_duran@ios.doi.gov>; Kuntz, Dave (Tester) <Dave_Kuntz@tester.senate.gov>
Subject: Re: Badger Two Medicine Signing Ceremony - Tomorrow

Thanks, Marnee. Also attached is our draft press release. We plan to get this out right at 11, so if you would like to include a quote from your boss, can you please let us know by 10:30 at the latest, so we can get it all loaded up?

Thanks!
Amanda

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> **Cc:** Jessica Kershaw <jessica_kershaw@ios.doi.gov>; Leah Duran <leah_duran@ios.doi.gov>
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> **Subject:** Re: Badger Two Medicine Signing Ceremony - Tomorrow
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>
> Thanks!
> Amanda
>
> Date: November 15, 2016
> Contact: Interior_press@ios.doi.gov
>
> ## TODAY: Secretary Jewell, Senator Tester to Announce Milestone with Blackfeet Tribe, Devon Energy Corporation Regarding Oil and Gas Leases
>
> **WASHINGTON** – Today, Wednesday, November 16, U.S. Secretary of the Interior Sally Jewell and Senator Jon Tester will hold an event with the Blackfeet Nation and Devon Energy Corporation in Washington, D.C. to announce a milestone related to oil and gas leases in the Badger-Two Medicine area of the Lewis and Clark National Forest in northwest Montana.

The Badger-Two Medicine Area is a 130,000-acre area along the Rocky Mountain Front within the Lewis and Clark National Forest. Glacier National Park, the Bob Marshall Wilderness and the Blackfeet Indian Reservation surround the area, which is considered sacred by the Blackfeet Tribe and is part of a recognized Traditional Cultural District. These characteristics caused Congress to legislatively withdraw the area from mineral development in 2006.

Earlier this year, Secretary Jewell announced the cancellation by the Bureau of Land Management of an oil and gas lease in the Badger-Two Medicine area. All of the originally issued leases in the area have been the subject of a variety of administrative, legal and legislative actions since they were issued over 30 years ago because of the significance of the resources in the area and concerns about the circumstances surrounding leasing ordinance.

WHO: **Sally Jewell**, U.S. Secretary of the Interior
Jon Tester, U.S. Senator, Montana
Harry Barnes, Chairman, Blackfeet Nation
Dave Hager, CEO, Devon Energy Corporation

WHAT: Announcement regarding oil and gas leases in Badger-Two Medicine Area

WHEN: Today, Wednesday, November 16, 2016
10:45 AM EDT – Media check-in
11:00 AM EDT – Signing ceremony

WHERE: U.S. Department of the Interior
1849 C. Street NW
Washington, D.C. 20240

MEDIA: Credentialed members of the media are encouraged to RSVP here. For those unable to attend, the event will be livestreamed.

On Wed, Nov 16, 2016 at 9:01 AM, Iacobucci, Francis <francis_iacobucci@ios.doi.gov> wrote:

> Quick view below - let me know if you need anything else. My cell is (202) 304-4166 if you have any questions. Thanks!
>
> **Participants:**
> Sec Jewell
> Sen Tester
> Chairman Barnes, Blackfeet Nation
> Dave Hager, CEO, Devon Energy Corp
>
> **Format** (Ceremony will take place in Secretary Jewell's office):
>
> - 11:00am - Tribal Prayer
> - 11:05am: Secretary Jewell will offer remarks; introduce Senator Tester
> - 11:10am: Senator Tester will offer remarks; introduce Chairman Barnes
> - 11:15am: Chairman Barnes will offer remarks; introduce Dave Hager
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> - 11:25am: Secretary Jewell will invite participants to signing table for photo op and signing of document
> - 11:30am: Informal Press Gaggle to the side of the podium area
>
> **Other Attendees:**
> Allen Wright, Vice President for Public & Government Affairs, Devon Energy Corp
> Earl Old Person, Chief of the Blackfeet Tribe
> Harry Bares, Chairman of the Blackfeet Tribal Business Council
> Tyson T. Running Wolf, Secretary of the Blackfeet Tribal Business Council
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> Kendall Edmo, Member of the Blackfeet Tribe
> Gerald Lunak, Resource Monitoring Director, Blackfeet Tribe
> Jana Barnes (Wife of Harry Barnes)

Earl Old Person, Jr. (Son of Earl Old Person)
Michael Jamison, National Parks Conservation Association
Casey Perkins, Montana Wilderness Association
Josh Schott, Glacier Two Medicine Alliance
Katie Gilman, The Wilderness Society
Jamie Williams, President, The Wilderness Society
Chase Huntley, The Wilderness Society
Barrett Kaiser, Partner, Hilltop Public Solutions
Aaron Murphy, Hilltop Public Solutions

Press:
Open to the media, and will also be live streamed

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> **Sent:** Wednesday, November 16, 2016 8:42 AM
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> **Cc:** Sarah Neimeyer <sarah_neimeyer@ios.doi.gov>; Rugoff, Alex (Tester) <Alex_Rugoff@tester.senate.gov>; McEvoy, Trecia (Tester) <Trecia_McEvoy@tester.senate.gov>; DeGroff Amanda <amanda_degroff@ios.doi.gov>; Tim Nigborowicz <timothy_nigborowicz@ios.doi.gov>; Steve Hargrave <steve_t_hargrave@ios.doi.gov>; Jessica Kershaw <jessica_kershaw@ios.doi.gov>
> **Subject:** Re: Badger Two Medicine Signing Ceremony - Tomorrow
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> I'm also copying our Comms leads in case you all have Q's related to press.
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> Francis Iacobucci
> Director | Scheduling & Advance
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> > **From:** McEvoy, Trecia (Tester)
> > **Sent:** Tuesday, November 15, 2016 9:14 PM
> > **To:** Wise, James (Tester) <James_Wise@tester.senate.gov>; Laslovich, Dylan (Tester) <Dylan_Laslovich@tester.senate.gov>

Subject: Fwd: Badger Two Medicine Signing Ceremony - Tomorrow

Sent from my Verizon, Samsung Galaxy smartphone

-------- Original message --------
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Cc: Sarah Neimeyer <sarah_neimeyer@ios.doi.gov>
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Secretary Jewell is hosting Blackfeet Nation, Devon Energy, and other stakeholders for a signing ceremony around Badger Two Medicine tomorrow at 11:00am, in her office. We'd like to invite the Senator to attend and speak, if his schedule allows.

Apologies for the late notice here (a complete oversight on our end).

Many thanks,
Francis

--
Francis Iacobucci
Director | Scheduling and Advance
Office of the Secretary, U.S. Department of the Interior
202.208.5723 (direct)

***All scheduling requests for Secretary Jewell should be sent to scheduling@ios doi gov

--
Francis Iacobucci
Director | Scheduling and Advance
Office of the Secretary, U.S. Department of the Interior
202.208.5723 (direct)

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--
Amanda DeGroff
U.S. Department of the Interior
202-208-5205 (Desk)
202-568-0168 (Cell)

--
Amanda DeGroff

U.S. Department of the Interior
202-208-5205 (Desk)
202-568-0168 (Cell)

From: Duran, Leah
To: Banks_Marnee (Tester)
Cc: Degroff_Amanda; Jessica Kershaw; Kuntz_Dave (Tester)
Subject: Re: Badger Two Medicine Signing Ceremony - Tomorrow
Date: Wednesday, November 16, 2016 12:02:34 PM

Hi Marnee -

Here's the final release on our website.

Thanks,
~Leah

On Wed, Nov 16, 2016 at 10:32 AM, Banks, Marnee (Tester) <Marnee_Banks@tester.senate.gov> wrote:

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WHO:	**Sally Jewell**, U.S. Secretary of the Interior **Jon Tester,** U.S. Senator, Montana **Harry Barnes**, Chairman, Blackfeet Nation **Dave Hager**, CEO, Devon Energy Corporation
WHAT:	Announcement regarding oil and gas leases in Badger-Two Medicine Area
WHEN:	Today, Wednesday, November 16, 2016 10:45 AM EDT – Media check-in 11:00 AM EDT – Signing ceremony
WHERE:	U.S. Department of the Interior 1849 C. Street NW Washington, D.C. 20240
MEDIA:	Credentialed members of the media are encouraged to RSVP here. For those unable to attend, the event will be livestreamed.

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Sen Tester

Chairman Barnes, Blackfeet Nation

Dave Hager, CEO, Devon Energy Corp

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> Director | Scheduling & Advance
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> U.S. Department of the Interior

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Francis Iacobucci

Director | Scheduling and Advance

Office of the Secretary, U.S. Department of the Interior

202.208.5723 (direct)

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Francis Iacobucci

Director | Scheduling and Advance

Office of the Secretary, U.S. Department of the Interior

202.208.5723 (direct)

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Amanda DeGroff

U.S. Department of the Interior

202-208-5205 (Desk)

202-568-0168 (Cell)

--

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U.S. Department of the Interior

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--
Leah Duran
Public Affairs Specialist
U.S. Department of the Interior
Office: (202) 208-3311
Cell: (202) 713-8638

From:	Miller-McFeeley, Blaine
To:	Welch, Chelsea
Subject:	RE: Secretary Jewell travel to Denver, CO 11/17
Date:	Wednesday, November 16, 2016 6:10:53 PM
Attachments:	11-16-16 Colorado Conservation, Development Announcements Advisory FINAL....docx

Thanks Chelsea. Do you have any more details about the decision you can share (embargoed of course)? With White River NF being in his district Rep. Polis is very interested, and we are hoping to send someone/put out press after the event, depending on the info in the announcement.

Thanks,
Blaine

From: Welch, Chelsea [mailto:chelsea_welch@ios.doi.gov]
Sent: Wednesday, November 16, 2016 6:01 PM
Subject: Re: Secretary Jewell travel to Denver, CO 11/17

The media advisory with event details for tomorrow is attached. Let me know if you have any questions.

On Wed, Nov 16, 2016 at 12:56 PM, Welch, Chelsea <chelsea_welch@ios.doi.gov> wrote:
Good afternoon,

On Thursday November 17, U.S. Secretary of the Interior Sally Jewell and Bureau of Land Management Director Neil Kornze will join Colorado Governor John Hickenlooper to announce the final decision related to oil and gas development in Colorado's White River National Forest in an event at the Colorado State Capitol.

We will send a media advisory for the event shortly. This event is open press. Feel free to reach out with any questions.

Thanks,

Chelsea Welch
Special Assistant
Office of Congressional and Legislative Affairs
Department of the Interior
chelsea_welch@ios.doi.gov
(202) 208-5348

--
Chelsea Welch
Special Assistant
Office of Congressional and Legislative Affairs
Department of the Interior
chelsea_welch@ios.doi.gov
(202) 208-5348

OFFICE OF THE SECRETARY
U.S. Department of the Interior

www.doi.gov
Media Advisory

Date: November 16, 2016
Contacts: Interior_press□ios.doi.gov
Steven Hall (Bureau of Land Management), sbhall□blm.gov, 303-239-3672

Secretar□□e□ell□Governor Hic□enlooper to Ma□e Announcement on Oil □ Gas Development in the White River National Forest

WASHINGTON □On Thursday November 17, U.S. Secretary of the Interior Sally Jewell and Bureau of Land Management Director Neil Kornze will join Colorado Governor John Hickenlooper to announce the final decision related to oil and gas development in Colorado□s White River National Forest.

Earlier this year, the BLM released a final environmental impact assessment analyzing 65 oil and gas leases in the White River National Forest, including Thompson Divide, that had been issued from 1995 to 2012. BLM manages the subsurface oil and gas resources in the National Forest, while the USDA□s Forest Service manages the surface leasing decisions.

Who□ **Sall□□e□ell□**U.S. Secretary of the Interior
Neil □orn□e, Director of the Bureau of Land Management
□ohn Hic□enlooper□Governor of Colorado

What□ Announcement regarding White River National Forest

When□ Thursday, November 17, 2016
10:45 AM MDT □Media check-in
11:00 AM MDT □Announcement

Where□ Colorado State Capitol, West Foyer
200 E Colfax Ave
Denver, CO 80203

Media□ Credentialed members of the media are encouraged to RSVP here.

□□□

From: Gray, Spencer (Energy)
To: Mendoza, Felipe; Patrick J. Wilkinson; Gins, Meagan; Neimeyer, Sarah
Subject: FW: Secretary Jewell, Senator Tester, Blackfeet Nation and Devon Energy Announce Cancellation of Oil & Gas Leases in Montana's Lewis and Clark National Forest
Date: Thursday, November 17, 2016 11:34:26 AM

Good job!!

From: Moran, Jill [mailto:jcmoran@blm.gov]
Sent: Wednesday, November 16, 2016 11:55 AM
Subject: FYI: Secretary Jewell, Senator Tester, Blackfeet Nation and Devon Energy Announce Cancellation of Oil & Gas Leases in Montana's Lewis and Clark National Forest

news release

Date: November 16, 2016
Contact: Interior_Press@ios.doi.gov

Secretary Jewell, Senator Tester, Blackfeet Nation and Devon Energy Announce Cancellation of Oil & Gas Leases in Montana's Lewis and Clark National Forest

Action Represents Significant Milestone in Protecting Badger-Two Medicine Area from Impacts of Energy Development

WASHINGTON – U.S. Secretary of the Interior Sally Jewell today joined U.S. Senator Jon Tester, Blackfeet Nation Chairman Harry Barnes and Devon Energy Corporation President and CEO David Hager to announce that the Bureau of Land Management (BLM) has canceled 15 additional oil and gas leases in the Badger-Two Medicine area of the Lewis and Clark National Forest in northwestern Montana. Devon Energy owns an interest in these federal leases. The lease cancellations address outstanding concerns about the potential for oil and gas development in this culturally and ecologically important area.

"Today's action honors the Badger-Two Medicine Area's rich

cultural and natural resources and will ensure it is protected for future generations," said Secretary Jewell. "We are proud to have worked alongside the Blackfeet Nation, U.S. Forest Service and Devon Energy to achieve this important milestone, rolling back decades-old leases and reinforcing the importance of developing resources in the right ways and the right places."

"There are special places in this world where we just shouldn't drill, and the Badger-Two Medicine is one of those places. This region carries great cultural and historical significance to the Blackfeet Tribe and today's announcement will ensure that the Badger-Two Medicine will remain pristine for both the Tribe and the folks who love to hunt, hike, and fish near Glacier Park and the Bob Marshall Wilderness," said Senator Tester.

The Badger-Two Medicine Area is a 130,000-acre area along the Rocky Mountain Front within the Lewis and Clark National Forest, managed by the U.S. Forest Service. Glacier National Park, the Bob Marshall Wilderness, and the Blackfeet Indian Reservation surround the area, which is considered sacred by the Blackfeet Tribe and is part of a recognized Traditional Cultural District. These characteristics caused Congress to legislatively withdraw the area from mineral development in 2006.

"We're pleased and proud to celebrate the collaboration that has brought us to this agreement," said Dave Hager. "We know how important this is to the Blackfeet people, and we appreciate the work the Interior Department has done to make it possible. For Devon, cancellation of these leases at this time is simply the right thing to do."

The leases being canceled today were issued in the 1980s and have not had any drilling on the area since issuance.

"Our pursuit to protect the Badger-Two Medicine has lasted more than three decades, and it will continue until all the illegal oil and gas leases are cancelled and the area is permanently protected," Chairman Barnes said. "This area is sacred to the Blackfeet people, and we appreciate that others are starting to recognize it as well. There are many who have helped us get to this point today, but I want to especially recognize Devon Energy for its leadership and willingness to partner with Indian Country."

The cancellation respects recommendations by the U.S. Forest Service, the Advisory Council on Historic Preservation, and concerns expressed by the Blackfeet Tribe and interested members of the public. It is also consistent with the BLM decision earlier this year to cancel the lease held by Solonex LLC.

Because the Devon leases were never developed, the area remains undisturbed. Cancellation of the leases entitles Devon to a refund for

all rents and bonus bids paid – about $200,000. After today's announcement, there are only two remaining leases in the area.

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--
Jill Moran
Bureau of Land Management
Legislative Affairs Specialist
202.912.7411

From:	Cannon, Chase
To:	Mendoza, Felipe
Subject:	Automatic reply: EMBARGOED, 1PM ET: Secretary Jewell Announces Offshore Oil and Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 12:03:54 PM

As of August 30, 2016, I am no longer with the office of Congressman Earl L. "Buddy" Carter. For any assistance, please email Nick Schemmel at Nick.Schemmel@mail.house.gov or Caralee Conklin at Caralee.Conklin@mail.house.gov or call 202-225-5831. Thank you.

From: Anthony, Eric
To: Mendoza, Felipe
Subject: Automatic reply: EMBARGOED, 1PM ET: Secretary Jewell Announces Offshore Oil and Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 12:03:55 PM

I will be out of the office and traveling with no access to this email account from November 18, 2016 through November 27, 2016. If you need immediate assistance, please call 202-225-3661.

From:	Bond, David
To:	Mendoza, Felipe
Subject:	Automatic reply: EMBARGOED, 1PM ET: Secretary Jewell Announces Offshore Oil and Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 12:04:10 PM

I am out of the office until November 28th with limited access to email. Please call the office if you need immediate assistance.

Thank You,

David Bond
Deputy Chief of Staff / Legislative Director
Office of Congresswoman Katherine Clark (MA-5)
1721 Longworth House Office Building
202-225-2836

From:	Unruh Cohen, Ana (Markey)
To:	Mendoza, Felipe
Subject:	Automatic reply: EMBARGOED, 1PM ET: Secretary Jewell Announces Offshore Oil and Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 12:05:06 PM

Thank you for your message.

I am currently out of the office. I will return to the office on Monday November 21.

If you need immediate attention, please call 202 224-2742 and someone will assist you.

I will reply to your message as soon as I can.

Ana Unruh Cohen

From:	Wasch, Elyse (Reed)
To:	Mendoza, Felipe
Subject:	Automatic reply: EMBARGOED, 1PM ET: Secretary Jewell Announces Offshore Oil and Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 12:05:26 PM

Thank you for your message. I am currently out of the office, returning on Monday, November 28th. I will respond to your email as soon as I am able. If you need immediate assistance, please call 202-224-4642.

From:	Schemmel, Nick
To:	Mendoza, Felipe
Subject:	Automatic reply: EMBARGOED, 1PM ET: Secretary Jewell Announces Offshore Oil and Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 12:10:38 PM

I will be out of the office with limited access to email through November 27th.

If this is an emergency, please contact our DC office at (202) 225-5831.

From:	Conklin, Caralee
To:	"Mendoza, Felipe"
Subject:	RE: EMBARGOED, 1PM ET: Secretary Jewell Announces Offshore Oil and Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 12:39:46 PM
Attachments:	image001.png image002.png image003.png

Hi Felipe!

Thank you so much! I am still the energy and interior staffer for Mr. Carter, so I would like to continue to receive these emails.

Jordan See (Jordan.see@mail.house.gov) is our new LD, replacing Chase.

Thanks!

Caralee

Caralee Conklin
Legislative Assistant
Rep. Earl L. 'Buddy' Carter
432 Cannon House Office Building
Washington, D.C. 20515

From: Mendoza, Felipe [mailto:felipe_mendoza@ios.doi.gov]
Sent: Friday, November 18, 2016 12:10 PM
To: Schemmel, Nick; Conklin, Caralee
Subject: Fwd: EMBARGOED, 1PM ET: Secretary Jewell Announces Offshore Oil and Gas Leasing Plan for 2017-2022

Hi,

I shared the below with Chase Cannon via email and got an auto reply letting me know that he was no longer with the office of Rep. Carter. Passing along the below to you in his place.

Thanks,
Felipe

---------- Forwarded message ----------
From: **Mendoza, Felipe** <felipe_mendoza@ios.doi.gov>
Date: Fri, Nov 18, 2016 at 12:02 PM
Subject: EMBARGOED, 1PM ET: Secretary Jewell Announces Offshore Oil and Gas Leasing Plan for 2017-2022
To:

Good afternoon,

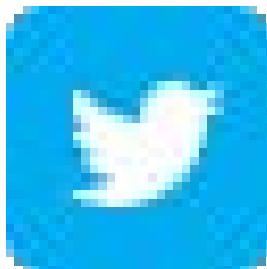
We wanted to share with you the news that today U.S. Secretary of the Interior Sally Jewell and Bureau of Ocean Energy Management (BOEM) Director Abigail Hopper will release the final plan to guide future energy development for the Nation's Outer Continental Shelf (OCS) for 2017-2022. The plan takes a balanced approach to best meet the nation's energy needs by including areas offshore with high resource potential and mature infrastructure while protecting regions with critical ecological resources.

The Proposed Final Program offers 11 potential lease sales in four planning areas – 10 sales in the portions of three Gulf of Mexico Program Areas that are not under moratorium and one sale off the coast of Alaska in the Cook Inlet Program Area.

More information about this announcement is contained in the attached news release and Q & A document. **Information related to this announcement is EMBARGOED UNTIL 1PM Eastern**.

Thank you.

--
Felipe Mendoza, Deputy Director
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240
202-208-3337 | felipe_mendoza@ios.doi.gov



You
Tube

From:	Fike, Cari
To:	Mendoza, Felipe
Subject:	Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 1:07:49 PM

I am currently on maternity leave. Please contact William Smith (william.smith@mail.house.gov) with any legislative issues.

If you need immediate assistance, please call our office at (202) 225-4921.

Thanks,
Cari Fike

From: Roberson, Kelly
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:08:00 PM

As of Tuesday, November 1st, I am no longer with Team Schweikert. It has been a wonderful 5 years on the Hill and I am excited to be moving off the Hill for other endeavors!

I am still close at hand, so please do not hesitate to reach out should I be able to be helpful to you in any way. I can be reached via Gmail at (b) (6) [redacted]@gmail.com.

Thank you all for a great season and I look forward to seeing you off the hill whenever our paths should cross.

All the best,
Kelly

Kelly Roberson
Policy Advisor
Rep. David Schweikert AZ06

From: DeFilippis, Michael
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:08:02 PM

I will be out of the office Nov 17 to Nov 21 and will only be checking emails intermittently. If you need immediate assistance please contact the office at 202-225-5765. Thank you.

From: Najera, Alesandra (Boxer)
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:08:52 PM

I am out of the office until Monday, November 27th. I will be checking email regularly, but please contact our main office at 202-224-3553 if you require immediate assistance.

Alesandra Najera

From: Elsner, Brandon (Wicker)
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:08:52 PM

Thank you for your email. I am currently out of the office and will respond as soon as possible. If you need immediate assistance please call 202-224-6253.

From: Kitchen, Chase (Donnelly)
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:08:53 PM

Thank you for your message. I am currently out of the office and have limited access to email. I will return on November 21, 2016. If you need an immediate response, please call 202-224-4814.

From: Enderle, Emily (Whitehouse)
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:09:06 PM

I am out of the office until November 21st with limited access to email. If this is time sensitive, please contact Aaron Goldner (Aaron_Goldner@whitehouse.senate.gov). Thanks.

From: Deveny, Adrian (Merkley)
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:09:09 PM

Thank you for your email. I will be out of the office until Nov 18th. For any urgent matters, please call 202-224-3753.

From: Thomas, Hill
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:09:55 PM

Thank you for your email. October 8 was my last day in the office. For assistance, please contact Jessie Andrews, Gwen's new Legislative Director, at 225-5235 or jessie.andrews@mail house.gov.

From: Sherer, Dustin
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:10:08 PM

I will be out of the office beginning Friday, November 18th and returning Monday, November 28th. Should you need immediate assistance during my absence please call (202) 225-4761.

From: Beyer, Tom
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:10:10 PM

Thank you for your email. My last day in Rep. Woodall's office was Monday, November 14, 2016. For assistance, please call Rep. Woodall's Washington, DC Office mainline at (202) 225-4272.

Best regards,

Tom Beyer

From: Bastian, Eleanor
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:10:21 PM

I am on jury duty through January 2017. I will respond to your email as soon as I am able. If the matter is urgent, please call our main line at 202-225-4431.

Best,

Eleanor

From: Adams, Mitch
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:10:23 PM

Thank you for your email, I am no longer with the Office of Congressman Dave Loebsack. For all legislative matters please contact Ashley Shillingsburg, Deputy Chief of Staff for Congressman Loeback, at ashley.shillingsburg@mail.house.gov or call the office at 202-225-6576.

Take care,

Mitch Adams

From: Extein, Seth
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:10:28 PM

Thank you for your email. I am no longer with the office of Rep. Wasserman Schultz. If you should need assistance, please call 202-225-7931.

Best,
Seth

From: Miller, Courtney
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:12:12 PM

I am no longer with Rep. Elijah Cummings's office, if you require assistance, please contact Francesca McCrary at 202.225.4741.

From: Hunter-Williams, Jill
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:12:15 PM

This is an automatic email response. I am in the office on Tuesdays, Wednesdays, and Thursdays. If you need immediate assistance, please call the DC Office at (202) 225-5006 or the Chicago office number at (773) 533-7520.

Warmly, Jill

From: Swisher, Eliza
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:12:20 PM

Thank you for the e-mail. I am no longer with the office of Congressman Trent Kelly. For further assistance, please contact (202) 225-4306.

Best,

Eliza Jones Swisher

From: Kaster Averill, Amanda
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:12:27 PM

Thank you for your email. I am out of the office for my honeymoon until Monday, November 28 and will not be accessible by email or phone during this time. Please direct all policy-related emails, including cosponsor requests, to Micah Chambers (micah.chambers@mail.house.gov). I will be back for the November 29-December 2 session week and would be happy to catch up then.

I appreciate your patience and understanding.

Thank you,
Amanda (Kaster) Averill

From: Snyder, Sean
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:14:40 PM

I am currently out of the office until Monday, November 28. If you have an issue that requires immediate attention, please call Congressman Dent's office at 202-225-6411. Thank you.

From: Hawes-Saunders, Donnica
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:14:44 PM

Thank you for your email. I am no longer with the Office of Congresswoman Joyce Beatty. For all legislative matters, please contact Jennifer Storipan at jennifer.storipan@mail.house.gov. If you need immediate assistance, please call the office at 202-225-4324.

From: Thrift, Laura
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:14:46 PM

Thank you for contacting me. I am out of the office and will have limited access to email until Tuesday, November 29. For immediate assistance, please call Congressman Blumenauer's DC office (202-225-4811).

From:	Afolayan, Abiola
To:	Mendoza, Felipe
Subject:	Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 1:14:53 PM

Good Day,

I have concluded my position with the office of Congresswoman Sheila Jackson Lee. For Foreign Affairs or women's policy related matters, please call 202-225-3816. If this is a personal matter, please reach me at (b) (6) [redacted]@gmail.com.Thank you.

From:	Lassiter, Hillary
To:	Mendoza, Felipe
Subject:	Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 1:14:53 PM

Thank you for your email. I will be out of the office until Tuesday, November 22nd with limited access to email.

If this is time sensitive, please contact Rep. Black's Deputy Chief of Staff, Robert Cogan, at Robert.Cogan@mail.house.gov or call our office at (202) 225- 4231.

From:	Barasky, Ben
To:	Mendoza, Felipe
Subject:	Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 1:15:11 PM

I am out of the office and may be slow to respond to your message. I will return to the DC office on Monday, November 21st. If this is an urgent request, please call our DC office at 202-225-6311.

Thanks,

Ben Barasky

Legislative Director

Congresswoman Suzan DelBene (WA-01)

318 Cannon HOB

202-225-6311 (phone)

http://delbene.house.gov/

From: Jones, Chris
To: Mendoza, Felipe
Subject: Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date: Friday, November 18, 2016 1:16:07 PM

I will be out of the office until Tuesday November 22nd and will have limited access to email. I will respond to email as soon as possible upon my return.

Thank you,
Chris

From:	Abraham, Priscila
To:	Mendoza, Felipe
Subject:	Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 1:16:07 PM

I will be out of the office from Friday, November 18th to Monday, November 28th. If urgent please call my office at (202) 225-5516.

Thanks!

From:	Brookes, Jennifer
To:	Mendoza, Felipe
Subject:	Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 1:16:14 PM

Thank you for your email. I am no longer part of Congresswoman Slaughter's office. For legislative inquiries, please contact Elizabeth Murray (Elizabeth.Murray@mail.house.gov) or Colleen Bell (Colleen.Bell@mail.house.gov). If you have any additional questions, please contact 202-225-3615.

From:	Ackley, Justin
To:	Mendoza, Felipe
Subject:	Automatic reply: NEWS: Secretary Jewell Announces Offshore Oil & Gas Leasing Plan for 2017-2022
Date:	Friday, November 18, 2016 1:16:19 PM

Thank you for contacting me.

I will be out of the office starting August 22, 2016 until December 9, 2016.

Please contact either Pat Malloy (patrick.malloy@mail.house.gov) or Sergio Espinoza (Sergio.Espinoza@mail.house.gov) for assistance.

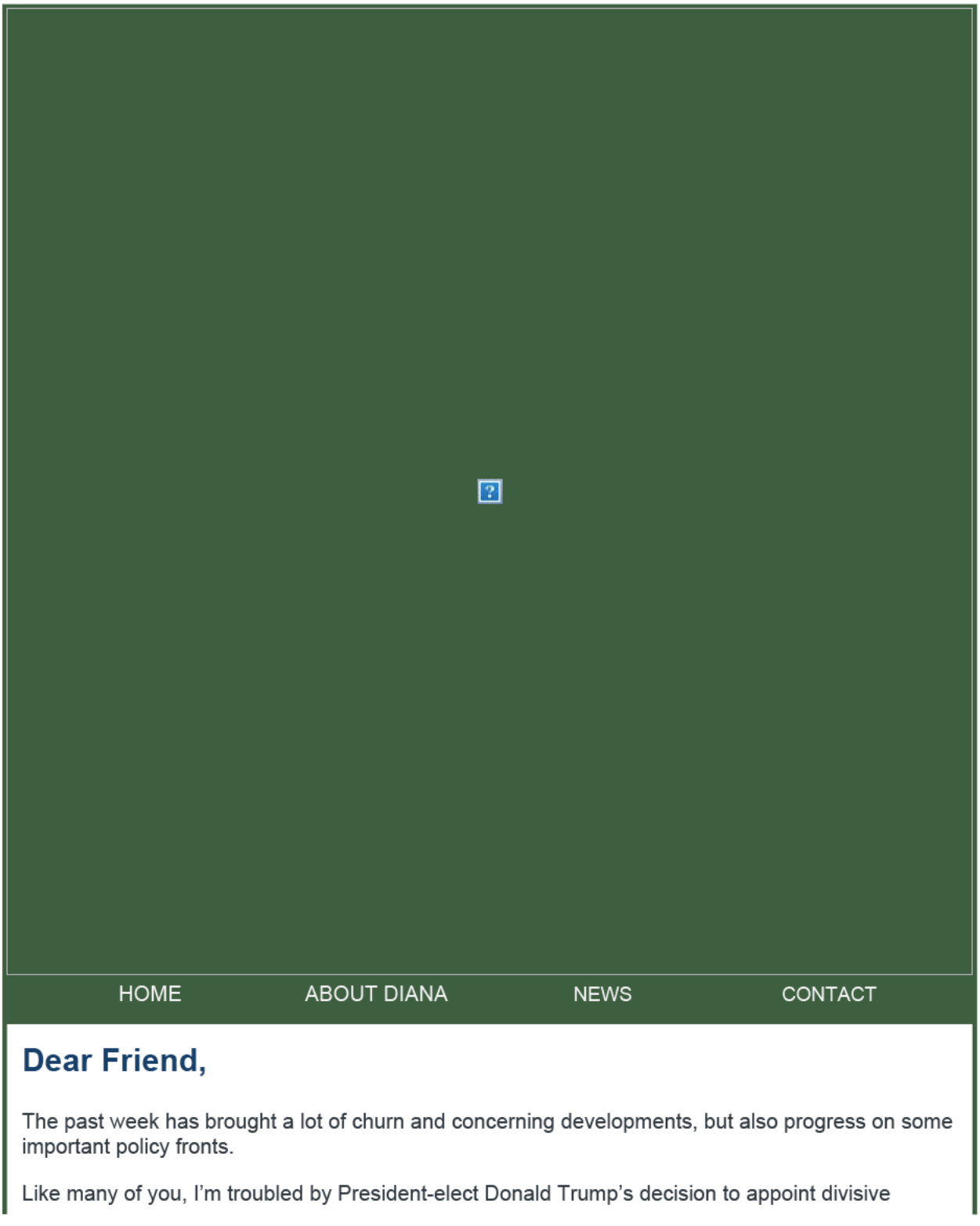
If this is a personal matter, please contact me at [redacted]@gmail.com

If you need additional assistance, please call the office at 202.225.1688.

From: Congresswoman DeGette
To: donna_carr@ios.doi.gov
Subject: Troubling Developments under President-Elect Trump, Progress on Environment and Diabetes
Date: Sunday, November 20, 2016 12:23:31 PM

News from Representative DeGette

Open in its own browser Open a plain text version Forward



HOME ABOUT DIANA NEWS CONTACT

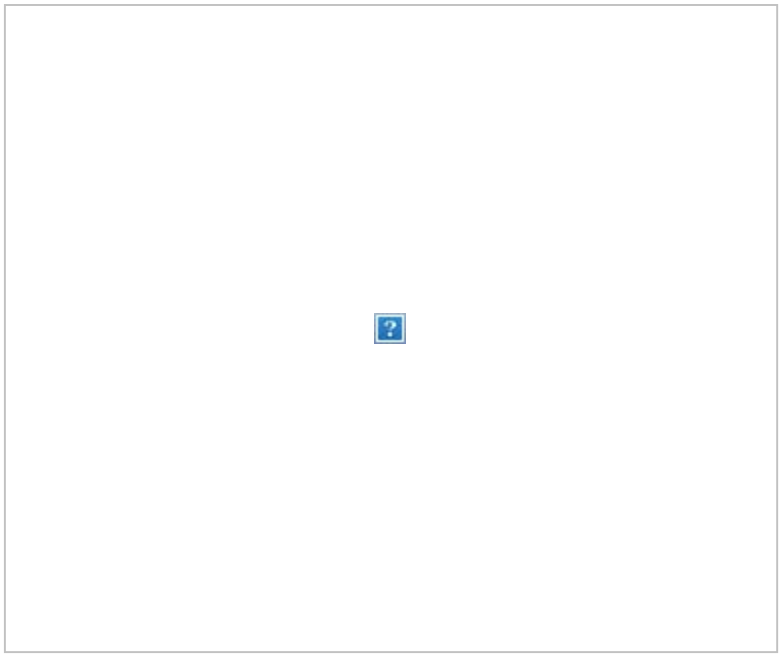
Dear Friend,

The past week has brought a lot of churn and concerning developments, but also progress on some important policy fronts.

Like many of you, I'm troubled by President-elect Donald Trump's decision to appoint divisive

figures to high-level positions in his cabinet and staff. Early in the week, I expressed my views: If we remain a divided country, we won't rise to our full promise. It's now everyone's duty- from the grass roots to the top leaders of this great nation- to look beyond party lines, ethnic and religious backgrounds, special interests and other divisions and to make a better future for us all.

I also joined fellow House Democrats in calling for President-elect Trump to reverse the appointment of Steve Bannon as his chief strategist. In a letter sent to Trump, 169 House members said Bannon's work at Breitbart, an online news and opinion source that publishes bigoted content, makes him the wrong choice to help steer an administration that will unite a divided nation.



Across the country and here in Congress, people are showing solidarity with those who feel vulnerable. Let's show them, whether with a symbolic safety pin, social media, protests or other peaceful means, that we will stand up for one another's rights.

On a positive note, the House passed the National Diabetes Clinical Care Commission Act (H.R. 1192), which will create a committee of experts to improve medical care for people with diabetes and associated conditions. In urging its passage I noted the widespread human and economic impact of the disease and its everyday effects on families and caregivers. Fittingly enough, the bill came to the House floor on World Diabetes Day.

With Republicans ready to assume control of all branches of government, women's reproductive rights are also at great risk. Congressional Republicans have just approved additional funding for the Select Panel, doubling its budget and putting it on track to spend more than $1.5 million of taxpayer funds by the end of this year. This panel has jeopardized lives and medical research. It's a dangerous waste of money and time, and it is poised to do even more harm. My fellow Select Panel Democrats and I will continue standing up to the majority's attacks against women's health.

On Wednesday, we held a hearing on cybersecurity threats in medical devices. Approximately 10 to 15 million medical devices in circulation in the United States today use networked technologies that could be compromised through hacking, malware and unauthorized access. The panel's testimony made clear that the ever-expanding "internet of things" poses serious security risks, and Congress must ensure these devices remain safe. Earlier this month, I sent a letter to the Food and Drug

Administration requesting an update on its cybersecurity measures and policies.

Locally, the week brought good news on the environmental front. On Thursday, the U.S. Department of the Interior announced the resolution of disputed oil and gas leases in the Thompson Divide. I've been involved in this issue for many years, listening to the concerns of groups such as the Thompson Divide Coalition and working to designate more protected lands by introducing the Colorado Wilderness Act in Congress. The agreement will ensure responsible development that protects our state's spectacular natural beauty, keeping Colorado colorful.

And finally, the U.S. Department of the Interior also issued a new rule on methane and waste prevention. This rule, which requires oil and gas operations on public and tribal lands to use the latest technologies to reduce venting and flaring, will build on recent years of environmental improvement, resulting in less pollution and more abundant energy. Together with new U.S. Environmental Protection Agency policies on methane that I advocated for earlier this year, this step will help keep our air and land cleaner while also saving taxpayer money by reducing waste.

As always, you can visit my website at www.degette.house.gov, where you can read my positions on issues and learn about the different ways my staff can assist you. While you're there, be sure to visit the "Contact" page and send me an email about what matters most to you and your family. Finally, be sure to share this email with your friends, family, and neighbors so that they too can be a part of this important dialogue.

Have a safe and wonderful weekend.

Sincerely,

Diana DeGette
Member of Congress

Denver, CO Office
600 Grant Street Suite 202
Denver, CO 80203
(303) 844-4988
Fax: (303) 844-4996

Washington, D.C. Office
2368 Rayburn House Office Building
Washington, DC 20515
(202) 225-4431
Fax: (202) 225-5657

Privacy Policy

Click here to Unsubscribe.

To Comment or Reply click Comment. To Email me click here.

From: Kevin McCarthy
To: richard_bouts@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 12/5/16
Date: Friday, December 02, 2016 6:17:50 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF DECEMBER 5TH

MONDAY, DECEMBER 5TH

On Monday, the House will meet at 12:00 p.m. for morning hour and 2:00 p.m. for legislative business. Votes will be postponed until 6:30 p.m.

Legislation Considered Under Suspension of the Rules:

1) H.R. 2726 - Apollo 11 50th Anniversary Commemorative Coin Act, as amended *(Sponsored by Rep. Bill Posey / Financial Services Committee)*

2) H.R. 6427 - Creating Financial Prosperity for Businesses and Investors Act *(Sponsored by Rep. Scott Garrett / Financial Services Committee)*

3) S. 795 - To enhance whistleblower protection for contractor and grantee employees *(Sponsored by Sen. Claire McCaskill / Oversight and Government Reform Committee)*

4) H.R. 5015 - Combat-Injured Veterans Tax Fairness Act of 2016, as amended *(Sponsored by Rep. David Rouzer / Ways and Means Committee)*

5) S. 3395 - Prescribed Burn Approval Act of 2016 *(Sponsored by Sen. John Thune / Agriculture Committee)*

6) House Amendment to S. 1635 - Department of State Authorities Act, Fiscal Year 2017, as amended *(Sponsored by Sen. Bob Corker / Foreign Affairs Committee)*

TUESDAY, DECEMBER 6TH

On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business.

Legislation Considered Under Suspension of the Rules:

1) H.R. 756 - Streamlining Energy Efficiency for Schools Act of 2015 *(Sponsored by Rep. Matt Cartwright / Energy and Commerce Committee)*

2) H.R. 6375 - Power And Security Systems (PASS) Act *(Sponsored by Rep. Mike Pompeo / Energy and Commerce Committee)*

3) H.R. 3381 - Childhood Cancer STAR Act, as amended *(Sponsored by Rep. Michael McCaul / Energy and Commerce Committee)*

4) **H.Res _____** - Expressing the sense of the House of Representatives that all students should have access to the digital tools necessary to further their education and compete in the 21st century economy *(Sponsored by Rep. Peter Welch / Energy and Commerce Committee)*

5) **H.R. 6394** - Improving Broadband Access for Veterans Act of 2016 *(Sponsored by Rep. Jerry McNerney / Energy and Commerce Committee)*

6) **H.Res. 932** - Expressing the sense of the House of Representatives with respect to third-party charges on consumer telephone bills *(Sponsored by Rep. Jan Schakowsky / Energy and Commerce Committee)*

7) **S. 2873** - Expanding Capacity for Health Outcomes Act *(Sponsored by Sen. Orrin G. Hatch / Energy and Commerce Committee)*

8) **H.R. 4680** - National Park Service Centennial Act, as amended *(Sponsored by Rep. Rob Bishop / Natural Resources Committee)*

9) **H.R. 1219** - Arbuckle Project Maintenance Complex and District Office Conveyance Act of 2016 *(Sponsored by Rep. Tom Cole / Natural Resources Committee)*

10) **H.R. 6401** - Northern Mariana Islands Economic Expansion Act *(Sponsored by Rep. Gregorio Sablan / Natural Resources Committee)*

11) **S. 817** - To provide for the addition of certain real property to the reservation of the Siletz Tribe in the State of Oregon *(Sponsored by Sen. Ron Wyden / Natural Resources Committee)*

12) **S. 818** - To amend the Grand Ronde Reservation Act to make technical corrections, and for other purposes *(Sponsored by Sen. Ron Wyden / Natural Resources Committee)*

13) **S. 3028** - Daniel J. Evans Olympic National Park Wilderness Act *(Sponsored by Sen. Maria Cantwell / Natural Resources Committee)*

14) **H.R. 6416** - Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 *(Sponsored by Rep. Phil Roe / Veterans Affairs Committee)*

15) **H.R. 5399** - Ethical Patient Care for Veterans Act of 2016 *(Sponsored by Rep. Phil Roe / Veterans Affairs Committee)*

16) **H.R. 4150** - Department of Veterans Affairs Emergency Medical Staffing Recruitment and Retention Act, as amended *(Sponsored by Rep. Raul Ruiz / Veterans Affairs Committee)*

17) **H.R. 4352** - Faster Care for Veterans Act of 2016 *(Sponsored by Rep. Seth Moulton / Veterans Affairs Committee)*

18) **H.R. 5428** - Military Residency Choice Act *(Sponsored by Rep. J. Forbes / Veterans Affairs Committee)*

19) S. 3492 - To designate the Department of Veterans Affairs community-based outpatient clinic in Traverse City, Michigan, as the "Colonel Demas T. Craw VA Clinic" *(Sponsored by Sen. Gary Peters / Veterans Affairs Committee)*

20) S. 3076 - Charles Duncan Buried with Honor Act of 2016 *(Sponsored by Sen. Tom Cotton / Veterans Affairs Committee)*

21) H.R. 875 - Cross-Border Trade Enhancement Act of 2016, as amended *(Sponsored by Rep. Henry Cuellar / Ways and Means Committee)*

WEDNESDAY, DECEMBER 7TH AND THE BALANCE OF THE WEEK

On Wednesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business.

On Thursday, the House will meet at 9:00 a.m. for legislative business.

On Friday, no votes are expected in the House.

H.R. 5143 - Transparent Insurance Standards Act of 2016, Rules Committee Print (Subject to a Rule) *(Sponsored by Rep. Blaine Luetkemeyer / Financial Services Committee)*

Additional Suspensions will be added

Consideration of Water Resources Development Act of 2016

Consideration of a Continuing Resolution for FY 2017 Appropriations

Committee activity for the week of December 5 can be found here.

Printable PDF

Click Here to view this email in your browser
Click Here to be removed from this list

From: Kevin McCarthy
To: lara_levison@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 12/5/16
Date: Friday, December 02, 2016 6:17:55 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF DECEMBER 5TH

MONDAY, DECEMBER 5TH

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2) H.R. 6427 - Creating Financial Prosperity for Businesses and Investors Act *(Sponsored by Rep. Scott Garrett / Financial Services Committee)*

3) S. 795 - To enhance whistleblower protection for contractor and grantee employees *(Sponsored by Sen. Claire McCaskill / Oversight and Government Reform Committee)*

4) H.R. 5015 - Combat-Injured Veterans Tax Fairness Act of 2016, as amended *(Sponsored by Rep. David Rouzer / Ways and Means Committee)*

5) S. 3395 - Prescribed Burn Approval Act of 2016 *(Sponsored by Sen. John Thune / Agriculture Committee)*

6) House Amendment to S. 1635 - Department of State Authorities Act, Fiscal Year 2017, as amended *(Sponsored by Sen. Bob Corker / Foreign Affairs Committee)*

TUESDAY, DECEMBER 6TH

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2) H.R. 6375 - Power And Security Systems (PASS) Act *(Sponsored by Rep. Mike Pompeo / Energy and Commerce Committee)*

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From: Kevin McCarthy
To: joshua_mahan@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 12/5/16
Date: Friday, December 02, 2016 6:18:28 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF DECEMBER 5TH

MONDAY, DECEMBER 5TH

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Subject: The Leader"s Weekly Schedule - Week of 12/5/16
Date: Friday, December 02, 2016 6:19:36 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF DECEMBER 5TH

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From: Kevin McCarthy
To: chris_salotti@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 12/5/16
Date: Friday, December 02, 2016 6:26:02 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF DECEMBER 5TH

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From: Kevin McCarthy
To: jeremy_Bratt@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 12/5/16
Date: Friday, December 02, 2016 6:26:09 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF DECEMBER 5TH

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From: Kevin McCarthy
To: jason_powell@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 12/5/16
Date: Friday, December 02, 2016 6:27:30 PM

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Date: Friday, December 02, 2016 6:27:37 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF DECEMBER 5TH

MONDAY, DECEMBER 5TH

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Date: Friday, December 02, 2016 6:33:46 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF DECEMBER 5TH

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Date: Friday, December 02, 2016 6:33:51 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF DECEMBER 5TH

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Date: Friday, December 02, 2016 6:33:55 PM

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To: celina_cunningham@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 12/5/16
Date: Friday, December 02, 2016 6:33:56 PM

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From: Democratic Whip
To: csalotti@ios.doi.gov
Subject: THE WEEKLY WHIP: FRIDAY, DECEMBER 2, 2016
Date: Friday, December 02, 2016 7:40:20 PM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FRIDAY, DECEMBER 2, 2016

FIRST VOTE OF THE WEEK:	LAST VOTE PREDICTED:
Monday 6:30 p.m.	Thursday 3:00 p.m.

Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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On Monday, the House will meet at 12:00 p.m. for Morning Hour debate and 2:00 p.m. for legislative business, with votes postponed until 6:30 p.m.

Suspensions (6 bills)

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2. **H.R. 6427** – Creating Financial Prosperity for Businesses and Investors Act (Rep. Garrett – Financial Services)
3. **S. 795** – To enhance whistleblower protection for contractor and grantee employees (Sen. McCaskill – Oversight and Government Reform)
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Date: Friday, December 02, 2016 7:41:47 PM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

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Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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Subject: THE WEEKLY WHIP: FRIDAY, DECEMBER 2, 2016
Date: Friday, December 02, 2016 7:47:24 PM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

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Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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Subject: THE WEEKLY WHIP: FRIDAY, DECEMBER 2, 2016
Date: Friday, December 02, 2016 7:47:35 PM

Office of the Democratic Whip Steny H. Hoyer

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Subject: THE WEEKLY WHIP: FRIDAY, DECEMBER 2, 2016
Date: Friday, December 02, 2016 7:48:33 PM

Office of the Democratic Whip Steny H. Hoyer

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Subject: THE WEEKLY WHIP: FRIDAY, DECEMBER 2, 2016
Date: Friday, December 02, 2016 7:54:46 PM

Office of the Democratic Whip Steny H. Hoyer

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Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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MONDAY, DECEMBER 5, 2016
On Monday, the House will meet at 12:00 p.m. for Morning Hour debate and 2:00 p.m. for legislative business, with votes postponed until 6:30 p.m.

Suspensions (6 bills)

1. **H.R. 2726** – Apollo 11 50th Anniversary Commemorative Coin Act, as amended (Rep. Posey – Financial Services)
2. **H.R. 6427** – Creating Financial Prosperity for Businesses and Investors Act (Rep. Garrett – Financial Services)
3. **S. 795** – To enhance whistleblower protection for contractor and grantee employees (Sen. McCaskill – Oversight and Government Reform)
4. **H.R. 5015** – Combat-Injured Veterans Tax Fairness Act of 2016, as amended (Rep. Rouzer – Ways and Means)
5. **S. 3395** – Prescribed Burn Approval Act of 2016 (Sen. Thune – Agriculture)
6. **House Amendment to S. 1635** – Department of State Authorities Act, Fiscal Year 2017, as amendment (Sen. Corker – Foreign Affairs)

TUESDAY, DECEMBER 6, 2016
On Tuesday, the House will meet at 10:00 a.m. for Morning Hour debate and 12:00 p.m. for legislative business.

Suspensions (21 bills)

1. **H.R. 756** – Streamlining Energy Efficiency for Schools Act of 2015 (Rep. Cartwright – Energy and Commerce)
2. **H.R. 6375** – Power And Security Systems (PASS) Act (Rep. Pompeo – Energy and Commerce)
3. **H.R. 3381** – Childhood Cancer STAR Act, as amended (Rep. McCaul – Energy and Commerce)
4. **H.Res.____** – Expressing the sense of the House of Representatives that all students should have access to the digital tools necessary to further their education and compete in the 21st century economy (Rep. Welch – Energy and Commerce)
5. **H.R. 6394** – Improving Broadband Access for Veterans Act of 2016 (Rep. McNerney – Energy and Commerce)
6. **H.Res. 932** – Expressing the sense of the House of Representatives with respect to third-party charges on consumer telephone bills (Rep. Schakowsky – Energy and Commerce)
7. **S. 2873** – Expanding Capacity for Health Outcomes Act (Sen. Hatch – Energy and Commerce)
8. **H.R. 4680** – National Park Service Centennial Act, as amended (Rep. Bishop

(UT) – Natural Resources)

9. **H.R. 1219** – Arbuckle Project Maintenance Complex and District Office Conveyance Act of 2016 (Rep. Cole – Natural Resources)
10. **H.R. 6401** – Northern Mariana Islands Economic Expansion Act (Rep. Sablan – Natural Resources)
11. **S. 817** – To provide for the addition of certain real property to the reservation of the Siletz Tribe in the State of Oregon (Sen. Wyden – Natural Resources)
12. **S. 818** – To amend the Grand Ronde Reservation Act to make technical corrections, and for other purposes (Sen. Wyden – Natural Resources)
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14. **H.R. 6416** – Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (Rep. Roe – Veterans' Affairs)
15. **H.R. 5399** – Ethical Patient Care for Veterans Act of 2016 (Rep. Roe – Veterans' Affairs)
16. **H.R. 4150** – Department of Veterans Affairs Emergency Medical Staffing Recruitment and Retention Act, as amended (Rep. Ruiz – Veterans' Affairs)
17. **H.R. 4352** – Faster Care for Veterans Act of 2016 (Rep. Moulton – Veterans' Affairs)
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20. **S. 3076** – Charles Duncan Buried with Honor Act of 2016 (Sen. Cotton – Veterans' Affairs)
21. **H.R. 875** – Cross-Border Trade Enhancement Act of 2016, as amended (Rep. Cuellar – Ways and Means)

WEDNESDAY, DECEMBER 7, 2016 AND THE BALANCE OF THE WEEK

On Wednesday, the House will meet at 10:00 a.m. for Morning Hour debate and 12:00 p.m. for legislative business. On Thursday, the House will meet at 9:00 a.m. for legislative business, with last votes expected no later than 3:00 p.m. On Friday, no votes are expected in the House.

H.R. 5143 – Transparent Insurance Standards Act of 2016 (Rep. Luetkemeyer – Financial Services) (Subject to a Rule)

Consideration of Water Resources Development Act of 2016

Consideration of a Continuing Resolution for FY 2017 Appropriations

Additional Suspensions will be added

ADDITIONAL FLOOR INFORMATION

The Rules Committee is scheduled to meet on the following day:

- Tuesday, December 6, 2016, at 3:00 p.m. to report a Rule for **H.R. 5143**. We expect a Structured Rule and Amendments must be submitted to the Rules Committee by **10:00 a.m. on Monday, December 5, 2016**.

Announcements can be found on the Rules committee website at:
http://democrats.rules.house.gov/

Visit https://www.democraticwhip.gov/ for more press, floor and member resources.

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From: Democratic Whip
To: sarah_neimeyer@ios.doi.gov
Subject: THE WEEKLY WHIP: FRIDAY, DECEMBER 2, 2016
Date: Friday, December 02, 2016 7:56:55 PM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FRIDAY, DECEMBER 2, 2016

FIRST VOTE OF THE WEEK:	LAST VOTE PREDICTED:
Monday 6:30 p.m.	Thursday 3:00 p.m.

Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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5. **S. 3395** – Prescribed Burn Approval Act of 2016 (Sen. Thune – Agriculture)
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10. **H.R. 6401** – Northern Mariana Islands Economic Expansion Act (Rep. Sablan – Natural Resources)
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http://democrats.rules.house.gov/

Visit https://www.democraticwhip.gov/ for more press, floor and member resources.

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To: richard_bouts@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:24:48 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH
On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First and last votes 4:00 p.m. - 5:00 p.m.

One Minute Speeches

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2) H.R. 6375 - Power And Security Systems (PASS) Act *(Sponsored by Rep. Mike Pompeo / Energy and Commerce Committee)*

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21) S. 3076 - Charles Duncan Buried with Honor Act of 2016 *(Sponsored by Sen. Tom Cotton / Veterans Affairs Committee)*

Special Order Speeches

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From: Kevin McCarthy
To: lara_levison@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:25:18 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH
On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First and last votes 4:00 p.m. - 5:00 p.m.

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From: Kevin McCarthy
To: joshua_mahan@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:25:32 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH
On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First and last votes 4:00 p.m. - 5:00 p.m.

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From: Kevin McCarthy
To: robert_howarth@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:26:02 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH

On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First and last votes 4:00 p.m. - 5:00 p.m.

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From: Kevin McCarthy
To: chris_salotti@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:28:22 PM

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To: jeremy_Bratt@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:29:03 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH

On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First and last votes 4:00 p.m. - 5:00 p.m.

One Minute Speeches

Legislation Considered Under Suspension of the Rules:

1) H.R. 756 - Streamlining Energy Efficiency for Schools Act of 2015 *(Sponsored by Rep. Matt Cartwright / Energy and Commerce Committee)*

2) H.R. 6375 - Power And Security Systems (PASS) Act *(Sponsored by Rep. Mike Pompeo / Energy and Commerce Committee)*

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12) S. 818 - To amend the Grand Ronde Reservation Act to make technical corrections, and for other purposes *(Sponsored by Sen. Ron Wyden / Natural Resources Committee)*

13) S. 3028 - Daniel J. Evans Olympic National Park Wilderness Act *(Sponsored by Sen. Maria Cantwell / Natural Resources Committee)*

14) H.R. 875 - Cross-Border Trade Enhancement Act of 2016, as amended *(Sponsored by Rep. Henry Cuellar / Ways and Means Committee)*

15) H.R. 6416 - Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 *(Sponsored by Rep. Phil Roe / Veterans Affairs Committee)*

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17) H.R. 4150 - Department of Veterans Affairs Emergency Medical Staffing Recruitment and Retention Act, as amended *(Sponsored by Rep. Raul Ruiz / Veterans Affairs Committee)*

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From: Kevin McCarthy
To: jason_powell@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:29:08 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH
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From: Kevin McCarthy
To: wendy_clerinx@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:29:13 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH
On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First and last votes 4:00 p.m. - 5:00 p.m.

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From: Kevin McCarthy
To: celina_cunningham@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:29:20 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH

On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First and last votes 4:00 p.m. - 5:00 p.m.

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Special Order Speeches

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From: Kevin McCarthy
To: stephenne_harding@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:29:23 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH

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Special Order Speeches

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From: Kevin McCarthy
To: Kristen_Sarri@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:29:25 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH

On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First and last votes 4:00 p.m. - 5:00 p.m.

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From: Kevin McCarthy
To: joseph_nevils@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/5/16
Date: Monday, December 05, 2016 9:30:14 PM

LEADER'S DAILY SCHEDULE

TUESDAY, DECEMBER 6TH
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From: Repko, Mary Frances
To: McDonough, Alexander (Reid); Neimeyer, Sarah; vaught.laura@epa.gov; Elizabeth Murray (emurray@tdyllc.com)
Subject: FW: THE NIGHTLY WHIP: MONDAY, DECEMBER 5, 2016
Date: Monday, December 05, 2016 9:41:31 PM

From: Democratic Whip
Sent: Monday, December 05, 2016 9:38:16 PM (UTC-05:00) Eastern Time (US & Canada)
To: Repko, Mary Frances
Subject: THE NIGHTLY WHIP: MONDAY, DECEMBER 5, 2016

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

DECEMBER 5, 2016

TOMORROW'S OUTLOOK

On Tuesday, the House will meet at 10:00 a.m. for Morning Hour debate and 12:00 p.m. for legislative business.

First/Last votes expected: 4:00 – 5:00 p.m.

"One Minutes" (15 per side)

Suspensions (21 bills)

1. **H.R. 756** – Streamlining Energy Efficiency for Schools Act of 2015 (Rep. Cartwright – Energy and Commerce)
2. **H.R. 6375** – Power And Security Systems (PASS) Act (Rep. Pompeo – Energy and Commerce)
3. **H.R. 3381** – Childhood Cancer STAR Act, as amended (Rep. McCaul – Energy and Commerce)
4. **S. 2873** – Expanding Capacity for Health Outcomes Act (Sen. Hatch – Energy and Commerce)
5. **H.R. 6394** – Improving Broadband Access for Veterans Act of 2016 (Rep. McNerney – Energy and Commerce)
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To: jhoset_burgosrodriguez@ios.doi.gov
Subject: THE NIGHTLY WHIP: MONDAY, DECEMBER 5, 2016
Date: Monday, December 05, 2016 9:47:53 PM

Office of the Democratic Whip Steny H. Hoyer

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DECEMBER 5, 2016

TOMORROW'S OUTLOOK

On Tuesday, the House will meet at 10:00 a.m. for Morning Hour debate and 12:00 p.m. for legislative business.

First/Last votes expected: 4:00 – 5:00 p.m.

"One Minutes" (15 per side)

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Subject: THE NIGHTLY WHIP: MONDAY, DECEMBER 5, 2016
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DECEMBER 5, 2016

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To: csalotti@ios.doi.gov
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Date: Monday, December 05, 2016 9:59:21 PM

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DECEMBER 5, 2016

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To: lara_levison@ios.doi.gov
Subject: THE NIGHTLY WHIP: MONDAY, DECEMBER 5, 2016
Date: Monday, December 05, 2016 10:00:08 PM

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DECEMBER 5, 2016

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DECEMBER 5, 2016

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To: carlos_uriarte@ios.doi.gov
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Date: Monday, December 05, 2016 10:03:50 PM

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DECEMBER 5, 2016

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Subject: THE NIGHTLY WHIP: MONDAY, DECEMBER 5, 2016
Date: Monday, December 05, 2016 10:05:05 PM

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DECEMBER 5, 2016

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From: Repko, Mary Frances
To: McDonough, Alexander (Reid); Neimeyer, Sarah; vaught.laura@epa.gov; Elizabeth Murray (emurray@tdyllc.com)
Subject: FW: THE DAILY WHIP: TUESDAY, DECEMBER 6, 2016
Date: Tuesday, December 06, 2016 10:29:02 AM

From: Democratic Whip
Sent: Tuesday, December 06, 2016 10:25:42 AM (UTC-05:00) Eastern Time (US & Canada)
To: Repko, Mary Frances
Subject: THE DAILY WHIP: TUESDAY, DECEMBER 6, 2016

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FLOOR SCHEDULE FOR TUESDAY, DECEMBER 6, 2016

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative Business Fifteen "One Minutes"	4:00 – 4:30 p.m.	4:30 – 5:00 p.m.

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TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule for Wednesday, December 7: The House will meet at 12:00 p.m. for legislative business. The House is expected to consider **H.R. 5143** – Transparent Insurance Standards Act of 2016 (Rep. Luetkemeyer – Financial Services) (Subject to a Rule). The House is also expected to consider bills listed for consideration under suspension of the Rules.

THE DAILY QUOTE

"Republican leaders planned to unveil on Tuesday a stopgap measure to fund the government that they hoped would clear Congress by Friday… But the 11th-hour effort to complete the bill draft Monday night means Congress will be on a strict timeline to get the measure passed by Friday's deadline… A new stopgap is needed because Congress failed to pass its annual spending bills on time for the current fiscal year, which began Oct. 1. 'Everybody back home laughs at that stuff,' [Rep. Dave] Brat [R-VA] said of the continuing resolution. 'Everyone's laughing, but everybody's crying at the same time.'"

- CQ, 12/6/2016

From: Democratic Whip
To: jhoset_burgosrodriguez@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, DECEMBER 6, 2016
Date: Tuesday, December 06, 2016 10:45:01 AM

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FLOOR SCHEDULE FOR TUESDAY, DECEMBER 6, 2016

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	4:00 – 4:30 p.m.	4:30 – 5:00 p.m.

Business **Fifteen "One Minutes"**		

Suspensions (21 bills)

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- CQ, 12/6/2016

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Date: Tuesday, December 06, 2016 10:46:34 AM

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18. **H.R. 4352** – Faster Care for Veterans Act of 2016 (Rep. Moulton – Veterans'

Affairs)

19. **H.R. 5428** – Military Residency Choice Act (Rep. Forbes – Veterans' Affairs)
20. **S. 3492** – To designate the Department of Veterans Affairs community-based outpatient clinic in Traverse City, Michigan, as the "Colonel Demas T. Craw VA Clinic" (Sen. Peters – Veterans' Affairs)
21. **S. 3076** – Charles Duncan Buried with Honor Act of 2016 (Sen. Cotton – Veterans' Affairs)

TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule for Wednesday, December 7: The House will meet at 12:00 p.m. for legislative business. The House is expected to consider **H.R. 5143** – Transparent Insurance Standards Act of 2016 (Rep. Luetkemeyer – Financial Services) (Subject to a Rule). The House is also expected to consider bills listed for consideration under suspension of the Rules.

THE DAILY QUOTE

"Republican leaders planned to unveil on Tuesday a stopgap measure to fund the government that they hoped would clear Congress by Friday… But the 11th-hour effort to complete the bill draft Monday night means Congress will be on a strict timeline to get the measure passed by Friday's deadline… A new stopgap is needed because Congress failed to pass its annual spending bills on time for the current fiscal year, which began Oct. 1. 'Everybody back home laughs at that stuff,' [Rep. Dave] Brat [R-VA] said of the continuing resolution. 'Everyone's laughing, but everybody's crying at the same time.'"

- CQ, 12/6/2016

Visit www.democraticwhip.gov for more press, floor and member resources.

Permalink

Change subscription settings

From:	Ferguson, Fred
To:	Buffa, Nicole
Subject:	Re: Scanned from a Xerox Multifunction Device
Date:	Tuesday, December 06, 2016 3:56:00 PM
Attachments:	FCM-PLI-discussion-draft-comments-vF(6).pdf PLI-Bluff_Bench_compromise_with_acreages-1.png

This was a Friends of Cedar Mesa compromise. We feel very strongly about these boundaries. See the .png provided by FCM and their written narrative (pdf). Page 2 paragraph 2.

From: Nikki Buffa <nicole_buffa@ios.doi.gov>
Date: Tuesday, December 6, 2016 15:49 PM
To: Fred Ferguson <Fred.Ferguson@mail.house.gov>
Subject: Fwd: Scanned from a Xerox Multifunction Device

how is this? bluff is in the upper right hand corner.

PO Box 338, Bluff, UT 84512

February 8, 2016

The Honorable Rob Bishop
123 Cannon House Office Building
Washington, DC 20540

The Honorable Jason Chaffetz
2464 Rayburn House Office Building
Washington, DC 20515

Dear Congressmen Chaffetz and Bishop:

The Public Lands Initiative has been an ambitious proposition from the beginning. As a local, on-the-ground nonprofit based in rural San Juan County, Friends of Cedar Mesa (FCM) shares your ambition for finding common ground and creative solutions. We are grateful for all the hard work your team has put into this project.

FCM sees an urgent need for protection of the Cedar Mesa area, as well as many surrounding areas rich in cultural/archaeological resources. With continued looting, increased visitation, spiraling user conflicts, and mired bureaucracy, this landscape just cannot go another 5 or 10 years without being protected. From the beginning, we have invested huge amounts of time into your locally driven, legislative solution. We attended every meeting of the San Juan County Lands Council and every public meeting on the PLI in San Juan County. While we cannot support the bill in its current form, we continue to believe congressional action has the potential to be the best way to find win-wins for conservation, recreation, and economic development.

Per your request, we are providing below a fairly lengthy and detailed list of concerns we have with the current "Discussion Draft" of the PLI. We commit to engaging in an honest, transparent dialogue with you in order to achieve creative solutions and real negotiation on these points. Throughout this process, we have intentionally refrained from "bashing" the PLI, which we've worked on for so long. While we do plan to share our concerns with our interested membership, we will continue to do so in a spirit of honesty and pragmatism.

Friends of Cedar Mesa will continue to work towards a PLI bill we can support. However, we are not willing to put the future of this landscape solely in the hands of Congress. We must pursue any possible

avenue to protect a landscape that should have been protected 100 years ago. As such, we will continue to urge the Administration to use all the tools it has available, including the Antiquities Act, to protect this place if the PLI legislation does not pass in a timely fashion.

Recommendations:

Critical archaeological and scenic resources in the Bluff area left out of the Bears Ears NCA

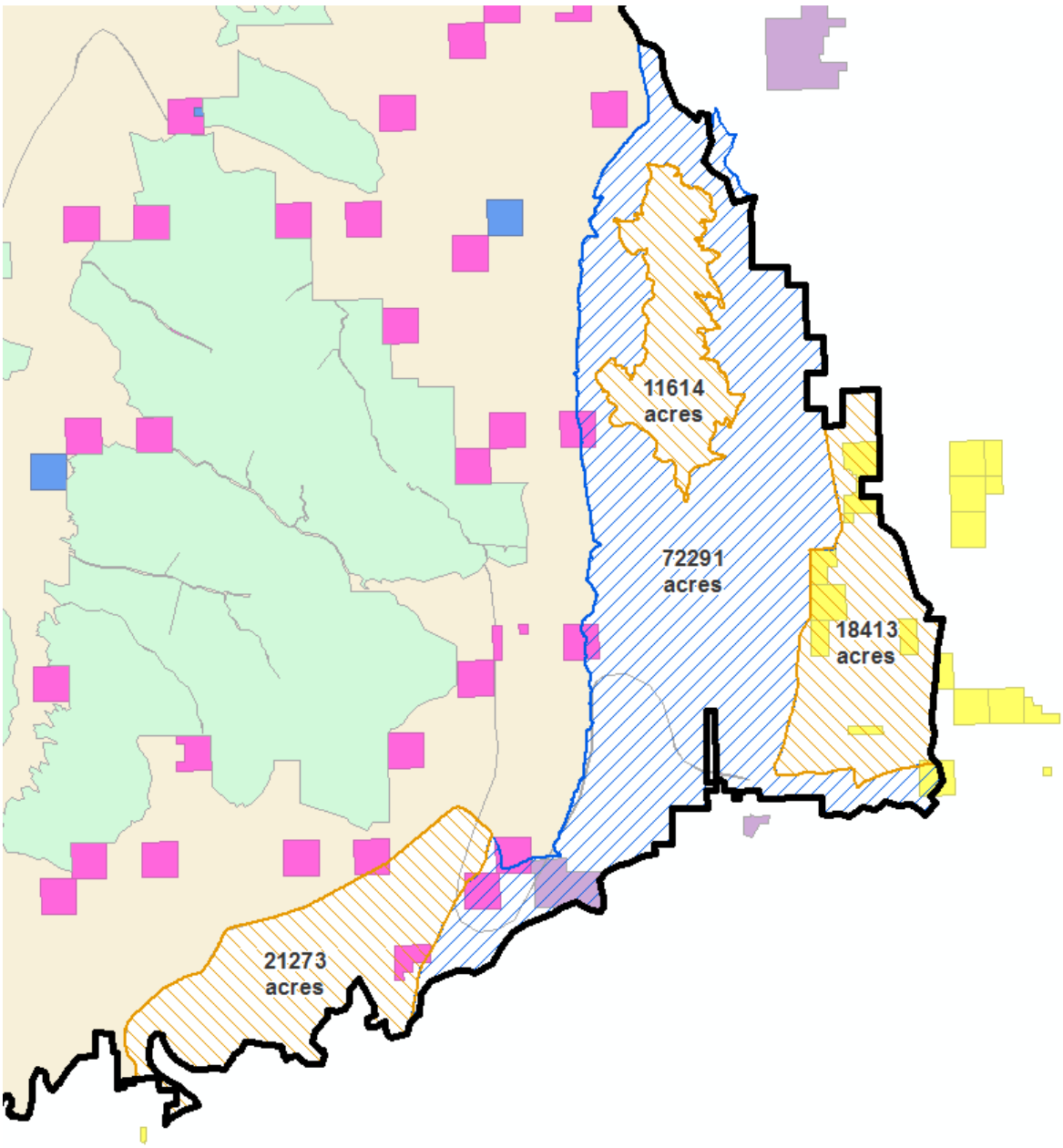
We believe all of the lands in the Tribal proposal for protection of the Bears Ears cultural landscape are deserving of permanent protection. However, we are most passionate and knowledgeable about the area surrounding Bluff that was left out of the NCA, specifically the San Juan River Corridor, Lower Comb Ridge, Tank Mesa and Cottonwood Wash. This is one of the most archaeologically important areas in all of San Juan County, including:

- The oldest rock art image in the United States
- Several of the largest and most significant rock art panels in Utah
- Four ancient Chacoan road segments
- Thousands of archaeological sites, including pueblos, kivas, cliff dwellings historic Navajo hogans and Ute tipi rings.
- The most significant Clovis archaeological site in Utah (earliest Americans on record - 13,000 BC)
- San Juan Hill, one of the most significant historical sites in the State of Utah
- Launch and campground for floating the San Juan River, an international river rafting destination

In the spirit of compromise, we could support a reduction in the acreage Friends of Cedar Mesa originally proposed in this area. We have attached a map and GIS shapefiles outlining a modest 72,291 (blue cross hatched area) acre addition to the Bears Ears NCA. Within this area, we would suggest trading out SITLA parcels as is contemplated in the rest of the NCA, consolidating them east of Highway 191. While it is heartbreaking for us to leave out such scenic areas as Chimney Rocks, Recapture Pocket, and Lime Ridge (yellow cross hatched areas on map), we also understand the political dynamics and want to find a reasonable compromise. This represents a 51,300 acre reduction to what we originally proposed in the Bluff area.

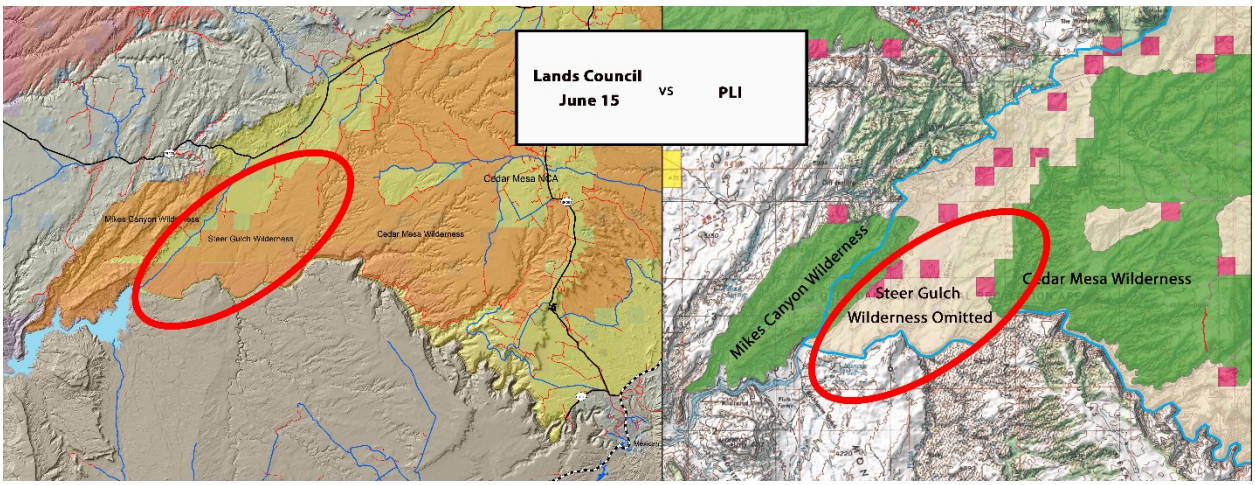
FCM is based in Bluff, and the Bluff Bench is literally our backyard. Unlike other communities in San Juan County that may have fears about federal designations, Bluff is very supportive of protections for the lands surrounding our town. We are passionate about protecting the archaeological resources and vistas in this vicinity, and we cannot support legislation that leaves out protection for this critical area.

(for map see next page)



Omission of the proposed Steer Gulch Wilderness area West of Grand Gulch

The San Juan County Lands Council unanimously supported expansion of wilderness on Cedar Mesa to include a relatively small but culturally significant area west of Grand Gulch, which we refer to as the Steer Gulch Wilderness Area. This area is previously managed to preserve its untrammeled, wilderness character and was included on the final San Juan County proposal of June 15 , 2015. We hope this area was unintentionally left out from the bill and will be added back in. The images below demonstrate the County June 15 proposal vs. the PLI wilderness.



Need planning alternative for responsible energy development near sensitive archaeological areas left out of NCA

San Juan County may well be the most archaeologically rich county in the United States. Understandably, it may not be politically feasible to protect all of the important archaeology in the county via inclusion in a National Conservation Area. However, failure to consider ways to preserve archaeological resources while allowing for well-planned energy development is a recipe for continued conflict and litigation, not the multi-use certainty the PLI seeks to achieve. Besides the area near Bluff mentioned above, other archaeologically rich areas need a planning process more rigorous than what resulted in the 2008 BLM Resource Management Plan (RMP).

For example, the Montezuma Canyon and Alkali Ridge area contain the four largest archaeological sites in Utah. There has been oil drilling in the area in the past (although often not well done from an archaeological preservation standpoint). We believe there are opportunities for drilling that do not impact cultural sites, utilize No Surface Occupancy stipulations and leverage horizontal drilling technologies.

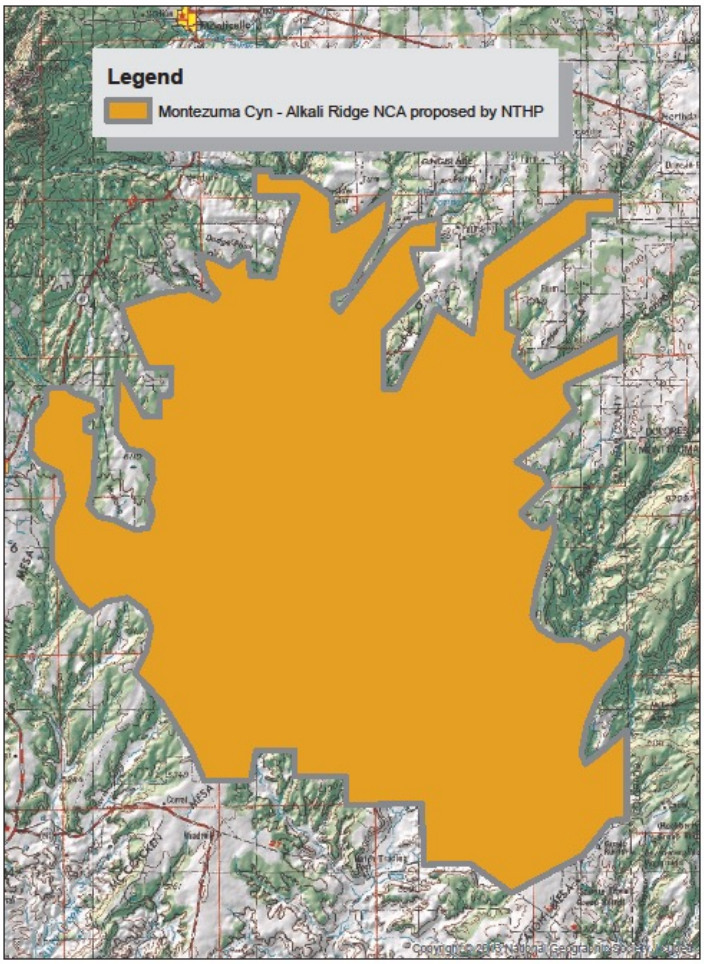
Similarly, the Allen Canyon and Chippean Ridge areas hold innumerable cliff dwellings and surface sites of deep importance to Native American people and archaeological research. Finally, the Moqui Canyon area has many documented sites of great archaeological importance.

From our participation in the Moab Master Leasing plan (as a Section 106 consulting party), we see that process as holding enormous potential for resolving conflict and allowing for win-win outcomes where energy development can move forward while preserving other key resources (like archaeology and recreational assets). Accordingly, we would urge you to remove from the bill language in Title XI, SEC. 1101 sub (a) preventing implementation of BLM Instructional Memorandum 2010-117.

Should removal of such language not be politically feasible, some other method of thoughtful planning for archaeology and energy development is needed to avoid decades of litigation under the National Historic Preservation Act and other applicable laws. This might be achieved by creating smart energy planning zones for the areas listed above, particularly in the Montezuma Canyon/Alkali Ridge area. One idea of a boundary in this area could be to utilize the area identified by the National Trust for Historic

Preservation (proposed as an NCA *see map below*) for use as a "cultural resource sensitivity planning district" where the appropriate energy development with NSO and other BMP stipulations could be facilitated while protecting archaeology.

The bill doesn't allow for minimal, permanent road closure to protect cultural sites in NCAs and



Wilderness Areas

The legislation needs to allow for minimal closure of roads in order to protect cultural sites. We know of a small number of roads that go through archaeological sites where the current road is not appropriate. As this applies to the culturally-rich Bears Ears NCA, the language needs to be changed to reflect important cultural resource protection priorities, which may mean road closures. We are specifically concerned with Sec. 204 and suggest the language be changed to allow for minimal permanent road closure to protect endangered cultural resources.

Additionally, Sec. 204 on closure and rerouting is problematic for cultural resources, emergency service providers and land managers because it does not create or allow for a mechanism to expediently temporarily close or reroute a road in an emergency situation. There can be situations where personal life safety or archaeology are threatened, and an immediate land management response should not be limited by the temporary closure process outlined in the bill.

Language on R.S. 2477 Road Claims being disallowed in NCAs and Wilderness is not sufficiently clear

Title XII Sec. 1201 on Long-Term Travel management as it currently reads is not clear that R.S. 2477 claims would be dropped in newly created National Conservation Areas and wilderness. We would very much support such a provision, which is necessary to preserve the natural and cultural values in wilderness and NCAs. Unfortunately, the current language lacks clarity and has the potential to cause land management conflicts down the road.

> *Suggested language:* (a) IN GENERAL. Subject to valid existing rights and consistent with this section, the Secretary of the Interior shall grant a right-of-way to the state for public travel and access upon the following roads:
>
> … (2) all roads claimed as Class D highways identified as rights-of-way in judicial actions in the federal court system as of January 1, 2016, in Uintah, Summit, Duchesne, Carbon, Emery, Grand, and San Juan counties, except for R.S. 2477 claimed Class D highways that pass through United States Forest Service or National Forest System lands, Bureau of Land Management lands designated as National Conservation Lands including lands designated as wilderness or National Conservation Area under this Act, ~~by Congress as wilderness~~, excluding those roads which are cherry-stemmed, ~~including lands designated as wilderness or National Conservation Area under this Act,~~ ~~or~~ and lands designated by Congress as a-National Park as of the date of enactment of this Act.

An important caveat about the cherry stem language is that the current PLI maps show many roads that are not currently on management plans and should not be included in this bill (or on cherry stem maps).

Outside of NCA and wilderness areas, we see the county and state receiving a large "win" from their perspectives. However, FCM is not supportive of the blanket granting to counties of Class D roads on roads with significant cultural resource implications. For example, we know of one road outside of the NCA that completely bisects a large 12 century Pueblo site.

Bears Ears NCA commission fails to elevate tribal interests or include important stakeholders

Friends of Cedar Mesa will not attempt to speak for Native Americans regarding the interaction of sovereign tribal nations and the Federal government in land management. However, the proposed commission with two tribal representatives, one county representative and one state representative clearly falls short of providing adequate representation for Tribal interests. FCM has worked with Navajo, Ute, Hopi, Zuni and the New Mexico Pueblos on the land in the Cedar Mesa Area. All have important perspectives in managing these lands and the cultural resources they hold. FCM believes sovereign nations should be engaged in a more direct and empowered way than tribes have been engaged in the past. Many key issues facing archaeological resources can and will only be solved by

unprecedented tribal leadership. Out of respect for tribes, we will not attempt to propose language or a structure here. However, we urge the creation of a mechanism for tribal leadership that is not watered down by being mixed in with more standard "stakeholder" participation and collaboration.

On the topic of stakeholders, the bill does not provide for the involvement of important stakeholders, such as archaeologists, local conservation groups, human-powered recreationists, motorized recreationists, hunters, guides and outfitters, or ranchers. We encourage your offices to include language designating key stakeholders to participate in an advisory role in building the management plan for the NCA. Model processes for engagement of stakeholders in management planning have occurred in nearby communities, such as for the NCAs near Grand Junction, Colorado.

The bill fails to protect the internationally significant San Juan River as a Wild & Scenic River

Wild & Scenic River designation for sections of the San Juan River were noticeably absent from the bill, despite the fact that these sections have been found suitable by the BLM for a designation based on their inarguable aesthetic and recreational qualities. Three particular sections of the San Juan River qualify as Recreational river areas or Wild river areas within the National Wild and Scenic Rivers System, which would offer protection for the river and riparian zone.

Specifically, the San Juan River from River Mile 9 to River Mile 23, and from River Mile 28 to River Mile 45 should be designated as Wild River Areas, as was determined in the BLM's assessment *Eligible Rivers for Suitability Study in the Wild and Scenic Process*, signed July 2, 2009. The section of the San Juan River from River Mile 23 to River Mile 28 was found suitable as a Recreational river area in the aforementioned study.

> *Suggested added language:* Title 6 Sec. 601(a)…(xxx) SAN JUAN RIVER. The following segment(s) in the State of Utah, to be administered by the Secretary of the Interior as follows:
>
> (A) The approximately 14 mile segment from River Mile 9 to River Mile 23 above Mexican Hat formation as a wild river.
> (B) The approximately 5 mile segment from River Mile 23 to River Mile 28 as a recreational river.
> (C) The approximately 17 mile segment from River Mile 28 to River Mile 45 in the Glen Canyon NRA as a wild river.

Transfers of ownership of the entire Hole-in-the-Rock Trail corridor to San Juan County, creating the possibility of incompatible uses with surrounding federal lands

We do not support the transfer of the Hole-in-the-Rock Trail away from managing agencies to the County. This trail is of both local and national historic significance and would be best managed as a National Historic Trail. By joining the National Trails System, this trail would continue to be managed in the context of the surrounding landscape (e.g. motorized use on existing roads and foot access in wilderness areas) while being afforded the national historical recognition it deserves. We suggest that a Trail Management Advisory Committee be established in order to encourage the participation of living descendants of the original Hole-in-the-Rock pioneers, land managers, conservation groups, non-profits and local government in the management of the National Historic Trail designation. We also encourage involvement and/or leadership on the part of the Hole-in-the-Rock Foundation.

Currently, the Hole-in-the-Rock Trail is managed by land management agencies for Heritage Tourism in consultation with Utah State Historic Preservation Office and Native American tribes, as well as interested stakeholder groups. A National Historic Trail designation would elevate its historical status and offers a management solution that listens to diverse input from local stakeholders.

In addition to a National Historic Trail designation, the management of the Hole-in-the-Rock trail requires more funding in order to determine and demarcate the actual route and its corridor. The map of the trail presented in the bill contains numerous errors, since some of the route remains unknown or uncertain in areas.

> *Suggested language:* Remove from Title VI Sec. 601. Land Conveyances: ~~(12) HOLE IN THE ROCK TRAIL–The approximately 694 acres of land generally depicted on the map entitled Utah PLI Land Conveyances Map and dated ____, as "The Hole in the Rock Trail", to San Juan County, Utah for use as an outdoor recreation and historical trail.~~
>
> *Add to the bill language reflecting a National Historic Trail designation*: This Act adds to the National Historic Trail System the corridor known as "The Hole-in-the-Rock Trail" to be managed as a historic trail and to remain in the management of current land managers. This Act further establishes a Hole-in-the-Rock Historic Trail Management Advisory Committee to advise land managers on the administration of the trail. Living descendants of the original Hole-in-the-Rock pioneers, conservation groups, non-profits, local government and other stakeholders will work collaboratively as members of the Committee to promote cultural and historic values in the management and administration of the trail.

Only allows acquisition to wilderness, NCA and Wild & Scenic Rivers by donation and exchange, ignoring a realistic market for conservation parcels

Section 108, Section 203 and Section 601 currently only allow acquisition of land within the boundaries of wilderness and NCAs by donation or exchange. There are important conservation parcels within proposed NCAs and Wilderness in San Juan County that would be wise investments for tax payers particularly given that programs like the Land and Water Conservation Fund typically leverage federal dollars many times with private dollars. Several local landowners have no interest in a trade and would be unwilling to donate their property outright but would be happy to sell at a reasonable price or even below market value.

> *Suggested language:* Sec. 203(d)(a)(1) IN GENERAL. The Secretary of the Interior may acquire land or interest in land within the boundaries of the National Conservation Areas designated by section 201 only by purchase involving at least 70% private dollars, donation or exchange.

Transfers land near Bluff to San Juan County for potential use as an ATV trail or sewer facility, when these local decisions would be best made by Bluff residents

Sec. 601(a)(21) of the bill suggests the transfer of 177 acres of the "Bluff River Recreation Area" to the County for recreational and municipal facilities. Not only would this decision be opposed to by many Bluff residents, it would be usurping their local say and control.

Instead, this 177-acre parcel would be best transferred to the Bluff Service Area (BSA) so that decision making and control regarding a proposed recreation trail and municipal facilities is kept local. Municipal facilities, including a sewage treatment plant, may be in Bluff's future but should be decided by the BSA - not County Commissioners.

After almost two decades of planning, a dedicated committee of Bluff residents has succeeded in working with adjacent private landowners to donate/sell parcels for access and easements to create to San Juan River Trail that would run through the 177-acre parcel. The committee also recently completed a Memorandum of Understanding that includes the BLM, the Grand Canyon Trust, the Bluff Historic Preservation Association and adjacent private landowners, to construct, improve and manage the trail. This land transfer could complicate the years of collaborative work the town has put into organizing a trail that could have positive tourism and economic, not to mention recreational, impacts for the town and businesses.

> *Suggested language:* (21) BLUFF RIVER RECREATION AREA. - The approximately 177 acres generally depicted on the map entitled Utah PLI Land Conveyances Map and dated _____ as "Bluff River Recreation Area," to ~~San Juan County~~ the Bluff Service Area Board of Trustees, for use as recreation and municipal facilities.

Transfers ownership of the Bluff airport, including a large surrounding area running all the way from Highway 163 to the San Juan River to San Juan County

We are perplexed as to the need to transfer the large sum of 1,406 acres to San Juan County for the Bluff Airport, which currently sits on less than 100 acres. Three hundred acres is more than enough for the future needs of the Bluff airport. In no foreseeable future would the County need 1,400 acres to manage and administer the Bluff airport. The land running north and south of the airport that is not associated with the facilities and airstrip should remain under the management of the BLM.

> *Suggested language:* (9) BLUFF AIRPORT. The approximately ~~1,406~~ 300 acres immediately surrounding the Bluff Airport, generally depicted on the map entitled Utah PLI Land Conveyances Map and dated _____ as "Bluff Airport," to San Juan County, Utah, for a municipal airport.

Grazing in wilderness and NCAs receives a higher level of protection than in other BLM areas, with no leeway for management to protect cultural resources or respond to long-term droughts

Language in the bill prioritizes the protection of grazing over land and ecological health in new Wilderness and NCAs. Unlike other NCA bills that allow for the continuation of existing uses, this bill mandates AUMs to be continued at existing levels or increased. This ignores the increasing likelihood of long-term droughts in the area and the realities on the ground of continuing damage to cultural resources by cattle at sensitive archaeological sites.

We do not support weakening the provisions of the 1964 Wildness Act, which provide for reasonable access to grazing improvements.

While we understand the interest of local ranching families to continue their operations within the NCA and wilderness, the grazing section should include language that would allow for voluntary retirement of grazing permits (or portions of permits near archaeological sites) by willing sellers who agree to compensation provided by private parties (per language in other bills and the Rural Economic Vitalization Act).

Exemption of plant and animal viability requirements of section 219 of title 36 contradicts the US Forest Service's sustainable multiple-use mandate

With regards to grazing administration in the wilderness, NCA and SMA sections of the draft (see Title I Wilderness Section 103(d)(3), Title II National Conservation Areas Sec. 204(d)(3) and Title II Special Management Areas Sec. 303 (g)(3)) and elsewhere in the working draft, grazing on Forest Service lands is exempt from being managed in accordance with plant and animal ecological sustainability imperatives set forth in section 219 of title 36. This significant planning chapter requires the evaluation of species diversity and ecological conditions that, if ignored, would compromise the ecological integrity of ecosystems upon which grazing depends.

Suggested language: Remove all section 219 exemption language from the legislation.

The National Conservation Area administration section fails to promote recreation or secure access for recreation

Suggested language: Add to Section 204 (x) RECREATION. The Secretary shall continue to authorize, maintain, and enhance the recreational use of the conservation area, including hunting, fishing, camping, hiking, backpacking, cross-country skiing, hang gliding, paragliding, rock climbing, canyoneering, sightseeing, nature study, horseback riding, mountain biking, rafting, motorized recreation on authorized routes, and other recreational activities, so long as such recreational use is consistent with the purposes of the conservation area, this section, other applicable law (including regulations), and applicable management plans.

The bill does not explicitly maintain recreational access at the North and South Six-Shooter Peaks

The Dugout Ranch Transfer provision of the bill was a completely new idea to us, which we would need to hear much more detail about before feeling comfortable with the idea. The current language granting several thousands acres of land including the North and South Six-Shooter Peaks to the Utah State University for research neglects to specify the purpose and need of this land transfer, nor does it guarantee continued recreational access, including rock climbing, to these famous climbing destinations. We also wonder who would patrol this remote area to ensure protection of cultural sites and protection of the natural environment. Finally, we are concerned about the construction of buildings and facilities in this area known for its scenic and wild values.

Native American Economic Development Provisions

No details have been publically released for this title. We would support transfer of mineral rights to the Utah Navajo Trust Land for lands in the McCracken Mesa area. However, we would need to see details around the "land transfers on the San Juan River" language before we could support such provisions. The San Juan River is an international destination for river runners, and changes in ownership near the river should be carefully studied.

Mapping Data Clarifications/Errors

1. Several private parcels in the Cedar Mesa area are inappropriately labeled as being SITLA parcels where SITLA would maintain surface rights but trade out minerals.
2. Several key disputed roads (closed in the 2008 RMP or non-existent on the ground) are shown on the PLI maps with the label "Roads to be added closed in RMP." These mapped roads are inconsistent with what we believed to be the proposal for not granting R.S. 2477 rights on roads within wilderness or NCA areas. A number of these roads, if reopened, would be very problematic for cultural resource preservation and would dramatically impact the wilderness experience. At least one of these roads was driven on illegally during a recent grave-robbing incident.
3. The Hole in the Rock Trail data is grossly inaccurate, in some cases putting the trail miles from its actual route. See our comments above concerning the need for research into the actual route and our proposal for this trail to be given the recognition it deserves as a National Historic Trail.

Language concerning future National Monument designations

As we noted above, there are very important archaeological areas, with true antiquities, that are left out of protection as an NCA or wilderness area, and we have only commented on areas of direct concern to San Juan County (other counties are not in our mission). If other tools, such as Master Leasing Plans, cannot protect critical areas, such as Montezuma Canyon, we cannot support a permanent exemption from the Antiquities Act. We would be willing to consider giving the NCA and other agency management tools ten years to see if it results in the balance of protection needed. However, if antiquities are being threatened by irresponsible development, we may be forced to advocate for national monument additions or new unit creations in the future.

Conclusion

We know these FCM comments and concerns represent a small portion of those you're receiving on this bill. We hope you will consider addressing these issues so a PLI bill can be introduced that we can support. We'd welcome further discussion on the points we've raised and are happy to answer any questions you might have. We understand it's an enormous task to compile all the feedback and draft a bill that might find the right balance necessary to gain the support of the Senate and the President.

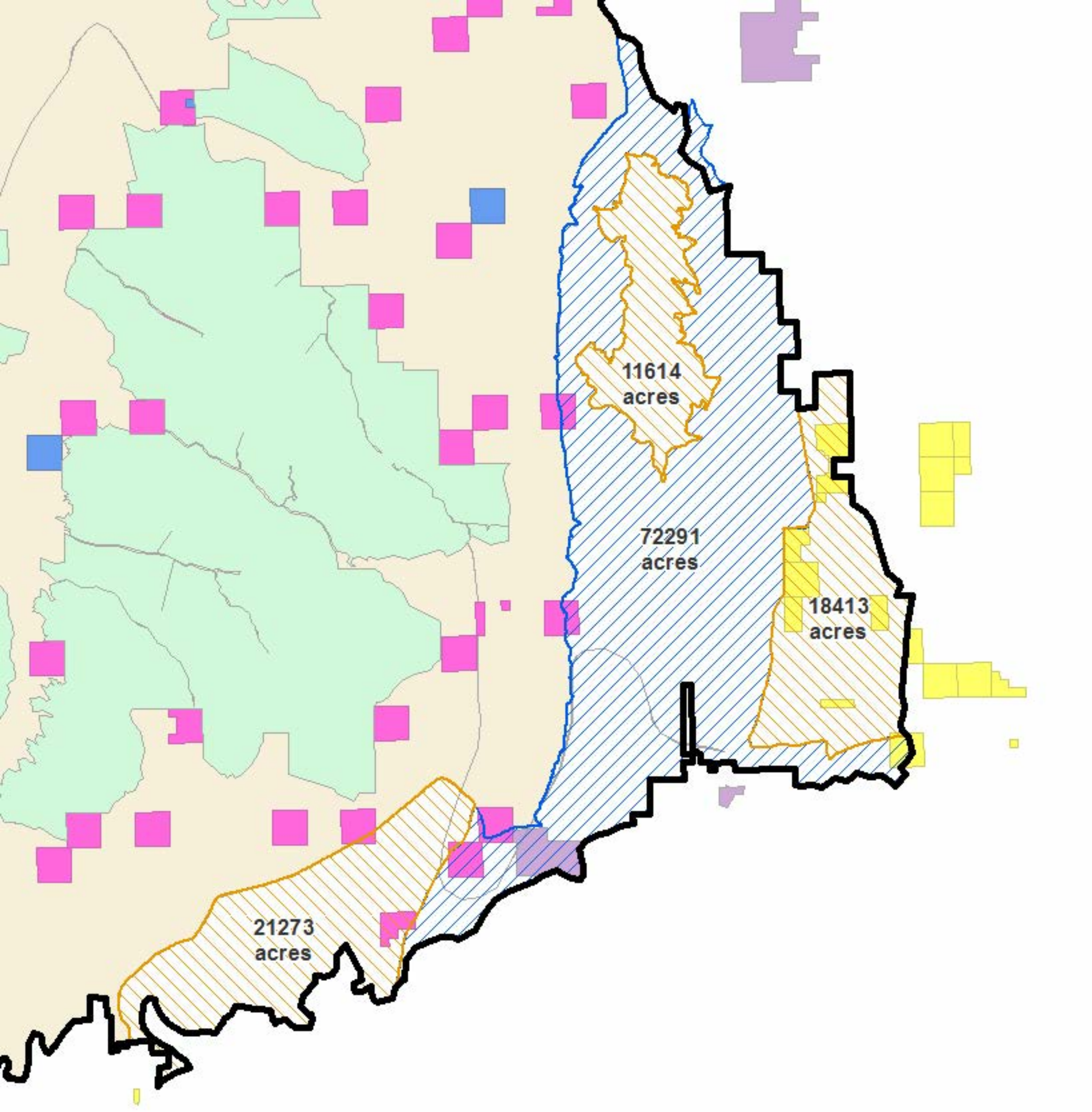
We respectfully request your consideration of FCM's recommendations for the inclusion in final legislation. We would like nothing more than to be able to support the final version of this bill. Thank you again for the opportunity to participate in the process.

Sincerely,

Josh Ewing
Executive Director
Friends of Cedar Mesa

Vaughn Hadenfeldt
Board President
Friends of Cedar Mesa

Cc:
Senator Mike Lee
Senator Orin Hatch


11614
acres
72291
acres
18413
acres
21273
acres

From: Campbell, Neil (Reed)
To: Neimeyer, Sarah
Subject: Re: Question from Senator Brown"s office
Date: Tuesday, December 06, 2016 4:53:55 PM

?

On Dec 6, 2016, at 4:39 PM, Neimeyer, Sarah <sarah_neimeyer@ios.doi.gov> wrote:

Apparently there is an oil and gas lease sale in the Wayne National Forest next week and they are concerned about this lease sale moving forward without an EIS.

--
Sarah C. Neimeyer, Director
Office of Congressional and Legislative Affairs
Office of the Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Office - (202) 208-5557
Fax - (202) 208-5533

From: Campbell, Neil (Reed)
To: Neimeyer, Sarah
Subject: Re: Question from Senator Brown"s office
Date: Tuesday, December 06, 2016 4:54:04 PM

?

On Dec 6, 2016, at 4:39 PM, Neimeyer, Sarah <sarah_neimeyer@ios.doi.gov> wrote:

Apparently there is an oil and gas lease sale in the Wayne National Forest next week and they are concerned about this lease sale moving forward without an EIS.

--
Sarah C. Neimeyer, Director
Office of Congressional and Legislative Affairs
Office of the Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Office - (202) 208-5557
Fax - (202) 208-5533

From: Campbell, Neil (Reed)
To: Neimeyer, Sarah
Subject: Re: Question from Senator Brown"s office
Date: Tuesday, December 06, 2016 6:11:30 PM

From me?

On Dec 6, 2016, at 6:10 PM, Neimeyer, Sarah <sarah_neimeyer@ios.doi.gov> wrote:

Was flagging this, in the hopes that I could get a quick update on the timing of this lease sale.

On Tue, Dec 6, 2016 at 4:53 PM, Campbell, Neil (Reed) <Neil_Campbell@reed.senate.gov> wrote:

> ?
>
> On Dec 6, 2016, at 4:39 PM, Neimeyer, Sarah <sarah_neimeyer@ios.doi.gov> wrote:
>
> Apparently there is an oil and gas lease sale in the Wayne National Forest next week and they are concerned about this lease sale moving forward without an EIS.
>
> --
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Department of the Interior
1849 C Street, NW
Washington, DC 20240

Office - (202) 208-5557
Fax - (202) 208-5533

From: Campbell, Neil (Reed)
To: Neimeyer, Sarah
Subject: Re: Question from Senator Brown"s office
Date: Tuesday, December 06, 2016 6:25:12 PM

Maybe into Weekend

On Dec 6, 2016, at 6:19 PM, Neimeyer, Sarah <sarah_neimeyer@ios.doi.gov> wrote:

oh I a need a break... :)

Are you guys almost done? Please tell me this will be the last week.

On Tue, Dec 6, 2016 at 6:11 PM, Campbell, Neil (Reed) <Neil_Campbell@reed.senate.gov> wrote:

> From me?
>
> On Dec 6, 2016, at 6:10 PM, Neimeyer, Sarah <sarah_neimeyer@ios.doi.gov> wrote:
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> > Department of the Interior
> > 1849 C Street, NW
> > Washington, DC 20240
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> > Office - (202) 208-5557
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> --
> Sarah C. Neimeyer, Director
> Office of Congressional and Legislative Affairs
> Office of the Secretary
> Department of the Interior

1849 C Street, NW
Washington, DC 20240

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--
Sarah C. Neimeyer, Director
Office of Congressional and Legislative Affairs
Office of the Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Office - (202) 208-5557
Fax - (202) 208-5533

From: Kevin McCarthy
To: richard_bouts@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:01:51 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

On Wednesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First votes expected: 2:00 p.m. - 3:00 p.m. Last votes expected 5:30 p.m. - 6:30 p.m.

One Minute Speeches

Legislation Considered Under Suspension of the Rules:

1) H.R. 329 - Indian Employment, Training and Related Services Consolidation Act of 2016, as amended *(Sponsored by Rep. Donald Young / Natural Resources Committee)*

2) H.R. 6400 - To revise the boundaries of certain John H. Chafee Coastal Barrier Resources System units in New Jersey *(Sponsored by Rep. Frank Pallone / Natural Resources Committee)*

3) H.R. 3711 - Chicano Park Preservation Act *(Sponsored by Rep. Juan Vargas / Natural Resources Committee)*

4) H.R. 6435 - To authorize the Directors of Veterans Integrated Service Networks of the Department of Veterans Affairs to enter into contracts with appropriate civilian accreditation entities or appropriate health care evaluation entities to investigate medical centers of the Department of Veterans Affairs *(Sponsored by Rep. Markwayne Mullin / Veterans Affairs Committee)*

5) H.R. 5099 - CHIP IN for Vets Act of 2016, as amended *(Sponsored by Rep. Brad Ashford / Veterans Affairs Committee)*

6) H.R. 6076 - TREAT Astronauts Act, as amended *(Sponsored by Rep. Brian Babin / Science, Space, and Technology Committee)*

7) H.R. 5790 - Federal Bureau of Investigation Whistleblower Protection Enhancement Act of 2016, as amended *(Sponsored by Rep. Jason Chaffetz / Oversight and Government Reform Committee)*

8) House Amendment to S. 2971 - National Urban Search and Rescue Response System Act of 2016, as amended *(Sponsored by Sen. Rob Portman / Transportation and Infrastructure Committee)*

9) S. 2846 - Small Business Innovation Protection Act of 2016 *(Sponsored by Sen. Gary Peters / Small Business Committee)*

10) H.R. 4298 - Vietnam Helicopter Crew Memorial Act *(Sponsored by Rep. Mark*

Amodei / Armed Services Committee)

11) H.R. 6130 - Holocaust Expropriated Art Recovery Act of 2016 *(Sponsored by Rep. Bob Goodlatte / Judiciary Committee)*

12) H.R. 4919 - Kevin and Avonte's Law of 2016, as amended *(Sponsored by Rep. Christopher Smith / Judiciary Committee)*

13) H.R. 6431 - Promoting Travel, Commerce, and National Security Act of 2016 *(Sponsored by Rep. Ann Kuster / Judiciary Committee)*

14) S. 2854 - Emmett Till Unsolved Civil Rights Crimes Reauthorization Act of 2016, as amended *(Sponsored by Sen. Richard Burr / Judiciary Committee)*

Postponed Suspension Votes:

1) H.R. 1219 - Arbuckle Project Maintenance Complex and District Office Conveyance Act of 2016 *(Sponsored by Rep. Tom Cole / Natural Resources Committee)*

2) S. 3028 - Daniel J. Evans Olympic National Park Wilderness Act *(Sponsored by Sen. Maria Cantwell / Natural Resources Committee)*

H.R. 5143 - Transparent Insurance Standards Act of 2016, Rules Committee Print (Structured Rule) *(Sponsored by Rep. Blaine Luetkemeyer / Financial Services Committee)*

The Rule provides for one hour of general debate and makes in order the following amendment:

Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: lara_levison@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:02:17 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

On Wednesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First votes expected: 2:00 p.m. - 3:00 p.m. Last votes expected 5:30 p.m. - 6:30 p.m.

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The Rule provides for one hour of general debate and makes in order the following amendment:

Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: joshua_mahan@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:02:23 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

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Amodei / Armed Services Committee)

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The Rule provides for one hour of general debate and makes in order the following amendment:

Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: robert_howarth@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:03:14 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

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3) H.R. 3711 - Chicano Park Preservation Act *(Sponsored by Rep. Juan Vargas / Natural Resources Committee)*

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Amodei / Armed Services Committee)

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The Rule provides for one hour of general debate and makes in order the following amendment:

Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: chris_salotti@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:05:35 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

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7) H.R. 5790 - Federal Bureau of Investigation Whistleblower Protection Enhancement Act of 2016, as amended *(Sponsored by Rep. Jason Chaffetz / Oversight and Government Reform Committee)*

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10) H.R. 4298 - Vietnam Helicopter Crew Memorial Act *(Sponsored by Rep. Mark*

Amodei / Armed Services Committee)

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H.R. 5143 - Transparent Insurance Standards Act of 2016, Rules Committee Print (Structured Rule) *(Sponsored by Rep. Blaine Luetkemeyer / Financial Services Committee)*

The Rule provides for one hour of general debate and makes in order the following amendment:

Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: jeremy_Bratt@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:05:42 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

On Wednesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First votes expected: 2:00 p.m. - 3:00 p.m. Last votes expected 5:30 p.m. - 6:30 p.m.

One Minute Speeches

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Amodei / Armed Services Committee)

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Postponed Suspension Votes:

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H.R. 5143 - Transparent Insurance Standards Act of 2016, Rules Committee Print (Structured Rule) *(Sponsored by Rep. Blaine Luetkemeyer / Financial Services Committee)*

The Rule provides for one hour of general debate and makes in order the following amendment:

Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: wendy_clerinx@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:05:51 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

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H.R. 5143 - Transparent Insurance Standards Act of 2016, Rules Committee Print (Structured Rule) *(Sponsored by Rep. Blaine Luetkemeyer / Financial Services Committee)*

The Rule provides for one hour of general debate and makes in order the following amendment:

Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: jason_powell@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:05:58 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

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Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: Kristen_Sarri@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:06:40 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

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7) H.R. 5790 - Federal Bureau of Investigation Whistleblower Protection Enhancement Act of 2016, as amended *(Sponsored by Rep. Jason Chaffetz / Oversight and Government Reform Committee)*

8) House Amendment to S. 2971 - National Urban Search and Rescue Response System Act of 2016, as amended *(Sponsored by Sen. Rob Portman / Transportation and Infrastructure Committee)*

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10) H.R. 4298 - Vietnam Helicopter Crew Memorial Act *(Sponsored by Rep. Mark*

Amodei / Armed Services Committee)

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12) H.R. 4919 - Kevin and Avonte's Law of 2016, as amended *(Sponsored by Rep. Christopher Smith / Judiciary Committee)*

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Postponed Suspension Votes:

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2) S. 3028 - Daniel J. Evans Olympic National Park Wilderness Act *(Sponsored by Sen. Maria Cantwell / Natural Resources Committee)*

H.R. 5143 - Transparent Insurance Standards Act of 2016, Rules Committee Print (Structured Rule) *(Sponsored by Rep. Blaine Luetkemeyer / Financial Services Committee)*

The Rule provides for one hour of general debate and makes in order the following amendment:

Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: celina_cunningham@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:06:42 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

On Wednesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First votes expected: 2:00 p.m. - 3:00 p.m. Last votes expected 5:30 p.m. - 6:30 p.m.

One Minute Speeches

Legislation Considered Under Suspension of the Rules:

1) H.R. 329 - Indian Employment, Training and Related Services Consolidation Act of 2016, as amended *(Sponsored by Rep. Donald Young / Natural Resources Committee)*

2) H.R. 6400 - To revise the boundaries of certain John H. Chafee Coastal Barrier Resources System units in New Jersey *(Sponsored by Rep. Frank Pallone / Natural Resources Committee)*

3) H.R. 3711 - Chicano Park Preservation Act *(Sponsored by Rep. Juan Vargas / Natural Resources Committee)*

4) H.R. 6435 - To authorize the Directors of Veterans Integrated Service Networks of the Department of Veterans Affairs to enter into contracts with appropriate civilian accreditation entities or appropriate health care evaluation entities to investigate medical centers of the Department of Veterans Affairs *(Sponsored by Rep. Markwayne Mullin / Veterans Affairs Committee)*

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Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: stephenne_harding@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:06:44 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

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Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Kevin McCarthy
To: joseph_nevils@ios.doi.gov
Subject: The Leader"s Daily Schedule - 12/7/16
Date: Tuesday, December 06, 2016 8:07:17 PM

LEADER'S DAILY SCHEDULE

WEDNESDAY, DECEMBER 7TH

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Rep. Ron DeSantis Amendment (10 minutes of debate)

Special Order Speeches

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From: Repko, Mary Frances
To: McDonough, Alexander (Reid); Neimeyer, Sarah; vaught.laura@epa.gov; Elizabeth Murray (emurray@tdyllc.com)
Subject: FW: THE NIGHTLY WHIP: TUESDAY, DECEMBER 6, 2016
Date: Tuesday, December 06, 2016 8:12:55 PM

From: Democratic Whip
Sent: Tuesday, December 06, 2016 8:09:40 PM (UTC-05:00) Eastern Time (US & Canada)
To: Repko, Mary Frances
Subject: THE NIGHTLY WHIP: TUESDAY, DECEMBER 6, 2016

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

DECEMBER 6, 2016

TOMORROW'S OUTLOOK

On Wednesday, the House will meet at 10:00 a.m. for Morning Hour debate and 12:00 p.m. for legislative business.

First votes expected: 1:30 – 2:30 p.m.

Last votes expected: 6:30 – 7:30 p.m.

"One Minutes" (15 per side)

H.R. 5143 – Transparent Insurance Standards Act of 2016 (Rep. Luetkemeyer – Financial Services) (Subject to a Rule)

The Rule provides for one hour of general debate and makes in order the following amendment:

DeSantis Amendment (10 minutes of debate)

Suspensions (14 bills)

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2. **S. 3028** – Daniel J. Evans Olympic National Park Wilderness Act (Sen. Cantwell – Natural Resources)

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Subject: THE NIGHTLY WHIP: TUESDAY, DECEMBER 6, 2016
Date: Tuesday, December 06, 2016 8:26:54 PM

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DECEMBER 6, 2016

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Subject: THE NIGHTLY WHIP: TUESDAY, DECEMBER 6, 2016
Date: Tuesday, December 06, 2016 8:27:42 PM

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DECEMBER 6, 2016

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Subject: THE NIGHTLY WHIP: TUESDAY, DECEMBER 6, 2016
Date: Tuesday, December 06, 2016 8:30:30 PM

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DECEMBER 6, 2016

TOMORROW'S OUTLOOK

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Date: Tuesday, December 06, 2016 8:36:03 PM

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DECEMBER 6, 2016

TOMORROW'S OUTLOOK

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Date: Tuesday, December 06, 2016 8:36:04 PM

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DECEMBER 6, 2016

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"One Minutes" (15 per side)

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The Rule provides for one hour of general debate and makes in order the following amendment:

DeSantis Amendment (10 minutes of debate)

Suspensions (14 bills)

1. **H.R. 329** – Indian Employment, Training and Related Services Consolidation Act of 2016, as amended (Rep. Young (AK) – Natural Resources)
2. **H.R. 6400** – To revise the boundaries of certain John H. Chafee Coastal Barrier Resources System units in New Jersey (Rep. Pallone – Natural Resources)
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From: Democratic Whip
To: carlos_uriarte@ios.doi.gov
Subject: THE NIGHTLY WHIP: TUESDAY, DECEMBER 6, 2016
Date: Tuesday, December 06, 2016 8:38:22 PM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

DECEMBER 6, 2016

TOMORROW'S OUTLOOK

On Wednesday, the House will meet at 10:00 a.m. for Morning Hour debate and 12:00 p.m. for legislative business.

First votes expected: 1:30 – 2:30 p.m.

Last votes expected: 6:30 – 7:30 p.m.

"One Minutes" (15 per side)

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To: sarah_neimeyer@ios.doi.gov
Subject: THE NIGHTLY WHIP: TUESDAY, DECEMBER 6, 2016
Date: Tuesday, December 06, 2016 8:39:22 PM

Office of the Democratic Whip Steny H. Hoyer

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From: Repko, Mary Frances
To: McDonough, Alexander (Reid); Neimeyer, Sarah; vaught.laura@epa.gov; Elizabeth Murray (emurray@tdyllc.com)
Subject: FW: THE DAILY WHIP: WEDNESDAY, DECEMBER 7, 2016
Date: Wednesday, December 07, 2016 10:34:09 AM

From: Democratic Whip
Sent: Wednesday, December 07, 2016 10:30:30 AM (UTC-05:00) Eastern Time (US & Canada)
To: Repko, Mary Frances
Subject: THE DAILY WHIP: WEDNESDAY, DECEMBER 7, 2016

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR WEDNESDAY, DECEMBER 7, 2016

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative Business Fifteen "One Minutes"	1:30 – 2:30 p.m.	6:30 – 7:30 p.m.

H.Res. 944 – Rule providing for consideration of H.R. 5143 – Transparent Insurance Standards Act of 2016 (Rep. Luetkemeyer – Financial Services) (One hour of debate). The Rules Committee has recommended a structured Rule that provides for one hour of general debate, equally divided and controlled by the Chair and Ranking Member of the Committee on Financial Services. The Rule allows for 1 amendment, debatable for 10 minutes equally divided between the offeror and an opponent. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

The Rule also allows for Suspension Authority through the legislative day of December 8, 2016. **Members are urged to VOTE NO.**

H.R. 5143 – The Transparent Insurance Standards Act of 2016 (Rep. Luetkemeyer – Financial Services) (One hour of debate). H.R. 5143 would severely weaken critical Wall Street reforms enacted to protect the U.S. and global financial system from risks posed by large insurance companies. In the aftermath of the 2008 Great Recession, which was precipitated by the near-collapse of the international insurance giant American International Group (AIG), the Dodd-Frank Act significantly improved and strengthened regulatory oversight of the insurance industry.

With respect to robust and prudent regulation of the insurance industry, Dodd-Frank established a system to examine risks posed by the insurance industry to both the U.S. and global financial system. For example, Dodd-Frank provided for the establishment of the Federal Insurance Office (FIO), which is authorized to "coordinate federal efforts and develop federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (IAIS) and assisting the Treasury secretary in negotiating covered agreements." Dodd-Frank also expanded the Federal Reserve's supervisory authority so that it now serves as the consolidated supervisor of insurance holding companies that own either a Federally chartered thrift or a bank, as well as non-bank financial companies designated by the Financial Stability Oversight Council (FSOC).

Significantly, Dodd-Frank recognized and protected the critical role that state insurance commissioners play in regulating insurance companies doing business in

their jurisdictions. To that end, Dodd-Frank provides that state insurance commissions, the Federal Reserve, and FIO work together and coordinate with one another in negotiations over insurance standards at IAIS to ensure that that the state-based system of insurance regulation, which has worked well for decades to protect consumers, is represented and respected in international negotiations.

The Dodd-Frank insurance regulatory framework to date has effectively balanced the U.S.' interest in preserving the regulatory authority of state insurance commissions over insurance companies and their products while giving federal regulators the tools they need to ensure that no domestic or international insurance companies takes on risks that threaten financial stability or necessitate a taxpayer bailout

If enacted, H.R. 5143 would hamstring U.S. representatives in international negotiations regarding international insurance standards, and establish several new and cumbersome processes and reporting requirements to be completed before any international standard could be agreed to. These requirements would cause significant delays and impose limitations for developing an international insurance capital standard, and weaken the ability of U.S. regulators to negotiate standards that both accommodate the U.S.'s unique insurance regulatory system and strengthen oversight of insurance companies whose size and complexity could pose a risk to the global financial system. They would also undermine the president's constitutional authority to determine the time, scope, and objectives of international negotiations.

Because H.R. 5143 would tie the hands of U.S. insurance regulators in international talks, in an unconstitutional manner, and prevent them from effectively negotiating on international insurance matters, in the Statement of Administration Policy, the president's senior advisors stated that they would recommend he veto this bill.

The Rule makes in order 1 amendment, debatable for 10 minutes, equally divided between the offeror and an opponent. The amendment is:

> **DeSantis Amendment.** Adds an additional requirement that the international agreement must be written in plain writing, as defined by the Plain Writing Act of 2010.
>
> ***Bill Text for H.R. 5143:***
> PDF Version
>
> ***Background for H.R. 5143:***
> House Report (HTML Version)
> House Report (PDF Version)

Suspensions (13 bills)

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- CQ, 12/7/2016

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To: jhoset_burgosrodriguez@ios.doi.gov
Subject: THE DAILY WHIP: WEDNESDAY, DECEMBER 7, 2016
Date: Wednesday, December 07, 2016 10:52:54 AM

Office of the Democratic Whip Steny H. Hoyer

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FLOOR SCHEDULE FOR WEDNESDAY, DECEMBER 7, 2016

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
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Date: Wednesday, December 07, 2016 10:53:22 AM

Office of the Democratic Whip Steny H. Hoyer

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- CQ, 12/7/2016

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Subject: THE DAILY WHIP: WEDNESDAY, DECEMBER 7, 2016
Date: Wednesday, December 07, 2016 10:53:38 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR WEDNESDAY, DECEMBER 7, 2016

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	1:30 – 2:30 p.m.	6:30 – 7:30 p.m.

Business **Fifteen "One Minutes"**		

H.Res. 944 – Rule providing for consideration of H.R. 5143 – Transparent Insurance Standards Act of 2016 (Rep. Luetkemeyer – Financial Services) (One hour of debate). The Rules Committee has recommended a structured Rule that provides for one hour of general debate, equally divided and controlled by the Chair and Ranking Member of the Committee on Financial Services. The Rule allows for 1 amendment, debatable for 10 minutes equally divided between the offeror and an opponent. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

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Because H.R. 5143 would tie the hands of U.S. insurance regulators in international talks, in an unconstitutional manner, and prevent them from effectively negotiating on international insurance matters, in the Statement of Administration Policy, the president's senior advisors stated that they would recommend he veto this bill.

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> PDF Version
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10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	1:30 – 2:30 p.m.	6:30 – 7:30 p.m.

Business **Fifteen "One Minutes"**		

H.Res. 944 – Rule providing for consideration of H.R. 5143 – Transparent Insurance Standards Act of 2016 (Rep. Luetkemeyer – Financial Services) (One hour of debate). The Rules Committee has recommended a structured Rule that provides for one hour of general debate, equally divided and controlled by the Chair and Ranking Member of the Committee on Financial Services. The Rule allows for 1 amendment, debatable for 10 minutes equally divided between the offeror and an opponent. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

The Rule also allows for Suspension Authority through the legislative day of December 8, 2016. **Members are urged to VOTE NO.**

H.R. 5143 – The Transparent Insurance Standards Act of 2016 (Rep. Luetkemeyer – Financial Services) (One hour of debate). H.R. 5143 would severely weaken critical Wall Street reforms enacted to protect the U.S. and global financial system from risks posed by large insurance companies. In the aftermath of the 2008 Great Recession, which was precipitated by the near-collapse of the international insurance giant American International Group (AIG), the Dodd-Frank Act significantly improved and strengthened regulatory oversight of the insurance industry.

With respect to robust and prudent regulation of the insurance industry, Dodd-Frank established a system to examine risks posed by the insurance industry to both the U.S. and global financial system. For example, Dodd-Frank provided for the establishment of the Federal Insurance Office (FIO), which is authorized to "coordinate federal efforts and develop federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (IAIS) and assisting the Treasury secretary in negotiating covered agreements." Dodd-Frank also expanded the Federal Reserve's supervisory authority so that it now serves as the consolidated supervisor of insurance holding companies that own either a Federally chartered thrift or a bank, as well as non-bank financial companies designated by the Financial Stability Oversight Council (FSOC).

Significantly, Dodd-Frank recognized and protected the critical role that state insurance commissioners play in regulating insurance companies doing business in their jurisdictions. To that end, Dodd-Frank provides that state insurance commissions, the Federal Reserve, and FIO work together and coordinate with one another in negotiations over insurance standards at IAIS to ensure that that the state-based system of insurance regulation, which has worked well for decades to protect consumers, is represented and respected in international negotiations.

The Dodd-Frank insurance regulatory framework to date has effectively balanced the U.S.' interest in preserving the regulatory authority of state insurance commissions over insurance companies and their products while giving federal regulators the tools they need to ensure that no domestic or international insurance companies takes on risks that threaten financial stability or necessitate a taxpayer bailout

If enacted, H.R. 5143 would hamstring U.S. representatives in international negotiations regarding international insurance standards, and establish several new and cumbersome processes and reporting requirements to be completed before any international standard could be agreed to. These requirements would cause significant delays and impose limitations for developing an international insurance capital standard, and weaken the ability of U.S. regulators to negotiate standards that both accommodate the U.S.'s unique insurance regulatory system and strengthen oversight of insurance companies whose size and complexity could pose a risk to the global financial system. They would also undermine the president's constitutional authority to determine the time, scope, and objectives of international negotiations.

Because H.R. 5143 would tie the hands of U.S. insurance regulators in international talks, in an unconstitutional manner, and prevent them from effectively negotiating on international insurance matters, in the Statement of Administration Policy, the president's senior advisors stated that they would recommend he veto this bill.

The Rule makes in order 1 amendment, debatable for 10 minutes, equally divided between the offeror and an opponent. The amendment is:

> **DeSantis Amendment.** Adds an additional requirement that the international agreement must be written in plain writing, as defined by the Plain Writing Act of 2010.
>
> ***Bill Text for H.R. 5143:***
> PDF Version
>
> ***Background for H.R. 5143:***
> House Report (HTML Version)
> House Report (PDF Version)

Suspensions (13 bills)

1. **H.R. 329** – Indian Employment, Training and Related Services Consolidation Act of 2016, as amended (Rep. Young (AK) – Natural Resources)
2. **H.R. 6400** – To revise the boundaries of certain John H. Chafee Coastal Barrier Resources System units in New Jersey (Rep. Pallone – Natural Resources)
3. **H.R. 3711** – Chicano Park Preservation Act (Rep. Vargas – Natural Resources)
4. **H.R. 6435** – To authorize the Directors of Veterans Integrated Service Networks of the Department of Veterans Affairs to enter into contracts with appropriate civilian accreditation entities or appropriate health care evaluation

entities to investigate medical centers of the Department of Veterans Affairs (Rep. Mullin – Veterans' Affairs)

5. **H.R. 5099** – CHIP IN for Vets Act of 2016, as amended (Rep. Ashford – Veterans' Affairs)
6. **H.R. 6076** – TREAT Astronauts Act, as amended (Rep. Babin – Science, Space, and Technology)
7. **H.R. 5790** – Federal Bureau of Investigation Whistleblower Protection Enhancement Act of 2016, as amended (Rep. Chaffetz – Oversight and Government Reform)
8. **House Amendment to S. 2971** – National Urban Search and Rescue Response System Act of 2016, as amended (Sen. Portman – Transportation and Infrastructure)
9. **H.R. 4298** – Vietnam Helicopter Crew Memorial Act (Rep. Amodei – Armed Services)
10. **H.R. 6130** – Holocaust Expropriated Art Recovery Act of 2016 (Rep. Goodlatte – Judiciary)
11. **H.R. 4919** – Kevin and Avonte's Law of 2016, as amended (Rep. Smith (NJ) – Judiciary)
12. **H.R. 6431** – Promoting Travel, Commerce, and National Security Act of 2016 (Rep. Kuster – Judiciary)
13. **S. 2854** – Emmett Till Unsolved Civil Rights Crimes Reauthorization Act of 2016, as amended (Sen. Burr – Judiciary)

Postponed Suspensions (2 bills)

1. **H.R. 1219** – Arbuckle Project Maintenance Complex and District Office Conveyance Act of 2016 (Rep. Cole – Natural Resources)
2. **S. 3028** – Daniel J. Evans Olympic National Park Wilderness Act (Sen. Cantwell – Natural Resources)

TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule for Thursday, December 8: The House will meet at 9:00 a.m. for legislative business. The House is expected to consider the Water Resources Development Act of 2016. The House is also expected to consider a Continuing Resolution for FY 2017 Appropriations.

THE DAILY QUOTE

"After weeks of wrangling, Republican leaders unveiled a stopgap spending bill Tuesday night that would fund the government through April at current levels… 'This legislation is just a Band-Aid…' House Appropriations Chairman Harold Rogers, R-Ky., said in a statement… The bottom line: Lawmakers are likely to avoid a government shutdown, but look for a nasty fight over the stopgap package this week."

- CQ, 12/7/2016

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From: Repko, Mary Frances
To: McDonough, Alexander (Reid); Neimeyer, Sarah; vaught.laura@epa gov; Elizabeth Murray (emurray@tdyllc.com)
Subject: FW: FLOOR UPDATE - 4 VOTES
Date: Wednesday, December 07, 2016 1:19:34 PM

From: Democratic Whip
Sent: Wednesday, December 07, 2016 1:19:09 PM (UTC-05:00) Eastern Time (US & Canada)
Subject: FLOOR UPDATE - 4 VOTES

dem_whip_floor_update.jpg

At approximately 1:20 – 1:25 p.m., the House will take the following votes:

1) **Motion on Ordering the Previous Question on the Rule** providing for consideration of H.R. 5143. Democrats are urged to vote no on the Previous Question so that Mr. Hastings of Florida can offer his amendment to the Rule, which would make in order Mr. Pascrell's bill H.R. 2963 – Bring Jobs Home Act. H.R. 2963, which has been a part of House Democrats' Make It In America plan, eliminates the tax deduction for moving expenses for companies sending jobs overseas and provides a new tax credit for 20% of expenses for companies that bring jobs back to the U.S. – **VOTE NO** – 15 minutes

2) **H.Res. 944** – Rule providing for consideration of H.R. 5143 – The Transparent Insurance Standards Act of 2016 – **VOTE NO** – 5 minutes

3) **H.R. 1219** – Arbuckle Project Maintenance Complex and District Office Conveyance Act of 2016 (Rep. Cole – Natural Resources) Suspension bill – 5 minutes

4) **S. 3028** – Daniel J. Evans Olympic National Park Wilderness Act (Sen. Cantwell – Natural Resources) Suspension bill – 5 minutes

Following votes, the House will continue consideration of the bills listed for consideration under suspensions of the Rules. After debate on several suspensions, the House will begin one hour of general debate on H.R. 5143 – Transparent Insurance Standards Act of 2016. Following general debate, the House will debate the one amendment to H.R. 5143. After amendment debate, the House will take votes. These will be the last votes for the day.

Following last votes, the House will complete consideration of the bills listed for consideration under suspension of the Rules. Any recorded votes requested will be postponed.

Next/Last votes predicted: approximately 5:30 – 6:00 p m., on amendments, motion to recommit, and final passage of H.R. 5143 and suspensions.

If you have any questions please contact: Shuwanza Goff, Danielle Aviles, or Ray Salazar at 5-3130.

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From: Repko, Mary Frances
To: McDonough, Alexander (Reid); Neimeyer, Sarah; vaught.laura@epa gov; Elizabeth Murray (emurray@tdyllc.com)
Subject: FW: FLOOR UPDATE - 4 VOTES
Date: Wednesday, December 07, 2016 1:23:37 PM

From: Democratic Whip
Sent: Wednesday, December 07, 2016 1:23:01 PM (UTC-05:00) Eastern Time (US & Canada)
Subject: FLOOR UPDATE - 4 VOTES

dem_whip_floor_update.jpg

The House is now taking the following votes:

1) **Motion on Ordering the Previous Question on the Rule** providing for consideration of H.R. 5143. Democrats are urged to vote no on the Previous Question so that Mr. Hastings of Florida can offer his amendment to the Rule, which would make in order Mr. Pascrell's bill H.R. 2963 – Bring Jobs Home Act. H.R. 2963, which has been a part of House Democrats' Make It In America plan, eliminates the tax deduction for moving expenses for companies sending jobs overseas and provides a new tax credit for 20% of expenses for companies that bring jobs back to the U.S. – **VOTE NO** – 15 minutes

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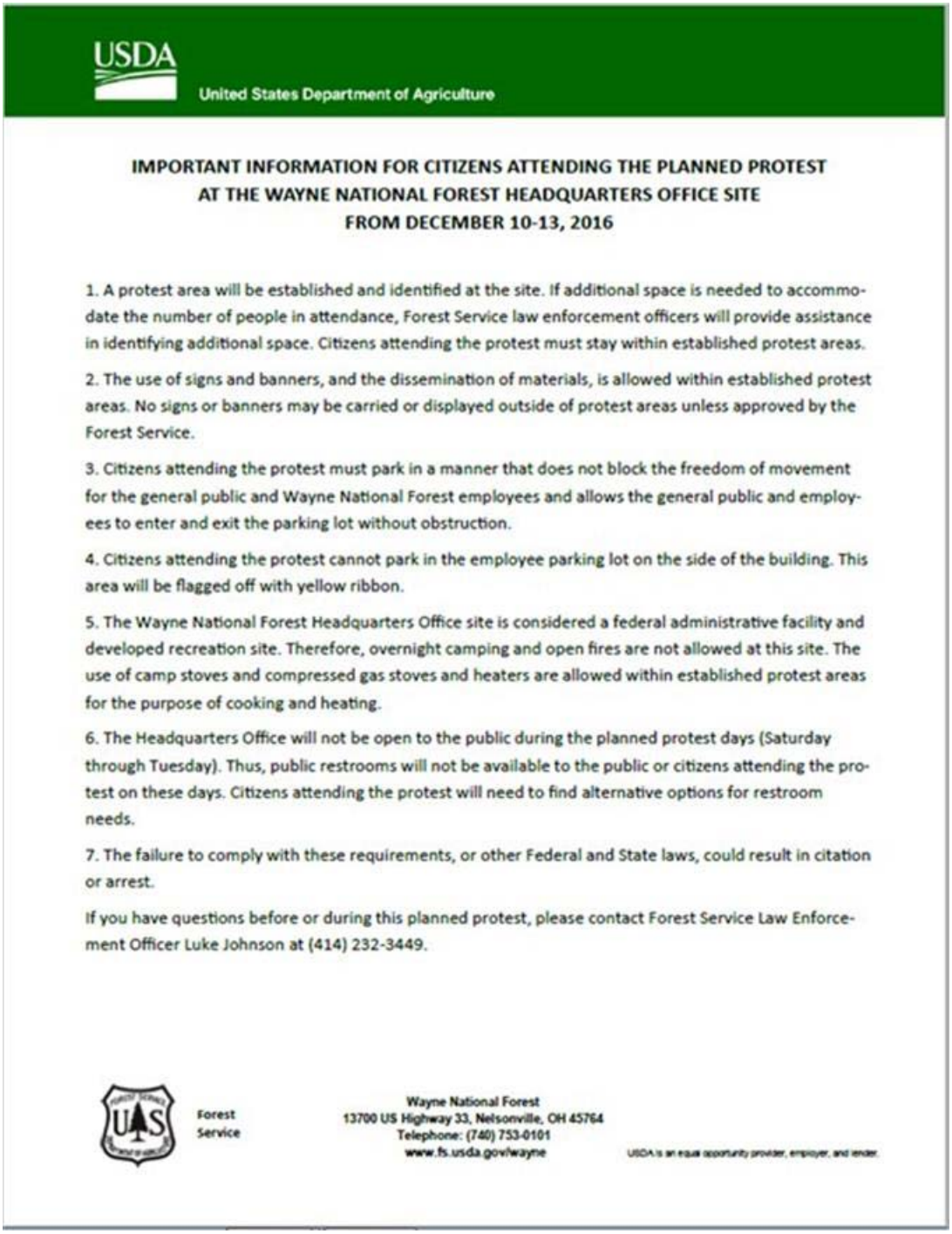
From:	McCracken, Jonathan (Brown)
To:	sarah_neimeyer@ios.doi.gov
Subject:	FW: Important Information for Citizens Attending the Planned Protest at the Wayne National Forest Headquarters Office Site, 12/10-13
Date:	Thursday, December 08, 2016 5:20:36 PM
Attachments:	(FINAL) Important Information for Planned Protest.pdf

From: Chancey, Gary C -FS [mailto:gchancey@fs.fed.us]
Sent: Thursday, December 08, 2016 2:26 PM
To: Chancey, Gary C -FS <gchancey@fs.fed.us>
Subject: Important Information for Citizens Attending the Planned Protest at the Wayne National Forest Headquarters Office Site, 12/10-13

The Wayne National Forest is planning for a scheduled protest for an upcoming BLM Oil and Gas Lease Auction at our headquarters from 12/10-13. We would appreciate your help in distributing the attached information for citizens attending the planned protest.



USDA

United States Department of Agriculture

IMPORTANT INFORMATION FOR CITIZENS ATTENDING THE PLANNED PROTEST AT THE WAYNE NATIONAL FOREST HEADQUARTERS OFFICE SITE FROM DECEMBER 10-13, 2016

1. A protest area will be established and identified at the site. If additional space is needed to accommodate the number of people in attendance, Forest Service law enforcement officers will provide assistance in identifying additional space. Citizens attending the protest must stay within established protest areas.

2. The use of signs and banners, and the dissemination of materials, is allowed within established protest areas. No signs or banners may be carried or displayed outside of protest areas unless approved by the Forest Service.

3. Citizens attending the protest must park in a manner that does not block the freedom of movement for the general public and Wayne National Forest employees and allows the general public and employees to enter and exit the parking lot without obstruction.

4. Citizens attending the protest cannot park in the employee parking lot on the side of the building. This area will be flagged off with yellow ribbon.

5. The Wayne National Forest Headquarters Office site is considered a federal administrative facility and developed recreation site. Therefore, overnight camping and open fires are not allowed at this site. The use of camp stoves and compressed gas stoves and heaters are allowed within established protest areas for the purpose of cooking and heating.

6. The Headquarters Office will not be open to the public during the planned protest days (Saturday through Tuesday). Thus, public restrooms will not be available to the public or citizens attending the protest on these days. Citizens attending the protest will need to find alternative options for restroom needs.

7. The failure to comply with these requirements, or other Federal and State laws, could result in citation or arrest.

If you have questions before or during this planned protest, please contact Forest Service Law Enforcement Officer Luke Johnson at (414) 232-3449.

Forest Service

Wayne National Forest
13700 US Highway 33, Nelsonville, OH 45764
Telephone: (740) 753-0101
www.fs.usda.gov/wayne

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USDA United States Department of Agriculture

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From:	Colonius, Tristan (Feinstein)
To:	Chris_Salotti@ios.doi.gov
Subject:	BLM oil lease on West LA VA campus
Date:	Friday, December 16, 2016 11:21:07 AM
Attachments:	West LA Columbarium - Breitburn Existing and Proposed Surface Rights Swa....pptx DOC011911.pdf PLAW-114publ226 West LA VA Law.pdf GLA RecordedDeed.pdf
Importance:	High

Chris

Can we connect today?

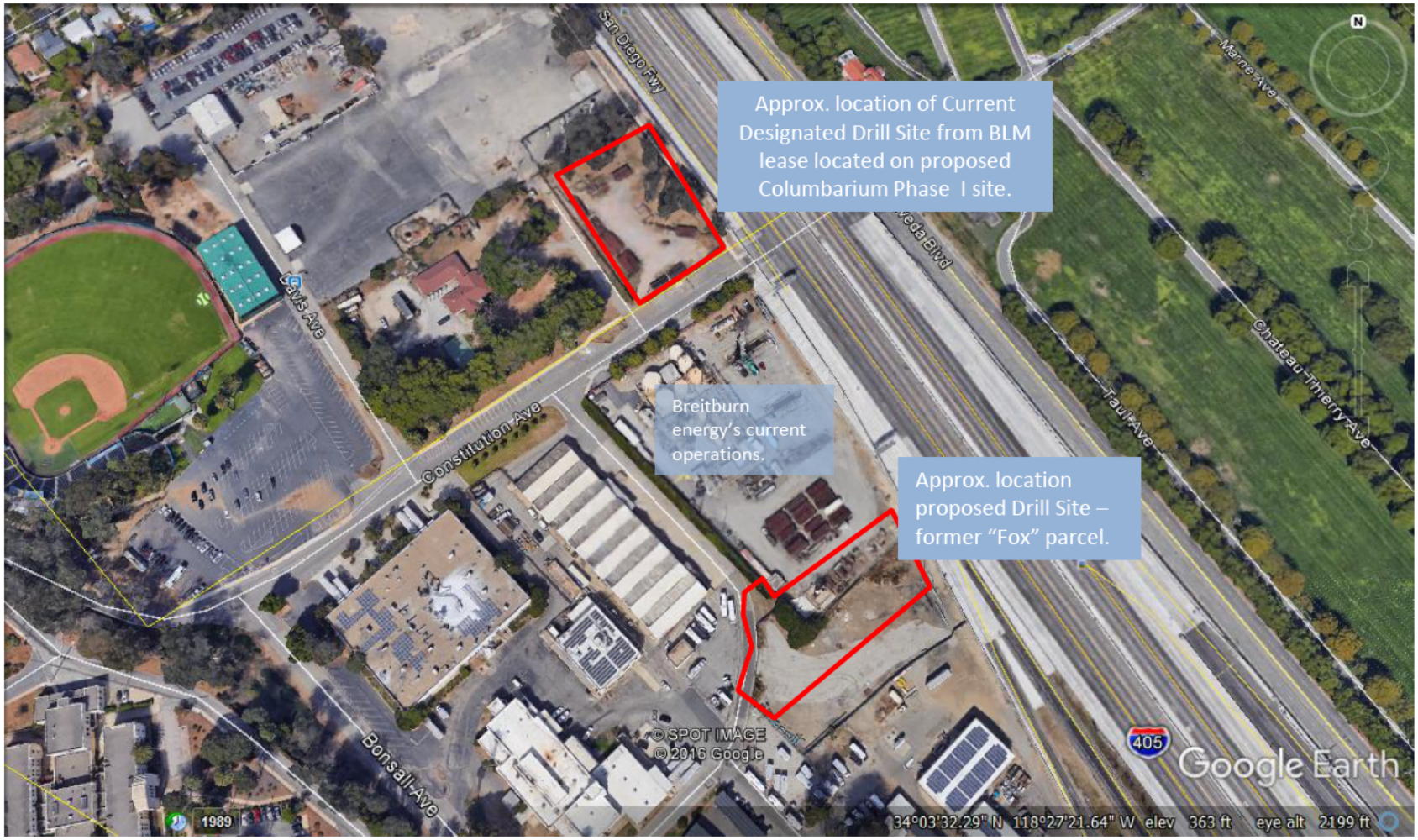
I want to explore the Secretary's authority and ability under a specific oil lease that is on a large, unique veterans affairs campus that my boss has made a priority and for which we recently passed legislation regulating land use. We just learned of an oil and gas lease that BLM is looking at amending on the campus.

The lease, the location, the bill, and the deed for the campus are attached. I have reached out to BLM and honestly have not got a ton of helpful information. My boss wants to consider weighing in directly with the Secretary.

Thanks,

Tristan Colonius
Deputy Legislative Director
Office of U.S. Senator Dianne Feinstein
331 Hart Senate Office Building
Washington, DC 20510
202.224.2004
Tristan_Colonius@Feinstein.Senate.Gov

Website | **Twitter** | **Facebook** | **YouTube**


Approx. location of Current Designated Drill Site from BLM lease located on proposed Columbarium Phase I site.
Breitburn energy's current operations.
Approx. location proposed Drill Site – former "Fox" parcel.
San Diego Fwy
Javis Ave
Constitution Ave
Bonsall Ave
Marine Ave
Vega Blvd
Chateau Thierry Ave
Paul Ave
405
© SPOT IMAGE
© 2016 Google
Google Earth
1989
34°03'32.29" N 118°27'21.64" W elev 363 ft eye alt 2199 ft

Form 3120–1
(January 1966)
(formerly 4–1633)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

PROTECTIVE OIL AND GAS LEASE

Office and Serial Number

Riverside

R 1956

THIS LEASE, entered into as of January 1, 1969, by and between the United States of America, through the Bureau of Land Management, hereinafter called the lessor, and Occidental Petroleum Corporation, 5000 Stockdale Highway, Bakersfield, California 93309,

hereinafter called the lessee, under the supervisory authority of the Secretary of the Interior (40 Op. Atty. Gen. 41), and subject to the provisions of Public Land Order 4270 of September 11, 1967, as amended by Public Land Order 4312 of October 31, 1967.

WITNESSETH:

Sec. 1. *Rights of lessee.* In consideration of rents and royalties to be paid, and the conditions and covenants to be observed as herein set forth, the lessor does hereby grant to the lessee the exclusive right and privilege to drill for, mine, extract, remove, and dispose of all the oil and gas deposits owned by the lessor, except helium gas, in or under the following-described land situated in Sawtelle Field,

San Bernardino Meridian

T. 1 S., R. 15 W.,

as more particularly described as Parcels A and B in Exhibit B attached hereto and made a part hereof,

containing 70.58 acres, more or less, for a period of five years and so long thereafter as oil or gas is produced in paying quantities: *Provided, That* this lease shall not be deemed to expire by reason of suspension of operations or production pursuant to any order or consent of the Secretary of the Interior. Except as otherwise provided and subject to the conditions herein specified, the lessee shall have the right to construct and maintain upon the leased lands all works, buildings, plants, waterways, roads, telegraph or telephone lines, pipe lines, reservoirs, tanks, pumping stations, or other structures as may be necessary to the full enjoyment of this lease.

Sec. 1(a) See following Sec. 10.

Sec. 2. The lessee hereby agrees:

(a) *Bonds.* To furnish and maintain at all times as required by the Lessor a bond in the penal sum of $ 10,000 with approved corporate surety, conditioned upon compliance with the terms of this lease.

(b) *Drilling agreement or unit plan.* Within 30 days of demand to subscribe to and operate under such reasonable communitization or drilling agreement, or under such cooperative or unit plan, embracing all or a portion of the lands included herein as the Secretary of the Interior may determine to be practicable and necessary or advisable, which agreement or plan shall adequately protect the rights of all parties in interest, including the United States, and which shall modify the terms hereof to the extent provided in such agreement or plan.

(c) *Wells.* To commence the drilling of a well or wells within the time and at such location as may be prescribed in Attachment *A* which is made a part hereof.

(d) *Rentals and royalties.* (1) To pay annual rentals and royalties on production under this lease as provided in Attachment *B* which is made a part hereof.

(2) At the option of the Lessor to pay the respective royalties herein provided for in value or in amount of production. If paid in value such royalties shall be due and payable monthly on the last day of the month next following the month in which produced. If paid in amount of production the respective royalty products shall be delivered in merchantable condition on the premises where produced without cost to Lessor, unless otherwise agreed to by the parties hereto, at such times and at such shipping point as may be designated by the Lessor, or in the case of crude oil, in such tanks provided by the Lessee as reasonably may be required by the Lessor, but in no event shall the Lessee be required to hold royalty oil or other royalty products in storage beyond the last day of the month next following the month in which produced. The Lessee shall not be responsible or held liable for the loss or destruction of royalty oil or other products in storage from causes over which the Lessee has no control.

(3) It is expressly agreed that the Secretary of the Interior may establish reasonable minimum values for purposes of computing royalty on any or all oil, gas, natural gasoline, and other products obtained from gas; due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the Lessee, to posted prices and to other relevant matters and, whenever appropriate, after notice and opportunity to be heard.

(4) Royalties shall be subject to reduction on the entire leasehold or on any portion thereof segregated for

royalty purposes if the Secretary of the Interior finds that the lease cannot be successfully operated upon the royalties fixed herein, or that such action will encourage the greatest ultimate recovery of oil or gas or promote conservation.

(e) *Contracts for disposal of products.* To file with the Oil and Gas Supervisor of the Geological Survey not later than 30 days after the effective date thereof, any contract, or evidence of other arrangement, for the sale or disposal of oil, gas, natural gasoline, and other products of the leased land: *Provided, That* nothing in any such contract or other arrangement shall be construed as modifying any of the provisions of this lease, including, but not limited to provisions relating to gas waste, the Government's option to purchase gas, taking royalty in kind, and the method of computing royalties due as based on a minimum valuation, and in accordance with the Oil and Gas Operating Regulations.

(f) *Statements, plats, and reports.* At such time and in such form as the Lessor may prescribe, to furnish detailed statements showing the amounts and quality of all products removed and sold from the lease, the proceeds therefrom, and the amounts used for production purposes or unavoidably lost; a plat showing development work and improvements on the leased lands and a report with respect to stockholders, investment, depreciation, and costs.

(g) *Well records.* To keep a daily drilling record, a log, and complete information on all well surveys and tests in form acceptable to or prescribed by the Lessor of all wells drilled on the leased lands, and an acceptable record of all subsurface investigations affecting said lands, and to furnish them, or copies thereof to the Lessor when required.

(h) *Inspection.* To keep open at all reasonable times for the inspection of any duly authorized officer of the Department, the leased premises and all wells, improvements, machinery, and fixtures thereon and all books, accounts, maps, and records relative to operations and surveys or investigations on the leased lands or under the lease.

(i) *Payments.* Unless otherwise directed by the Secretary of the Interior, to make rental, royalty, or other payments to the Lessor, to the order of the United States Geological Survey, such payments to be tendered as directed by the Oil and Gas Supervisor of the Geological Survey.

(j) *Diligence, prevention of waste, health and safety of workmen.* To exercise reasonable diligence in drilling and producing the wells herein provided for unless consent to suspend operations temporarily is granted by the Lessor; to carry on all operations in accordance with approved methods and practice as provided in the operating regulations, having due regard for the prevention of waste of oil or gas or damage to deposits or formations containing oil, gas, or water or to coal measures or other mineral deposits, for conservation of gas energy, for the preservation and conservation of the property for future productive operations, and for the health and safety of workmen and employees; to plug properly and effectively all wells before abandoning the same; to carry out at expense of the Lessee all reasonable orders of the Lessor relative to the matters in this paragraph, and that on failure of the Lessee so to do the Lessor shall have the right to enter on the property and to accomplish the purpose of such orders at the Lessee's expense: *Provided, That* the Lessee shall not be held responsible for delays or casualties occasioned by causes beyond Lessee's control.

(k) *Taxes and wages, freedom of purchase.* To pay when due, all taxes lawfully assessed and levied under the laws of the State or the United States upon improvements, oil, and gas produced from the lands hereunder, or other rights, property, or assets of the Lessee; to accord all workmen and employees complete freedom of purchase, and to pay all wages due workmen and employees at least twice each month in the lawful money of the United States.

(l) *Equal Opportunity clauses.* During the performance of this contract, the Lessee agrees as follows:

(1) The Lessee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Lessee will take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The Lessee will, in all solicitations or advertisements for employees placed by or on behalf of the Lessee, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The Lessee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Lessee's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Lessee will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Lessee's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Lessee may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Lessee will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Lessee will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the Lessee

becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

(m) *Assignment of lease or interest therein.* To file with the Lessor within 90 days from the date of final execution any instrument of transfer made of this lease, or any interest therein, such instrument to take effect upon its final approval by the Bureau of Land Management, as of the first day of the month following the date of filing.

(n) *Pipe lines to purchase or convey at reasonable rates and without discrimination.* If owner, or operator, or owner of a controlling interest in any pipe line or of any company operating the same which may be operated accessible to the oil or gas derived from lands under this lease, to accept and convey and, if a purchaser of such products, to purchase at reasonable rates and without discrimination the oil or gas of the Government or of any citizen or company not the owner of any pipe line, operating a lease or purchasing or selling oil, gas, natural gasoline, or other products obtained under a lease or permit granted by the United States.

(o) *Reserved deposits.* To comply with all statutory requirements and regulations thereunder, if the lands embraced herein have been or shall hereafter be disposed of under the laws reserving to the United States the deposits of oil and gas therein, subject to such conditions as are or may hereafter be provided by the laws reserving such oil or gas.

(p) *Overriding royalties.* Not to create overriding royalties or payments out of production in excess of 5 percent on the leasehold or any part thereof or any zone segregated for the computation of royalties without approval by the Lessor.

(q) *Use and protection of property.* To comply with the stipulations governing the use and protection of the leased lands prescribed in Attachment C which is made a part hereof.

(r) *Damage to property.* To pay the Lessor or his tenant, as the case may be, for any and all damage to or destruction of property caused by Lessee's operations hereunder; to save and hold the Lessor harmless from all damage or claims for damage to persons or property resulting from the Lessee's operations under this lease.

(s) *Restoration of surface of land.* Upon any partial or total relinquishment, cancellation, or expiration of lease, Lessee shall, as to that part of the leased land as to which his rights have terminated, and to the extent deemed necessary by the Lessor fill all sump holes, ditches and other excavations, remove or cover all debris, and shall, so far as reasonably possible, restore the surface of the leased land to its former condition.

(t) *Local agent.* To appoint and maintain at all times during the term of this lease an agent upon whom may be served written orders or notices respecting matters contained in this section, and within 15 days after the date of this lease to inform the Oil and Gas Supervisor of the U. S. Geological Survey, in writing, the name and address of such agent. If a substitute agent is appointed, Lessee shall immediately so inform the said official.

(u) *Oil and gas operating regulations.* To comply with and operate in accordance with the provisions of the Oil and Gas Operating Regulations (30 CFR, Part 221), to the extent that such regulations are not inconsistent with the specific terms hereof.

Sec. 3. The Lessor expressly reserves:

(a) *Easement and rights-of-way.* The right to permit for joint or several use easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, and the treatment and shipment of products thereof by or under authority of the Government, its Lessees or Permittees, and for other public purposes.

(b) *Disposition of surface.* The right to lease, sell, or otherwise dispose of the surface of any of the lands embraced within this lease which are owned by the United States under existing law or laws hereafter enacted, insofar as said surface is not necessary for the use of the Lessee in the extraction and removal of the oil and gas therein.

(c) *Monopoly and fair prices.* Full power and authority to promulgate and enforce all orders necessary to insure the sale of the production of the leased lands to the United States and to the public at reasonable prices, to protect the interests of the United States, to prevent monoply, and to safeguard the public welfare.

(d) *Helium.* The ownership and the right to extract helium from all gas produced under this lease, subject to such rules and regulations as shall be prescribed by the Secretary of the Interior. In case the Lessor elects to take the helium the Lessee shall deliver all gas containing same, or portion thereof desired, to the Lessor at any point on the leased premises in the manner required by the Lessor, for the extraction of the helium in such plant or reduction works for that purpose as the Lessor may provide, whereupon the residue shall be returned to the Lessee with no substantial delay in the delivery of gas produced from the well to the Purchaser thereof. The Lessee shall not suffer a diminution of value of the gas from which the helium has been extracted, or loss otherwise, for which he is not reasonably compensated, save for the value of the helium extracted. The Lessor further reserves the right to erect, maintain, and operate any and all reduction works and other equipment necessary for the extraction of helium on the premises leased.

Sec. 4. *Drilling and producing restrictions.* It is covenanted and agreed that the rate of prospecting and developing and the quantity and rate of production from the lands covered by this lease shall be subject to control in the public interest by the Secretary of the Interior, and in the exercise of his judgment the Secretary may take into consideration, among other things, Federal laws, State laws, and regulations issued thereunder, or lawful agreement among operators regulating either drilling or production, or both. After unitization, the Secretary of the Interior, or any person, committee or State or Federal officer or agency so authorized in the unit plan, may alter or modify from time to time, the rate of prospecting and development and the quantity and rate of production from the lands covered by this lease.

Sec. 5. *Surrender and termination of lease.* The Lessee may surrender this lease, as to all or part of the leased land, by filing in the proper land office a written relinquishment, in triplicate, which shall be effective as of the date of filing subject to the continued obligation of the Lessee and his surety to make payment of all accrued rentals and royalties and to place all wells on the land to be relinquished in condition for suspension or abandonment in accordance with the applicable operating regulations and lease terms.

Sec. 6. *Purchase of materials etc., on termination of lease.* Upon the expiration of this lease, or the earlier termination thereof pursuant to the last preceding section, the Lessee shall have the privilege at any time within a period of 90 days thereafter of removing from the premises all machinery, equipment, tools, and materials other than improvements needed for producing wells. Any materials, tools, appliances, machinery, structures, and equipment subject to removal as above provided, which are allowed to remain on the leased lands shall become the property of the Lessor on expiration of the 90-day period of such extension thereof as may be granted because of adverse climatic conditions throughout said period: *Provided, That* the Lessee shall remove any or all of such property where so directed by the Lessor.

Sec. 7. *Proceedings in case of default.* If the Lessee fails to comply with any of the provisions of the lease or defaults in the performance or observance of any of the terms hereof and such noncompliance or default shall continue for a period of 30 days after service of written notice thereof by the Lessor, this lease may be canceled by the Secretary of the Interior, but this provision shall not be construed to prevent the exercise by the Lessor of any legal or equitable remedy which the Lessor might otherwise have. Upon cancellation of this lease, any casing, material or equipment determined by the Lessor to be necessary for use in plugging or preserving any well drilled on the leased land shall become the property of the Lessor. A waiver of any particular cause of forfeiture shall not prevent the cancellation and forfeiture of this lease for any other cause of forfeiture, or for the same cause occurring at any other time.

Sec. 8. *Preference of Government to purchase gas.* Any executive department of the Government shall have the option to purchase at the market price on the date of sale up to 50 percent, or such greater percentage as may be agreed upon, of the gas produced and saved from the leased premises after 6 months advance notice to the Lessee by the Secretary of the Interior; *Provided,* such gas is not being utilized for repressuring or secondary recovery purposes for the benefit of this lease.

Sec. 9. *Heirs and successors in interest.* It is further covenanted and agreed that each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

Sec. 10. *Unlawful interests.* It is also further agreed that no Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified, and during his continuance in office, and no officer, agent, or employee of the Department of the Interior, shall hold any share or part in this lease or derive any benefit that may arise therefrom; and that the provisions of Section 3741 of the Revised Statutes of the United States, and sections 431, 432, and 433, Title 18, United States Code, relating to contracts, shall enter into and form a part of this lease as the same may be applicable.

Sec. 1(a). Pursuant to Lessor's reservation of easements and rights of way under Sec. 3a of oil and gas lease Los Angeles 0138800, the Lessee is hereby granted subsurface easements and rights of way through such leasehold as may be necessary for the orderly development of "Parcel A" hereof, subject to any conditions deemed necessary by, and subject to the approval of, the Regional Oil and Gas Supervisor of the Geological Survey having supervision over the operations hereunder.

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INITIAL

IN WITNESS WHEREOF:

THE UNITED STATES OF AMERICA

By Charles L. Schaefer
(Authorized Officer)
Chief, Branch of Lands & Minerals Adjudication

January 16, 1969
(Date)

Witnesses:

R. W. Bruce
R. W. Bruce

J. W. Kunau
J. W. Kunau

Lessee:

OCCIDENTAL PETROLEUM CORPORATION

By: E. F. Reid
E. F. REID, Executive Vice President

By: Lee T. Adams
LE'O T. ADAMS, Assistant Secretary

54-676

As requested in Mr. Reid's letter of December 30, 1968, we would appreciate that Lease R-1956 issue with an effective dated of January 1, 1969 in order to proceed with our exploratory and development drilling program at the earliest possible time.

Should you require anything further from Occidental prior to lease issuance, please do not hesitate to contact the undersigned.

Very truly yours,

OCCIDENTAL PETROLEUM CORPORATION

J. W. KUNAU
Land Department

JWK:lj

Enclosures

Certified/r

JAN 14 '69
RIVERSIDE, CALIF

ATTACHMENT A

(c) Wells

1. Lessee shall commence drilling operations within 90 days from the effective date hereof. Lessee shall complete said well on the leased lands to production or abandonment at a depth sufficient to test the formation found productive in wells on lands adjacent to the leased lands. Such operations may be conducted on the leased lands at a surface location on the area described in Attachment C-1, and shown on Exhibit A or from a surface location on lands other than the leased lands.

2. Lessee shall drill and produce such other wells as are necessary to protect the leased lands from drainage, or in lieu of any part of such drilling and production, with the consent of the Regional Oil and Gas Supervisor of the Geological Survey, compensate the lessor in full each month for the estimated loss of royalty through drainage in the amount determined by said Supervisor.

3. Lessee may elect to drill and produce other wells in conformity with any system of well spacing or production allotments affecting the field or area in which the leased lands are situated, which is authorized and sanctioned by applicable law or by the Secretary of the Interior.

4. Promptly after due notice in writing, lessee shall drill and produce such other wells as the lessor may reasonably require in order that the leased premises may be properly and timely developed and produced in accordance with good operating practice.

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EXHIBIT B

Parcel A:

Beginning at the southeasterly corner of lot 1, block 23, said corner being at the intersection of the northeasterly line of said lot 1 and the northwesterly line of Wilshire Boulevard (formerly Sunset Boulevard); thence south seventy-two degrees nineteen minutes thirty seconds west a distance of six hundred and sixty-two and eighty-nine one-hundredths feet along said northwesterly line of Wilshire Boulevard to an intersection with the northeasterly line of Veteran Avenue (formerly Lookout Avenue); Thence north thirty-three degrees eight minutes twenty-five seconds west a distance of seven hundred and thirty-three and eighty-five one-hundredths feet along said northeasterly line of Veteran Avenue to the southwesterly corner of that portion of said lot 2 deeded to the City of Los Angeles for fire station purposes November 15, 1945, in accordance with Public Law 37, Seventy-ninth Congress, approved April 23, 1945; thence north fifty-six degrees fifty-one minutes thirty-five seconds east a distance of one hundred and fifty feet to the southeasterly corner of said portion of said lot 2; thence north thirty-three degrees eight minutes twenty-five seconds west a distance of one hundred feet to the northeasterly corner of said portion of said lot 2; thence south fifty-six degrees fifty-one minutes thirty-five seconds west a distance of one hundred and fifty feet to the northeasterly line of said Veteran Avenue; thence north thirty-three degrees eight minutes twenty-five seconds west a distance of four hundred and fifty-four and thirty-three one-hundredths feet along said northeasterly line to an intersection with the northwesterly line of said lot 2; thence north thirty-seven degrees fifty-seven minutes fifty-four seconds west a distance of one thousand two hundred and sixty-one and forty eight one-hundredths feet along the northeasterly line of Veteran Avenue to a point; thence north seventy-two degrees fourteen minutes twenty-one seconds east a distance of one and sixty-nine one-hundredths feet to a point, said point being the southwesterly corner of lot 3, block 10, tract 9617, on file in Map Book 134, Pages 78 to 82, inclusive, of the records of the City of Los Angeles; thence north seventy-two degrees nineteen minutes forty-one seconds east a distance of six hundred and fifty-seven and thirty-six one-hundredths feet to the southeasterly corner of lot 11 of said block 10; thence south thirty-five degrees thirty-six minutes twenty-seven seconds east a distance of two thousand five hundred and forty-eight and fifty-four one-hundredths feet along the northeasterly line of lots 4, 3, 2 and 1 of said block 23, to the point of beginning.

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Containing approximately 34.88 acres.

Parcel B:

Beginning at the most southerly corner of Tract No. 7181 as shown on the map recorded in book 120 page 79 of Maps, in the office of the county recorder of said county; thence along the southwesterly line of said Tract No. 7181 and its northwesterly prolongation North 35°32'45" West 1466.42 feet to the true point of beginning for this description in the boundary line of the land annexed to the City of Los Angeles in the Westgate Annexation on June 14, 1916, as described in Ordinance No. 34184; thence along said boundary line southerly 205.9 feet, more or less, to Station 12 as shown on the map attached to the deed to National Home for Disabled Volunteer Soldiers, recorded on June 5, 1900, as Instrument No. 20 in book 1368 page 167 of Deeds, records of said county; thence still along said boundary line southeasterly 1223.7 feet, more or less, to Station 13 and 1004.44 feet, more or less, to Station 14 as shown on the map attached to said deed; thence still along said boundary line northeasterly 1386 feet, more or less, to the southwest line of block 22 of the Subdivision of Rancho de San Jose de Buenos Ayres recorded in book 26 pages 19 et seq., of Miscellaneous Records, in the office of said county recorder; thence along said southwest line North 35°30'00" West 978.65 feet, more or less; thence south 54°30'25" West a distance of 1221.50 feet, more or less; thence North 35°32'45" West a distance of 1466.42 feet, more or less, to point of beginning.

Containing approximately 35.70 acres.

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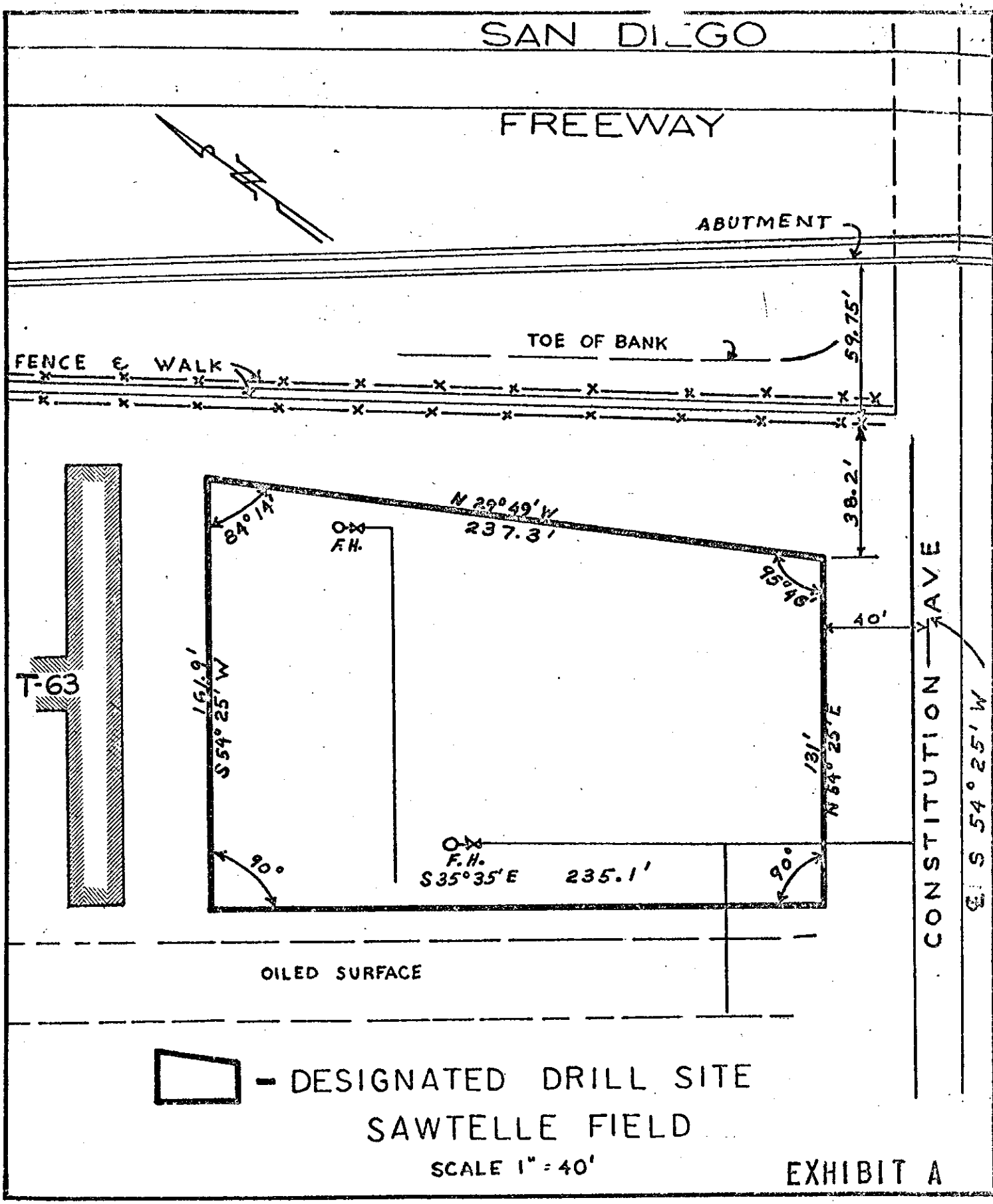
SAN DIEGO
FREEWAY
ABUTMENT
TOE OF BANK
FENCE & WALK
59.75'
38.2'
N 29° 49' W
237.3'
84° 14'
F.H.
95° 46'
40'
CONSTITUTION AVE
S 54° 25' W
T-63
164.9'
S 54° 25' W
131'
N 54° 25' E
90°
F.H.
S 35° 35' E
235.1'
90°
OILED SURFACE
- DESIGNATED DRILL SITE
SAWTELLE FIELD
SCALE 1" = 40'
EXHIBIT A
INITIAL

ATTACHMENT C-1

Approximate Description of Drill Site

Starting at the abutment at the southwest corner of the San Diego Freeway and Constitution Avenue 59.75 feet South 54°25' West to a fence separating the Veterans Administration properties from the Freeway right-of-way, thence 38.2 feet South 54°25' West, thence 15 feet at a right angle, being North 35°35' West, to the point of beginning. From the point of beginning 237.3 feet North 29°49' West, thence 161.9 feet South 54°25' West, thence 235.1 feet South 35°35' East, thence 131 feet North 54°25' East, to the point of beginning: approximately 0.8 acres. (See Exhibit A)

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ATTACHMENT C

(q) Use and Protection of Property

1. The portion of the surface of the leased lands available for drilling and production facilities shall be limited to the area designated in Attachment C-1, and shown on Exhibit "A".

2. Drilling equipment shall be operated by muffled internal combustion engines or electric motors.

3. During production periods pumping operations shall be conducted by adequately muffled internal combustion engines or electric motors.

4. When pumping is conducted by bottom hole hydraulic pumps, these may be powered by muffled internal combustion engines, provided these are completely enclosed within buildings insulated with sound-deadening materials.

5. The derrick shall be soundproofed with standard materials used at the present time and which are acceptable to the City Fire Chief; drilling operations shall be conducted so as to prevent objectionable noise. Derrick and drilling equipment shall be removed from the wellsite within sixty days after completion of drilling operations.

6. Application shall be made for an industrial Waste Disposal Permit, and all regulations and requirements of the Air Pollution Control District shall be complied with.

7. Illumination from excess gas-burning standpipes shall be shielded from adjacent properties on which residences are located, or on which Veterans Administration Hospital buildings or other installations are located.

8. The producing wellsite and necessary field storage and production facilities shall be fenced so as to prevent access thereto by unauthorized persons, such fence to be chain link and wood lath fence eight feet in height.

9. Storage and tank facilities shall not exceed the capacity reasonably necessary for producing operations.

10. All sumps shall be fenced so as to prevent access thereto by unauthorized persons, such fence to be chain link or other industrial type fence and not less than six feet in height.

INITIAL

Items 11 through 18 continued on page 2.

11. After drilling is completed, the producing wellsite and storage facilities shall be landscaped with trees, shrubbery, and plants to screen the facilities from public view and blend with the surrounding area, and shall be maintained. If buildings are constructed adjacent to the wellsite, the wellsite shall always have an aesthetic design reasonably compatible with the adjacent improvements or changes.

12. Permanent structures and equipment shall be painted in neutral colors so as to blend with the natural surroundings.

13. The yard area shall be maintained in a neat and orderly condition, and so far as practicable all operations conducted on said site and service roads shall be carried on with a minimum of objectionable noise and dust.

14. All pipes laid outside the drilling site in connection with drilling or production operations shall be covered to a depth of not less than one foot. The location of these pipe lines must be approved by the Director of the Veterans Administration Center.

15. Existing water lines and fire hydrants on the drilling and production area must be relocated at the sole cost of the Lessee as directed by the Director of the Veterans Administration Center.

16. All private roads used for ingress and egress to and from the drill site shall be surfaced and maintained during drilling and production operations.

17. Signs shall not be constructed, erected,maintained, or placed on the premises or any part thereof except those required by law or ordinance to be displayed in connection with the drilling or maintenance of the well and those required for public safety.

18. Whenever the operations of the Lessee hereunder are conducted in a manner which in the judgment of the Administrator of Veterans Affairs, or his designate, is inimical to the safety and welfare of the patients of the Veterans Administration Center, the Lessee, upon notice thereof, shall cease and desist such operations immediately. Such operations shall continue suspended until corrective measures satisfactory to the Administrator, or his designate, have been adopted by the Lessee, and in addition, the Lessee, within 60 days from the date of cessation of such operations, shall begin in good faith and with reasonable diligence to take corrective measures acceptable to the Administrator, or his designate, to remedy such operations.

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ATTACHMENT B

(d) Rentals and Royalties

1. Lessee shall pay the lessor, in advance, an annual rental of two dollars per acre or fraction thereof for each lease year which commences prior to a discovery of oil or gas in paying quantities on the leased lands.

2. Lessee shall pay the lessor a royalty of 16-2/3 percent of the amount or value of production obtained and saved from the leased lands.

3. Lessee shall pay the lessor, in lieu of rental, at the expiration of each lease year beginning after a discovery of oil or gas on the leased lands, a minimum royalty of one dollar per acre or fraction thereof, or if there is production, the amount, if any, that such minimum royalty exceeds royalties on production.

4. Prior to a discovery of oil or gas on the leased lands, the lessee shall make rental payments due the lessor to the order of the Bureau of Land Management at the Land Office having jurisdiction over the area in which the leased lands are located.

5. After discovery of oil or gas on the leased lands, the lessee shall make royalty and minimum royalty payments due the lessor to the order of the Geological Survey at the office of the Regional Oil and Gas Supervisor having supervision over the operations hereunder.

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AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

PUBLIC LAW 114–226—SEPT. 29, 2016

WEST LOS ANGELES LEASING ACT OF 2016

Public Law 114–226
114th Congress

An Act

Sept. 29, 2016
[H.R. 5936]

To authorize the Secretary of Veterans Affairs to enter into certain leases at the Department of Veterans Affairs West Los Angeles Campus in Los Angeles, California, to make certain improvements to the enhanced-use lease authority of the Department, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

West Los Angeles Leasing Act of 2016.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "West Los Angeles Leasing Act of 2016".

SEC. 2. AUTHORITY TO ENTER INTO CERTAIN LEASES AT THE DEPARTMENT OF VETERANS AFFAIRS WEST LOS ANGELES CAMPUS.

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out leases described in subsection (b) at the Department of Veterans Affairs West Los Angeles Campus in Los Angeles, California (hereinafter in this section referred to as the "Campus").

Real property.

(b) LEASES DESCRIBED.—Leases described in this subsection are the following:

(1) Any enhanced-use lease of real property under subchapter V of chapter 81 of title 38, United States Code, for purposes of providing supportive housing, as that term is defined in section 8161(3) of such title, that principally benefit veterans and their families.

(2) Any lease of real property for a term not to exceed 50 years to a third party to provide services that principally benefit veterans and their families and that are limited to one or more of the following purposes:

(A) The promotion of health and wellness, including nutrition and spiritual wellness.

(B) Education.

(C) Vocational training, skills building, or other training related to employment.

(D) Peer activities, socialization, or physical recreation.

(E) Assistance with legal issues and Federal benefits.

(F) Volunteerism.

(G) Family support services, including child care.

(H) Transportation.

(I) Services in support of one or more of the purposes specified in subparagraphs (A) through (H).

Regents of the University of California.

(3) A lease of real property for a term not to exceed 10 years to The Regents of the University of California, a corporation organized under the laws of the State of California, on

behalf of its University of California, Los Angeles (UCLA) campus (hereinafter in this section referred to as "The Regents"), if—

(A) the lease is consistent with the master plan described in subsection (g);

(B) the provision of services to veterans is the predominant focus of the activities of The Regents at the Campus during the term of the lease;

(C) The Regents expressly agrees to provide, during the term of the lease and to an extent and in a manner that the Secretary considers appropriate, additional services and support (for which The Regents is not compensated by the Secretary or through an existing medical affiliation agreement) that—

(i) principally benefit veterans and their families, including veterans that are severely disabled, women, aging, or homeless; and

(ii) may consist of activities relating to the medical, clinical, therapeutic, dietary, rehabilitative, legal, mental, spiritual, physical, recreational, research, and counseling needs of veterans and their families or any of the purposes specified in any of subparagraphs (A) through (I) of paragraph (2); and

(D) The Regents maintains records documenting the value of the additional services and support that The Regents provides pursuant to subparagraph (C) for the duration of the lease and makes such records available to the Secretary. Records.

(c) LIMITATION ON LAND-SHARING AGREEMENTS.—The Secretary may not carry out any land-sharing agreement pursuant to section 8153 of title 38, United States Code, at the Campus unless such agreement—

(1) provides additional health-care resources to the Campus; and

(2) benefits veterans and their families other than from the generation of revenue for the Department of Veterans Affairs.

(d) REVENUES FROM LEASES AT THE CAMPUS.—Any funds received by the Secretary under a lease described in subsection (b) shall be credited to the applicable Department medical facilities account and shall be available, without fiscal year limitation and without further appropriation, exclusively for the renovation and maintenance of the land and facilities at the Campus.

(e) EASEMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law (other than Federal laws relating to environmental and historic preservation), pursuant to section 8124 of title 38, United States Code, the Secretary may grant easements or rights-of-way on, above, or under lands at the Campus to—

(A) any local or regional public transportation authority to access, construct, use, operate, maintain, repair, or reconstruct public mass transit facilities, including, fixed guideway facilities and transportation centers; and

(B) the State of California, County of Los Angeles, City of Los Angeles, or any agency or political subdivision

thereof, or any public utility company (including any company providing electricity, gas, water, sewage, or telecommunication services to the public) for the purpose of providing such public utilities.

(2) IMPROVEMENTS.—Any improvements proposed pursuant to an easement or right-of-way authorized under paragraph (1) shall be subject to such terms and conditions as the Secretary considers appropriate.

(3) TERMINATION.—Any easement or right-of-way authorized under paragraph (1) shall be terminated upon the abandonment or nonuse of the easement or right-of-way and all right, title, and interest in the land covered by the easement or right-of-way shall revert to the United States.

(f) PROHIBITION ON SALE OF PROPERTY.—Notwithstanding section 8164 of title 38, United States Code, the Secretary may not sell or otherwise convey to a third party fee simple title to any real property or improvements to real property made at the Campus.

(g) CONSISTENCY WITH MASTER PLAN.—The Secretary shall ensure that each lease carried out under this section is consistent with the draft master plan approved by the Secretary on January 28, 2016, or successor master plans.

(h) COMPLIANCE WITH CERTAIN LAWS.—

Determination. Certification. Recommendations.

(1) LAWS RELATING TO LEASES AND LAND USE.—If the Inspector General of the Department of Veterans Affairs determines, as part of an audit report or evaluation conducted by the Inspector General, that the Department is not in compliance with all Federal laws relating to leases and land use at the Campus, or that significant mismanagement has occurred with respect to leases or land use at the Campus, the Secretary may not enter into any lease or land-sharing agreement at the Campus, or renew any such lease or land-sharing agreement that is not in compliance with such laws, until the Secretary certifies to the Committees on Veterans' Affairs of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and each Member of the Senate and the House of Representatives who represents the area in which the Campus is located that all recommendations included in the audit report or evaluation have been implemented.

(2) COMPLIANCE OF PARTICULAR LEASES.—Except as otherwise expressly provided by this section, no lease may be entered into or renewed under this section unless the lease complies with chapter 33 of title 41, United States Code, and all Federal laws relating to environmental and historic preservation.

Establishment.

(i) VETERANS AND COMMUNITY OVERSIGHT AND ENGAGEMENT BOARD.—

Deadline. Recommendations.

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a Veterans and Community Oversight and Engagement Board (in this subsection referred to as the "Board") for the Campus to coordinate locally with the Department of Veterans Affairs to—

(A) identify the goals of the community and veteran partnership;

(B) provide advice and recommendations to the Secretary to improve services and outcomes for veterans, members of the Armed Forces, and the families of such veterans and members; and

(C) provide advice and recommendations on the implementation of the draft master plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any successor master plans.

(2) MEMBERS.—The Board shall be comprised of a number of members that the Secretary determines appropriate, of which not less than 50 percent shall be veterans. The nonveteran members shall be family members of veterans, veteran advocates, service providers, real estate professionals familiar with housing development projects, or stakeholders. Determination.

(3) COMMUNITY INPUT.—In carrying out paragraph (1), the Board shall—

(A) provide the community opportunities to collaborate and communicate with the Board, including by conducting public forums on the Campus; and

(B) focus on local issues regarding the Department that are identified by the community, including with respect to health care, implementation of the draft master plan and any subsequent plans, benefits, and memorial services at the Campus.

(j) NOTIFICATION AND REPORTS.—

(1) CONGRESSIONAL NOTIFICATION.—With respect to each lease or land-sharing agreement intended to be entered into or renewed at the Campus, the Secretary shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and each Member of the Senate and the House of Representatives who represents the area in which the Campus is located of the intent of the Secretary to enter into or renew the lease or land-sharing agreement not later than 45 days before entering into or renewing the lease or land-sharing agreement.

(2) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and not less frequently than annually thereafter, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and each Member of the Senate and the House of Representatives who represents the area in which the Campus is located an annual report evaluating all leases and land-sharing agreements carried out at the Campus, including—

(A) an evaluation of the management of the revenue generated by the leases; and Evaluation.

(B) the records described in subsection (b)(3)(D). Records.

(3) INSPECTOR GENERAL REPORT.—

(A) IN GENERAL.—Not later than each of two years and five years after the date of the enactment of this Act, and as determined necessary by the Inspector General of the Department of Veterans Affairs thereafter, the Inspector General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives and the Committees on Appropriations of the Senate and Determination. Assessment.

House of Representatives, and each Member of the Senate and the House of Representatives who represents the area in which the Campus is located a report on all leases carried out at the Campus and the management by the Department of the use of land at the Campus, including an assessment of the efforts of the Department to implement the master plan described in subsection (g) with respect to the Campus.

(B) CONSIDERATION OF ANNUAL REPORT.—In preparing each report required by subparagraph (A), the Inspector General shall take into account the most recent report submitted to Congress by the Secretary under paragraph (2).

(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of the Secretary to enter into other agreements regarding the Campus that are authorized by law and not inconsistent with this section.

(l) PRINCIPALLY BENEFIT VETERANS AND THEIR FAMILIES DEFINED.—In this section the term "principally benefit veterans and their families", with respect to services provided by a person or entity under a lease of property or land-sharing agreement—

(1) means services—

(A) provided exclusively to veterans and their families; or

(B) that are designed for the particular needs of veterans and their families, as opposed to the general public, and any benefit of those services to the general public is distinct from the intended benefit to veterans and their families; and

(2) excludes services in which the only benefit to veterans and their families is the generation of revenue for the Department of Veterans Affairs.

(m) CONFORMING AMENDMENTS.—

(1) PROHIBITION ON DISPOSAL OF PROPERTY.—Section 224(a) of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2272) is amended by striking "The Secretary of Veterans Affairs" and inserting "Except as authorized under the Los Angeles Homeless Veterans Leasing Act of 2016, the Secretary of Veterans Affairs".

(2) ENHANCED-USE LEASES.—Section 8162(c) of title 38, United States Code, is amended by inserting ", other than an enhanced-use lease under the Los Angeles Homeless Veterans Leasing Act of 2016," before "shall be considered".

SEC. 3. IMPROVEMENTS TO ENHANCED-USE LEASE AUTHORITY OF DEPARTMENT OF VETERANS AFFAIRS.

(a) PROHIBITION ON WAIVER OF OBLIGATION OF LESSEE.—Paragraph (3) of section 8162(b) of title 38, United States Code, is amended by adding at the following new subparagraph:

"(D) The Secretary may not waive or postpone the obligation of a lessee to pay any consideration under an enhanced-use lease, including monthly rent.".

(b) CLARIFICATION OF LIABILITY OF FEDERAL GOVERNMENT TO THIRD PARTIES.—Section 8162 of such title is amended by adding at the end the following new subsection:

"(d)(1) Nothing in this subchapter authorizes the Secretary to enter into an enhanced-use lease that provides for, is contingent upon, or otherwise authorizes the Federal Government to guarantee a loan made by a third party to a lessee for purposes of the enhanced-use lease.

"(2) Nothing in this subchapter shall be construed to abrogate or constitute a waiver of the sovereign immunity of the United States with respect to any loan, financing, or other financial agreement entered into by the lessee and a third party relating to an enhanced-use lease.".

(c) TRANSPARENCY.—

(1) NOTICE.—Section 8163(c)(1) of such title is amended— 38 USC 8163.

(A) by inserting ", the Committees on Appropriations of the House of Representatives and the Senate, and the Committees on the Budget of the House of Representatives and the Senate" after "congressional veterans' affairs committees";

(B) by striking "and shall publish" and inserting ", shall publish";

(C) by inserting before the period at the end the following: ", and shall submit to the congressional veterans' affairs committees a copy of the proposed lease"; and

(D) by adding at the end the following new sentence: "With respect to a major enhanced-use lease, upon the request of the congressional veterans' affairs committees, not later than 30 days after the date of such notice, the Secretary shall testify before the committees on the major enhanced-use lease, including with respect to the status of the lease, the cost, and the plans to carry out the activities under the lease. The Secretary may not delegate such testifying below the level of the head of the Office of Asset Enterprise Management of the Department or any successor to such office.". Deadline. Testimony.

(2) ANNUAL REPORTS.—Section 8168 of such title is amended—

(A) by striking "to Congress" each place it appears and inserting "to the congressional veterans' affairs committees, the Committees on Appropriations of the House of Representatives and the Senate, and the Committees on the Budget of the House of Representatives and the Senate";

(B) in subsection (a)—

(i) by striking "Not later" and inserting "(1) Not later";

(ii) by striking "a report" and all that follows through the period at the end and inserting "a report on enhanced-use leases."; and

(iii) by adding at the end the following new paragraph:

"(2) Each report under paragraph (1) shall include the following:

"(A) Identification of the actions taken by the Secretary to implement and administer enhanced-use leases.

"(B) For the most recent fiscal year covered by the report, the amounts deposited into the Medical Care Collection Fund account that were derived from enhanced-use leases.

"(C) Identification of the actions taken by the Secretary using the amounts described in subparagraph (B).

"(D) Documents of the Department supporting the contents of the report described in subparagraphs (A) through (C).";
and

(C) in subsection (b)—

(i) by striking "Each year" and inserting "(1) Each year";

(ii) by striking "this subchapter," and all that follows through the period at the end and inserting "this subchapter."; and

(iii) by adding at the end the following new paragraph:

"(2) Each report under paragraph (1) shall include the following with respect to each enhanced-use lease covered by the report:

"(A) An overview of how the Secretary is using consideration received by the Secretary under the lease to support veterans.

"(B) The amount of consideration received by the Secretary under the lease.

"(C) The amount of any revenues collected by the Secretary relating to the lease not covered by subparagraph (B), including a description of any in-kind assistance or services provided by the lessee to the Secretary or to veterans under an agreement entered into by the Secretary pursuant to any provision of law.

"(D) The costs to the Secretary of carrying out the lease.

"(E) Documents of the Department supporting the contents of the report described in subparagraphs (A) through (D).".

(d) ADDITIONAL DEFINITIONS.—Section 8161 of such title is amended by adding at the end the following new paragraphs:

"(4) The term 'lessee' means the party with whom the Secretary has entered into an enhanced-use lease under this subchapter.

"(5) The term 'major enhanced-use lease' means an enhanced-use lease that includes consideration consisting of an average annual rent of more than $10,000,000.".

(e) COMPTROLLER GENERAL AUDIT.—

(1) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report containing an audit of the enhanced-use lease program of the Department of Veterans Affairs under subchapter V of chapter 81 of title 38, United States Code.

(2) MATTERS INCLUDED.—The report under paragraph (1) shall include the following:

(A) The financial impact of the enhanced-use lease authority on the Department of Veterans Affairs and whether the revenue realized from such authority and other financial benefits would have been realized without such authority.

(B) The use by the Secretary of such authority and whether the arrangements made under such authority would have been made without such authority.

(C) An identification of the controls that are in place to ensure accountability and transparency and to protect the Federal Government.

Assessment.

(D) An overall assessment of the activities of the Secretary under such authority to ensure procurement cost

avoidance, negotiated cost avoidance, in-contract cost avoidance, and rate reductions.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term "appropriate congressional committees" means—

(A) the Committees on Veterans' Affairs of the House of Representatives and the Senate;

(B) the Committees on Appropriations of the House of Representatives and the Senate; and

(C) the Committees on the Budget of the House of Representatives and the Senate.

Approved September 29, 2016.

LEGISLATIVE HISTORY—H.R. 5936:

CONGRESSIONAL RECORD, Vol. 162 (2016):
Sept. 12, considered and passed House.
Sept. 19, considered and passed Senate.

○

I hereby certify this is a true copy
of the record in book 405 page 14
if impressed with the seal of this office
Date Dec. 11, 1970 Ray E. Lee Recorder
County of Los Angeles
State of California

This indenture made the third day of March one thousand eight hundred and eighty eight, by and between John P. Jones and Arcadia B. de Baker, the parties of the first part and the National Home for Disabled Volunteer Soldiers a corporation formed and now existing under the laws of the United States the parties of the second part.

Witnesseth, that whereas by an act of Congress approved March 2nd 1887, to provide for the location and erection of a branch home for disabled volunteer soldiers West of the Rocky Mountains, the Board of Managers of the National Home for Disabled Volunteer Soldiers, were authorized, empowered and directed to locate, establish, construct and permanently maintain a branch of said National Home for Disabled Volunteer Soldiers, to be by such Board, located at such place in the States West of the Rocky Mountains as to said Board should appear most desirable and advantageous.

And whereas, the parties hereto of the first part in consideration that the party hereto of the second part should locate, establish, construct and permanently maintain a branch of said National Home for Disabled Volunteer Soldiers on a site to be selected by its Board of Managers along the dividing line between the Ranchos San Jose de Buenos Ayres and San Vicente y Santa Monica offered to donate to the said party of the second part, three hundred acres of land, being a portion of said Rancho San Vicente y Santa Monica belonging to them the said parties of the first part, on which to locate, establish, construct and permanently maintain such branch of said National Home for Disabled Volunteer Soldiers.

And Whereas, the Board of Managers of said National Home for Disabled Volunteer Soldiers, in consideration of said offer have selected the land and premises hereinafter described for the purpose aforesaid and have notified the parties of the first part of such selection.

Now Therefore, in consideration of the premises and of the location, establishment, construction and permanent maintenance of a branch of said National Home for Disabled Volunteer Soldiers on such tract of land so selected and of the benefits to accrue to the said parties of the first part, owners of the said Rancho San Vicente y Santa Monica by such location have given and granted and by these presents do give and grant unto said party of the second part all the following described land and premises, situate lying and being in the County of Los Angeles, State of California and particularly bounded and described as follows:

Commencing at a point on the boundary line between the Ranchos San Vicente y Santa Monica and San Jose de Buenos Ayres distant 6044 feet Northerly from the corner post on the line between the said Rancho San Vicente y Santa Monica and the Rancho La Ballona, which post is the common corner of the Rancho San Vicente y Santa Monica and the Rancho San Jose de Buenos Ayres running from said point of beginning South 34½° West 2780 2/10 feet to a stake being the Southwest corner of the tract herein conveyed, then North 54½° East

2780 2/10 feet to a stake on the boundary line between the said Ranchos San Vicente y Santa Monica and San Jose de Buenos Ayres; South 35½° East along said boundary line 4385 feet to the place of beginning, containing three hundred (300) acres of land.

Together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, to have and to hold the said land and promises, with appurtenances unto the said party Disabled Volunteer Soldiers to be thereon so located, established, constructed and permanently maintained.

In Witness Whereof, the said parties of the first have hereunto set their hands and seals the day and year first above written.

John P. Jones (Seal)
By his attorney in fact, Walter Van Dyke (Seal)
Arcadia B. de Baker (Seal)
By her attorney in fact, Robt S. Baker (Seal)

State of California
County of Los Angeles On this 5th day of March in the year one thousand eight hundred and eighty eight before one Charles Worth, a Notary Public in and for said Los Angeles County, residing therein duly commissioned and sworn personally appeared Walter Van Dyke known to me to be the person described in and whose name is subscribed to the within instrument as the Attorney in fact of John P. Jones and the said Walter Van Dyke acknowledges to me that he subscribed the name of John P. Jones thereunto as principal and his own name as Attorney in fact.

In Witness Whereof, I have hereunto set my hand and affixed my official seal at my office in the City and County of Los Angeles the day and year in this Certificate first above written.
Notarial Seal
Charles Worth
Notary Public

State of California
County of Los Angeles On this 5th day of March in the year one thousand eight hundred and eighty eight before one Charles Worth, a Notary Public in and for said Los Angeles County, residing therein duly commissioned and sworn personally appeared Robt S. Baker known to me to be the person described in and whose name is subscribed to the within instrument as the Attorney in fact of Arcadia B. de Baker and the said Robt S. Baker acknowledges to me that he subscribed the name of Arcadia B. de Baker thereunto as principal and his own name as Attorney in fact.

In Witness Whereof, I have hereunto set my hand and affixed my official seal at my office in the City and County of Los Angeles the day and year in this Certificate first above written.
Notarial Seal
Charles Worth
Notary Public

A full true and correct copy of the original recorded at request of Grantee Mar. 10, 1888 at 17 min. past 12 N.

Frank A. Gibson County Recorder
By Frank E. White Deputy

This is a true and certified copy of the record if it bears the seal, imprinted in purple ink, of the Registrar-Recorder.

NOV 4 1987

REGISTRAR-RECORDER
LOS ANGELES COUNTY, CALIFORNIA

From:	Rooney, Kenneth (Feinstein)
To:	"Neimeyer, Sarah"
Cc:	Higgins, Trevor (Feinstein)
Subject:	OSCLA -- withdrawal of areas from oil and gas leasing
Date:	Tuesday, December 20, 2016 2:03:13 PM

Hi, Sarah –

Do you know if there was an underlying reasoning for withdrawing parts of the Atlantic and Artic but not the Pacific from oil and gas drilling under OSCLA?

Thanks,

Ken

From: Higgins, Trevor (Feinstein)
To: Felipe Mendoza
Subject: Automatic reply: OSCLA -- withdrawal of areas from oil and gas leasing
Date: Wednesday, December 21, 2016 6:57:24 PM

Thank you for your email. I will be out of the office until Tuesday, January 3rd, but will get back to you as soon as I can. If you need immediate assistance, please call 202-224-3841.

From: Rooney, Kenneth (Feinstein)
To: Billingsley, Tara L. EOP/WHO
Cc: Felipe Mendoza; Higgins, Trevor (Feinstein)
Subject: Re: OSCLA -- withdrawal of areas from oil and gas leasing
Date: Wednesday, December 21, 2016 7:30:33 PM

Trevor is out but I'm free tomorrow afternoon.

2022249646

> On Dec 21, 2016, at 7:01 PM, Billingsley, Tara L. EOP/WHO <(b) (6) [redacted] > wrote:
>
> Thanks, Felipe.
>
> Ken and Trevor, let me know a good time and number and I will give you a call.
>
> Thanks,
> Tara
>
> -----Original Message-----
> From: Felipe Mendoza [mailto:felipe_mendoza@ios.doi.gov]
> Sent: Wednesday, December 21, 2016 6:57 PM
> To: Kenneth_Rooney@feinstein.senate.gov; Trevor_Higgins@feinstein.senate.gov; Billingsley, Tara L. EOP/WHO <(b) (6) [redacted]
> Subject: Fwd: OSCLA -- withdrawal of areas from oil and gas leasing
>
> Ken & Trevor:
>
> Through this email I am connecting you with Tara at the WH, who can better handle answering questions related to the actions taken by the President yesterday.
>
> Best,
> Felipe
>
>
> From: Rooney, Kenneth (Feinstein) <Kenneth_Rooney@feinstein.senate.gov <mailto:Kenneth_Rooney@feinstein.senate.gov> >
> Date: Tue, Dec 20, 2016 at 2:03 PM
> Subject: OSCLA -- withdrawal of areas from oil and gas leasing
> To: "Neimeyer, Sarah" <sarah_neimeyer@ios.doi.gov <mailto:sarah_neimeyer@ios.doi.gov> >
> Cc: "Higgins, Trevor (Feinstein)" <Trevor_Higgins@feinstein.senate.gov <mailto:Trevor_Higgins@feinstein.senate.gov> >
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> Hi, Sarah –
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> Ken
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To: Billingsley, Tara L. EOP/WHO
Cc: Felipe Mendoza; Higgins, Trevor (Feinstein)
Subject: Re: OSCLA -- withdrawal of areas from oil and gas leasing
Date: Wednesday, December 21, 2016 7:30:38 PM

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> Subject: Fwd: OSCLA -- withdrawal of areas from oil and gas leasing
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> To: "Neimeyer, Sarah" <sarah_neimeyer@ios.doi.gov <mailto:sarah_neimeyer@ios.doi.gov> >
> Cc: "Higgins, Trevor (Feinstein)" <Trevor_Higgins@feinstein.senate.gov <mailto:Trevor_Higgins@feinstein.senate.gov> >
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>
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>

> Thanks,
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>
> Ken
>
>

From: Casey, Sharon
To: jason_powell@ios.doi.gov
Cc: McGrath, William; Dockham, Andrew
Subject: Letter from Chairman Chaffetz
Date: Tuesday, January 03, 2017 3:57:24 PM
Attachments: image003.png
2016-12-29 JEC to Jewell re Bears Ears c.pdf

Jason,
Attached please find a corrected copy of the December 29 letter from Chairman Chaffetz of the U.S. House of Representatives Committee on Oversight and Government Reform. The only corrections are the two due dates and the date in #5 on page three.
Please acknowledge receipt of this letter. Thank you.
Sincerely,
Sharon

Sharon Ryan Casey
Deputy Chief Clerk
Committee on Oversight and Government Reform
2157 Rayburn Building, Washington, DC 20515
202-593-8219 sharon.casey@mail.house.gov

U.S. HOUSE OF REPRESENTATIVES

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5074
MINORITY (202) 225–5051

http://oversight.house.gov

December 29, 2016

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

Dear Madam Secretary:

On December 28, 2016, President Obama designated the Bears Ears National Monument in Utah and the Gold Butte National Monument in Nevada pursuant to his authority under the Antiquities Act.[1] Advocates for this action touted it as a means to establish a co-management agreement for Bears Ears between the federal government and a group of Native American tribes.[2] In fact, in the press release announcing these new national monuments, the White House recognizes the importance of tribal participation in the management of the land and asserts this action serves as a tool to achieve co-management.[3] Co-management of public lands, however, requires the approval of Congress.[4] Advocacy organizations, federal agencies, and the White House have all put out differing opinions on co-management, and it is important to clarify the bounds of the President's authority. I am writing to obtain more information about how and why the President exercised his authority in this case.

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[1] *Rumors point toward possible December 23 designation. Anxiety builds over possible national monument,* SAN JUAN RECORD, Dec. 13, 2016, *available at* http://www.sjrnews.com/view/full_story/27329673/article-Rumors-point-toward-possible-December-23-designation--Anxiety-builds-over-possible-national-monument-?instance=home_news_left.

[2] Amy Jol O'Donoghue, *Native American chairman says Jewell order lacks equality for tribes*, DESERET NEWS, Oct. 21, 2016, *available at* http://www.deseretnews.com/article/865665388/Bears-Ears-coalition-leader-says-Jewell-order-lacks-equality-for-tribes.html?pg=all.

[3] FACT SHEET: President Obama to Designate New National Monuments Protecting Significant Natural and Cultural Resources in Utah and Nevada, https://www.whitehouse.gov/the-press-office/2016/12/28/fact-sheet-president-obama-designate-new-national-monuments-protecting.

[4] *See U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 565-66 (D.C. Cir. 2004) ("[S]ubdelegations to outside parties are assumed to be improper absent an affirmative showing of congressional authorization . . . . When an agency delegates authority to its subordinate, responsibility—and thus accountability—clearly remain with the federal agency. But when an agency delegates power to outside parties, lines of accountability may blur, undermining an important democratic check on government decision-making. Also, delegation to outside entities increases the risk that these parties will not share the agency's "national vision and perspective . . . ."). *See also High Country Citizens' Alliance v. Norton*, 448 F. Supp. 2d 1235, 1246-1247 (D. Colo. 2006) (similar, citing U.S. Telecom).

The President has exercised his authority under the Antiquities Act to create or expand at least 25 national monuments—more than any other president in history.[5] His sweeping application of the Antiquities Act raises questions about the Administration's commitment to transparency and consultation with local stakeholders with respect to designating national monuments. It also raises serious questions about whether these designations are limited to the, "smallest area compatible with proper care and management of the objects to be protected."[6] The Antiquities Act "was designed to protect federal lands and resources quickly" in response to concerns about "theft from and destruction of archaeological sites."[7] In most cases, however, the processes outlined by the National Environmental Policy Act (NEPA) and the Federal Land Policy Management Act (FLPMA) are most appropriate because they require environmental studies, a review of the public purpose, and an opportunity for public participation before any federal agency action.[8] The NEPA and the FLPMA processes provide for a more thoughtful determination, whereas the Antiquities Act was meant to be reserved for emergency scenarios.

Until yesterday, the Administration's actions with respect to Bears Ears more closely resembled the NEPA and FLPMA process. In anticipation of the Bears Ears designation, the Department of the Interior took on a large role in gathering input and coordinating planning.[9] You, Secretary Jewell, visited the potential site for a listening session.[10] In fact, during a hearing before the Subcommittee on the Interior, Bureau of Land Management (BLM) Director Neil Kornze testified that BLM and the White House have been coordinating.[11] It is therefore unclear why the President opted to designate a massive national monument in Utah via the Antiquities Act in the waning days of his presidency, and to ignore federal environmental and procedural laws enacted to ensure stakeholders and other affected parties have a meaningful role in determining the outcome.

Similarly, the President's actions with regard to the Gold Butte National Monument designation bypassed Congress and the public. Located in Clark County, Nevada, the Gold Butte National Monument spans nearly 300,000 acres.[12] Such a large designation, made unilaterally, deprives the American people and their elected representatives a collaborative discussion on how best to protect the land for all to enjoy. Large designations such as Gold Butte Monument are the type of major federal agency action envisioned by our federal environmental and procedural laws.

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[5] H. Sterling Burnett, *Obama's Dangerous Use of The National Monument law*, FORBES, Oct. 12 2016.
[6] Antiquities Act of 1906, 54 U.S.C. §§320301-320303
[7] Carol Hardy Vincent, "National Monuments and the Antiquities Act," Cong. Research Serv. (2016) (R41330).
[8] *Id.*
[9] Amy Jol O'Donoghue, *Bears Ears Controversy Ramps Up With Jewell's Visit; Bishop's Planned Legislation*, KSL NEWS, July 13, 2016, *available at* https://www.ksl.com/?sid=40632616&nid=148&title=bears-ears-controversy-ramps-up-with-jewells-visit-bishops-planned-legislation.
[10] *Id.*
[11] *Examining BLM Public Lands Leasing Hearing Before the Subcomm. on the Interior of the H. Comm. on Oversight and Gov't Reform,* 114th Cong. 14 (2016) (statement of Neil Kornze, Director, Bureau of Land Management) (Mr. Kornze: "I am talking about looking at the country and figuring out where would this be appropriate, where would it not?" Mr. Gosar: "So there is some conversation going on between the White House and BLM and agencies in regards to antiquities withdrawal?" Mr. Kornze: "Yes.").
[12] *See supra* note 3.

Furthermore, in a letter dated March 29, 2016, this Committee, along with the House Committees on Natural Resources and on Appropriations, requested information related to use of the Antiquities Act of 1906.[13] After receiving an inadequate response, a follow up letter was sent on May 11, 2016.[14] As outlined in both letters, the Committees are interested in the Administration's process for using the Antiquities Act. Specifically, the Committees requested documents and communications from the Council on Environmental Quality and the Department of the Interior (DOI) referring or relating to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from January 1, 2015, to the present.

To date, DOI has only provided a very limited response to the Committee that largely consisted of public statements and news clippings. If the Department does not produce these documents voluntarily, the Committee will be required to obtain them through compulsory measures.

Please immediately provide the documents requested in the Committee's March 29th and May 11th letters. In addition, please produce the following documents as soon as possible, but not later than January 13, 2017:

1. All calendars, including all meetings and attendees, for all DOI employees involved or referenced in any discussions related to any national monument selection or designation.

2. The daily schedules and call logs for Secretary Jewell, Tommy Beaudreau, Nikki Buffa and Neil Kornze from April 21, 2013, to present.

3. All communications between any DOI employee and White House staff, including but not limited to Senior Advisor Brian Deese, between January 2015 and present.

4. All documents and communications referring or related to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from April 21, 2013, to present.

5. All documents and communications related to the reduction in size, limitation, or repeal of a national monument from January 20, 2009, to present.

Additionally, please make available for transcribed interview the following three DOI officials as soon as possible, but not later than January 20, 2017: Bureau of Land Management Director Neil Kornze; your Chief of Staff Tommy Beaudreau; and DOI employee Nikki Buffa.

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[13] Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, Hon. Rob Bishop Chairman, H. Comm. on Nat. Resources, and Hon. Harold Rogers, Chairman, H. Comm. on Appropriations, to Hon. Sally Jewell, Secretary, U.S. Department of the Interior (Mar. 29, 2016).

[14] Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, and Hon. Cynthia Lummis, Chairman, H. Comm. on Oversight and Gov't Reform Subcommittee on the Interior, to Hon. Sally Jewell, Secretary, U.S. Department of the Interior (May 11, 2016).

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact Chris Esparza of the Committee staff at (202) 225-5074 to schedule the interviews, or with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,

Jason Chaffetz
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

From: Laslovich, Dylan (Tester)
To: Mendoza, Felipe
Subject: RE: Badger-Two Medicine
Date: Tuesday, January 10, 2017 2:31:23 PM

Thanks!

From: Mendoza, Felipe [mailto:felipe_mendoza@ios.doi.gov]
Sent: Tuesday, January 10, 2017 2:11 PM
To: Laslovich, Dylan (Tester) <Dylan_Laslovich@tester.senate.gov>
Subject: Badger-Two Medicine

Dylan:

The below is **embargoed until 3:00 pm**. Hope you find it useful!

All the best,
Felipe

Interior Department Cancels Remaining Oil and Gas Leases in Montana's Badger-Two Medicine Area

Action Represents Significant Milestone in Protecting Area from Impacts of Energy Development

WASHINGTON – The Department of Interior today announced the Bureau of Land Management has canceled the final two oil and gas leases in the Badger-Two Medicine area within the Lewis and Clark National Forest in Northwest Montana. The two lease cancellations address outstanding concerns about the potential for oil and gas development in this culturally and ecologically important area.

"We are proud to have worked alongside the Blackfeet Nation and the U.S. Forest Service throughout this process to roll back decades-old leases and reinforce the importance of developing resources in the right way and the right places." said Secretary Jewell. "The cancellation of the final two leases in the rich cultural and natural Badger-Two Medicine Area will ensure it is protected for future generations."

The BLM notified J.G. Kluthe Trust of Nebraska and W.A. Moncrief Jr. of Texas of the cancellations of the final two leases in the area. The lease cancellations occur after thirty years of administrative, legal and legislative actions and reflect the historical and cultural significance of the area to the Blackfeet Tribe and concerns regarding leasing issuance.

The Badger-Two Medicine is a 130,000 acre area, bounded by Glacier National Park, the Bob Marshall Wilderness, and the Blackfeet Indian Reservation. This portion of the Rocky Mountain Front is considered sacred by the Blackfeet Tribe, and is part of a Traditional Cultural District. These characteristics caused Congress to legislatively withdraw the area from mineral development in 2006.

The leases being canceled today were issued in the 1980s and have not had any drilling in the area since issuance.

The cancellation respects recommendations by the U.S. Forest Service, the Advisory Council on Historic Preservation, and concerns expressed by the Blackfeet Tribe and interested members of the public. In 2016, Secretary of the Interior Sally Jewell announced the cancellation of 16 leases in the area. The leases were held by Solonex LLC and Devon Energy.

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Felipe Mendoza, Deputy Director
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240
202-208-3337 | felipe_mendoza@ios.doi.gov

From: Hunt, Ryan (Appropriations)
To: Smith, Linda H; Gordon, Bill J
Subject: Regulatory Accountability Act
Date: Wednesday, January 11, 2017 4:50:10 PM

Section 302 in this "Regulatory Accountability" bill that amends the Administrative Procedures Act deals with Land Management Plans and FLPMA. Can you look to see if anyone has done analysis on what this provisions does and its significance?

It was in H.R. 33 and H.R. 45 in the 115th and has been reintroduced already as H.R. 5.

https://www.congress.gov/115/bills/hr5/BILLS-115hr5ih.pdf

https://rules.house.gov/sites/republicans.rules.house.gov/files/115/PDF/115-HR5-SxSv1.pdf

From: Johnson, Liza
To: Ann (USGS) Tihansky; Erica Wales; Liza M Johnson
Subject: Interior"s NEWSWAVE Fall 2016/Winter 2017 issue
Date: Friday, January 13, 2017 12:59:35 PM
Attachments: NEWSWAVE_Fall2016_Winter2017-4web.pdf

Dear *NEWSWAVE* Subscribers:

We are pleased to share our Fall 2016/Winter 2017 issue.

In this issue:

- DOI's Blue Portfolio
- The recent expansion of Papahanaumokuakea Marine National Monument and the first marine monument in the Atlantic,
- The Nation's first regional ocean plans,
- National Park Service's Centennial celebrations,
- The discovery of an historic anchor
- Continued progress on Everglades Ecosystem Restoration, and
- Chesapeake Bay science

Our special feature is an article about Arctic research cruise, Hidden Ocean 2016, as seen through the eyes of BOEM oceanographer Kate Segarra. Read about her science mission at the top of the world.

The **Surfing Bison** feature explores how DOI protects marine mammals. Through the Marine Mammal Protection Act, the Endangered Species Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the USFWS helps protect a variety of marine mammals.

Come explore and learn with us.

Another great way to keep up with Interior's ocean, Great Lakes, and coastal activities on a daily basis is through our Facebook page. We follow all Facebook pages available for each of the 88 ocean and coastal National Park units, 180 ocean and coastal National Wildlife refuges, Bureau of Land Management's coastal monuments, and the science conducted by USGS and the Bureau of Ocean Energy Management. Visit and 'like' us today!

https://www.facebook.com/USInterioroceanscoastsgreatlakes

We hope you enjoy this issue and will share it widely. It is both attached here and available on-line: http://www.doi.gov/pmb/ocean/news/Newswave/index.cfm

Sincerely,

Ann, Erica and Liza

--

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NEWSWAVE

NEWS FROM THE U.S. DEPARTMENT OF THE INTERIOR: OCEAN, GREAT LAKES AND COASTS

NEWSWAVE*—Winner of NAGC's 2015 Blue Pencil Award** ***Fall 2016/Winter 2017

DOI's blue portfolio includes many diverse coastal and submarine resources. Photo credit: Susan White, USFWS

First U.S. Marine National Monument in Atlantic

See it as You've Never Seen it Before!

By Ann Tihansky (USGS) and Erica Wales (DOI)

On September 15, 2016, President Obama designated the first Marine National Monument in the Atlantic Ocean on the first day of the 3rd "Our Ocean" Conference. The Northeast Canyons and Seamounts Marine National Monument will protect 4,913 square miles of fragile deep-sea ecosystems off the coast of Cape Cod National Seashore. By protecting this striking underwater landscape of mountains and canyons, critical ecosystems for deep-sea coral and

See Northeast Monument page 3

DOI's Blue Portfolio

The Department of the Interior's (DOI) blue portfolio and stewardship responsibilities for ocean and coastal resources have recently increased with President Obama signing a proclamation expanding the Papahānaumokuākea Marine National Monument (*see related story, page 1*) and designating the first marine national monument in the Atlantic Ocean. While the Papahānaumokuākea Marine National Monument is one of the largest marine protected area (MPA) on the planet, the Northeast Canyons and Seamounts Marine National Monument is the first to protect 4,913 square

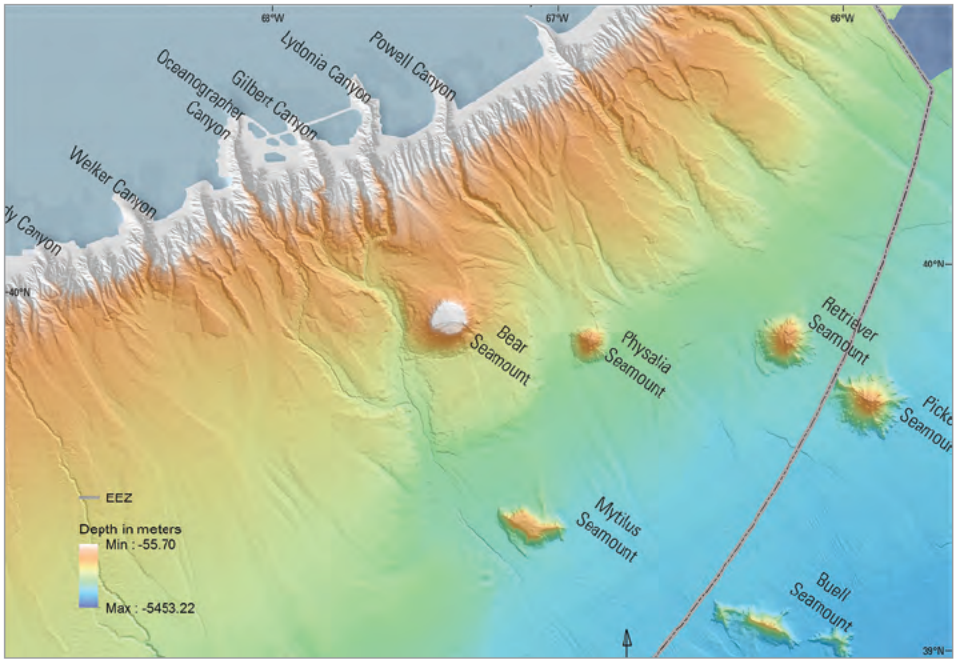
See Portfolio page 3

Expanding Papahānaumokuākea Marine Monument

By Randy Bowman (DOI)

On August 26, 2016, President Obama issued a proclamation under the authority of the Antiquities Act expanding the Papahānaumokuākea Marine National Monument to include 582,578 square miles of land and sea. The designation more than quadruples the size of the existing marine monument, including all the waters and submerged lands within the seaward limit of the U.S. Exclusive Economic Zone west of 163° west longitude. Previously the largest contiguous fully protected

See Expansion page 4



This high-resolution terrain map of the seafloor shows the peaks and valleys of the new Northeast Canyons and Seamounts Marine National Monument. See the plate from USGS Open-File Report 2012–1266: *http://pubs.usgs.gov/of/2012/1266/appendix_2.html*. Image credit: Brian Andrews, USGS

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Contribute to NEWSWAVE!

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Follow Us on Facebook! Science for Coastal Safety

https://www.facebook.com/USInterioroceanscoastsgreatlakes/

The U.S. Geological Survey (USGS) responded to Hurricane Matthew by forecasting coastal change and monitoring it using "before and after" photos.

New low-altitude aerial photos of Southeastern U.S. beaches taken before and after Hurricane Matthew show roads, dunes and structures lost. At left, these "before and after" photos show a new inlet that formed between the Atlantic Ocean and the Matanzas River near St. Augustine, Florida, stripping away a 3.7 meter (12-foot) dune and carrying sand into the estuary. Read more at *https://www.usgs.gov/news/and-after-photos-se-beach-dunes-lost-hurricane-matthew*
Photo credits: Public domain

NEWSWAVE is a quarterly newsletter from the Department of the Interior featuring ocean, Great Lakes and coastal activities across the Bureaus.

Visit us online: *http://www.doi.gov/pmb/ocean/newswave*

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Portfolio continued from page 1

miles of fragile deep-sea ecosystems off the coast of Cape Cod National Seashore (*see related story, page 1*). As one of our Nation's principal stewards for our ocean, Great Lakes and coastal (OGLC) resources, DOI recognizes the vital connection between the health of our Nation's natural resources and human health and economy. DOI's responsibilities continue to grow with expanding our oldest Marine National Monument and adding our Nation's newest Atlantic marine national monument.

DOI's blue portfolio includes more than 35,000 miles of coastline and 34 million acres in 88 marine and coastal National Parks, including many of America's favorite beaches from Cape Cod and Cape Hatteras to the Golden Gate National Recreational Area and beyond to Hawai'i Volcanoes National Park and 756,477,162 acres in marine national monuments and national wildlife refuges in the Pacific alone as of September 2016. We protect 180 marine and coastal national wildlife refuges, 1,100 miles of coastline of the California Coastal National Monument and DOI plays an important role in ensuring safe and responsible energy development in our coastal areas and offshore waters.

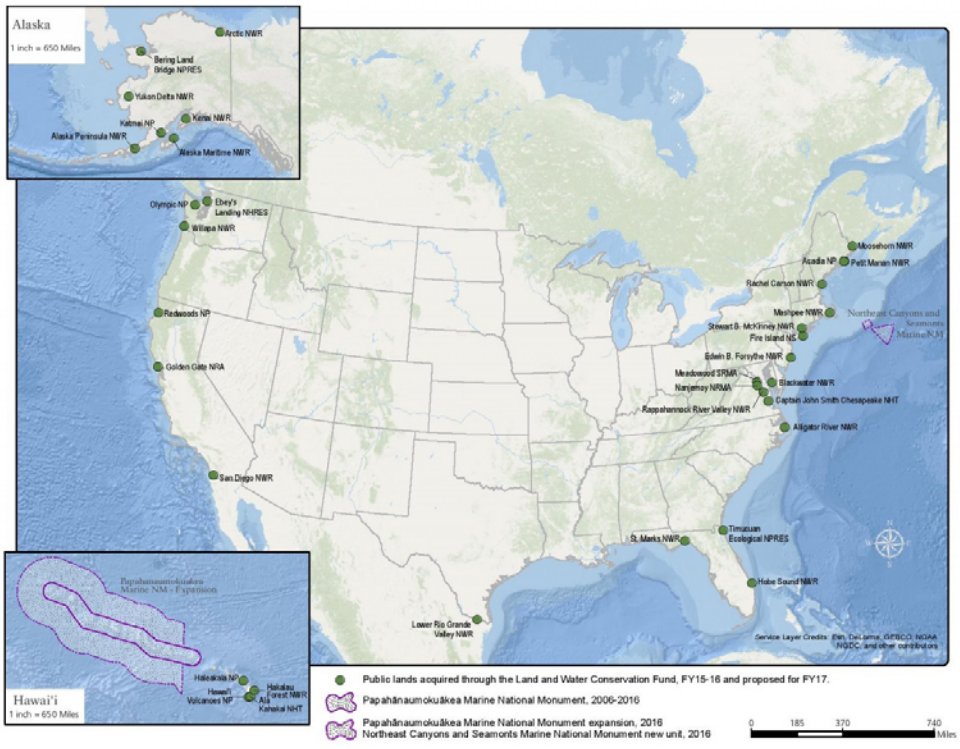
In addition, Interior Bureaus provide robust scientific programs that inform decisions and reduce risk; ensure safe and responsible development of natural, mineral and energy resources; promote healthy and productive ecosystems through informed management and monitoring; protect native species and their habitats; preserve rich cultural and recreational opportunities for the public; and support Tribal, state, regional and local partnerships.

In the past 2 years, the DOI invested more than $50 million from the Land and Water Conservation Fund to acquire and conserve nearly 20,000 acres of critical coastal lands for all Americans to enjoy.

See related story about the DOI's coordinated ocean, Great Lakes and coastal team on page 27.

Read more: *https://www.doi.gov/blog/our-ocean-one-future*

Read more about the DOI's role: *https://www.doi.gov/pmb/ocean/*



This map shows coastal lands and waters conserved by the Obama Administration since 2015. Photo credit: DOI

Northeast Monument continued from page 1

endangered whales and sea turtles are preserved. *See related story, page 1*.

Three of the underwater canyons are deeper than the Grand Canyon and the underwater mountains, known as seamounts, provide habitat for invertebrates like sponges, corals, octopus, skates, crabs and bottom fish like flounder. Seamounts are some of the most biologically diverse habitats on Earth, and the New England seamounts are known to house many rare and endemic species, several of which are new to science and are not known to live anywhere else on Earth. The canyons and seamounts also attract larger open water marine species, such as sea turtles, marine mammals, tuna, billfish, squid, and sharks.

Bathymetric terrain models, showing measurements of water depth, were created with data collected by several agencies; these data were compiled by the USGS Coastal and Marine Geology Program and published as a collaborative effort between USGS, National Oceanic and Atmospheric Administration (NOAA), and University of New Hampshire. Learn more about the USGS Atlantic Margin bathymetry at *http://pubs.usgs.gov/of/2012/1266/title_page.html*

Read the full Presidential Proclamation creating the Monument here: *https://www.whitehouse.gov/the-press-office/2016/09/15/presidential-proclamation-northeast-canyons-and-seamounts-marine*

Watch President Obama give his remarks at the 2016 Our Ocean Conference here: *https://www.whitehouse.gov/photos-and-video/video/2016/09/15/president-obama-delivers-remarks-2016-our-ocean-conference*

The Nation's First Ocean Plans!

By Robert LaBelle (BOEM; Mid-Atlantic RPB Federal Co-Lead) and Betsy Nicholson (NOAA; Northeast RPB Federal Co-Lead)

On December 7, the National Ocean Council finalized the Nation's first ocean plans, taking an historic step toward fulfilling President Obama's commitment to healthy ocean ecosystems and a strong, sustainable marine economy. The two regional plans, the Northeast Ocean Plan and the Mid-Atlantic Ocean Action Plan, promote the use of integrated ocean data and best practices for informed and efficient management of the Nation's shared marine resources.

After years of collaboration among States, Tribes, Federal agencies, and Fishery Management Councils, with input from marine stakeholders, the Northeast Ocean Plan and the Mid-Atlantic Ocean Action Plan build on the data provided in the Northeast and Mid-Atlantic Data Portals, which are publicly accessible and provide new maps and data products. The plans also describe best management practices to guide effective interagency coordination and to ensure that agencies have the data needed to inform planning and environmental review of new activities. This approach is designed to work across all levels of government and to advance economic, environmental, and cultural priorities within each region. The plans are the result of extensive participation from marine stakeholders representing fishing, recreation, energy, transportation, telecommunications, and many other interests. Once implementation begins, the plans will reinforce the commitment to healthy ocean ecosystems and a strong, sustainable marine economy.

Read more:

White House blog: *https://www.whitehouse.gov/blog/2016/12/07/nations-first-ocean-plans*

Northeast Ocean Portal: *https://www.northeastoceandata.org/*

Mid-Atlantic Data Portal: *http://midatlanticocean.org/data-portal/*

Expansion continued from page 1

conservation area in the United States, the expanded boundaries make it one of the largest MPAs on the planet that is nearly the size of the Gulf of Mexico. Read the full proclamation here: *https://www.whitehouse.gov/the-press-office/2016/08/26/presidential-proclamation-papahanaumokuakea-marine-national-monument*

The expansion provides critical protections for more than 7,000 marine species and is also considered a sacred place for the Native Hawaiian community. Important geological features of the expansion area include more than 75 seamounts, as well as a nonvolcanic ridge that extends southwest towards Johnston Atoll. Together, these features form biodiversity hotspots in the open ocean that provide habitat for deep-sea species, including sponges, other invertebrates, fish, and corals—some of which are thousands of years old. Albatrosses (*Diomedea* spp.) and Great Frigatebirds (*Fregata minor*) rely on the expansion area while feeding their chicks, when their foraging is focused within 200 miles of the nesting colonies on the Monument's islands. The expansion area is also a foraging and migration path for five species of protected sea turtles.

Additionally, there are sunken vessels (including the USS *Yorktown*) and downed aircraft from the Battle of Midway in World War II, a battle that marked a major shift in the progress of the war in favor of the Allies, within the expansion area.

On September 1, 2016, the President visited Midway Atoll National Wildlife Refuge (Refuge), within the Monument, to mark the significance of the expansion and tour some of the Monument's resources in person. The President visited the memorial to the Battle of Midway, met with island staff, toured wildlife and plant restoration sites, and observed corals and other marine resources while snorkeling. Read President Obama's full remarks from Turtle Beach here: *https://www.whitehouse.gov/the-press-office/2016/09/01/remarks-president-designation-papahanaumokuakea-marine-national-monument*

The Monument was originally created in 2006 by President George W. Bush and designated as a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site in 2010. Since that time, scientific exploration has revealed new species and deep-sea habitats in the expansion area, as well as important ecological connections between the existing monument and the expansion area. In addition to marine areas, the Monument includes (1) the Midway Atoll Refuge, (2) the eight atolls, reefs, and islands of the Hawaiian Islands Refuge, and (3) Kure Atoll, which is under the jurisdiction of the State of Hawai'i.

DOI Secretary Sally Jewell and Secretary of Commerce Penny Pritzker also announced that the Departments will soon sign an agreement with Hawaii's Department of Natural Resources and Office of Hawaiian Affairs (OHA), strengthening the coordination of management and adding OHA as the fourth Monument co-trustee.

On September 1, 2016, President Obama visited Midway Atoll National Wildlife Refuge where Refuge Manager Robert Peyton provided geographic reference information on the recent Marine National Monument expansion which was followed by a tour of Turtle Beach. Photo credits: Pete Souza, Chief Official White House photographer, Obama Administration

Centennial Celebrations Mark the National Park Service's 100th Birthday!

By Erica Wales (DOI)

Happy 100th birthday NPS! Photo credit: NPS

August 25, 2016, marked the 100th birthday of the National Park Service (NPS). Back in 1916, NPS was created by the "Act to Establish a National Park Service (Organic Act), 1916," giving NPS the duty to promote and regulate parks and monuments in order "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

In honor of the momentous occasion, national parks from around the country and in the Pacific celebrated the centennial in style and opened the parks for free admission August 25–28. Here are a few ways OGLC parks marked the occasion:

- *American Memorial Park, Saipan*—The park held a Day of Service on Saturday, August 27, where more than 300 volunteers from the American Red Cross, schools, AmeriCorps, and the public assisted with park projects. The volunteers removed invasive vines, cleaned debris, painted the parking lot and amphitheater, and beautified the memorials.
- *Cape Cod National Seashore, Massachusetts*—The seashore held a Seashore Science Day on August 25. The day included a "Science Street Fair" in the morning, where visitors could engage in hands-on, interactive presentations by staff, researchers, and interns; and a "Science in the Seashore Symposium" in the afternoon, where the public heard lectures from scientists on topics including seals, ticks and Lyme disease, landscape management, and climate change.

Glacier Bay National Park tribal house dedication. Photo credit: NPS

Touch tank at Cape Cod National Seashore Centennial celebrations. Photo credit: Kekoa Rosehill

- *Everglades and Dry Tortugas National Parks, Florida*—The Everglades National Park celebrated by hosting Sing Across America events to provide musical entertainment and hosted an exhibit, "This Land is Your Land: A Second Century for America's National Parks," which featured images, videos, and artifacts from Florida parks and preserves. Reenactors at Dry Tortugas National Park highlighted daily life at Fort Jefferson during the Civil War area, and guided tours were given of the 110-foot Motor Vessel *Fort Jefferson*, the primary tender vessel of the park.
- *Cabrillo National Monument, California*—The national monument celebrated with an antique vehicle display, lighthouse postcard painting, guided park tours, NPS trivia, tours of the lighthouse tower, and other events to highlight the history of the NPS and the New Point Loma Lighthouse at Cabrillo.
- *Glacier Bay National Park, Alaska*—The park celebrated with a dedication of the Huna Tribal House (Xunaa Shuká Hít), which featured carvings, hand carved dugout canoes, traditional songs and regalia, Tlingit oratory, traditional ceremonies and dances, and the rhythm of drums.

Read the full text of the Act that established the NPS here: *https://www.nps.gov/parkhistory/online_books/anps/anps_1i.htm*

Climate Change Threatening Alaska Coastal Villages

Denali Commission Approves Funding

By Randy Bowman (DOI)

During the first-ever Presidential visit to the U.S. Arctic last fall, President Obama designated the Denali Commission, a Federal Regional development agency, as the lead Federal contact for Alaska Native Villages threatened by erosion, flooding, and other issues resulting from climate change. This was in response to recommendations from the Arctic Executive Steering Committee, established by E.O. 13689 to coordinate Federal Arctic policy, to designate the Commission as the lead contact and similar previous recommendations for a lead agency designation from the Government Accountability Office.

*The Denali Commission is providing $6,650,000 in new funding. Most of this will go to the four most immediately threatened villages—**Newtok, Kivalina, Shaktoolik, and Shismaref**—with slightly more than $1.5 million held as a contingency fund for unexpected developments.*

The village of **Newtok**, located between the Ningliq River and the Bering Sea, is eroding away and unlikely to be a viable site within 4 to 5 years. The village is in the process of relocating to a new site, called Metarvik, about 9 miles away on higher ground. The Commission approved $3,020,000 to assist this effort. These funds will be in addition to money from the State of Alaska, U.S. Department of Agriculture, DOI's Bureau of Indian Affairs, and Federal Emergency Management Agency previously provided for the village.

Flooding in the village of Newtok during the 2005 Fall Sea Storm. Photo credit: Stanley Tom, Newtok Traditional Council

The funds will be used for preparation of an overall National Environmental Policy Act document for the move; development of a final site plan; geotechnical investigation to supplement existing information for efficient design of roads, building foundations and other infrastructure; development of the quarry to provide stone for construction; design of a bulk fuel storage facility; preliminary design of community power, water, sewer and solid waste facilities; and to serve as matching/gap funds for other related activities identified by the community.

The village of **Shaktoolik** will receive $1,020,000 to be used to support "soft erosion" protection measures and design of a consolidated fuel storage facility above the 100-year flood level, and serve as matching/gap funds for other related activities identified by the community.

The villages of **Kivalina** and **Shismaref** will each receive $520,000 to be used as the local match for existing U.S. Army Corps of Engineers (USACE) funds for a site specific 100-year flood analysis and for design of an armor rock revetment to temporarily protect the islands on which the villages are located.

At all four villages, the funds will also be used to support the existing Community Relocation Coordinator; prepare emergency response plans, conduct emergency drills, and as matching/gap funds for other related activities identified by the community.

The Commission also allocated $490,000 for other to-be-determined threatened communities and $1,080,000 for a Statewide Disaster Response Fund that can be used to respond quickly, or to provide matching funds to complement other funders for disaster response and recovery and other statewide initiatives related to the problem.

Celebrating the Next Phase of Everglades Ecosystem Restoration

On June 3, 2016, NPS and Florida Department of Transportation (DOT) announced the construction of the 2.6-mile bridge and roadway project in South Florida on the Tamiami Trail with a contract awarded to the joint venture team of Condotte America Inc. and Stantec. This next phase of bridging will allow additional freshwater flow in Everglades National Park, improving ecological conditions both in the park and in the central Everglades north of Tamiami Trail.

The new trail will raise a 2.5-mile section of U.S. Highway 41 in the South Florida region and is the latest milestone in the Obama Administration's efforts to conserve the Everglades' historic and iconic wildlife habitat and water flows.

Secretary Jewell visited Everglades National Park on Earth Day 2016 with President Obama to highlight steps the Administration has taken to act on climate change. "It's a vital piece of this Administration's efforts with our Florida partners to deliver increased flows of clean, fresh water to an area that desperately needs them to make the ecosystem sustainable, including critical marsh lands, Florida Bay and aquifers important to South Florida's water supply. The Everglades is an internationally recognized ecological treasure that we must restore and protect for future generations," said Jewell.

Secretary Jewell and Pedro Ramos visited seagrass beds in Everglades National Park. These iconic wildlife habitats will benefit by restoring historic water flows. Photo credit: Tami A. Heilemann, DOI

Secretary Sally Jewell celebrated Earth Day with Florida DOT District Secretary Gus Pego by announcing the next phase of bridging on the Tamiami Trail in Everglades National Park. Photo credit: Tami A. Heilemann, DOI

"This new bridge is part of the largest conservation effort ever undertaken by the National Park Service and will return water flows to more historic levels, favorably impacting key plant and animal species like the American crocodile and many native birds," said Secretary Jewell, on Earth Day, April 22, 2016.

"The partnership between the NPS and Florida DOT has helped advance the Everglades restoration effort," said Pedro Ramos, Superintendent of Everglades and Dry Tortugas National Parks." The completion of the 2.6 mile bridging project is essential in establishing the natural flow of water to Everglades National Park and Florida Bay."

The event followed Secretary Jewell's conservation speech at National Geographic on April 19, where she outlined a major course correction in how we approach conservation to ensure a bright future for our public lands and waters. Read the Secretary's speech here: *https://medium.com/@Interior/the-next-100-years-of-american-conservation-397c42b8f1f2*

Read the press release: *https://www.doi.gov/pressreleases/earth-day-secretary-jewell-celebrates-next-phase-everglades-ecosystem-restoration*

Read more about the project: *https://www.nps.gov/ever/learn/news/everglades-national-park-and-fdot-award-contract-for-next-phase-of-tamiami-trail-enhancements.htm*

Restored Beach Project Supports Science Education and Coastal Community at Virginia Beach

By Marjorie Weisskohl (BOEM)

On July 26, 2016, Bureau of Ocean Energy Management (BOEM) Director Abigail Ross Hopper toured the Virginia Aquarium and Marine Science Center in Virginia Beach, Virginia. Aquarium Executive Director, Lynn Clements, and Director of Conservation Programs, Mark Swingle, briefed Hopper and her team on the Aquarium's in-depth science program, which covers everything from global ecosystems to how the Chesapeake Bay was formed, including information about the oyster beds and other aquatic life living just off the back deck in Owl Creek.

Hopper joined students from the Young Men's Christian Association who were thrilled to be learning about ocean and coastal sciences and conservation through touching sting rays in a touch tank, seeing giant sea turtles and tiny yellow striped frogs, and seeing "Trash-Talking Turtles" made of marine debris from local beaches. Hopper then visited Sandbridge Beach, south of the city, to see the beach and dunes that were restored with sand borrowed from the Outer Continental Shelf (OCS) through BOEM's Marine Minerals Program. Officials from the Virginia Beach Department of Public Works and the USACE, who had been involved in the project, joined her for an informative discussion. Over the years, the Sandbridge project has helped reduce damage to roads and other infrastructure from storms and hurricanes, restored wildlife habitat, and enabled Americans to enjoy the great outdoors.

For more information, visit: *http://www.boem.gov/Marine-Minerals-Program/*

Director Hopper explores Virginia Aquarium's touch tank. Photo credit: Marjorie Weisskohl, BOEM

The Cockspur Lighthouse at Fort Pulaski National Monument needs to be stabilized for expected sea-level rise impacts. Photo credit: Paul Brennan

The beach and dunes of Sandbridge Beach, restored with sand from the OCS through BOEM's Marine Minerals Program. Photo credit: Marjorie Weisskohl, BOEM

Coastal Parks Adapt to Climate Change

Two new reports from NPS show how coastal parks across the country are devising innovative and unique solutions to adapt to climate change. "Coastal Adaptation Strategies: Case Studies" includes 24 park studies in a variety of settings that describe how they are preparing and responding to climate change impacts. A followup report, "Coastal Adaptation Strategies Handbook," highlights the need to plan for climate change in how we manage America's iconic natural, historic, and cultural landscapes. It is a summary of what scientists and park managers know about climate adaptation in coastal areas and includes processes and tools that parks have available to respond and recover from tropical storms and hurricanes and offers strategies to address rising sea levels.

The case study report highlights different ways NPS is mitigating these coastal impacts such as increased stormy weather, sea-level rise, shoreline erosion, melting sea ice and permafrost, ocean acidification, warming temperatures, groundwater inundation, precipitation, and drought.

Adaptation efforts include preserving historic structures, completing archaeological surveys, collecting baseline data, restoring habitat, engineering solutions, redesigning and relocating infrastructure, and developing broad management plans that consider climate change.

At Olympic National Park, Washington, work is focused on preparing archeological sites and traditional cultural resources, whereas ancient Indian shell mound sites threatened by sea-level rise and erosion are of concern in Florida at the Canaveral National Seashore. At Fort Pulaski National Monument in Georgia, NPS

See Climate Change page 9

The deepwater vessel *Chikyu* as deployed during the second joint Indian National Gas Hydrate Program Expedition 02. The vessel was designed by the Japanese government for international scientific drilling operations. Photo credit: Japan Agency for Marine-Earth Science and Technology

Climate Change continued from page 8

is designing a lighthouse stabilization system to incorporate sea-level rise. Gateway National Recreation Area, New York, is restoring Jamaica Bay wetlands, and the National Park of American Samoa is learning to recognize coral adaptations to environmental stressors. At Gulf Islands National Seashore, Massachusetts, large-scale restoration of barrier island systems and cultural resource protection is being done through sediment placement along the northern Gulf of Mexico shoreline. Along the mid-Atlantic shorelines of Maryland and Virginia, NPS is relocating visitor facilities that are threatened by erosion at the Assateague Island National Seashore. In California, NPS is working to develop a multiagency vision for an urban coastline at the Golden Gate National Recreation Area. You can read about more examples here: *https://www.nps.gov/subjects/climatechange/coastaladaptationstrategies.htm*

NPS Coastal Adaptation Strategies Handbook: *https://www.nps.gov/subjects/climatechange/coastalhandbook.htm*

International Partnership Discovers Potentially Producible Gas Hydrate in Indian Ocean

By Alex Demas and Tim Collett (USGS)

USGS has assisted the Government of India in the discovery of large, highly enriched accumulations of natural gas hydrate in the Bay of Bengal during a research expedition, called the Indian National Gas Hydrate Program Expedition 02. This is the second joint exploration for gas hydrate potential in the Indian Ocean and is the first discovery of its kind in the Indian Ocean that has the potential to be producible. The first expedition, also a partnership between scientists from India and the United States, discovered gas hydrate accumulations but in formations that are currently unlikely to be producible.

Natural gas hydrates are a naturally occurring, ice-like combination of natural gas and water found in the world's oceans and polar regions. The amount of gas within the world's gas hydrate accumulations is estimated to greatly exceed the volume of all known conventional gas resources.

"Advances like the Bay of Bengal discovery will help unlock the global energy resource potential of gas hydrates as well help define the technology needed to safely produce them," said Walter Guidroz, USGS Energy Resources Program Coordinator. "The USGS is proud to have played a key role on this project in collaboration with our international partner, the Indian Government."

This discovery is the result of the most comprehensive gas hydrate field venture in the world to date, made up of scientists from India, Japan, and the United States. The scientists completed ocean drilling, conventional sediment coring, pressure coring, downhole logging, and analytical activities to assess the geologic occurrence, regional context, and characteristics of gas hydrate deposits offshore of India.

Although it is possible to produce natural gas from gas hydrates, there are substantial technical challenges, depending on the location and type of formation.

"The results from this expedition mark a critical step forward to understanding the energy resource potential of gas hydrates," said USGS Senior Scientist Tim Collett, who participated in the expedition. "The discovery of what we believe to be several of the largest and most concentrated gas hydrate accumulations yet found in the world will yield the geologic and engineering data needed to better understand the geologic controls on the occurrence of gas hydrate in nature and to assess the technologies needed to safely produce gas hydrates."

The international team of scientists was led by the Oil and Natural Gas Corporation Limited of India on behalf of the Ministry of Petroleum and Natural Gas India, in cooperation with USGS, the Japanese Drilling Company, and the Japan Agency for Marine-Earth Science and Technology. In addition, USGS is working closely with the National Institute of Advanced Industrial Science and Technology Japan on the analysis of pressure core samples collected from sand reservoirs with high gas hydrate concentrations. USGS has a globally recognized research program studying natural gas hydrates in deepwater and permafrost settings worldwide. USGS researchers focus on the potential of gas hydrates as an energy resource, the effect of climate change on gas hydrates, and seafloor stability issues.

Read more about the study and other USGS energy research here: *http://woodshole.er.usgs.gov/project-pages/hydrates/*

Dive Your Park!

SCUBA is an Important Tool for Managing NPS Resources

Many NPS coastal parks are underwater. For example, 95 percent of Biscayne National Park in South Florida is underwater; therefore, park managers and scientists use SCUBA diving to get firsthand understanding of these resources to effectively manage them. This is helpful for a variety of missions, including natural and cultural resource condition assessments, scientific studies, invasive species management, restoration activities, maintenance projects, and law enforcement. During 2015, 20 park divers collectively logged 1,228 dives completed in support of various park missions. These dives account for 39,473 minutes spent underwater; if all that work was done by one person, that person would have spent almost an entire month underwater!

Learn about NPS Submerged Resources Center: *https://www.nps.gov/subjects/underwater/index.htm*

Follow NPS Submerged Resources Center on Facebook: *https://www.facebook.com/National-Park-Service-Submerged-Resources-Center-106606389416924/*

SCUBA divers working at Biscayne National Park. Photo credits: NPS

Understanding Benefits from Carbon Storage

Partnering with the Nisqually Indian Tribe

By Mike Murray (USFWS)

The U.S. Fish and Wildlife Service (USFWS) and Nisqually Indian Tribe have restored 902 acres of tidally influenced coastal marsh in the Nisqually River Delta (NRD), making it the largest estuary-restoration project in the Pacific Northwest to date. Marsh restoration increases the capacity of the estuary to support a diversity of wildlife species. Restoration also increases carbon production of marsh plant communities that support food webs for wildlife and can help mitigate climate change through long-term carbon storage in marsh soils.

In order to better understand the benefits of carbon for wetland wildlife and storage in the NRD, in 2015 an interdisciplinary team of USGS researchers began scientific work to advance our ability to determine marsh ecosystem carbon balance and understand wildlife benefits and carbon storage from restored and natural coastal marshes in the NRD.

Messy work! Walking through the thick mud can be exhausting. This researcher takes a break on some solid ground. Photo credit: Mike Murray, USFWS

Learn more about the USGS project: *http://www.werc.usgs.gov/ProjectSubWebPage.aspx?SubWebPageID=1&ProjectID=277*

Read Fact Sheet 2016–3042: *http://dx.doi.org/10.3133/fs20163042*

Walking across the wetland to get out to the study site. The mud came up to the researchers' hips in some parts of the muddy wetland, making it extremely difficult to get out. Plus, they had to get through the mud carrying all the gear they would need for the day. Photo credit: Mike Murray, USFWS

Historic NRDAR Settlement Reached for *Deepwater Horizon* Spill

By Nanciann Regalado (DOI)

On April 20, 2010, the *Deepwater Horizon* oil rig blew up and was consumed by fire. Eleven men died and many others were injured. For 87 days the well spewed oil—a total of 134 million gallons were released into the Gulf of Mexico. Ultimately, more than 43,000 square miles of the Gulf and its shoreline were oiled. The *Deepwater Horizon* oil spill was the worst environmental disaster in our Nation's history. *See related story, page 12.*

As the volume of oil released grew, and the inevitability of widespread injury and death of wildlife became apparent, many people worried whether or not those responsible for the spill would be held accountable. On April 4, 2016, District Judge Carl Barbier approved a settlement for $20.8 billion and effectively ended almost 6 years of litigation over British Petroleum's (BP) responsibility for civil penalties and future litigation for natural resource damages arising from the 2010 *Deepwater Horizon* oil spill. The settlement included provisions for the largest recovery of natural resource damages ever approved for injuries to natural resources.

Under the settlement, BP will pay the Natural Resource Damage Assessment and Restoration (NRDAR) Trustees (five Gulf States and four Federal agencies) as much as $8.8 billion for restoration to address natural resource injuries. The settlement includes the following:

- $1 billion already committed during early restoration.
- $7.1 billion for restoration over 15+ years, beginning in April 2017.
- As much as an additional $700 million to respond to natural resource damages unknown at the time of the agreement, provide for adaptive management, or both.

The settlement also provides an additional $5.5 billion in funding from Clean Water Act civil penalties. As required by legislation adopted after the spill only 20 percent of those penalties will go directly to the Oil Spill Liability Trust Fund. In accordance with the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States (RESTORE) Act, 80 percent or $4.4 billion will be sent directly to a fund specifically established to support the environmental and economic restoration of the Gulf of Mexico. The remainder of the $20.8 billion total of the settlement includes claims under the False Claims Act, royalties and reimbursement of natural resource damage assessment costs, and other expenses due to the incident.

The USFWS and NPS played a critical role in assessing injuries to Federal lands and other natural resources that were caused by the *Deepwater Horizon* oil spill. They not only assessed injury to the Refuges and national parks all along the Gulf coast but also assessed injury to migratory birds, threatened and endangered species, some jurisdictional fish, and natural resource services, such as recreational use of Federal lands.

Other parts of the *Deepwater Horizon* oil spill injury assessment were completed by our fellow Trustees; for example, the NOAA assessed the spill's effects on the water column, deep sea environment, and marine mammals. Together, the Trustees undertook an ecosystem-based approach to assessing and restoring the natural resources injured by the spill.

The injury assessment shaped the restoration plan approved by the Trustees in March 2016. The "Programmatic Damage Assessment and Restoration Plan and Programmatic Environmental Impact Statement" provides a framework for future restoration strategies, plans, and projects. It identifies five restoration goals: restore and conserve habitat; restore water quality; replenish and protect living coastal and marine resources; provide and enhance recreational opportunities; and provide for monitoring, adaptive management, and administrative oversight to support restoration implementation. The programmatic plan also identifies 13 restoration types that will address the injury experienced by the Gulf's natural resources: wetlands, coastal, and nearshore habitats; habitat projects on federally managed lands; nutrient reduction; water quality; fish and water column invertebrates; sturgeon; submerged aquatic vegetation; oysters; sea turtles; marine mammals; birds; mesophotic and benthic (low light and ocean floor) communities; and provide and enhance recreational opportunities.

The *Deepwater Horizon* oil spill settlement is bringing an unprecedented amount of restoration funding to the Gulf of Mexico. For the NRDAR funds, the schedule for payment extends across more than 15 years. There will be much work to do and much to learn over the next two decades. We look forward to sharing our successes and lessons learned.

Read more: *https://www.doi.gov/restoration/historic-nrdar-settlement-reached-deepwater-horizon-spill*

Illustration credit: Cole Goco

The *New Carissa* Oil Spill—Restored from Environmental Disaster

By Elizabeth Materna (USFWS)

During a major winter storm in 1999, the freighter *New Carissa* ran aground on a beach near Coos Bay, Oregon. The vessel spilled 140,000 gallons of heavy fuel oil and created one of the worst ecological disasters in Oregon's history—killing an estimated 2,875 seabirds and 40 different types of shorebirds, including 262 threatened marbled murrelets (*Brachyramphus marmoratus*) and several threatened western snowy plovers (*Charadrius alexandrinus*).

Although the oil spill was a natural resource disaster, it created a legacy of restoration in its wake. Working closely with the other Federal and State agencies and two tribes, USFWS developed a suite of projects to restore species and habitats affected by the spill. *See related story, page 11*.

The largest project involves the purchase and management of 4,300 acres of coastal forest for nesting marbled murrelets. Other projects include:

- Monitoring colonies of nesting seabirds for predators in order to trap and remove problem individuals.

Shorebirds return to the Ni-les'tun unit in Oregon. Photo credit: USFWS

New Carissa oil spill. Photo credit: USFWS

An oiled murre killed by the *New Carissa* oil spill. Photo credit: USFWS

- Purchasing predator-proof trash cans to help control predators near seabird colonies along with signage to inform people that leaving trash can lead to increased mortality of chicks.
- Creating a smartphone app to teach Oregon coast beachgoers about nesting seabirds.
- Producing 60 interpretive panels to be placed at State parks and waysides along the Oregon coast to teach people about seabird biology, conservation, and the need to leave nesting colonies undisturbed.
- Restoring 400 acres of tidal marsh at Bandon Marsh Refuge.
- Restoring 30 acres of coastal dune habitat for nesting Western Snowy Plovers.

Thanks to this multiagency effort led by USFWS, devastating effects from the *New Carissa* oil spill have been lessened by a suite of projects designed to restore habitat, protect nesting seabirds, and educate the public about marine resources along the Oregon coast.

Historic Anchor Discovered During the Decommissioning of an Oil and Gas Platform

By Christopher Horrell (BSEE)

The trawl vessel was dragging the seafloor during the final stages of decommissioning an oil and gas platform in the Gulf of Mexico. It was a routine mission in 70 feet of water depth about 40 nautical miles off the coast of Louisiana—part of a comprehensive effort to fulfill the platform operator's legal requirement to bring the leased parcel of seafloor back to prelease conditions. Dragging the bottom usually results in the retrieval of sections of pipe, bumper tires, and random pieces of metal, but during one of the net pulls, something unusual was spotted: an historic anchor from the age of sail.

The next step should have been to cease operations and notify the DOI's Bureau of Safety and Environmental Enforcement (BSEE). Specifically, the Federal regulation instructs those who "discover any archaeological resource while conducting operations in the lease or right-of-way area" to "immediately halt operations within the area of the discovery and report the discovery to the BSEE Regional Director." Instead, the anchor was brought to Port Fourchon, Louisiana, where the operator's company representative contacted his supervisor, who then claimed the anchor for his private collection, displaying it beside his backyard pool.

Time had definitely left its mark on the anchor, although it was pretty well intact after many years beneath the water's surface. What the boss may not have known, however, is that iron submerged in seawater will come to a stable equilibrium over time. Once anything iron is removed from the marine environment and begins to dry out, the chlorides from the seawater that have permeated the iron structure will start to expand. At that

See Historic Anchor page 13

Historic Anchor continued from page 12

point rapid deterioration begins. For this reason, archaeologists typically keep metal artifacts such as anchors submerged in seawater tanks until conservation efforts can begin.

In compliance with U.S. regulations, the platform operator filed a report listing the variety of items retrieved by the trawler, including the anchor. BSEE's Historic Preservation Program within the Office of Environmental Compliance was called, and an archaeologist at BSEE asked for a photo of the anchor and its current location. The photo confirmed an unusual find, possibly from the 19th century, but it would have been very unlikely that a ship of that era would have laid anchor 40 miles offshore in 70 feet of water. It was more likely to be evidence of a dire situation at sea more than 200 years ago, possibly a shipwreck. The anchor appeared to be an early 19th century Admiralty Anchor.

By listing the anchor, the operator avoided a variety of more serious violations, but the find was not handled in accordance with Federal regulations. The platform operator responded immediately once the violations were pointed out. An Incident of Noncompliance—BSEE's version of a citation—was issued along with a Corrective Action Order. The order required the operator to provide funds for the transportation, conservation, and long-term curation of the anchor. Additionally, the operator was ordered to complete a high-resolution remote sensing survey using a magnetometer, side-scan sound navigation and ranging (sonar), and subbottom profiler to identify any other remains of a potential shipwreck at the site.

Time was the enemy; deterioration had begun.

BSEE needed to find the best organization to restore and preserve the anchor. The operator, in coordination with BSEE, put together a conservation and curation plan for the anchor. BSEE's

Conservation of the historic anchor should have begun with its discovery during decommissioning operations. (*A*) and (*B*) The anchor was inappropriately transported to a private residence and began to deteriorate. (*C*) Dr. John Bratten and his students from UWF worked to conserve the anchor. (*D*) Through conservation, the name R. Flinn and a number appear on the crown and shaft of the anchor. Photo credits: John Bratten (Univ. of West Florida) and Christopher Horrell (BSEE)

Historic Preservation Program worked with the operator and the University of West Florida's (UWF) Archaeology Institute. The anchor, it was decided, should become the permanent property of UWF, where it would receive proper treatment and be used as a teaching tool for students.

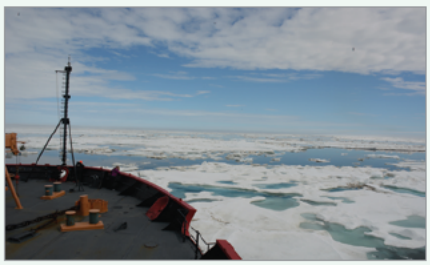
During the conservation process, as decades of fouling were carefully removed, the name R. Flinn was discovered on the crown of the anchor. After completing historical research, UWF maritime archaeologist Dr. John Bratten and his students discovered that Robert Flinn manufactured chains and anchors in England up until 1826. We now knew the anchor was well over a century-and-a-half old, dating to a time that was somewhere around the War of 1812. *See related story, page 16.*

In addition, several promising targets of a potential shipwreck were identified during the high-resolution remote sensing survey. BSEE archeologist and scientists, who are members of the Seafloor Compliance Monitoring Assessment Program and the BSEE Scientific Diving Program, mobilized to investigate the targets. Nothing of interest was located, so BSEE determined that the anchor was an isolated find and that a shipwreck was not present in the area where the trawling activities had occurred.

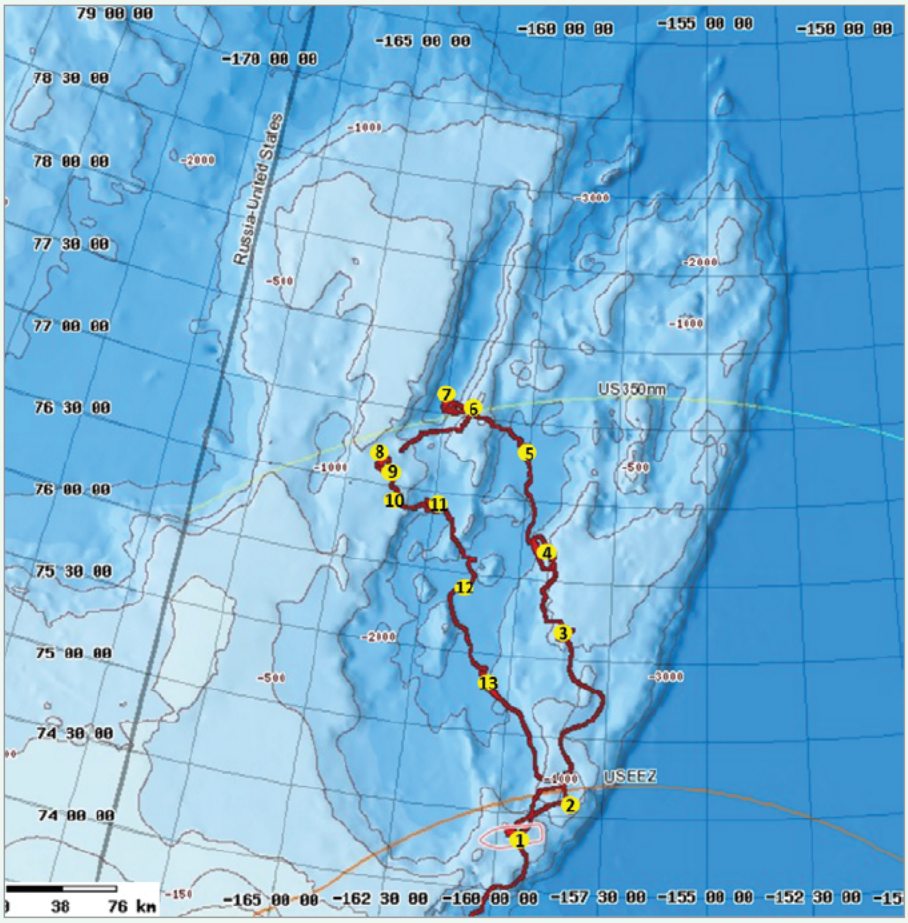
While the anchor tells the story of continued human use of the sea and connects us across the centuries, the story of the Flinn anchor also has raised awareness about preserving marine artifacts because other anchors have been reported since that event. It seems like offshore industry is now more aware of their responsibility to stop working when they encounter a marine artifact. That's good news.

What to do if you find historic maritime artifacts: *https://www.bsee.gov/sites/bsee.gov/files/research-guidance-manuals-or-best-practices/fact-sheet/guidance.pdf*

Hidden Ocean 2016—Arctic Science Discovery



Above: Kate Segarra, an oceanographer for BOEM, was aboard the *Healy* in the Arctic Ocean for 40 days this summer. The view of the ice-covered Chukchi from the deck of the *Healy*. Photo credits: Kate Segarra, BOEM



At right: This map displays all 13 stations visited and sampled in the Chukchi Borderlands during the Hidden Ocean 2016 expedition. Image credit: Katrin Iken, UAF, and The Hidden Ocean 2016: Chukchi Borderlands

By Kate Segarra (BOEM)

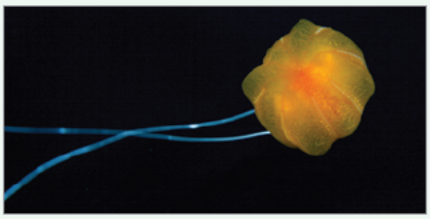
This summer, I had the opportunity to sail aboard the U.S. Coast Guard Cutter *Healy* as part of the Hidden Ocean 2016, a NOAA-led expedition from Seward, Alaska, north into the Chukchi Sea. In the Chukchi Borderlands, water masses from the Pacific, Atlantic, and Arctic Oceans converge over an area of complex bathymetry. The primary focus of the Hidden Ocean 2016 was to explore this rapidly changing and poorly understood ecosystem. The science party was led by chief scientists, Dr. Russ Hopcroft and Dr. Katrin Iken, of the University of Alaska Fairbanks (UAF). Using both traditional oceanographic methods (such as nets, CTD package, and box cores) and a remotely operated vehicle (ROV) equipped with ultrahigh-resolution video camera, known as 4K, the science party explored the pelagic and benthic biodiversity of the Chukchi Borderlands. The study subjects ranged from the microbial communities within sea ice to the polar bears that hunt upon it. The science party also included a seabird surveyor from USFWS, Elizabeth Labunski. As expedition coordinator for the cruise, I served as a liaison for NOAA's Office of Ocean Exploration and Research during the expedition. I worked very closely with the science party to track mission progress and communicate detailed updates to our colleagues back on shore.

The Arctic is warming at a rate around twice that of the global average (*see related story, page 6*). In the weeks leading up to the cruise, data suggested that 2016 was on track to set the record for the lowest Arctic sea ice extent. Now that the melt season is over, 2012 still holds that title; 2016 tied for second with 2007 since records began in 1979. It's a depressing statistic, especially when one sees how critical sea ice is to these ecosystems; however, low sea ice does not mean no sea ice. Although there was a great deal of open water during our expedition, there were also plenty of patches of thick ice in the Chukchi. One ice floe was so thick (more than 4 meters in some places) that it took the *Healy* almost 4 days to break its way out of it.

While I was detailed on assignment with the NOAA for this cruise, the *Healy* experience will certainly enhance my work as an oceanographer for the BOEM. I have a new perspective on the Arctic research

A juvenile walrus swims up for a closer look at the *Healy*. Photo credit: Kate Segarra, BOEM

This is one of several (less than 10) polar bears observed during the expedition. Photo credit: Kate Segarra, BOEM



This is an undescribed ctenophore photographed in the water column by the ROV. Photo credit: The Hidden Ocean 2016: Chukchi Borderlands and Oceaneering-Deep Sea Systems International

completed through our Environmental Studies Program; for example, Hanna Shoal is an ecologically important region on the Chukchi Plateau and described as a "walrus hotspot" in many environmental assessment documents. As we came upon Hanna Shoal in the faint light of the midnight sun, I saw what I thought were patches of dirty ice on the horizon. As we came closer, I realized those patches were walrus. There were at least 100 walrus in this one small area where they forage on the bountiful clam beds below. There were many similar examples of sightings and experiences, which brought life to textbooks and policy papers I'd previously read.

I understand now how, after the failure of the *Endurance* expedition and more than 1 year stuck in the ice, Shackleton returned to Antarctica for more. Not only is there a rhythmic zen to ship life, but the sense of discovery and adventure of this cruise was intoxicating. In just a few short weeks, the expedition collected at least six jellyfish and ctenophores that may represent new species. Of course "new" is a bit of a misnomer—these graceful animals were around long before human existence. The correct taxonomic term is "undescribed." It will take members of the science party months to years to write the species description papers. It's funny to think how these strange creatures are still floating out there, waiting to be announced to the rest of the world. These and other discoveries from this cruise will greatly improve the understanding of this underexplored region. The Hidden Ocean 2016 will also serve as a comparison for past and future surveys of the region to allow scientists to examine how the ecosystem is changing over time, and whether or not climate change is a predominant factor.

We left the last of the Chukchi Sea ice behind around 01:00 on August 4. Forty days on a ship seemed like a long time before we left Seward in early July. But, as we transited back south at the end of the cruise and I watched the last few lone pieces of sea ice floating in the twilight, I wished we could turn around and do it all over again. I guess I'll have to wait until the next Arctic adventure.

To learn more about the Hidden Ocean 2016 Expedition, please visit: *http://oceanexplorer.noaa.gov/explorations/16arctic/welcome.html*

New Arctic Fish Species Inventory

USGS and BOEM recently released a report describing 109 marine fish species from the Chukchi and Beaufort Seas. Twenty of the fish species are newly confirmed, and the inventory includes 104 new descriptions that include distribution maps and life cycles.

The report summarizes the natural history of the species and discusses adaptations and limitations of fish populations in the Arctic. The information in the report will be used by BOEM, who requested the research carried out by USGS and the University of California, Santa Barbara, to evaluate potential environmental effects of oil and gas development offshore. Natural resource managers can also use the research to identify high-priority marine fish species to help guide future research, management, conservation, and environmental policy.

Keeping in mind the native and indigenous peoples of the Arctic, the report includes Inupiat names for the marine fish species. Salmon, whitefish, and char are used for subsistence and are key species for food security of Native Alaskan communities.

Read the report, "Alaska Arctic Marine Fish Ecology Catalog: Beaufort and Chukchi Seas," here: *https://pubs.er.usgs.gov/publication/sir20165038*

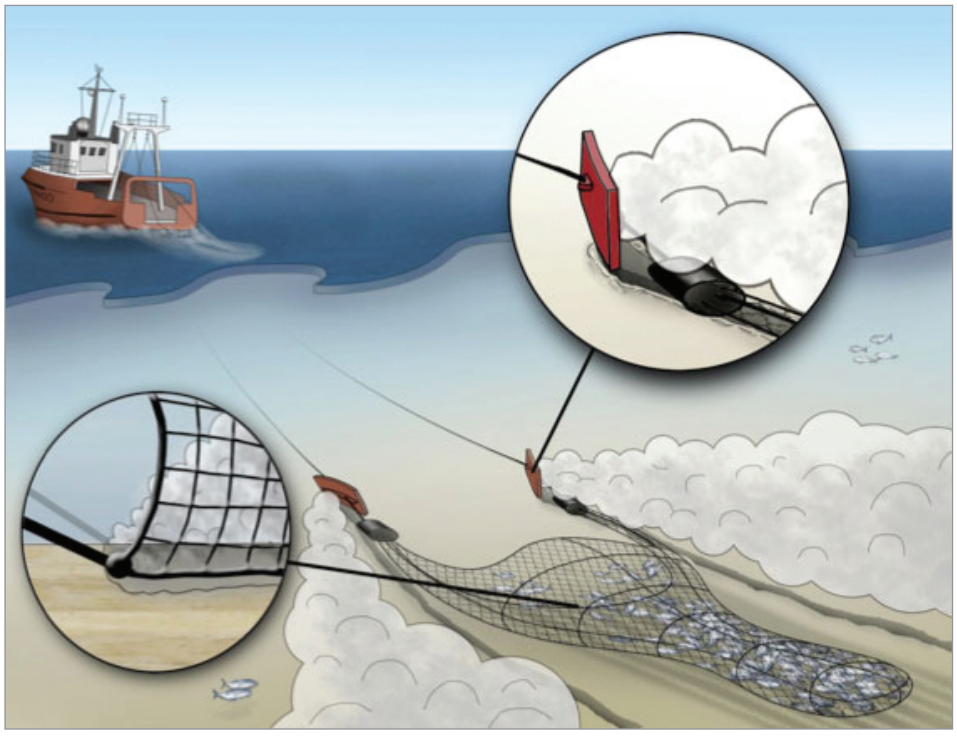
The report study area in the U.S. Chukchi and Beaufort Seas. The U.S. Exclusive Economic Zone is in red, and areas of interest for oil and gas are in yellow. Image credit: USGS

USGS Researchers Study the Effects of Trawling on Sediment Resuspension

The fishing industry commonly uses trawling, a practice where large nets with metal doors and chains are dragged over the seafloor to catch fish. Because the equipment comes into direct contact with the seafloor, great environmental damage can be done (including removing seafloor dwelling marine life and resuspending sediment). Sediment in the water column can change the chemistry of the water (including nutrient levels), reduce light levels, and lower photosynthesis in plants. The resuspended sediment can be washed away by ocean currents, either deposited elsewhere on the shelf or in deeper waters and lost to the local environment. Removing sediment and changing the seafloor to rock removes habitat and lowers the diversity of life located within the seabed. Scientists have studied how bottom trawling can hurt the marine environment, especially the effects on corals, sponges, fishes, and other animals; however, little research has been done on the effects of bottom trawling on the seabed itself. *See related story, page 12*.

While the seabed had been previously labeled as "trawled" or "untrawled" in studies, USGS researchers have developed a new method for calculating bottom-trawling-induced sediment resuspension, which allows for a range of classifications according to how often the seafloor was disturbed by bottom trawling. This new method of calculation provides a new tool for seafloor management and can help assess effects from bottom trawling. The researchers calculated how much sediment from the seafloor was resuspended during bottom trawling and determined the amount was about the same as the amount of sediment rivers deposit on the continental shelf (almost 22 gigatons).

Read the full article here: *http://www.sciencedirect.com/science/article/pii/S0924796315002328*

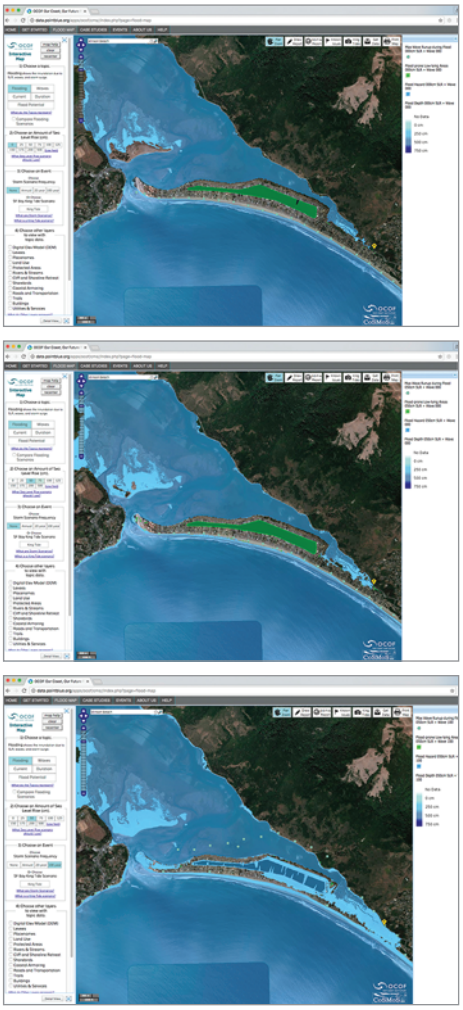


Conceptual drawing of bottom trawling from a fishing boat, showing a net and metal plate being dragged along the seafloor behind a boat on the water's surface. Image credit: Ferdinand Oberle

Helping Communities Understand Future Coastal Hazards

By Juliette Finzi Hart (USGS)

With the stunning beauty of our coastline throughout the United States and its territories, it's no surprise that many people want to live along the coast. This coastal living, however, comes with vulnerability to impacts from



Examples of projections from the OCOF viewer for Stinson Beach in San Francisco for daily conditions for a day in October 2016 (top), daily conditions plus 50 centimeters of sea level rise-expected by about mid-century (center), and a 100-year (or 1 percent) storm with 50 centimeters of sea-level rise (bottom). These projections demonstrate how neglecting to plan for storm impacts could lead to a substantial underestimation of risk along the coast. Image credits: OCOF, CoSMoS Model Results Product Suite

See Help for Coastal Hazards page 17

Help for Coastal Hazards continued from page 16

natural hazards, such as hurricanes, winter storms, tsunamis, and erosion of beaches and coastal cliffs. Climate change will intensify these hazards. Even today, many coastal communities along the east coast are experiencing increased nuisance flooding—also referred to as sunny-day flooding—in which streets and infrastructure flood simply because of high tides or windy days. This flooding has been exacerbated in recent decades by sea-level rise. U.S. coastal communities look to expertise from USGS to provide cutting-edge projections of natural hazard impacts today and into the future.

On the west coast of the United States, the USGS Pacific Coastal and Marine Science Center's Coastal Processes Team, led by Patrick Barnard and a group of 10 modelers, geologists, engineers, and oceanographers, has developed the Coastal Storm Modeling System (CoSMoS, *http://walrus.wr.usgs.gov/coastal_processes/cosmos/*) to help the 20 million residents of California coastal communities understand their vulnerabilities from storms and sea-level rise. CoSMoS is a state-of-the-art modeling system that models all the relevant physics of a coastal storm (for example, tides, waves, and storm surge), which are then scaled down to local flood projections. Rather than relying on historic storm records, CoSMoS uses wind and pressure from global climate models to project coastal storms under changing climatic conditions. Projections of multiple storm scenarios (daily conditions, annual storm, 20-year and 100-year return intervals) are provided under a suite of sea-level rise scenarios ranging from 0 to 2 meters, along with a catastrophic 5-meter scenario. This allows users to manage and meet their own planning horizons and specify degrees of risk tolerance.

To ensure that the modeling results meet the needs of the coastal communities it serves, the USGS has been working with a diverse group of partners and stakeholders to support the development of climate change impact plans through the Our Coast, Our Future (OCOF) program (*http://ourcoastourfuture.org*). The OCOF is a partnership among USGS, Point Blue Conservation Science, Greater Farallones National Marine Sanctuary, NOAA's Office for Coastal Management, National Estuarine Research Reserve System, Bay Area Ecosystems Climate Change Consortium, NPS, and Ecosystem-Based Management Tools Network. By working closely with Point Blue Conservation Science to develop the OCOF website and flood map, USGS is delivering tools and information that can inform California coastal communities about managing coastal flooding risks across the California coast. The OCOF web resources provide a user-friendly format in which coastal professionals and stakeholders are able to access and use information from the CoSMoS model for short- and long-term climate change planning.

Patrick Barnard (right) discusses some of the initial projections for Venice and Marina del Rey with City of Los Angeles planning officials at a recent AdaptLA meeting, cosponsored by the City of Santa Monica and USC Sea Grant Program. Photo credit: Holly Rindge

To date, OCOF has directly served 14 San Francisco Bay Area communities/counties by supporting climate adaptation planning projects. Both CoSMoS and OCOF are recognized as leading tools and sources of information for short- and long-term planning by California State agencies, such as the California State Coastal Conservancy, California Coastal Commission, California DOT, and California's Office of Emergency Services. The CoSMoS results are also being used by researchers at University of California, Berkeley and other local universities to identify vulnerability at finer scales for use by planners, emergency personnel, and natural-resource managers.

Earlier this year, the CoSMoS team was honored with the 2016 Point Blue Outstanding Partner Award. Accepting on behalf of the CoSMoS team, Barnard noted, "Working with Point Blue and all of our partners throughout the S.F. Bay Area has helped our group better understand what kind of information coastal communities need to prepare for natural hazards today and with climate change. We are honored to have received this tremendous accolade from Point Blue Conservation Science."

In 2014, the CoSMoS team began developing projections for southern California, from Santa Barbara to the United States/Mexico border. Results from this modeling will be released in fall 2016. Following the OCOF example from northern California, the CoSMoS team has established partners throughout southern California, such as the University of Southern California's (USC) Sea Grant Program, AdaptLA, and San Diego Regional Climate Collaborative, to engage coastal communities and fine-tune model projections and products to meet their needs. New work along the central coast of California will begin in winter 2017, which will lead to methodologically consistent coverage of nearly all the California coastline.

River Herring Return to Saugatucket River

By Samantha Spiece (DOI)

For the first time in decades, during the 2016 spring migration, tens of thousands of river herring were able to migrate up Rhode Island's Saugatucket River without the help of humans lifting them over a dam.

River herring are born in freshwater ponds and lakes and then swim out to sea where they spend years growing to adulthood before returning to their birthplace to spawn. Unfortunately, for many years, river herring migration routes have been blocked along the Saugatucket River, where dams and mills stop the natural follow of water, serving as barriers between river herring and the freshwater lakes they need to reproduce. Over time, disruptions in migration have drastically reduced river herring populations. This is unfortunate for other species, such as otters, ospreys, and striped bass that rely on river herring as a primary food source.

One way to restore the food chain and bring back the fish is to help fish get around the barriers by building fish ladders. Settlement funds from the 1996 North Cape oil spill off South Kingstown combined with financing through a host of Federal, State, and private partnerships provided $772,000 to improve fish passage at the three barriers. USFWS staff from Fish and Aquatic Conservation (Bryan Sojkowski), Wildlife and Sport Fish Restoration (Colleen Sculley), and Ecological Services (Molly Sperduto) collaborated to provide technical assistance and funding for the effort. The new fish ladders make it easier for the river herring to navigate their way from the ocean to these important inland breeding areas.

For more information: *http://ripr.org/post/fishways-improved-along-saugatucket-river-wakefield*

http://www.providencejournal.com/news/20160520/south-kingstown-fish-ladder-helps-herring-return-to-spawning-grounds

https://www.fws.gov/ecological-services/highlights/06132016.html

http://www.dem.ri.gov/news/2016/pr/0516161.htm

This educational sign at the Main Street fish ladder in Wakefield, Rhode Island, illustrates how fish ladders work to connect fish habitats that are bisected by dam structures. Photo credit: NOAA

Hughesville Dam Removal—Improving the Environment and Human Safety

By Cathy Marion (USFWS)

On September 8, 2016, DOI Secretary Sally Jewell joined Federal, State, and local partners to celebrate the $1.5 million Hughesville Dam removal project on the Musconetcong River in Warren and Hunterdon Counties, New Jersey. Located 3.5 miles upstream from the confluence with the Delaware River, the Hughesville Dam—18 feet tall and 150 feet wide—was built in 1889 to generate hydropower for local paper production but has not been in operation since 1999.

Secretary Jewell's visit was organized to highlight efforts by the Obama administration to work with local governments and private dam owners to remove obsolete dams. Functioning dams are intended to store and divert water, processes that can provide humans with benefits, such as drinking water, hydropower, irrigation, and flood control. However, the vast majority of dams in the United States are aging and obsolete, no longer serving the purpose that they were built to provide decades or centuries ago.

The cost of repairing and maintaining obsolete dams can be substantial and is often more expensive than removal. Additionally, the environmental costs of dams are high. Dams fundamentally alter rivers by blocking and slowing the flow of water, and they degrade water quality by increasing water temperature, increasing nutrients and algal blooms, and retaining sediments and environmental contaminants. Many fish and other aquatic species are sensitive to the habitat changes caused by dams. As a result, we often see decreases in resident fishes in dammed rivers and decreases in migratory fishes that are physically blocked from their historic spawning and rearing grounds. The

See Hughesville Dam Removal page 19

Hughesville Dam Removal continued from page 18

Secretary Jewell visited the Hughesville Dam removal site in September 2016. Photo credit: Tami A. Heilemann, DOI

Hughesville Dam removal will permanently open up 9 river miles of habitat for migratory fish species, such as American eel, American shad, and river herring, and will generally improve water quality and habitat conditions for numerous resident fish species.

In addition to ecological benefits, the Hughesville Dam removal will help ensure the safety and well-being of people living in nearby communities by reducing the risk of flooding. It is projected that the Hughesville Dam removal has the potential to reduce local flood events by 1 to nearly 10 feet. Furthermore, the removal will improve water quality for humans and wildlife; reduce drowning risks associated with low-head dam hydraulics; and improve fishing, boating, and other recreational activities.

The Hughesville Dam will be the fifth dam removed on the Musconetcong River. The removals are part of a larger partner-based effort to restore the 42-mile Musconetcong River—designated as a "Wild and Scenic River"—to a free-flowing state. Funding for the Hughesville Dam removal comes from settlement funds under the Natural Resources Damage Assessment and Restoration Program for the Combe Fill South Landfill Superfund Site and Federal funds from the Hurricane Sandy Disaster Relief Appropriations Act of 2013.

National Parks for Marine Science Education

By Gary Bremen (NPS)

One of Biscayne National Park's main goals for celebrating the Centennial of the NPS was to more fully integrate the agency's resources into marine science classrooms nationwide. Park staff worked to increase the agency's presence at the National Marine Educators Association's annual conference where some 500 teachers, aquarium staffs, and informal educators from parks and nature centers gather each summer. The effort started at 2015's conference in Newport, Rhode Island, with a small sponsorship and grew considerably when NPS became a major sponsor of the 2016 conference in Orlando with financial support from the NPS's Water Resources Division and logistical support from the Ocean and Coastal Resources Branch.

Staff from four national parks attended the conference and presented on topics like climate change, invasive species, citizen science light monitoring in sea turtle nesting areas, and sex underwater. Park volunteers staffed a booth sharing information about the 88 ocean, Great Lakes and coastal parks. A conference highlight was the keynote Stegner Lecture, which annually features an inspirational closing to 3 days of concurrent sessions. This year's lecture used storytelling and music to highlight some of the many reasons national parks matter—not simply for protecting wildlife, scenery, and history, but also for building bonds of connection among families and friends. A nighttime field trip to Canaveral National Seashore was almost rained out, but those who went got to witness five turtles coming ashore to nest.

The centennial is nearly over, but the groundwork for future participation is set. Other projects generated at the conference are in the works, including

NPS Park Rangers told compelling stories and even played live music on the theme of "why parks matter" as part of the annual Stegner Lecture. Photo credit: Gary Bremen, NPS

Biscayne National Park volunteers staffed a booth to share information about opportunities in the 88 ocean, Great Lakes, and coastal parks. Photo credit: NPS

one with elementary schools, universities, and national parks in Florida and the Netherlands to release data-gathering miniboats that circumnavigate the Atlantic Ocean, and participation in the 2016 Youth Ocean Conservation Summit (held on December 10, 2016, *http://youth-oceanconservationsummit.weebly.com/2016-summit.html*) included not only the summit itself but also follow-up field trips to Biscayne National Park in the spring of 2017.

Chesapeake Bay Science

The Chesapeake Bay is our Nation's largest estuary with an enormous watershed extending from New York to Virginia. The continued restoration and protection of this national resource is a priority for designated Federal and State agencies and non-governmental stakeholders through the Chesapeake Bay Program (CBP). Given the ecologic and economic importance of the Chesapeake Bay, in 2009, President Obama issued an Executive Order for increased Federal leadership to restore and protect the Bay and its watershed.

The Chesapeake Bay watershed spans six States and the District of Columbia. Image credit: EPA

DOI is an important partner in this effort, with USGS and USFWS providing resource science and management guidance. The USGS has the critical role of providing scientific information for improved understanding and management of the Bay ecosystem and working with Federal, State, and academic science partners to provide research, assessment, monitoring, and modeling. *See related story, page 21.*

USGS Chesapeake Bay science activities are grouped under four major topics:

- Land and Climate Change—Forecast and assess impacts of climate and land-use change.
- Water Quality—Assess and explain water-quality conditions and change.
- Fish, Wildlife, and Habitats—Document the status and change of the health of fish, wildlife, and critical habitats.
- Decision Support—Promote adaptive management and decision support to enhance ecosystem management.

Intersex Fish Characteristics are Linked to Water Quality

USGS fish biologist, Vicki Blazer, brought her team to the Shenandoah River in Front Royal, Virginia, to collect and study smallmouth bass (*Micropterus dolomieu*), a species in which intersex characteristics have been linked to chemical contaminants in the Chesapeake Bay region.

Intersex conditions occur when exposure to chemicals disrupts the hormonal systems of an animal, leading to the presence of both male and female characteristics in an animal that should exhibit the characteristics of just one sex in its lifetime. In the case of smallmouth bass, male intersex fish are found with immature eggs in their testes, which indicates exposure to estrogenic and antiandrogenic chemicals.

"The sources of estrogenic chemicals are most likely complex mixtures from both agricultural sources, such as animal wastes, pesticides and herbicides, and human sources from wastewater treatment plant effluent and other sewage discharges," says Blazer, who first discovered intersex characteristics in fish while studying fish kills in the South Branch of the Potomac River and the Shenandoah River.

Science Seminar on Nutrients and Suspended Sediment Loads

USGS scientist Doug Moyer delivered the seminar, "Nitrogen, Phosphorus and Suspended Sediment Loads and Trends Measured at the Chesapeake Bay Non-Tidal Network Stations," as part of the University of Maryland's Center for Environmental Science Integration and Application Network (IAN) Seminar Series.

You can tune into the University of Maryland's Center for Environmental Science IAN Seminar Series and find Doug Moyer's presentation here: *http://ian.umces.edu/seminarseries/seminar/117/usgs_watershed_monitoring_results_2016-02-25/*

The goal of the IAN Seminar Series is to provide concise, thought-provoking ideas related to Chesapeake Bay science and management. Short presentations (less than 15 minutes) are immediately followed by a lunchtime discussion of the presentation. Each discussion is summarized and posted along with a PDF version of the seminar slides. The seminars also are captured on video and posted under a Creative Commons license so they can be freely shared.

Learn more about Chesapeake Bay science:

http://chesapeake.usgs.gov/

http://www.chesapeakebay.net/

https://www.whitehouse.gov/the-press-office/executive-order-chesapeake-bay-protection-and-restoration

The Choptank River flows past Dover Bridge in Easton, Maryland, on June 18, 2010. This aerial view shows a large stretch of the river lined by trees, wetlands, and farms. Photo credit: Matt Rath, CBP

Watch the Video—Bay 101: Intersex Fish

Watch here: *http://www.chesapeakebay.net/videos/clip/bay_101_intersex_fish*.

Video credit: Chesapeake Bay Program

Restoring Wetlands on Agricultural Lands within the Chesapeake Watershed

By Jennifer Greiner (USFWS)

Healthy wetlands are vital to a healthy Chesapeake Bay. Located where land meets water, wetlands trap polluted runoff and slow the flow of nutrients, sediment, and chemical contaminants into rivers, streams and the Bay. By soaking up storm water and dampening storm surges, wetlands slow the erosion of shorelines and protect properties from floods. Wetlands also provide critical habitat for fish, birds, mammals, and invertebrates, and support recreational fishing and hunting across the watershed. Land purchases and conservation easements can protect wetland habitat. The removal of invasive species—like phragmites, purple loosestrife, or nutria—can help rehabilitate degraded wetlands.

Between 2010 and 2014, 6,191 acres of wetlands were established, rehabilitated, or reestablished on agricultural lands in the Chesapeake Bay watershed.

In 2014, the CBP adopted a goal to create or reestablish 85,000 acres of tidal and nontidal wetlands by 2025. This goal is based on the wetland restoration targets outlined in the Watershed Implementation Plans that will help jurisdictions meet the goals of the Bay's "pollution diet," or total maximum daily load. Under this target, 83,000 acres of tidal and nontidal wetlands should be created or reestablished on agricultural lands. So far, just more than 7 percent of the goal has been achieved for the wetlands on agricultural lands. *See related story, page 20.*

Read more: *http://www.chesapeakebay.net/indicators/indicator/restoring_wetlands*

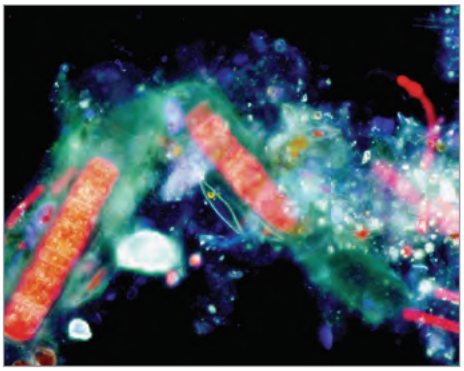
Microscopic Organisms of the Everglades

By Barry H. Rosen (USGS)

A new report, "Catalog of Microscopic Organisms of the Everglades Part 1: The Cyanobacteria," is part 1 in a series that describes microscopic organisms identified in the shallow wetland areas of the Everglades. The first report describes the cyanobacteria and includes a suite of images with the most current taxonomic treatment of each taxon. Most of the images are of live organisms, allowing their true color to be represented. A number of newly discovered species are illustrated that have not been described before.

The resource will be helpful to other researchers looking at these organisms in subtropical wetlands worldwide. It is anticipated that these images will facilitate current and future ecological studies on the Everglades, such as understanding food-web dynamics, sediment formation and accumulation, the effects of nutrients and flow, and climate change—all of which are needed to effectively manage water resources in the region. *See related story, page 7.*

Read the report: *http://dx.doi.org/10.3133/ofr20161114*



At left: Microphotograph of *Schizothrix* from Water Conservation Area 3A/B in the Everglades, Florida. The living cells are illuminated with ultraviolet epifluorescence microscopy; pigments in the cells glow pinkish lavender, and the mucilaginous sheath material is blue, indicating the presence of calcium carbonate. **At right:** Calcium-rich sediments (marls) are illuminated using ultraviolet epifluorescence microscopy in this microphotograph of a sample from Water Conservation Area 3A/B in the Everglades, Florida. Photo credits: Barry H. Rosen, USGS

Transfer of Submerged Lands to CNMI

By Randy Bowman (DOI)

USCRTF co-chairs Lori Faeth (DOI), left, and Eileen Sobeck (NOAA), far right, with Governor Ralph Deleon Guerrero Torres (CNMI) after the signing of the agreement on September 22, 2016, in CNMI. Photo credit: Erica Wales, DOI

After the business meeting of the USCRTF in Saipan on September 22, 2016, co-chairs Lori Faeth (DOI) and Eileen Sobeck (NOAA) signed on behalf of their agencies an agreement with Governor Ralph Deleon Guerrero Torres of the Commonwealth of the Northern Mariana Islands (CNMI) for the coordination of resource management on submerged lands within the Islands Unit of the Marianas Trench Marine National Monument, the next-to-last step in the process of transferring those submerged lands to CNMI's jurisdiction. *See related story, page 22.*

Read the press release: *https://www.doi.gov/news/pressreleases/us-to-convey-title-for-submerged-lands-to-commonwealth-of-the-northern-mariana-islands*

DOI Experts Join International Coral Reefs Community in Hawai'i

By Amy West (USGS)

For a coral reef symposium that happens just once every 4 years, Oahu, Hawai'i, is also the site for a variety of research done by USGS and other DOI partners.

The 13th International Coral Reef Symposium (ICRS), which has been held in the United States only three times during its four decades of existence, drew the largest attendance of any previous symposium—nearly 2,500 attendees representing 90 countries. Participants included a mix of coral reef scientists, resource managers, policy personnel, and even makeup manufacturers and heads of island nations. Topics of talks and posters ranged from potential damage to reefs by sunscreens, to how communities manage their coastal areas, to the threats from bleaching, viruses, and pollution.

USGS scientist Curt Storlazzi explained that the meeting "twenty years ago was all science," and now it includes policy, management, and even social media. "There was clearly a shift," said USGS scientist Christina Kellogg, who noticed the difference from the ICRS meeting held in Florida just 8 years ago. For instance, "microbiology was a minor component of it in 2008," said Kellogg. "But this meeting was crammed with microbiology!"

Several scientific field trips associated with the conference allowed attendees the chance to dive into some "science in action." Storlazzi, along with colleagues from Hawai'i's Department of Aquatic Resources, the University of Hawai'i, and NOAA, co-led a 3-day, 4-night field trip titled, "Managing Maui's MPA's from Watersheds to Co-Management" along West Maui. The participants included scientists, professors and students.

During a scientific field trip associated with the 13th International Coral Reef Symposium, tour participants used SCUBA to explore the north side of Molokini Crater near Maui, HI to observe the area where a large coral bleaching event occurred during the El Niño event of 2015–16. Photo credit: Curt Storlazzi, USGS

They visited Olowalu, a place the USGS determined to be a vital source of coral larvae for West Maui and adjacent islands in Hawai'i. Locals used USGS science to protect this important reef from a large proposed development project. Then the group dove in one of Hawai'i's oldest marine protected areas at Molokini to witness the effect of 2015–16 coral bleaching, which hit Olowalu as well. The tour also visited coral researchers at the island's aquarium: the Maui Ocean Center. The final visit to two sites that have been areas of concern for the U.S. Coral Reef Task Force (USCRTF)—Honolua Bay and Kahekili, both now State of Hawai'i marine protected areas—focused on the deleterious effects on corals from detrimental land-use activities.

Members of DOI played a prominent role in this coral reef meeting. USGS scientists chaired several meeting sessions; scientists from other DOI bureaus, such as NPS and USFWS, also participated by giving talks or chairing science sessions. As it was also the 10th anniversary of the Papahānaumokuākea Marine National Monument (*http://www.papahanaumokuakea.gov/*), managed by both USFWS and NOAA, the meeting helped highlight the threats to these coral ecosystems and benefits in protecting them. *See related story, page 1.*

Hafa Adai! from the Mariana Islands

News from the U.S. Coral Reef Task Force

By Cheryl Fossani (DOI)

In September 2016, the USCRTF held its 36th meeting in the Mariana Islands. This meeting brought together stakeholders and partners to address diverse issues affecting the health of coral reefs in several watersheds in Guam and the Northern Mariana Islands and the communities that rely on them. Governor Torres of the Commonwealth of the Northern Mariana Islands opened the meeting with remarks welcoming the USCRTF to Saipan and expressing the importance of the partnerships formed and accomplishments made through the efforts of the USCRTF. USCRTF Co-Chairs Lori Faeth, DOI's Deputy Assistant Secretary for Policy and International Affairs, and Eileen Sobeck, Assistant Administrator for NOAA National Marine Fisheries Service, also provided remarks about 2016 being a benchmark year for ocean and coral reef conservation.

With more than 200 registered participants, this year's USCRTF meeting was a great success! During the business meeting, the USCRTF heard several presentations that highlighted regional watershed management and coral reef conservation and restoration efforts, as well as coral reef challenges that pose threats on a global scale. Dr. David Burdick, from the Guam Coral Reef Monitoring Program, Dr. Peter Houk, from the University of Guam, and Mr. Marlowe Sabater, from the Western Pacific Regional Fisheries Management Council, informed the USCRTF of the status of coral reefs in the region; and Dr. Charles Birkeland, from the University of Hawai'i, gave a presentation about the future that coral reefs face with climate change and changes in ocean chemistry.

Members of the USCRTF at the business meeting in Guam. Photo credit: Trevor Boykin, University of Guam Sea Grant Program

Bamboo is an invasive species in Guam and causes problems for watersheds, including flooding when the clumps of bamboo fall and dam the river. Watershed workshop participants visited the Manell-Geus watershed and saw firsthand the issue of invasive bamboo and how Guam is working to find solutions to remove the invasive species. Photo credit: Erica Wales, DOI

U.S. Coral Reef Task Force Co-chairs Lori Faeth (DOI) and Eileen Sobeck (NOAA) are accompanied by staff during a visit to the War in the Pacific National Historical Park. Photo credit: Erica Wales, DOI

This year's USCRTF meeting included several site visits and workshops to address coral reef conservation issues specific to the northern Pacific Islands. The USCRTF Watershed Working Group convened a workshop that highlighted issues and management practices associated with sedimentation and stormwater runoff. Coral reefs ecosystems in the Pacific Islands are heavily impacted by sedimentation from many sources, including unpaved roads, unstable stream banks, and large areas of bare ground. During the Watershed Workshop, experts shared presentations and led discussions that focused on successful sediment control strategies and how they can be used locally to help stabilize sediments along stream banks and already entrained in stream channels. After the workshop, participants visited the Manell-Geus watershed to witness the challenges contributing to sedimentation and the mitigation projects currently underway. *See related story, page 22.*

While visiting, Lori Faeth met with National Park Superintendents, USFWS Refuge Managers, and staff, and toured the War in the Pacific National Historical Park and the Guam Wildlife Refuge. This visit offered an opportunity to discuss the local issues affecting coral reef health and how these conservation sites are working to manage and mitigate those issues.

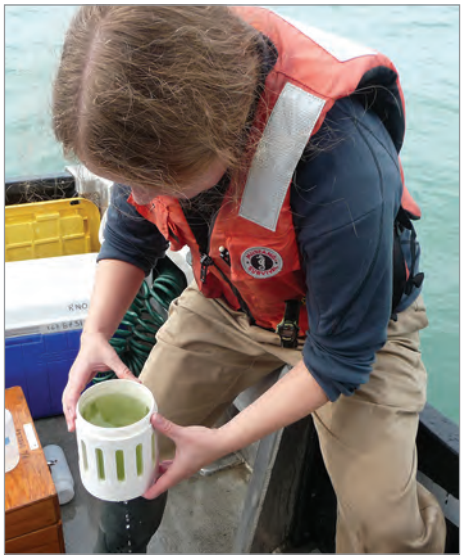
Learn more: *http://www.coralreef.gov/*

Collaboratives in the Great Lakes Basin—Joining Forces for a Collective Impact

By Josh Miller (USGS)

The Great Lakes ecosystem is divided by an international boundary, eight State boundaries, Tribal and First-Nations lands and jurisdictions, and countless local government boundaries. Though still a productive and stunningly beautiful ecosystem, the region has undergone dramatic changes in the past 200 years as a result of an industrial economy, urbanization, invasive species, and commercial fishing. The complexity of jurisdictions, provision of substantial ecosystem services to innumerable stakeholders (such as the $7 billion fishery), and history of environmental change have made for an extremely challenging system for coastal, nearshore, and offshore natural resource managers.

USGS scientists in the Great Lakes region help managers address large-scale, challenging issues by providing Federal leadership in drawing partners together across jurisdictions and connecting science to management. The USGS Great Lakes Science Center has done this in recent years by establishing formal "collaboratives" that bring together scientists and managers from public, private, and academic sectors on both sides of the international border. These collaboratives rest upon the key elements of "collective impact" as identified by John Kania and Mark Kramer in 2011. The collective impact approach emerged as a method for addressing complex societal problems like childhood obesity, education reform, and restoration of urban watersheds in contrast to "isolated impact," where one actor seeks to solve a complex problem alone or in competition with others. The Great Lakes collaboratives have been built



Dr. Mary Anne Evans, USGS limnologist and algal ecologist, studies the ecology of HABs in the shallow, western basin of Lake Erie and other Great Lakes bays. These HABs have gained increasing attention across the basin in recent years. The issue requires collaboration across vast areas because it spans from farm fields and urbanized landscapes to coastal and open-water ecosystems. Photo credit: Josh Miller, USGS

to address highly complex, natural resource management issues.

One of the issues in the region is the management and prevention of the spread of invasive *Phragmites australis*, or common reed, in coastal and inland wetlands. In partnership with the Great Lakes Commission (a binational and inter-State organization that is the crucial backbone-support role for all the Great Lakes collaborations), the USGS established the Great Lakes Phragmites Collaborative (*http://greatlakesphragmites.net/*), which draws together land managers from across the Great Lakes basin who are combating the invasive plant. The goal is to generate more coordinated, efficient, and strategic approaches to research, management, and restoration across the numerous boundaries within the Great Lakes basin. The binational collaborative serves as a communication conduit to facilitate access to information and resources, encourage technology transfer, and build networks among land managers, governmental agencies, academic institutions, and private landowners.

This fall, the collaborative started the Phragmites Adaptive Management Framework, which will connect land managers and scientists across the basin, to facilitate a shift in management strategy that will, over time, refine and improve best management practices for controlling invasive *Phragmites australis* in a suite of site conditions throughout the Great Lakes basin. Watch a video on the Phragmites Adaptive Management Framework available on YouTube: *https://youtu.be/UCHpKGaZN_M*

A second large-scale, complex societal issue in the region is the reemergence of harmful algal blooms (HABs) in some nearshore areas and bays in the Great Lakes basin. These HABs, which can be toxic to wildlife, pets, and humans, are increasingly affecting coastal communities and their economies by fouling beaches, inhibiting recreational uses, and threatening

Dr. Kurt Kowalski, a USGS plant ecologist, studies the biology, ecology, and approaches to management of invasive *Phragmites australis*. The invasive plant can reach high densities and enormous heights, substantially affecting the value of wetlands and shoreline property. Collaboration among land owners and managers is critical. Photo credit: USGS

See Great Lakes page 29

Great Lakes continued from page 28

public safety. In August 2014, an HAB in Lake Erie's western basin caused local officials to issue a temporary "do not drink the water" advisory for the municipal water supply to more than 400,000 residents of Toledo, Ohio.

That same year, USGS helped to form the Great Lakes HABs Collaboratory. The collaboratory seeks to create a collective laboratory ("co-laboratory") that enables science-based information sharing among scientists and between scientists and decisions makers working on HABs in the Great Lakes. The collaboratory also provides a network for developing a mutual understanding of current science and science needs, strategies for transferring technology, and opportunities for receiving feedback from managers.

The collaborative approach has proven to be an effective means of drawing together scientists and managers at multiple scales to address complex coastal, nearshore, and offshore issues that cross jurisdictions and compromise the resilience of coastal communities. In 2014, Secretary Sally Jewell awarded the St. Clair-Detroit River System Initiative the prestigious Partners in Conservation award. This initiative began as the Huron-Erie Corridor Initiative, working to address fish habitat impairments under the Great Lakes Water Quality Agreement, and has grown into a vast group of Federal, State, local, Tribal, provincial, First Nations, private, non-profit, and academic stakeholders with a shared vision statement and common agenda, restoring a major, bi-national connecting channel and world-class river. The collaborative and collective impact approach is beginning to work its way from the Great Lakes region across the Nation among USGS and partner agencies and organizations, connecting science to management to address complex issues related to natural resources.

Learn more online:

The USGS Great Lakes Science Center Web site: *http://www.glsc.usgs.gov/*

St. Clair-Detroit River System: *http://scdrs.org/wp-content/uploads/2016/01/SCDRS-FactSheet-Final-1.6.16.pdf*

Great Lakes Commission: *http://glc.org/*

Great Lakes HABs Collaboratory: *http://glc.org/projects/water-quality/habs/*

Learn more about collective impact: *http://ssir.org/articles/entry/collective_impact*

Read more: *https://www.usgs.gov/news/huron-erie-corridor-initiative-partners-receive-prestigious-secretary-interior-honor*

In 2014, Secretary Sally Jewell (center) presented the prestigious Partners in Conservation award to the partners of the Huron-Erie Corridor Initiative (subsequently renamed the St. Clair-Detroit River System Initiative). Photo credit: DOI

BOEM's Marine Archaeology Role

The 50th Anniversary of the National Historic Preservation Act

By Melanie Damour (BOEM)

BOEM celebrates the 50th anniversary of the National Historic Preservation Act (NHPA) in October and highlights its Historic Preservation program in the July/August/September 2016 issue of their quarterly journal, "BOEM Ocean Science."

BOEM, as a regulatory agency with jurisdiction in Federal waters of the U.S. OCS, is responsible for oversight of conventional and renewable energy development and marine minerals extraction while complying with Federal laws enacted to protect the environment.

Part of BOEM's responsibility, as mandated by the NHPA, is to properly consider the potential impacts of BOEM-permitted activities on cultural resources, including historic shipwrecks, submerged indigenous archaeological sites, and Traditional Cultural Properties. BOEM's Environmental Studies Program (ESP), initiated in 1973 under Section 20 of the OCS Lands Act (1953), acquires the scientific information needed to inform BOEM's decision making. Through the ESP, BOEM has funded more than $14 million toward cultural resource-related studies across all its OCS regions (Atlantic, Gulf of Mexico, Pacific, and Alaska). Regional inventory studies completed in the 1970s and 1980s formed the cornerstone of BOEM's Historic Preservation Program. Recent and ongoing studies continue to inform the program's best management practices for cultural resource management on the OCS. Several of these key cultural resources studies are highlighted in the new issue of "BOEM Ocean Science." *http://www.boem.gov/Ocean-Science/*

"Monumental" Changes in Ocean Protection

By Lauren Wenzel (NOAA)

In August 2016, just before the world's conservation leaders met in Hawai'i for the World Conservation Congress (WCC), President Obama announced the increase of the Papahānaumokuākea Marine National Monument. The expansion was motivated by a desire to increase the resilience of marine life to climate impacts, as was the creation of the new Northeast Canyons and Seamounts Monument off the Atlantic coast in September. *See related stories, page 1.*

The United States now has 26 percent of its waters (from 0 to 200 nautical miles) protected through MPAs. These include not only special places far offshore like Papahānamokuākea, but also the many national parks, refuges, marine sanctuaries, and similar State-managed programs that protect marine life across the country. Joining many other coastal countries, the United States has pledged to protect 10 percent of its oceans (including coastal waters and the Great Lakes) in MPAs to conserve marine biodiversity. Although the spatial part of this target has been met, challenges remain.

First, many scientists believe that the 10 percent target is not enough to protect biodiversity, leading to a resolution at the WCC calling for protection of 30 percent of the world's ocean. Also, science-based global targets emphasize that MPAs should be organized into well-managed, ecologically connected networks. Networks allow for marine species to move through different habitats they need at different life stages. They can also increase the "spillover" of young and adults of fished species into adjacent areas where fishermen can benefit. But ecological networks are still a fairly new idea in the United States, best seen in California's statewide network of MPAs. Second, MPA networks must be well managed to achieve their goals, including having management plans and consistent resources to implement them. Many MPA programs are increasingly partnering with outside organizations to help bring additional resources to support activities, such as education, monitoring, and research.

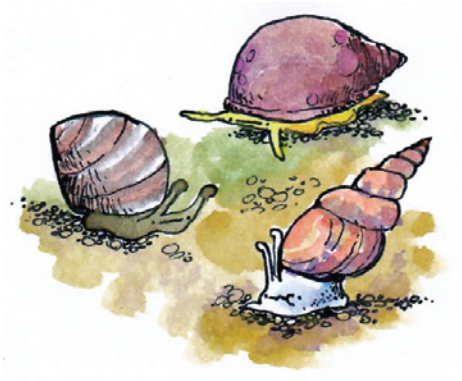


Illustration credit: Cole Goco

The Marine Protected Areas Federal Advisory Committee is currently working on two sets of recommendations to address these issues. One report will focus on how MPA managers can apply tools and guidelines to incorporate spatial ecological connectivity when managing existing MPAs and when designing new MPA networks. The second report outlines options for tapping into external sources of funding for MPA management, including grants, corporate donations, and other sources. Both sets of recommendations were completed in December 2016.

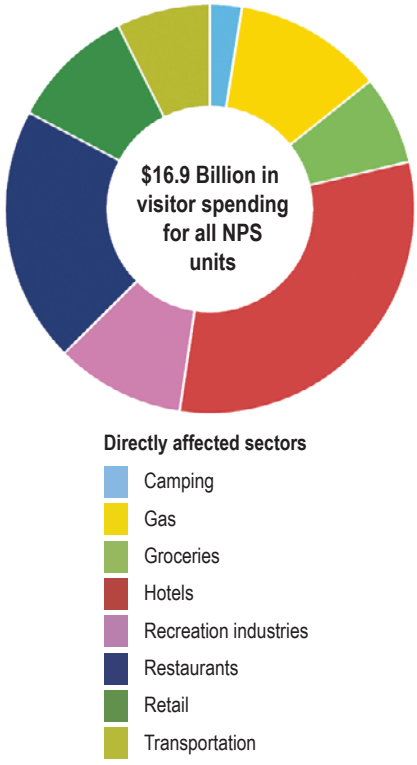
Read about the Papahānaumokuākea expansion: *http://www.papahanaumokuakea.gov/news/expansion_announcement.html*

Read about the status of MPAs: *http://marineprotectedareas.noaa.gov/about-mpas/status-of-usa-mpas-2016.html*
WCC resolution: *https://portals.iucn.org/congress/motion/053*
California's MPA network: *https://www.wildlife.ca.gov/conservation/marine/mpas/network*
The Marine Protected Areas Federal Advisory Committee: *http://marineprotectedareas.noaa.gov/fac/*

Our Valuable Ocean and Coastal Parks

In June 2016, NPS published the annual Economic Report for 2015. In 2015, park visitors spent an estimated $16.9 billion in local gateway regions while visiting NPS lands across the country. These expenditures supported a total of 295,300 jobs, $11.1 billion in labor income, $18.4 billion in value added, and $32 billion in economic output in the national economy. Learn more about park visitor spending effects: *https://www.nps.gov/subjects/socialscience/vse.htm*
For our 88 OGLC parks, this benefit translates to:

- Visitor spending: $5,026,054
- Jobs: 72,237
- Visits: 89,212,379



NPS visitor spending in 2015.
Image credit: NPS

Illustration credit: Cole Goco

Enhancing Exchange across the Ocean, Great Lakes and Coastal Team

By Liza Johnson (DOI)

In June 2016, after nearly 6 years working together to implement the National Ocean Policy, representatives from DOI's OGLC offices and bureaus met in Shepherdstown, West Virginia, for a strategic planning workshop. The group welcomed new team members from across DOI and included people from almost all regions and with different types of expertise, ranging from managers and policy experts to scientists and communicators. They gathered to celebrate accomplishments, talk about coordinating priorities and activities, and begin developing a strategy for OGLC work going forward into the next 5 years. DOI's previous Principal Deputy Assistant Secretary, Kris Sarri, gave opening remarks and underscored the importance of developing a strategy for a coordinated effort to implement OGLC actions through internal and external partnerships. Retreat participants left with a renewed sense of vision, commitment, a refreshed network, and great information they will use going forward. The team looks forward to sharing this progress in future issues of *NEWSWAVE*.

BOEM's July/August/September 2016 issue.
See related stories, pages 12 and 25.

It takes a large group to coordinate the diverse ocean, Great Lakes and coastal (OGLC) activities across the DOI. These are most of the participants from the workshop who represent many more across the nation contributing to DOI's blue portfolio. Photo credit: Susan Goodwin, DOI

Regional Contacts

DOI leadership supports State-led regional ocean partnerships (ROPs), as well as Federal-State-Tribal marine planning partnerships called regional planning bodies (RPBs). Five geographic regions now have operational RPBs: Northeast, Mid-Atlantic, Caribbean, the Pacific Islands and the West Coast.

Alaska/Arctic

Jim Kendall (BOEM)
(Alaska)

Caribbean

Sherri Fields (NPS)
(Puerto Rico, U.S. Virgin Islands)
ROP: *http://caribbean-mp.org/en/*

Great Lakes

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Charlie Wooley (USFWS)
(Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, Wisconsin)
Great Lakes Research Initiative: *http://www.epa.gov/glnpo/glri/*
ROP: *http://www.cglg.org/*

Gulf of Maine

Walter Barnhardt (USGS)
(Maine, New Hampshire, Massachusetts, New Brunswick, Nova Scotia)
ROP: *http://www.gulfofmaine.org/2/*

Gulf of Mexico

Linda Walker (USFWS)
(Alabama, Florida, Louisiana, Mississippi, Texas)
ROP: *http://www.gulfofmexicoalliance.org*

Mid-Atlantic

Bob LaBelle (BOEM)
Leann Bullin (BOEM)
(New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia)
RPB: *http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body/*
ROP: *http://midatlanticocean.org*

Northeast

Bob LaBelle (BOEM)
Leann Bullin (BOEM)
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RPB: *http://neoceanplanning.org/*
ROP: *http://northeastoceancouncil.org/*

Pacific Islands

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RPB: *http://www.PacificIslandsRPB.org*

South Atlantic

Eric Strom (USGS)
(North Carolina, South Carolina, Georgia, Florida)
ROP: *http://southatlanticalliance.org/*

West Coast

Joan Barminski (BOEM)
(California, Washington, Oregon)
RPB: *http://www.westcoastmarineplanning.org*
ROP: *http://www.westcoastoceans.org*

Illustration credit: Cole Goco

The Surfing Bison

Protecting Marine Mammals—A Quick Reference Guide

https://www.fws.gov/international/animals/marine-mammals.html

"Marine Mammal Policy" Fact Sheet:
https://www.fws.gov/international/pdf/factsheet-marine-mammal-policy-2013.pdf

By Erica Wales (DOI)

Marine mammals (whales, dolphins, porpoises, seals, sea lions, walrus, polar bears, sea and marine otters, dugongs, and manatees) may vary in taxa, habitat, and behavior, but they all share one thing in common—dependency on the ocean for survival. These mammals are a balancing factor in marine ecosystems, helping to steady the food chain and control prey populations. Because of habitat loss, by-catch, and exploitation, many of these species are in danger of survival and are legally protected under various U.S. and international laws to aid in their survival. DOI's USFWS and NOAA's National Marine Fisheries Service (NMFS) share responsibility in the protection, conservation, and management of marine mammals. Below are descriptions and links to learn more.

Marine Mammal Protection Act (MMPA)—The MMPA was enacted in 1972 and prohibits, with a few exceptions, the "taking" of marine mammals in U.S. waters and by U.S. citizens on the high seas, as well as the importation of marine mammals or products. A "take" is defined as "to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal." NMFS has jurisdiction over whales, dolphins, porpoises, seals and sea lions, whereas the USFWS has jurisdiction over walrus, polar bears, sea and marine otters, dugongs, and manatees. *https://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/marine-mammal-protection-act.html*

Endangered Species Act (ESA)—The ESA of 1973 protects domestic and international species, and provides a framework to conserve and protect endangered and threatened species and the habitats upon which those species depend. Under the ESA, it is illegal to take (defined under the ESA as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct"), import, export, sell or offer to sell, and possess or transport listed species. Like the MMPA, NMFS has jurisdiction over whales, dolphins, porpoises, seals, and sea lions, whereas USFWS has jurisdiction over walrus, polar bears, sea and marine otters, dugongs, and manatees. *https://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/endangered-species-act.html*

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)—The CITES treaty came into effect in 1975 and has the purpose of ensuring the survival of plants and animals is not threatened by international trade. USFWS is responsible for carrying out the provisions of this convention for all marine mammals protected under CITES (which includes whales, dolphins, porpoises, manatees, dugongs, seals, otters, walrus, and polar bears). *https://www.fws.gov/international/cites/index.html*

Photos from top to bottom:
- Polar bear cubs. Photo credit: USGS
- An endangered Hawaiian monk seal in Papahānaumokuākea Marine National Monument. Photo credit: Mark Sullivan
- Walrus on ice. Photo credit: Joel Garlich-Miller, USFWS
- Sea otters. Photo credit: Kristine Sowl, USFWS

From: Johnson, Liza
To: Ann (USGS) Tihansky; Erica Wales; Liza M Johnson
Subject: Interior"s NEWSWAVE Fall 2016/Winter 2017 issue
Date: Friday, January 13, 2017 1:39:23 PM
Attachments: NEWSWAVE_Fall2016_Winter2017-4web.pdf

Dear *NEWSWAVE* Subscribers:

We are pleased to share our Fall 2016/Winter 2017 issue.

In this issue:

- DOI's Blue Portfolio
- The recent expansion of Papahanaumokuakea Marine National Monument and the first marine monument in the Atlantic,
- The Nation's first regional ocean plans,
- National Park Service's Centennial celebrations,
- The discovery of an historic anchor
- Continued progress on Everglades Ecosystem Restoration, and
- Chesapeake Bay science

Our special feature is an article about Arctic research cruise, Hidden Ocean 2016, as seen through the eyes of BOEM oceanographer Kate Segarra. Read about her science mission at the top of the world.

The **Surfing Bison** feature explores how DOI protects marine mammals. Through the Marine Mammal Protection Act, the Endangered Species Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the USFWS helps protect a variety of marine mammals.

Come explore and learn with us.

Another great way to keep up with Interior's ocean, Great Lakes, and coastal activities on a daily basis is through our Facebook page. We follow all Facebook pages available for each of the 88 ocean and coastal National Park units, 180 ocean and coastal National Wildlife refuges, Bureau of Land Management's coastal monuments, and the science conducted by USGS and the Bureau of Ocean Energy Management. Visit and 'like' us today!

https://www.facebook.com/USInterioroceanscoastsgreatlakes

We hope you enjoy this issue and will share it widely. It is both attached here and available on-line: http://www.doi.gov/pmb/ocean/news/Newswave/index.cfm

Sincerely,

Ann, Erica and Liza

--

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NEWSWAVE

NEWS FROM THE U.S. DEPARTMENT OF THE INTERIOR: OCEAN, GREAT LAKES AND COASTS

NEWSWAVE*—Winner of NAGC's 2015 Blue Pencil Award** ***Fall 2016/Winter 2017

DOI's blue portfolio includes many diverse coastal and submarine resources. Photo credit: Susan White, USFWS

First U.S. Marine National Monument in Atlantic

See it as You've Never Seen it Before!

By Ann Tihansky (USGS) and Erica Wales (DOI)

On September 15, 2016, President Obama designated the first Marine National Monument in the Atlantic Ocean on the first day of the 3rd "Our Ocean" Conference. The Northeast Canyons and Seamounts Marine National Monument will protect 4,913 square miles of fragile deep-sea ecosystems off the coast of Cape Cod National Seashore. By protecting this striking underwater landscape of mountains and canyons, critical ecosystems for deep-sea coral and

See Northeast Monument page 3

DOI's Blue Portfolio

The Department of the Interior's (DOI) blue portfolio and stewardship responsibilities for ocean and coastal resources have recently increased with President Obama signing a proclamation expanding the Papahānaumokuākea Marine National Monument (*see related story, page 1*) and designating the first marine national monument in the Atlantic Ocean. While the Papahānaumokuākea Marine National Monument is one of the largest marine protected area (MPA) on the planet, the Northeast Canyons and Seamounts Marine National Monument is the first to protect 4,913 square

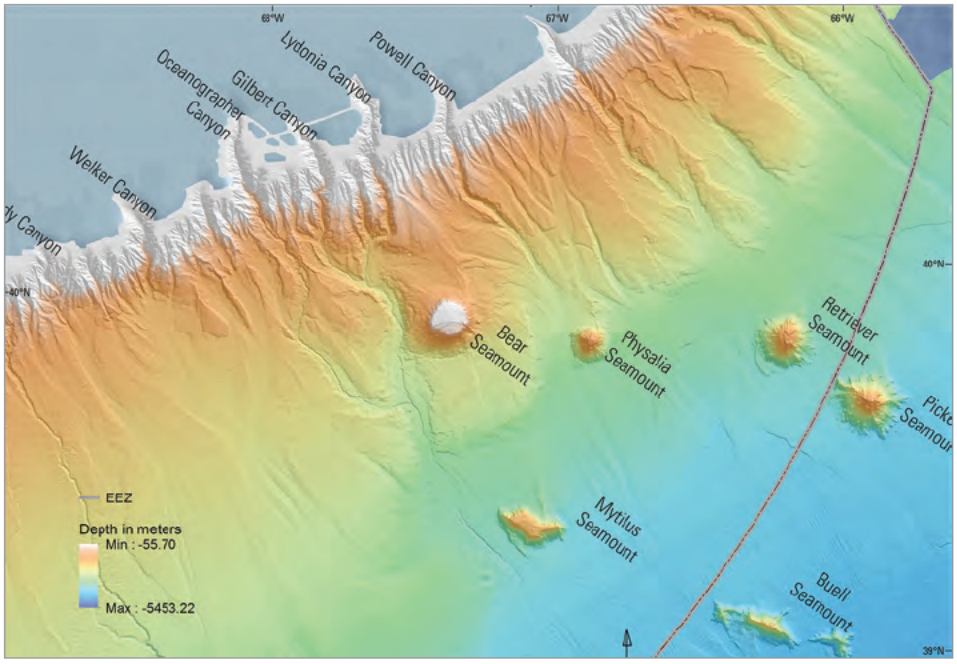
See Portfolio page 3

Expanding Papahānaumokuākea Marine Monument

By Randy Bowman (DOI)

On August 26, 2016, President Obama issued a proclamation under the authority of the Antiquities Act expanding the Papahānaumokuākea Marine National Monument to include 582,578 square miles of land and sea. The designation more than quadruples the size of the existing marine monument, including all the waters and submerged lands within the seaward limit of the U.S. Exclusive Economic Zone west of 163° west longitude. Previously the largest contiguous fully protected

See Expansion page 4



This high-resolution terrain map of the seafloor shows the peaks and valleys of the new Northeast Canyons and Seamounts Marine National Monument. See the plate from USGS Open-File Report 2012–1266: *http://pubs.usgs.gov/of/2012/1266/appendix_2.html*. Image credit: Brian Andrews, USGS

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Contribute to NEWSWAVE!

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Follow Us on Facebook! Science for Coastal Safety

https://www.facebook.com/USInterioroceanscoastsgreatlakes/

The U.S. Geological Survey (USGS) responded to Hurricane Matthew by forecasting coastal change and monitoring it using "before and after" photos.

New low-altitude aerial photos of Southeastern U.S. beaches taken before and after Hurricane Matthew show roads, dunes and structures lost. At left, these "before and after" photos show a new inlet that formed between the Atlantic Ocean and the Matanzas River near St. Augustine, Florida, stripping away a 3.7 meter (12-foot) dune and carrying sand into the estuary. Read more at *https://www.usgs.gov/news/and-after-photos-se-beach-dunes-lost-hurricane-matthew*
Photo credits: Public domain

NEWSWAVE is a quarterly newsletter from the Department of the Interior featuring ocean, Great Lakes and coastal activities across the Bureaus.

Visit us online: *http://www.doi.gov/pmb/ocean/newswave*

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Portfolio continued from page 1

miles of fragile deep-sea ecosystems off the coast of Cape Cod National Seashore (*see related story, page 1*). As one of our Nation's principal stewards for our ocean, Great Lakes and coastal (OGLC) resources, DOI recognizes the vital connection between the health of our Nation's natural resources and human health and economy. DOI's responsibilities continue to grow with expanding our oldest Marine National Monument and adding our Nation's newest Atlantic marine national monument.

DOI's blue portfolio includes more than 35,000 miles of coastline and 34 million acres in 88 marine and coastal National Parks, including many of America's favorite beaches from Cape Cod and Cape Hatteras to the Golden Gate National Recreational Area and beyond to Hawai'i Volcanoes National Park and 756,477,162 acres in marine national monuments and national wildlife refuges in the Pacific alone as of September 2016. We protect 180 marine and coastal national wildlife refuges, 1,100 miles of coastline of the California Coastal National Monument and DOI plays an important role in ensuring safe and responsible energy development in our coastal areas and offshore waters.

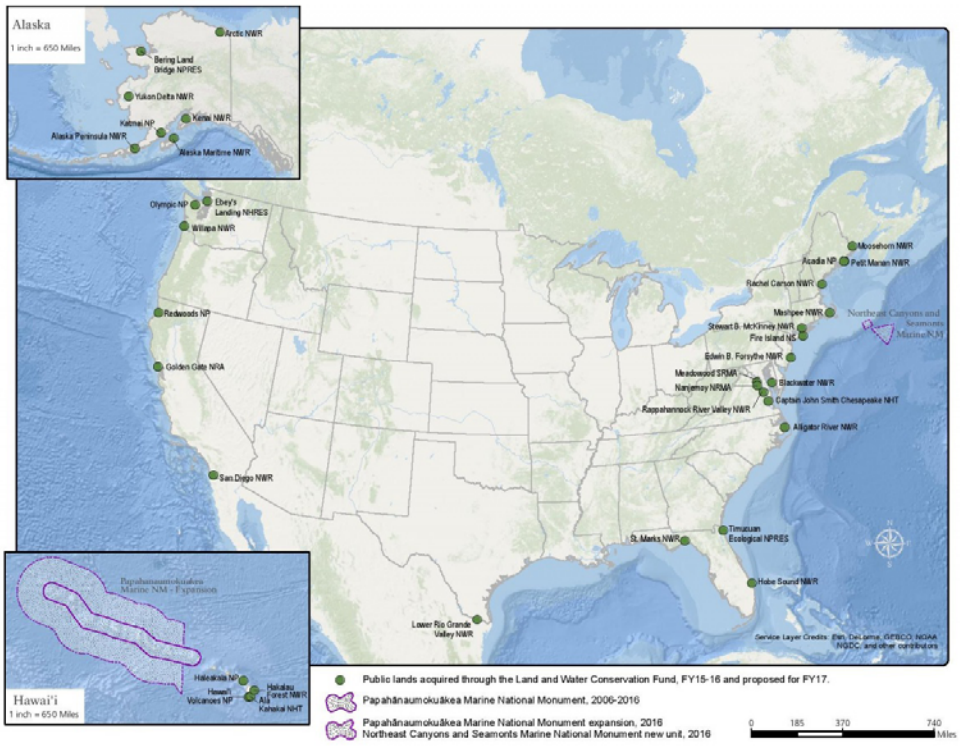
In addition, Interior Bureaus provide robust scientific programs that inform decisions and reduce risk; ensure safe and responsible development of natural, mineral and energy resources; promote healthy and productive ecosystems through informed management and monitoring; protect native species and their habitats; preserve rich cultural and recreational opportunities for the public; and support Tribal, state, regional and local partnerships.

In the past 2 years, the DOI invested more than $50 million from the Land and Water Conservation Fund to acquire and conserve nearly 20,000 acres of critical coastal lands for all Americans to enjoy.

See related story about the DOI's coordinated ocean, Great Lakes and coastal team on page 27.

Read more: *https://www.doi.gov/blog/our-ocean-one-future*

Read more about the DOI's role: *https://www.doi.gov/pmb/ocean/*



This map shows coastal lands and waters conserved by the Obama Administration since 2015. Photo credit: DOI

Northeast Monument continued from page 1

endangered whales and sea turtles are preserved. *See related story, page 1*.

Three of the underwater canyons are deeper than the Grand Canyon and the underwater mountains, known as seamounts, provide habitat for invertebrates like sponges, corals, octopus, skates, crabs and bottom fish like flounder. Seamounts are some of the most biologically diverse habitats on Earth, and the New England seamounts are known to house many rare and endemic species, several of which are new to science and are not known to live anywhere else on Earth. The canyons and seamounts also attract larger open water marine species, such as sea turtles, marine mammals, tuna, billfish, squid, and sharks.

Bathymetric terrain models, showing measurements of water depth, were created with data collected by several agencies; these data were compiled by the USGS Coastal and Marine Geology Program and published as a collaborative effort between USGS, National Oceanic and Atmospheric Administration (NOAA), and University of New Hampshire. Learn more about the USGS Atlantic Margin bathymetry at *http://pubs.usgs.gov/of/2012/1266/title_page.html*

Read the full Presidential Proclamation creating the Monument here: *https://www.whitehouse.gov/the-press-office/2016/09/15/presidential-proclamation-northeast-canyons-and-seamounts-marine*

Watch President Obama give his remarks at the 2016 Our Ocean Conference here: *https://www.whitehouse.gov/photos-and-video/video/2016/09/15/president-obama-delivers-remarks-2016-our-ocean-conference*

The Nation's First Ocean Plans!

By Robert LaBelle (BOEM; Mid-Atlantic RPB Federal Co-Lead) and Betsy Nicholson (NOAA; Northeast RPB Federal Co-Lead)

On December 7, the National Ocean Council finalized the Nation's first ocean plans, taking an historic step toward fulfilling President Obama's commitment to healthy ocean ecosystems and a strong, sustainable marine economy. The two regional plans, the Northeast Ocean Plan and the Mid-Atlantic Ocean Action Plan, promote the use of integrated ocean data and best practices for informed and efficient management of the Nation's shared marine resources.

After years of collaboration among States, Tribes, Federal agencies, and Fishery Management Councils, with input from marine stakeholders, the Northeast Ocean Plan and the Mid-Atlantic Ocean Action Plan build on the data provided in the Northeast and Mid-Atlantic Data Portals, which are publicly accessible and provide new maps and data products. The plans also describe best management practices to guide effective interagency coordination and to ensure that agencies have the data needed to inform planning and environmental review of new activities. This approach is designed to work across all levels of government and to advance economic, environmental, and cultural priorities within each region. The plans are the result of extensive participation from marine stakeholders representing fishing, recreation, energy, transportation, telecommunications, and many other interests. Once implementation begins, the plans will reinforce the commitment to healthy ocean ecosystems and a strong, sustainable marine economy.

Read more:

White House blog: *https://www.whitehouse.gov/blog/2016/12/07/nations-first-ocean-plans*

Northeast Ocean Portal: *https://www.northeastoceandata.org/*

Mid-Atlantic Data Portal: *http://midatlanticocean.org/data-portal/*

Expansion continued from page 1

conservation area in the United States, the expanded boundaries make it one of the largest MPAs on the planet that is nearly the size of the Gulf of Mexico. Read the full proclamation here: *https://www.whitehouse.gov/the-press-office/2016/08/26/presidential-proclamation-papahanaumokuakea-marine-national-monument*

The expansion provides critical protections for more than 7,000 marine species and is also considered a sacred place for the Native Hawaiian community. Important geological features of the expansion area include more than 75 seamounts, as well as a nonvolcanic ridge that extends southwest towards Johnston Atoll. Together, these features form biodiversity hotspots in the open ocean that provide habitat for deep-sea species, including sponges, other invertebrates, fish, and corals—some of which are thousands of years old. Albatrosses (*Diomedea* spp.) and Great Frigatebirds (*Fregata minor*) rely on the expansion area while feeding their chicks, when their foraging is focused within 200 miles of the nesting colonies on the Monument's islands. The expansion area is also a foraging and migration path for five species of protected sea turtles.

Additionally, there are sunken vessels (including the USS *Yorktown*) and downed aircraft from the Battle of Midway in World War II, a battle that marked a major shift in the progress of the war in favor of the Allies, within the expansion area.

On September 1, 2016, the President visited Midway Atoll National Wildlife Refuge (Refuge), within the Monument, to mark the significance of the expansion and tour some of the Monument's resources in person. The President visited the memorial to the Battle of Midway, met with island staff, toured wildlife and plant restoration sites, and observed corals and other marine resources while snorkeling. Read President Obama's full remarks from Turtle Beach here: *https://www.whitehouse.gov/the-press-office/2016/09/01/remarks-president-designation-papahanaumokuakea-marine-national-monument*

The Monument was originally created in 2006 by President George W. Bush and designated as a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site in 2010. Since that time, scientific exploration has revealed new species and deep-sea habitats in the expansion area, as well as important ecological connections between the existing monument and the expansion area. In addition to marine areas, the Monument includes (1) the Midway Atoll Refuge, (2) the eight atolls, reefs, and islands of the Hawaiian Islands Refuge, and (3) Kure Atoll, which is under the jurisdiction of the State of Hawai'i.

DOI Secretary Sally Jewell and Secretary of Commerce Penny Pritzker also announced that the Departments will soon sign an agreement with Hawaii's Department of Natural Resources and Office of Hawaiian Affairs (OHA), strengthening the coordination of management and adding OHA as the fourth Monument co-trustee.

On September 1, 2016, President Obama visited Midway Atoll National Wildlife Refuge where Refuge Manager Robert Peyton provided geographic reference information on the recent Marine National Monument expansion which was followed by a tour of Turtle Beach. Photo credits: Pete Souza, Chief Official White House photographer, Obama Administration

Centennial Celebrations Mark the National Park Service's 100th Birthday!

By Erica Wales (DOI)

Happy 100th birthday NPS! Photo credit: NPS

August 25, 2016, marked the 100th birthday of the National Park Service (NPS). Back in 1916, NPS was created by the "Act to Establish a National Park Service (Organic Act), 1916," giving NPS the duty to promote and regulate parks and monuments in order "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

In honor of the momentous occasion, national parks from around the country and in the Pacific celebrated the centennial in style and opened the parks for free admission August 25–28. Here are a few ways OGLC parks marked the occasion:

- *American Memorial Park, Saipan*—The park held a Day of Service on Saturday, August 27, where more than 300 volunteers from the American Red Cross, schools, AmeriCorps, and the public assisted with park projects. The volunteers removed invasive vines, cleaned debris, painted the parking lot and amphitheater, and beautified the memorials.
- *Cape Cod National Seashore, Massachusetts*—The seashore held a Seashore Science Day on August 25. The day included a "Science Street Fair" in the morning, where visitors could engage in hands-on, interactive presentations by staff, researchers, and interns; and a "Science in the Seashore Symposium" in the afternoon, where the public heard lectures from scientists on topics including seals, ticks and Lyme disease, landscape management, and climate change.

Glacier Bay National Park tribal house dedication. Photo credit: NPS

Touch tank at Cape Cod National Seashore Centennial celebrations. Photo credit: Kekoa Rosehill

- *Everglades and Dry Tortugas National Parks, Florida*—The Everglades National Park celebrated by hosting Sing Across America events to provide musical entertainment and hosted an exhibit, "This Land is Your Land: A Second Century for America's National Parks," which featured images, videos, and artifacts from Florida parks and preserves. Reenactors at Dry Tortugas National Park highlighted daily life at Fort Jefferson during the Civil War area, and guided tours were given of the 110-foot Motor Vessel *Fort Jefferson*, the primary tender vessel of the park.
- *Cabrillo National Monument, California*—The national monument celebrated with an antique vehicle display, lighthouse postcard painting, guided park tours, NPS trivia, tours of the lighthouse tower, and other events to highlight the history of the NPS and the New Point Loma Lighthouse at Cabrillo.
- *Glacier Bay National Park, Alaska*—The park celebrated with a dedication of the Huna Tribal House (Xunaa Shuká Hít), which featured carvings, hand carved dugout canoes, traditional songs and regalia, Tlingit oratory, traditional ceremonies and dances, and the rhythm of drums.

Read the full text of the Act that established the NPS here: *https://www.nps.gov/parkhistory/online_books/anps/anps_1i.htm*

Climate Change Threatening Alaska Coastal Villages

Denali Commission Approves Funding

By Randy Bowman (DOI)

During the first-ever Presidential visit to the U.S. Arctic last fall, President Obama designated the Denali Commission, a Federal Regional development agency, as the lead Federal contact for Alaska Native Villages threatened by erosion, flooding, and other issues resulting from climate change. This was in response to recommendations from the Arctic Executive Steering Committee, established by E.O. 13689 to coordinate Federal Arctic policy, to designate the Commission as the lead contact and similar previous recommendations for a lead agency designation from the Government Accountability Office.

*The Denali Commission is providing $6,650,000 in new funding. Most of this will go to the four most immediately threatened villages—**Newtok, Kivalina, Shaktoolik, and Shismaref**—with slightly more than $1.5 million held as a contingency fund for unexpected developments.*

The village of **Newtok**, located between the Ningliq River and the Bering Sea, is eroding away and unlikely to be a viable site within 4 to 5 years. The village is in the process of relocating to a new site, called Metarvik, about 9 miles away on higher ground. The Commission approved $3,020,000 to assist this effort. These funds will be in addition to money from the State of Alaska, U.S. Department of Agriculture, DOI's Bureau of Indian Affairs, and Federal Emergency Management Agency previously provided for the village.

Flooding in the village of Newtok during the 2005 Fall Sea Storm. Photo credit: Stanley Tom, Newtok Traditional Council

The funds will be used for preparation of an overall National Environmental Policy Act document for the move; development of a final site plan; geotechnical investigation to supplement existing information for efficient design of roads, building foundations and other infrastructure; development of the quarry to provide stone for construction; design of a bulk fuel storage facility; preliminary design of community power, water, sewer and solid waste facilities; and to serve as matching/gap funds for other related activities identified by the community.

The village of **Shaktoolik** will receive $1,020,000 to be used to support "soft erosion" protection measures and design of a consolidated fuel storage facility above the 100-year flood level, and serve as matching/gap funds for other related activities identified by the community.

The villages of **Kivalina** and **Shismaref** will each receive $520,000 to be used as the local match for existing U.S. Army Corps of Engineers (USACE) funds for a site specific 100-year flood analysis and for design of an armor rock revetment to temporarily protect the islands on which the villages are located.

At all four villages, the funds will also be used to support the existing Community Relocation Coordinator; prepare emergency response plans, conduct emergency drills, and as matching/gap funds for other related activities identified by the community.

The Commission also allocated $490,000 for other to-be-determined threatened communities and $1,080,000 for a Statewide Disaster Response Fund that can be used to respond quickly, or to provide matching funds to complement other funders for disaster response and recovery and other statewide initiatives related to the problem.

Celebrating the Next Phase of Everglades Ecosystem Restoration

On June 3, 2016, NPS and Florida Department of Transportation (DOT) announced the construction of the 2.6-mile bridge and roadway project in South Florida on the Tamiami Trail with a contract awarded to the joint venture team of Condotte America Inc. and Stantec. This next phase of bridging will allow additional freshwater flow in Everglades National Park, improving ecological conditions both in the park and in the central Everglades north of Tamiami Trail.

The new trail will raise a 2.5-mile section of U.S. Highway 41 in the South Florida region and is the latest milestone in the Obama Administration's efforts to conserve the Everglades' historic and iconic wildlife habitat and water flows.

Secretary Jewell visited Everglades National Park on Earth Day 2016 with President Obama to highlight steps the Administration has taken to act on climate change. "It's a vital piece of this Administration's efforts with our Florida partners to deliver increased flows of clean, fresh water to an area that desperately needs them to make the ecosystem sustainable, including critical marsh lands, Florida Bay and aquifers important to South Florida's water supply. The Everglades is an internationally recognized ecological treasure that we must restore and protect for future generations," said Jewell.

Secretary Jewell and Pedro Ramos visited seagrass beds in Everglades National Park. These iconic wildlife habitats will benefit by restoring historic water flows. Photo credit: Tami A. Heilemann, DOI

Secretary Sally Jewell celebrated Earth Day with Florida DOT District Secretary Gus Pego by announcing the next phase of bridging on the Tamiami Trail in Everglades National Park. Photo credit: Tami A. Heilemann, DOI

"This new bridge is part of the largest conservation effort ever undertaken by the National Park Service and will return water flows to more historic levels, favorably impacting key plant and animal species like the American crocodile and many native birds," said Secretary Jewell, on Earth Day, April 22, 2016.

"The partnership between the NPS and Florida DOT has helped advance the Everglades restoration effort," said Pedro Ramos, Superintendent of Everglades and Dry Tortugas National Parks." The completion of the 2.6 mile bridging project is essential in establishing the natural flow of water to Everglades National Park and Florida Bay."

The event followed Secretary Jewell's conservation speech at National Geographic on April 19, where she outlined a major course correction in how we approach conservation to ensure a bright future for our public lands and waters. Read the Secretary's speech here: *https://medium.com/@Interior/the-next-100-years-of-american-conservation-397c42b8f1f2*

Read the press release: *https://www.doi.gov/pressreleases/earth-day-secretary-jewell-celebrates-next-phase-everglades-ecosystem-restoration*

Read more about the project: *https://www.nps.gov/ever/learn/news/everglades-national-park-and-fdot-award-contract-for-next-phase-of-tamiami-trail-enhancements.htm*

Restored Beach Project Supports Science Education and Coastal Community at Virginia Beach

By Marjorie Weisskohl (BOEM)

On July 26, 2016, Bureau of Ocean Energy Management (BOEM) Director Abigail Ross Hopper toured the Virginia Aquarium and Marine Science Center in Virginia Beach, Virginia. Aquarium Executive Director, Lynn Clements, and Director of Conservation Programs, Mark Swingle, briefed Hopper and her team on the Aquarium's in-depth science program, which covers everything from global ecosystems to how the Chesapeake Bay was formed, including information about the oyster beds and other aquatic life living just off the back deck in Owl Creek.

Hopper joined students from the Young Men's Christian Association who were thrilled to be learning about ocean and coastal sciences and conservation through touching sting rays in a touch tank, seeing giant sea turtles and tiny yellow striped frogs, and seeing "Trash-Talking Turtles" made of marine debris from local beaches. Hopper then visited Sandbridge Beach, south of the city, to see the beach and dunes that were restored with sand borrowed from the Outer Continental Shelf (OCS) through BOEM's Marine Minerals Program. Officials from the Virginia Beach Department of Public Works and the USACE, who had been involved in the project, joined her for an informative discussion. Over the years, the Sandbridge project has helped reduce damage to roads and other infrastructure from storms and hurricanes, restored wildlife habitat, and enabled Americans to enjoy the great outdoors.

For more information, visit: *http://www.boem.gov/Marine-Minerals-Program/*

Director Hopper explores Virginia Aquarium's touch tank. Photo credit: Marjorie Weisskohl, BOEM

The Cockspur Lighthouse at Fort Pulaski National Monument needs to be stabilized for expected sea-level rise impacts. Photo credit: Paul Brennan

The beach and dunes of Sandbridge Beach, restored with sand from the OCS through BOEM's Marine Minerals Program. Photo credit: Marjorie Weisskohl, BOEM

Coastal Parks Adapt to Climate Change

Two new reports from NPS show how coastal parks across the country are devising innovative and unique solutions to adapt to climate change. "Coastal Adaptation Strategies: Case Studies" includes 24 park studies in a variety of settings that describe how they are preparing and responding to climate change impacts. A followup report, "Coastal Adaptation Strategies Handbook," highlights the need to plan for climate change in how we manage America's iconic natural, historic, and cultural landscapes. It is a summary of what scientists and park managers know about climate adaptation in coastal areas and includes processes and tools that parks have available to respond and recover from tropical storms and hurricanes and offers strategies to address rising sea levels.

The case study report highlights different ways NPS is mitigating these coastal impacts such as increased stormy weather, sea-level rise, shoreline erosion, melting sea ice and permafrost, ocean acidification, warming temperatures, groundwater inundation, precipitation, and drought.

Adaptation efforts include preserving historic structures, completing archaeological surveys, collecting baseline data, restoring habitat, engineering solutions, redesigning and relocating infrastructure, and developing broad management plans that consider climate change.

At Olympic National Park, Washington, work is focused on preparing archeological sites and traditional cultural resources, whereas ancient Indian shell mound sites threatened by sea-level rise and erosion are of concern in Florida at the Canaveral National Seashore. At Fort Pulaski National Monument in Georgia, NPS

See Climate Change page 9

The deepwater vessel *Chikyu* as deployed during the second joint Indian National Gas Hydrate Program Expedition 02. The vessel was designed by the Japanese government for international scientific drilling operations. Photo credit: Japan Agency for Marine-Earth Science and Technology

Climate Change continued from page 8

is designing a lighthouse stabilization system to incorporate sea-level rise. Gateway National Recreation Area, New York, is restoring Jamaica Bay wetlands, and the National Park of American Samoa is learning to recognize coral adaptations to environmental stressors. At Gulf Islands National Seashore, Massachusetts, large-scale restoration of barrier island systems and cultural resource protection is being done through sediment placement along the northern Gulf of Mexico shoreline. Along the mid-Atlantic shorelines of Maryland and Virginia, NPS is relocating visitor facilities that are threatened by erosion at the Assateague Island National Seashore. In California, NPS is working to develop a multiagency vision for an urban coastline at the Golden Gate National Recreation Area. You can read about more examples here: *https://www.nps.gov/subjects/climatechange/coastaladaptationstrategies.htm*

NPS Coastal Adaptation Strategies Handbook: *https://www.nps.gov/subjects/climatechange/coastalhandbook.htm*

International Partnership Discovers Potentially Producible Gas Hydrate in Indian Ocean

By Alex Demas and Tim Collett (USGS)

USGS has assisted the Government of India in the discovery of large, highly enriched accumulations of natural gas hydrate in the Bay of Bengal during a research expedition, called the Indian National Gas Hydrate Program Expedition 02. This is the second joint exploration for gas hydrate potential in the Indian Ocean and is the first discovery of its kind in the Indian Ocean that has the potential to be producible. The first expedition, also a partnership between scientists from India and the United States, discovered gas hydrate accumulations but in formations that are currently unlikely to be producible.

Natural gas hydrates are a naturally occurring, ice-like combination of natural gas and water found in the world's oceans and polar regions. The amount of gas within the world's gas hydrate accumulations is estimated to greatly exceed the volume of all known conventional gas resources.

"Advances like the Bay of Bengal discovery will help unlock the global energy resource potential of gas hydrates as well help define the technology needed to safely produce them," said Walter Guidroz, USGS Energy Resources Program Coordinator. "The USGS is proud to have played a key role on this project in collaboration with our international partner, the Indian Government."

This discovery is the result of the most comprehensive gas hydrate field venture in the world to date, made up of scientists from India, Japan, and the United States. The scientists completed ocean drilling, conventional sediment coring, pressure coring, downhole logging, and analytical activities to assess the geologic occurrence, regional context, and characteristics of gas hydrate deposits offshore of India.

Although it is possible to produce natural gas from gas hydrates, there are substantial technical challenges, depending on the location and type of formation.

"The results from this expedition mark a critical step forward to understanding the energy resource potential of gas hydrates," said USGS Senior Scientist Tim Collett, who participated in the expedition. "The discovery of what we believe to be several of the largest and most concentrated gas hydrate accumulations yet found in the world will yield the geologic and engineering data needed to better understand the geologic controls on the occurrence of gas hydrate in nature and to assess the technologies needed to safely produce gas hydrates."

The international team of scientists was led by the Oil and Natural Gas Corporation Limited of India on behalf of the Ministry of Petroleum and Natural Gas India, in cooperation with USGS, the Japanese Drilling Company, and the Japan Agency for Marine-Earth Science and Technology. In addition, USGS is working closely with the National Institute of Advanced Industrial Science and Technology Japan on the analysis of pressure core samples collected from sand reservoirs with high gas hydrate concentrations. USGS has a globally recognized research program studying natural gas hydrates in deepwater and permafrost settings worldwide. USGS researchers focus on the potential of gas hydrates as an energy resource, the effect of climate change on gas hydrates, and seafloor stability issues.

Read more about the study and other USGS energy research here: *http://woodshole.er.usgs.gov/project-pages/hydrates/*

Dive Your Park!

SCUBA is an Important Tool for Managing NPS Resources

Many NPS coastal parks are underwater. For example, 95 percent of Biscayne National Park in South Florida is underwater; therefore, park managers and scientists use SCUBA diving to get firsthand understanding of these resources to effectively manage them. This is helpful for a variety of missions, including natural and cultural resource condition assessments, scientific studies, invasive species management, restoration activities, maintenance projects, and law enforcement. During 2015, 20 park divers collectively logged 1,228 dives completed in support of various park missions. These dives account for 39,473 minutes spent underwater; if all that work was done by one person, that person would have spent almost an entire month underwater!

Learn about NPS Submerged Resources Center: *https://www.nps.gov/subjects/underwater/index.htm*

Follow NPS Submerged Resources Center on Facebook: *https://www.facebook.com/National-Park-Service-Submerged-Resources-Center-106606389416924/*

SCUBA divers working at Biscayne National Park. Photo credits: NPS

Understanding Benefits from Carbon Storage

Partnering with the Nisqually Indian Tribe

By Mike Murray (USFWS)

The U.S. Fish and Wildlife Service (USFWS) and Nisqually Indian Tribe have restored 902 acres of tidally influenced coastal marsh in the Nisqually River Delta (NRD), making it the largest estuary-restoration project in the Pacific Northwest to date. Marsh restoration increases the capacity of the estuary to support a diversity of wildlife species. Restoration also increases carbon production of marsh plant communities that support food webs for wildlife and can help mitigate climate change through long-term carbon storage in marsh soils.

In order to better understand the benefits of carbon for wetland wildlife and storage in the NRD, in 2015 an interdisciplinary team of USGS researchers began scientific work to advance our ability to determine marsh ecosystem carbon balance and understand wildlife benefits and carbon storage from restored and natural coastal marshes in the NRD.

Messy work! Walking through the thick mud can be exhausting. This researcher takes a break on some solid ground. Photo credit: Mike Murray, USFWS

Learn more about the USGS project: *http://www.werc.usgs.gov/ProjectSubWebPage.aspx?SubWebPageID=1&ProjectID=277*

Read Fact Sheet 2016–3042: *http://dx.doi.org/10.3133/fs20163042*

Walking across the wetland to get out to the study site. The mud came up to the researchers' hips in some parts of the muddy wetland, making it extremely difficult to get out. Plus, they had to get through the mud carrying all the gear they would need for the day. Photo credit: Mike Murray, USFWS

Historic NRDAR Settlement Reached for *Deepwater Horizon* Spill

By Nanciann Regalado (DOI)

On April 20, 2010, the *Deepwater Horizon* oil rig blew up and was consumed by fire. Eleven men died and many others were injured. For 87 days the well spewed oil—a total of 134 million gallons were released into the Gulf of Mexico. Ultimately, more than 43,000 square miles of the Gulf and its shoreline were oiled. The *Deepwater Horizon* oil spill was the worst environmental disaster in our Nation's history. *See related story, page 12.*

As the volume of oil released grew, and the inevitability of widespread injury and death of wildlife became apparent, many people worried whether or not those responsible for the spill would be held accountable. On April 4, 2016, District Judge Carl Barbier approved a settlement for $20.8 billion and effectively ended almost 6 years of litigation over British Petroleum's (BP) responsibility for civil penalties and future litigation for natural resource damages arising from the 2010 *Deepwater Horizon* oil spill. The settlement included provisions for the largest recovery of natural resource damages ever approved for injuries to natural resources.

Under the settlement, BP will pay the Natural Resource Damage Assessment and Restoration (NRDAR) Trustees (five Gulf States and four Federal agencies) as much as $8.8 billion for restoration to address natural resource injuries. The settlement includes the following:

- $1 billion already committed during early restoration.
- $7.1 billion for restoration over 15+ years, beginning in April 2017.
- As much as an additional $700 million to respond to natural resource damages unknown at the time of the agreement, provide for adaptive management, or both.

The settlement also provides an additional $5.5 billion in funding from Clean Water Act civil penalties. As required by legislation adopted after the spill only 20 percent of those penalties will go directly to the Oil Spill Liability Trust Fund. In accordance with the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States (RESTORE) Act, 80 percent or $4.4 billion will be sent directly to a fund specifically established to support the environmental and economic restoration of the Gulf of Mexico. The remainder of the $20.8 billion total of the settlement includes claims under the False Claims Act, royalties and reimbursement of natural resource damage assessment costs, and other expenses due to the incident.

The USFWS and NPS played a critical role in assessing injuries to Federal lands and other natural resources that were caused by the *Deepwater Horizon* oil spill. They not only assessed injury to the Refuges and national parks all along the Gulf coast but also assessed injury to migratory birds, threatened and endangered species, some jurisdictional fish, and natural resource services, such as recreational use of Federal lands.

Other parts of the *Deepwater Horizon* oil spill injury assessment were completed by our fellow Trustees; for example, the NOAA assessed the spill's effects on the water column, deep sea environment, and marine mammals. Together, the Trustees undertook an ecosystem-based approach to assessing and restoring the natural resources injured by the spill.

The injury assessment shaped the restoration plan approved by the Trustees in March 2016. The "Programmatic Damage Assessment and Restoration Plan and Programmatic Environmental Impact Statement" provides a framework for future restoration strategies, plans, and projects. It identifies five restoration goals: restore and conserve habitat; restore water quality; replenish and protect living coastal and marine resources; provide and enhance recreational opportunities; and provide for monitoring, adaptive management, and administrative oversight to support restoration implementation. The programmatic plan also identifies 13 restoration types that will address the injury experienced by the Gulf's natural resources: wetlands, coastal, and nearshore habitats; habitat projects on federally managed lands; nutrient reduction; water quality; fish and water column invertebrates; sturgeon; submerged aquatic vegetation; oysters; sea turtles; marine mammals; birds; mesophotic and benthic (low light and ocean floor) communities; and provide and enhance recreational opportunities.

The *Deepwater Horizon* oil spill settlement is bringing an unprecedented amount of restoration funding to the Gulf of Mexico. For the NRDAR funds, the schedule for payment extends across more than 15 years. There will be much work to do and much to learn over the next two decades. We look forward to sharing our successes and lessons learned.

Read more: *https://www.doi.gov/restoration/historic-nrdar-settlement-reached-deepwater-horizon-spill*

Illustration credit: Cole Goco

The *New Carissa* Oil Spill—Restored from Environmental Disaster

By Elizabeth Materna (USFWS)

During a major winter storm in 1999, the freighter *New Carissa* ran aground on a beach near Coos Bay, Oregon. The vessel spilled 140,000 gallons of heavy fuel oil and created one of the worst ecological disasters in Oregon's history—killing an estimated 2,875 seabirds and 40 different types of shorebirds, including 262 threatened marbled murrelets (*Brachyramphus marmoratus*) and several threatened western snowy plovers (*Charadrius alexandrinus*).

Although the oil spill was a natural resource disaster, it created a legacy of restoration in its wake. Working closely with the other Federal and State agencies and two tribes, USFWS developed a suite of projects to restore species and habitats affected by the spill. *See related story, page 11*.

The largest project involves the purchase and management of 4,300 acres of coastal forest for nesting marbled murrelets. Other projects include:

- Monitoring colonies of nesting seabirds for predators in order to trap and remove problem individuals.

Shorebirds return to the Ni-les'tun unit in Oregon. Photo credit: USFWS

New Carissa oil spill. Photo credit: USFWS

An oiled murre killed by the *New Carissa* oil spill. Photo credit: USFWS

- Purchasing predator-proof trash cans to help control predators near seabird colonies along with signage to inform people that leaving trash can lead to increased mortality of chicks.
- Creating a smartphone app to teach Oregon coast beachgoers about nesting seabirds.
- Producing 60 interpretive panels to be placed at State parks and waysides along the Oregon coast to teach people about seabird biology, conservation, and the need to leave nesting colonies undisturbed.
- Restoring 400 acres of tidal marsh at Bandon Marsh Refuge.
- Restoring 30 acres of coastal dune habitat for nesting Western Snowy Plovers.

Thanks to this multiagency effort led by USFWS, devastating effects from the *New Carissa* oil spill have been lessened by a suite of projects designed to restore habitat, protect nesting seabirds, and educate the public about marine resources along the Oregon coast.

Historic Anchor Discovered During the Decommissioning of an Oil and Gas Platform

By Christopher Horrell (BSEE)

The trawl vessel was dragging the seafloor during the final stages of decommissioning an oil and gas platform in the Gulf of Mexico. It was a routine mission in 70 feet of water depth about 40 nautical miles off the coast of Louisiana—part of a comprehensive effort to fulfill the platform operator's legal requirement to bring the leased parcel of seafloor back to prelease conditions. Dragging the bottom usually results in the retrieval of sections of pipe, bumper tires, and random pieces of metal, but during one of the net pulls, something unusual was spotted: an historic anchor from the age of sail.

The next step should have been to cease operations and notify the DOI's Bureau of Safety and Environmental Enforcement (BSEE). Specifically, the Federal regulation instructs those who "discover any archaeological resource while conducting operations in the lease or right-of-way area" to "immediately halt operations within the area of the discovery and report the discovery to the BSEE Regional Director." Instead, the anchor was brought to Port Fourchon, Louisiana, where the operator's company representative contacted his supervisor, who then claimed the anchor for his private collection, displaying it beside his backyard pool.

Time had definitely left its mark on the anchor, although it was pretty well intact after many years beneath the water's surface. What the boss may not have known, however, is that iron submerged in seawater will come to a stable equilibrium over time. Once anything iron is removed from the marine environment and begins to dry out, the chlorides from the seawater that have permeated the iron structure will start to expand. At that

See Historic Anchor page 13

Historic Anchor continued from page 12

point rapid deterioration begins. For this reason, archaeologists typically keep metal artifacts such as anchors submerged in seawater tanks until conservation efforts can begin.

In compliance with U.S. regulations, the platform operator filed a report listing the variety of items retrieved by the trawler, including the anchor. BSEE's Historic Preservation Program within the Office of Environmental Compliance was called, and an archaeologist at BSEE asked for a photo of the anchor and its current location. The photo confirmed an unusual find, possibly from the 19th century, but it would have been very unlikely that a ship of that era would have laid anchor 40 miles offshore in 70 feet of water. It was more likely to be evidence of a dire situation at sea more than 200 years ago, possibly a shipwreck. The anchor appeared to be an early 19th century Admiralty Anchor.

By listing the anchor, the operator avoided a variety of more serious violations, but the find was not handled in accordance with Federal regulations. The platform operator responded immediately once the violations were pointed out. An Incident of Noncompliance—BSEE's version of a citation—was issued along with a Corrective Action Order. The order required the operator to provide funds for the transportation, conservation, and long-term curation of the anchor. Additionally, the operator was ordered to complete a high-resolution remote sensing survey using a magnetometer, side-scan sound navigation and ranging (sonar), and subbottom profiler to identify any other remains of a potential shipwreck at the site.

Time was the enemy; deterioration had begun.

BSEE needed to find the best organization to restore and preserve the anchor. The operator, in coordination with BSEE, put together a conservation and curation plan for the anchor. BSEE's

Conservation of the historic anchor should have begun with its discovery during decommissioning operations. (*A*) and (*B*) The anchor was inappropriately transported to a private residence and began to deteriorate. (*C*) Dr. John Bratten and his students from UWF worked to conserve the anchor. (*D*) Through conservation, the name R. Flinn and a number appear on the crown and shaft of the anchor. Photo credits: John Bratten (Univ. of West Florida) and Christopher Horrell (BSEE)

Historic Preservation Program worked with the operator and the University of West Florida's (UWF) Archaeology Institute. The anchor, it was decided, should become the permanent property of UWF, where it would receive proper treatment and be used as a teaching tool for students.

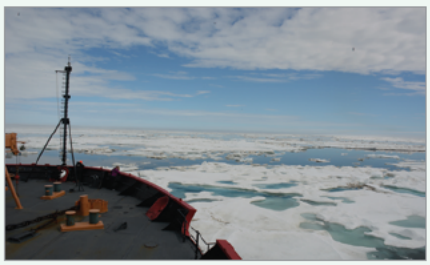
During the conservation process, as decades of fouling were carefully removed, the name R. Flinn was discovered on the crown of the anchor. After completing historical research, UWF maritime archaeologist Dr. John Bratten and his students discovered that Robert Flinn manufactured chains and anchors in England up until 1826. We now knew the anchor was well over a century-and-a-half old, dating to a time that was somewhere around the War of 1812. *See related story, page 16.*

In addition, several promising targets of a potential shipwreck were identified during the high-resolution remote sensing survey. BSEE archeologist and scientists, who are members of the Seafloor Compliance Monitoring Assessment Program and the BSEE Scientific Diving Program, mobilized to investigate the targets. Nothing of interest was located, so BSEE determined that the anchor was an isolated find and that a shipwreck was not present in the area where the trawling activities had occurred.

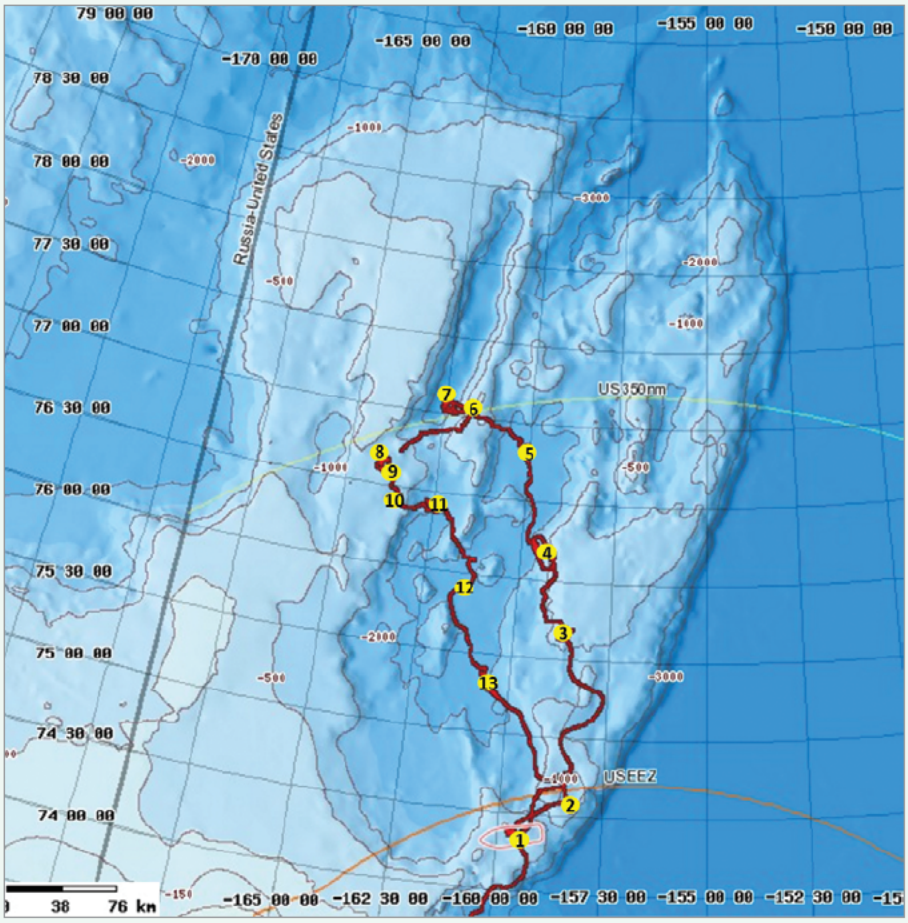
While the anchor tells the story of continued human use of the sea and connects us across the centuries, the story of the Flinn anchor also has raised awareness about preserving marine artifacts because other anchors have been reported since that event. It seems like offshore industry is now more aware of their responsibility to stop working when they encounter a marine artifact. That's good news.

What to do if you find historic maritime artifacts: *https://www.bsee.gov/sites/bsee.gov/files/research-guidance-manuals-or-best-practices/fact-sheet/guidance.pdf*

Hidden Ocean 2016—Arctic Science Discovery



Above: Kate Segarra, an oceanographer for BOEM, was aboard the *Healy* in the Arctic Ocean for 40 days this summer. The view of the ice-covered Chukchi from the deck of the *Healy*. Photo credits: Kate Segarra, BOEM



At right: This map displays all 13 stations visited and sampled in the Chukchi Borderlands during the Hidden Ocean 2016 expedition. Image credit: Katrin Iken, UAF, and The Hidden Ocean 2016: Chukchi Borderlands

By Kate Segarra (BOEM)

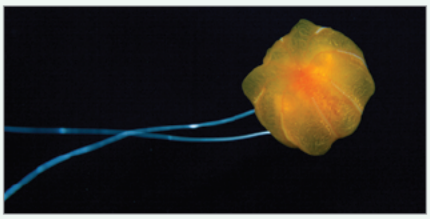
This summer, I had the opportunity to sail aboard the U.S. Coast Guard Cutter *Healy* as part of the Hidden Ocean 2016, a NOAA-led expedition from Seward, Alaska, north into the Chukchi Sea. In the Chukchi Borderlands, water masses from the Pacific, Atlantic, and Arctic Oceans converge over an area of complex bathymetry. The primary focus of the Hidden Ocean 2016 was to explore this rapidly changing and poorly understood ecosystem. The science party was led by chief scientists, Dr. Russ Hopcroft and Dr. Katrin Iken, of the University of Alaska Fairbanks (UAF). Using both traditional oceanographic methods (such as nets, CTD package, and box cores) and a remotely operated vehicle (ROV) equipped with ultrahigh-resolution video camera, known as 4K, the science party explored the pelagic and benthic biodiversity of the Chukchi Borderlands. The study subjects ranged from the microbial communities within sea ice to the polar bears that hunt upon it. The science party also included a seabird surveyor from USFWS, Elizabeth Labunski. As expedition coordinator for the cruise, I served as a liaison for NOAA's Office of Ocean Exploration and Research during the expedition. I worked very closely with the science party to track mission progress and communicate detailed updates to our colleagues back on shore.

The Arctic is warming at a rate around twice that of the global average (*see related story, page 6*). In the weeks leading up to the cruise, data suggested that 2016 was on track to set the record for the lowest Arctic sea ice extent. Now that the melt season is over, 2012 still holds that title; 2016 tied for second with 2007 since records began in 1979. It's a depressing statistic, especially when one sees how critical sea ice is to these ecosystems; however, low sea ice does not mean no sea ice. Although there was a great deal of open water during our expedition, there were also plenty of patches of thick ice in the Chukchi. One ice floe was so thick (more than 4 meters in some places) that it took the *Healy* almost 4 days to break its way out of it.

While I was detailed on assignment with the NOAA for this cruise, the *Healy* experience will certainly enhance my work as an oceanographer for the BOEM. I have a new perspective on the Arctic research

A juvenile walrus swims up for a closer look at the *Healy*. Photo credit: Kate Segarra, BOEM

This is one of several (less than 10) polar bears observed during the expedition. Photo credit: Kate Segarra, BOEM



This is an undescribed ctenophore photographed in the water column by the ROV. Photo credit: The Hidden Ocean 2016: Chukchi Borderlands and Oceaneering-Deep Sea Systems International

completed through our Environmental Studies Program; for example, Hanna Shoal is an ecologically important region on the Chukchi Plateau and described as a "walrus hotspot" in many environmental assessment documents. As we came upon Hanna Shoal in the faint light of the midnight sun, I saw what I thought were patches of dirty ice on the horizon. As we came closer, I realized those patches were walrus. There were at least 100 walrus in this one small area where they forage on the bountiful clam beds below. There were many similar examples of sightings and experiences, which brought life to textbooks and policy papers I'd previously read.

I understand now how, after the failure of the *Endurance* expedition and more than 1 year stuck in the ice, Shackleton returned to Antarctica for more. Not only is there a rhythmic zen to ship life, but the sense of discovery and adventure of this cruise was intoxicating. In just a few short weeks, the expedition collected at least six jellyfish and ctenophores that may represent new species. Of course "new" is a bit of a misnomer—these graceful animals were around long before human existence. The correct taxonomic term is "undescribed." It will take members of the science party months to years to write the species description papers. It's funny to think how these strange creatures are still floating out there, waiting to be announced to the rest of the world. These and other discoveries from this cruise will greatly improve the understanding of this underexplored region. The Hidden Ocean 2016 will also serve as a comparison for past and future surveys of the region to allow scientists to examine how the ecosystem is changing over time, and whether or not climate change is a predominant factor.

We left the last of the Chukchi Sea ice behind around 01:00 on August 4. Forty days on a ship seemed like a long time before we left Seward in early July. But, as we transited back south at the end of the cruise and I watched the last few lone pieces of sea ice floating in the twilight, I wished we could turn around and do it all over again. I guess I'll have to wait until the next Arctic adventure.

To learn more about the Hidden Ocean 2016 Expedition, please visit: *http://oceanexplorer.noaa.gov/explorations/16arctic/welcome.html*

New Arctic Fish Species Inventory

USGS and BOEM recently released a report describing 109 marine fish species from the Chukchi and Beaufort Seas. Twenty of the fish species are newly confirmed, and the inventory includes 104 new descriptions that include distribution maps and life cycles.

The report summarizes the natural history of the species and discusses adaptations and limitations of fish populations in the Arctic. The information in the report will be used by BOEM, who requested the research carried out by USGS and the University of California, Santa Barbara, to evaluate potential environmental effects of oil and gas development offshore. Natural resource managers can also use the research to identify high-priority marine fish species to help guide future research, management, conservation, and environmental policy.

Keeping in mind the native and indigenous peoples of the Arctic, the report includes Inupiat names for the marine fish species. Salmon, whitefish, and char are used for subsistence and are key species for food security of Native Alaskan communities.

Read the report, "Alaska Arctic Marine Fish Ecology Catalog: Beaufort and Chukchi Seas," here: *https://pubs.er.usgs.gov/publication/sir20165038*

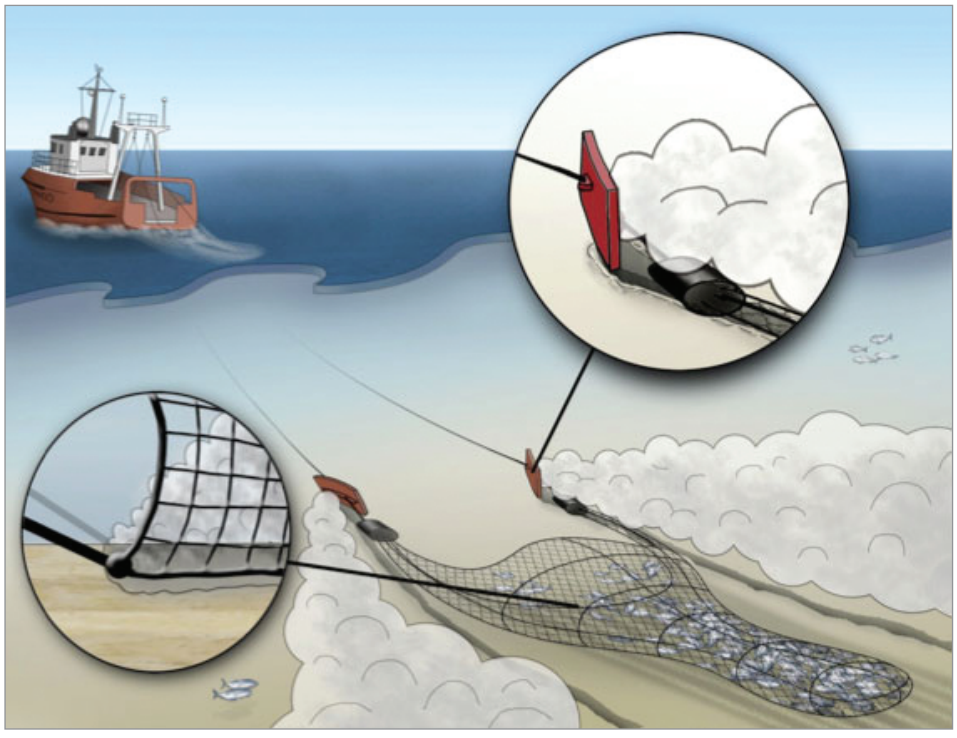
The report study area in the U.S. Chukchi and Beaufort Seas. The U.S. Exclusive Economic Zone is in red, and areas of interest for oil and gas are in yellow. Image credit: USGS

USGS Researchers Study the Effects of Trawling on Sediment Resuspension

The fishing industry commonly uses trawling, a practice where large nets with metal doors and chains are dragged over the seafloor to catch fish. Because the equipment comes into direct contact with the seafloor, great environmental damage can be done (including removing seafloor dwelling marine life and resuspending sediment). Sediment in the water column can change the chemistry of the water (including nutrient levels), reduce light levels, and lower photosynthesis in plants. The resuspended sediment can be washed away by ocean currents, either deposited elsewhere on the shelf or in deeper waters and lost to the local environment. Removing sediment and changing the seafloor to rock removes habitat and lowers the diversity of life located within the seabed. Scientists have studied how bottom trawling can hurt the marine environment, especially the effects on corals, sponges, fishes, and other animals; however, little research has been done on the effects of bottom trawling on the seabed itself. *See related story, page 12*.

While the seabed had been previously labeled as "trawled" or "untrawled" in studies, USGS researchers have developed a new method for calculating bottom-trawling-induced sediment resuspension, which allows for a range of classifications according to how often the seafloor was disturbed by bottom trawling. This new method of calculation provides a new tool for seafloor management and can help assess effects from bottom trawling. The researchers calculated how much sediment from the seafloor was resuspended during bottom trawling and determined the amount was about the same as the amount of sediment rivers deposit on the continental shelf (almost 22 gigatons).

Read the full article here: *http://www.sciencedirect.com/science/article/pii/S0924796315002328*

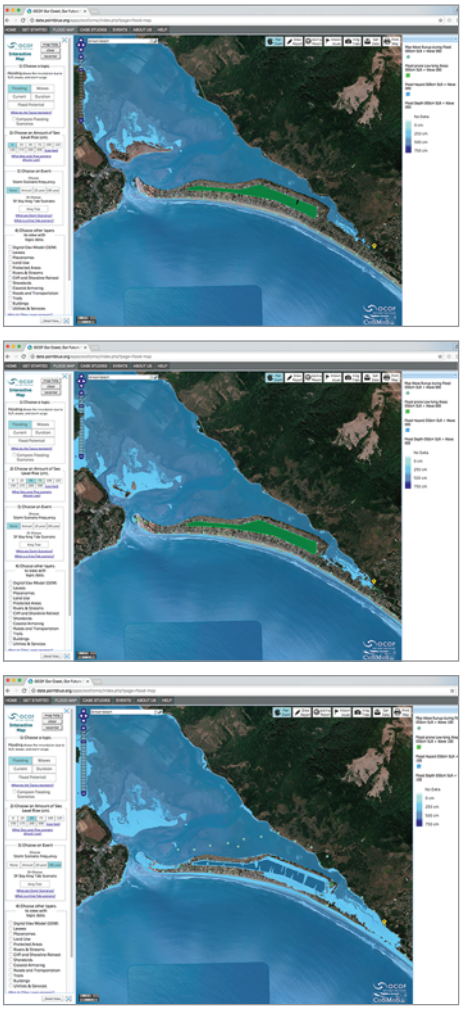


Conceptual drawing of bottom trawling from a fishing boat, showing a net and metal plate being dragged along the seafloor behind a boat on the water's surface. Image credit: Ferdinand Oberle

Helping Communities Understand Future Coastal Hazards

By Juliette Finzi Hart (USGS)

With the stunning beauty of our coastline throughout the United States and its territories, it's no surprise that many people want to live along the coast. This coastal living, however, comes with vulnerability to impacts from



Examples of projections from the OCOF viewer for Stinson Beach in San Francisco for daily conditions for a day in October 2016 (top), daily conditions plus 50 centimeters of sea level rise-expected by about mid-century (center), and a 100-year (or 1 percent) storm with 50 centimeters of sea-level rise (bottom). These projections demonstrate how neglecting to plan for storm impacts could lead to a substantial underestimation of risk along the coast. Image credits: OCOF, CoSMoS Model Results Product Suite

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Help for Coastal Hazards continued from page 16

natural hazards, such as hurricanes, winter storms, tsunamis, and erosion of beaches and coastal cliffs. Climate change will intensify these hazards. Even today, many coastal communities along the east coast are experiencing increased nuisance flooding—also referred to as sunny-day flooding—in which streets and infrastructure flood simply because of high tides or windy days. This flooding has been exacerbated in recent decades by sea-level rise. U.S. coastal communities look to expertise from USGS to provide cutting-edge projections of natural hazard impacts today and into the future.

On the west coast of the United States, the USGS Pacific Coastal and Marine Science Center's Coastal Processes Team, led by Patrick Barnard and a group of 10 modelers, geologists, engineers, and oceanographers, has developed the Coastal Storm Modeling System (CoSMoS, *http://walrus.wr.usgs.gov/coastal_processes/cosmos/*) to help the 20 million residents of California coastal communities understand their vulnerabilities from storms and sea-level rise. CoSMoS is a state-of-the-art modeling system that models all the relevant physics of a coastal storm (for example, tides, waves, and storm surge), which are then scaled down to local flood projections. Rather than relying on historic storm records, CoSMoS uses wind and pressure from global climate models to project coastal storms under changing climatic conditions. Projections of multiple storm scenarios (daily conditions, annual storm, 20-year and 100-year return intervals) are provided under a suite of sea-level rise scenarios ranging from 0 to 2 meters, along with a catastrophic 5-meter scenario. This allows users to manage and meet their own planning horizons and specify degrees of risk tolerance.

To ensure that the modeling results meet the needs of the coastal communities it serves, the USGS has been working with a diverse group of partners and stakeholders to support the development of climate change impact plans through the Our Coast, Our Future (OCOF) program (*http://ourcoastourfuture.org*). The OCOF is a partnership among USGS, Point Blue Conservation Science, Greater Farallones National Marine Sanctuary, NOAA's Office for Coastal Management, National Estuarine Research Reserve System, Bay Area Ecosystems Climate Change Consortium, NPS, and Ecosystem-Based Management Tools Network. By working closely with Point Blue Conservation Science to develop the OCOF website and flood map, USGS is delivering tools and information that can inform California coastal communities about managing coastal flooding risks across the California coast. The OCOF web resources provide a user-friendly format in which coastal professionals and stakeholders are able to access and use information from the CoSMoS model for short- and long-term climate change planning.

Patrick Barnard (right) discusses some of the initial projections for Venice and Marina del Rey with City of Los Angeles planning officials at a recent AdaptLA meeting, cosponsored by the City of Santa Monica and USC Sea Grant Program. Photo credit: Holly Rindge

To date, OCOF has directly served 14 San Francisco Bay Area communities/counties by supporting climate adaptation planning projects. Both CoSMoS and OCOF are recognized as leading tools and sources of information for short- and long-term planning by California State agencies, such as the California State Coastal Conservancy, California Coastal Commission, California DOT, and California's Office of Emergency Services. The CoSMoS results are also being used by researchers at University of California, Berkeley and other local universities to identify vulnerability at finer scales for use by planners, emergency personnel, and natural-resource managers.

Earlier this year, the CoSMoS team was honored with the 2016 Point Blue Outstanding Partner Award. Accepting on behalf of the CoSMoS team, Barnard noted, "Working with Point Blue and all of our partners throughout the S.F. Bay Area has helped our group better understand what kind of information coastal communities need to prepare for natural hazards today and with climate change. We are honored to have received this tremendous accolade from Point Blue Conservation Science."

In 2014, the CoSMoS team began developing projections for southern California, from Santa Barbara to the United States/Mexico border. Results from this modeling will be released in fall 2016. Following the OCOF example from northern California, the CoSMoS team has established partners throughout southern California, such as the University of Southern California's (USC) Sea Grant Program, AdaptLA, and San Diego Regional Climate Collaborative, to engage coastal communities and fine-tune model projections and products to meet their needs. New work along the central coast of California will begin in winter 2017, which will lead to methodologically consistent coverage of nearly all the California coastline.

River Herring Return to Saugatucket River

By Samantha Spiece (DOI)

For the first time in decades, during the 2016 spring migration, tens of thousands of river herring were able to migrate up Rhode Island's Saugatucket River without the help of humans lifting them over a dam.

River herring are born in freshwater ponds and lakes and then swim out to sea where they spend years growing to adulthood before returning to their birthplace to spawn. Unfortunately, for many years, river herring migration routes have been blocked along the Saugatucket River, where dams and mills stop the natural follow of water, serving as barriers between river herring and the freshwater lakes they need to reproduce. Over time, disruptions in migration have drastically reduced river herring populations. This is unfortunate for other species, such as otters, ospreys, and striped bass that rely on river herring as a primary food source.

One way to restore the food chain and bring back the fish is to help fish get around the barriers by building fish ladders. Settlement funds from the 1996 North Cape oil spill off South Kingstown combined with financing through a host of Federal, State, and private partnerships provided $772,000 to improve fish passage at the three barriers. USFWS staff from Fish and Aquatic Conservation (Bryan Sojkowski), Wildlife and Sport Fish Restoration (Colleen Sculley), and Ecological Services (Molly Sperduto) collaborated to provide technical assistance and funding for the effort. The new fish ladders make it easier for the river herring to navigate their way from the ocean to these important inland breeding areas.

For more information: *http://ripr.org/post/fishways-improved-along-saugatucket-river-wakefield*

http://www.providencejournal.com/news/20160520/south-kingstown-fish-ladder-helps-herring-return-to-spawning-grounds

https://www.fws.gov/ecological-services/highlights/06132016.html

http://www.dem.ri.gov/news/2016/pr/0516161.htm

This educational sign at the Main Street fish ladder in Wakefield, Rhode Island, illustrates how fish ladders work to connect fish habitats that are bisected by dam structures. Photo credit: NOAA

Hughesville Dam Removal—Improving the Environment and Human Safety

By Cathy Marion (USFWS)

On September 8, 2016, DOI Secretary Sally Jewell joined Federal, State, and local partners to celebrate the $1.5 million Hughesville Dam removal project on the Musconetcong River in Warren and Hunterdon Counties, New Jersey. Located 3.5 miles upstream from the confluence with the Delaware River, the Hughesville Dam—18 feet tall and 150 feet wide—was built in 1889 to generate hydropower for local paper production but has not been in operation since 1999.

Secretary Jewell's visit was organized to highlight efforts by the Obama administration to work with local governments and private dam owners to remove obsolete dams. Functioning dams are intended to store and divert water, processes that can provide humans with benefits, such as drinking water, hydropower, irrigation, and flood control. However, the vast majority of dams in the United States are aging and obsolete, no longer serving the purpose that they were built to provide decades or centuries ago.

The cost of repairing and maintaining obsolete dams can be substantial and is often more expensive than removal. Additionally, the environmental costs of dams are high. Dams fundamentally alter rivers by blocking and slowing the flow of water, and they degrade water quality by increasing water temperature, increasing nutrients and algal blooms, and retaining sediments and environmental contaminants. Many fish and other aquatic species are sensitive to the habitat changes caused by dams. As a result, we often see decreases in resident fishes in dammed rivers and decreases in migratory fishes that are physically blocked from their historic spawning and rearing grounds. The

See Hughesville Dam Removal page 19

Hughesville Dam Removal continued from page 18

Secretary Jewell visited the Hughesville Dam removal site in September 2016. Photo credit: Tami A. Heilemann, DOI

Hughesville Dam removal will permanently open up 9 river miles of habitat for migratory fish species, such as American eel, American shad, and river herring, and will generally improve water quality and habitat conditions for numerous resident fish species.

In addition to ecological benefits, the Hughesville Dam removal will help ensure the safety and well-being of people living in nearby communities by reducing the risk of flooding. It is projected that the Hughesville Dam removal has the potential to reduce local flood events by 1 to nearly 10 feet. Furthermore, the removal will improve water quality for humans and wildlife; reduce drowning risks associated with low-head dam hydraulics; and improve fishing, boating, and other recreational activities.

The Hughesville Dam will be the fifth dam removed on the Musconetcong River. The removals are part of a larger partner-based effort to restore the 42-mile Musconetcong River—designated as a "Wild and Scenic River"—to a free-flowing state. Funding for the Hughesville Dam removal comes from settlement funds under the Natural Resources Damage Assessment and Restoration Program for the Combe Fill South Landfill Superfund Site and Federal funds from the Hurricane Sandy Disaster Relief Appropriations Act of 2013.

National Parks for Marine Science Education

By Gary Bremen (NPS)

One of Biscayne National Park's main goals for celebrating the Centennial of the NPS was to more fully integrate the agency's resources into marine science classrooms nationwide. Park staff worked to increase the agency's presence at the National Marine Educators Association's annual conference where some 500 teachers, aquarium staffs, and informal educators from parks and nature centers gather each summer. The effort started at 2015's conference in Newport, Rhode Island, with a small sponsorship and grew considerably when NPS became a major sponsor of the 2016 conference in Orlando with financial support from the NPS's Water Resources Division and logistical support from the Ocean and Coastal Resources Branch.

Staff from four national parks attended the conference and presented on topics like climate change, invasive species, citizen science light monitoring in sea turtle nesting areas, and sex underwater. Park volunteers staffed a booth sharing information about the 88 ocean, Great Lakes and coastal parks. A conference highlight was the keynote Stegner Lecture, which annually features an inspirational closing to 3 days of concurrent sessions. This year's lecture used storytelling and music to highlight some of the many reasons national parks matter—not simply for protecting wildlife, scenery, and history, but also for building bonds of connection among families and friends. A nighttime field trip to Canaveral National Seashore was almost rained out, but those who went got to witness five turtles coming ashore to nest.

The centennial is nearly over, but the groundwork for future participation is set. Other projects generated at the conference are in the works, including

NPS Park Rangers told compelling stories and even played live music on the theme of "why parks matter" as part of the annual Stegner Lecture. Photo credit: Gary Bremen, NPS

Biscayne National Park volunteers staffed a booth to share information about opportunities in the 88 ocean, Great Lakes, and coastal parks. Photo credit: NPS

one with elementary schools, universities, and national parks in Florida and the Netherlands to release data-gathering miniboats that circumnavigate the Atlantic Ocean, and participation in the 2016 Youth Ocean Conservation Summit (held on December 10, 2016, *http://youth-oceanconservationsummit.weebly.com/2016-summit.html*) included not only the summit itself but also follow-up field trips to Biscayne National Park in the spring of 2017.

Chesapeake Bay Science

The Chesapeake Bay is our Nation's largest estuary with an enormous watershed extending from New York to Virginia. The continued restoration and protection of this national resource is a priority for designated Federal and State agencies and non-governmental stakeholders through the Chesapeake Bay Program (CBP). Given the ecologic and economic importance of the Chesapeake Bay, in 2009, President Obama issued an Executive Order for increased Federal leadership to restore and protect the Bay and its watershed.

The Chesapeake Bay watershed spans six States and the District of Columbia. Image credit: EPA

DOI is an important partner in this effort, with USGS and USFWS providing resource science and management guidance. The USGS has the critical role of providing scientific information for improved understanding and management of the Bay ecosystem and working with Federal, State, and academic science partners to provide research, assessment, monitoring, and modeling. *See related story, page 21.*

USGS Chesapeake Bay science activities are grouped under four major topics:

- Land and Climate Change—Forecast and assess impacts of climate and land-use change.
- Water Quality—Assess and explain water-quality conditions and change.
- Fish, Wildlife, and Habitats—Document the status and change of the health of fish, wildlife, and critical habitats.
- Decision Support—Promote adaptive management and decision support to enhance ecosystem management.

Intersex Fish Characteristics are Linked to Water Quality

USGS fish biologist, Vicki Blazer, brought her team to the Shenandoah River in Front Royal, Virginia, to collect and study smallmouth bass (*Micropterus dolomieu*), a species in which intersex characteristics have been linked to chemical contaminants in the Chesapeake Bay region.

Intersex conditions occur when exposure to chemicals disrupts the hormonal systems of an animal, leading to the presence of both male and female characteristics in an animal that should exhibit the characteristics of just one sex in its lifetime. In the case of smallmouth bass, male intersex fish are found with immature eggs in their testes, which indicates exposure to estrogenic and antiandrogenic chemicals.

"The sources of estrogenic chemicals are most likely complex mixtures from both agricultural sources, such as animal wastes, pesticides and herbicides, and human sources from wastewater treatment plant effluent and other sewage discharges," says Blazer, who first discovered intersex characteristics in fish while studying fish kills in the South Branch of the Potomac River and the Shenandoah River.

Science Seminar on Nutrients and Suspended Sediment Loads

USGS scientist Doug Moyer delivered the seminar, "Nitrogen, Phosphorus and Suspended Sediment Loads and Trends Measured at the Chesapeake Bay Non-Tidal Network Stations," as part of the University of Maryland's Center for Environmental Science Integration and Application Network (IAN) Seminar Series.

You can tune into the University of Maryland's Center for Environmental Science IAN Seminar Series and find Doug Moyer's presentation here: *http://ian.umces.edu/seminarseries/seminar/117/usgs_watershed_monitoring_results_2016-02-25/*

The goal of the IAN Seminar Series is to provide concise, thought-provoking ideas related to Chesapeake Bay science and management. Short presentations (less than 15 minutes) are immediately followed by a lunchtime discussion of the presentation. Each discussion is summarized and posted along with a PDF version of the seminar slides. The seminars also are captured on video and posted under a Creative Commons license so they can be freely shared.

Learn more about Chesapeake Bay science:

http://chesapeake.usgs.gov/

http://www.chesapeakebay.net/

https://www.whitehouse.gov/the-press-office/executive-order-chesapeake-bay-protection-and-restoration

The Choptank River flows past Dover Bridge in Easton, Maryland, on June 18, 2010. This aerial view shows a large stretch of the river lined by trees, wetlands, and farms. Photo credit: Matt Rath, CBP

Watch the Video—Bay 101: Intersex Fish

Watch here: *http://www.chesapeakebay.net/videos/clip/bay_101_intersex_fish*.

Video credit: Chesapeake Bay Program

Restoring Wetlands on Agricultural Lands within the Chesapeake Watershed

By Jennifer Greiner (USFWS)

Healthy wetlands are vital to a healthy Chesapeake Bay. Located where land meets water, wetlands trap polluted runoff and slow the flow of nutrients, sediment, and chemical contaminants into rivers, streams and the Bay. By soaking up storm water and dampening storm surges, wetlands slow the erosion of shorelines and protect properties from floods. Wetlands also provide critical habitat for fish, birds, mammals, and invertebrates, and support recreational fishing and hunting across the watershed. Land purchases and conservation easements can protect wetland habitat. The removal of invasive species—like phragmites, purple loosestrife, or nutria—can help rehabilitate degraded wetlands.

Between 2010 and 2014, 6,191 acres of wetlands were established, rehabilitated, or reestablished on agricultural lands in the Chesapeake Bay watershed.

In 2014, the CBP adopted a goal to create or reestablish 85,000 acres of tidal and nontidal wetlands by 2025. This goal is based on the wetland restoration targets outlined in the Watershed Implementation Plans that will help jurisdictions meet the goals of the Bay's "pollution diet," or total maximum daily load. Under this target, 83,000 acres of tidal and nontidal wetlands should be created or reestablished on agricultural lands. So far, just more than 7 percent of the goal has been achieved for the wetlands on agricultural lands. *See related story, page 20.*

Read more: *http://www.chesapeakebay.net/indicators/indicator/restoring_wetlands*

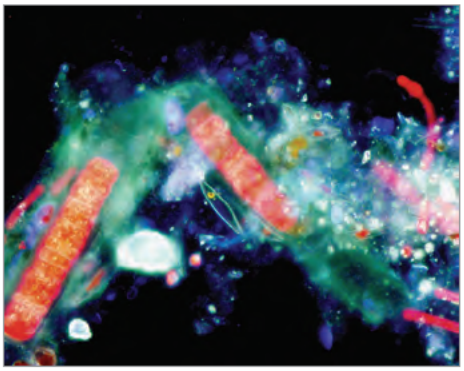
Microscopic Organisms of the Everglades

By Barry H. Rosen (USGS)

A new report, "Catalog of Microscopic Organisms of the Everglades Part 1: The Cyanobacteria," is part 1 in a series that describes microscopic organisms identified in the shallow wetland areas of the Everglades. The first report describes the cyanobacteria and includes a suite of images with the most current taxonomic treatment of each taxon. Most of the images are of live organisms, allowing their true color to be represented. A number of newly discovered species are illustrated that have not been described before.

The resource will be helpful to other researchers looking at these organisms in subtropical wetlands worldwide. It is anticipated that these images will facilitate current and future ecological studies on the Everglades, such as understanding food-web dynamics, sediment formation and accumulation, the effects of nutrients and flow, and climate change—all of which are needed to effectively manage water resources in the region. *See related story, page 7.*

Read the report: *http://dx.doi.org/10.3133/ofr20161114*



At left: Microphotograph of *Schizothrix* from Water Conservation Area 3A/B in the Everglades, Florida. The living cells are illuminated with ultraviolet epifluorescence microscopy; pigments in the cells glow pinkish lavender, and the mucilaginous sheath material is blue, indicating the presence of calcium carbonate. **At right:** Calcium-rich sediments (marls) are illuminated using ultraviolet epifluorescence microscopy in this microphotograph of a sample from Water Conservation Area 3A/B in the Everglades, Florida. Photo credits: Barry H. Rosen, USGS

Transfer of Submerged Lands to CNMI

By Randy Bowman (DOI)

USCRTF co-chairs Lori Faeth (DOI), left, and Eileen Sobeck (NOAA), far right, with Governor Ralph Deleon Guerrero Torres (CNMI) after the signing of the agreement on September 22, 2016, in CNMI. Photo credit: Erica Wales, DOI

After the business meeting of the USCRTF in Saipan on September 22, 2016, co-chairs Lori Faeth (DOI) and Eileen Sobeck (NOAA) signed on behalf of their agencies an agreement with Governor Ralph Deleon Guerrero Torres of the Commonwealth of the Northern Mariana Islands (CNMI) for the coordination of resource management on submerged lands within the Islands Unit of the Marianas Trench Marine National Monument, the next-to-last step in the process of transferring those submerged lands to CNMI's jurisdiction. *See related story, page 22.*

Read the press release: *https://www.doi.gov/news/pressreleases/us-to-convey-title-for-submerged-lands-to-commonwealth-of-the-northern-mariana-islands*

DOI Experts Join International Coral Reefs Community in Hawai'i

By Amy West (USGS)

For a coral reef symposium that happens just once every 4 years, Oahu, Hawai'i, is also the site for a variety of research done by USGS and other DOI partners.

The 13th International Coral Reef Symposium (ICRS), which has been held in the United States only three times during its four decades of existence, drew the largest attendance of any previous symposium—nearly 2,500 attendees representing 90 countries. Participants included a mix of coral reef scientists, resource managers, policy personnel, and even makeup manufacturers and heads of island nations. Topics of talks and posters ranged from potential damage to reefs by sunscreens, to how communities manage their coastal areas, to the threats from bleaching, viruses, and pollution.

USGS scientist Curt Storlazzi explained that the meeting "twenty years ago was all science," and now it includes policy, management, and even social media. "There was clearly a shift," said USGS scientist Christina Kellogg, who noticed the difference from the ICRS meeting held in Florida just 8 years ago. For instance, "microbiology was a minor component of it in 2008," said Kellogg. "But this meeting was crammed with microbiology!"

Several scientific field trips associated with the conference allowed attendees the chance to dive into some "science in action." Storlazzi, along with colleagues from Hawai'i's Department of Aquatic Resources, the University of Hawai'i, and NOAA, co-led a 3-day, 4-night field trip titled, "Managing Maui's MPA's from Watersheds to Co-Management" along West Maui. The participants included scientists, professors and students.

During a scientific field trip associated with the 13th International Coral Reef Symposium, tour participants used SCUBA to explore the north side of Molokini Crater near Maui, HI to observe the area where a large coral bleaching event occurred during the El Niño event of 2015–16. Photo credit: Curt Storlazzi, USGS

They visited Olowalu, a place the USGS determined to be a vital source of coral larvae for West Maui and adjacent islands in Hawai'i. Locals used USGS science to protect this important reef from a large proposed development project. Then the group dove in one of Hawai'i's oldest marine protected areas at Molokini to witness the effect of 2015–16 coral bleaching, which hit Olowalu as well. The tour also visited coral researchers at the island's aquarium: the Maui Ocean Center. The final visit to two sites that have been areas of concern for the U.S. Coral Reef Task Force (USCRTF)—Honolua Bay and Kahekili, both now State of Hawai'i marine protected areas—focused on the deleterious effects on corals from detrimental land-use activities.

Members of DOI played a prominent role in this coral reef meeting. USGS scientists chaired several meeting sessions; scientists from other DOI bureaus, such as NPS and USFWS, also participated by giving talks or chairing science sessions. As it was also the 10th anniversary of the Papahānaumokuākea Marine National Monument (*http://www.papahanaumokuakea.gov/*), managed by both USFWS and NOAA, the meeting helped highlight the threats to these coral ecosystems and benefits in protecting them. *See related story, page 1.*

Hafa Adai! from the Mariana Islands

News from the U.S. Coral Reef Task Force

By Cheryl Fossani (DOI)

In September 2016, the USCRTF held its 36th meeting in the Mariana Islands. This meeting brought together stakeholders and partners to address diverse issues affecting the health of coral reefs in several watersheds in Guam and the Northern Mariana Islands and the communities that rely on them. Governor Torres of the Commonwealth of the Northern Mariana Islands opened the meeting with remarks welcoming the USCRTF to Saipan and expressing the importance of the partnerships formed and accomplishments made through the efforts of the USCRTF. USCRTF Co-Chairs Lori Faeth, DOI's Deputy Assistant Secretary for Policy and International Affairs, and Eileen Sobeck, Assistant Administrator for NOAA National Marine Fisheries Service, also provided remarks about 2016 being a benchmark year for ocean and coral reef conservation.

With more than 200 registered participants, this year's USCRTF meeting was a great success! During the business meeting, the USCRTF heard several presentations that highlighted regional watershed management and coral reef conservation and restoration efforts, as well as coral reef challenges that pose threats on a global scale. Dr. David Burdick, from the Guam Coral Reef Monitoring Program, Dr. Peter Houk, from the University of Guam, and Mr. Marlowe Sabater, from the Western Pacific Regional Fisheries Management Council, informed the USCRTF of the status of coral reefs in the region; and Dr. Charles Birkeland, from the University of Hawai'i, gave a presentation about the future that coral reefs face with climate change and changes in ocean chemistry.

Members of the USCRTF at the business meeting in Guam. Photo credit: Trevor Boykin, University of Guam Sea Grant Program

Bamboo is an invasive species in Guam and causes problems for watersheds, including flooding when the clumps of bamboo fall and dam the river. Watershed workshop participants visited the Manell-Geus watershed and saw firsthand the issue of invasive bamboo and how Guam is working to find solutions to remove the invasive species. Photo credit: Erica Wales, DOI

U.S. Coral Reef Task Force Co-chairs Lori Faeth (DOI) and Eileen Sobeck (NOAA) are accompanied by staff during a visit to the War in the Pacific National Historical Park. Photo credit: Erica Wales, DOI

This year's USCRTF meeting included several site visits and workshops to address coral reef conservation issues specific to the northern Pacific Islands. The USCRTF Watershed Working Group convened a workshop that highlighted issues and management practices associated with sedimentation and stormwater runoff. Coral reefs ecosystems in the Pacific Islands are heavily impacted by sedimentation from many sources, including unpaved roads, unstable stream banks, and large areas of bare ground. During the Watershed Workshop, experts shared presentations and led discussions that focused on successful sediment control strategies and how they can be used locally to help stabilize sediments along stream banks and already entrained in stream channels. After the workshop, participants visited the Manell-Geus watershed to witness the challenges contributing to sedimentation and the mitigation projects currently underway. *See related story, page 22.*

While visiting, Lori Faeth met with National Park Superintendents, USFWS Refuge Managers, and staff, and toured the War in the Pacific National Historical Park and the Guam Wildlife Refuge. This visit offered an opportunity to discuss the local issues affecting coral reef health and how these conservation sites are working to manage and mitigate those issues.

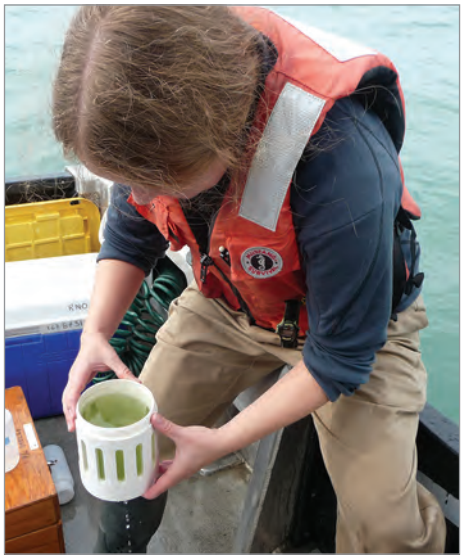
Learn more: *http://www.coralreef.gov/*

Collaboratives in the Great Lakes Basin—Joining Forces for a Collective Impact

By Josh Miller (USGS)

The Great Lakes ecosystem is divided by an international boundary, eight State boundaries, Tribal and First-Nations lands and jurisdictions, and countless local government boundaries. Though still a productive and stunningly beautiful ecosystem, the region has undergone dramatic changes in the past 200 years as a result of an industrial economy, urbanization, invasive species, and commercial fishing. The complexity of jurisdictions, provision of substantial ecosystem services to innumerable stakeholders (such as the $7 billion fishery), and history of environmental change have made for an extremely challenging system for coastal, nearshore, and offshore natural resource managers.

USGS scientists in the Great Lakes region help managers address large-scale, challenging issues by providing Federal leadership in drawing partners together across jurisdictions and connecting science to management. The USGS Great Lakes Science Center has done this in recent years by establishing formal "collaboratives" that bring together scientists and managers from public, private, and academic sectors on both sides of the international border. These collaboratives rest upon the key elements of "collective impact" as identified by John Kania and Mark Kramer in 2011. The collective impact approach emerged as a method for addressing complex societal problems like childhood obesity, education reform, and restoration of urban watersheds in contrast to "isolated impact," where one actor seeks to solve a complex problem alone or in competition with others. The Great Lakes collaboratives have been built



Dr. Mary Anne Evans, USGS limnologist and algal ecologist, studies the ecology of HABs in the shallow, western basin of Lake Erie and other Great Lakes bays. These HABs have gained increasing attention across the basin in recent years. The issue requires collaboration across vast areas because it spans from farm fields and urbanized landscapes to coastal and open-water ecosystems. Photo credit: Josh Miller, USGS

to address highly complex, natural resource management issues.

One of the issues in the region is the management and prevention of the spread of invasive *Phragmites australis*, or common reed, in coastal and inland wetlands. In partnership with the Great Lakes Commission (a binational and inter-State organization that is the crucial backbone-support role for all the Great Lakes collaborations), the USGS established the Great Lakes Phragmites Collaborative (*http://greatlakesphragmites.net/*), which draws together land managers from across the Great Lakes basin who are combating the invasive plant. The goal is to generate more coordinated, efficient, and strategic approaches to research, management, and restoration across the numerous boundaries within the Great Lakes basin. The binational collaborative serves as a communication conduit to facilitate access to information and resources, encourage technology transfer, and build networks among land managers, governmental agencies, academic institutions, and private landowners.

This fall, the collaborative started the Phragmites Adaptive Management Framework, which will connect land managers and scientists across the basin, to facilitate a shift in management strategy that will, over time, refine and improve best management practices for controlling invasive *Phragmites australis* in a suite of site conditions throughout the Great Lakes basin. Watch a video on the Phragmites Adaptive Management Framework available on YouTube: *https://youtu.be/UCHpKGaZN_M*

A second large-scale, complex societal issue in the region is the reemergence of harmful algal blooms (HABs) in some nearshore areas and bays in the Great Lakes basin. These HABs, which can be toxic to wildlife, pets, and humans, are increasingly affecting coastal communities and their economies by fouling beaches, inhibiting recreational uses, and threatening

Dr. Kurt Kowalski, a USGS plant ecologist, studies the biology, ecology, and approaches to management of invasive *Phragmites australis*. The invasive plant can reach high densities and enormous heights, substantially affecting the value of wetlands and shoreline property. Collaboration among land owners and managers is critical. Photo credit: USGS

See Great Lakes page 29

Great Lakes continued from page 28

public safety. In August 2014, an HAB in Lake Erie's western basin caused local officials to issue a temporary "do not drink the water" advisory for the municipal water supply to more than 400,000 residents of Toledo, Ohio.

That same year, USGS helped to form the Great Lakes HABs Collaboratory. The collaboratory seeks to create a collective laboratory ("co-laboratory") that enables science-based information sharing among scientists and between scientists and decisions makers working on HABs in the Great Lakes. The collaboratory also provides a network for developing a mutual understanding of current science and science needs, strategies for transferring technology, and opportunities for receiving feedback from managers.

The collaborative approach has proven to be an effective means of drawing together scientists and managers at multiple scales to address complex coastal, nearshore, and offshore issues that cross jurisdictions and compromise the resilience of coastal communities. In 2014, Secretary Sally Jewell awarded the St. Clair-Detroit River System Initiative the prestigious Partners in Conservation award. This initiative began as the Huron-Erie Corridor Initiative, working to address fish habitat impairments under the Great Lakes Water Quality Agreement, and has grown into a vast group of Federal, State, local, Tribal, provincial, First Nations, private, non-profit, and academic stakeholders with a shared vision statement and common agenda, restoring a major, bi-national connecting channel and world-class river. The collaborative and collective impact approach is beginning to work its way from the Great Lakes region across the Nation among USGS and partner agencies and organizations, connecting science to management to address complex issues related to natural resources.

Learn more online:

The USGS Great Lakes Science Center Web site: *http://www.glsc.usgs.gov/*

St. Clair-Detroit River System: *http://scdrs.org/wp-content/uploads/2016/01/SCDRS-FactSheet-Final-1.6.16.pdf*

Great Lakes Commission: *http://glc.org/*

Great Lakes HABs Collaboratory: *http://glc.org/projects/water-quality/habs/*

Learn more about collective impact: *http://ssir.org/articles/entry/collective_impact*

Read more: *https://www.usgs.gov/news/huron-erie-corridor-initiative-partners-receive-prestigious-secretary-interior-honor*

In 2014, Secretary Sally Jewell (center) presented the prestigious Partners in Conservation award to the partners of the Huron-Erie Corridor Initiative (subsequently renamed the St. Clair-Detroit River System Initiative). Photo credit: DOI

BOEM's Marine Archaeology Role

The 50th Anniversary of the National Historic Preservation Act

By Melanie Damour (BOEM)

BOEM celebrates the 50th anniversary of the National Historic Preservation Act (NHPA) in October and highlights its Historic Preservation program in the July/August/September 2016 issue of their quarterly journal, "BOEM Ocean Science."

BOEM, as a regulatory agency with jurisdiction in Federal waters of the U.S. OCS, is responsible for oversight of conventional and renewable energy development and marine minerals extraction while complying with Federal laws enacted to protect the environment.

Part of BOEM's responsibility, as mandated by the NHPA, is to properly consider the potential impacts of BOEM-permitted activities on cultural resources, including historic shipwrecks, submerged indigenous archaeological sites, and Traditional Cultural Properties. BOEM's Environmental Studies Program (ESP), initiated in 1973 under Section 20 of the OCS Lands Act (1953), acquires the scientific information needed to inform BOEM's decision making. Through the ESP, BOEM has funded more than $14 million toward cultural resource-related studies across all its OCS regions (Atlantic, Gulf of Mexico, Pacific, and Alaska). Regional inventory studies completed in the 1970s and 1980s formed the cornerstone of BOEM's Historic Preservation Program. Recent and ongoing studies continue to inform the program's best management practices for cultural resource management on the OCS. Several of these key cultural resources studies are highlighted in the new issue of "BOEM Ocean Science." *http://www.boem.gov/Ocean-Science/*

"Monumental" Changes in Ocean Protection

By Lauren Wenzel (NOAA)

In August 2016, just before the world's conservation leaders met in Hawai'i for the World Conservation Congress (WCC), President Obama announced the increase of the Papahānaumokuākea Marine National Monument. The expansion was motivated by a desire to increase the resilience of marine life to climate impacts, as was the creation of the new Northeast Canyons and Seamounts Monument off the Atlantic coast in September. *See related stories, page 1.*

The United States now has 26 percent of its waters (from 0 to 200 nautical miles) protected through MPAs. These include not only special places far offshore like Papahānamokuākea, but also the many national parks, refuges, marine sanctuaries, and similar State-managed programs that protect marine life across the country. Joining many other coastal countries, the United States has pledged to protect 10 percent of its oceans (including coastal waters and the Great Lakes) in MPAs to conserve marine biodiversity. Although the spatial part of this target has been met, challenges remain.

First, many scientists believe that the 10 percent target is not enough to protect biodiversity, leading to a resolution at the WCC calling for protection of 30 percent of the world's ocean. Also, science-based global targets emphasize that MPAs should be organized into well-managed, ecologically connected networks. Networks allow for marine species to move through different habitats they need at different life stages. They can also increase the "spillover" of young and adults of fished species into adjacent areas where fishermen can benefit. But ecological networks are still a fairly new idea in the United States, best seen in California's statewide network of MPAs. Second, MPA networks must be well managed to achieve their goals, including having management plans and consistent resources to implement them. Many MPA programs are increasingly partnering with outside organizations to help bring additional resources to support activities, such as education, monitoring, and research.

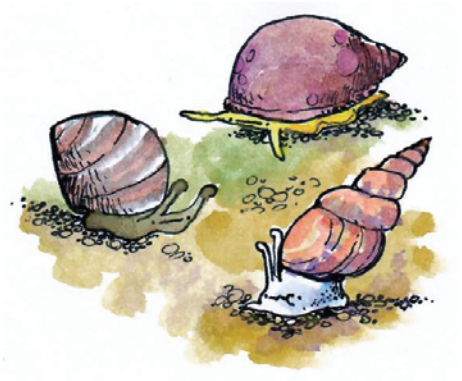


Illustration credit: Cole Goco

The Marine Protected Areas Federal Advisory Committee is currently working on two sets of recommendations to address these issues. One report will focus on how MPA managers can apply tools and guidelines to incorporate spatial ecological connectivity when managing existing MPAs and when designing new MPA networks. The second report outlines options for tapping into external sources of funding for MPA management, including grants, corporate donations, and other sources. Both sets of recommendations were completed in December 2016.

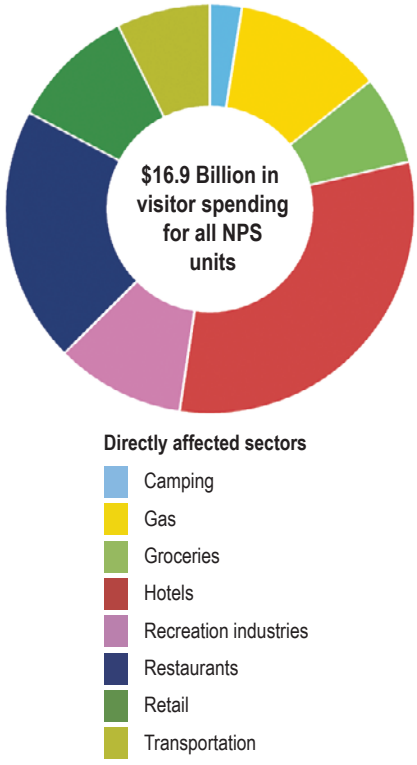
Read about the Papahānaumokuākea expansion: *http://www.papahanaumokuakea.gov/news/expansion_announcement.html*

Read about the status of MPAs: *http://marineprotectedareas.noaa.gov/about-mpas/status-of-usa-mpas-2016.html*
WCC resolution: *https://portals.iucn.org/congress/motion/053*
California's MPA network: *https://www.wildlife.ca.gov/conservation/marine/mpas/network*
The Marine Protected Areas Federal Advisory Committee: *http://marineprotectedareas.noaa.gov/fac/*

Our Valuable Ocean and Coastal Parks

In June 2016, NPS published the annual Economic Report for 2015. In 2015, park visitors spent an estimated $16.9 billion in local gateway regions while visiting NPS lands across the country. These expenditures supported a total of 295,300 jobs, $11.1 billion in labor income, $18.4 billion in value added, and $32 billion in economic output in the national economy. Learn more about park visitor spending effects: *https://www.nps.gov/subjects/socialscience/vse.htm*
For our 88 OGLC parks, this benefit translates to:

- Visitor spending: $5,026,054
- Jobs: 72,237
- Visits: 89,212,379



NPS visitor spending in 2015.
Image credit: NPS

Illustration credit: Cole Goco

Enhancing Exchange across the Ocean, Great Lakes and Coastal Team

By Liza Johnson (DOI)

In June 2016, after nearly 6 years working together to implement the National Ocean Policy, representatives from DOI's OGLC offices and bureaus met in Shepherdstown, West Virginia, for a strategic planning workshop. The group welcomed new team members from across DOI and included people from almost all regions and with different types of expertise, ranging from managers and policy experts to scientists and communicators. They gathered to celebrate accomplishments, talk about coordinating priorities and activities, and begin developing a strategy for OGLC work going forward into the next 5 years. DOI's previous Principal Deputy Assistant Secretary, Kris Sarri, gave opening remarks and underscored the importance of developing a strategy for a coordinated effort to implement OGLC actions through internal and external partnerships. Retreat participants left with a renewed sense of vision, commitment, a refreshed network, and great information they will use going forward. The team looks forward to sharing this progress in future issues of *NEWSWAVE*.

BOEM's July/August/September 2016 issue.
See related stories, pages 12 and 25.

It takes a large group to coordinate the diverse ocean, Great Lakes and coastal (OGLC) activities across the DOI. These are most of the participants from the workshop who represent many more across the nation contributing to DOI's blue portfolio. Photo credit: Susan Goodwin, DOI

Regional Contacts

DOI leadership supports State-led regional ocean partnerships (ROPs), as well as Federal-State-Tribal marine planning partnerships called regional planning bodies (RPBs). Five geographic regions now have operational RPBs: Northeast, Mid-Atlantic, Caribbean, the Pacific Islands and the West Coast.

Alaska/Arctic

Jim Kendall (BOEM)
(Alaska)

Caribbean

Sherri Fields (NPS)
(Puerto Rico, U.S. Virgin Islands)
ROP: *http://caribbean-mp.org/en/*

Great Lakes

Phyllis Ellin (NPS)
Charlie Wooley (USFWS)
(Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, Wisconsin)
Great Lakes Research Initiative: *http://www.epa.gov/glnpo/glri/*
ROP: *http://www.cglg.org/*

Gulf of Maine

Walter Barnhardt (USGS)
(Maine, New Hampshire, Massachusetts, New Brunswick, Nova Scotia)
ROP: *http://www.gulfofmaine.org/2/*

Gulf of Mexico

Linda Walker (USFWS)
(Alabama, Florida, Louisiana, Mississippi, Texas)
ROP: *http://www.gulfofmexicoalliance.org*

Mid-Atlantic

Bob LaBelle (BOEM)
Leann Bullin (BOEM)
(New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia)
RPB: *http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body/*
ROP: *http://midatlanticocean.org*

Northeast

Bob LaBelle (BOEM)
Leann Bullin (BOEM)
(Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut)
RPB: *http://neoceanplanning.org/*
ROP: *http://northeastoceancouncil.org/*

Pacific Islands

Matt Brown (USFWS)
(American Samoa, Commonwealth of the Northern Mariana Islands, Guam, Hawai'i)
RPB: *http://www.PacificIslandsRPB.org*

South Atlantic

Eric Strom (USGS)
(North Carolina, South Carolina, Georgia, Florida)
ROP: *http://southatlanticalliance.org/*

West Coast

Joan Barminski (BOEM)
(California, Washington, Oregon)
RPB: *http://www.westcoastmarineplanning.org*
ROP: *http://www.westcoastoceans.org*

Illustration credit: Cole Goco

The Surfing Bison

Protecting Marine Mammals—A Quick Reference Guide

https://www.fws.gov/international/animals/marine-mammals.html

"Marine Mammal Policy" Fact Sheet:
https://www.fws.gov/international/pdf/factsheet-marine-mammal-policy-2013.pdf

By Erica Wales (DOI)

Marine mammals (whales, dolphins, porpoises, seals, sea lions, walrus, polar bears, sea and marine otters, dugongs, and manatees) may vary in taxa, habitat, and behavior, but they all share one thing in common—dependency on the ocean for survival. These mammals are a balancing factor in marine ecosystems, helping to steady the food chain and control prey populations. Because of habitat loss, by-catch, and exploitation, many of these species are in danger of survival and are legally protected under various U.S. and international laws to aid in their survival. DOI's USFWS and NOAA's National Marine Fisheries Service (NMFS) share responsibility in the protection, conservation, and management of marine mammals. Below are descriptions and links to learn more.

Marine Mammal Protection Act (MMPA)—The MMPA was enacted in 1972 and prohibits, with a few exceptions, the "taking" of marine mammals in U.S. waters and by U.S. citizens on the high seas, as well as the importation of marine mammals or products. A "take" is defined as "to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal." NMFS has jurisdiction over whales, dolphins, porpoises, seals and sea lions, whereas the USFWS has jurisdiction over walrus, polar bears, sea and marine otters, dugongs, and manatees. *https://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/marine-mammal-protection-act.html*

Endangered Species Act (ESA)—The ESA of 1973 protects domestic and international species, and provides a framework to conserve and protect endangered and threatened species and the habitats upon which those species depend. Under the ESA, it is illegal to take (defined under the ESA as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct"), import, export, sell or offer to sell, and possess or transport listed species. Like the MMPA, NMFS has jurisdiction over whales, dolphins, porpoises, seals, and sea lions, whereas USFWS has jurisdiction over walrus, polar bears, sea and marine otters, dugongs, and manatees. *https://www.fws.gov/international/laws-treaties-agreements/us-conservation-laws/endangered-species-act.html*

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)—The CITES treaty came into effect in 1975 and has the purpose of ensuring the survival of plants and animals is not threatened by international trade. USFWS is responsible for carrying out the provisions of this convention for all marine mammals protected under CITES (which includes whales, dolphins, porpoises, manatees, dugongs, seals, otters, walrus, and polar bears). *https://www.fws.gov/international/cites/index.html*

Photos from top to bottom:
- Polar bear cubs. Photo credit: USGS
- An endangered Hawaiian monk seal in Papahānaumokuākea Marine National Monument. Photo credit: Mark Sullivan
- Walrus on ice. Photo credit: Joel Garlich-Miller, USFWS
- Sea otters. Photo credit: Kristine Sowl, USFWS

From: Office of Senator Ted Cruz
To: Lara_Levison@ios.doi.gov
Subject: Cruz News: Ensuring Greater Promise, Opportunity, and Protection of Our Future Generations
Date: Friday, January 27, 2017 8:14:18 PM

January 27, 2017

Greetings,

This week, millions of Americans across the country gathered to help ensure greater promise, opportunity, and protection of our future generations.

On Tuesday, Texans rallied in Austin in support of legislative measures before the Texas legislature that will expand school choice. And today, millions of Americans came together in cities all across the country and in Washington to recognize our fundamental right to life and remember the 57 million innocent, unborn lives that have been ended by abortion since Roe v. Wade.

We have tremendous opportunities before us to unleash the potential of every child by expanding school choice, and to defend unborn life by passing legislation that will reduce and discourage abortion. I remain committed to leading on both of these issues which I believe are crucial to improving lives and protecting our future.

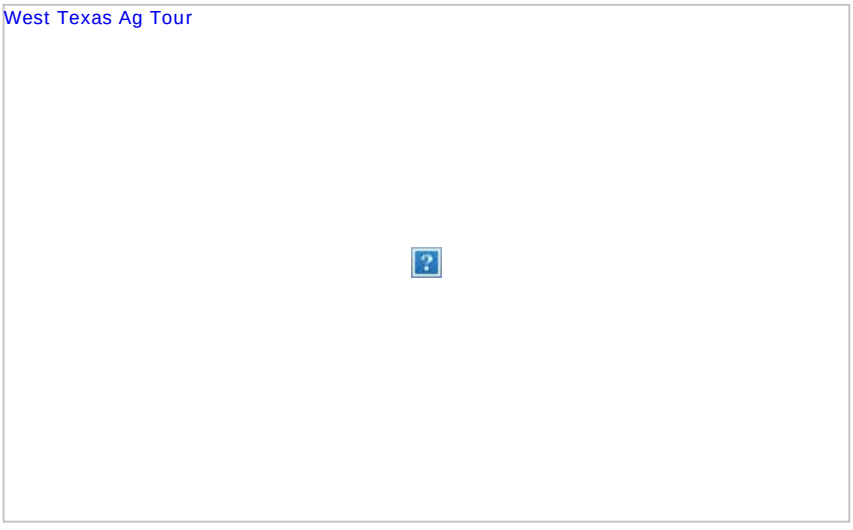
Please read below for an update from this last week.

Keep Texas Strong,

TC Sig

Ted Cruz

Sen. Cruz Thanks Pro-Life Marchers for Unwavering Support for Life



Sen. Cruz released the following statement in recognition of the March for Life, where

millions of Americans will gather in D.C. and across the nation in defense of policies at all levels of government that defend innocent life:

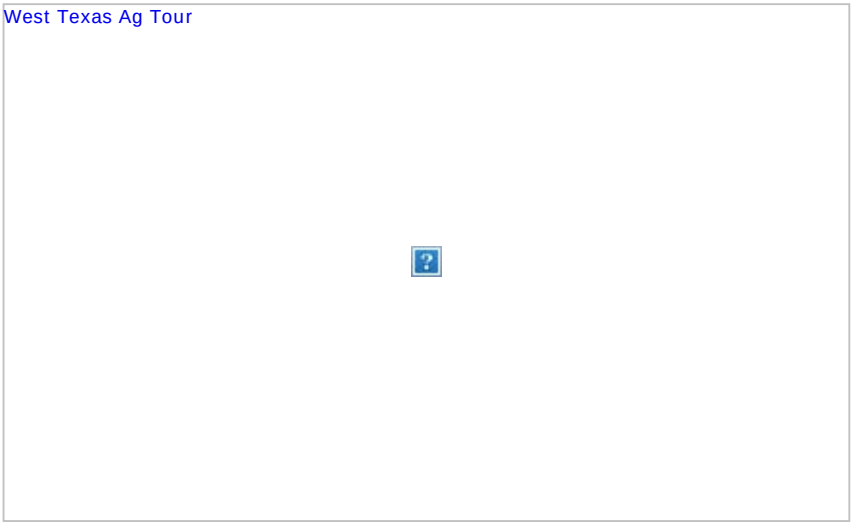
“As millions of Americans gather in D.C. and cities all across the country today to recognize the fundamental right to life, we mourn and remember the 57 million innocent, unborn lives that have been ended by abortion since Roe v. Wade was decided 44 years ago. I want to thank all who are marching today and all who are fighting tirelessly to rectify this injustice and defend the unborn. Their heroic efforts continue to speak the truth in love and make great strides in restoring the sanctity of life throughout the 50 states. I stand with you all and remain firmly committed to efforts that will minimize and, hopefully one day, put an end to the scourge of abortion upon our society. With your efforts we can bring a light of hope and restore a culture of life in America. Each life is a gift from God. Without life, there is no liberty. So today, and every day, we stand united for life, and we resolve to always cherish and defend it."

Sen. Cruz has been a leader in efforts to defend life throughout his career. Earlier this week, he joined with colleagues to reintroduce the Born-Alive Abortion Survivors Protection Act, sponsored by Sen. Ben Sasse, which requires that a child born alive as a result of an abortion must be given the same degree of health care as any other child born alive at that gestational stage. He also advocated last Friday in a Senate resolution to reinstate the Mexico City policy to ensure that American taxpayer dollars are not spent to promote abortion in foreign countries. After years of not being enforced under the Obama Administration, President Donald Trump reinstated the Mexico City policy via executive order earlier this week.

In the U.S. Senate, Sen. Cruz has led efforts to take away taxpayer dollars from Planned Parenthood and advocated for an investigation into abortion practices in the U.S. to put a stop to facilities and doctors illegally performing late term abortions and infanticide. As Solicitor General of Texas he led the charge on behalf of 13 states to successfully defend a federal law that bans partial birth abortion before the U.S. Supreme Court.

The full press release can be viewed here.

Sen. Cruz Recognizes School Choice Week 2017



On Tuesday, Sen. Cruz penned the following op-ed in recognition of School Choice week, where thousands will gather in support of school choice legislation before the 85th Texas Legislature.

“Every child deserves an equal opportunity to learn. Yet today millions of children across our nation find themselves in failing schools, barring them from the chance to receive the education they need to climb out of poverty and up the economic ladder,” Sen. Cruz wrote.

“All parents and students who want educational choice should have it. Yet in Texas alone, 105,000 kids are waiting to be admitted to charter schools, and throughout the nation, more than a million children await acceptance into charter schools.

“While there remains an enormous task before us to give every child access to a quality education, I am encouraged by progress that has been made in my home state of Texas. Since 2000, the number of charter schools in Texas has more than tripled. And currently before the Texas Legislature are measures that will continue to expand school choice across our state…”

The full op-ed may be viewed here.

Sen. Cruz: President Trump’s Actions Are Just the Beginning of What Can Be Done to Create Job Opportunities for American Workers

On Monday, Sen. Cruz issued the following statement regarding President Trump’s executive actions to advance construction of the Dakota Access and Keystone XL pipelines:

“From building the infrastructure we need to transport energy resources and increase our energy independence, to removing unnecessary barriers to permitting and exploration, these measures are just the beginning of what can be done to unleash the American Energy Renaissance and create unlimited job opportunities for workers all across our country," Sen. Cruz said. "We stand at the edge of an energy revolution that is sweeping the nation, and I look forward to opportunities to work with the Trump Administration to empower the next generation of energy pioneers and tap into the natural resources at our fingertips that are crucial to restoring jobs and economic growth.”

The full press release can be viewed here.

Sen. Cruz Statement on President Trump's Executive Actions to Secure Border and Enforce the Law

Sen. Cruz released the following statement on President Trump’s actions to secure the border and enforce our immigration laws:

“Today, President Trump took action that will launch the process of securing our southern border and effectively enforcing our nation’s immigration laws. These are policies on which Americans have waited far too long for action, and I stand ready to work with my colleagues to support these measures with any additional Congressional action that may be necessary to ensure they are timely and effectively implemented.”

Sen. Cruz is the Senate sponsor of Kate’s Law, which would amend federal law to impose a mandatory minimum sentence of five years for any illegal reentry offense and is crucial to ensuing that deported illegal aliens – especially those with violent criminal records – are deterred from illegally reentering the United States. The legislation is named for Kate Steinle, a 32-year-old woman tragically shot and killed in San Francisco by an illegal alien who had several felony convictions and had been deported from the United States five times.

Sen. Cruz reintroduced Kate's Law earlier this month – which he first introduced in the Senate in July 2015 – along with cosponsors Sens. Chuck Grassley (R-Iowa), David Perdue (R-Georgia), Ron Johnson (R-Wisconsin), Marco Rubio (R-Florida), Jim Inhofe (R-Oklahoma), and Ben Sasse (R-Nebraska).

The full press release can be viewed here.

Sen. Cruz and Rep. Poe Move to Protect State Governors' Right to Refuse Refugees

This week, Sen. Ted Cruz and Rep. Ted Poe (R-Texas), chairman of the House Terrorism Subcommittee, reintroduced the State Refugee Security Act of 2017. This joint Senate-House effort mandates that the federal government notifies a state at least 21 days prior to resettling a refugee there. During that period, if a state governor certifies that the federal government has not provided adequate assurances that the refugee does not present a security risk, the federal government is prohibited from resettling that refugee in the state.

The first obligation of the president is to keep this country safe as commander in chief," said Sen. Cruz. "I am encouraged that, unlike the previous administration, one of President Trump's top priorities is to defeat radical Islamic terrorism. To augment the efforts of the new administration, this legislation I have introduced will reinforce the authority of the states and governors to keep their citizens safe. I am honored to work with Rep. Poe on this legislation and I hope that Congress will pass it and send it to the president's desk."

The full press release can be viewed here.

Sen. Cruz Takes Gavel of Constitution Subcommittee, Continues Leading Subcommittee on Space, Science, and Competitiveness

Sen. Ted Cruz has assumed a new leadership position as chairman of the Senate Judiciary Subcommittee on The Constitution, and will continue to lead the Senate Commerce Subcommittee on Space, Science, and Competitiveness during the 115th Congress, whose first session kicked off this month. Sen. Cruz will also continue to serve on the Senate Armed Services Committee, the Senate Rules Committee, and the Joint Economic Committee.

"For my entire life, I have revered the United States Constitution," said Sen. Cruz. "It's creation was truly a moment of genius. For, as Thomas Jefferson once observed, it provides the necessary 'chains' to bind the 'mischief' of government. I am honored to be trusted with the task of leading Senate oversight of constitutional issues. As the chairman of the Subcommittee on The Constitution during the 115th Congress, I pledge to work as hard as I can to ensure that our government remains faithful to the Constitution's guarantees of federalism, separation of powers, and individual liberty for American citizens."

Cruz continued, "I look forward to continuing the progress we have made on the Space, Science, and Competitiveness subcommittee in advancing a bipartisan NASA reauthorization bill that will provide NASA with the stability it needs and ensure that America remains a leader in space exploration in the 21st century. And I also look forward to continuing to work with the Senate Armed Services Committee to strengthen our national defense, and provide our service men and women with the resources they need to defend our nation. Our work on both of these committees will foster economic growth and job creation for the state of Texas, and strengthen our state's role in supporting the missions of NASA and our military."

The full press release can be viewed here.

March For Life & School Choice Highlights

Newsletter Pictures

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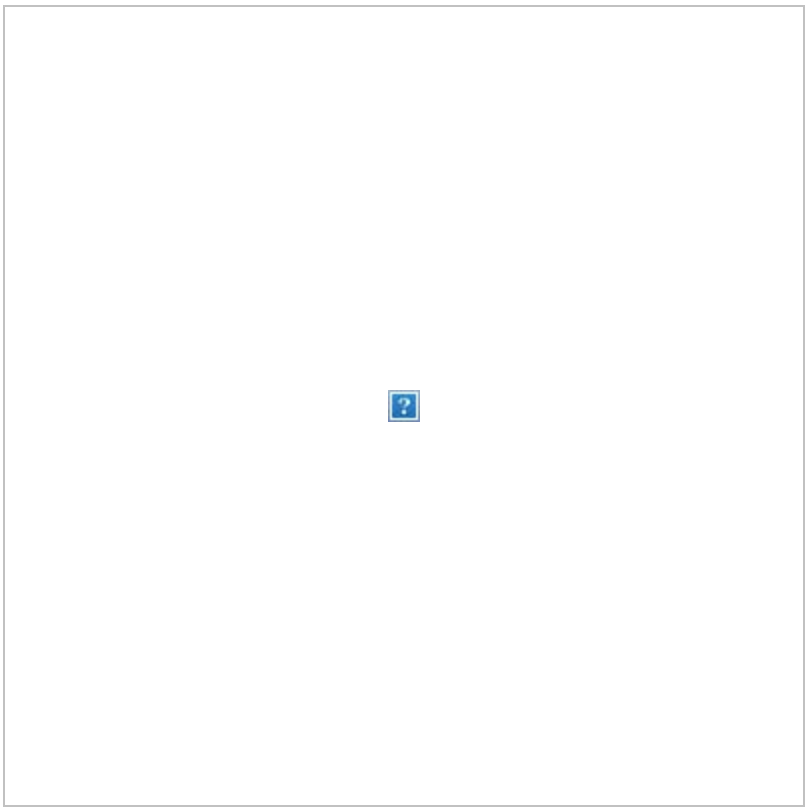
From: McCarthy Press Shop
To: Kristen_Sarri@ios.doi.gov
Subject: BLM Methane Venting and Flaring Rule
Date: Thursday, February 02, 2017 1:18:44 PM



Press Office
February 2, 2017

Mike Long, Matt Sparks
View Online

BLM Methane Venting and Flaring Rule

Summary

The House will use the Congressional Review Act to overturn the **Bureau of Land Management (BLM) venting and flaring rule** on Friday, which would further cap methane emissions in the oil and gas industry. However, this rule is costly, redundant, and illegitimate. The industry is already subject to Clean Air Act standards through the Environmental Protection Agency (EPA) and has leveraged technological advances to dramatically reduce methane emissions.

Not to mention, Congress has never granted BLM the authority to regulate air quality—power that is far outside of the agency's jurisdiction.

The Effect

Methane emissions have already decline 21% from 1990 to 2014, even as natural gas production has increased by nearly 47%. Yet the bureaucracy is ignoring this progress by adding on another rule that could **cost an estimated $1 billion by 2025**.

As federal lands become less cost-effective to produce energy on, this unnecessary rule adds to that burden and could wipe out marginal wells run by family-owned businesses who can't pack up and move their operations. Beyond the losses of jobs, state and federal governments would lose up to $114,112,000 in tax receipts.

Who It Hurts

Former Army Captain, Operation Desert Storm Veteran, recipient of the Silver Star, Bronze Star, and Purple Hart, and Vets4Energy National Program Director James McCormick said this rule hurts Americans and forces us to rely on foreign energy. "It feels as though our government is saying they'd prefer other less-caring countries to supply us with energy rather than allow us to do it ourselves," he said. "The pile-on of additional regulations, especially unneeded ones that are already being addressed by the industry, makes it seem like they are **intentionally trying to put Americans out of work** and decrease our energy independence."

Local governments are particularly nervous. **Carla Sonntag**, President of the New Mexico Business Coalition, said that one-third of New Mexico's state budget is derived from oil and natural gas, and that this revenue is the number one source of funding for public schools. Destroy the industry, and **America's public school students suffer**.

Why We're Doing This

The bureaucracy is a threat to our

- Economy
- Constitution
- and People

The House has already passed legislation to change the structure in Washington so the federal bureaucracy is subject to the people and so we stop getting the same bad results year after year. Now, we're targeting specific harmful regulations and stripping them off the books.

Majority Leader Press Office
H-107 | The Capitol
202-225-4000
majorityleader.gov

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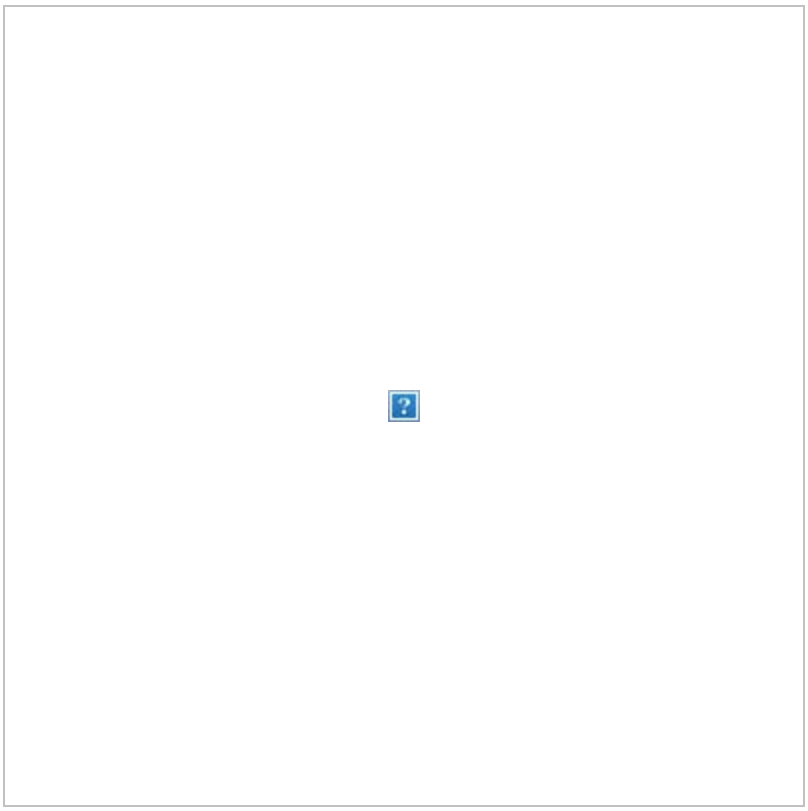
To: jason_powell@ios.doi.gov
Subject: BLM Methane Venting and Flaring Rule
Date: Thursday, February 02, 2017 1:22:31 PM



Press Office
February 2, 2017

Mike Long, Matt Sparks
View Online

BLM Methane Venting and Flaring Rule

Summary

The House will use the Congressional Review Act to overturn the **Bureau of Land Management (BLM) venting and flaring rule** on Friday, which would further cap methane emissions in the oil and gas industry. However, this rule is costly, redundant, and illegitimate. The industry is already subject to Clean Air Act standards through the Environmental Protection Agency (EPA) and has leveraged technological advances to dramatically reduce methane emissions.

Not to mention, Congress has never granted BLM the authority to regulate air quality—power that is far outside of the agency's jurisdiction.

The Effect

Methane emissions have already decline 21% from 1990 to 2014, even as natural gas production has increased by nearly 47%. Yet the bureaucracy is ignoring this progress by adding on another rule that could **cost an estimated $1 billion by 2025**.

As federal lands become less cost-effective to produce energy on, this unnecessary rule adds to that burden and could wipe out marginal wells run by family-owned businesses who can't pack up and move their operations. Beyond the losses of jobs, state and federal governments would lose up to $114,112,000 in tax receipts.

Who It Hurts

Former Army Captain, Operation Desert Storm Veteran, recipient of the Silver Star, Bronze Star, and Purple Hart, and Vets4Energy National Program Director James McCormick said this rule hurts Americans and forces us to rely on foreign energy. "It feels as though our government is saying they'd prefer other less-caring countries to supply us with energy rather than allow us to do it ourselves," he said. "The pile-on of additional regulations, especially unneeded ones that are already being addressed by the industry, makes it seem like they are **intentionally trying to put Americans out of work** and decrease our energy independence."

Local governments are particularly nervous. **Carla Sonntag**, President of the New Mexico Business Coalition, said that one-third of New Mexico's state budget is derived from oil and natural gas, and that this revenue is the number one source of funding for public schools. Destroy the industry, and **America's public school students suffer**.

Why We're Doing This

The bureaucracy is a threat to our

- Economy
- Constitution
- and People

The House has already passed legislation to change the structure in Washington so the federal bureaucracy is subject to the people and so we stop getting the same bad results year after year. Now, we're targeting specific harmful regulations and stripping them off the books.

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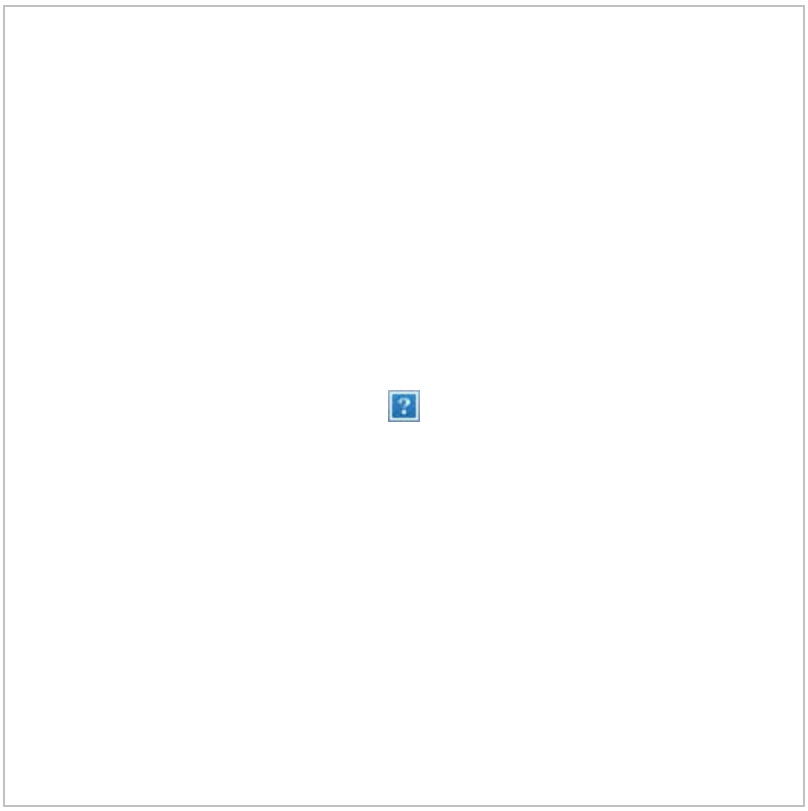

Press Office
February 2, 2017

Mike Long, Matt Sparks
View Online

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Date: Friday, February 03, 2017 9:49:01 AM

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HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
9:00 a.m.: Legislative Business	10:00 – 10:30 a.m.	10:30 – 11:00 a.m.

Five "One Minutes"		

H.J.Res. 36 – Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the Bureau of Land Management relating to "Waste Prevention, Production Subject to Royalties, and Resource Conservation" (Rep. Bishop (UT) – Natural Resources) (One hour of debate). The resolution disapproves of the Bureau of Land Management (BLM) Methane Waste Final Rule which was published in November of 2016. This rule requires that oil and gas producers implement measures and limits to intentional venting, flaring, and leakage of methane from new and existing oil and gas producers on federal lands in order to reduce natural gas waste and prevent harm to the environment, as methane is a potent greenhouse gas and a precursor to ground-level ozone. The rule will save up to 41 billion cubic feet of natural gas per year, enough to supply up to 740,000 households, and allow the government to earn up to $14 million in additional royalties that will go to states and the federal treasury. Additionally, the rule will result in 175,000 to 180,000 fewer tons of methane emissions each year, equivalent to the emissions of nearly 1 million vehicles.

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The Rule, which was adopted yesterday, provides for one hour of general debate equally divided and controlled by the Committee on Natural Resources.

Bill Text for H.J.Res. 36:
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"The fallout Monday from President Trump's sweeping immigration order exposed

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- Washington Post, 1/30/2017

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- Washington Post, 1/30/2017

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- Washington Post, 1/30/2017

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- Washington Post, 1/30/2017

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- Washington Post, 1/30/2017

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- Washington Post, 1/30/2017

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From: Financial Services Committee
To: jhoset_burgosrodriguez@ios.doi.gov
Subject: President's Executive Action Mirrors Financial CHOICE Act
Date: Friday, February 03, 2017 1:49:44 PM

PRESS RELEASE

February 3, 2017

For Immediate Release | Contacts: Jeff Emerson (202) 226-0471; Sarah Rozier (202) 226-2467

President's Executive Action Mirrors Financial CHOICE Act

WASHINGTON -- House Financial Services Committee Chairman Jeb Hensarling (R-TX) and Oversight and Investigations Subcommittee Chairman Ann Wagner (R-MO) made the following comments about President Trump's core principles for regulating the financial system, which were detailed today in an Executive Order:

Chairman Hensarling: "I'm very pleased that President Trump signed this executive action, which closely mirrors provisions that are found in the Financial CHOICE Act to end Wall Street bailouts, end 'too big to fail,' and end top-down regulations that make it harder for our economy to grow and for hardworking Americans to achieve financial independence. When Dodd-Frank was passed, Americans were promised a healthier economy, an end to bailouts and better consumer protections. Instead, we have the weakest recovery in history, a guarantee of more Wall Street bailouts, and consumer costs have gone up while their choices have gone down. Today the big banks are bigger and the small banks are fewer. Everything from mortgages to credit cards to monthly checking fees costs more because of Dodd-Frank's red tape, if consumers can even get access to them.

"Dodd-Frank failed to keep its promises, but President Trump is following through on his promise to the American people to dismantle Dodd-Frank. That's not what Wall Street wants, but it is what hardworking Americans need to have a healthy economy with more opportunities so they can achieve financial independence. Republicans are eager to work with the President to end and replace the Dodd-Frank mistake with legislation that holds Wall Street and Washington accountable, ends taxpayer-funded bailouts forever, and unleashes America's economic potential."

Chairman Wagner: "I applaud President Trump for signing this executive order to comprehensively review our financial system's regulatory framework and identify rules and regulations that are impeding economic growth and opportunities for consumers, investors, and entrepreneurs. President Trump's order is consistent with our vision in Congress to end the 'Washington-knows-best' mentality, as we move forward with the Financial CHOICE Act to kick-start our economy and provide hardworking Americans with clear opportunities for a successful future."

For more information on the Financial CHOICE Act please visit financialservices.house.gov/choice/.

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To: jhoset_burgosrodriguez@ios.doi.gov
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Date: Friday, February 03, 2017 4:12:58 PM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FRIDAY, FEBRUARY 3, 2017

FIRST VOTE OF THE WEEK:	LAST VOTE PREDICTED:
Monday 6:30 p.m.	Tuesday evening

Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

*****MEMBERS ARE ADVISED THAT ANY EXPECTED ABSENCES SHOULD BE REPORTED TO THE WHIP'S OFFICE AT x5–3130.**

MONDAY, FEBRUARY 6, 2017
On Monday, the House will meet at 12:00 p.m. for Morning Hour debate and 2:00 p.m. for legislative business, with votes postponed until 6:30 p.m.

Suspensions (7 bills)

1. **H.R. 618** – Crags, Colorado Land Exchange Act of 2017 (Rep. Lamborn – Natural Resources)
2. **H.R. 698** – Elkhorn Ranch and White River National Forest Conveyance Act of 2017 (Rep. Tipton – Natural Resources)
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6. **H.R. 494** – Fort Frederica National Monument Boundary Expansion Act (Rep. Carter (GA) – Natural Resources)
7. **H.R. 387** – Email Privacy Act (Rep. Yoder – Judiciary)

TUESDAY, FEBRUARY 7, 2017
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H.J.Res. 44 – Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976 (Rep. Cheney – Natural Resources) (Subject to a Rule)

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WEDNESDAY, FEBRUARY 8, 2017 AND THE BALANCE OF THE WEEK
On Wednesday, Thursday, and Friday, no votes are expected in the House.

ADDITIONAL FLOOR INFORMATION

The Rules Committee is scheduled to meet on the following days:

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Date: Friday, February 03, 2017 4:20:55 PM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FRIDAY, FEBRUARY 3, 2017

FIRST VOTE OF THE WEEK:	LAST VOTE PREDICTED:
Monday 6:30 p.m.	Tuesday evening

Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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Date: Friday, February 03, 2017 4:23:42 PM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FRIDAY, FEBRUARY 3, 2017

FIRST VOTE OF THE WEEK:	LAST VOTE PREDICTED:
Monday 6:30 p.m.	Tuesday evening

Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 4:28:02 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF FEBRUARY 6TH

MONDAY, FEBRUARY 6TH

On Monday, the House will meet at 12:00 p.m. for morning hour and 2:00 p.m. for legislative business. Votes will be postponed until 6:30 p.m.

Legislation Considered Under Suspension of the Rules:

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6) H.R. 494 - Fort Frederica National Monument Boundary Expansion Act *(Sponsored by Rep. Buddy Carter / Natural Resources Committee)*

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WEDNESDAY, FEBRUARY 8TH AND THE BALANCE OF THE WEEK
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Committee activity for the week of February 6 can be found here.

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Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 4:30:02 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF FEBRUARY 6TH

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WEDNESDAY, FEBRUARY 8TH AND THE BALANCE OF THE WEEK
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Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 4:30:20 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF FEBRUARY 6TH

MONDAY, FEBRUARY 6TH

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Date: Friday, February 03, 2017 4:30:22 PM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FRIDAY, FEBRUARY 3, 2017

FIRST VOTE OF THE WEEK:	LAST VOTE PREDICTED:
Monday 6:30 p.m.	Tuesday evening

Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FRIDAY, FEBRUARY 3, 2017

FIRST VOTE OF THE WEEK:	LAST VOTE PREDICTED:
Monday 6:30 p.m.	Tuesday evening

Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

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Monday 6:30 p.m.	Tuesday evening

Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

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2. **H.R. 698** – Elkhorn Ranch and White River National Forest Conveyance Act of 2017 (Rep. Tipton – Natural Resources)
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H.J.Res. 44 – Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976 (Rep. Cheney – Natural Resources) (Subject to a Rule)

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WEDNESDAY, FEBRUARY 8, 2017 AND THE BALANCE OF THE WEEK
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ADDITIONAL FLOOR INFORMATION

The Rules Committee is scheduled to meet on the following days:

- Monday, February 6, 2017 at 5:00 p.m. to report a Rule for **H.J.Res. 44, H.J.Res. 57, H.J.Res. 58.** We expect a Closed Rule.

- Tuesday, February 7, 2017 at 3:00 p.m. to report a Rule for **H.R. 428** and **H.J.Res. 42**. We expect a Closed Rule for **H.J.Res. 42**. We expect a Structured Rule for **H.R. 428** and Amendments must be submitted to the Rules Committee by **3:00 p.m. on Monday, February 6, 2017.**

Announcements can be found on the Rules committee website at:
http://democrats.rules.house.gov/

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From: Kevin McCarthy
To: robert_howarth@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 4:35:25 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF FEBRUARY 6TH

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To: carlos_uriarte@ios.doi.gov
Subject: THE WEEKLY WHIP: FRIDAY, FEBRUARY 3, 2017
Date: Friday, February 03, 2017 4:36:36 PM

Office of the Democratic Whip Steny H. Hoyer

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FRIDAY, FEBRUARY 3, 2017

FIRST VOTE OF THE WEEK:	LAST VOTE PREDICTED:
Monday 6:30 p.m.	Tuesday evening

Legislative Program – 51600 | Floor Information – 57400 | Whip Information – 53130

*****MEMBERS ARE ADVISED THAT ANY EXPECTED ABSENCES SHOULD BE REPORTED TO THE WHIP'S OFFICE AT x5–3130.**

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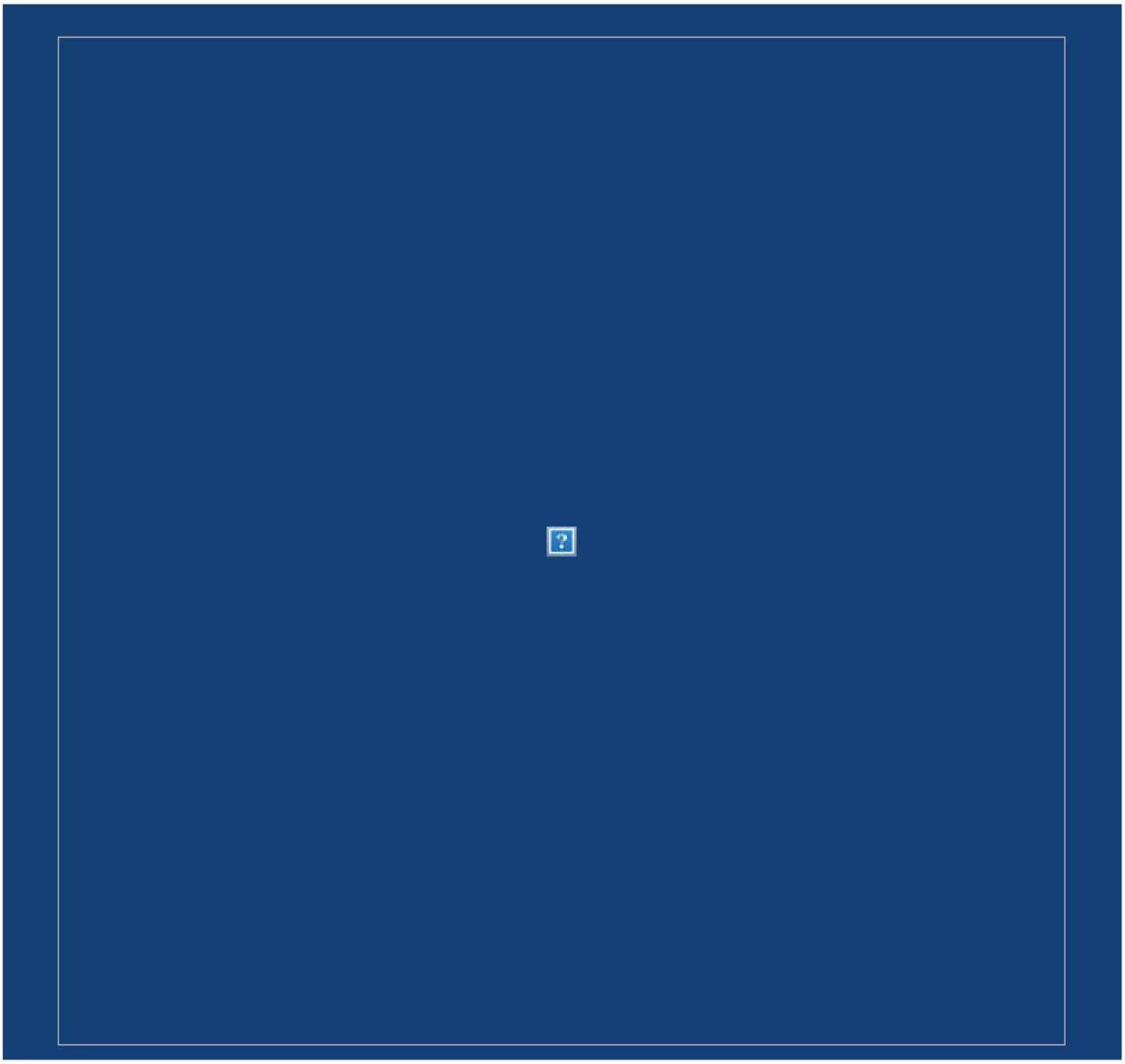


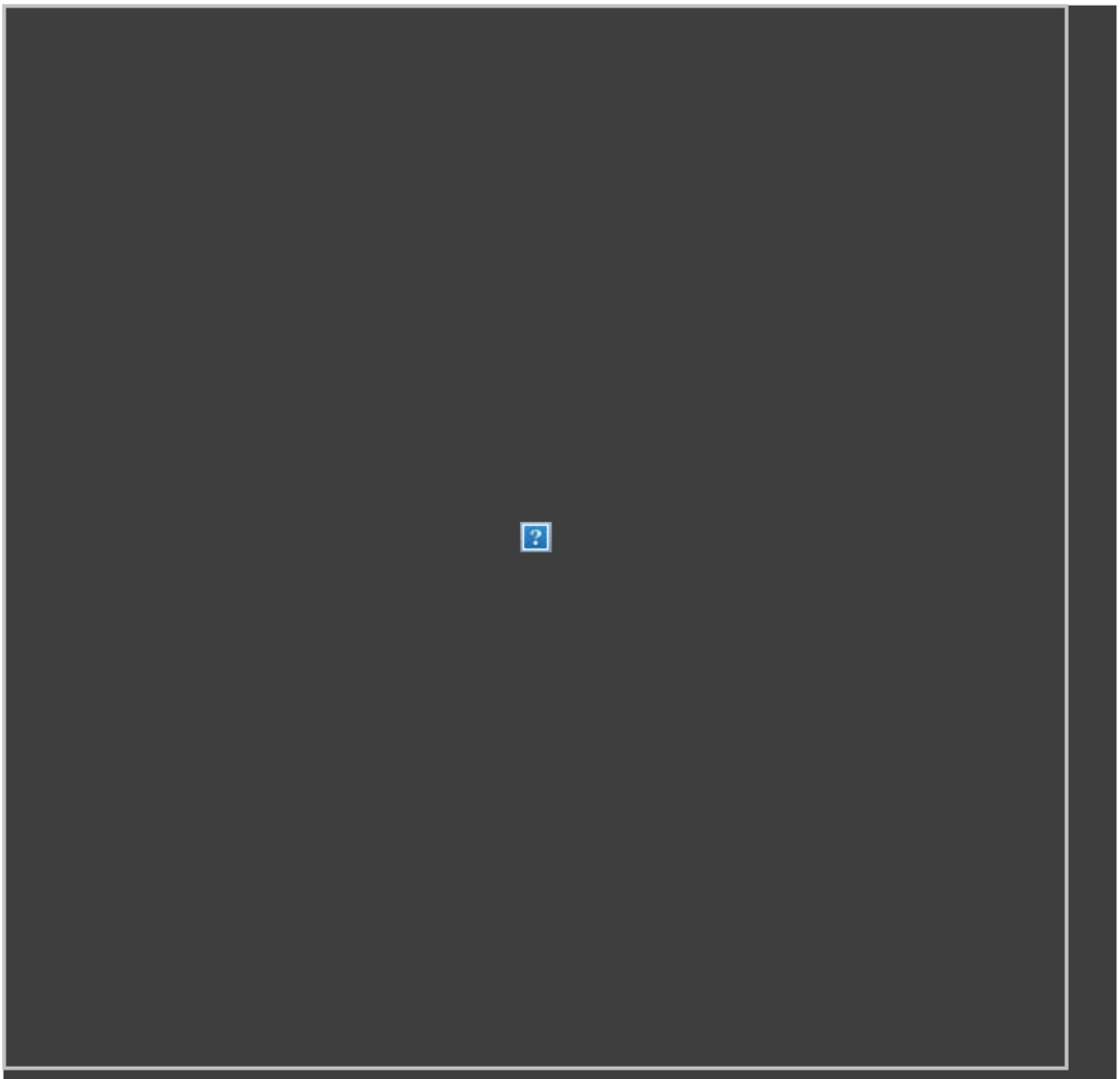
This Week in Congress
February 3, 2017

- **Insular reps: Include us in health reform**
- **CW bill again passes House**
- **GAO wage and labor report update**

- **Education and Workforce Dems organize**
- **Airport wait-times now online**
- **Ban on U.S. entry for certain foreign citizens**
- **Veterans Resource Fair**
- **FEMA sends CUC $6.5M for Soudelor**
- **Maintaining connections with Pacific neighbors**
- **Opportunities – Federal grants, jobs for/in the Marianas**
- **Highlights in the legislative program**

Insular reps: Include us in health reform

This week I led a **letter from all five insular representatives** in Congress – Republican and Democrat – to House leadership on inclusion of our areas in health care reform. We were largely left out of Obamacare, so now, with "repeal and replace" on the table, we want any replacement to meet President Trump's standard of "insurance for everybody." I am grateful to my counterparts – Resident Commissioner Jenniffer González-Colón (R-Puerto Rico), Aumua Amata Coleman Radewagen (R-American Samoa), Stacey Plaskett (D-Virgin Islands), and Madeleine Z. Bordallo (D-Guam) – for joining with me in this bipartisan position statement to Majority Leader Kevin McCarthy and Minority Leader Nancy Pelosi, both of California. Among the reforms we want are ending the cap on Medicaid insurance payments to insular areas and computing the federal/local shares of Medicaid in a way comparable to states. We also support Speaker Paul Ryan's (R-Wisconsin) idea to have federally-supported, refundable tax credits for health insurance.

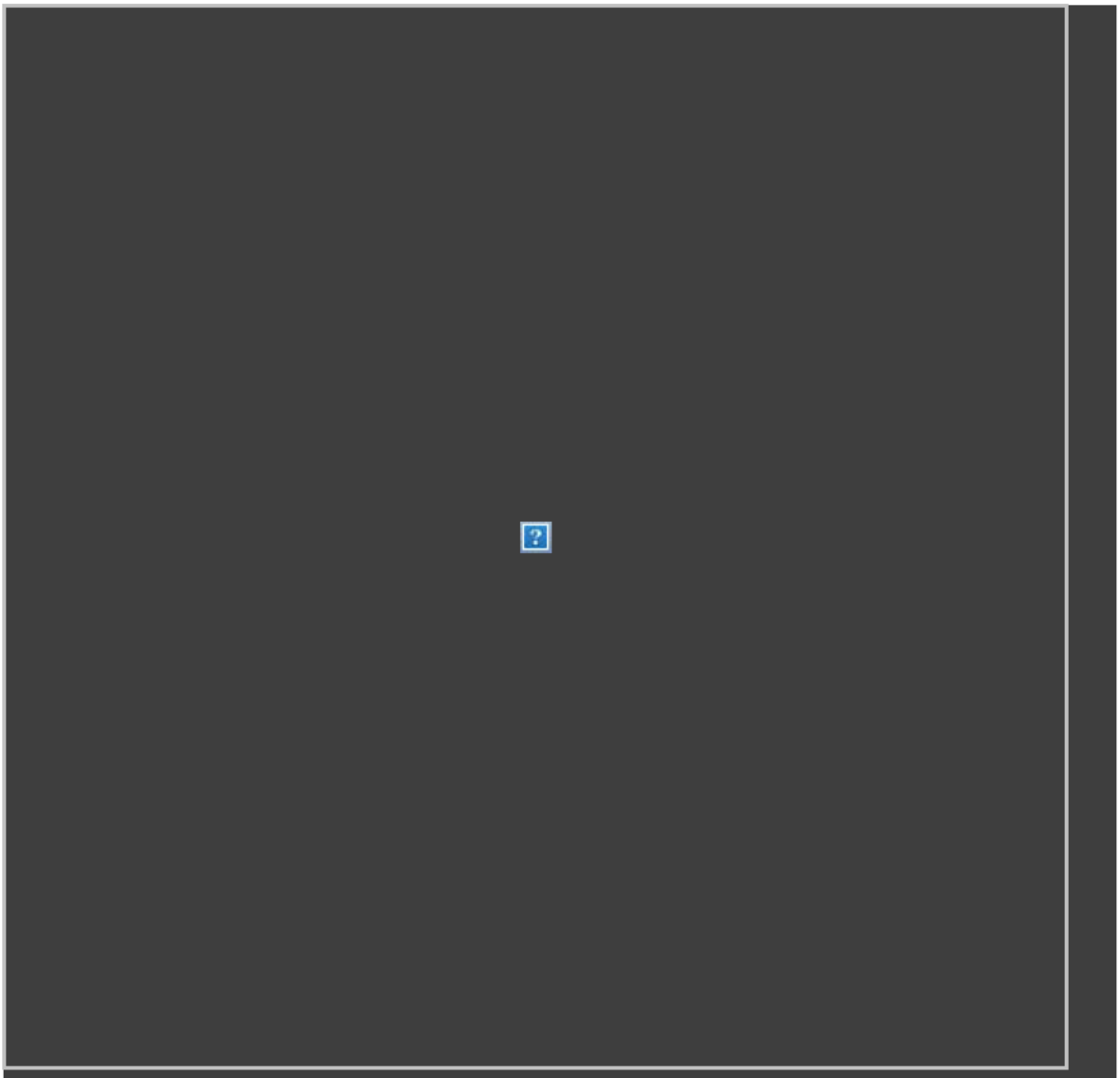


Local businesses – and our hospital – will be unable to renew CW permits in the coming months, because so many were used up for foreign construction workers in October. My bill, **H.R. 339**, addresses the problem and passed the House on Monday without dissent.

CW bill again passes House

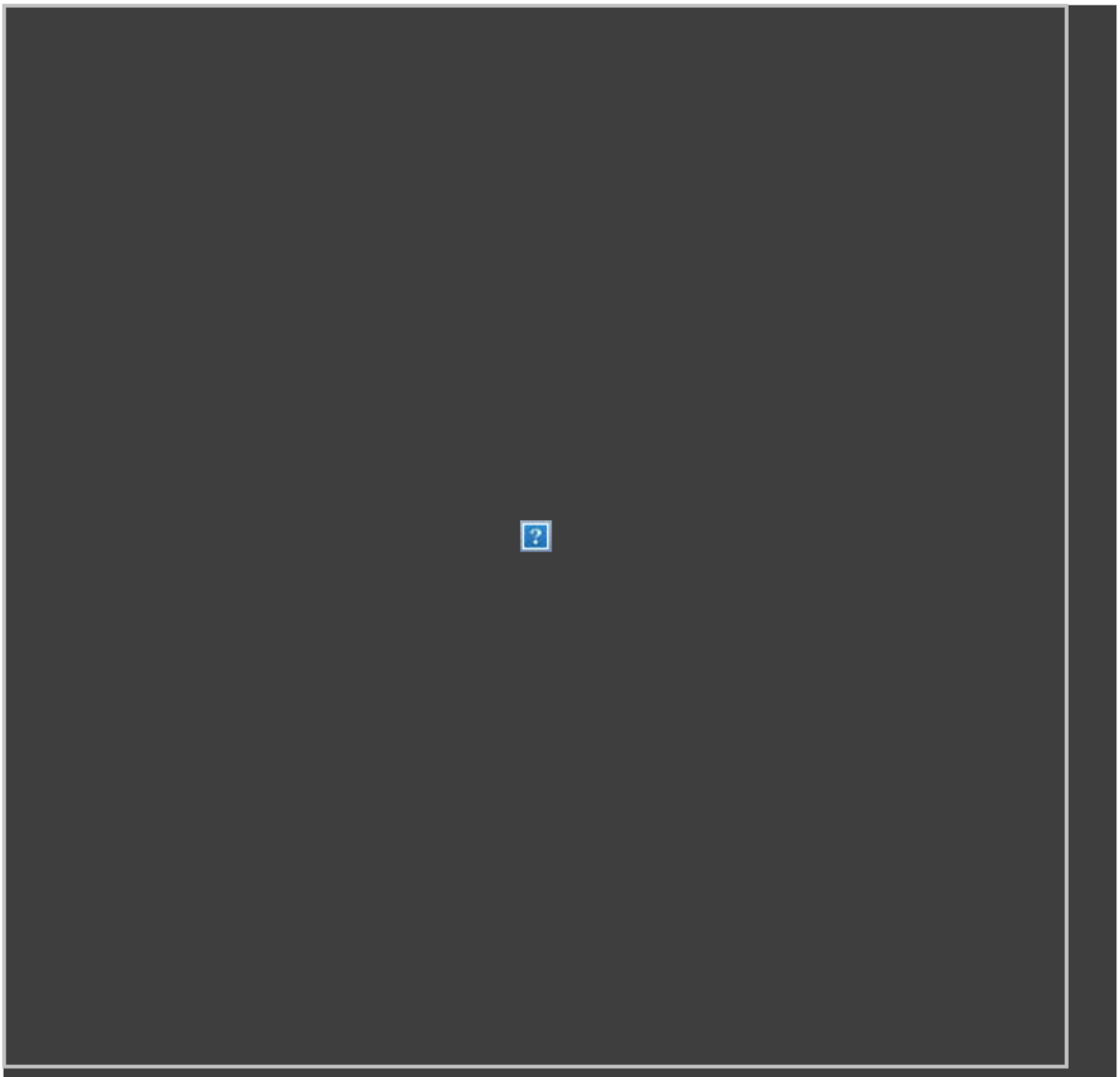
My bill, **H.R. 339**, adding 2,002 CW permits to the number allowed this year, passed the House of Representatives on Monday without dissent. This same bill passed on December 6, but Congress adjourned four days later without action by the Senate. Increasing permits remains as important as ever especially to many local, small business owners, who have employed CW workers for years and now cannot apply to renew their permits. Our local

businesses were squeezed out when the CW cap was reached last October by a rush of foreign construction workers, who should use unlimited H-2B visas, not the scarce CW permits. My legislation will give those local businesses – and the Commonwealth Healthcare Center, which is in the same predicament – an opportunity to keep their legacy employees, until they can be replaced with U.S. workers. Thanks to Governor Ralph DLG. Torres and the business community for their continued support.

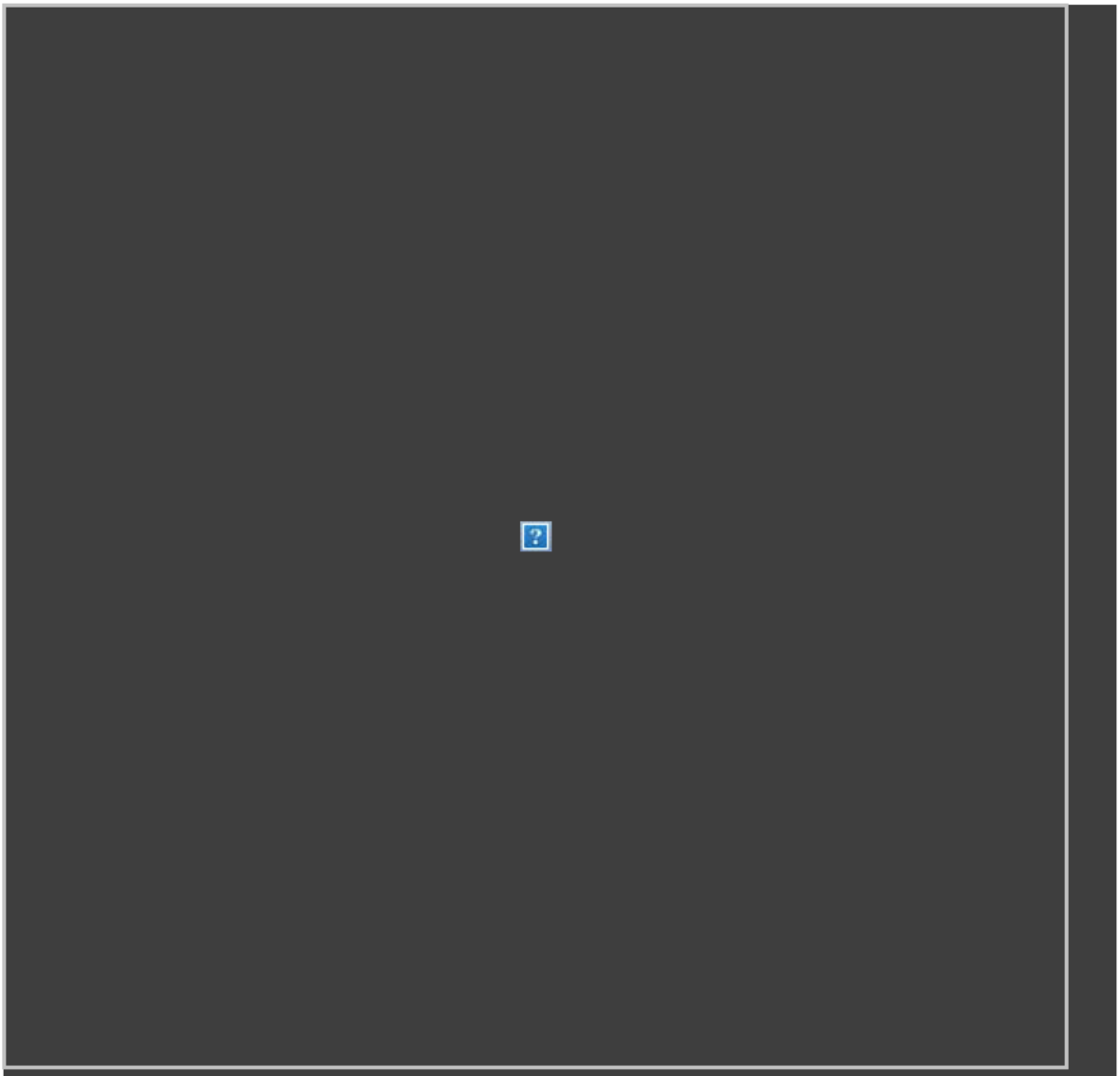


Dr. David Gootnick and Dr. Emil Friberg updated me on field work done by their Government Accountability Office team on the impact of minimum wage increases and aspects of the foreign labor program in the Marianas. A GAO

report on these issues is due this spring and will add to the discussion on long-term solutions for our islands' labor needs. GAO is also at work on a report on government debt loads in all the insular areas.



Democratic members of the House Education and the Workforce Committee selected their leaders and subcommittee responsibilities on Tuesday. As a senior committee member, I will be taking the lead on the Health, Employment, Labor, and Pensions Subcommittee as Ranking Member. And I will serve on the Higher Education and Workforce Development Subcommittee, working for Northern Marianas College and our undergraduate and graduate students everywhere.



After meeting with me last week, U.S. Customs and Border Protection has begun adding wait-time information collected daily at the Saipan International Airport to its website (**https://awt.cbp.gov/**). The same data is also available there for other international airports around our country. The agency publishes average and maximum wait-times and the number of passengers processed in quarter-hour intervals, as well as staffing details.

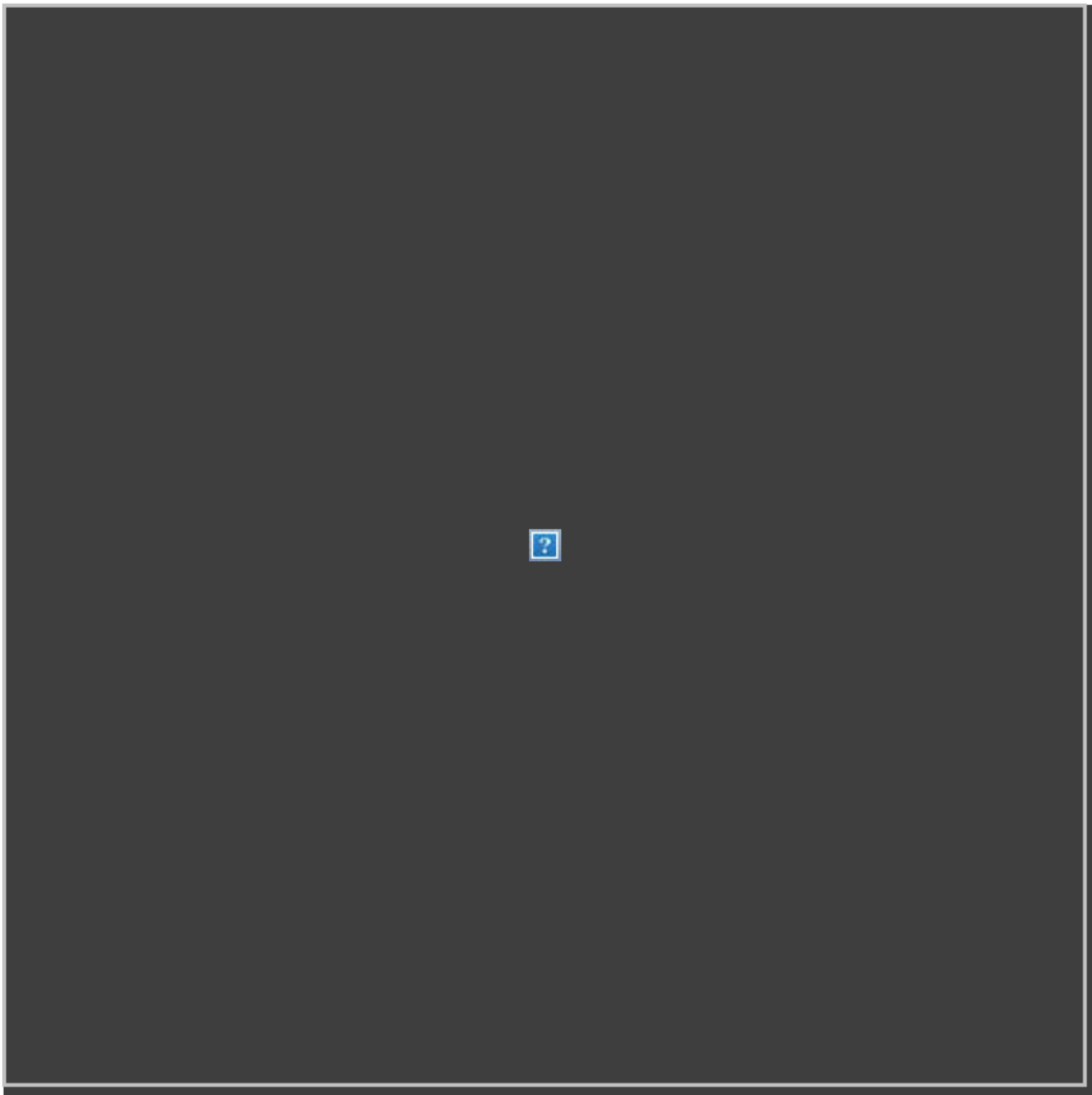
Ban on U.S. entry for certain foreign citizens

Constituents in the Marianas are asking how President Trump's **Executive Order on Protecting the Nation from Foreign Terrorist Entry to the United States** last week may affect them. In summary, the order bars citizens of seven predominantly Muslim countries – Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen – from entering the United States for 90 days. Lawful Permanent Residents, also known as "green card" holders, from those countries are exempted, but may face additional vetting during the entry process. Refugees from any nation are barred from admission for 120 days. Syrian refugees are barred indefinitely. The congressional office is at all times prohibited from giving legal advice, so citizens of any of the affected countries, living in the Northern Marianas, are encouraged to seek private legal counsel before traveling. I spoke on the House floor this week in favor of Congress voting whether this Executive Order should be rescinded. In my view, it hurts innocent people.

FEMA sends CUC $6.5M for Soudelor

The Federal Emergency Management Agency announced this week a grant of $6,596,263.11 in federal funding to the Commonwealth of the Northern Mariana Islands. The funds are intended for reimbursement of the Commonwealth Utilities Corporation for costs incurred repairing damage to the electrical system and restoring power after Typhoon Soudelor. To date FEMA has provided $25 million to individuals and households in the Northern Marianas for Soudelor recovery and $35.7 million for restoration of public infrastructure. The disaster relief grants are authorized by Congress under

Section 406 of the Robert T. Stafford Act.



Mr. Peseta Sam Lotu-Iiga, the member of the New Zealand Parliament for the Maungakiekie electorate, and Ms. Caroline Eszes, Second Political Secretary at the New Zealand Embassy (not in photo), visited the congressional office in Washington, DC on Tuesday. We discussed fisheries, trade, energy and other issues of shared interest and cooperation in the Pacific. **Tena korua**.

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Federal Opportunities for/in the Marianas

Scholarship:

- **US Pacific Territories Capacity-Building Scholarship** – The Western Pacific Fishery Management Council is offering up to three academic scholarships to support the capacity building of the Northern Mariana Islands, American Samoa, and Guam to effectively manage their fisheries and related resources. Applications are due on February 28, 2017. For more information, go to **http://files.constantcontact.com/f764162f201/d856dcfe-5e3d-4256-9520-e54d3c188710.pdf**.

Grants:

- **Drug-Free Communities Support Program** – The DFC Support Program's main goal is to establish and strengthen collaboration among communities, non-profit agencies, and all levels governments to support the efforts of community coalitions working to prevent and reduce substance use among youth. Current closing date is March 15, 2017. For more information, go to **http://www.grants.gov/web/grants/view-opportunity.html?oppId=291062**.

Jobs:

- **IT Specialist (Customer Support)** – The Army National Guard has an opening for an IT Specialist on Guam. The purpose of this position is to serve as the primary interface between the incumbent's assigned organization and all information systems customers associated with the C4 mission. Position is open until February 26, 2017. For more information, go to **https://www.usajobs.gov/GetJob/ViewDetails/463385000/**.
- **IT Specialist** – The Air Force Personnel Center has an opening for an Information Technology Specialist on Guam. Incumbent will be responsible for analysis, planning, design, and implementation of the enterprise structural framework to align IT strategy with the mission of the organization. Position is open until April 30, 2017. For more

information, go to **https://www.usajobs.gov/GetJob/ViewDetails/463560400/**.

- **Social Worker** – The Air Force Personnel Center has an opening for a Social Worker on Guam. Incumbent will provide professional social work services in support of the Family Advocacy Program requirements and initiatives. Position is open until April 30, 2017. For more information, go to **https://www.usajobs.gov/GetJob/ViewDetails/463059400/**.

Highlights in the Legislative Program

THIS WEEK

On the Floor

- **H.R.339** – Northern Mariana Islands Economic Expansion Act (Agreed to by voice vote)
- **H.J. Res. 36** – Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the Bureau of Land Management relating to "Waste Prevention, Production Subject to Royalties, and Resource Conservation" (Passed, 221-191)
- **H.J.Res. 37** – Disapproving the final rule submitted by the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration relating to the Federal Acquisition Regulation (Passed, 236-187)
- **H.J.Res.38** – Disapproving the rule submitted by the Department of the Interior known as the Stream Protection Rule (Passed, 228 – 194)
- **H.J.Res. 40** – Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Social Security Administration relating to Implementation of the NICS Improvement Amendments Act of 2007 (Passed, 235-180)
- **H.J.Res. 41** – Providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Securities and Exchange Commission relating to "Disclosure of Payments by Resource Extraction Issuers" (Passed, 235-187)

- **H.R. 58** – First Responder Identification of Emergency Needs in Disaster Situations (FRIENDS) Act (Agreed to by voice vote)
- **H.R. 437** – Medical Preparedness Allowable Use Act (Agreed to by voice vote)
- **H.R. 505** – Border Security Technology Accountability Act of 2017 (Agreed to by voice vote)
- **H.R. 526** – Counterterrorism Advisory Board Act of 2017 (Agreed to by voice vote)
- **H.R. 549** – Transit Security Grant Program Flexibility Act (Agreed to by voice vote)
- **H.R. 584** – Cyber Preparedness Act of 2017 (Agreed to by voice vote)
- **H.R. 665** – Airport Perimeter and Access Control Security Act of 2017 (Agreed to by voice vote)
- **H.R. 666** – Department of Homeland Security Insider Threat and Mitigation Act of 2017 (Agreed to by voice vote)
- **H.R. 690** – Gains in Global Nuclear Detection Architecture Act (Agreed to by voice vote)
- **H.R. 276** – To amend title 49, United States Code, to ensure reliable air service in American Samoa, as amended (Agreed to by voice vote)

Legislation I Co-Sponsored

- **H.R. 724** – To provide that the Executive Order entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" (January 27, 2017), shall have no force or effect, to prohibit the use of Federal funds to enforce the Executive Order, and for other purposes

NEXT WEEK

On the Floor

- **H.J. Res. 44** – Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976
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- **H.J. Res. 42** – Disapproving the rule submitted by the Department of Labor relating to drug testing of unemployment compensation applicants
- **H.R. 387** – Email Privacy Act

Committee Hearings

Tuesday, February 7

- Committee on Education and the Workforce Hearing on "Challenges and Opportunities in Higher Education"
- Committee on Natural Resources Organizational Meeting

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Date: Friday, February 03, 2017 6:37:51 PM

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To: jeremy_Bratt@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 6:41:56 PM

LEADER'S WEEKLY SCHEDULE

WEEK OF FEBRUARY 6TH

MONDAY, FEBRUARY 6TH

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Legislation Considered Under Suspension of the Rules:

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5) H.R. 337 - Black Hills National Cemetery Boundary Expansion Act *(Sponsored by Rep. Kristi Noem / Natural Resources Committee)*

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TUESDAY, FEBRUARY 7TH

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From: Kevin McCarthy
To: jason_powell@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 6:55:01 PM

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Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 6:55:03 PM

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From: Kevin McCarthy
To: joseph_nevils@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 7:40:42 PM

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From: Kevin McCarthy
To: celina_cunningham@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 7:43:54 PM

LEADER'S WEEKLY SCHEDULE

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From: Kevin McCarthy
To: stephenne_harding@ios.doi.gov
Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 7:43:54 PM

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Subject: The Leader"s Weekly Schedule - Week of 2/6/17
Date: Friday, February 03, 2017 7:43:57 PM

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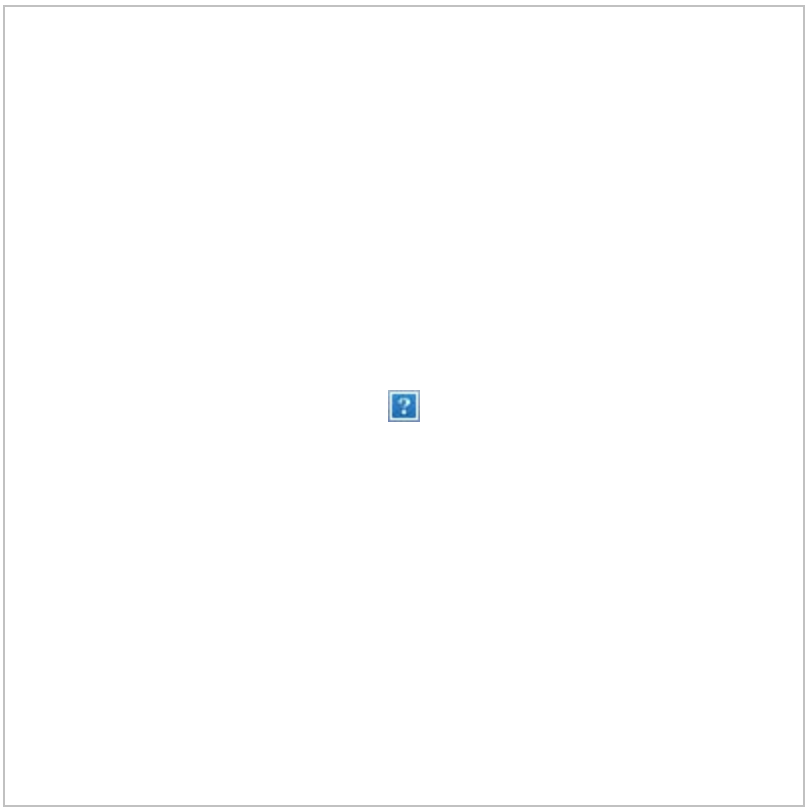
From: McCarthy Press Shop
To: Kristen_Sarri@ios.doi.gov
Subject: BLM Planning 2.0 Rule
Date: Monday, February 06, 2017 11:14:53 AM



Press Office
February 6, 2017

Mike Long, Matt Sparks
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BLM Planning 2.0 Rule

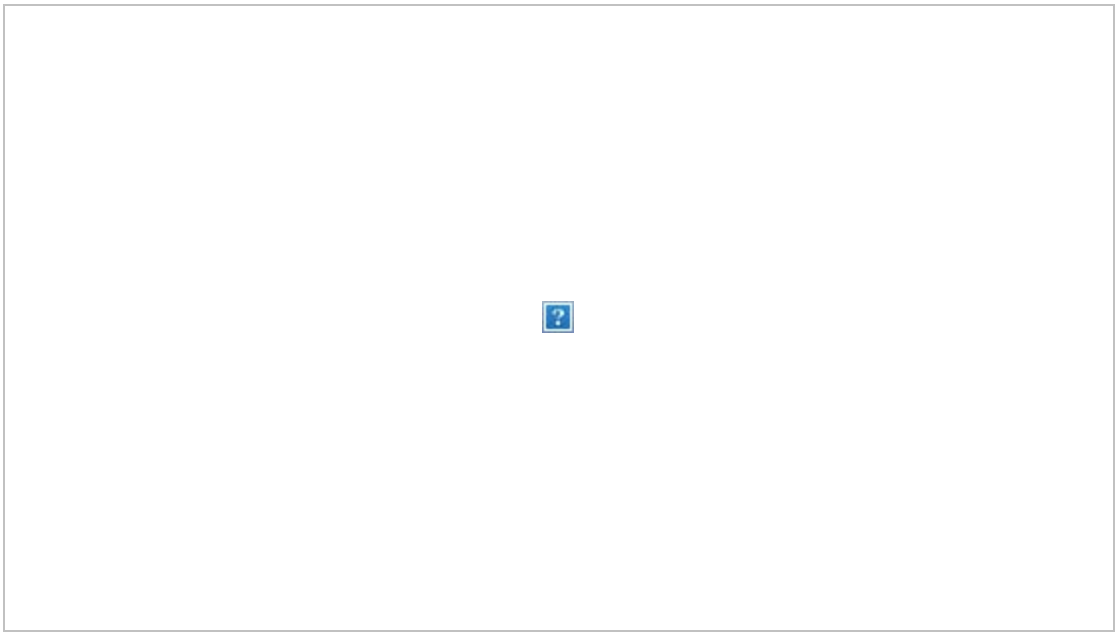
Summary

The House will use the Congressional Review Act to overturn the **Bureau of Land Management Planning 2.0 rule** on Tuesday, which was intended to improve BLM's ability to administer public lands. In reality, this power grab centralizes control in the federal government over large swaths of land, especially out west.

The rule reduces the authority of county commissioners and of state and field officers who know their land best, giving that power to Washington bureaucrats to centrally manage resources in places they don't even live.

The Effect

This rule isn't small-ball. It will consolidate BLM's authority to prepare and implement resource management plans for more than **175 million acres of lands in 11 western states**, according to the American Stewards of Liberty. That's **over 4,000 times the size of Washington, D.C.**



According to the National Association of Counties, the BLM manages land in 477 of the nation's 3,069 counties, sometimes controlling over 90% of a county's land.

Who It Hurts

In Garfield Count, Colorado, over 60% of their land is owned by the federal government. When Washington applied the same type of approach as BLM's Planning 2.0 rule for sage-grouse conservation, County Commissioner Tom Jankovsky said, it blocked **$33 billion in natural gas reserves in the county from being accessed**.

Why We're Doing This

The bureaucracy is a threat to our

- Economy
- Constitution
- and People

The House has already passed legislation to change the structure in Washington so the federal bureaucracy is subject to the people and so we stop getting the same bad results year after year. Now, we're targeting specific harmful regulations and stripping them off the books.

What We've Already Done

The House has already voted to overturn five harmful regulations using the Congressional Review Act:

- The Stream Buffer Rule
- The SEC Disclosure Rule for Resource Extraction
- The SSA's Second Amendment Restrictions
- The Federal Contracts Blacklisting Rule
- The BLM Venting and Flaring Rule

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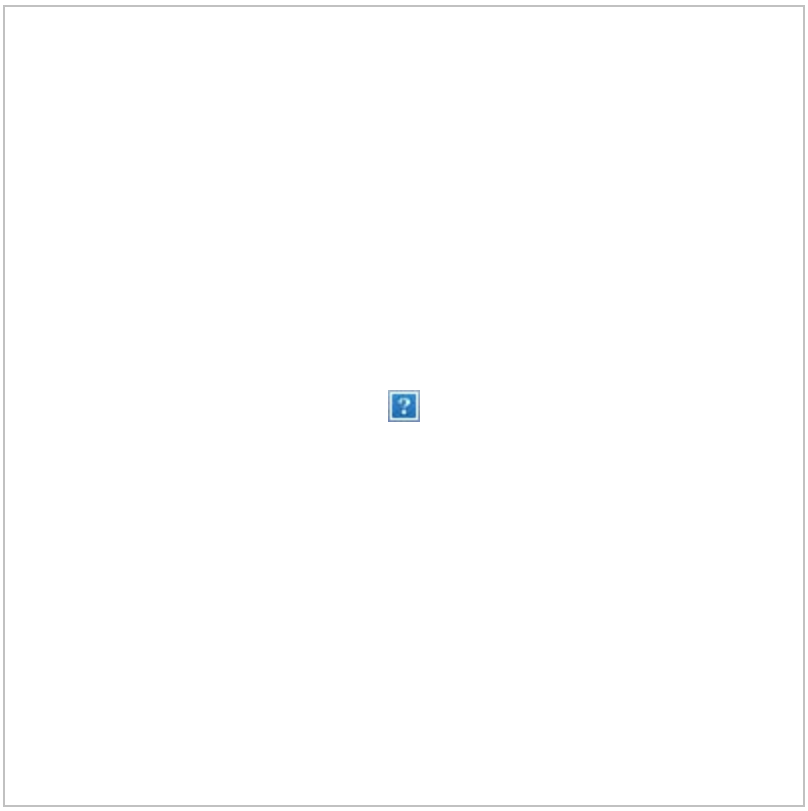
Subject: BLM Planning 2.0 Rule
Date: Monday, February 06, 2017 11:21:09 AM



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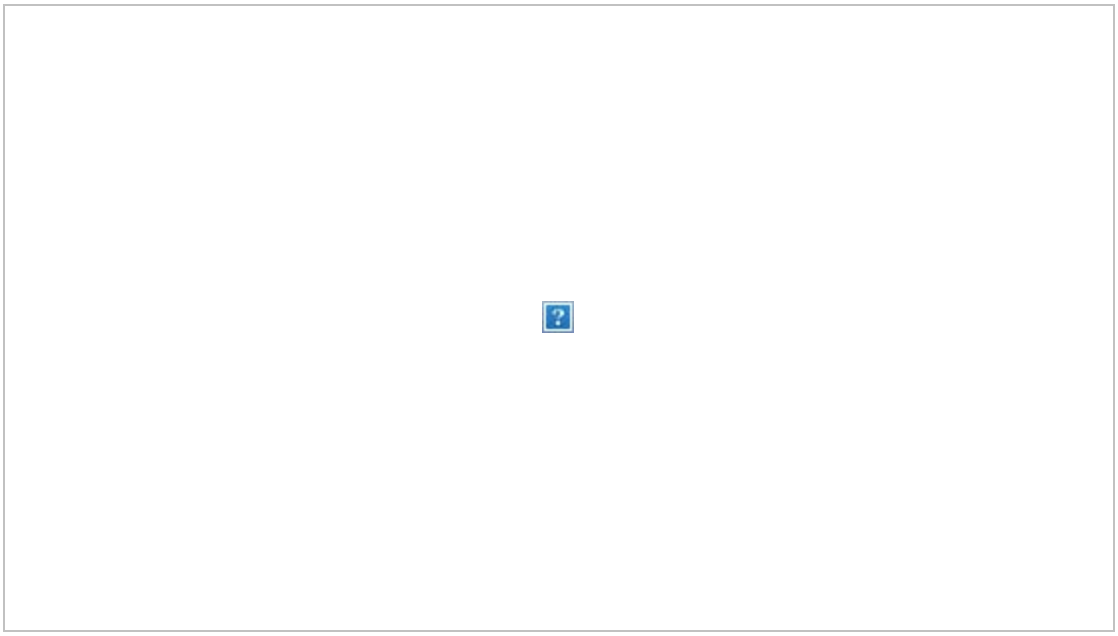

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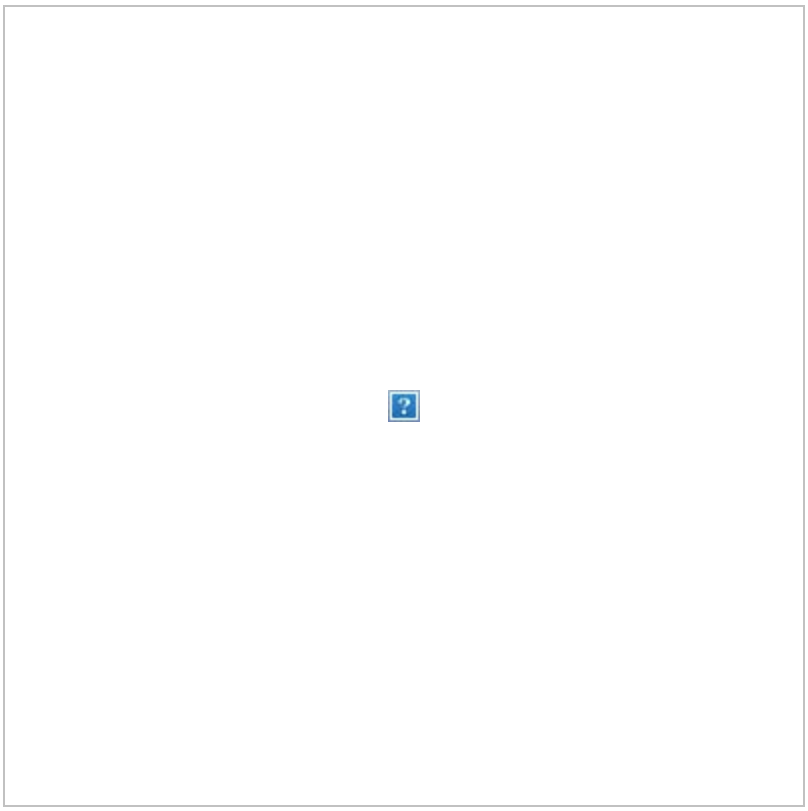

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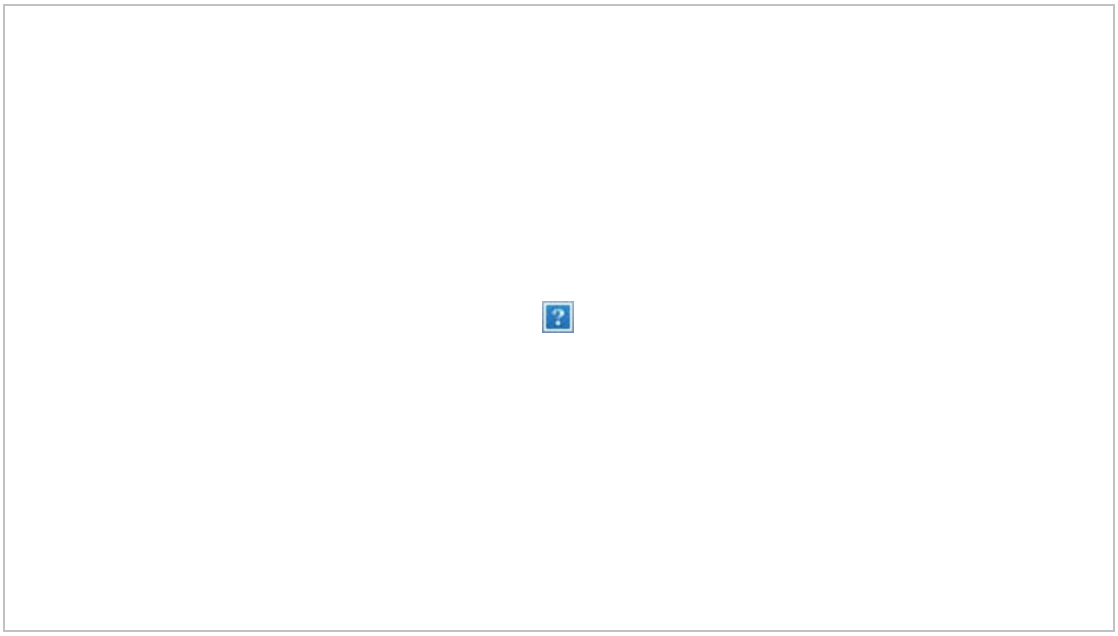

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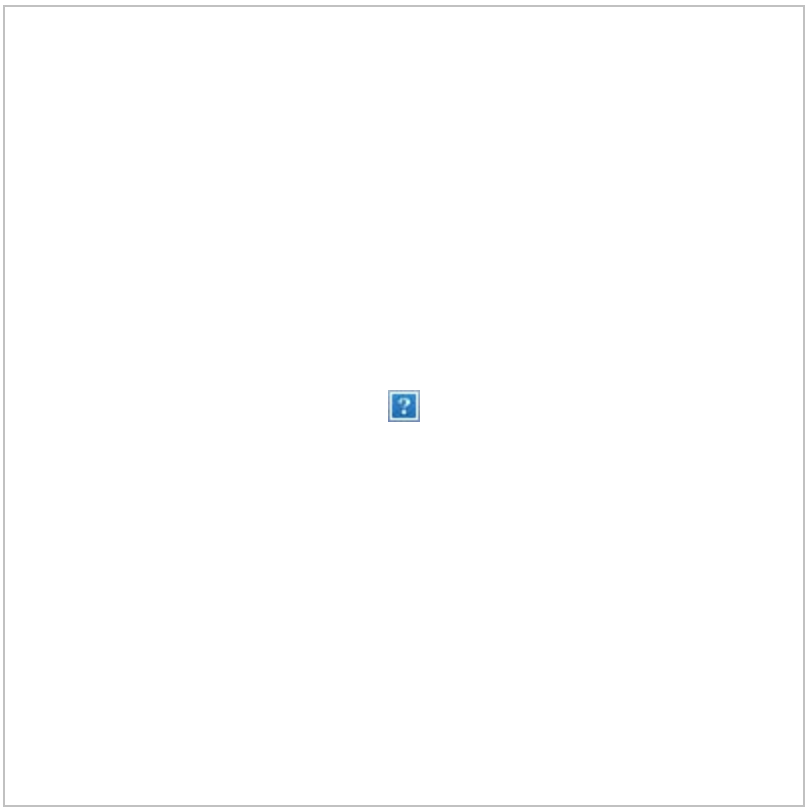
Subject: BLM Planning 2.0 Rule
Date: Monday, February 06, 2017 11:29:10 AM



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BLM Planning 2.0 Rule

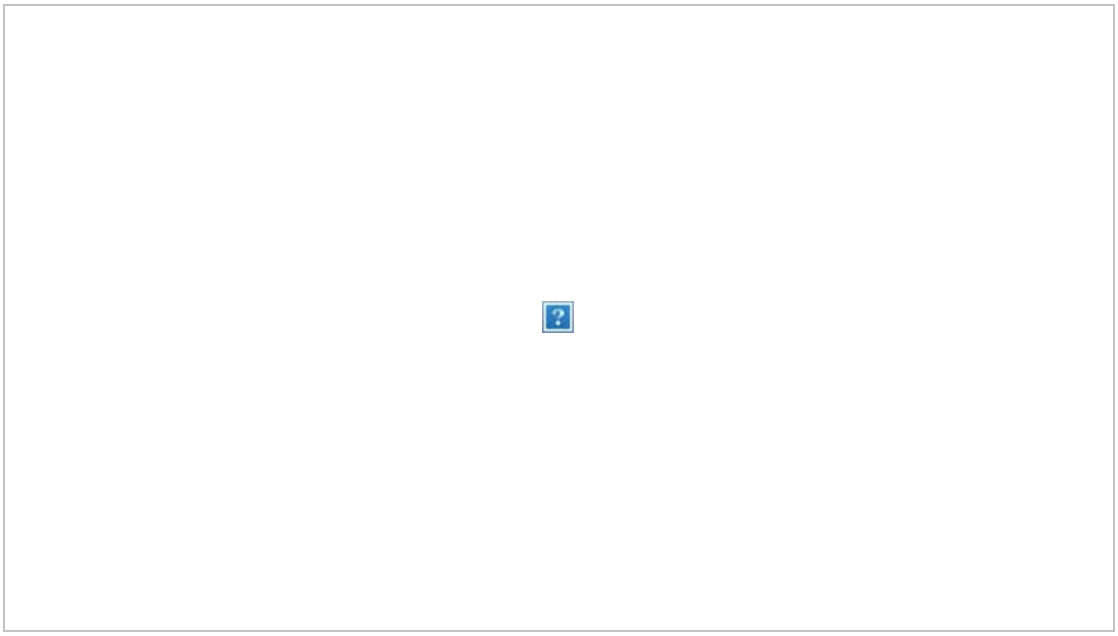
Summary

The House will use the Congressional Review Act to overturn the **Bureau of Land Management Planning 2.0 rule** on Tuesday, which was intended to improve BLM's ability to administer public lands. In reality, this power grab centralizes control in the federal government over large swaths of land, especially out west.

The rule reduces the authority of county commissioners and of state and field officers who know their land best, giving that power to Washington bureaucrats to centrally manage resources in places they don't even live.

The Effect

This rule isn't small-ball. It will consolidate BLM's authority to prepare and implement resource management plans for more than **175 million acres of lands in 11 western states**, according to the American Stewards of Liberty. That's **over 4,000 times the size of Washington, D.C.**



According to the National Association of Counties, the BLM manages land in 477 of the nation's 3,069 counties, sometimes controlling over 90% of a county's land.

Who It Hurts

In Garfield Count, Colorado, over 60% of their land is owned by the federal government. When Washington applied the same type of approach as BLM's Planning 2.0 rule for sage-grouse conservation, County Commissioner Tom Jankovsky said, it blocked **$33 billion in natural gas reserves in the county from being accessed**.

Why We're Doing This

The bureaucracy is a threat to our

- Economy
- Constitution
- and People

The House has already passed legislation to change the structure in Washington so the federal bureaucracy is subject to the people and so we stop getting the same bad results year after year. Now, we're targeting specific harmful regulations and stripping them off the books.

What We've Already Done

The House has already voted to overturn five harmful regulations using the Congressional Review Act:

- The Stream Buffer Rule
- The SEC Disclosure Rule for Resource Extraction
- The SSA's Second Amendment Restrictions
- The Federal Contracts Blacklisting Rule
- The BLM Venting and Flaring Rule

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HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
12:00 p.m.: Morning Hour 2:00 p.m.: Legislative	6:30 p.m.	7:00 p.m.

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- The Hill, 2/3/2017

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FEBRUARY 6, 2017

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First votes expected: 1:30 – 2:30 p.m.

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"One Minutes" (15 per side)

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Date: Monday, February 06, 2017 8:13:40 PM

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FEBRUARY 6, 2017

TOMORROW'S OUTLOOK

On Tuesday, the House will meet at 10:00 a.m. for Morning Hour debate and 12:00 p.m. for legislative business.

First votes expected: 1:30 – 2:30 p.m.

Last votes expected: 5:30 – 6:30 p.m.

"One Minutes" (15 per side)

H.J.Res. 44 – Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976 (Rep. Cheney – Natural Resources) (Subject to a Rule)

The Rule provides for one hour of debate equally divided and controlled by the Chair and Ranking Member of the Committee on Natural Resources.

H.J.Res. 58 – Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to teacher preparation issues (Rep. Guthrie – Education and Workforce) (Subject to a Rule)

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H.J.Res. 57 – Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to accountability and State plans under the Elementary and Secondary Education Act of 1965 (Rep. Rokita – Education and Workforce) (Subject to a Rule)

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Subject: THE NIGHTLY WHIP: MONDAY, FEBRUARY 6, 2017
Date: Monday, February 06, 2017 8:16:51 PM

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FEBRUARY 6, 2017

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Date: Monday, February 06, 2017 8:19:31 PM

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FEBRUARY 6, 2017

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FEBRUARY 6, 2017

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Date: Monday, February 06, 2017 8:22:58 PM

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FEBRUARY 6, 2017

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To: richard_bouts@ios.doi.gov
Subject: The Leader"s Daily Schedule - 2/7/17
Date: Monday, February 06, 2017 8:23:30 PM

LEADER'S DAILY SCHEDULE

TUESDAY, FEBRUARY 7TH

On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First votes expected: 1:30 p.m. - 2:30 p.m. Last votes expected: 5:15 p.m. - 6:15 p.m.

One Minute Speeches

H.J.Res. 44 - Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976 (Closed Rule, One Hour of Debate) *(Sponsored by Rep. Liz Cheney / Natural Resources Committee)*

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Subject: The Leader"s Daily Schedule - 2/7/17
Date: Monday, February 06, 2017 8:23:49 PM

LEADER'S DAILY SCHEDULE

TUESDAY, FEBRUARY 7TH

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Subject: The Leader"s Daily Schedule - 2/7/17
Date: Monday, February 06, 2017 8:23:54 PM

LEADER'S DAILY SCHEDULE

TUESDAY, FEBRUARY 7TH

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LEADER'S DAILY SCHEDULE

TUESDAY, FEBRUARY 7TH

On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First votes expected: 1:30 p.m. - 2:30 p.m. Last votes expected: 5:15 p.m. - 6:15 p.m.

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Date: Monday, February 06, 2017 8:25:53 PM

LEADER'S DAILY SCHEDULE

TUESDAY, FEBRUARY 7TH

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Date: Monday, February 06, 2017 8:33:33 PM

LEADER'S DAILY SCHEDULE

TUESDAY, FEBRUARY 7TH

On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First votes expected: 1:30 p.m. - 2:30 p.m. Last votes expected: 5:15 p.m. - 6:15 p.m.

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LEADER'S DAILY SCHEDULE

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LEADER'S DAILY SCHEDULE

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Date: Monday, February 06, 2017 8:33:52 PM

LEADER'S DAILY SCHEDULE

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LEADER'S DAILY SCHEDULE

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Date: Monday, February 06, 2017 8:36:38 PM

LEADER'S DAILY SCHEDULE

TUESDAY, FEBRUARY 7TH

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Subject: The Leader"s Daily Schedule - 2/7/17
Date: Monday, February 06, 2017 8:36:48 PM

LEADER'S DAILY SCHEDULE

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Subject: The Leader"s Daily Schedule - 2/7/17
Date: Monday, February 06, 2017 8:42:56 PM

LEADER'S DAILY SCHEDULE

TUESDAY, FEBRUARY 7TH

On Tuesday, the House will meet at 10:00 a.m. for morning hour and 12:00 p.m. for legislative business. First votes expected: 1:30 p.m. - 2:30 p.m. Last votes expected: 5:15 p.m. - 6:15 p.m.

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H.J.Res. 57- Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to accountability and State plans under the Elementary and Secondary Education Act of 1965 (Closed Rule, One Hour of Debate) *(Sponsored by Rep. Todd Rokita / Education and the Workforce Committee)*

Special Order Speeches

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From: Democratic Whip
To: jhoset_burgosrodriguez@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 7, 2017
Date: Tuesday, February 07, 2017 10:27:30 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR TUESDAY, FEBRUARY 7, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	1:30 – 2:30 p.m.	5:30 – 6:30 p.m.

Business **Fifteen "One Minutes"**		

H.Res. 91 – Rule providing for consideration of H.J.Res. 44 – Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976 (Rep. Cheney – Natural Resources), H.J.Res. 58 – Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to teacher preparation issues (Rep. Guthrie – Education and Workforce), and H.J.Res. 57 – Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to accountability and State plans under the Elementary and Secondary Education Act of 1965 (Rep. Rokita – Education and Workforce) (One hour of debate). The Rules committee has recommended one Rule which provides for consideration of 3 measures.

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Bill Text for H.J.Res. 44:
PDF Version

Background for H.J.Res. 44:
Fact Sheet From the Democratic Staff on the Committee on Natural Resources

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- New York Times, 2/5/2017

From: Democratic Whip
To: csalotti@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 7, 2017
Date: Tuesday, February 07, 2017 10:27:58 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

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- New York Times, 2/5/2017

From: Democratic Whip
To: meghan_conklin@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 7, 2017
Date: Tuesday, February 07, 2017 10:31:48 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR TUESDAY, FEBRUARY 7, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	1:30 – 2:30 p.m.	5:30 – 6:30 p.m.

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PDF Version

Background for H.J.Res. 44:
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- New York Times, 2/5/2017

From: Democratic Whip
To: lara_levison@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 7, 2017
Date: Tuesday, February 07, 2017 10:32:02 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR TUESDAY, FEBRUARY 7, 2017

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- New York Times, 2/5/2017

From: Democratic Whip
To: pamela_barkin@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 7, 2017
Date: Tuesday, February 07, 2017 10:32:44 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR TUESDAY, FEBRUARY 7, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	1:30 – 2:30 p.m.	5:30 – 6:30 p.m.

Business **Fifteen "One Minutes"**		

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- New York Times, 2/5/2017

From: Democratic Whip
To: carlos_uriarte@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 7, 2017
Date: Tuesday, February 07, 2017 10:35:02 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR TUESDAY, FEBRUARY 7, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	1:30 – 2:30 p.m.	5:30 – 6:30 p.m.

Business **Fifteen "One Minutes"**		

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- New York Times, 2/5/2017

From: Democratic Whip
To: sarah_neimeyer@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 7, 2017
Date: Tuesday, February 07, 2017 10:39:08 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR TUESDAY, FEBRUARY 7, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
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- New York Times, 2/5/2017

From:	Marino Thacker, Meghan (Daines)
To:	Amanda Kaster (amanda_kaster@ios.doi.gov)
Subject:	Montana Support for BLM 2.0 CRA
Date:	Wednesday, February 08, 2017 9:31:10 AM
Attachments:	image001.png image002.png image003.png image004.png Letter of Support - Murkowski resolution on BLM rule.pdf BLM 2.0 Daines Ltr 013017.pdf CRA BLM Planning 2.0 Murkowski Letter Final.docx Repeal BLM Planning 2.0 Regulation Letter.pdf NACD Letter to Senate Leadership on BLM Final Planning Rule CRA.PDF NACo Letter.pdf Farm Bureau Letter.pdf PLC, NCBA, ASI Letter.pdf Planning 2.0 Disapproval Resolution.pdf

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Hey Amanda,
Thought you may be interested in seeing these attached letters. We also expect to receive individual letters from Montana Stockgrowers and Montana Farm Bureau. However, these groups have signed onto the attached letters as well:

Montana Farm Bureau Federation
Montana Association of State Grazing Districts
Montana Public Lands Council
Montana Stockgrowers Association
Montana Wool Growers Association

Let me know if you want to discuss.

-Meghan

Meghan Thacker
Senior Policy Advisor
Senator Steve Daines (MT)
320 Hart Senate Office Building
Washington, DC 20510
D: (202)228-1176
www.daines.senate.gov

Montana Electric Cooperatives' Association

Brent McRae
President

DeeDee Isaacs
Vice President

Leonard Sivumaki
Secretary/Treasurer

David M. Wheelihan
Chief Executive Officer

February 2, 2017

The Honorable Steve Daines
U.S. Senate
320 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Daines:

We are writing to express our support for a Congressional Review Act resolution by Sen.Lisa Murkowski expressing congressional disapproval of the final rule submitted by the Director of the Bureau of Land Management relating to resource management planning.

We believe the final rule still front loads public comments, which could give people outside the planning area more opportunities to influence planning documents, restricts consistency reviews with state, local plans, policies and programs. Also, the final rule replaces decision authority at the "state director and field manager" with the "BLM" in general. That could centralize more influence in Washington.

Thank you for your consideration of our comments.

Best Regards,

David M. Wheelihan

Dave Wheelihan
CEO
Montana Electric Cooperatives' Association

501 Bay Drive *P.O. Box 1306* *Great Falls, MT* *59403*
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Your Touchstone Energy® Partner

MONTANA PETROLEUM ASSOCIATION, INC.

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Executive Director

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January 30, 2017

Honorable Senator Steve Daines
320 Hart Senate Office Building
Washington, D.C. 20510

The Montana Petroleum Association (MPA) represents more than 180 member-companies in the oil and natural gas industry, from upstream to downstream. The economic impact of Montana's oil and natural gas industry represents that of an industry twice its size. The enormous benefits are the result of very high wage jobs, local and state tax revenues, and exported goods.

MPA finds the Planning 2.0 initiative of the Bureau of Land Management problematic for numerous reasons.

First, the initiative fundamentally changes the process by which the public, including state, local and tribal local governments and stakeholders participate in land management planning. The rule reduces the formal comment period from 90 to 60 days, in spite of frequent requests for extended comment deadlines.

Second, 'Landscape level planning' shifts the input and decision-making processes regarding Resource Management Plans away from local and district offices to Washington D.C. Not only does this shift the planning and decision-making away from those with the most working knowledge of the land and resources, but it opens the door to special interests who might seek to influence land use management decisions.

Third, 'Planning 2.0' removes the congressional mandate that BLM report to Congress prior to implementation of any Resource Management Plan which would eliminate "one or more principal or major uses for 2 or more years with respect to a tract of 100,000 acres or more."

To place the non-use of lands over sustainable development, without congressional approval, undermines our system of checks and balances, and threatens future opportunities for new exploration.

In Montana, studies of potential resources indicate that large volumes of natural gas and oil remain to be discovered in the Rocky Mountain region.

The National Wilderness Preservation System currently comprises 756 wilderness areas on 109,492,591 acres in 44 states. When combined with the many other land use allocations and designations that remove federal lands from multiple uses, such as National Parks, National Wildlife Refuges, Wild and Scenic Rivers, Wilderness Study Areas, National Monuments and Forest Service Roadless Areas, less than half of federal land is open to multiple-use activities that include natural resource development.

It is the position of the Montana Petroleum Association that public lands that are not part of a designated national park or wilderness and open for multiple-use must remain open for those purposes, including oil and natural gas, timber, mining, grazing, and recreational activities. State and local economies must not be further encumbered in favor of sweeping preservation measures because utilizing public lands for multiple uses are key to economic development and sustainability in the local communities. The removal of any lands from multiple-use status will disproportionately affect the counties and rural school districts surrounding the public land.

MPA opposes reducing the availability of multiple-use public lands for any reason and by any method. Similarly, MPA opposes restrictions on multiple-use public lands that place onerous restrictions on the development of public minerals and other natural resources. All too often national park, wilderness, and monument rules are extended into buffer zones beyond the legal boundaries of such areas. MPA opposes any buffer zone that extends restrictions beyond national park and wilderness boundaries established by law.

Sincerely,

Alan Olson
Executive Director
Montana Petroleum Association, Inc.

MONTANA MINING ASSOCIATION

Office Address: 25 Ballard Lane, Whitehall, Montana 59759
Mailing Address: P.O. Box 1026, Whitehall, Montana 59759
Telephone: (406) 287-3012
Email: tjohnson@montanamining.org
Website: http://www.montanamining.org

February 2, 2017

The Honorable Lisa Murkowski
Chairman, Senate Energy and Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

RE: Congressional Review Act – BLM Resource Management Planning Rule

Dear Chairman Murkowski:

The Montana Mining Association (MMA) supports and encourages the use of the Congressional Review Act to set aside the Bureau of Land Management's Resource Management Planning Rule commonly known as the Planning 2.0 Rule. We applaud your efforts to bring forward a joint resolution of disapproval for this rule.

The Montana Mining Association is a trade association of mineral developers, producers, and vendors from fifteen states, including Montana, and two Canadian Provinces. The mining industry is a major employer and taxpayer in Montana and we believe the continued viability and growth of our members' operations are significant factors in the economic health of our state and its citizens. Most of our members are small businesses who are critically important to the health and vibrancy of our rural communities.

The BLM initiated this rulemaking as part of a broader effort known as "Planning 2.0" to respond to a 2011 BLM strategic review that identified challenges and opportunities for the BLM and to recent Executive and Secretarial direction. In 2011, the BLM released a strategic plan titled "Winning the Challenges of the Future: A Roadmap for Success in 2016." This plan identified several challenges for the BLM in managing the public lands consistent with its statutory direction "that management be on the basis of multiple use and sustained yield unless otherwise specified by law" (43 U.S.C. 1701(a)(7))."

Based on the last sentence of the previous paragraph, it is clear to the MMA the BLM direction in developing the Planning 2.0 rule as dictated by Executive Order and Secretarial direction, was NOT intended to fully embrace The Federal Land Policy and Management Act of 1976 (FLPMA). FLPMA firmly establishes the agency's mission to manage on the basis of multiple-use and sustained yield and that BLM-administered public land be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from public land.

BLM appeared to be rushed to enact the rules before the conclusion of the Obama Administration. Planning 2.0 not only diminishes the voice of local stakeholders and their elected leaders in the critical planning processes for management of public lands in their area, but ignores the growing need for domestic production of natural resources, demanded by an ever-consuming population. Further, the rule would restrict all resource providers from producing those necessary resources from BLM-administered public land by increasing uncertainty in planning for land users and hindering necessary long-term planning by resource producers. These factors will certainly lead to reduced development of federal minerals and other natural resources and increase our nation's reliance on development and production off shore.

The Bureau of Land Management (BLM) manages more than 245 million acres of land, of which approximately 8.1 million acres are in Montana. The BLM also administers 700 million acres of sub-surface mineral estate throughout the nation, which are very important to our membership. The MMA strongly believes that our nation's laws, rules and regulations need to provide a system that is predictable and consistent. Planning 2.0, if allowed to move forward, will become a boondoggle where planning is never completed and would absolutely be the antitheses of consistency and predictability.

Montana Mining Association strongly supports your efforts to negate this clear overreach of BLM authority and we urge Congress to quickly overturn BLM's Planning 2.0 rule. On behalf of our membership, I thank you for your leadership on this issue.

Sincerely yours,

Tamara J. Johnson
Executive Director

CC Senator Steve Daines

Montana Association of Counties
Serving Montana Counties Since 1909
2715 SKYWAY DRIVE, SUITE A, HELENA, MT 59602
(406) 449-4360 Fax (406) 442-5238
www mtcounties.org

January 30, 2017

The Honorable Steve Daines
Hart Senate Office Building Room 320
Washington, DC 20510

The Montana Association of Counties (MACo) joins with National Association of Counties (NACo), NACo's Western Interstate Region (WIR) and other State Associations to urge Congress to Repeal BLM Planning 2.0 Regulation.

The Federal Land Policy Management Act 1976 (FLPMA) gave special recognition to local governments in the land use and planning process. These were collaboration, coordination, and cooperation. FLPMA did not give that same status to "special interest" groups. If Congress' intent was to give "special interest" groups a seat at the table, they would have put in statute. Local government are representative of all residents within that jurisdiction and were hand-picked by the voters to represent their interest. Part of local governments responsibility is to be co-regulators and intergovernmental partners in the BLM's land use management mission. Counties have a significant interest in providing BLM with the most meaningful information and analysis possible to help craft BLM regulations and land-use and resource management plans. The BLM Planning 2.0 Regulation undermines FLPMA intent and somewhat insulting to Congress and their authority.

The Bureau of Land Management's Resource Management Planning Rule, commonly referred to as "Planning 2.0" was published on December 13, 2016 and went into effect on January 11, 2017. Planning 2.0 sets out the processes under which the BLM will develop its Resource Management Plans (RMPs). RMPs set parameters to guide approved uses and actions on the over 245 million acres of surface land and over 700 million acres of subsurface minerals currently managed by the BLM - mostly in the Western United States.

The National Association of Counties and the Montana Association of Counties have been engaged throughout the Planning 2.0 process to ensure local government involvement is at the forefront of BLM resource management planning and that local governments were given the time necessary to analyze the implications of the substantive regulatory changes presented in the Planning 2.0 rule. After securing an extension of the initial comment period, NACo submitted comments <http://www.naco.org/resources/naco-comments-blm-proposed-planning-20-rule>
to BLM on the proposed rule on May 19, 2016. NACo also hosted numerous webinars and forums with BLM staff and county officials to provide other opportunities for the county voice to be heard.

MACo urges Congress to keep the intent of FLPMA intact and stop "Planning 2.0" from proceeding.

Sincerely,

Todd Devlin

Todd Devlin, MACo President

National Association of Conservation Districts

National Association of Conservation Districts

February 6, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
U.S. Capitol Building, Room: S-230
Washington, D.C. 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
Hart Senate Office Building, Room: 419
Washington, D.C. 20510

Dear Majority Leader McConnell and Minority Leader Schumer:

On behalf of the nation's 3,000 conservation districts and the 17,000 men and women who work with millions of cooperating landowners and operators to help them manage and protect land and water resources on private and public lands in the United States, the National Association of Conservation Districts (NACD) urges you to support, S.J. Res. 15 - A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule submitted by the Director of the Bureau of Land Management relating to resource management planning.

Established under state law, conservation districts share a single mission: to work cooperatively with federal, state and other local resource management agencies as well as private sector entities to provide technical, financial and other assistance to help landowners and operators implement conservation practices on the landscape. Because of this mission, NACD has closely followed the development of the BLM's planning rule and submitted comments during the public comment period.

The BLM's initial intent was good: seeking to update a 30-year-old planning process that needs improvement. The end result however often skirts the Federal Lands Policy Management Act and reduces the ability of local government involvement. The removal of local governments opportunity to submit policies and programs when lacking official approved and adopted management plans among other changes add and undue financial burden to continue to participate in the land use planning process as they previously had and at the same time local governments have had to cut their budgets.

With over 3,353 comments submitted and requiring review of the BLM, the final rule seems forced and blind to the many issues raised during the public comment period. A comprehensive, locally led-strategy is the best approach to public-lands management. This rule does not encourage locally led management. The CRA allows for the BLM to go back to the BLM 2.0 drawing board and write a planning rule that truly increases local government involvement as opposed to centralizing the planning process.

Sincerely,

Brent Van Dyke

Brent Van Dyke
President

509 [illegible], [illegible], D[illegible] 20002
[illegible](202) 547[illegible]6223 [illegible](202) 547[illegible]6450
[illegible]

January 26, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
U.S. Capitol Building, Room: S-230
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
Hart Senate Office Building, Room: 419
Washington, DC 20510

The Honorable Paul Ryan
Speaker
United States House of Representatives
U.S. Capitol Building, Room: H-232
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
United States House of Representatives
U.S. Capitol Building, Room: H-204
Washington, DC 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Ryan and Minority Leader Pelosi:

As representatives of state and local governments and public lands stakeholders from across the United States, we encourage Congress to use its legislative authority to review the Bureau of Land Management's (BLM) Planning 2.0 rule. As partners with the federal government, we continue to encourage the BLM to engage in meaningful collaboration with local stakeholders during the development of policies and guidelines. And despite representations by the BLM to do just that, we remain unconvinced that Planning 2.0 in its final form does much to satisfy the objective of meaningful collaboration and consultation with non-federal governmental entities.

Robust coordination and cooperation between states and local governments and the BLM allows federal decision-makers to be responsive to the concerns of state and local government officials during policy development and sets the stage for more effective and efficient implementation of federal policies by involving multi-jurisdictional resources and expertise. Simply put, gathering meaningful, on the ground, input from the states and localities that will be most impacted by BLM's planning regulations is critical to ensuring a practical federal policy that works at the local level.

For years to come, the proposed Planning 2.0 rule will have a substantial impact on how the BLM engages with state and local government and manages its 245 million acres of public lands and 700 million acres of subsurface minerals. We encourage Congress to act to ensure BLM's Planning 2.0 rule does not go into effect and instruct the agency to work with intergovernmental partners to ensure the policy has benefited from meaningful, on the ground, collaboration with state and local governments.

Sincerely,

Alaska Municipal League
American Sheep Industry Association
Arizona Association of Counties
Arizona County Supervisors Association
Association of Oregon Counties
Eureka County, Nevada
National Association of Conservation Districts
National Association of Counties
National Association of State Departments of Agriculture
National Cattlemen's Beef Association
Nevada Association of Conservation Districts
Nevada Association of Counties
Oregon Association of Conservation Districts
Public Lands Council
Rural County Representatives of California
Utah Association of Conservation Districts
Utah Association of Counties
Western Interstate Region of NACo
Wyoming Association of Conservation Districts
Wyoming County Commissioners Association
Wyoming Stock Growers Association
Wyoming Wool Growers Association

January 24, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
S-230, U.S. Capitol
Washington, DC 20510

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

Dear Majority Leader McConnell and Speaker Ryan:

The United States Department of the Interior's Bureau of Management (BLM) manages more than 245 million acres of land, mostly located in 11 contiguous western states and Alaska. Land management decisions and permitted uses under the agency's regulatory philosophy are vitally important to western economies. Western states and rural communities depend on their ability to use public lands for grazing, timber harvest, mining, energy development and recreation.

The BLM, during the final days of the Obama Administration, finalized a new rule specific to land use planning on BLM managed public lands. The rule, dubbed Planning 2.0, has incorporated numerous Obama-era presidential and secretarial orders along with internal agency guidance and policy documents. The rule demonstrated a clear overreach by the BLM, in spite of the agency's claim that the "primary goal of the proposed rulemaking process is to improve the agency's ability to respond to environmental, economic and social changes in a timely manner."

Under the guise of "climate change" and "landscape-scale" management, the agency's final rule will allow implementation of unilateral management schemes, mitigation, adaptive management and other internal agency pronouncements. As a group, we the undersigned are concerned that the Planning 2.0 rule will diminish the statutory requirements of multiple use and dismantle the cooperative ideals of Federalism.

Congress, through the Federal Land Policy Management Act (FLPMA) of 1976, recognizes the importance of the public domain to the future of the western states. Through defined multiple use principles, Congress has mandated that these lands be used to meet "the nation's need for domestic sources of minerals, energy, food, timber and fiber from public lands." BLM Planning 2.0 runs counter to these national interests.

FLPMA recognizes state and local government as cooperating agencies. Their participation in planning is required when the agency is developing Resource Management Plans (RMPs). It is disconcerting that Planning 2.0 in Section 1610.3-1 states BLM will collaborate with cooperating agencies "as feasible and appropriate given their interests, scope of expertise and the constraints of their resources." This language clearly devalues local input. In addition, it subjects local recommendations to bureaucratic scrutiny and bias, not congressional intent.

FLPMA requires “meaningful coordination” with state and local governments and local land use plans. Historically, public land management decisions have critically weighed their impacts on the history, culture, and the economy of the West. It’s unclear whether the “social” values identified in Planning 2.0 will be reflective of local interests and the western way of life.

The BLM standard for an Economic and Threshold Analysis is not defensible. Federal law requires federal agencies engaged in rulemaking to assess the economic impacts and cost increases to consumers, individual industries, and governments. The Planning 2.0 analysis concluded implementation of these “regulatory changes would cost less than $100 million annually” and would not materially affect the economy, a single business sector, productivity, competition, and jobs. That analysis alone should discredit the Planning 2.0 rulemaking process.

BLM Planning 2.0 lacked appropriate input coupled with open and honest evaluation of the costs and impacts of the rulemaking. BLM did not fully evaluate the impacts on consumers, public lands-dependent ranching families, energy, mining, recreation, and rural communities across the American West. Additionally, new definitions and requirements created by the rule exceed statutory authorities and multiple use mandates established by FLMPA and the National Environmental Policy Act.

Planning 2.0 represents a significant departure from the historical way local governments have been involved in BLM decision making. The final rule provides less opportunity for local governments to have meaningful and significant input, in violation of FLPMA. Specifically, Planning 2.0 strictly limits the types of local government plans the BLM will consider as part of its consistency review. The BLM under FLPMA is obligated to take all practical measures to resolve conflicts between federal and local government land use plans.

Because of the numerous departures from historical protocols and legal obligations for managing the western public lands, we the undersigned Farm Bureaus respectfully request that BLM Planning 2.0 be rescinded as part of current efforts related to regulatory reform and making government more responsive to the American people.

Respectfully yours,

American Farm Bureau Federation
Alaska Farm Bureau, Inc.
Arizona Farm Bureau Federation
Colorado Farm Bureau
California Farm Bureau Federation
Idaho Farm Bureau Federation
Montana Farm Bureau Federation
Nevada Farm Bureau Federation
New Mexico Farm and Livestock Bureau
Oregon Farm Bureau
Washington Farm Bureau
Wyoming Farm Bureau Federation
Utah Farm Bureau Federation

CC Members of the Congressional Western Caucus
Members of the Senate Energy and Natural Resources Committee
Members of the House Natural Resources Committee

January 18, 2017

The Honorable Mitch McConnell
Majority Leader
S-230, The Capitol
Washington, DC 20510

The Honorable John Cornyn
Majority Whip
517 Hart Senate Office Building
Washington, DC 20510

Dear Senate Leadership:

The Public Lands Council is the only national organization dedicated solely to representing the roughly 22,000 ranchers who operate on federal lands. NCBA is the beef industry's largest and oldest national marketing and trade association, representing American cattlemen and women who proved much of the nation's supply of food and own or manage a large portion of America's private property. The American Sheep Industry Association is the national voice of the 88,000 sheep producers throughout the country who produce America's lamb and wool.

PLC, NCBA, and ASI strongly support Congress' use of its authority under the Congressional Review Act (CRA) to withdraw the Bureau of Land Management's Planning 2.0 rulemaking. Collectively, the members of these associations are substantially impacted by any federal land management planning process, and Planning 2.0 – finalized in December of last year as part of the outgoing administration's onslaught of midnight rulemakings – will radically alter both the objectives of such processes and the manner in which they proceed.

As stated in our public comments submitted on the proposed rule last year (attached), we applaud the BLM's acknowledgement that the current resource management planning process is in need of modernization and overhaul. Additionally, we appreciate the revisions that the BLM made to the final rule in response to public comment. Unfortunately, these changes are mostly cosmetic and fail to address the wholesale shift in management focus and elimination of local input brought about by this rule. Despite a mandate to manage for multiple use and sustained yield, Planning 2.0 shifts that focus toward new objectives like environmental and social change.

As has been the case all too often in the past eight years, flowery public statements and summaries regarding cooperation with local impacted communities or sensitivity to local impacts belies the reality of reduced comment period lengths, reduced communication through elimination of the role of BLM state directors, and overall reduced input into the process. Further, we object to the continued exclusion of federal grazing permittees and other multiple uses as legitimate stakeholders; instead lumping all such groups under the general category of "public" despite the existence of formal business relationships with the federal government.

A prime example of the disregard shown to impacted local communities and stakeholders is made evident by the very "public process" by which this rulemaking evolved. Public meetings were not held in the rural areas or communities where the impacts would be most heavily felt. Instead, they

were held in downtown Sacramento, CA and downtown Denver, CO, where attendance was overwhelmingly urban dwellers without livelihoods or homes at stake, or any real knowledge of the impacts on the people and businesses that exist in the impacted areas. This led to biased and inaccurate public sentiment.

PLC, NCBA, and ASI applaud your efforts and appreciate the opportunity to provide input on behalf of our members – the nation's food and fiber producers. We encourage members of Congress to take action to withdraw BLM's Planning 2.0 final rule and provide the incoming administration an opportunity to begin a new, inclusive, constructive process to overhaul land use planning processes.

Sincerely,

Dave Eliason
President
Public Lands Council

Tracy Brunner
President
National Cattlemen's Beef Assn.

Burton Pfliger
President
American Sheep Industry Assn.

Association of National Grasslands
Arizona Cattle Growers Association
California Cattlemen's Association
California Wool Growers Association
Colorado Cattlemen's Association
Colorado Wool Growers Association
Idaho Cattle Association
Idaho Wool Growers Association
Montana Association of State Grazing Districts
Montana Public Lands Council
Montana Stockgrowers Association
Montana Wool Growers Association
Nevada Cattlemen's Association
New Mexico Cattle Growers' Association
New Mexico Wool Grower, Inc
North Dakota Stockmen's Association
Oregon Cattlemen's Association
South Dakota Cattlemen's Association
South Dakota Public Lands Council
Utah Cattlemen's Association
Utah Wool Growers Association
Washington Cattlemen's Association
Wyoming Stock Growers Association
Wyoming Wool Growers Association

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From: Kilili Sablan
To: harry_blanco@IOS.DOI.GOV
Subject: This Week in Congress — Friday, February 10, 2017
Date: Friday, February 10, 2017 5:16:53 PM

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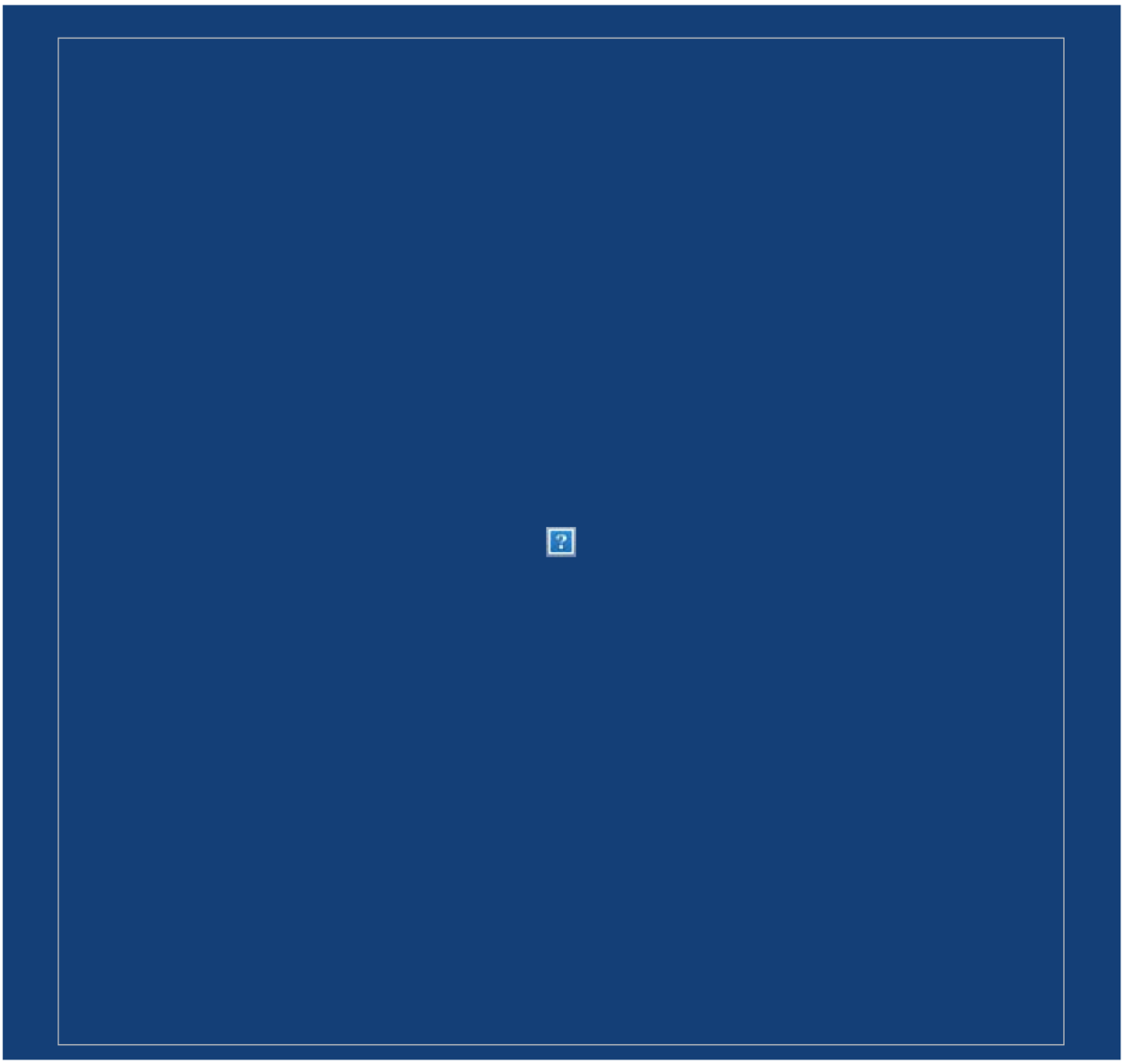


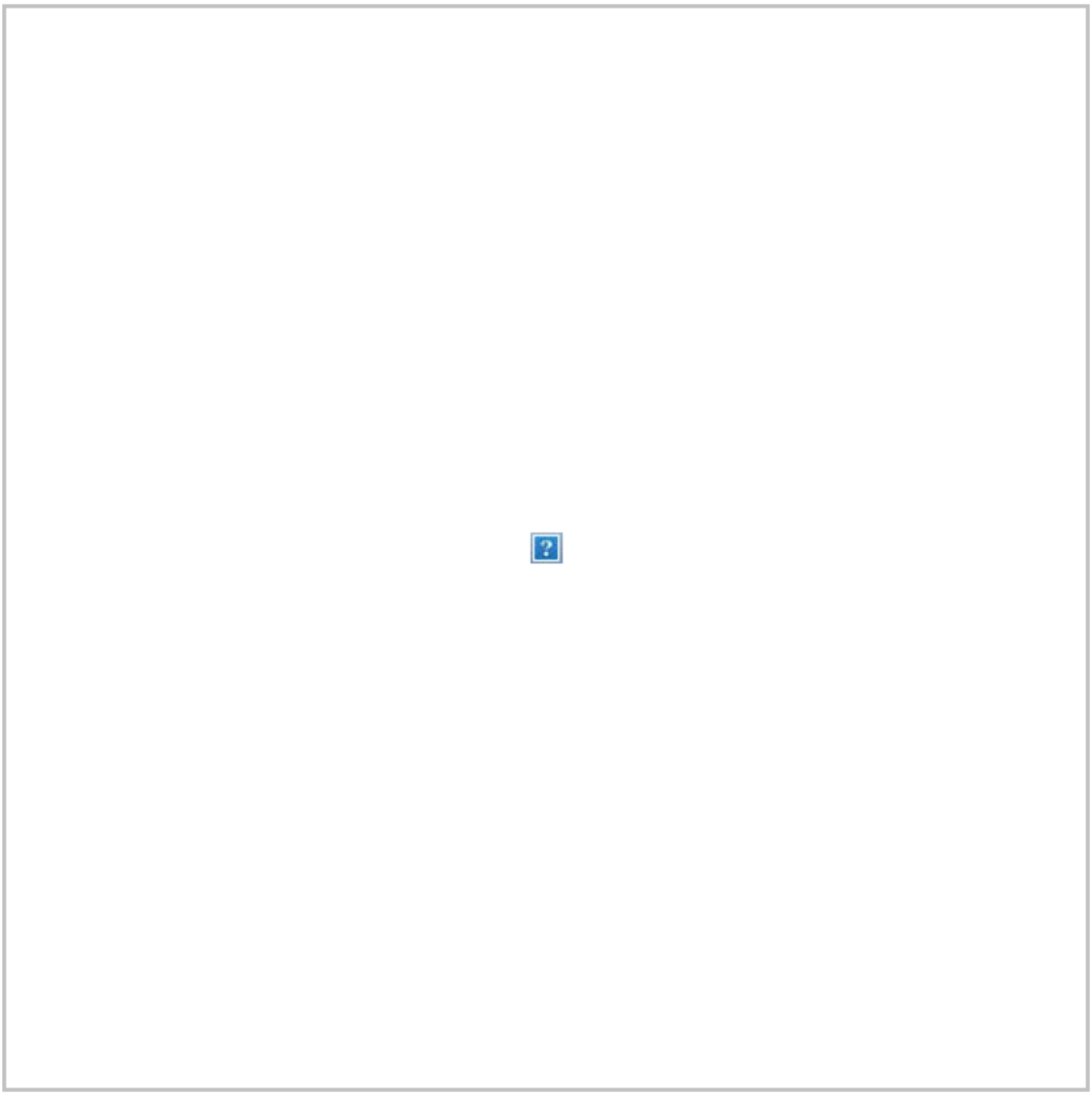
This Week in Congress
February 10, 2017

- **First time ever: CODEL to visit Rota**
- **Veterans Resource Fair**
- **Marianas gets seat on vets committee**

- **Opportunities – Federal grants, jobs for/in the Marianas**
- **Highlights in the legislative program**

First time ever: CODEL to visit Rota

A congressional delegation will visit Rota for the first time ever on February 23. I made a special request for this stopover to Rob Bishop (R-Utah), Chairman of the House Natural Resources Committee and leader of the CODEL. He kindly agreed. On February 22, the eight members of our group will land on Saipan. The next day we travel to Tinian and then on to Rota, where we will be briefed by a National Park Service team. They are holding **public meetings** as part of their **study of the feasibility** of establishing a unit of the National Park System on Rota to protect areas of recognized national importance like I'Chenchon Bird Sanctuary, Monchong Latte Village site, and Taga Latte Quarry. I included authorization for this three-year study in the **2015 National Defense Authorization Act** and funding in the **2016 Consolidated Appropriations Act**. But the Park idea really began with then-Rota Legislative Delegation leader Senator Diego Songao in 2004. Rota Representative Teresita Santos also helped with **convincing testimony** to Congress in 2010, as did Mayor Melchor A. Mendiola and Senator Paul A. Manglona. Study recommendations will go to the Natural Resources Committee, which is responsible for decisions about our national parks.



Marianas gets seat on vets committee

Veterans and their families in the Marianas—and around our nation—are too often forgotten, after giving so much. That is why I asked—**and this week was granted**—a special waiver to serve on the House Veterans' Affairs Committee. Democratic Members are usually limited to membership on two committees, but I will now serve on three. The Committee has jurisdiction over the U.S. Department of Veterans Affairs, which provides veterans with medical care, housing and educational benefits, and other compensation for their service. Committee membership gives me more opportunities to address disparities in these services for veterans living in remote areas of our country,

like the Marianas. Thanks to Democratic Leader Nancy Pelosi and the House Democratic Steering and Policy Committee for approving my waiver request. I also appreciate Veterans' Affairs Ranking Member Tim Walz and House Natural Resources Ranking Member Raul Grijalva for their support of the request.

BACK TO TOP

Federal Opportunities for/in the Marianas

Jobs:

- **Staff Assistant** – Congressman Gregorio Kilili Camacho Sablan is seeking a Staff Assistant in the Washington, D.C. congressional office. Responsibilities include answering phones, maintaining the front office, greeting visitors and giving Capitol tours, answering constituent requests for general information, assisting the office manager with scheduling and bookkeeping, and assisting staff with other various administrative and legislative duties in a supportive role. The Assistant will also be responsible for selecting books at the Library of Congress for the Congressman's "Let's Read" initiative.

  Excellent writing, verbal and organizational skills are essential. Candidates should be well-organized, hard-working, detail oriented, and willing to learn. High degree of professionalism required, as well as an ability to work a flexible schedule. Ties to the Northern Mariana Islands preferred.

  Qualified candidates should submit a cover letter, resume and two writing samples to **bob.schwalbach@mail.house.gov**. No phone calls or drop-ins, please.

- **Food Service Worker** – The Commander, Navy Installations has an opening for a Food Service Worker on Guam. Incumbent will assist in

setting up food service counters, preparing and serving food, and operating a cash register among other duties. Position is open until February 13, 2017. For more information, go to **https://www.usajobs.gov/GetJob/ViewDetails/464020000/**.

- **Child and Youth Program Operations Clerk** – The Commander, Navy Installations has an opening for a Child and Youth Program Operations Clerk in Guam. Duties are related to recordkeeping and reporting, liaising with families and programs, and collecting and monitoring fees and supplies. Position is open until February 14, 2017. For more information, go to **https://www.usajobs.gov/GetJob/ViewDetails/464093600/**.
- **Substitute Teacher** – The Department of Defense Education Activity has an opening for a Substitute Teacher on Guam. Incumbent will present instructions in accordance with an established lesson plan and curriculum to students in a classroom environment, among other duties. Position is open until December 31, 2017. For more information, go to **https://www.usajobs.gov/GetJob/ViewDetails/461039600/**.

Highlights in the Legislative Program

THIS WEEK

On the Floor

- **H.J. Res. 44** – Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976 (Passed, 234-186)
- **H.J. Res. 57** – Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to accountability and State plans under the Elementary and Secondary Education Act of 1965. (Passed, 234-190)
- **H.J. Res. 58** – Providing for congressional disapproval under chapter 8

of title 5, United States Code, of the rule submitted by the Department of Education relating to teacher preparation issues (Passed, 240-181)
- **H.R. 387** – Email Privacy Act (Agreed to by voice vote)

Legislation I Co-Sponsored

- **H.R.868** — To establish within the Smithsonian Institution the National Museum of Asian Pacific American History and Culture, and for other purposes.
- **H.R.869** — Commission to Study the Potential Creation of a National Museum of Asian Pacific American History and Culture Act
- **H.R.874** — To amend title 38, United States Code, to ensure that certain veterans receive in-patient psychiatric care provided by the Department of Veterans Affairs.
- **H.R.902** — To amend title 38, United States Code, to improve the authority of the Secretary of Veterans Affairs to hire psychiatrists.
- **H.R.909** — To protect victims of domestic violence, sexual assault, stalking, and dating violence from emotional and psychological trauma caused by acts of violence or threats of violence against their pets.

NEXT WEEK

On the Floor

- **H.R. 512** — WINGMAN Act
- **H.R. 244** — HIRE Vets Act
- **H.R. 974** — BRAVE Act
- **H.J.Res. 42** — Disapproving the rule submitted by the Department of Labor relating to drug testing of unemployment compensation applicants
- **H.J.Res. 66** — Disapproving the rule submitted by the Department of Labor relating to savings arrangements established by States for non-governmental employees
- **H.J.Res. 67** — Disapproving the rule submitted by the Department of Labor relating to savings arrangements established by qualified State political subdivisions for non-governmental employees
- **H.J.Res. 69** — Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the Department of the Interior relating to "Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska"

- **H.J.Res. 43** — Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule submitted by Secretary of Health and Human Services relating to compliance with title X requirements by project recipients in selecting subrecipients

Committee Hearings
Tuesday, February 14

- Subcommittee on Health, Employment, Labor, and Pensions Hearing on “Restoring Balance and Fairness to the National Labor Relations Board"

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From: Rosemarie Calabro Tully
To: camille_touton@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, February 12, 2017 9:30:13 AM

Dear Camille Calimlim,

Happy Sunday! Last week, the Senate schedule was filled with debate and votes on Cabinet nominees, although none in the energy and environment space. Below is a quick summary of what happened last week and what to expect this coming week.

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As always, feel free to reach out with questions, and check out @EnergyDems for up-to-date information and timely news clips.

Cheers,

ROSEMARIE CALABRO TULLY
Democratic Press Secretary
U.S. Senate Committee on Energy & Natural Resources
rct@energy.senate.gov
Office: (202) 224-7556
Cell: (202) 329-7658
@EnergyDems @RCalabroTully

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From: Rosemarie Calabro Tully
To: joshua_mahan@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, February 12, 2017 9:30:15 AM

Dear Joshua,

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From: Rosemarie Calabro Tully
To: kerry_rae@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, February 12, 2017 9:30:16 AM

Dear Kerry,

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From: Rosemarie Calabro Tully
To: fain_gildea@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, February 12, 2017 11:30:15 AM

Dear Fain,

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From: Rosemarie Calabro Tully
To: tracy_goodluck@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, February 12, 2017 12:30:28 PM

Dear Tracy,

Happy Sunday! Last week, the Senate schedule was filled with debate and votes on Cabinet nominees, although none in the energy and environment space. Below is a quick summary of what happened last week and what to expect this coming week.

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Cell: (202) 329-7658
@EnergyDems @RCalabroTully

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From:	Bolen, Brittany (RPC)
To:	Magallanes, Downey
Subject:	FW: H.J. Res. 36, Resolution of disapproval regarding BLM's methane rule
Date:	Wednesday, February 15, 2017 1:27:07 PM

From: Bolen, Brittany (RPC)
Sent: Monday, February 13, 2017 9:34 AM
Subject: H.J. Res. 36, Resolution of disapproval regarding BLM's methane rule

The Senate is expected to consider H.J. Res. 36, a resolution of disapproval under the Congressional Review Act regarding the Bureau of Land Management's final "Waste Prevention, Production Subject to Royalties, and Resource Conservation" rule.

H.J. Res. 36, Resolution of disapproval regarding BLM's methane rule

Summary

The resolution provides for congressional disapproval under the CRA of the BLM's final "Waste Prevention, Production Subject to Royalties, and Resource Conservation" rule.

On February 3, the House passed H.J. Res. 36 by a bipartisan vote of 221 to 191. Senate consideration is expected to follow.

Background

On November 18, 2016, the BLM rule was published in the Federal Register, and it went into effect on January 17. BLM is an office in the Department of the Interior. The rule regulates methane emissions from and establishes new royalty rates for oil and natural gas production on federal and Indian lands. BLM estimated the rule would cost up to $279 million each year over a 10-year period (2017-2026) and impose an annual burden of 82,170 paperwork hours.

On January 30, Sen. John Barrasso, introduced S.J. Res. 11, and Rep. Rob Bishop introduced H.J. Res. 36, which provide for congressional disapproval of the rule under the Congressional Review Act. Currently, S.J. Res. 11 has 14 co-sponsors.

Congress and the new administration can repeal midnight rules finalized after June 13, 2016, through a resolution of disapproval under the 1996 Congressional Review Act. H. J. Res. 36 deems that BLM's final rule shall have no force or effect and prohibits the agency from issuing any future rule that is "substantially the same" form.

On February 1, the Trump administration issued a Statement of Administration Policy

that "strongly supports" H.J. Res. 36 and indicated the president would sign it into law.

Considerations

Methane is the primary component of natural gas. During the course of oil and natural gas production, methane may be emitted. Because it is a valuable commodity, oil and natural gas producers have an incentive to capture and process methane to provide energy to American consumers. In its proposed rule, BLM itself acknowledged that "operators do not want to waste gas." However, in the interest of worker safety, producers and operators will at times find it necessary to let methane escape (i.e. vent) or combust it (i.e. flare). Flaring also occurs in areas that lack gas-gathering infrastructure, which consists of small pipelines that ship natural gas from oil and gas wells to processing plants. BLM's proposed rule admitted that flaring takes place in areas: (1) "where capture and processing infrastructure has not yet been built out"; and (2) "with existing capture infrastructure, but where the rate of new-well construction is outpacing the infrastructure capacity."

Last year, BLM issued a proposed methane rule, which was published in the Federal Register on February 8, 2016. Days after the election, on November 15, 2016, BLM released a 337-page prepublication version of the final rule, which unusually specified an effective date of January 17, 2017. The final rule has already been affecting oil and natural gas operations. Since January 17, the venting prohibition and new royalty rates have been in effect, and operators have been required to submit a plan to comply with BLM's waste-prevention controls with any new application for a permit to develop a well.

Exceeds BLM's authority

BLM promulgated the rule under Mineral Leasing Act of 1920, which provides BLM authority to address undue waste on federal and Indian lands. Rather than abide by this authority, BLM designed the rule to address air quality by imposing specific requirements to curb methane emissions. Under the Clean Air Act, Congress vested the authority to regulate air quality with the Environmental Protection Agency in partnership with the states. Concerns over BLM's lack of authority have been expressed by several state and tribal officials, including:

- New Mexico's Energy, Minerals, and Natural Resources Department commented: "It appears as though BLM is attempting to promulgate Clean Air Act rules under the guide of a waste rule. Certainly, [the EPA] and its state counterpart, the Environment Department, have the statutory authority to regulate air quality matters."

- The Wyoming Department of Environmental Quality, Air Quality Division,

commented: “Congress knew that the complicated nature of air emissions would be best understood and managed by the states and the … EPA, not the BLM.”

- The Attorney General of the state of Montana, stated: “the Rule, as written, impermissibly intrudes upon the sovereign authority of state oil and gas conservation commissions to define and control oil and gas waste, and it unnecessarily creates jurisdictional confusion over the specific regulatory standards that Operators of wells must meet.”

- The chairman of the Southern Ute Indian tribe, located in southwest Colorado, stated: “the BLM lacks legal authority under the Clean Air Act to impose air quality control aspects of the rule and, even if it had authority, the rule creates a regulatory conflict between the BLM and the U.S. EPA.”

A federal district court judge also expressed significant concerns with the rule’s overlap with EPA and state regulation. In a January 16 order, Judge Scott Skavdahl wrote: “It appears the asserted cost benefits of the Rule are predominantly based upon emission reductions, which is outside of BLM’s expertise, and not attributed to the purported waste prevention purpose of the Rule.”

Duplicative of state and EPA regulation

The rule is duplicative of existing state and EPA regulation of oil and natural gas facilities. The BLM’s rule is based on Wyoming and Colorado regulations. Nearly all energy-producing states have issued similar emission control requirements. BLM’s fact sheet on the final rule even stated, “[s]everal states, including North Dakota, Colorado, Wyoming, Utah and most recently Pennsylvania, as well as the U.S. Environmental Protection Agency (EPA), have also taken steps to limit venting, flaring and/or leaks.” Since 2012, EPA has issued two regulations addressing emissions from oil and gas facilities nationwide, including one last May that specifically targets methane from new and modified existing oil and natural gas facilities. Many sources of methane emissions within oil and natural gas facilities are covered by both BLM and EPA’s rules. Moreover, days after the election and before BLM issued its final rule, the EPA submitted an immense information collection request to the oil and natural gas industry in order to develop a rule to regulate unmodified existing oil and gas sources.

While BLM’s final rule said it “seeks to minimize regulatory overlap,” the rule creates greater confusion for and burden on producers as well as state and federal regulators. For instance, the North Dakota Industrial Commission, which includes the governor, attorney general, and agriculture commissioner of the state, commented: “The highly detailed leak detection and repair requirements in the [BLM’s] proposed rule may be consistent with EPA [regulation] initially, but will likely result in conflicting requirements when either agency makes changes or issues guidance.”

Ignores commonsense solutions

BLM claims the rule is necessary to capture more methane in order to garner increased royalty revenue; yet the rule may actually decrease production and royalties. The rule's costly and burdensome requirements could result in the shut-in of a number of producing wells on federal and Indian lands. This would not only reduce the royalty revenue assumed in the rule but would reduce American consumers' access to affordable energy. While BLM estimates the rule would provide $23 million more in annual royalties, additional economic analyses have reported that based on current market prices of natural gas the rule would create no more than $3.68 million in additional royalties and would reduce federal and state tax revenue by an annual $114 million.

The oil and gas industry has already taken voluntary steps to capture methane that has generated revenue for the U.S. Treasury – absent federal regulation. In 2012 alone, voluntary measures to reduce methane emission by the oil and gas industry generated $264 million in revenue. In a state such as Wyoming, which already regulates methane emissions, Gov. Matt Mead reported last year that only 0.26 percent of produced gas is flared. In June 2016, the U.S. Energy Information Administration reported that flaring in North Dakota declined more than 20 percent in the two years following state regulation of methane emissions.

Nationwide, as natural gas production rose 47 percent from 1990 to 2014, EPA's greenhouse gas inventory reported natural gas systems have reduced methane emissions by roughly 15 percent during the same period of time. This figure almost certainly underestimates the reduction, as EPA dramatically altered its methodology for estimating methane emissions from oil and gas production last year. The agency started applying emission levels from larger facilities to small facilities that are not included in EPA's greenhouse gas reporting program.

Rather than impede this progress, BLM should embrace a common-sense solution to capture more methane and increase production royalties on federal lands by providing increased access to pipelines and gathering lines to process and transport methane to market. By fixing permitting and pipeline delays, natural gas can reach consumers more quickly. In a letter to House Speaker Paul Ryan supporting congressional repeal of BLM's rule, New Mexico Gov. Susana Martinez further explained: "Insufficient pipeline capacity and gas processing capacity make it difficult for producers to capture and sell as much of their product as possible. The Department of Interior can correct the root causes of venting and flaring events by approving pipeline right-of-ways more efficiently, which will increase pipeline capacity."

Even BLM has admitted that unnecessary venting and flaring takes place in areas with a lack of pipelines or pipeline capacity. A bipartisan majority of senators voted last year in

favor of expediting permitting process for natural gas gathering lines on federal and Indian lands. At his nomination hearing to be secretary of the interior, Rep. Ryan Zinke also expressed support for repealing BLM's rule and agreed that a better network of pipelines and gathering lines would provide greater capture and transport of natural gas for sale.

Provides no meaningful environmental benefits

BLM also asserts the rule is needed to fulfill President Obama's climate action plan and strategy to reduce methane. However, BLM's rule produces no meaningful climate benefits. As a practical matter, by causing producers to shut-in wells, BLM's rule could have the effect of increasing energy production in other countries with weaker environmental standards and greater global methane emissions.

Moreover, absent the flawed royalty assumptions, BLM's only other asserted monetized benefits of the rule are attributed to the novel, so-called social cost of methane metric. This metric has nothing to do with BLM's authority to capture undue waste and has been widely challenged for failing to follow information quality and peer review guidelines. Had BLM conducted a proper cost-benefit analysis, the costs of the rule would overwhelming exceed the benefits.

Methane emissions addressed by BLM's rule also pose no significant contribution to global climate change. EPA reported the most recent estimates of global methane emissions at 8,375 million metric tons of carbon dioxide equivalents per year. EPA's 2016 GHG Inventory reported that U.S. methane emissions are estimated at 730.8 million metric tons of CO2 equivalents per year. BLM estimates its final rule would reduce roughly 4.4-4.5 million metric tons of CO2 equivalents per year. In other words, BLM's rule would address 0.61 percent of domestic methane emissions and 0.053 percent of global methane emissions.

Brittany Bolen
Policy Counsel
Energy, Environment, and Agriculture
(202) 224-2393
--
U.S. Senate Republican Policy Committee
Chairman John Barrasso

From:	Barnes, Elmer (Appropriations)
To:	"Hall, Tricia"
Subject:	Final Review of Pages for Department of Interior Hearing Wednesday, March 2, 2016
Date:	Wednesday, February 15, 2017 11:46:15 PM
Attachments:	06MA02_DOI.pdf

Hi Tricia:

Please review the attached pages of your hearing. Could you please let me know by Thursday, March 2, 2017 if you approve or have changes. Also, will you be my contact for the Department of the Interior for the fiscal year 2018 hearings?

Thank you for your help,

Elmer

United States Senate

COMMITTEE ON APPROPRIATIONS

PROOF FOR FINAL REVIEW

Attached please find a PDF file of the Department of the Interior hearing held on Wednesday, March 2, 2016. If you have any changes please mark up the PDF file and send back the marked-up document as a PDF attachment. Inserts can be sent to me by email or fax inserts and/or corrected pages only (202–228–2348).

If you have any questions or concerns about the attachment please don't hesitate to contact me. Also, please send me an email if the final proof is acceptable to you.

Thank you.

DUE DATE: [Thursday, March 2, 2017].

Elmer L. Barnes, Jr.

Editorial and Printing Office

United States Senate
Committee on Appropriations

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elmer_barnes@appro.senate.gov

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2017

WEDNESDAY, MARCH 2, 2016

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:02 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Lisa Murkowski (chairman) presiding.

Present: Senators Murkowski, Cochran, Blunt, Daines, Cassidy, Udall, Feinstein, Leahy, Reed, Tester, and Merkley.

DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

STATEMENT OF HON. SALLY JEWELL, SECRETARY

ACCOMPANIED BY:
MICHAEL CONNOR, DEPUTY SECRETARY
KRISTEN SARRI, PRINCIPAL DEPUTY ASSISTANT SECRETARY

OPENING STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Good morning. I would like to welcome everyone to our first hearing of the Interior Appropriations Subcommittee for fiscal year 2017. We are here to review the budget request for the Department of the Interior.

I would like to welcome our witnesses this morning. We have the Honorable Secretary Sally Jewell, who is accompanied by Deputy Secretary Mike Connor as well as Principal Deputy Assistant Secretary Kris Sarri. Welcome to all of you.

Since this is our first hearing this year, I will just remind colleagues that we will follow past practices and adhere to the early bird rule for recognizing members for questions. I will call on members in the order they arrive, going back and forth between majority and the minority. We will do 6-minute rounds of questions.

My expectation this morning is that we will likely do two to three rounds of questions, depending on votes and schedules of the members and the witnesses. I will try to accommodate everyone so that they have an opportunity to address the issues that they wish to raise.

I also want to thank and welcome my ranking member, Senator Udall. We managed to mark up this bill for the first time in 6 years in fiscal year 2016. While we didn't agree on everything that was in the bill, things were never disagreeable. I really appreciate that.

February 15, 2017 (11:14 p.m.)

I think that my friend from New Mexico has an overall good nature and a passion for the issues that are important to this subcommittee and I greatly respect it. So I am looking forward to another productive year for the subcommittee, working with both you and all the members of the subcommittee.

Turning to the budget request for the Department of the Interior, it is $12.25 billion for programs within this subcommittee's jurisdiction. This includes $290 million for a proposal similar to last year, which allows certain firefighting costs to be appropriated as disaster funds. This total is 2 percent above the enacted level.

But I should note for my colleagues that the department's request does not include funds for the Payments in Lieu of Taxes program (PILT) as part of the discretionary budget.

Funding for PILT was provided within our bill last year at the fully authorized level of $452 million. So when you look at an apples-to-apples comparison to fiscal year 2016, my assessment is that the President's request is roughly 5.8 percent above current levels.

Secretary, as I noted when you appeared before the Energy Committee last week, there are a number of aspects of the President's budget proposal that I do find troubling. It includes a number of mandatory spending proposals without providing any offsets.

Mandatory spending for the Land and Water Conservation Fund (LWCF) is at $425 million without an offset. Similarly, for the National Park Service, the budget proposes mandatory spending of $1.5 billion over a 3-year window, again with no offsets.

This administration has engaged in this somewhat questionable practice of proposing mandatory funding for popular programs with no offsets during the last several budget cycles. This approach raises expectations that funding will materialize when we all know that finding payfors—even for the most popular programs—is extremely difficult in this budget environment.

If the authorizing committees are unable to find offsets in their jurisdiction to pay for these proposals, it puts more pressure on this subcommittee to find funds out of our limited resources.

The budget also prioritizes certain programs within this subcommittee's jurisdiction over others, and essentially places them on autopilot at the expense of other dire needs. Some of those needs, and I am sure we will hear about them this morning, are the needs in Indian country, where our schools are failing and suicide rates are so far above the national average that it is just heartbreaking.

I know, Secretary, that you share concerns about what is headed in Indian Country with me.

The healthcare system is strained to its limits, often providing services in facilities that are over 100 years old.

So you have a situation where funding increases, as proposed for LWCF and the National Park Service, are elevated and prioritized each year among all the programs over which this subcommittee has oversight. This budget appears to have done just that.

I don't want to send the wrong impression here. I will work with the administration and my colleagues on a responsible, bipartisan National Park Service centennial bill. I think that is important. But I do think the $1.5 billion proposal put forward is not realistic. I hope we can be creative in the use of public/private partnerships

and other means to stretch our Federal funding further and to reach consensus on a bill that appropriately celebrates the 100th anniversary of our national parks.

I am also concerned that, yet again, when oil prices have fallen dramatically and many companies are on the verge of bankruptcy, the department indicates in its budget request that it will propose a host of new fees and royalty rate increases on energy producers that will exceed $1.7 billion. There are also new fees on grazing and hard-rock mining.

I just don't see how making it more expensive to do business on public lands is sound policy or good for the United States Treasury.

I am pleased that this budget fully funds contract support costs and adopts the approach that I put forward in the Senate mark for fiscal year 2016, which establishes a separate, indefinite appropriation for these costs to ensure that these legal obligations are met and other programs will not be affected.

We have come a long way since a couple years ago when the administration proposed circumventing the tribes' victory in the Ramah decision and sought to cap these costs. I thank all my colleagues both here in the Senate and in the House for their support in this effort.

Finally, Madam Secretary, there remains King Cove, which is still totally unresolved. We once again discussed this issue last week in your testimony before the Energy Committee. But, again, I don't see anything in this budget request to help those whose lives are in needless danger. You did agree last week, Secretary, to publicly release the nonroad, nonsolutions study that Interior commissioned for King Cove during the budget hearing. When we get to the questions time, I do plan to ask you about the timing on this report.

I have talked to virtually all of my colleagues about the need for a lifesaving road to King Cove. I mention it again here, particularly for the information of members who are not on the Energy Committee, so that they remain aware that I remain committed to do everything in my power as the chairman of that committee and as chairman of the Interior Subcommittee to fight for the construction of this critical road.

With that, I want to thank, again, the Secretary and the Deputy Secretaries, and my colleagues for their appearance here this morning.

And I will now turn to Ranking Member Udall for any comments that he would like to make.

STATEMENT OF SENATOR TOM UDALL

Senator UDALL. Good morning. Thank you, Madam Chair, for those very kind comments at the beginning. I will reciprocate here in a minute with some also.

Good morning, also, Secretary Jewell. We are very pleased to have you appear before the subcommittee to discuss the Department of the Interior's fiscal year 2017 budget request. I am also pleased to welcome Deputy Secretary Mike Connor and Deputy Assistant Secretary Kris Sarri before the subcommittee.

Before we turn to the budget, I want to thank Chairman Murkowski for working with me to produce what I think is a very good

budget for the department in 2016. Madam Chairman, we have had some challenging policy issues to work through, so I am very pleased that we were able to pass a bill that included critical increases for national parks, tribal programs, Land and Water Conservation Fund, and many of the programs that we will discuss this morning.

I also want to recognize, Madam Chair, your hard work and your leadership of this subcommittee. I know it will be a pleasure to work with you again this year, and to work with your very fine staff to support our common interests in this bill.

That said, this subcommittee's job is not going to be easy. Under the Budget Control Act, discretionary spending for nondefense programs is essentially flat in 2017. At the same time, we have to fund certain must-do increases across the Government, including firefighting and tribal contract support costs for this subcommittee. So that flat funding level effectively means a cut.

On paper, the department's discretionary request also looks flat compared to fiscal year 2016, in keeping with the budget caps. But if you dig a little deeper, it is clear that the President used savings from a number of proposals to create room for some significant increases. These proposals include funding part of the firefighting budget with a new disaster cap authorization and providing mandatory funding for the Payment in Lieu of Taxes program.

In fact, when you factor in all the sources of funding, this budget is really a 2 percent increase overall for the department. I like many of the increases that this budget proposes. It provides a 9 percent increase for our national parks and a 5 percent increase for the Bureau of Indian Affairs to support tribal education and social service needs.

I could not agree, Chairman Murkowski, with you more, in talking about the dire state and dire situation in Indian country, in terms of education.

This budget also expands on the increases that we provided in the 2016 omnibus to the Land and Water Conservation Fund (LWCF). It proposes $475 million for LWCF programs funded by this bill, and proposes to transition the program to its full authorized level of $900 million in future years.

There are many important increases as well for wildlife refuges, energy development, science and climate change programs—all very important investments. But let's be clear. Since funding is tight, our ability to fund many of these increases depends on getting agreement to reform the wildland firefighting budget and enacting a long-term mandatory funding source for the Payment in Lieu of Taxes program.

Until we are successful in enacting those changes, we will have to prioritize what we fund very carefully, and that means very tough trade-offs.

The budget also includes some important legislative proposals that I expect we will discuss today. In particular, I want to applaud the administration's leadership to reform energy and mining activities on public lands and make sure that taxpayers are getting a fair return from the development of those lands. I am pleased to see that your budget addresses hard-rock mining reforms, including setting a fair royalty for mining operations on public lands and pro-

posing a hard-rock abandoned mine fee to address legacy cleanup issues.

I have also sponsored legislation to take on this issue. We need real mining reform, and we have needed it for a long time. It makes no sense that we still rely on an antiquated law that is nearly 150 years old as the framework for mining in this country.

Events like the Gold King Mine disaster should serve as a wake-up call for all of us. We have to get serious about cleaning up abandoned mines. There are abandoned toxic mine sites throughout the West. These mines are ticking time bombs. They are releasing a slow-motion stream of lead, arsenic, cadmium, and toxins into water supplies, water we need for drinking, irrigation, and recreation.

The cleanup costs are absolutely astronomical. I have seen estimates between $9 billion and $21 billion. In New Mexico alone, the cost is estimated between $385 million and $840 million.

Today's mining industry has much better standards, but this toxic legacy cannot be left unaddressed. The damage has been done, and taxpayers should not be left holding the bag for the mess as well as for future cleanup costs. The cost of inaction on mining reform has been too great already. We cannot afford to wait, and it is time that we act.

You are doing the right thing, Secretary Jewell, and I want to work with you to enact common-sense reforms.

Thank you again for appearing before us. I look forward to hearing your testimony and having a good discussion and dialogue.

Thank you, Madam Chair.

Senator MURKOWSKI. Thank you, Senator Udall.

We have the chairman of the full Appropriations Committee with us this morning.

Mr. Chairman, would you care to make any comments or statements before we hear from the Secretary?

STATEMENT OF SENATOR THAD COCHRAN

Senator COCHRAN. Madam Chair, I appreciate the recognition. I am delighted to be able to announce that, this year, the City of Natchez, Mississippi, is celebrating its tricentennial anniversary, a very rich history. A historically significant area of the Lower Mississippi River Valley will be brought together with local municipalities and counties in helping make sure that tourists know of this destination site where you will learn a lot and meet a lot of fine people. So come to Natchez and help us celebrate. Thank you.

Senator MURKOWSKI. Thank you, Mr. Chair.

I just had to think, tricentennial. As a State, we are about 58 years old in Alaska. So boy, if that does not remind you——

Senator COCHRAN. To be 58 again. [Laughter]

Senator MURKOWSKI. To be 58 again, yes. America is a beautiful place.

With that, let us go to the Secretary of the Interior. Welcome this morning. We appreciate you being here and look forward to your comments and the questions that will follow.

SUMMARY STATEMENT OF HON. SALLY JEWELL

Secretary JEWELL. Thank you. And congratulations on the tricentennial. It would be fun to be there.

Chairman Murkowski, Ranking Member Udall, Chairman Cochran, and members of the subcommittee, thank you so much for the opportunity to discuss the fiscal year 2017 budget request for the Department of the Interior. This is the administration's final budget, and I want to take the opportunity to thank all of you and your capable staffs for working with me over the last 3 years to help the Department meet its mission for the American people.

I would like also to take a moment to mention the incident at the Malheur National Wildlife Refuge in Harney County, Oregon. Through tremendous patience and professionalism, the FBI, with support from State and local law enforcement, ended the occupation on February 11 as quickly and safely as possible after more than 40 days.

It was an incredibly disruptive and distressing time for our employees, their families, and the Harney County community. I am proud of our Department of the Interior law enforcement personnel who supported the response and helped keep our employees safe.

We continue to cooperate with DOJ, the FBI, and others, as the investigations move forward. And we remain committed to working with local communities on the management of public lands.

Interior's overall fiscal year 2017 budget request is $13.4 billion, a lion's share within this subcommittee. Specifically for programs within this subcommittee's jurisdiction, as mentioned, is $12.3 billion.

It builds on the successes we are achieving through partnerships, the application of science and innovation, and balanced stewardship. It gives us the tools to help communities strengthen resilience in the face of climate change, conserve natural and cultural resources, secure clean and sustainable water, engage the next generation with the great outdoors, promote a balanced approach to safe and responsible energy development, and expand opportunities for Native American communities.

These areas are core to our mission and play a vital rule in job creation and economic growth.

The budget invests in our public lands, providing $5 billion to support operations of our national parks, historical and cultural sites, wildlife refuges and habitats, and managing multiple use and sustained yield on our Nation's public lands.

It focuses investment on important working landscapes like the western Sage-Steppe, and the Arctic, and proposes a 10-year, $2 billion coastal climate resilience program to support at-risk coastal States and local governments, including funding for communities in Alaska to prepare for and adapt to climate change.

As the National Park Service begins its second century, the budget provides $3 billion and includes a proposal to dedicate significant funding to reduce the deferred maintenance backlog. It calls for full and permanent funding of the Land and Water Conservation Fund and extends the expired authority for the Historic Preservation Fund.

It reflects the administration's strategy to more effectively budget for catastrophic wildfires, as you pointed out. And in response to drought challenges across the West, it continues to safeguard sustainable and secure water supplies.

We continue to engage the next generation of Americans to play, learn, serve, and work outdoors with $103 million for youth engagement. This includes mentoring and research opportunities at the U.S. Geological Survey; urban community partnerships; scholarships and job corps training for tribal, rural, and urban youth; and work opportunities within our bureaus. There is $20 million for the Every Kid in a Park initiative, which introduces America's fourth graders to their public lands, providing education programs across the country and transportation support for low-income students.

We continue to promote a balanced approach to safe and responsible energy development that maximizes a fair return for taxpayers with $800 million for renewable and conventional energy development, a $42 million increase. We are on track to meet the President's goals of permitting 20,000 megawatts of renewable energy capacity on public lands by 2020, with nearly $100 million for renewable energy development and infrastructure.

Offshore, this budget supports the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement with funding to reform and strengthen responsiveness, oversight, and safety for oil and gas development.

Onshore, an increase of $21 million supports the Bureau of Land Management's (BLM's) efforts to develop a landscape-level approach to oil and gas development, modernize and streamline permitting, and strengthen inspection capacity.

We are expanding educational and job opportunities for Native American communities with $3 billion for Indian Affairs, a 5 percent increase, to support native youth education, American Indian and Alaskan Native families, public safety, and building resilience to climate change. The President's budget calls for a $1 billion investment in Indian education as part of Generation Indigenous, and $278 million to fully fund contract support costs, a cornerstone of tribal self determination.

The budget supports our commitment to resolve Indian water right settlements and supports sustainable water management in Indian country with $215 million, a $5 million increase.

The budget includes funding to strengthen cybersecurity controls across all agencies. It also invests in science and innovation with $150 million for natural hazards at the USGS, an $11 million increase. Funding will continue development of Landsat 9, a critical new satellite expected to launch in 2021.

This is a smart budget that builds on our previous successes and strengthens partnerships to ensure we balance the needs of today with opportunity for future generations. So thank you, members of the subcommittee. I look forward to any questions you may have.

[The statement follows:]

PREPARED STATEMENT OF HON. SALLY JEWELL

Madame Chairman, Ranking Member Udall, and members of the subcommittee, I am pleased to present the 2017 President's budget for the Department of the Interior providing $13.4 billion for the Department's programs with $290 million avail-

able in the event of catastrophic fires. Of this amount, $12.3 billion is within the jurisdiction of this subcommittee, an increase of $224.4 million with the fire cap adjustment.

This is a strong budget that builds on our accomplishments. Our request enables us to carry out our important missions—maintain our core capabilities, meet commitments, and invest in key priorities. The investments in this request show the administration remains focused on meeting the Nation's greatest challenges looking forward and ensuring our economy works for all.

Our budget is part of the President's broader strategy to make critical investments in domestic and national security priorities while adhering to the bipartisan budget agreement signed into law last fall, and lifts sequestration in future years to continue investment in the future. This budget recognizes the importance of Interior's programs to the overall strength of the Nation's economy. To put this into perspective, in 2014, Interior-managed lands and activities contributed about $360 billion in national economic output, supporting an estimated 2 million jobs. Of this, energy and mineral development on Interior-managed lands and offshore areas generated more than $241 billion in economic activity and supported nearly 1.1 million jobs.

At the same time, our 2017 proposed investments lay the groundwork for promoting renewable energy development, managing the Nation's lands responsibly, helping to protect communities in the face of climate change, and investing in science to inform natural resource management. Our budget features investments to launch the second century of the national parks and expand public accessibility to and enjoyment of America's public lands. It supports tribal priorities in Indian Country, including a $1.1 billion investment to transform Indian schools and education, and provides full funding for tribal contract support costs. This request addresses significant resource challenges for the Nation, including water availability, particularly in the arid West, and makes important investments in America's water infrastructure.

The 2017 budget includes $1.0 billion for research and development activities throughout the Department, an increase of $84.5 million from the 2016 enacted level. Activities supported include scientific analysis of natural systems and applied field research to address specific problems, such as thawing permafrost, invasive species, and flooding. With multiple science programs across the Department's bureaus and offices, science coordination remains a critical component in the process of effective science application. Interior is well served by the deployment of science advisors in each bureau. These advisors serve critical roles within the organizations and across the Department by sharing information concerning new research efforts, identifying and evaluating emerging science needs, and ensuring effective science delivery and application. The Interior 2017 budget reflects high priority needs identified for scientific research across the Department.

THE 2017 BUDGET ADVANCES A RECORD OF ACHIEVEMENT

This budget builds on a record of achievement across Interior's diverse mission. For the past several years, the Department led an unprecedented proactive strategy to develop land use plans with Federal, State, and local partners to address the deteriorating health of America's sagebrush landscapes and the declining population of the Greater sage-grouse. This landscape scale conservation effort is an extraordinary collaboration to significantly address threats to the Greater sage-grouse across 90 percent of the species' breeding habitat. These efforts enabled the U.S. Fish and Wildlife Service to conclude the charismatic rangeland bird does not warrant protection under the Endangered Species Act. This collaborative, science-based strategy is the largest land conservation effort in U.S. history, and helps to protect the species and its habitat while also providing certainty needed for sustainable economic development across millions of acres of Federal and private lands throughout the western United States. The 2017 budget includes $89.7 million for Sage Steppe conservation, an increase of $22.9 million over 2016 enacted.

This budget continues to advance development of renewable energy. Over the summer of 2015, Interior's offshore wind energy leasing efforts led to beginning construction of the first offshore wind farm. This first of its kind project will provide a model for future development of offshore wind energy. Since 2009, Interior has approved 56 wind, solar, and geothermal utility scale projects on public or tribal lands. When built, these projects could provide about 14,600 megawatts—enough energy to power nearly 4.9 million homes and support more than 24,000 construction jobs. The 2017 budget includes $97.3 million for clean energy programs, an increase of $3.1 million over 2016 enacted.

The 2017 budget sustains President Obama's strong commitment to tribal self-determination, strengthening tribal nations, and investing in the future of Native youth. Interior established the Land Buy Back Program which, in only 2 years of active land purchases, invested more than $730 million in Indian Country to restore nearly 1.5 million acres of land to Indian tribes. The effort to improve and transform the Bureau of Indian Education to better serve American Indian and Alaska Native youth is building the foundation for improved student outcomes and enduring traditions and native cultures. In 2016, work will begin to replace the final 2 of 14 Bureau of Indian Education schools identified in 2004 as requiring the greatest need for replacement construction. Also, in 2016, Interior will finalize the next list of replacement schools determined through a negotiated rulemaking process. This budget includes $138.3 million for education construction and maintains a commitment to continue to invest in improving educational opportunities and quality from the earliest years through college.

Interior continues to engage in innovative efforts to leverage youth engagement and partnerships to advance the Department's extraordinary mission. Interior set the goal to provide 40,000 work and training opportunities during 2014 and 2015 for young adults, toward a goal of 100,000 by 2017. Interior met its priority goal—providing 52,596 work and training opportunities over the past two fiscal years by collaborating across all levels of government and mobilizing the 21st Century Conservation Corps. From Denali to the Everglades, members of the youth conservation corps are gaining work experience, helping improve the visitor experience, and mobilizing entire communities in the stewardship of our parks, refuges, waters and heritage. The 2017 budget includes a total of $102.5 million, an increase of $37.6 million over 2016 enacted, for programs to advance youth engagement.

Partnerships are critical to enhancing our public lands and providing additional recreational opportunities to the public. An example of the significant impact of these efforts is the CityArchRiver project is a public-private partnership building connections that enhance downtown St. Louis, the Gateway Arch grounds at the Jefferson National Expansion Memorial, and the Mississippi riverfront. This partnership includes the National Park Service, Missouri Department of Transportation, Great Rivers Greenway District, City of St. Louis, Bi-State Development Agency, CityArchRiver Foundation, and others. In January, the Foundation completed a $250 million capital campaign which means the Foundation has raised $221 million in private funding for construction of the $380 million CityArchRiver project and an additional $29 million to seed an endowment that will help maintain and operate the park moving forward.

PROMOTES THE CONSERVATION AND PROTECTION OF AMERICA'S NATURAL AND CULTURAL RESOURCES

This year, the National Park Service celebrates 100 years of preserving and sharing America's natural, cultural, and historic treasures. Interior's 2017 budget makes investments to connect a new generation to "America's Best Idea," and to care for and maintain our national parks for the next 100 years. Last year, the National Park Service's 410 units welcomed 307 million visitors—setting a new visitation record. Every tax dollar invested in a park returns more than $10 to the U.S. economy.

The budget includes a discretionary increase of $190.5 million to invest in the next century of the National Park Service. This includes a $20.0 million increase for the *Every Kid in a Park* initiative, a $20.0 million increase to the Centennial Challenge program providing a Federal match to leverage partner donations for projects and programs at national parks, and a $150.5 million increase to address high priority deferred maintenance needs across the national park system.

This current funding is complemented by a legislative proposal to provide new mandatory funding, The National Park Service Centennial Act includes $100.0 million a year, for 3 years, for Centennial Challenge projects to provide the Federal match in support of signature projects at park units; $100.0 million a year for 3 years for the Public Lands Centennial Fund, a competitive opportunity for public lands agencies to support conservation and maintenance projects; and $300.0 million a year, for 3 years, for Second Century Infrastructure Investment projects to make a meaningful and lasting impact on the NPS deferred maintenance backlog. The Act also provides authority to collect and retain additional camping or lodging fees and funds collected from purchases of the lifetime pass for citizens 62 years of age or older. Receipts for this Second Century Fund will be matched by donations to fund visitor enhancement projects.

Together, the discretionary and mandatory funding proposals will allow the National Park Service to make targeted, measurable upgrades over the next 10 years

to all of its highest priority, non-transportation assets, restoring and maintaining them in good condition.

America's public lands and waters offer space to get outside and get active, and provide living classrooms with hands-on opportunities to build skills. The administration launched the *Every Kid in a Park* Initiative to inspire the next generation to discover all America's public lands and waters have to offer. Starting with the 2015–2016 school year, all fourth grade students and their families are able to receive free admission to all national parks and other Federal lands for a full year. The National Park Service budget for 2017 includes $20.0 million for *Every Kid in a Park* to introduce at least one million fourth grade students from elementary schools serving disadvantaged students in urban areas to nearby national parks and provide park programs tailored for young people and their families, especially at high visitation and urban parks.

Investments in America's great outdoors create and sustain millions of jobs and spur billions of dollars in national economic activity through outdoor recreation and tourism. An estimated 423 million recreational visits to Interior lands contributed $42 billion to the economy and supported about 375,000 jobs nationwide. The 2017 budget proposes full funding for Land and Water Conservation Fund (LWCF) programs at Interior and the Department of Agriculture. This innovative, highly successful program reinvests royalties from offshore oil and gas activities into public lands across the Nation. Starting in 2017, the budget will invest $900.0 million annually into conservation and recreation projects, equal to the amount of receipts authorized for deposit into the LWCF each year, through a combination of $475.0 million in current discretionary funding and $425.0 million in mandatory funding. These investments will conserve public lands in or near national parks, refuges, forests and other public lands, and provide grants to States for close-to-home recreation and conservation projects on non-Federal lands.

The budget continues efforts to manage and promote the health and resilience of ecosystems on a landscape scale, including a continued focus in priority landscapes such as the California Bay-Delta, the Everglades, the Great Lakes, Chesapeake Bay, and the Gulf Coast. The request includes a total of $79.2 million for Bureau of Land Management efforts, to protect and restore America's vast sage steppe landscape supporting abundant wildlife and significant economic activity, including recreation, ranching and energy development. This investment reflects Interior's continued support of the unprecedented Federal and State collaboration to conserve the imperiled sage steppe landscape in the face of threats from fire, invasive species, expanding development, and habitat fragmentation. The budget also invests $160.6 million in landscape scale efforts to address the complex natural resource issues facing the Arctic.

IMPLEMENTS THE PRESIDENT'S CLIMATE ACTION PLAN

As manager of roughly 20 percent of the land area of the United States and a partner with tribal, Federal, State, local, and territorial government land managers, the Interior Department works to address the challenges of natural hazards brought on by a changing climate as an integral part of its mission. The budget includes funding to improve the resilience of communities and ecosystems to changing stressors, including flooding, severe storm events, and drought as part of the administration's effort to better understand and prepare for the impacts of a changing climate.

The budget proposes $2.0 billion in mandatory funding for a new Coastal Climate Resilience program, to provide resources over 10 years for at-risk coastal States, local governments, and their communities to prepare for and adapt to climate change. This program would be paid for by redirecting roughly half of the savings that result from the repeal of offshore oil and gas revenue sharing payments that are set to be paid to only four States under current law. A portion of these program funds would be set aside to cover the unique impacts of climate change in Alaska where rising seas, coastal erosion, and storm surges are threatening Native Villages that must prepare for potential relocations.

Population growth near forests and rangelands and a changing climate are increasing wildfire risk and resulting costs. The budget calls for a new funding framework for wildland fire suppression, similar to how other natural disasters are addressed. The budget includes base level funding of 70 percent of the 10-year average for suppression costs and an additional $290.0 million through a cap adjustment, available in the event of the most severe fire activity, which comprises only 2 percent of the fires but 30 percent of the costs. This framework allows for a balanced suppression and fuels management and restoration program, with flexibility to ac-

commodate peak fire seasons, but not at the cost of other Interior and U.S. Department of Agriculture missions.

Healthy communities require secure, sustainable water supplies. This is particularly challenging with record drought conditions and increasing demand taxing watersheds throughout the country, especially in the arid West. To help increase the security and sustainability of Western watersheds, the budget continues investment in the Department's WaterSMART program to promote water reuse, recycling, and conservation, in partnership with States, tribes, and other partners. Funding is also included for research, development, and challenge competitions to find longer term solutions through new water technologies. The budget invests in the Nation's water infrastructure to ensure millions of customers receive the water and power that are the foundation of a healthy economy.

POWERS THE FUTURE THROUGH BALANCED ENERGY DEVELOPMENT

To enhance national energy security and create jobs in new industries, the budget invests in renewable energy development programs to review and permit renewable energy projects on public lands and in offshore waters. Under the President's Climate Action Plan, these funds will allow Interior to continue progress toward its goal of increasing approved capacity authorized for renewable—solar, wind, geothermal, and hydropower—energy resources affecting Interior managed lands, while ensuring full environmental review, to at least 16,600 Megawatts (since the end of fiscal year 2009). The budget includes an increase of $2.0 million for the Office of Insular Affairs to provide assistance to implement energy projects identified by the territories in their comprehensive sustainable energy strategies.

To address the continuing legacy of abandoned mine lands on the health, safety, environment, and economic opportunity of communities, the budget proposes $1.0 billion to States and tribes over 5 years from the unappropriated balance of the AML Trust Fund, administered by the Office of Surface Mining Reclamation and Enforcement. As part of the President's POWER+ Plan, the AML funding will be used to target the reclamation of mine land sites and associated polluted waters in a manner that promotes sustainable redevelopment in economically distressed coalfield communities. The budget includes legislative reforms to strengthen the healthcare and pension plans that provide for the health and retirement security of coal miners and their families.

The budget provides support for onshore energy permitting and oversight on Federal lands, with the Bureau of Land Management's discretionary and permanent oil and gas program receiving a 17 percent increase in funding compared to the 2016 enacted level. The funding increase will enhance BLM's capacity to oversee safe, environmentally-sound development and ensure a fair return to taxpayers, with increases targeted to improve leasing processes, implementation of new regulations and rules, and a modernized automated permitting process. The BLM's costs would be partially offset through new inspection fees totaling $48 million in 2017, requiring the onshore oil and gas industry to share in the cost of managing the program from which it benefits, just as the offshore industry currently does.

The budget also supports reforms to strengthen oversight of offshore industry operations following the 2010 *Deepwater Horizon* oil spill, with an additional emphasis on risk management. The budget includes $175.1 million for the Bureau of Ocean Energy Management and $204.9 million for the Bureau of Safety and Environmental Enforcement, which share responsibility for overseeing development of oil and gas resources on the Outer Continental Shelf.

STRENGTHENING TRIBAL NATIONS

The President's budget maintains the administration's strong support for the principle of tribal self-determination and strengthening tribal communities across Indian Country. This commitment is reflected in a nearly 5 percent increase for the Bureau of Indian Affairs over the 2016 enacted level. The budget calls for full funding for contract support costs that Tribes incur from managing Federal programs, complemented by a proposal to secure mandatory funding in future years. The budget provides significant increases across a wide range of Federal programs that serve tribes; proposes a "one-stop" approach to improve and coordinate access to Federal programs and resources; seeks to improve the quality of data by partnering with the Census Bureau; supports sustainable stewardship of land, water, and other natural resources; provides funds for communities to plan, prepare, and respond to the impacts of climate change; and expands resources to promote tribally based solutions and capacity building to strengthen tribal communities as a whole. The budget continues to address Indian water rights settlement commitments and programs to sup-

port tribes in resolving water rights claims, developing water sharing agreements, and supporting sustainable water management.

The budget includes key investments to support Generation Indigenous, an initiative addressing barriers to success for American Indian and Alaska Native children and teenagers. In addition to Interior, multiple agencies—including the Departments of Education, Housing and Urban Development, Health and Human Services, Agriculture, and Justice—are working collaboratively with tribes on new and increased investments to implement education reforms and address issues facing Native youth. The budget provides over $1 billion for Interior investments in Indian education.

IMPROVES OVERSIGHT AND USE OF FEDERAL DOLLARS

Interior has several multi-year efforts underway to reduce its nationwide facilities footprint, and improve the efficiency and effectiveness of its information technology infrastructure and financial reporting capabilities. The budget includes $6.4 million to consolidate building space and reduce costs to the taxpayer for privately leased space. Interior achieved a 4.6 percent reduction—2.1 million square feet—in office and warehouse space between fiscal year 2012 and fiscal year 2015. This represents a net annual cost avoidance of approximately $8 million. In 2016, the modernization of the sixth and final wing of the Main Interior Building will be completed, including infrastructure upgrades that improve energy efficiency and sustainability and reconfigured space to support higher occupancy.

The budget includes $3.0 million for Interior's Digital Services team to increase the efficiency and effectiveness of the agency's highest impact digital services. The budget continues to optimize the Department-wide Financial and Business Management System with targeted investments to improve reporting and increase data quality and transparency, as envisioned in the DATA Act.

The budget includes an increase of $2.6 million to support implementation of Federal Information Technology Acquisition Reform Act, to improve standardization of information technology investments by strengthening the role of the Department's Chief Information Officer in strategic planning, budget formulation and execution, and acquisition of information management and technology activities. The budget includes $34.7 million in the appropriated working capital fund to continue the Department's remediation of its cybersecurity systems and processes, an increase of $24.7 million above the 2016 enacted level. The additional funding will allow the Department to secure its valuable information on behalf of our employees, customers, partners and the American public.

The United States Treasury received $7.2 billion in 2015 from fees, royalties and other payments related to oil and gas development on public lands and waters. A number of studies by the Government Accountability Office and Interior's Office of Inspector General found taxpayers could earn a better return through policy changes and more rigorous oversight. The budget proposes a package of legislative reforms to bolster administrative actions focused on advancing royalty reforms, encouraging diligent development of oil and gas leases, and improving revenue collection processes. The administration is committed to ensuring American taxpayers receive a fair return from the sale of public resources and benefit from the development of energy resources owned by all Americans.

The budget includes legislative proposals related to Reforms of Hardrock Mining. To increase safety and minimize environmental impacts, the budget proposes a fee on hardrock mining, with receipts to be used by States, tribes and Federal agencies to restore the most hazardous sites—similar to how coal Abandoned Mine Lands funds are used. In addition, to ensure taxpayers receive a fair return from mineral development on public lands, the budget proposes a royalty on select hardrock minerals—such as silver, gold and copper—and terminating unwarranted payments to coal producing States and tribes that no longer need funds to clean up abandoned coal mines.

BUREAU HIGHLIGHTS

Bureau of Land Management.—The 2017 request is $1.3 billion, $7.1 million above 2016. This includes $1.2 billion for BLM operations, an increase of $2.1 million above the 2016 enacted level, with $1.1 billion for Management of Lands and Resources and $107.0 million for Oregon and California Grant Lands programs. The change in total program resources from 2016 and 2017 is larger, as the budget proposes offsetting user fees in the Rangeland Management and Oil and Gas Management programs which reduce the total request by $64.5 million.

The budget also includes $44.0 million in current appropriations for LWCF land acquisition, including $8.0 million to improve access to public lands for hunting,

fishing, and other recreation. BLM's LWCF land acquisition investments promote the conservation of natural landscapes and resources by consolidating public lands through purchase, exchange and donation to increase management efficiency and preserve areas of natural, cultural, and recreational importance. The BLM estimates 23 million acres (or nine percent) of BLM-managed public lands lack public access or have inadequate public access, primarily due to checkerboard land ownership patterns. The BLM's proposed land acquisition project within the Rio Grande del Norte National Monument in New Mexico illustrates the many benefits of land acquisition to BLM's mission. An investment of $1.3 million would allow BLM to acquire 1,186 acres of private inholdings within the monument to preserve traditional uses, secure connectivity to the Rio Grande Wild & Scenic Corridor, preserver avian and wildlife habitat, protect prehistoric human habitation sites, and improve recreation and tourism.

Complementing the second century of the parks, the BLM budget includes investments in the National Conservation Lands, which recently celebrated their 15th anniversary. Thirteen new National Conservation Lands units were designated during the current administration and visitation and visitor expectations and demands have consistently increased for the whole National Conservation Lands system during this period. The 2017 budget features a $13.7 million increase to meet basic operating requirements and support critical and overdue investments to effectively safeguard the cultural, ecological, and scientific values for which they were designated and provide the quality of recreational opportunities intended with the National Conservation Lands designation. A program increase of $1.1 million in Cultural Resources Management will enhance BLM's capacity to preserve and protect the vast treasure of heritage resources on public lands and a program increase of $2.0 million in Recreation Resources Management will further implement a National Recreation Strategy to facilitate access to public lands.

The BLM continues to support the President's broad energy strategy, with significant increases requested in 2017 to strengthen its ability to effectively manage onshore oil and gas development on Federal lands. The 2017 budget for oil and gas management activities, including the request for direct and fee funded appropriations and estimated permanent appropriations totals $186.6 million, an increase of $27.6 million in total program resources over the 2016 enacted level.

For direct appropriations, the oil and gas request is a net program increase of $19.9 million. Within this net total, $13.1 million will support implementation of rules and regulations to ensure oil and gas operations are safe, environmentally responsible, and ensure a fair return to the taxpayer. These include new oil and gas measurement and site security regulations, hydraulic fracturing regulations, and venting and flaring regulations. A $2.1 million increase will complete modernization of the Automated Fluid Minerals Support System. The development work associated with Phase II of AFMSS modernization includes new functionality supporting new proposed rules and those currently expected to be finalized in 2016. Overall, the AFMSS modernization project also will support greater efficiencies in oil and gas permitting and inspection activities.

The Oil and Gas Management request also includes a program increase of $2.6 million for oil and gas special pay costs to improve BLM's ability to recruit and retain high caliber oil and gas program staff to provide effective oversight and meet workload and industry demand. Finally, the BLM budget request includes a program increase of $2.8 million to enhance BLM's capability to address high priority legacy wells in the National Petroleum Reserve-Alaska to supplement permanent funds provided in the Helium Security Act of 2013. The 2017 budget continues to request authority to charge inspection fees similar to those in place for offshore oil and gas inspections. Such authority will reduce the net costs to taxpayers of operating BLM's oil and gas program and allow BLM to be more responsive to industry demand and increased inspection workload in the future. A $48.0 million decrease in requested appropriations reflects shifting the cost of inspection activities to fees.

In 2017, BLM will continue to invest heavily in the Greater Sage Grouse Conservation Strategy and the budget includes a program increase of $14.2 million to protect, improve, or restore sage steppe habitat. Funds will also assist States in implementing GSG conservation plans. The BLM's efforts to implement the Greater Sage Grouse Conservation Strategy are also reliant upon successful execution of the National Seed Strategy, which is also integral to the administration's wildland fire rehabilitation efforts and the success of the Secretary's Integrated Rangeland Fire Management Strategy. The budget includes a $5.0 million program increase within Wildlife Management to more aggressively implement the National Seed Strategy.

Other budget highlights include program increases totaling $16.9 million in the Resource Management Planning, Assessment, and Monitoring subactivity. This includes $4.3 million to expand the BLM Assessment, Inventory, and Monitoring pro-

gram for increased data collection and monitoring central to the success of high priority landscape management efforts such as the Western Solar Energy Plan, as well as implementation of the Department's plan for the National Petroleum Reserve-Alaska, the Greater Sage Grouse Conservation Strategy, and the broader landscape mitigation strategy. The request also includes an increase of $6.9 million to accelerate implementation of the BLM enterprise geographic information system, which aggregates data across boundaries to capture ecological conditions and trends; natural and human influences; and opportunities for resource conservation, restoration, development, and partnering. The remaining $5.7 million increase will support high priority planning efforts that could include the initiation of new plan revisions in 2017, as well as plan evaluations and implementation strategies.

Bureau of Ocean Energy Management.—The 2017 President's budget for BOEM is $175.1 million, including $80.2 million in current appropriations and $94.9 million in offsetting collections. This is a net increase of $4.3 million in current appropriations above the 2016 enacted level.

The total 2017 estimate of $94.9 million for offsetting collections is a net decrease of $1.7 million, including reductions in rental receipts partially offset by a new $2.9 million cost recovery fee for the Risk Management Program. An increase in direct appropriations of $6.0 million makes up for the projected decrease in rental receipts.

The budget provides $23.9 million for offshore renewable energy activities. To date, BOEM has issued 11 commercial wind energy leases offshore; conducted 5 competitive wind energy lease sales for areas offshore Maryland, Massachusetts, New Jersey, Rhode Island, and Virginia; and approved the Construction and Operations Plan for the Cape Wind project offshore Massachusetts. Additionally, BOEM is in the planning stages for wind leasing offshore New York, North Carolina, and South Carolina. In 2015, BOEM executed the first wind energy research lease in U.S. Federal waters with the Commonwealth of Virginia's Department of Mines, Minerals, and Energy.

The 2017 budget provides $64.2 million for conventional energy development, a programmatic increase of $4.2 million above 2016. These funds support high priority offshore oil and gas development activities, including lease sales outlined in BOEM's Five Year OCS Oil and Gas Leasing Program for 2012–2017. Under this program, BOEM's eight sales generated over $2.97 billion in high bids. Five lease sales remain on the lease sale schedule through mid-2017. The next lease sales are Eastern Gulf of Mexico Lease Sale 226, Central Gulf of Mexico Lease Sale 241, and Western Gulf of Mexico Lease Sale 248, all scheduled to be held during 2016.

The 2017 provides $68.4 million for BOEM's Environmental Programs. These funds support world class scientific research to provide critical information informing policy decisions regarding energy and mineral development on the OCS.

Bureau of Safety and Environmental Enforcement.—The 2017 President's budget for the Bureau of Safety and Environmental Enforcement is $204.9 million, including $96.3 million in current appropriations and $108.5 million in offsetting collections. The 2017 budget is a net $196,000 increase above the 2016 enacted level, reflecting an increase of $7.9 million in current appropriations and a $7.7 million decrease in offsetting collections. The total 2017 estimate of $108.5 million in offsetting collections assumes decreases from 2016 of $11.5 million for rental receipts, $2.2 million for cost recoveries, and a $6.0 million increase for inspection fee collections. Funding for Oil Spill Research is maintained at the 2016 enacted level of $14.9 million. The 2017 budget supports continued safe and responsible offshore energy development.

Office of Surface Mining Reclamation and Enforcement.—The 2017 budget request is $157.9 million, $82.6 million below the 2016 enacted level.

The 2017 budget for Regulation and Technology is $127.6 million, $4.3 million above 2016. The request includes $10.5 million, $1.8 million above 2016, to improve implementation of existing laws and support State and tribal programs. The 2017 budget includes $65.5 million for State and tribal regulatory grants, this level of funding supports State requirements.

The budget includes program increases of $2.5 million to advance the Bureau's GeoMine Project; $1.2 million for applied science to conduct studies to advance technologies and practices specific to coal mined sites for more comprehensive ecosystem restoration; $1.0 million to expand the use of reforestation techniques in coal mine reclamation and provide opportunities for youth and community engagement; $2.3 million to support Technical Assistance; and $1.6 million for National Environment Policy Act compliance document preparation, legal review, and program monitoring.

The 2017 budget for the Abandoned Mine Reclamation Fund is $30.4 million, $86.9 million below 2016. The 2016 enacted level included a $90.0 million increase for grants to three States for the reclamation of abandoned mine lands in conjunction with economic and community development activities. The 2017 budget pro-

poses a broader legislative effort to support reclamation and economic and community development as part of the administration's POWER+ Plan. POWER+ would provide $200 million per year to target the cleanup and redevelopment of AML sites and AML coal mine polluted waters in a manner that facilitates sustainable revitalization in economically depressed coalfield communities. The budget includes a $1.5 million program increase for technical assistance to States, tribes, and communities to address AML technological advances and issues for AML site reclamation. The budget also includes program increases of $525,000 for applied science studies pertaining to abandoned mines, $799,000 to enhance and expedite current OSMRE efforts in digitizing underground mine maps, and $287,000 for support within the Office of the Solicitor.

U.S. Geological Survey.—The 2017 budget is $1.2 billion, $106.8 million above 2016, to advance our national commitment to research and development that supports economic growth, balances priorities on resource use, addresses climate change, and ensures the security and well- being of the Nation. The budget improves response to and warning of natural disasters, responds to drought and other water challenges, supports sustainable domestic energy and minerals development, and advances scientific understanding of land use, land change, and the effects of resource decisions to assist communities and land managers in making choices informed by sound science.

The 2017 budget invests in the USGS's capabilities for science and innovation to monitor and respond to natural disasters with increases for priority science to help stabilize and rehabilitate ecosystems after fires and provide geospatial information, monitoring strategies, and other relevant scientific information faster for real-time fire response. Related increases build USGS' capability to respond to landslide crises, and expand the use of flood inundation mapping and rapidly deployable streamgages to meet urgent needs of flood-threatened communities lacking a permanent streamgage.

The budget continues $8.2 million to develop the West Coast Earthquake Early Warning system to complete a production prototype system, expand coverage, and beta-test alerts. The budget continues funding of $3.0 million to repair and upgrade monitoring stations on high-threat volcanoes. The budget includes funding to assume long-term operations of the Central and Eastern United States Seismic Network from the National Science Foundation and allows USGS to continue a 5-year effort to deploy, install and improve the Global Seismic Network, ensuring that the Network continues to provide global earthquake and tsunami monitoring, nuclear treaty research and verification, and earth science research.

The budget provides an increase of $18.4 million for science to support sustainable water management, nearly doubling the investment made in 2016. As climate models forecast increasingly frequent and more intense droughts, improving water management science is a paramount concern for land and water management agencies, States, local governments, and tribes. The budget would improve water use information and research, provide grants to State water resource agencies, and create hydrologic models and databases for better decision support. The budget also includes $3.9 million for drought science and $4.0 million to develop methods to assess regional and national water use trends during drought. Innovation is critical to address the severe threats to water supply posed by drought and climate change.

The budget provides increases across several programs to advance understanding of conventional and unconventional energy, critical minerals such as rare earth elements, and the environmental health effects of resource development. These investments include $3.6 million to provide decision ready information to support safe and prudent unconventional oil and gas development, $2.0 million to study the environmental impacts of uranium mining in the Grand Canyon, and $1.0 million to identify and evaluate new sources of critical minerals and continue criticality analysis for mineral commodities.

The USGS budget increases science investments for changing landscapes, including $9.8 million in the Arctic, $3.0 million for the vulnerable sagebrush habitats of the Intermountain West, and $3.9 to improve coastal science that will help communities build resilient coastal landscapes and improve post-storm contaminant monitoring network along the Atlantic coast. The budget also establishes a Great Lakes Climate Science Center to focus on the many natural resource challenges in the distinct bio-geographic Great Lakes region. As with the eight existing Climate Science Centers, the Great Lakes CSC will help address regional concerns associated with climate change, providing a pathway to resilience and supporting local community priorities.

The budget includes increases of $2.1 million to address research on pollinator health and expand the small group of USGS researchers working on this critical component of agricultural and ecosystem health, $1.4 million for tribal climate

science partnerships, and $2.5 million for better tools to detect and control invasive species, particularly new and emerging invasive species. The budget continues a commitment to priority ecosystems including the Chesapeake Bay, the Everglades, Puget Sound, the Upper Mississippi River, the California Bay-Delta, and the Gulf Coast.

The USGS plays a pivotal role in providing research, analysis, and decision support tools. The budget supports these efforts and includes investments to extend the four-decade long Landsat satellite program with the development of Landsat 9, and provide information to better understand and respond to changes in the environment. The 2017 budget provides an increase of $17.6 million for satellite operations, funding the development of Landsat 9 ground systems and satellite operations and an investment to retrieve and disseminate data from the European Space Agency's Sentinel-2 earth observation satellite. The budget provides an increase of $4.9 million to expand the three-dimensional elevation program and leverage partnerships across the Nation, accelerate Alaskan map modernization, and provide coastal imaging to help communities make infrastructure resilience investments. The budget also provides $3.0 million to develop the computing resources necessary to produce and disseminate Landsat-based information products.

High-quality science depends on a strong science infrastructure. The budget makes necessary investments to continue the USGS legacy of reliable, valuable scientific information and monitoring. These investments fund science support, facilities and equipment, including laboratories, and the administrative support that is the backbone of science production and delivery. The 2017 budget also includes program increases to enhance the Mendenhall post-doctoral program, support tribal science coordination, enhance science education, and engage youth in underserved communities in earth and biological sciences through outreach activities and science camps.

Fish and Wildlife Service.—The 2017 budget for FWS includes current appropriations of $1.6 billion, an increase of $54.5 million compared to the 2016 enacted level.

The 2017 request for FWS includes $1.3 billion for FWS operations, of which $506.6 million supports National Wildlife Refuge System operations and maintenance. A feature of the 2017 FWS budget is support to expand opportunities for all Americans to access public lands and experience the great outdoors, regardless of where they live. With 80 percent of the U.S. population currently residing in urban communities near more than 260 wildlife refuges, Interior is leveraging the National Wildlife Refuge System to encourage urbanites to rediscover the outdoors. The request includes $10.0 million for the Refuge System's Urban Wildlife Conservation Partnerships to expand opportunities for urban populations including an increase of $2.0 million for additional Refuge System law enforcement officers to ensure the safety of visitors, natural and cultural resources, and Federal employees and facilities. The budget includes $40.7 million for general Refuge Law Enforcement operations.

The request also includes funding within Law Enforcement and International Affairs to combat wildlife trafficking. The budget provides $75.1 million for the law enforcement program to investigate wildlife crimes, enforce the laws governing the Nation's wildlife trade, and continue cooperative international efforts to prevent poaching and trade in illegal wildlife products. The request includes $15.8 million for the International Affairs Program, an increase of $1.1 million above 2016. This includes increases of $500,000 to provide technical support for international efforts to reduce illegal wildlife trafficking and develop innovative conservation activities. Also within International Affairs, is $550,000 to support the U.S. Chairmanship of the Arctic Council.

The budget invests in resources for the Refuge System which has lost more than 400 staff positions since 2010. The request for the Refuge System is $506.6 million, an increase of $25.2 million above 2016. This includes increases of $1.0 million for pollinator conservation, $3.7 million for wildlife and habitat inventory and monitoring, $2.0 million to establish management capability across 418 million acres of submerged land and water within the Pacific Marine National Monuments, and $4.4 million to begin rebuilding capacity within the Refuge System to improve the condition of refuge system facilities and resources, improve the visitor experience and manage natural resources.

The budget emphasizes improving the resilience of communities and wild landscapes, enabling them to better adapt to a rapidly changing environment, and uses smart investments in conservation and landscape-level planning to improve the Service's ability to facilitate economic growth, while avoiding and mitigating the impacts on wildlife and habitat.

Within the FWS main operating account, the request provides $252.3 million for Ecological Services to conserve, protect, and enhance listed and at-risk species and

their habitat, an increase of $18.3 million. Since 2008, FWS has downlisted or delisted 15 species, more than in any other administration. The increases within Ecological Services include $5.7 million to support conservation, restoration and economic development across the Gulf Coast region and other parts of the Country.

The budget includes $152.8 million for Fish and Aquatic Conservation, a program increase of $4.6 million. Within this request is $53.8 million for operation of the National Fish Hatchery System and $7.9 million to combat the spread of Asian carp in the Missouri, Ohio, upper Mississippi Rivers, and other high priority watersheds. The request also includes an increase of $1.5 million to support fish passage while improving the resilience of communities to withstand flooding.

The budget funds Cooperative Landscape Conservation at $17.8 million, an increase of $4.8 million above 2016. The approach employed by Landscape Conservation Cooperatives to identify landscape scale conservation solutions fosters collaboration across a wide variety of partners and builds capabilities beyond the scale any single State, tribe, Federal agency, or community could achieve alone. The requested increase will support landscape planning and design, and partner cooperation that will improve the condition of wildlife habitat and enhance the resilience of communities.

The 2017 budget for Science Support is $20.6 million, an increase of $3.6 million above 2016. The request includes an additional $1.0 million to expand application of Strategic Habitat Conservation, an approach to conservation that, in cooperation with stakeholders, identifies priority species and habitat, desired biological outcomes, and develops conservation strategies to achieve these outcomes. This approach supports the design of successful management strategies that deliver measureable improvements to wildlife populations and habitats. The FWS will use a program increase of $2.6 million to obtain high priority data and scientific tools needed by on-the-ground resource managers.

The FWS budget includes $137.6 million for LWCF Federal land acquisition, composed of $58.7 million in current funding and $79.0 million in permanent funding. Within the request for current funding, is $19.9 million for high priority acquisition projects focused on FWS specific needs, including $16.0 million for collaborative projects in coordination with partners and other Federal agencies, and $2.5 million to support increased access to FWS lands for sportsmen and recreationists. The FWS requests $2.5 million in discretionary funding for the Everglades Headwaters National Wildlife Refuge and Conservation Area, one of the great grassland and savanna landscapes of eastern North America, to acquire nearly 1,000 acres to help protect high-quality habitat for 278 Federal and State listed species. Acquisition of this property would protect the headwaters, groundwater recharge, and watershed of the Kissimmee Chain of Lakes, Kissimmee River, and Lake Okeechobee region, and improve water quantity and quality in the Everglades watershed, supporting the Comprehensive Everglades Restoration Plan goals and protecting the water supply for millions of people.

Supporting the administration's America's Great Outdoors initiative objectives is $106.0 million for grant programs administered by FWS. The 2017 budget maintains 2016 funding levels for grants through the Cooperative Endangered Species Conservation Fund, North American Wetlands Conservation Fund, Multinational Species Conservation Fund, and the Neotropical Migratory Bird Conservation Fund. Funding for the State and Tribal Wildlife grant program on which many States and tribes rely to fund non-game animal conservation, is an increase of $6.4 million.

National Park Service.—The 2017 President's current budget request for NPS of $3.1 billion is $250.2 million above the 2016 enacted level. Highlights of the 2017 budget include $190.5 million in increases for the NPS Centennial, as well as a focus on the stewardship of natural and cultural resources, including a $20.0 million increase for the Historic Preservation Fund grant programs to document and preserve stories and sites related to the Civil Rights Movement.

The NPS budget request for operations is $2.5 billion, an increase of $154.8 million from 2016. A $2.2 million programmatic reduction to refocus operations funding partially offsets the following increases: $49.2 million for additional repair and rehabilitation projects, $46.6 million for additional cyclic maintenance projects, $20.0 million for the Every Kid in a Park initiative, $10.7 million for new parks and responsibilities, $8.1 million for healthcare insurance for seasonal employees, $3.0 million for climate change adaptation projects, $2.6 million for increased communications bandwidth at parks, $2.0 million for the Vanishing Treasures program, $1.2 million to address energy development near parks, $1.1 million for Arctic science and monitoring, and $1.0 million for uranium mining studies in the Grand Canyon.

The 2017 budget provides a total of $35.0 million for the Centennial Challenge matching program, an increase of $20.0 million. These funds will provide a Federal match to leverage partner donations for signature projects and programs at national

parks into the NPS' second century. All Federal funds must be matched on at least a 50:50 basis. In 2016, Congress appropriated $15 million for projects which will be matched by almost $33 million from more than 90 park partners. This program is bolstered by the administration's legislative proposal to fund an additional $100.0 million a year for 3 years for this program as a permanent appropriation.

The 2017 request for the Historic Preservation Fund is $87.4 million, an increase of $22.0 million from 2016. Of this total, $46.9 million is requested for grants-in-aid to States and Territories, which is level with 2016. A total of $12.0 million is requested for grants-in-aid to tribes, an increase of $2.0 million. The remaining $20.0 million increase is for grants to document and preserve the sites and stories of the Civil Rights Movement; of which $17.0 million is for competitive grants, and $3.0 million is for grants to Historically Black Colleges and Universities.

The 2017 budget includes $54.4 million for National Recreation and Preservation programs that support local community efforts to preserve natural and cultural resources. This is a decrease of $8.2 million compared to 2016. These changes consist of a program reduction of $10.4 million to Heritage Partnership Programs; and programmatic increases of $0.9 million for modernization and digitization in the National Register program, $0.8 million for the Preservation Technology and Training grants program, $0.3 million for the Federal Lands to Parks program, and fixed costs increases.

Construction funding totals $252.0 million, $59.1 million above 2016. This request provides funding critical to the implementation of the Centennial initiative to make a meaningful impact on the NPS deferred maintenance backlog. The budget includes $153.3 million for line-item construction projects, a $37.1 million increase, which will fund projects such as the $13.2 million rehabilitation of the Paradise Inn Annex and snow bridge connection at Mount Rainier National Park in Washington, and $13.9 million for the final phase of the rehabilitation of the El Portal sanitary sewer to prevent raw sewage spills at Yosemite National Park in California.

The 2017 current funding request for LWCF Land Acquisition and State Assistance is $178.2 million, an increase of $4.6 million from 2016. This includes $110.0 million for State Assistance grants, maintaining the increase provided in 2016. The budget requests $68.2 million for Federal Land Acquisition, an increase of $4.6 million. This provides $26.6 for projects addressing NPS specific needs, $10.8 million for collaborative acquisition projects, $2.0 million for projects to improve recreation access, and $10.0 million for American Battlefield Protection Program acquisition grants. A high priority for NPS, the Hawaii Volcanoes National Park is also part of the Island Forests at Risk collaborative landscape proposal. An investment of $6.0 million would allow NPS to begin acquisition of a parcel which protects the hawksbill and Green turtles, and island monk seal habitat, and contains anchialine pond communities and coastal strands of endangered plants. Significant archaeological sites, cultural landscapes, petroglyphs and ancient trails are also present. Time is a concern as the area faces potential rezoning from conservation to medium density urban and resort development.

Indian Affairs.—The 2017 President's budget for Indian Affairs is $2.9 billion in current appropriations, $137.6 million above the 2016 level. Funding for the main operating account for Indian Affairs, Operation of Indian Programs is $2.4 billion, $127.9 million above 2016. The 2017 request for Construction is $197.0 million, $3.0 million above 2016.

The 2017 budget supports continuing efforts to advance self-governance and self-determination, improve educational outcomes for American Indian children, support human services activities, prudently manage tribal natural resources, build stronger economies and self-sufficiency, and maintain safer Indian communities.

Key to self-governance and self-determination is full funding for Contract Support Costs. The 2017 request includes $278.0 million for Contract Support Costs, $1.0 million above 2016, which will fully fund these costs based on the most recent analysis. As in the 2016 enacted bill, the budget requests funding for Contract Support Costs in a separate dedicated current account. To further stabilize long-term funding, the 2017 budget includes a legislative proposal to reclassify these costs as permanent funding beginning in fiscal year 2018.

The Interior budget proposes a $1.1 billion investment in Indian education and construction to continue to support the transformation of the BIE to support tribes in educating their youth, and deliver an improved and culturally appropriate education across Indian Country. The budget includes $49.3 million in increases across a number of programmatic areas in BIE related to the transformation.

The budget includes $138.3 million for Education Construction, maintaining the $63.7 million increase provided in 2016. The request will provide the funding stability necessary to develop an orderly education construction pipeline and properly pace projects. The 2016 enacted appropriation will replace two remaining BIE school

campuses on the 2004 priority list—Little Singer Community School and Cove Day School, both in Arizona—and support planning for the schools identified on the new school replacement construction list nearing finalization. The 2017 funding will be applied to construction costs for projects chosen from the new list.

To further higher education, the budget includes increases of $9.4 million for scholarships, adult education and tribal colleges and universities; and $3.6 million for Johnson O'Malley education grants to provide additional resources to tribes and organizations to meet the unique and specialized educational needs of American Indian and Alaska Native students.

To foster public-private partnerships to improve the student experience at BIE-funded schools, the 2017 budget again proposes appropriations language enabling the Secretary to reactivate the National Foundation for American Indian Education. The proposed bill language will initiate a foundation focused on fundraising to create opportunities for Indian students in and out of the classroom.

As part of the President's commitment to protect and promote the development of prosperous tribal communities, Indian Affairs proposes to expand the Tiwahe "family" initiative. This effort takes an integrated approach to address the inter-related challenges impacting the lives of youth, families, and communities in Indian Country—including poverty, violence, and substance abuse. The Tiwahe approach seeks to empower individuals and families through health promotion, family stability, and strengthening communities as a whole.

The 2017 budget expands the Tiwahe initiative with increases totaling $21.0 million for programs in social services, Indian Child Welfare Act, housing, tribal courts, and job placement and training. To better focus funding and evaluate outcomes in meeting social service needs in Indian Country, the Department will evaluate social service and community development needs in Indian Country in 2016. The evaluation will inform programmatic design, assessments, management, and budgeting.

The budget contains a number of increases to support tribal nation-building and economic development. The budget includes $4.0 million for a Native One-Stop Support Center to make it easier for tribes to find and access hundreds of services available to tribes across the Federal Government. The 2017 budget includes $1.0 million to help tribes adopt uniform commercial codes which help build the legal infrastructure on reservations to promote credit and other capital transactions. The budget provides $12.0 million to enable Interior to work with American Indian/Alaskan Native communities to improve Federal data quality and availability, to create a reimbursable agreement with the Census Bureau to address data gaps in Indian Country, and to create an Office of Indian Affairs Policy, Program Evaluation, and Data to support effective, data-driven, tribal policy making and program implementation. The budget also proposes $1.3 million increase for the Small and Needy Tribes program to assist eligible tribes in expanding and sustaining tribal governance.

The 2017 budget strongly supports sustainable stewardship of trust lands, natural resources, and the environment in Indian Country. These priorities include the protection and restoration of ecosystems and important landscapes; stewardship of land, water, ocean, and energy resources; resilience in the face of a changing climate; and clean and sustainable energy development.

The budget provides a $15.1 million program increase over 2016 across eight natural resource programs to support tribes in developing science, tools, training, planning, and implementation of actions to build resilience into resource management, infrastructure, and community development activities. Funding will be set-aside to support Alaska Native Villages in the Arctic and other critically vulnerable communities to evaluate options for the long-term resilience of their communities. The budget also includes $2.0 million to address subsistence management in Alaska to better prepare for the impacts of climate change, as part of an ongoing commitment to improve the Nation's resilience. In addition, the budget includes a total increase of $8.7 million for trust real estate service activities to reinforce the stewardship of trust resources. The expanded capacity will address the probate backlog, land title and records processing, geospatial support needs, and database management in addition to providing expanded technical and legal support for authorized settlements involving tribal water rights.

The 2017 budget request for Indian Land and Water Claim Settlements is $55.2 million, a $5.7 million increase over the 2016 enacted level for payments on enacted settlements. The budget includes $25.0 million for the final payment to the Aamodt settlement and $10.0 million in one-time funding to provide the Yurok Tribe, located in Northern California, funds to acquire lands as authorized in the Hoopa-Yurok Settlement Act. This acquisition supports efforts by the Yurok Tribe, State of California, private foundations and individual donors to conserve over 47,000 acres of the Klamath-Siskiyou ecoregion to ensure the long-term health of temperate forests, rare wildlife, and extraordinary runs of wild salmon. The land, to be conserved as

a salmon sanctuary and sustainable community forest, will restore the Yurok Tribe's historic connection to the land, support the Yurok economy through jobs in forestry and restoration, and provide revenue to the tribe through sustainable timber and salmon harvests and the sale of carbon credits. The budget also includes increases totaling $12.9 million in the Operation of Indian Programs account to provide expanded technical and legal support for tribal water rights settlement negotiations and implementation. A reduction of $29.2 million in the settlement account reflects completion of the Taos Pueblos water settlement in 2016.

The 2017 budget request for the Indian Guaranteed Loan Program is $7.8 million, the same as 2016, which will provide loan guarantee and insurance authority for $106.0 million in loan principal to support Indian economic development.

Departmental Offices.—The 2017 budget request for Departmental Operations is $278.4 million, a decrease of $443.4 million below the 2016 enacted level. The decrease reflects a reduction of $452.0 million associated with the Payments in Lieu of Taxes program. In 2017, the budget proposes to fund PILT as permanent funding not subject to appropriation. State and local governments depend on PILT funding to finance such vital services as firefighting and police protection, construction of public schools and roads, and search and rescue operations. Providing a mandatory source of funding will create greater certainty that PILT investments will be available in future years. The budget proposes mandatory PILT funding for 1 year, while a sustainable long-term funding solution is developed for the program.

The budget proposes program increases of $1.5 million for work with the National Invasive Species Council to develop an Early Detection Rapid Response framework. Early detection and rapid response (EDRR) has the potential to result in significant cost savings, as compared to battling invasive species such as Asian carp, cheatgrass, and emerald ash borer once established. The EDRR request support multiple pilot projects to demonstrate early detection and rapid response approaches, as well as conducting assessments to identify current capacities and gaps in capacities to implement EDRR.

The budget includes $1.0 million for Native Hawaiian community development through capacity building and technical assistance. This request will allow the Department to provide support to Native Hawaiians similar to the capacity building and technical assistance the Department provides to other Native Americans, and the Insular areas consistent with the Hawaiian Homes Commission Act and Hawaiian Homes Land Recovery Act. The Department will work with the Native Hawaiian community on a variety of economic, social, and cultural projects.

The 2017 Budget includes critical investments to ensure effectiveness and compliance of Interior information technology investments. The request includes $3.0 million to develop a Digital Service Team responsible for driving the efficiency and effectiveness of the Department's highest-impact digital services. Additional information technology investments are proposed under the Working Capital Fund appropriated account.

Within the request for Departmental Operations is $129.3 million for Office of Natural Resources Revenue's receipts management programs, $3.8 million above 2016. The increase includes $968,000 to fully fund Osage Trust Accounting responsibilities in compliance with the Osage settlement agreement; $1.0 million to expand Geospatial Information Systems; and $1.2 million to strengthen ONRR's audit and compliance mission activities.

The 2017 request for the Office of Insular Affairs is $102.7 million, $12.4 million above the 2016 level excluding Palau Compact Extension funding of $13.1 million. The 2017 budget proposes $149.0 million in permanent funding to support enactment of a new Compact with Palau. The appropriated funding request includes increases of $4.0 million for community, landscape and infrastructure adaptation and resilience initiatives; $3.9 million to improve health and safety conditions in insular school facilities; $2.0 million to implement energy projects; $2.0 million for Coral Reef Initiative and Natural Resources; $1.6 million for direct technical assistance grants; and $1.0 million to support invasive species eradication efforts, including the coconut rhinoceros beetle and little fire ant. Brown Treesnake Control is funded at $3.0 million, a program decrease of $500,000, reflecting completion of an automated aerial bait system in 2015. The budget requests $3.3 million for Compact of Free Association, level with 2016, excluding $13.1 million provided for Palau Compact Extension in 2016.

The budget includes $69.4 million for the Office of the Solicitor, $3.6 million above 2016 to support additional personnel and necessary legal services for delivering the Department's mission. The Office of the Solicitor's ability to provide early and continuous legal counsel in new priority areas to ensure that developing programs are grounded in established legal principles and precedents is absolutely vital. The requested increase will allow the Office of the Solicitor to provide the much needed

preventive assistance that is lost to the demands of non-discretionary litigation. The additional funding will also be used to restart the Honors Program, where recent law graduates are hired at the entry level and trained to assume senior positions. This program will ensure DOI has experienced lawyers as many senior staff becomes eligible for retirement.

The request for the Office of the Inspector General is $55.9 million, $5.9 million above 2016 to support audits concerning Offshore Energy Oversight, Indian Country, and Cybersecurity, and Offshore Energy Investigations.

The Office of the Special Trustee request is $140.4 million, $1.4 million above 2016. The budget includes increases of $1.5 million to provide additional estate planning opportunities to Indian Trust beneficiaries; $1.3 million for an appraiser training program to address the shortage of qualified appraisers and the resulting delays in completing appraisal evaluations; $1.5 million to enhance talent management capabilities and systems automation; and less than $400,000 to modernize and improve business processes and enhance the Trust Funds Accounting System. These increases are partially offset by a $3.4 million reduction in funding for Historical Trust Accounting based on anticipated workload levels.

Department-wide Programs.—The 2017 request for the Department's Wildland Fire Management program is $824.6 million without the proposed fire cap adjustment, and $1.1 billion including the adjustment. The base budget includes $276.3 million for fire suppression, which is 70 percent of the 10 year suppression average spending. The cap adjustment of $290.0 million covers the remaining 30 percent of the 10-year average and provides a contingency. The cap adjustment would only be used for the most severe fires, since it is 2 percent of the fires that cause 30 percent of the costs. The new budget framework for Wildland Fire Management eliminates the need for additional funds through the FLAME Act.

The 2017 budget includes $179.1 million for Fuels Management and Resilient Landscapes subactivities, $9.1 million above 2016 enacted. Of this, $30.0 million is proposed in a new Resilient Landscapes subactivity to build on resilient landscapes activities supported by Congress in 2015 and 2016. This equates to a $20.0 million increase for the program to take better advantage of the shared goals of bureau resource management programs to treat large landscapes to achieve and maintain fire-adapted ecosystems that both reduce the threat of catastrophic wildfire and achieve restoration and other ecological objectives. The increase for Resilient Landscapes is partially offset with a program realignment of $21.7 million in the Fuels Management program from 2016.

Other highlights in the Wildland Fire Management budget include an increase of $6.9 million in Preparedness to maintain or strengthen initial and extended attack capacity. Specific increases include $2.8 million to enhance the initial attack capability of rural fire departments and rural fire protection associations. The budget includes program increases of $1.6 million to purchase replacement vehicles for the BIA fire program and $1.5 million to cover utility costs for the Alaska Fire Service's leased space. The budget includes $20.4 million for Burned Area Rehabilitation, a $1.5 million increase to address greater post-fire rehabilitation needs caused by the 2015 and 2016 fire seasons; and $10.0 million for Facilities Construction and Deferred Maintenance, a $3.6 million increase to address the deferred maintenance backlog.

The 2017 budget request for the Central Hazardous Materials Fund is $13.5 million, $3.5 million above 2016, to fund the remedial design for the Red Devil Mine cleanup in Alaska. The 2017 request for Natural Resource Damage Assessment and Restoration is $9.2 million, $1.5 million above 2016 to increase restoration activities.

The 2017 budget proposes $111.5 million for the appropriated portion of the Department's Working Capital Fund, $44.4 million above 2016. The majority of the increase, $24.7 million, continues cybersecurity remediation in the wake of the serious cyber intrusions experienced during 2015. Other increases include: $10.2 million to support the Department's multi-year effort to implement requirements identified under the Digital Accountability and Transparency Act, known as the DATA Act, and monitor compliance; $5.2 million for the Department's Office Consolidation Strategy; $2.6 million to fund Federal Information Technology Acquisition Reform Act coordination and reporting activities for the Department; $1.0 million for Cultural and Scientific Collections; and $702,000 for Service First activities.

LEGISLATIVE PROPOSALS

The 2017 President's budget includes a suite of legislative and offsetting collection proposals affecting spending, revenues, and available budget authority that require action by the congressional authorizing committees. These mandatory proposals address a range of administration priorities, from investing in high-priority conserva-

tion and recreation programs to achieving a fair return to the American taxpayer from the sale of Federal resources and reducing unnecessary spending. The 2017 budget includes seven spending proposals with an estimated $18.0 billion in outlays over the next decade. This spending is partially offset by revenue and savings proposals to reduce outlays from the Treasury by an estimated $4.5 billion over the next decade.

Gulf of Mexico Energy Security Act and the Coastal Climate Resilience Program.—The administration is committed to ensuring American taxpayers receive a fair return from the sale of public resources and taxpayers throughout the Country benefit from the development of offshore energy resources owned by all Americans. The Gulf of Mexico Energy Security Act of 2006 opened some additional areas in the Gulf of Mexico for offshore oil and gas leasing, while maintaining moratoria on activities east of the Military Mission Line and within certain distances from the coastline of Florida. The Act provides that 37.5 percent of Outer Continental Shelf revenues from certain leases be distributed to just four coastal States—Alabama, Louisiana, Mississippi, and Texas—and their local governments based on a complex allocation formula. The administration proposes to repeal GOMESA revenue-sharing payments to these select States from Gulf of Mexico oil and gas leases, which are set to expand substantially starting in 2018.

More than half of the savings, $2.0 billion, from the repeal of GOMESA revenue sharing payments to States will be redirected to a new Coastal Climate Resilience Program to provide resources for at-risk coastal States, local governments, and their communities to prepare for and adapt to climate change. A portion of these program funds would be set aside to cover the unique impacts of climate change in Alaska where some native villages are so threatened by rising seas, coastal erosion, and storm surges, that they must prepare for potential relocation.

Historic Preservation Fund.—The budget includes a legislative proposal to extend the authority to deposit $150.0 million in receipts from offshore oil and gas revenues annually into the Historic Preservation Fund.

Bureau of Indian Affairs Contract Support Costs.—The budget includes a legislative proposal to reclassify funding for the existing Contract Support Costs program from discretionary to mandatory beginning in fiscal year 2018. The budget proposes to adjust the discretionary budget caps to reflect the reclassification to mandatory funding. New contract support cost estimates will be provided on a 3-year cycle as part of the reauthorization process.

POWER+ Accelerate AML Distribution for Mine Cleanup and Economic Recovery.—The budget proposes to allocate a portion of the remaining unappropriated balance of the Abandoned Mine Lands Fund to target the cleanup and redevelopment of AML sites and AML coal mine polluted waters in a manner that facilitates sustainable revitalization in economically depressed coalfield communities. The proposal will provide $1.0 billion over 5 years to States based on AML program and economic eligibility factors—such as the unemployment rate of coal mining regions—and remaining priority coal problems, including abandoned mine drainage, where reclamation linked to job creating economic development strategies will help revitalize impacted communities.

United Mineworkers of America Pension Reform.—The budget proposes to better provide for retired coal miners and their families by revising the formula for general fund payments to the 1993 UMWA Health Benefit Plan. The new formula will consider all beneficiaries enrolled in the plan as of enactment, as well as those retirees whose health benefits were denied or reduced as the result of a bituminous coal industry bankruptcy proceeding commenced in 2012. Additionally, the proposal will transfer funds through the Pension Benefit Guaranty Corporation to the trustees of the 1974 UMWA Pension Plan to ensure the plan's long-term solvency. The plan, which covers more than 100,000 mineworkers, is underfunded and approaching insolvency. The new formula will provide an additional $375.0 million to the UMWA in 2017 and $4.2 billion over 10 years.

Land and Water Conservation Fund.—The budget proposes $900.0 million in combined current and mandatory funding in 2017, and starting in 2018, the budget proposes permanent authorization of $900.0 million in mandatory funding for LWCF programs in the Departments of the Interior and Agriculture. During a transition to mandatory funding in 2017, the budget proposes $425.0 million for mandatory funding and $475.0 million for current funding, to be shared by Interior and Agriculture.

National Parks Centennial Act.—The budget proposes enactment of legislation, the National Park Service Centennial Act, to honor the Park Service's 100th anniversary. The Act specifically authorizes the following: $100.0 million a year for 3 years for the Centennial Challenge to leverage private donations; $300.0 million a year for 3 years for NPS deferred maintenance; and $100.0 million a year for 3

years for a Public Lands Centennial Fund, which will competitively allocate funds for projects on public lands to enhance visitor services and outdoor recreation opportunities, restore lands, repair facilities, and increase energy and water efficiency. The availability of mandatory funding to address deferred maintenance and other conservation projects will allow NPS to plan ahead more efficiently to achieve significant results. Stable and predictable funding streams will allow projects to be appropriately scheduled and phased for more effective project delivery and completion. The proposal includes the authority to collect additional camping or lodging fees, and funds from purchases of the lifetime pass for citizens 62 years of age or older. Receipts for this Second Century Fund will be matched by donations in order to fund visitor enhancement projects. The impact of this new revenue source is estimated at $40.4 million in 2017. Also included is a proposal to establish a program to allow a Visitor Services Management Authority to award and manage contracts for the operation of commercial visitor services programs and activities.

Federal Land Transaction Facilitation Act.—The budget proposes to reauthorize this Act which expired on July 25, 2011, to allow lands identified as suitable for disposal in recent land use plans to be sold using this authority. The sales revenue will be used to fund the acquisition of environmentally sensitive lands and administrative costs associated with conducting the sales.

Recreation Fee Program.—The budget proposes legislation to permanently authorize the Federal Lands Recreation Enhancement Act, authorized through September 30, 2017. The program currently brings in an estimated $335 million in recreation fees annually under this authority that are used to enhance the visitor experience on Federal land recreation sites.

Federal Oil and Gas Reforms.—The budget includes a package of legislative reforms to bolster administrative actions to reform management of Interior's onshore and offshore oil and gas programs, with a key focus on improving the return to taxpayers from the sale of these Federal resources and on improving transparency and oversight. Proposed statutory and administrative changes fall into three general categories: advancing royalty reforms, encouraging diligent development of oil and gas leases, and improving revenue collection processes. Collectively, these reforms will generate roughly $1.7 billion in revenue to the Treasury over 10 years, of which $1.2 billion will result from statutory changes. Many States also will benefit from higher Federal revenue sharing payments as a result of these reforms.

Palau Compact.—On September 3, 2010, the U.S. and the Republic of Palau successfully concluded the review of the Compact of Free Association and signed a 15-year agreement that includes a package of assistance. The budget assumes authorization of mandatory funding for the Compact in 2017 to strengthen the foundations for economic development in Palau by developing public infrastructure and improving healthcare and education. The cost for this proposal for 2017–2024 is $149.0 million.

Payments in Lieu of Taxes.—The budget proposes to extend PILT mandatory funding for an additional year with the current PILT payment formula based on the amount of Federal land within an eligible unit of local government, its population, and certain other Federal payments the local government may receive. The cost of a 1 year extension of the PILT program is estimated to be $480.0 million in 2017.

Reclamation of Abandoned Hardrock Mines.—The budget proposes to create an Abandoned Mine Lands Program for abandoned hardrock sites financed through a new AML fee on hardrock production on both public and private lands. The fee is estimated to generate $1.8 billion through 2026 to reclaim the highest priority hardrock abandoned sites on Federal, State, tribal, and private lands.

Reform Hardrock Mining on Federal Lands.—The budget proposes to institute a leasing program under the Mineral Leasing Act of 1920 for certain hardrock minerals, including gold, silver, lead, zinc, copper, uranium, and molybdenum, currently covered by the General Mining Law of 1872. Half of the receipts will be distributed to the States in which the leases are located and the remaining half will be deposited in the U.S. Treasury. The proposal is projected to generate revenues to the U.S. Treasury of $80.0 million over 10 years, with larger revenues estimated in following years.

Return Coal Abandoned Mine Land Reclamation Fees to Historic Levels.—The budget proposes legislation to modify the 2006 amendments to the Surface Mining Control and Reclamation Act, which lowered the per-ton coal fee companies pay into the AML Fund. The proposal would return the current fee of 28 cents per ton of surface mined coal to 35 cents a ton, the same level companies paid prior to the 2006 fee reduction. The additional revenue, estimated at $258 million over 10 years, will be used to reclaim high priority abandoned coal mines and reduce a portion of the estimated $6.0 billion needed to address remaining dangerous coal AML sites nationwide.

Termination of AML Payments to Certified States.—The 2017 budget proposes to discontinue unrestricted payments to States and tribes certified for completing their coal reclamation work. This proposal terminates all such payments with estimated savings of $520.0 million over the next 10 years.

Termination of EPAct Geothermal Payments to Counties.—The 2017 budget proposes to repeal Section 224(b) of the Energy Policy Act of 2005 to permanently discontinue payments to counties and restore the disposition of Federal geothermal leasing revenues to the historical formula of 50 percent to the States and 50 percent to the Treasury. This results in estimated savings of $41.0 million over 10 years.

Bureau of Land Management Foundation.—The budget proposes to establish a congressionally chartered National BLM Foundation to leverage private funding to support public lands, achieve shared outcomes, and focus public support on the BLM mission.

National Foundation for American Indian Education.—The budget proposes appropriations language enabling the Secretary to reactivate a foundation created by Congress in 2000 to generate private donations in support of the mission of the Bureau of Indian Education. The proposal will allow the foundation to start anew to obtain nonprofit tax exempt status, with a new Board of Directors focused on making the foundation a successful fund raising entity.

Migratory Bird Hunting and Conservation Stamp Act—Duck Stamp.—The budget includes a legislative proposal to provide limited authority to increase the price of a Duck Stamp, with the approval of the Migratory Bird Conservation Commission, to keep pace with inflation.

Wildland Fire Suppression Disaster Cap Adjustment.—The budget proposes to amend the Balanced Budget and Emergency Deficit Control Act to establish a new framework for funding Fire Suppression Operations to provide stable funding, while minimizing the adverse impacts of fire transfers on the budgets of other programs. Under this new framework, the 2017 budget request covers 70 percent of the 10-year suppression average within the domestic discretionary cap or $276.3 million for the Department of the Interior. This base level ensures the cap adjustment will only be used for the most severe fire activity as 2 percent of the fires incur 30 percent of the costs. Only extreme fires that require emergency response or are near urban areas or activities during abnormally active fire seasons—which rightly should be considered disasters—will be permitted to be funded through the adjustment to the discretionary spending limits. For 2017, the request for the budget cap adjustment for the Department is $290.0 million. The cap adjustment does not increase overall spending, as the ceiling for the existing disaster relief cap will be reduced by the same amount as the increase required for fire suppression.

OFFSETTING COLLECTIONS AND FEES

Bureau of Ocean Energy Management Risk Management Fee.—The budget proposes appropriations language for a new cost recovery fee to recoup funds for services rendered by the Risk Management Program. The program is critical to protecting the American taxpayer from becoming financially responsible for liabilities associated with oil and gas and renewable energy operations on the Outer Continental Shelf. This proposed fee will generate an estimated $2.9 million annually, fully offsetting the requested risk management programmatic increase in 2017.

Bureau of Safety and Environmental Enforcement Inspection Fee.—The budget includes appropriations language modifying and expanding the enacted inspection fee language to clarify that facilities subject to multiple inspections are subject to additional fees for each inspection. The BSEE estimates the inspection fees will generate $65.0 million in 2017.

Fee for Onshore Oil and Gas Inspections.—Through appropriations language, Interior proposes to implement inspection fees in 2017 for onshore oil and gas activities subject to inspection by BLM. The proposed inspection fees are expected to generate $48.0 million in 2017, level with 2016. The fees are similar to those already in place for offshore operations and will support Federal efforts to increase production accountability, safety, and environmental protection.

Grazing Administrative Fee.—The budget proposes a grazing administrative fee to offset costs to administer the program. The budget proposes to implement a fee of $2.50 per animal unit month through appropriations language on a pilot basis. Interior estimates the fee will generate $16.5 million in 2017 to support the Rangeland Management program at the 2016 level. During the period of the pilot, BLM will work to promulgate regulations to continue this cost recovery fee administratively, once the pilot expires.

National Wildlife Refuge Damage Cost Recovery.—The budget includes appropriations language to authorize the Fish and Wildlife Service to retain recoveries for the cost to restore or replace damaged habitat from responsible parties.

CONCLUSION

Thank you for the opportunity to testify on the President's 2017 budget request for the Department of the Interior. This budget is responsible, and proposes to maintain core capabilities with targeted investments to advance the stewardship of lands and resources, renewable energy, oil and gas development and reforms, water conservation, youth employment and engagement, and improvements in the quality of life in Indian communities. I thank you again for your continued support of the Department's mission. I look forward to answering questions about this budget. This concludes my written statement.

Senator MURKOWSKI. Thank you, Secretary.

Mr. Connor or Ms. Sarri, were either of you prepared to provide an opening statement or should we just go to questions?

Secretary JEWELL. Just questions.

Senator MURKOWSKI. Okay, thank you.

KING COVE

Let me start off, Madam Secretary, as I mentioned to you in my opening statement, and as we discussed in the Energy Committee hearing last week, my ongoing concern about the situation in King Cove, the promise that you had made to me and to the committee to do what you could to help the people of King Cove. As I noted, I do not see anything in the President's budget that would help to facilitate that promise.

You have indicated that the report that you had requested has been completed. I asked if that would be released. You indicated that it would be. Can you give me an indication as to when we might expect that?

Secretary JEWELL. I did ask my Chief of Staff, as you know, an Alaskan, to follow up on that, which he is doing. One complication I did not realize last week is it is actually the Army Corps' report, so we will need to work with them on posting it. But Tommy is working through it, and we will make sure we get it to your office as soon as we are able to do that.

Senator MURKOWSKI. We conveniently have a hearing with the Army Corps this afternoon, so perhaps I will have a chance to ask them that question at that point in time.

Are you able to provide me any details of the report at this point in time?

Secretary JEWELL. I am happy to go through just a high-level overview. As I expressed in the letter from July, three alternatives were identified in that report. As we discussed, and I know we differ on this point, I do not support a road through the refuge because of the extraordinary damage we believe——

Senator MURKOWSKI. I understand that. If what you are telling me is that what we will see in this report is what we have seen before, then I would rather not take the subcommittee's time to have you detail that right now, because, as you know, that was unacceptable not only to me before, but it was unacceptable to the people of King Cove.

WILDLIFE MANAGEMENT

So we will continue this discussion, but let me move to another issue that is equally unsettling to the people of Alaska right now. That is the proposed regulations from the Park Service and Fish and Wildlife on the proposal to govern wildlife management and procedures to close areas that are currently open to hunting and fishing in the State.

These are controversial because they call into question State management authority over fish and game, over resources within their borders. This is contrary and inconsistent with the Alaska National Interest Lands Conservation Act (ANILCA), a statute which gives the State of Alaska and the Department of Fish and Game management inside our preserves, our refuges, and our parks. Do you believe that the State of Alaska has the right to manage its wildlife within the borders of the State?

Secretary JEWELL. Certainly, Senator Murkowski, I believe the State has the right to manage its wildlife. I also, though, say that the Fish and Wildlife Service and the Park Service must operate within the congressional mandates they have. What they have struck in this is really around non-subsistence take of predators, things like——

Senator MURKOWSKI. Let me ask about that subsistence take, because I know you have said that these regs do not impact subsistence. But since the amount of game that is available for natives around the State is definitely impacted by the take of wildlife by predators, how can you suggest that somehow the subsistence rights of our native people are not impacted by these new predator control policies?

A bigger question is whether you think it is proper for the Federal Government to effectively reverse the State Board of Game decisions, because that is effectively what we are seeing here. From Alaska's perspective, we have ANILCA that says the State has the right to manage. Now you have the Federal Government, the Park Service, the Fish and Wildlife Service, saying, yes, except for when we think that what we are doing is more appropriate.

It is a violation of what has been set out not only within ANILCA but within the United States Constitution. I hope you appreciate the anxiety that has been created right now in the State because of these proposed regulations.

I know you had a discussion with Congressman Young about this yesterday. You know where he is coming from, clearly. I think you know where myself and Senator Sullivan are coming from on it.

We have a collision going on right now between your Federal agencies with the Park Service and with the Fish and Wildlife Service stepping in and telling a State that, effectively, we do not think that the State can manage what by Constitution and Federal law we have given you that authority to manage.

That is more of a rhetorical question for you, but you need to understand how significant an issue this has become in the State of Alaska. It may be right up there with the fight on the Arctic National Wildlife Refuge (ANWR) and King Cove. It may surpass them all, because this truly does go to a State's rights issue.

I am out of my 6 minutes already, so I am going to turn to my ranking member, but we will have time for multiple rounds here.

Senator Udall.

Senator UDALL. Thank you, Madam Chair.

Several Senators on my side have urgent hearings to actually chair, so I am going to defer my questions and call on Senator Leahy to ask questions at this point. Thank you very much, Madam Chair.

Senator LEAHY. Thank you, Madam Chair.

Thank you, Senator Udall.

Secretary Jewell, as I mentioned to you earlier, it is great to see you here. I was thinking, as we were looking at the picture, when you were in Vermont this time for the Leahy Environmental Summit, I am glad you were able to enjoy a day of snowshoeing in Vermont's Green Mountains, something both my wife and I love to do at our home.

But you know what? Last year, you had about 6 feet of snow in Vermont's backcountry. If you were there today, the grass would be sticking up through the little bit of snow on the ground. At our home, we have not been able to snowshoe or cross-country ski. It has just been strange, so let me ask you a couple questions.

I understand you got an earful on the House side yesterday. Members blamed you and the administration for all sorts of harm to the States, almost suggesting you personally control the price of fossil fuels. Oil just went up, so I am sure they are all going to call you this morning and give you credit for that, too.

But I want to praise you for your foresight and leadership in addressing this problem. We have an obligation not only to current taxpayers, but to future generations to see that all Federal programs deliver a fair return to American taxpayers. That can be coal mining activity, offshore oil exploration, logging, even our Federal grazing permits. The price to extract these natural resources should not be so heavily subsidized that it encourages damage to our Federal lands or wildlife or causes, as it could, permanent damage to the taxpayers of this country.

COAL LEASING PROGRAM REVIEW

My question is, does your proposed fiscal year 2017 budget provide the resources to complete a full evaluation of the coal leasing program? Will it include a cost-benefit analysis to consider, among other things, carbon emissions and medium- and long-term impacts of climate change? Could you do a similar valuation on oil exploration?

Secretary JEWELL. Thank you very much, Senator Leahy. It was a pleasure to be in your State.

I will say, a year ago, when I was in Senator Murkowski's State, the green grass was poking through, because they did not have snow.

We are launching a programmatic environmental impact statement on the coal program. It has not been done for 30 years. It is very evident from a Government Accountability Office (GAO) report and our own Inspector General report, there are not only questions about the adequacy of payment to the taxpayers, but also that it does not take into account the impact of climate change.

The assessment we will launch with this programmatic environmental impact statement (PEIS) will take into account climate change and the impact broadly of the coal program, as well as the returns and the royalties.

I cannot get it done within the time I am here. It is too complicated. It takes too long. We will have an interim report, which will scope out exactly what will be done, with a timeline through which we intend to complete that work.

I have not, at this point, contemplated a similar program on the oil and gas activities. Coal has been criticized, as I mentioned, by our own Inspector General and the GAO, so I am prioritizing that.

WIND ENERGY AND BATS

Senator LEAHY. There are other programs that you have for development of renewable energy projects. You have wind energy on Federal land. I wrote to the department last week on Bat Week. I will point out that I don't talk about fictional Batman. I talk about real bats and what they do helping with our crops, keeping down pests, and other all these other things.

If you have wind energy, you also have this question of bat and bird interaction, migrating birds, bats, and so on. If additional resources are available, what could your department do to, one, make progress on wind energy, but also in a way that would help with flights of birds and flights of bats, all of which are so important to our whole ecosystem.

Secretary JEWELL. Thank you very much for pointing out the importance of bats, in particular, as pollinators, and they are in real trouble right now because of White-Nose Syndrome, which you are well aware of.

I have seen through the USGS the work we are doing with the wind energy industry and others on early warning systems to detect when there are avian species like bats and birds in the area, that will proactively shutdown wind turbines. It is a relatively modest amount, and I would say that if we had more, we could probably accelerate that work. Some of it is being paid for by industry, which is also appropriate, to reduce those impacts. And it is a concern of the Fish and Wildlife Service.

Where we site these wind energy projects on public lands, it does take into account the migration patterns and the potential impact.

But with more resources, we certainly could do more.

Senator LEAHY. Let me and my office help you with that, and also, help you with industry, because people are concerned, as you know. And I know you are.

TEMPORARY EMPLOYEES

One last question. Your department, like others, relies on temporary employees for programs we have funded either through partnership agreements or the discretion of Congress. I worry sometimes these temporary employees are on permanent things.

For example, at the risk of being at all parochial in this committee of all committees, we have the Lake Champlain sea lamprey control. The Fish and Wildlife Service has run this continuously now for 25 years. Some of the employees are classified as temporary. We always have money in there for this program.

I worry these temporary—they have to be experts. If they are temporary, they say, I can get a job somewhere else, and they leave and we lose all the expertise. How do we make these people permanent?

Secretary JEWELL. Madam Chair, do you mind if I respond? I know we are over time.

Senator LEAHY. I am sure she has similar things in Alaska, for that matter.

Secretary JEWELL. Well, quickly, I will say our budget does support an increase for the wildlife refuge system. That would enable us to take some positions that are temporary and make them permanent.

Specific to the sea lamprey, we actually have four positions that are supported by the State Department because of the cross-border issues with Canada. Those, because they are not funded by our department, are term positions, and, are therefore, temporary. We certainly would be willing to look at a more permanent authorization for them.

There is a blend of the Fish and Wildlife budget being lower in the past, and we asked for increases, but also part of it is being supported by the State Department. We appreciate the challenge.

Senator LEAHY. Thank you.

Thank you, Madam Chair.

Senator MURKOWSKI. Senator Cassidy.

Senator CASSIDY. If one of my colleagues has a hearing to chair, they can go ahead.

Senator REED. I have a hearing. Thank you. Very gracious.

Senator MURKOWSKI. Senator Reed.

Senator REED. Thank you, Madam Chairman. Let me begin by commending you and your colleague for your great leadership. Thank you very much.

BLACKSTONE NATIONAL HISTORIC PARK

Madam Secretary, thank you. One of the major developments in Rhode Island, as you know, is the creation of the Blackstone National Historic Park. Thank you, because you were there with us kayaking along the Blackstone River. We thank you for that.

The way it is envisioned, it is a partnership park. The existing Blackstone Valley Heritage Corridor, a federally funded entity, is going to work in partnership with the National Park Service to develop the plan to implement it and to do all those things.

But there is a growing concern, and I would like your comments about how you balance these two entities, so that they have adequate resources to continue their jobs and one does not suffer at the expense of the other as we go forward and coordinate their operations. Could you comment on that, Madam Secretary?

Secretary JEWELL. I will make a quick comment. We have just slightly above the funding recommended for 2017 versus 2016. For 2017, it is $932,000. In 2016, the funding with the National Heritage Areas was $501,000. Once we get the 2017 amount, the Park Service will work closely with the National Heritage Area to figure out what the appropriate split is.

I certainly understand how important that funding is, and I will pass that along to the Park Service.

Senator REED. Thank you. I think both entities now have to continue at an appropriate pace. At some point, there might be a transition point where the Park Service accumulates more support and activities as we go forward. But at this point, I think it is important to keep both those entities empowered, resourced, and working together.

Another issue with respect to the park, because it is such a major undertaking, the first one in our State, and we are all looking forward to its successful implementation, one of the first sites is likely to be Slater Mill, which is really the beginning of the Industrial Revolution in the United States. It is the first real factory in America.

That is likely to be the first component of the park. Do you have any notion about how that transfer will be completed in this fiscal year, the resources available, and sort of anything else you might want to add?

Secretary JEWELL. I have been to the Slater Mill site. It is extraordinary, and compliments to the community on that. I have not spoken with the Park Service specifically about plans for Slater Mill, so let me get back to you on the record for that one.

[The information follows:]

SLATER MILL

The National Park Service (NPS) is working closely with the Old Slater Mill Association to acquire the Historic Slater Mill campus. The board of the non-profit has agreed to the property transfer, which will make this property the anchor and manageable unit of the new park. The estimate for the transfer of the property is spring 2017. Currently, title work is underway.

Once the property is owned by the NPS, it is anticipated that the Old Slater Mill Association will continue to offer high quality programming at Slater Mill and remain an active partner in the management of the national park property. The NPS will use its current budget to support that programming, as well as preserve and maintain the historic structures. Of the $926,000 budget this fiscal year, the park retained $425,000 and transferred $501,000 to the national heritage area. This $425,000 is the core of the resources available for the new park, though it is also anticipated that the NPS will fund one-time projects such as investing in waysides and signs within the next year.

Senator REED. Thank you, Secretary, and your staff.

And I want to thank the chairwoman again, and particularly thank Senator Cassidy for his graciousness. Because I have to get back to another hearing, I will just wish you well.

Thank you.

Senator MURKOWSKI. So, theoretically, that was the majority's turn. We should go to this side, but Senator Cassidy was gracious, so I do not know, we will ask you, Senator Cassidy.

Senator REED. We all vote for Senator Cassidy.

Senator MURKOWSKI. Thank you.

OIL AND GAS RULEMAKING

Senator CASSIDY. Secretary Jewell, when you put out the well control rule and the Bureau of Land Management (BLM) venting rule, I am told that you used $80 oil and $4 natural gas to justify the economics. Is that correct?

Secretary JEWELL. I do not know specifically what was used in the economic assumptions. That probably is correct, given the timing that it was done, but we can get back to you and confirm that.

Senator CASSIDY. Is it fair to say that probably the economics of that are now different because of the lower prices?

Secretary JEWELL. To the extent the economics are dependent on oil prices, it would be, but oil prices, of course, are a commodity and they fluctuate from $100 to below $30 a barrel. So, I do not know how much that specifically impacts the cost of the well control rule. It certainly impacts the industry.

Senator CASSIDY. Now, when it impacts the economics of the industry, it is fair to say that a well that could be economically developed at $80 a barrel probably cannot be at $30. That just goes without saying. There is a marginal cost to compliance with regulation, and if that marginal cost is on $30 as opposed to $80, it is going to make a difference in economics. I think that goes without saying.

Secretary JEWELL. Well, if I can just say there are a lot of things that will impact the economics. The cost of the rig, the cost to drill, the risk, and all of those things are factored in.

Senator CASSIDY. Absolutely.

Secretary JEWELL. I used to do this for a living, so I certainly understand that.

Senator CASSIDY. I get that. But, marginal cost of regulation is a cost.

WELL CONTROL RULE

Now, according to a Wood Mackenzie report, the well control rule, the cost of compliance, could cause a decline of 55 percent in exploratory wells by 2030. I just say that for the record. Others may fuss with that.

But at the same time, it is fair to say that there is some cost associated with the well control rule.

That said, one of the concerns that has been raised with me regarding the well control rule is that the Bureau of Safety and Environmental Enforcement (BSEE) is promulgating this, and they are promulgating it, but it apparently violates a congressional mandate that specifically is the National Technology Transfer and Advancement Act, the NTTAA, which bars the use of government unique technical standards in lieu of voluntary consensus standards. Again, I have a document here that goes through the statement of it.

Any thoughts about that? Because it does seem, what I have heard about the well control rule is being given kind of ex cathedra as opposed to from a voluntary consensus methodology.

Secretary JEWELL. I have never heard of the Act you referenced, but I am confident through our solicitors that everything we are doing in regard to the well control rule is within our rights and consistent with what we believe we must do for the safe and responsible development of offshore resources, particularly in the wake of the *Deepwater Horizon* spill.

Senator CASSIDY. It isn't insofar as—believe me, I care about the *Deepwater Horizon.* It is not insofar as regulations are not required but rather that BSEE is supposed to show that voluntary consensus standards are impractical. I am not sure that it is clear that the voluntary consensus standards are impractical, and I am not sure that it has been shown.

So, it is not so much the regulation should not be promulgated but rather the technique should be first the consensus standards, and then only, again, my term, if you will, is ex cathedra being prescribed without the consensus standards being formed.

Obviously, that might be something a little technical, but if you could address that for the record, I would appreciate that.

Secretary JEWELL. We are happy to follow up.

Senator CASSIDY. Related to that, and again on the well control rule, is that, clearly, if we are going to have an impact upon the ability of oil wells to be drilled, that is going to affect the energy supply in the United States. I am told that under Executive Order 13211, from May 18, 2001, such things require a statement of energy effects.

BSEE has denied that there is an impact upon energy supply from these regulations, which seems a little crazy. But nonetheless, if they do, it means that they have another reporting requirement.

Any thoughts about that? It just seems so self-evident that if you are going to have an impact upon the supply of oil and gas that you are going to have an energy effect. That may be a little technical for this conversation. I do not know if you are prepared to comment on that.

Secretary JEWELL. I will just comment briefly that the well control rule really codifies many of the practices currently in place in the Gulf that were addressed after the *Deepwater Horizon* spill. I do not support the notion that the regulation itself would impact energy supply. I am happy to get back to you for the record.

[The information follows:]

IMPACT OF THE NTTAA ON THE DEVELOPMENT OF THE WELL CONTROL RULE

BSEE's promulgation of the rule is consistent with the NTTAA's requirement that agencies use technical standards that are developed or adopted by voluntary consensus standards bodies rather than government-unique standards, except where inconsistent with law or impractical. BSEE expressly proposed to incorporate the following voluntary consensus technical standards in its rule:

—American Petroleum Institute (API) Standard 53 (Blowout Prevention Equipment Systems for Drilling Wells);
—American National Standards Institute (ANSI)/API Specification (Spec.) 11D1 (Packers and Bridge Plugs);
—ANSI/API Spec. 16A (Drill-through Equipment);
—API Spec. 16C (Choke and Kill Systems);
—API Spec. 16D (Control Systems for Drilling Well Control Equipment and Control Systems for Diverter Equipment);
—ANSI/API Spec. 17D (Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment); and
—ANSI/API RP 17H (Remotely Operated Vehicle Interfaces on Subsea Production Systems).

The NTTAA and the associated implementing guidance in Office of Management and Budget (OMB) Circular A–119 permit an agency to include in its regulations a voluntary consensus standard "in whole [or] in part . . . ." (OMB Circular A–119, at p. 3). Thus, the NTTAA does not require that BSEE incorporate every provision of each standard. For example, BSEE has excluded from its regulations the API Standard 53 provision that authorizes offshore operators to "opt-out" of the requirement to use dual shear rams for BOPs on floating facilities. BSEE believes that a decision to "opt out" should be based on a risk assessment subject to oversight.

In addition, OMB explains that the NTTAA:

> [D]oes not preempt or restrict agencies' authorities and responsibilities to make regulatory decisions authorized by statute. Such regulatory authorities and responsibilities include determining the level of acceptable risk and risk-management, and due care; setting the level of protection; and bal-

ancing risk, cost, and availability of alternative approaches in establishing regulatory requirements. (OMB Circular A–119, at p. 25).

BSEE's proposed variations from the industry standard do not indicate that the bureau is seeking to use government-unique standards in its regulations. Rather, BSEE's non-incorporation of portions of industry standards is fully consistent with the NTTAA because OMB has clarified that agencies may incorporate consensus standards in whole or in part in their regulations. Additionally, OMB has clarified that the NTTAA does not preempt or restrict an agency's authority to make regulatory determinations about the level of acceptable risk and risk-management, and due care, setting the level of protection, and balancing risk and cost. BSEE's incorporation of less than all of API Standard 53 is based upon these principles and is not inconsistent with the NTTAA.

The potential impacts of the well control rule on oil and gas supplies:

BSEE received comments that the initial Regulatory Impact Analysis did not account for asserted impacts of the proposed regulation on national energy security. These comments appear to assume that this rulemaking will cause a reduction in domestic oil production, thereby implicating the requirements of Executive Order 13211 applicable to agency actions that significantly affect the Nation's energy supply, distribution, or use. These comments suggested that the rule would weaken national energy security by reducing domestic oil production and increasing reliance on foreign oil. BSEE does not agree with this comment. BSEE's own analysis indicates that the net effect of the final rule on the oil and gas industry would be positive (*i.e.,* the potential benefits exceed the potential costs). This does not support the assumption that the rule would precipitate a reduction in domestic oil production. The regulations consist of an envisioned level of safety derived from numerous post-*Deepwater Horizon* studies and existing industry standards. The regulations also allow for alternative methods to achieve the envisioned level of safety. There is no reason to conclude that this approach will adversely affect U.S. energy production. Technological advancements and variable market factors, such as the price of oil, which are unrelated to the requirements of the proposed rule, are likely to be the most important factors to affect future domestic oil production.

Senator CASSIDY. Please. And I will say that, speaking to folks, they actually feel like the initial rules that came out after the Macondo were actually fairly reasonable. It is those that were proposed that would go beyond it that are again being given almost, in effect, by fiat, not with consensus standards.

According to at least one consultant, it is going to have a significant impact upon the drilling of exploratory wells.

So we will fashion these for the record, and look forward to your reply.

Secretary JEWELL. If I could just say briefly, there was a lot of industry input after the draft rule. Those have been taken into account, and I believe you will see significant changes from the draft rule to the final when it is released.

Senator CASSIDY. Sounds great.

LAND BUY-BACK PROGRAM

On the Land Buy-Back Program, what is the cost basis for the sale of the land? Does that include the mineral rights that might be beneath it, the grazing rights, et cetera?

Secretary JEWELL. Mike.

Mr. CONNOR. We are not typically acquiring land through the Land Buy-Back Program with mineral rights on it. We are right now excluding——

Senator CASSIDY. I thought this is where the Indian tribes were allowed—the Native American tribes were allowed to buy land back from the United States. Did I misunderstand that program?

Mr. CONNOR. This is one where resources are provided to acquire these fractionated interests in lands and restore to tribal ownership. So there are significant tracks out there that do not have mineral interests. We are doing appraisals of those lands and restoring those to tribal——

Senator CASSIDY. I see. So, those typically do not have mineral and grazing rights associated with them.

Mr. CONNOR. That is correct.

Secretary JEWELL. Just to clarify, they are not Federal lands. Typically, they are in fractionated private ownership consolidated for the tribes.

Senator CASSIDY. Okay. I yield back. Thank you.

Senator MURKOWSKI. Senator Tester.

Senator TESTER. Thank you, Madam Chair.

LAND AND WATER CONSERVATION FUND

I, too, want to thank Senator Cassidy for his courtesy. That happens seldom around here, so we thank you for that very, very much, even though I was not the beneficiary directly.

Secretary Jewell, thank you for being here. I want to talk about the Land and Water Conservation Fund for a second. We have been over the numbers before. You know the impact it has on Montana's overall economy—$5.8 billion in consumer spending in a State of 1 million people. Seventy percent of Montana businesses list public access as a major reason they do business in our State.

In 1978, this fund was funded at $900 million—1978, the year I graduated from college, a long time ago. Now we are finally back up to $900 million, $475 million discretionary, $425 million mandatory. I appreciate that.

Back in 1978, it was supposed to be funded by offshore oil revenue. When we had this debate on the Senate floor, people said there was lots of money in this account, lots of money in this account. It was my understanding it flows into the general fund.

The question for you is, do we need an offset for the Land and Water Conservation Fund? When it was set up in 1978, it was set up to be at $900 million, and somebody took that money and we never heard a word about offset back in those days.

Secretary JEWELL. There are people here with much more history on this body than I have. It was authorized at $900 million. It has fluctuated wildly, and less than half, I believe, has actually been appropriated, and the rest has been used for other purposes.

Senator TESTER. Was it appropriated at $900 million back then, do you know?

Secretary JEWELL. It was.

Senator TESTER. And it has been appropriated at that level a few times since then.

The reason I bring this up is because in my opinion at least these places are not going to be around forever. They might not be around in 10 or 20 years. When you are looking at proposals, what are you looking at when you utilize this fund money?

Secretary JEWELL. There is a stateside program, which is prioritized by States. That is very, very important. On the Federal programs, we really have a list that is far longer than what we are able to do for things like sportsman's access, critical parcels be-

tween pieces of public land that promote access, inholdings where it is costing us money to provide rights-of-way that would actually reduce our costs. There are a number of different things.

Senator TESTER. Does the $900 million bring you up to a point where you can address all of the requests?

Secretary JEWELL. No.

Senator TESTER. Half the requests?

Secretary JEWELL. No. It would just enable us to make progress. There is a much longer list of requests.

Senator TESTER. I appreciate you trying to get back to the $900 million figure. It actually should have been indexed so it would be more than that now, in my opinion. These are special ecosystems that are not going to be around much longer.

COAL LEASING PROGRAM REVIEW

I want to talk about the Federal coal program for a second. I believe in transparency. I believe in a fair return to the taxpayer. These public lands are owned by every citizen in this country, contrary to what some might say.

I think that it is critical that we get a fair return on those coal dollars. I think, and correct me if I am wrong, the last time there was an assessment done on Federal land, coal leasing was in the early 1980s. Is that correct?

Secretary JEWELL. It was 30 years ago. It was 1986.

Senator TESTER. Nineteen eighty-six, the year that I bought a brand-new Chevy pickup four-wheel drive, three-quarter ton for $12,000. That same pickup would cost around $38,000 now, by the way, because I am looking to trade it off.

But that aside, can you tell me, I think it is a good idea to do the research and it is a good idea to make sure we are getting a fair return, but this cannot go on forever. I mean, it has to be a date certain.

I have heard 3 years. Is 3 years a reasonable amount time to get this survey done? And, if it is, would you support legislation saying that?

Secretary JEWELL. I would support legislation putting a date certain. Three years, we believe, is as fast as we could do it. The program review done in the 1980s was longer than that. The pause on coal leasing extended longer than that, as a result.

I will be putting in place a date certain timeline when I leave, but that could be undone by a successor and I would welcome a clear timeline so we can complete this in a timely way.

GRAZING FEES

Senator TESTER. Okay, Madam Chairman brought up the Federal grazing fee. It was raised up to $2.11 in this budget, correct me if I am wrong, maybe it was not. Maybe it was done before that.

The point I want to make is this. There are some who want to transfer our Federal lands to our States. The amount of grazing fees that are charged by the States are much, much, much higher. And the private grazing fees are much higher than the State fees.

Could you talk about, because I do not know that a lot of people are talking about this—we have more cattle in Montana than we have people, by the way. Can you talk about the impact transfer-

ring these Federal BLM or Forest Service lands to States would have on grazing fees?

Secretary JEWELL. The impact would be dramatic. The Federal Government charges $2.11, which was set by Congress many years ago. While our budget asks for an administrative fee of $2.50, right now we cannot even cover 35 percent of our costs of administering the program.

Just to give you some examples, in your home State, the State charges $19.57 compared to the Federal Government's $2.11. In Colorado, it varies between $9 and $15.25. In Wyoming, it is $6.14. On private lands, it is $21, 10 times what the Federal Government rate is. That is pretty consistent.

I would say that for the grazing interests, people are getting an incredibly good deal on BLM lands right now. The increase we are talking about still would not even fully cover our costs just to administer the program.

Senator TESTER. Thank you very much. I look forward to working with you on this budget.

Thank you, Madam Chair.

Senator MURKOWSKI. Thank you, Senator Tester.

Senator Daines.

Senator DAINES. Thank you, Madam Chair.

Good to see you again, Secretary Jewell.

COAL LEASING PROGRAM REVIEW

Last week in the Energy Committee, I mentioned my concerns about the programmatic review and the pause on coal leasing. It is very troubling for many back home in Montana and for the Crow tribe. I think we need to be careful to not make producing Federal coal completely uneconomical.

That is a reality that is dangerously close under the current administration's moratorium on coal leasing, and if not inevitable, if our States and I think our tribes are left out of the process.

At last week's hearing, I asked about gathering input from the States and the tribes, and you mentioned six listening sessions the department has had, and that there is a very open process. Several tribal members and others who rely on these coal jobs to provide for their families for the revenues, for the general fund, expressed strong concern regarding potential administration actions at the listening session that was actually held in Billings, Montana. In fact, most present there expressed concern.

Yet the administration is moving forward with this programmatic review and a coal leasing moratorium. Quite frankly, I think there needs to be something more formal to allow the States and tribes and other stakeholders a more predictable and impactful seat at the table, like the Royalty Policy Committee, which actually you allowed to lapse in 2014. I think Congresswoman Lummis mentioned that yesterday in a hearing.

ROYALTY POLICY COMMITTEE

The question was, why did the agency allow the proposed rulemaking initiative to move forward when the Royalty Policy Committee, which was important—it has members from the States, from the tribes, from non-governmental organizations (NGOs), from

industry, the committee lapsed in 2014, a very important voice in this process. Why did we go forward with rulemaking initiatives when you allowed that committee to lapse?

COAL PROGRAM

Secretary JEWELL. Let me say a couple things, if I may. First, I will have to look into the committee lapsing, but royalty rates on the Federal coal program have not changed in 30 years, so I am not sure of the function of the committee.

There are minimum royalty rates set, and then a lot of exceptions that actually reduce the royalty rates. We have seen a real decline in revenue coming in from the coal program, and the decline in production is really due to economic factors like the switch to natural gas and a change in the interest in exports of coal, which I know the Crow tribe was interested in.

The bonuses over the last 10 years were about $.875 per ton. And in 2015, $.315 a ton, so the price is collapsing on coal due to market conditions.

ROYALTY POLICY COMMITTEE

Senator DAINES. Right. I understand the dynamic nature certainly of what is going on. I guess, it makes it in my opinion even more important—why wouldn't we want to have the States' voice, the tribes' voice, industries' voice, NGOs' voices there in a more formal process as far as their input goes, which was a key part of this Royalty Policy Committee, which lapsed in 2014?

Secretary JEWELL. I just had some more recent information handed to me.

The Royalty Policy Committee last met in 2008. The charter was renewed in 2010, but did not meet because of other events—*Deepwater Horizon,* after which the Minerals Management Service, was reorganized and created the Office of Natural Resources Revenue was created. The Royalty Policy Committee was set up to expire in 2012.

It was renewed as a potential vehicle for the Extractive Industries Transparency Initiative multi-stakeholder group, but the most recent charter expired in 2014, and our Office of Natural Resources Revenue did not feel it made sense to reestablish it.

But we are happy to look into that more for the record. That is as much information as I have right now.

Senator DAINES. The concern I hear back home is that we want to make sure the States' voices are heard in that process, that the tribes' voices are heard in that process, the industry voices are in that process, as well as NGOs. I think the stakes are perhaps much higher now than they might have been in the past and why it is so important.

I believe this policy needs to be reinstated. And I am concerned why rulemaking is going forward here without having that important body functioning, given I think the dynamics and the stakes are a lot higher today than they might have been in the past.

COAL LEASING PROGRAM REVIEW

Secretary JEWELL. Just to adjust a little bit, rulemaking is not what is happening. It is a programmatic and environmental impact statement, which is a review of the overall program. We absolutely will be listening to industry. We will be listening to tribes. We will be listening States, local stakeholders, local communities. People impacted by this on the ground will be a very robust part of this process, I promise you.

Senator DAINES. I appreciate Senator Tester's concerns voiced a little earlier about trying to get a 3-year date certain, in terms of this programmatic review. I have an amendment that I am trying to work to get bipartisan support on that to, again, deliver some certainty here in what is very much an uncertain process in many regards.

TRIBAL CONSULTATION

I want to pivot over and talk about the meaningful consultation with Indian tribes. The Crow tribe I do not think believes they have had meaningful consultation.

What does meaningful consultation look like to you, Secretary Jewell, because they are saying that they do not really feel like they have had a meaningful consultation.

Secretary JEWELL. I have not met with the Crow for probably 1.5 years, maybe a bit more. But, if they feel the consultation they had is not meaningful, please have them let us know, and we will make sure we are responsive.

I would say meaningful consultation is not necessarily reaching an agreement on a position a tribe necessarily wants, but it is making sure their position is known and heard. We have been committed to that throughout this administration.

Senator DAINES. As you know, their unemployment rate today is about 40 percent. The loss of these jobs takes the unemployment rate to north of 80 percent. It is devastating for the tribe.

Secretary JEWELL. I understand, and I know you understand, too, that the economics of coal are changing dramatically. What we are looking to do is not the cause of that. There is a multifaceted global market for coal that is, in fact, going down dramatically.

Senator DAINES. I would argue that the EPA power plan is having a tremendous impact right now in creating uncertainty there as well.

I understand the economic dynamics. The EPA power plan is probably the single most devastating impact right now on the coal business up there in Montana. Thank you.

Senator MURKOWSKI. Senator Daines, I appreciate you bringing up the issue, though, of tribal consultation. Secretary, I am going to turn to Senator Feinstein, but I would just like to put you on notice.

I have a large delegation of Alaskan Native leaders that are in Washington, DC, this week. Every single one of them is bringing up with me the breakdown that they are seeing with tribal consultation with the agency. So I will put that on your plate as well, and I can speak with you about specifics.

Senator Feinstein.

Senator FEINSTEIN. Thank you very much, Madam Chairman.

I just want to say, it is fortuitous you are also chairman of the Energy Committee, and the subject I want to bring up today is a bill that we have submitted for your consideration, and that is a California water bill, which would hopefully be part of a Western water bill.

I cannot express too strongly how serious this drought is for California. A lot of people have counted on El Niño. It may or may not bear real fruition, but the State has really had dramatic problems. Let me just give you a few.

We have 69 California communities that face significant water supply and water quality issues. In other words, most of them do not have water. We have lost $2.7 billion from the drought in just 2015. More than 1 million acres of California farmland have been fallowed in 2015. The drought has led to a loss of 35,000 permanent jobs in the State.

Land subsidence in the southern Central Valley has caused large areas to begin to sink because of overpumping groundwater, and it is sinking as much as 2 inches per month. As a result, bridges, aqueducts, and roads have begun to crack.

So, I would like to ask a couple questions of the Deputy Secretary on the subject. Deputy Secretary Connor, is it true that we have worked closely with Reclamation and your office in the drafting, redrafting, and amending of this bill?

Mr. CONNOR. It is absolutely true.

Senator FEINSTEIN. Deputy Secretary Connor, is it true that every amendment or suggestion, and there have been many, made by Reclamation and your office has been worked through and incorporated into the bill?

Mr. CONNOR. Senator, a great many. I would hesitate to say all, but I think for the most part, most of the very substantive ones have been addressed. I believe there may be some technical issues that we still are discussing. But yes, in general, I agree with your statement.

Senator FEINSTEIN. Okay, I would like to know, not now, but what those technical issues are.

Do you believe that the bill, if enacted, would increase operational flexibility and increase water supply during this drought?

Mr. CONNOR. I agree, yes, on both counts.

Operational flexibility in the bill incorporates provisions that reflect the flexibility we have tried to maintain in our water operations, and that we have over the past couple years developed, consistent with our drought contingency plan.

It institutionalizes those provisions. It provides greater resources for monitoring activities that greatly help in our operations. It facilitates transfer. I think in the midst of this drought, it does increase flexibility and has the capacity to provide for more water. I would say, in the long-term, it absolutely, unquestionably will provide for more water supply reliability for California.

Senator FEINSTEIN. Thank you very much. I appreciate that.

FUNDING FOR CALIFORNIA MONUMENTS

Madam Secretary, if I may, I want to thank you for your efforts related to the President's designation of three new national monuments in the California desert. The California desert has been a very big deal for me. We have done two desert bills. As a city girl, the California desert is such a wonderful place to visit. At night, the shadows, the dawn, the flora, the fauna, the petroglyphs, it is just an incredible place. So I am very delighted to see these monuments.

If I understand your budget request, it includes $6.5 million for the BLM office in California that is responsible for managing the national monuments. That is an increase of $1.9 million when compared with last year.

While I understand the monuments were designated after submission of the President's fiscal year 2017 budget, do you believe the additional $1.9 million will be enough for BLM to manage the 1.7 million acres of land it is now responsible for?

Secretary JEWELL. I am just going to do a high level answer, and then turn it to Kris for the direct answer.

I want to say a profound thank you for your work on the drought legislation—hard, hard work—and also for your tireless work over many, many years on the protection of the California Desert.

Senator FEINSTEIN. You might be interested to know, Madam Secretary, we have done 26 drafts of that legislation and made 41 amendments to it, as the time has gone on, and as we have talked and consulted with others. So, that has been 2 years of work, and I might say, much harder than the desert bill.

Secretary JEWELL. It was very constructive. And the subsidence you pointed out is something few people know about.

We have increased money in the budget overall for the National Landscape Conservation System in BLM that does include the California deserts. There is not specific money in the budget for them beyond an allocation for that, because of the timing of the monuments. We will be doing a lot of planning associated with that, and future budgets will reflect that.

But, Kris, do you want to jump in?

Ms. SARRI. Sure.

Senator, thank you very much for the question. As the Secretary mentioned, there is an increase for BLM's conservation lands. We are up to $50 million for the request. That does include the $1.9 million increase for the California areas. BLM thinks that will be sufficient if they get the budgetary increase to take care of the new monument.

Senator FEINSTEIN. Thank you. That is very helpful. I appreciate it.

ABANDONED MINES

Just a quickie, one of the prior Senators mentioned the problem with abandoned mines. It is a serious problem in our State. We have some 24,422 abandoned mines. According to BLM, there are 1,672 known mine sites on or near BLM property. BLM estimates that there were an additional 22,730 sites that have yet to be even inventoried.

BLM says that will require $118 million just to complete the inventory. That is an enormous cost just to inventory.

My question is, would you take a look at that cost? I am concerned about these. I know we get $1 million, $2 million a year to deal with these, and some have been boarded up where people can fall into them. But I am very concerned that we could still have some kind of a catastrophic event.

So, if you would take a look, BLM has requested $20 million in discretionary funding for its nationwide Abandoned Mine Lands program. You propose $1.8 billion in mandatory funding from a new fee that most people think will not go anywhere in Congress.

So, if you have some suggestions, Madam Secretary, I would love to hear them.

Secretary JEWELL. I will just say thank you for pointing out this issue, as did Senator Udall. He does have some legislation he is proposing.

This is an enormous problem. We will certainly look into the cost and get back to you on the record for that, because I do not have a great answer, except that I know that just to inventory across landscape is hundreds of millions of dollars. That is because these are remote sites. To inventory them, we have to understand what is happening, and the features within those sites. That is very labor-intensive work.

But we will look into that and be happy to work with this subcommittee and others on bringing a long-term solution.

Senator FEINSTEIN. Let me ask you just quickly this question. To inventory them first, so much money, could there be another criteria for selecting abandoned mines to take care of? It seems to me those would be the mines where you have hikers, visitors, where there is the most jeopardy of an accident. Could it be done on that basis?

Secretary JEWELL. I will talk to the BLM and ask them. I am fairly confident those are the ones they have prioritized within the National Park Service, those that do have closed visitor access. But we will check into that, and I will get back to you on it. Thank you very much.

[The information follows:]

ABANDONED MINE LANDS

The BLM confirms the estimated cost of completing an inventory of abandoned mine lands in the State of California is $118 million. The BLM also confirms for both conducting inventories and reclaiming AML sites, priority is given to areas and sites with high visitation or near population centers.

Senator FEINSTEIN. Thank you, Madam Chairman.

Senator MURKOWSKI. Senator Blunt.

Senator BLUNT. Thank you, Chairman.

ST. LOUIS ARCH

Secretary Jewell, I want to thank you for mentioning the arch in your written testimony. It is one of the very first projects, and maybe in terms of private funding the largest project in terms of local funding that is going into that partnership.

It does seem to me that we have a real opportunity there and in other places to really usher in what I believe is your vision of

the second century of the Park Service. I would say that I hope it would not hurt his reputation in the service, but the new regional director, Cam Sholly, appears to fully understand the importance of setting this model. We are enjoying working with him, as, more importantly, the people locally are enjoying working with him.

We were able to get some language in the omnibus appropriations bill. Chairman Murkowski supported that legislation that just would help attract private dollars.

What that language does is direct the Treasury Department to invest the dollars privately raised in interest-bearing accounts. I know in the case of the arch the goal is to raise $29 million of endowment funding. I would hope the endowment funding and any future funding raised for that and other projects benefits from that new sense of direction to the Park Service and, more importantly, to the Treasury. I do not think the Park Service ever resisted the idea that private money should actually benefit the project it had been raised for as opposed to any interest going into the general treasury.

Secretary JEWELL. We share a common interest in that. I have to compliment the St. Louis community; $250 million of private money raised for the CityArchRiver project, which is extraordinary.

Thank you for your efforts, so that they could use the interest during the interim timeframe as opposed to going to the Treasury. That is very helpful. We will continue to advocate for that, broadly.

STE. GENEVIEVE SPECIAL RESOURCE STUDY

Senator BLUNT. Right. There is another study going on that should be released any time. I will just bring it to your attention to be sure that you spend a little time looking at it. This is on Ste. Genevieve, Missouri, which is just south of St. Louis on the Mississippi River.

It is a French settlement that still actually has a substantial number of 18th-century French buildings in that community, some of which have been under the direction of the State parks system for some time.

But my belief is that both the State parks system and study that the National Park Service is about to do will reach the conclusion that a better place to preserve that unique part of our history is probably as a unit of the National Park Service. I would expect that to come out any day. I hope you have a chance to look at it.

Like I said, these are 18th-century structures west of the Mississippi River. A lot of them are the vertical log structure that was unique to the way the French were building housing compared to the horizontal structure that other people were. I am interested in that and hope you will be, too.

COAL LEASING PROGRAM REVIEW

Just to follow up a little bit on one of Senator Daines' comments, on the 3-year date certain on the coal study, I actually do not know how much there is to figure out about coal that we do not already know. I was going to suggest that I thought 3 years was an excessive amount of time for that study.

So, you hear that point of view, as well as just promise us that you will get it done in 3 years.

I really think you should look at this and determine what you are going to know that takes 3 years as opposed to half that time or 2 years or sometime that is less than 3 years. I think the questions on coal have already been well asked.

I will say that, in Missouri, we are 80 percent coal-dependent for utilities. Ninety percent of that coal comes from the Powder River Basin. The fact that a taxpayer should get a fair return there is important, but it is also important in the other energy resources. While oil and gas on State and private lands have almost doubled between 2010 and 2014, there have been no changes, no appreciable change, on Federal Government lands.

I do think return to taxpayers for what we can minimize the intrusiveness of in terms of oil and gas is an important return.

SOLAR PROJECTS

I also know that on a significant amount of Federal land, over 30 solar projects have been approved since 2010. I am not opposed to solar at all, but if you are worried about impacting the way the landscape should look, or it would look if people were not involved in the landscape, I am sure 30 solar projects have more impact on that topic.

And there is no Federal return, there is no taxpayer return, on solar. I am not objecting to that. I am not opposed to solar. I am not opposed to wind. I am actually truly an all-of-the-above person.

But if we are interested in fair taxpayer return, it would seem to me that we would be looking pretty aggressively at why we have 89 percent more production in State and Federal lands and essentially no more production on Federal lands. I will let you respond to that.

Secretary JEWELL. Let me just clear up one point. We do actually charge solar energy companies when they are leasing Federal land for solar, and for wind. There is a charge to them. Just as we are doing for offshore wind in the Atlantic, we are doing lease sales similar to what we do in the Gulf of Mexico for offshore oil and gas.

Senator BLUNT. Good. Would you provide me or the subcommittee how that works?

Secretary JEWELL. Yes, we are happy to.

[The information follows:]

Solar and wind energy developments are authorized under the authority of the Federal Land Policy and Management Act, which requires that the BLM generally receive fair market value for an authorization. The BLM has established payment requirements for solar and wind energy developments based off of comparable commercial practices from non-Federal lands. The payments to BLM consist of both an acreage rent and megawatt (MW) capacity fee. The acreage rent is required annually each year, regardless of the operational status of the development, and is determined based upon the location of the development on the public lands. A per MW capacity fee is required annually at the start of energy generation of the development, and is determined based upon the development's capacity and efficiency of the technology. The annual payments may differ between solar and wind energy developments based upon the acreage encumbered, efficiency of the technology used, and the generation capacity for that development.

The BLM has received increased payments for solar and wind energy developments since 2010, corresponding with the increasing number of rights-of-way issued. In 2010, the BLM received little more than $3 million in payments, almost all of which was from wind energy developments. In 2015, the BLM received over $15 million in annual payments for solar and wind energy developments, of which over $10.5 million were annual payments for solar developments, compared to $4.5 mil-

lion for wind energy developments. In addition to the annual payments, the BLM may also hold auctions for solar developments in designated areas. Such auctions are held infrequently; the most recent was held in 2014 for lands in Nevada. The BLM received over $5.8 million in bids for the parcels auctioned. Both the bonus bid revenues and the required annual rental payments are returned to the Treasury.

Senator BLUNT. If that is a one-time payment or an ongoing payment, as you would have from production from other facilities. I would like to see that.

Secretary JEWELL. Yes, we are happy to do that. It is an ongoing rental payment. There is a bonus paid upfront, and then there is an ongoing rental payment. I think it is per acre or per tract, but we will get back to you on that.

COAL LEASING PROGRAM REVIEW

Also, just to point out, because I had not said it earlier today, on the programmatic EIS for coal, it actually is complicated. There are a lot of different interests at stake and a number of different States at stake. There is metallurgical coal. There is steam coal.

We do believe, based on how long it takes us, for example, to do a programmatic EIS on an offshore leasing program, that 3 years is a pretty expedited timeframe.

I will be not in this job, clearly. That will change in about 11 months, maybe we're down to 10.5. We do have 20 years of supply of Powder River Basin coal, Federal coal, under lease to companies already. We do have emergency provisions in the pause that we put on the leasing program during the PEIS to allow companies to continue to mine and to get a permit, if their mine is at risk of closing because of the pause or if a coal-fired power plant is at risk of closing because of the pause. We also grandfathered projects that were nearing their completion.

So we do not believe there will be disruption in the supply of coal or to the jobs.

Senator BLUNT. Let me make one point there before the end of my time, and we are at the end of my time, but I noticed last time was little extensive too.

How long the study would take if the study hadn't put long-term Government program in abeyance until the study was over, I think that is two different questions. Patriot Coal in St. Louis just went into bankruptcy. Shortly after they went into bankruptcy, as I understand it, I have not talked to them, but everything I have read about this would indicate that one of the things they thought would bring them out of bankruptcy was that they were right at the end of the permit process to get access to some coal mining area that they hadn't previously had.

That is now postponed until the study is over. I do not know what impact that is going to have on the company, but I assume it is significant. They, as many others would have, would have pursued what they understood to be Government policy, which just suddenly stopped so the Government can figure out what they were doing. It does seem to me the Government can figure out what they are doing without necessarily stopping everything we have been doing for a long time.

Thank you, Chairman.

Senator MURKOWSKI. Senator Merkley.

Senator MERKLEY. Thank you, Madam Chairman.

MALHEUR NATIONAL WILDLIFE REFUGE

And thank you, Madam Secretary, for being here and helping us understand a variety of things.

When you started out your commentary, you mentioned Harney County and Malheur Refuge. That has been a traumatic experience for Oregon. We are hoping to work with the Department of Justice in terms of some compensation back to the completely overstrapped local system of justice that was dealing with that, in partnership with FBI.

But also the Burns Paiute Tribe, and this would be more relevant to Interior, had to incur a lot of increased costs and damage to sacred sites. It is still being evaluated.

Is it possible that the BIA could assist the tribe in some of these expenses that they are going to incur?

Secretary JEWELL. It is certainly something we would be happy to look at. I know that the FBI left recently, and we are just now doing an inventory of the damage. But certainly, we can work with the Bureau of Indian Affairs (BIA) if there are costs incurred by the tribes in addressing that.

I did meet with the tribes on the phone beforehand. I did meet with Judge Grasty from the county recently in my office. I will be making a trip there when the time is right to visit. We will make sure we encompass the tribes and I engage with the BIA as well.

Senator MERKLEY. Thank you. I really appreciate that. I know the tribe appreciates that as well.

One of the ironies is that that particular county where the occupation occurred has had some terrific successes on collaboration, the types of successes that we all say need to happen through dialogue and cooperation and sharing perspectives and so forth, one including sage-grouse conservation, another being the Malheur Refuge itself, management of the refuge.

Judge Grasty, who you mentioned, has thought that, given their successes in Federal-county collaboration, this would be a very good place to have a center that helped advance that type of collaboration, both from the local experiences, but bringing in the issues from throughout the West.

So, I think it is a terrific idea. There are tensions that certainly are natural between a longstanding landlord, the Federal Government, and a longstanding ranching and grazing tenants, and issues over the use of the land. And having a center to facilitate collaboration, it seems like a pretty cool thing.

Any chance we could get some support for that idea from the administration?

Secretary JEWELL. This is a new concept I have not really considered, so we would be happy to consider it.

I will say what happened in advance of the occupation of the refuge and the cooperation that has happened throughout Oregon with not just our own agencies, but also the Natural Resources Conservation Service has been extraordinary. I think there are models there to learn from.

I would hope it will set a model for every office—Fish and Wildlife Service, BLM—working cooperatively across the landscape. But

we are happy to do give that consideration, and I will chat with Judge Grasty the next time we talk.

Senator MERKLEY. Thank you very much. I appreciate that.

KLAMATH

I also appreciate the administration's support for the Klamath settlement efforts. We had substantial development with the process of decommissioning the dams being taken offline and, therefore, removing some of the obstacles. There is still a lot of work to be done to capture through legislation the water certainty for the irrigators, the land for the Klamath Tribes, habitat restoration, and so on and so forth. You have been a great partner.

Can we continue to ask you to assist us?

Secretary JEWELL. We absolutely will be there. We know there is a legislative fix that is needed to move this forward, and we are fully supportive.

Senator MERKLEY. Thank you. I appreciate it.

And there was, by the way, $3 million appropriated in fiscal year 2016 to support the agreements, specifically habitat restoration. Because the agreements were not concluded or the legislation was not concluded, we just want to try to make sure that the $3 million actually does get spent on the habitat restoration efforts, so it would be helpful to keep moving the process forward as much is possible.

Mr. CONNOR. I believe that process will continue with additional funds that were made available from Reclamation with the spending plan. The upper basin agreement with the Klamath Tribes is still in effect, and there is some restoration activity that is contemplated as part of that agreement, and we want to carry forward with that.

Senator MERKLEY. Great. Thank you. Thank you for all your assistance on this, Michael.

COAL LEASING PROGRAM REVIEW

Turning to coal leasing, I think it flies to the top of the chart for questions that you have been asked. It shows how much different Senators care about this from substantially diverse perspectives.

I certainly agreed with Senator Blunt when he was saying that we should be able to figure out the answer in a shorter period of time. To me, the answer is already obvious, but it is probably the opposite of what Senator Blunt might conclude.

Currently, we have, I believe, in terms of leases, already granted about a 20-year supply of coal already leased out for extraction. Am I in the ballpark on that?

Secretary JEWELL. That is correct. It is 20 at current production rates, and production rates are declining, so it is likely more than 20.

Senator MERKLEY. So we have a tremendous supply that already has been leased. And we also know that when you do a new lease, that lease might be exploited for decades thereafter. So if we do a new lease now—there are occasions where a lease has been exploited for 30, 40, even 50 years—we are essentially locking in a contract for many decades in the future. Am I still on track?

Secretary JEWELL. That is correct.

Senator MERKLEY. So here is the thing, we are seeing the impact of burning fossil fuels all over Oregon from the growth of the pine beetle because winters are warmer and so damage to our forest.

We have three of the worst ever droughts in the last 15 years in Klamath Basin, a huge impact on agricultural families.

The winter sports in the Cascades have declined as the snowpack has declined. The trout streams are getting smaller and warmer, which nobody who fishes likes to see smaller, warmer streams.

Our oysters on the coast are having trouble reproducing because the ocean is more acidic, 30 percent more acidic than before the Industrial Revolution. If that is not a canary in the coal mine, I do not know what it is.

So we have the knowledge, not just in some theoretical model in the future, but right now facts on the ground. We know there is extensive damage to our forestry, to our fishing, to our farming, to our natural resources. And therefore, why would we possibly do a new lease locking in more extraction and combustion decades into the future?

So that is the conclusion I would come to. If the administration reaches the same conclusion, as you put it, before your time is up, I would love to see the coal leasing program ended.

Secretary JEWELL. All right. Thank you.

Senator MERKLEY. Thank you.

Senator MURKOWSKI. Senator Udall.

Senator UDALL. Madam Chair, thank you very much.

NATIONAL PARKS DEFERRED MAINTENANCE

Secretary Jewell, I am pleased to see that you have proposed a 9 percent increase for national parks, including major investments in construction and maintenance programs to address the estimated $11.9 billion maintenance backlog at parks nationwide. It is mind-boggling, that number.

CARLSBAD CAVERNS

We have a particular issue with park maintenance in New Mexico I want to briefly raise. The public elevators at Carlsbad Caverns National Park have been out of service since early November, leaving visitors to hike in and out of the caverns if they want to visit.

Obviously, the lack of elevator service creates a problem for visitors who have accessibility issues as well as a problem for the general public.

I have had the chance to raise this issue with you personally. And you know how important it is to me for the Park Service to restore temporary elevator service at the park as possible and to come up with a plan to permanently upgrade the elevators. I appreciate you working with me on this to resolve this issue as quickly as possible and to ensure that the local communities know what to expect.

VALLES CALDERA NATIONAL PRESERVE

I also would like to thank you for your strong support of the Valles Caldera National Preserve during its recent transition to be-

come part of the national park system. I am also pleased to note that you have included $3.3 million in your budget request to continue funding for the preserve into 2017.

Now that you have visited, I know you will agree with me that the preserve is one of the crown jewels of the national park system. What makes it so special is not just a stunning landscape, however. There is recreation, hunting, fishing, and grazing at Valles Caldera. All those make it a vibrant park for New Mexico's community and for our local economies.

That is why I am concerned to hear that the Park Service is still weighing whether to continue traditional grazing permits on the preserve for this upcoming season. The law that transferred the Valles Caldera to the National Park Service allows these longstanding permits to remain in place while the Park Service develops its long-term management policies. These ranchers deserve to know now that they can count on their grazing permits for the season.

Can I have your commitment that you will work with me and other members of the congressional delegation who are also very concerned about this to resolve this issue quickly and avoid any further disruption to these traditional grazing permits?

Secretary JEWELL. Certainly, Senator, we will be happy to engage directly with you. The Park Service is well aware of the need to act fast on this.

I will say there are some complexities, an endangered species, for example, that needs to be incorporated into their planning process, and figuring out the market rates for appropriate grazing fees. But we are very happy to work with your office to keep the priority high for the Park Service.

Senator UDALL. Thank you very much. I think on the endangered species issues, there are areas where there are not endangered species issues, and I think the park superintendent is very aware of those, and the local people on the ground.

Another issue related to the transition of the Valles Caldera is the importance of continuing a multiyear stewardship contract with the Jemez Pueblo. This project supports vital landscape restoration work and jobs for tribal members.

As you know, I worked to include $1.5 million in the 2016 omnibus to support forest restoration projects at new parks like Valles Caldera. Could you tell me what work you expect to accomplish this year with the funding we provided? Is funding included in your fiscal year 2017 budget to continue this effort?

Secretary JEWELL. So the short answer is yes, funding is included. It is going to be used for thinning about 1,200 acres of forest. As we are both aware, they had devastating forest fires, and that is really important. So that will continue.

Senator UDALL. Great. Thank you very much for that response.

VENTING AND FLARING

As you know, I am very supportive of the department's efforts to develop new rules related to methane venting and flaring. New Mexico's natural resources provide jobs and royalty payments that are an important part of our State's economy, but outdated requirements are resulting in over $100 million worth of natural gas being

wasted, which has cost my State $43 million in lost royalties since 2009.

There is also a serious health component to this issue.

I understand that you are now in the public comment period on the methane venting and flaring rule. Could you give us a sense of the timeline for the final rule? What are some of the issues you are hearing from industry that you believe will be addressed in the final rule?

Secretary JEWELL. At this point, the public comment period ends next month on April 8. So far, we have had two public listening sessions, one in Farmington, New Mexico, the other one in Oklahoma City. We will be taking input on all of those comments.

I cannot tell you what all of them are because we have not analyzed them yet. I am sure you are aware of what some of them are, in terms of cost and methodology and the importance of doing this. But once we have all of those comments in, we will be happy to analyze them and factor that into the rulemaking.

Senator UDALL. Great, thank you very much.

COAL

I have a question here on coal, but that one is kind of like beating a dead horse. Senator Wyden and I have a piece of legislation on that, and I think I will submit that one for the record.

INDIAN EDUCATION CONSTRUCTION

I am very pleased that this subcommittee was able to provide an 85 percent increase for Indian school construction and improvements in the 2016 omnibus. That amount includes funds to finish the schools on the 2004 school construction priority list. It also provides a down payment to begin work on new schools that the Bureau of Indian Education (BIE) is in the process of selecting. I am glad that you were able to include another $45 million for replacement school construction in your 2017 budget.

I know that BIE is currently considering applications for schools that want to be considered for the next round of funding. There are four schools in New Mexico that are currently competing for a place on the final list, and they are all very anxious to find out whether they will get selected.

In addition, this subcommittee needs to know how the funds in your budget will be used so that we can support your efforts during the appropriations process.

When do you expect to finalize your new school construction list? And what is your plan for providing the subcommittee with more detail on how year 2017 budget request will align with that list?

Secretary JEWELL. The Indian Affairs team is hard at work, and they are nearing finalizing the list. We narrowed the list down from many, many schools to 10 that submitted additional information, which has been received. It is being analyzed, and I would expect that sometime in the coming weeks to see the final version of the list for the new school construction.

There are also replacement buildings, which would be considered afterwards.

We are very happy to provide you with information on how the funding would be used. We are happy to work with the committee and provide you with an inventory of that.

But as you pointed out, this is a much bigger issue than we have money in the budget to address. We can just begin to chip away at the list and work on stemming the increase in deferred maintenance.

But we need a longer-term solution, as happened with the Department of Defense schools, to really address this long-term systemic problem, which is afflicting fully a third of our schools that are considered in poor condition, including a bunch of them in your State.

Senator UDALL. Thank you. I know you have a real passion for this.

Madam Chair, I see I am well over time here. I do not know whether we are doing another round or not.

Senator MURKOWSKI. I have some more questions. We have given our colleagues some latitude here so they can move on to other things, but if we can continue for a little bit longer, that would be great.

MITIGATION

Madam Secretary, I want to go back to some of the lands issues. Something that has caused a level of concern is where we are in this big discussion about mitigation.

As you know, the President has issued this memorandum on mitigation, and then you have your Secretarial Order Number 3330. I think these two issues are causing more questions than resolving any issues.

Just a couple years ago, as we were dealing with issues within the National Petroleum Reserve, the concern was the metrics that were relied on to arrive at a $8 million cost for mitigation within the National Petroleum Reserve-Alaska (NPRA). BLM, at that time, had discussed a real rigorous understanding of how this impacted subsistence use. It seemed to so many who were observing that this was just kind of divined from different individuals, agencies, and that it had come to a point where it was, how much can we get? That is not a standard that anyone would suggest is reasonable.

But the bigger question is whether or not there is authority to require mitigation for projects on public lands in the first place. When you move forward on natural resource development, responsible natural resource development by definition includes reclamation of disturbed lands and our Federal laws require that reclamation then occur. Laws that govern multiple use on public lands do not have this mitigation requirement.

I led a letter that went out just about a week ago with about 18 other colleagues here in the Senate outlining a series of questions to DOI focusing on we are with developing this program guidance—not only for DOI but for all the relevant agencies that are involved.

So a couple questions on mitigation. Can you provide a status update as to program guidance about the bigger point, which is what is the authority that the department has to require mitigation for projects on public lands in the first place? Additionally, the bigger

problem and the consideration that we face in Alaska is that you have multiple agencies that have seemingly different standards or different approach to mitigation. As a consequence of the lack of certainty, operators are not even able to begin a project, because whose standards are we going to be looking to?

So, a longer question that hopefully has a clear answer. We have not gotten the guidance that we have asked for.

We are going to be having a hearing in the Energy and Natural Resources Committee on this within this month to hopefully gain more clarity. Can give me a little bit of guidance here from your perspective?

Secretary JEWELL. Let me do a high level answer and then I am going to turn it over to Mike Connor, who has worked on the details for me on this.

First, we believe the individual, localized mitigation does not actually address sometimes the bigger issue that development has on the landscape. This is something that I looked at from day one.

When you have the fragmentation of habitat, when you have road networks and so on, there tend to be impacts to the landscape, the animal migration patterns, and so on, that are not necessarily contained within the footprint of that area. We are looking at landscape-level mitigation, understanding what those impacts are.

Good examples of that, I would say, in the National Petroleum Reserve in Alaska, understanding the caribou calving grounds, understanding the oil and gas development potential, understanding that if there is offshore development, how do you move that. All of those things were factored in.

As a project gets done, there is now a greater understanding of what the impact will be. That is the whole concept of mitigation.

Senator MURKOWSKI. Can I interrupt on that? What you are describing is that it is going to be a case-by-case determination. How can you give some level of certainty then to anybody who is looking to develop a project, whether it is oil and gas or whether it is a new runway or whether it is a driveway? How can there be any level of certainty and understanding when everything is done on a case-by-case basis?

Because what you described is going to depend on what is happening with the landscape around it. Every landscape is going to be different.

Secretary JEWELL. The intent is to bring certainty. Another example, the Desert Renewable Energy Conservation Plan, what are the areas that are set aside for development? What are the areas critical to conserve?

So as this gets developed, the mitigation would be used on the area that is highest priority for conservation, not necessarily on that footprint. The overall intent, to bring greater certainty, not less.

I am going to turn it over to Mike for the specifics on what he is working on.

Mr. CONNOR. I think I would just continue along the lines with the view that the President's memo I think gets to the point you are trying to have us do, which is having more consistency across the agencies in developing our mitigation criteria and not doing it project-by-project, by doing these planning efforts, which I think

have demonstrated they do facilitate permitting processes because they add more certainty as we work with companies.

A perfect example is the Western Solar Plan and the Solar Energy Zones we did in Dry Lake in Nevada. We identified the corridors of development, and the appropriate mitigation standards, that should apply there. We worked with companies taking environmental analysis that used to take 18 to 24 months down to 6 months to complete those environmental analyses.

I think the NPRA is a situation I am particularly familiar with having been involved in the discussions with ConocoPhillips. The mitigation was not pie-in-the-sky what can we get. It was very specifically related to the intrusion on the Fish Creek barrier. That was the issue we were discussing with ConocoPhillips. We talked about specific ways to compensate for that. We had a disagreement about methodology.

Quite frankly, we all agreed there was a range of dollar figures we were talking about to compensate for that particular intrusion, and it could best be applied toward developing a regional mitigation plan with the affected communities, including the Alaskan Native communities. That is the process that is ongoing right now, which should add greater clarity to further developments in the NPRA, quite frankly.

Senator MURKOWSKI. I think what you established there is a precedent that basically says, if you want to operate within this area, you are going to pay, not mitigation—it is not being viewed as mitigation by those who are looking—a penalty. We would differ mightily in terms of the specific project with Conoco and whether or not that $8 million that was ultimately arrived at or settled upon was where it was started. We recognize that was not where the conversation started. It was being used more as a bargaining tool for Conoco to be able to move forward.

So, again, we have a letter out there that we are looking for concrete answers on, and we will have an opportunity to have this before us in the Energy Committee to get a better understanding.

This is a concern that, again, we are not talking just about development of oil and gas opportunities in my State or in others. It is the opportunity to advance any kind of a project, whether it might be an area for school or runway or what have you.

I want to recognize that Senator Udall will have more questions, too, but let me follow on to a couple comments that were made by Senator Udall in his opening, and by Senator Feinstein.

ABANDONED WELLS

Senator Feinstein was talking about abandoned mines, developing potential for an inventory. As you all know, legacy wells, which is horribly, horribly misnamed, are abandoned oil and gas wells in Alaska that were drilled by the Government and then just left in varying states of disrepair. We have been making some progress. We have identified the universe there in terms of the cleanup.

To Senator Feinstein's point, when she talks about an inventory, I think we have established that at least in Alaska. You identify what it is that you have, now you have to prioritize how we are

going to be spending the money. We were successful in getting $50 million, with helium funding last year.

I appreciate the fact that we have a path, an action spend plan, for that $50 million. But my concern is that there is still going to be a significant number of wells that will need to be attended to when that fund is exhausted.

You have included $3.8 million in this budget for next year. I understand that this is a budget for this year. But we are still hoping to get an understanding as to how we intend to deal with all of the Federal Government's obligations to clean up these wells up on the North Slope. Because if you are suggesting that it is $3.8 million this year, and perhaps a like amount next year, I am told we are looking at 30, 40 years to clean up these wells, if that is the case.

Do you have an estimate of the likely cost to finish this environmental cleanup project, in both money and time?

Secretary JEWELL. I will give you the information I do have, and we will get back to you on the record for what I do not have.

There are 136 wells, these legacy wells. Fifty were identified in 2013 as requiring remediation.

Senator MURKOWSKI. I want to make sure that we are both clear on that, because I have heard that there is still some disagreement between the State of Alaska and Interior in terms of whether or not some of these wells require that level of remediation. I understand what you are saying, but I want to make sure that we are in alignment between State and the Federal Government on what the level of responsibility is.

Secretary JEWELL. Okay. I am not aware of that dispute, but I will say, because of the work that you did with the Helium Fund, we will have 29 left requiring work at the end of 2016. We will have three to five wells we can do with what is in the budget for 2017, the Wolf Creek cluster. I think because they are together, we will be able to address that.

That still will leave somewhere on the order of the mid-20s that need to be cleaned up. What I do not have is the estimated cost to do that or the amount of time it would take.

Of course, we would welcome the opportunity to work with you on a more permanent funding solution for this, just as we would on abandoned mines, and just as we would on school construction. It is very difficult putting small amounts of money toward a program each year that is much larger than what we can address in the regular budget cycle.

Senator MURKOWSKI. Understood. Absolutely. But I think this is one of those glaring examples where our Federal Government is being absolutely hypocritical when it comes to environmental standards. In this case, it is the Government that has drilled wells, and the Government that has walked away. The Government acknowledges that it left a mess, and yet the budget does not prioritize that.

Part of the problem is, unlike perhaps abandoned mines in California where you have a lot of people who are wandering around and hiking, the North Slope is a long way away, and there are not that many people on that North Slope.

You and I both agree that we have a responsibility to clean up that land. We have a responsibility to those subsistence hunters

and fishers up there who are worried about the contamination. Our Federal Government left a mess, and they have an obligation to clean it up.

I am going to continue my push on this, and we need to be working together.

CONTAMINATED LANDS

I also want to raise the contaminated lands issues. These are lands that have been conveyed to Alaskan Natives under the Alaska Native Claims Settlement Act that are separate from the legacy wells the Federal Government drilled.

Here we have a situation where lands have been conveyed that were already contaminated. These are Native lands, given to Natives as part of a settlement.

We have done an inventory of these lands. We have asked that inventory be updated. At the budget hearing last year, you said the survey was nearing completion, and that it would be soon released.

We are still sitting here a year later. It still is not public. I am told by BLM officials that it will be released soon. But we were told it was going to be released last year.

Assuming that this inventory is completed and will soon be made publicly available, I would like to have an assurance that, along with legacy wells, there is going to be an action plan from the Department of the Interior to accelerate the cleanup of contamination on Native lands that the BIA, the BLM, the Fish and Wildlife Service, the National Park Service, or the Bureau of Mines actually caused.

I also need to know that there is going to be some level of coordination in terms of how we are going to clean this up, because there are other Federal agencies, that have responsibilities, whether it is DOD or FAA.

Understanding how we are going to meet our Federal responsibility for this cleanup is something that we are going to continue to knock on your door, bang on the drum, raise our voices, because it is a responsibility that we have.

Can you give me any updates on when we might see the inventory, the updated inventory?

Secretary JEWELL. The information I have says next month. That is the best I can do. I do not know why it has taken so long, but that is the best information I have at this point.

Senator MURKOWSKI. And that information will be made public?

Secretary JEWELL. I do not know.

Do you know?

Ms. SARRI. I will get back to you on that one after I talk to BLM a little bit more about it.

[The information follows:]

ALASKA CONTAMINATED LANDS

The requested report on Contaminated Lands in Alaska has been drafted and is currently in the review stage. It will be transmitted to the Committee soon. The BLM plans to publicly release the Contaminated Lands Inventory database. With the Committee's permission, BLM would also like to make the report public by posting it on the BLM Web site.

Senator MURKOWSKI. The first inventory was completed at the request of my father in the 1990s. It had a timeline to be renewed

and updated frequently and prioritized. So "frequently" has now turned into almost a decade.

It is not just this administration's fault. If for some reason it is not going to be released next month, I would certainly appreciate a very detailed explanation as to why it is not, because you can count on me to continue to make a big stink about this.

Senator Udall.

Senator UDALL. Thank you, Madam Chair.

REPATRIATION OF SACRED OBJECTS

Secretary Jewell, an issue of serious importance for tribes in New Mexico is the repatriation of sacred objects back to the tribes.

First, I want to applaud your recent efforts to work with French authorities to seek cooperation in these efforts. As you know, these items are not pieces of art to be sold. They are sacred objects that are deeply important for tribal identity. What's more, it is illegal to traffic these items within the United States.

I think we need to be doing more to crack down on the sales of these priceless cultural objects. One idea I have heard from the Pueblo of Acoma is to establish an antiquities unit within the BIA to investigate these kinds of cases.

I want to work with you to ensure that BIA and other bureaus within the department have the ability to put a stop to these illegal trafficking efforts.

Can you elaborate on the work of the department in terms of bringing awareness to this issue and preventing tribal objects from being trafficked? And are there specialized law enforcement resources within the department able to handle these repatriation cases?

Secretary JEWELL. Senator, this is a significant issue. When I was in Paris as part of the climate talks, I met with the Minister of Justice for France, and I also met with the individual that administers the auction houses in France.

They typically produce a catalog with a number of these items that are exactly as you described. They are not works of art. They are critical artifacts that were removed from the tribes for whatever means many, many decades ago and have been circulating in the art market. They do not provide sufficient time for the tribes to even know they are there, let alone take the kind of action the French authorities say they need.

I was met with a very sympathetic voice in the Minister of Justice. Unfortunately, she just quit, so we will have to start over again with the next minister.

I do think there was a path forward that we learned about, about the repatriation of articles taken in Nazi Germany from families at that time. That may be a path we can use.

On the international market, I would say the State Department is a critical ally in this effort. They have the people that work the legal systems there. I would say that to dedicate someone from BIA's law enforcement to this is something that would have to come out of another area of BIA's law enforcement, so it is a tradeoff, given the law enforcement challenges we have in Indian country.

But I do think the BLM has some capabilities in this area. I know the State Department, Interpol, the international organizations do. It is on our agenda to raise awareness internationally to see if we can actually address this.

I will also say we are not without fault. Our auction houses in New York City, for example, do trade in artifacts. And they may be those that are inappropriate to trade, and then we do not find out about it until too late.

This is very, very important. The New Mexico tribes are quite active in this, but so are the Alaska tribes as well. It is important. And thanks for raising visibility.

Senator UDALL. Thank you for your efforts on that.

BUREAU OF INDIAN EDUCATION REORGANIZATION

As you know, we have had extensive discussions, and I know the chairman has also been involved, on this reorganization of the Bureau of Indian Education. And I understand the department is now moving forward with the first phase of proposed reorganization of the BIE, including the establishment of new educational resource centers that your 2017 budget anticipates additional changes to the bureau.

This subcommittee supports your efforts to improve education for Native students, and we recognize that you are tackling some of the very tough issues as you overall the bureau. But I want to make sure that the reorganization is done right and actually leads to concrete improvements in the classroom.

I also want to make sure stakeholders at all levels, from tribal governments to educators and parents, understand clearly what to expect from these changes. As part of the first phase of the reorganization you have proposed a number of staffing changes, including changes to the regional office in Albuquerque to create these new centers to assist BIE and tribally controlled schools.

What is your timeline for staffing up these centers? And what services can schools expect to receive starting in the fall? And what is your plan to ensure that all stakeholders, including BIE employees whose jobs may be affected, know what to expect during the reorganization?

There are other questions there that I will submit for the record, but I want to get an answer from you on those.

Secretary JEWELL. Okay, I am happy to give you a quick update. I will also say that taking on reorganization of something as storied, and not necessarily in a good way, as the BIE is, from a business person's perspective, unbelievably difficult over a multiyear period of time and extraordinarily difficult in the timeframe I have left.

The goal is to set a path forward so we continue to make progress on Indian education reform. It is not all going to be done in 1 year.

We have had multiple meetings with all employees. Those were held in February, and we outlined the whole process. On February 22, so just a week or so ago, we announced 65 vacancy announcements across the BIE. Some of them are vacant. Some are new positions. People will apply. Those positions will close on March 11,

and we will begin filling the jobs in April. So, it is really a fast timeline.

I would say what you will see in terms of near-term improvements, we have been working now for more than a year on professional development of teachers aligned with Common Core. We have been providing training for effective school boards, financial accountability training for school leadership, and then training for certain tribes that have wanted alternative accountability standards like the Miccosukee and Navajo.

There is a lot of work going on. I personally met with leadership of the BIE to see how it is going. We have a lot of work to do, but I would say people understand the importance of this. People are now a bit more reassured all their jobs are not in jeopardy. We are working toward a common end, which is better education for these students and self determination in education by tribal communities that want to take control of the schools.

So we continue to have an open door to any suggestions you have in this regard, but we are well on our way.

Senator UDALL. Thank you very much, and thank you for your hard work on that.

LAND AND WATER CONSERVATION FUND

Since Senator Murkowski mentioned her father, just as a closing comment here, when we were talking about the Land and Water Conservation Fund, and Senator Tester asked a question, as you know, my father worked in the 1960s when he was Secretary of Interior to start the Land and Water Conservation Fund. He worked with Congress. He went down and I believe met with a Congressman by the name of Wilbur Mills from Arkansas, and they came up with idea of taking offshore oil and gas, knowing that these resources are limited, taking some of it and dedicating it to permanent protection of land.

The original idea I think came from a national commission, a blue ribbon panel, an incredible panel headed I think by Lawrence Rockefeller and others that said, what do we need to do in terms of parks? The suggestion was from this commission—these were people outside of politics—you should spend $1 billion a year and everybody should know you are going to spend that and split it up between the State program, as you talked about, and the Federal program. And the reason you do that is everybody can plan. All these city councils and States and Federal Government and its agencies can all plan and look to see that money is there.

As Senator Tester pointed out, we have now reached the point where we have authorized it at that level. The money is over there in the fund. But somehow we do not dedicate the resources there.

So we are all trying to figure out how we got to this place. I know President Obama and you have encouraged us now to move forward.

I thank very much, Senator Murkowski, for working with me on the increase that happened in Land and Water Conservation Fund. That was a good step. But we are not anywhere near where we need to be in terms of the original idea behind the Land and Water Conservation Fund.

But thank you very much. I know she was trying to get out of here. We are running over here a little bit.

Senator MURKOWSKI. Thank you, Senator Udall.

Yet one more reason why this energy bill is a good energy bill that we are going to try to get moved through the Senate, because we do have the LWCF piece in there that allows for permanent reauthorization. It does have some reforms in terms of reminding us of the significance of State-side LWCF at the same time we have Federal.

Secretary, I know that you have to go. I have just a couple more questions and hopefully your answers will be yes and no.

ALASKA LAND CONVEYANCE

I mentioned the land conveyance and reductions that we have seen in the budget, a 20 percent reduction from last year. I have raised the issue of the methodology for the survey. There is a peer-review that is going on. BLM has agreed to that.

Can you commit to me that BLM will not act unilaterally to implement their preferred method of survey, if the State of Alaska formally objects, once that peer-reviewed process is complete? I just want to know that the State has been heard on this.

Secretary JEWELL. We absolutely are working closely with the State. I hope it does not come down to a veto of what we want to do. We are working now with the National Society of Professional Surveyors at the State's request.

Senator MURKOWSKI. Yes.

Secretary JEWELL. We are providing them with all the needed information. I think it is our collective hope they will come to a meeting of the minds, and it does not come down to the State saying this is not acceptable. I hope they can find something that both agree is acceptable.

Senator MURKOWSKI. We are going through that peer review process, so I think that is important.

TRIBAL COURTS

I will submit for the record several questions, one on tribal courts. We were successful in getting funding for Public Law 280 States for the first time last year in the amount of $10 million. The President's request cuts this by $8 million. I am very concerned about that.

EARTHQUAKE HAZARDS

We just sent a letter to you, the Alaska delegation, on the USGS earthquake program. I mentioned that to you. I would like assurances that any future summits or meetings you are conducting regarding earthquake preparedness at least include Alaska. Additionally, the earthquake monitoring cost-benefit study is being formulated, and I would like to see the status of that report. Can you let me know when we might see some of the findings?

BOTTLED WATER BAN

I also want to raise the bottle ban on bottled water in parks, not the ban but giving parks the option to eliminate the sale of bottled

water on a park-by-park-basis. We have asked for a report within the omnibus about the justification for making this determination. The report was due February 16. We have not gotten it. I would hope that you can let us know when you are expecting that report.

I still have some concerns. We can sell bottled sugar water in the parks, but we cannot sell good glacier water. We are actually drinking Alaskan Glacier water here at the committee.

I was contacted by the COO of Alaska Glacier Products. He is worried that he is not going to be able to sell his Alaska product in the Alaska park units. This concerns me.

I do not know whether or not, for instance, Denali National Park is opting not to sell bottled water.

I understand we are trying to eliminate the waste, but you are still allowing the waste from pop in our parks as well. Not every parent is able to bring or remembers to bring water bottles.

ALASKA MAPPING

The last thing that I am going to raise is where we are on Alaskan mapping, the Alaska Mapping Initiative, improving our topographic maps for the State.

I was present at a celebration in Alaska last summer where we celebrated 55 percent completion of mapping the State. Where else in America would you celebrate being just a little over halfway?

We have a way to go on this. I remain concerned that, as we look at our priorities, mapping, both terrestrial mapping and mapping our waters, is something where we are woefully behind.

I have much more that I will submit to you all, and we would hope for timely responses. I appreciate you being here before the subcommittee, and I apologize that the subcommittee has gone over time.

Thank you for your indulgence, and we look forward to your responses. Thank you very much.

Secretary JEWELL. Can I just say that I actually do have a response on the mapping.

Senator MURKOWSKI. Yes, please. Go ahead.

Secretary JEWELL. We were at 63 percent at the end of last year. By the end of 2017, we will be 70 percent complete. We should be fully complete by 2020.

I do have personal vested interest. My son actually is a critical care flight nurse and does medevac flights.

Senator MURKOWSKI. He knows.

Secretary JEWELL. He knows. He does that in Alaska as well. So, we share the concern and also share the urgency of why this is so important for the State of Alaska.

Thank you both very much. This is a little different in terms of tenor and tone than the session that I was at yesterday. I do appreciate the constructive nature and also the flexibility with which you ran the agenda to allow me time to answer after time had expired. So thank you both very much, and we look forward to working with you.

Senator MURKOWSKI. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. SALLY JEWELL

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

Question (1). Last year the Alaskan Village of Council Presidents (AVCP) was selected to participate in the Tiwahe d emonstration project and has received approximately $986,000 in base and Tiwahe funding. For those of you not familiar with the AVCP, it is a consortium of 56 Alaska Native villages in western Alaska. The villages are remote and somewhat isolated over a 59,000 square mile area with a population of approximately 25,000. All travel to and from the villages is by small plane or boat. The AVCP administers programs, fund projects, and provides social services to the villages.

The Tiwahe initiative is a 5-year pilot program that aims to help tribes develop a comprehensive approach for the delivery of services to communities through partnerships with the tribe, local communities and the State and Federal Government. The overall goals and objectives are, to improve screening and access to family and social services, to create alternatives to incarceration via solution focused sentencing, improving links to appropriate prevention, intervention and treatment opportunities.

a. I understand this is a 5-year pilot program, but I am interested in hearing more about how the program is structured for each tribe and how the funding for each pilot site is determined. Would you briefly explain how the sites are selected, how the pilot is designed, and how the funding is determined and delivered?

Answer. Tiwahe sites were selected based on geographic diversity, governance structure diversity, unmet need, and capacity. Alaska's geographic diversity from the lower 48 tribes and level of Federal resources to support tribal families, combined with AVCP's administrative capacity and interest in developing wrap-around services, led to BIA's selection of AVCP as a pilot site.

Tribes at the six pilot sites (four in fiscal year 2015 and two in fiscal year 2016) are required to develop plans to address their needs. Each site plan must address goals in the areas of social services, child welfare, employment and training, recidivism and/or tribal courts. BIA provided funding through a 50 percent increase to their Social Services Tribal Priority Allocation (TPA) and Indian Child Welfare Act (ICWA) fiscal year 2014 base level funding, and a pro rata increase in Job Placement and Training Funds. BIA delivered funding through either an Indian Self Determination and Education Assistance Act (ISDEAA) contract or compact. In addition to the funding received by the pilot sites, all tribes and BIA regions operating social services and ICWA programs received increases from their fiscal year 2014 base levels as part of the Initiative.

b. The President's proposal for the initiative is $21 million over fiscal year 2016 enacted levels. What is the plan for this increase? Would you seek to expand the pilot to additional sites in Alaska and elsewhere?

Answer. Of the $21.0 million Tiwahe Initiative increase in the fiscal year 2017 request, $18.4 million is for social/human services programs and $2.6 million is for the Public Safety and Justice's Tribal Courts program. Here is a summary of the funding breakdown:

—+$12.3 million—Social Services (TPA)
  —$5.0 million: Provide expanded social services such as child welfare and family and domestic services at five additional Tiwahe sites;
  —$5.2 million: Focus on capacity building at specific tribal sites, including the hiring of 30 additional social workers in Indian Country;
  —$1.0 million: Support the continuation of the Research and Evaluation contract which will assist tribes with goals and performance measures;
  —$1.1 million: Support the continuation of the Center for Excellence which gives tribes opportunities to continue learning, cross training, and to conduct information sharing in areas related to leadership, best practices, research, support and training.
—+$3.4 million—Indian Child Welfare Act (ICWA) TPA: Increase tribal preventive services efforts in providing family assistance and home improvement serv-

ices, which should build stronger families and decrease instances of child removal from the home.

—+$1.7 million—Housing Improvement Program (HIP): Improve housing conditions, and access to suitable housing, at the Tiwahe sites with a focus on veterans and single family households.

—+$1.0 million—Job Placement &Training Program (JPT): Support employment and training activities at Tiwahe sites.

—+2.6 million—Tribal Courts: Sustain the existing Tiwahe sites and provide targeted base funding to five additional locations under the Tiwahe Initiative. The resources will assist tribes in creating stronger tribal court infrastructure to address issues related to children and family services, as well as develop special projects to reduce the rate of repeat offenders and criminal recidivism.

If funded at the President's request, BIA would add five additional Tiwahe sites in fiscal year 2017. These five would join the original four selected in fiscal year 2015, and the two selected in fiscal year 2016 (bringing the total number of Tiwahe sites to eleven by the end of fiscal year 2017).

Question (2). ANILCA is perhaps the largest conservation contribution in the world's history and certainly the Nation's. Alaska has more Conservation System Units ("CSUs") than the entire Nation combined, yet we continue to see more and more land taken off the table for development. Land planning in Alaska is managed in a tenuous and never-ending process that specifically ignores ANILCA. The process results in outcomes that do not favor development. In addition, few people have the time, energy, and expertise to participate in these plans. For example: Bering Sea/Western Interior RMP contained 56 maps, 1,200 pages, and 63GB of data. Furthermore, this plan and similar plans exclude multiple-use through ACECs, RNAs, and other proposed closures. What is being done to ensure the balance for conservation and economic opportunity intended by ANILCA is considered for future land management plans?

Answer. The land use planning process in Alaska encourages collaboration and partnerships that assist the Bureau of Land Management (BLM) in determining how to balance the needs of adjacent communities with the management of public land resources. Recognizing the challenges associated with the timeliness of long term planning activities, BLM has recently developed the Planning 2.0 initiative that will improve the bureau's ability to respond to environmental, economic and social changes in a timely manner; strengthen opportunities for State and local governments, Indian Tribes, and the public to be involved in initial decisions leading to the development of land use plans; and improve the BLM's ability to address landscape-scale resource issues. In Alaska, the provisions of the Alaska National Interest Lands Conservation Act (ANILCA) and the Alaska Native Claims Settlement Act (ANCSA) are regularly incorporated into the planning process and when considering mitigation, provisions of FLPMA and ANILCA help identify significant resources and Conservation System Units that could be impacted by development. Early and frequent public engagement and a robust planning process that balance both conservation and resource use will continue to be the key to BLM's land use planning.

Question (3). As you know, once covering 160 million acres, the Public Land Orders ("PLOs") were put in place after 1971 to guarantee that Alaska Natives could select their ANCSA selections. The Department's own report in 2004 said there was no need for any more than 6.7 million acres to still be encumbered—and that number has since been further reduced over the past dozen years with the completion of revised Bureau of Land Management plans. Moreover, Natives have now filed all their selections.

a. Please provide specifically what actions your agency is taking to actively lift the remaining Public Land Orders (PLOs) reserving lands throughout the State of Alaska.

Answer. Public Land Orders (PLOs) determine which lands are or are not available for selection by either an Alaska Native Claims Settlement Act (ANCSA) corporation or the State of Alaska. This authorizes the Secretary to classify and reclassify the lands withdrawn and to open the lands to appropriation in accordance with the Secretary's classification. The original PLOs state that any lands not conveyed to an ANCSA corporation would remain reserved for study and review for the purpose of classification or reclassification. The Bureau's land-use planning process satisfies the requirement for such study, review, and classification and is the appropriate mechanism for recommending a withdrawal be lifted. Over the decades, many of these PLOs were amended several times to allow for millions of acres to be made available for State selection and/or entry under the mining laws.

The State currently has an estimated remaining entitlement of 5.2 million acres, but an estimated 14.9 million acres selected. By contrast, the State has 6.5 million acres of "top-filings" (future selections that would "attach" if and when the pertinent withdrawal (PLO) is lifted). It should be noted that the State has a statutory 25 percent limitation on its over selections. Based on its existing remaining entitlement, the State should have only 6.6 million acres of selections. The State is currently 8.3 million acres over its statutory limit on over-selections. Lifting any PLOs to make more lands available for the State to select would further increase its over-selection.

Currently, lands selected by the State are not available for a rural subsistence priority. Accordingly, lifting PLOs to allow a State top-filing to attach and become a selection will reduce the acreage of lands available for rural subsistence priority. This is one of the reasons the BLM feels that the Bureau's land use planning process, which is open to public input and comment (including by the State) is the appropriate mechanism for recommending a withdrawal be lifted.

b. I would like your commitment to lift all the remaining PLOs as soon as possible, and please provide a timeline by which you commit to abide.

Answer. The appropriate mechanism for recommending withdrawals is through the Bureau's land-use planning process. This process is open to public input (including the State of Alaska) and comment. Since 2007 in Alaska, four resource management plans have been completed where recommendations were made to lift withdrawals and currently there are three resource management plans ongoing where recommendations will be made upon completion.

Question (4). On February 4, I sent you a letter with Chairman Cochran, Chairman Rogers, and Subcommittee Chairman Calvert regarding the Office of Surface Mining's Stream Buffer Zone Rule. The letter related to the directive in the fiscal year 2016 omnibus that required the Office of Surface Mining to provide States with information they requested related to the Stream Buffer Zone Rule, as well as to meet with States at their request.

I am extremely concerned about the manner in which this rule has been written—primarily because 9 out of 10 of the States who entered the process as cooperating agencies decided to withdraw from the process because of a lack of meaningful consultation with OSM. This directive was meant to reverse course and ensure that OSM moves forward in a more cooperative manner.

Shortly after my letter was sent, the State of Alaska sent the Department a letter related to the requirement that OSM provide States with relevant reports, data and analyses. As an initial step, the State of Alaska requested that OSM provide a summary of the documents. The letter indicated that Alaska would then request a subset of those documents and eventually, request a meeting with OSM.

a. Have you provided the State of Alaska with the summary of documents they requested? If not, when do you anticipate that such information will be provided?

Answer. OSMRE made these documents available to all of the States on March 24, 2016, by uploading reference materials cited in the proposed rule on the Web site *regulations.gov* with the exception of reference materials protected by copyright law. OSMRE has also offered assistance through its librarian to those States that request such help to obtain copyright protected materials. The materials are available to the public. The Assistant Secretary and OSMRE officials are holding meetings with the State of Alaska on May 18–22, 2016.

b. In a recent budget hearing in the Senate Energy Committee, Deputy Director Connor said the documents specified in the report language would be ready for the States "in a few weeks." What is your plan for meeting with States after they have had time to review the information you are required to provide them?

Answer. OSMRE offered to dedicate its time at the Interstate Mining Compact Commission on April 18, 2016, to meet with the States. During these meetings, the Stream Protection Rule as well as other topics were discussed. In addition, OSMRE scheduled a series of technical meetings to further engage the States. Staff from 6 State regulatory authorities participated in the meeting on April 14, 2016 and 5 State regulatory authorities participated in the meeting on April 21, 2016.

c. Additionally, can you share the timing and process you envision for moving forward with the stream buffer zone rule? Given that the States will presumably be raising a number of new issues based on the information they receive in the technical documents, will you reopen the comment period so that the public has the opportunity to comment on that information as well?

Answer. OSMRE has prepared a summary of the State meetings for the administrative record. No additional public comment period for the rulemaking is currently planned.

Question (5). Within the Fish and Wildlife Service's Ecological Services budget, and specifically within the Endangered Species Listing program, the Department has proposed shifting a sizeable portion of the budget from "critical habitat designations" to "petitions." I am concerned about this shift because I am still hearing concerns from members who opposed the Department's decision to enter into a multi-species settlement agreement in 2011.

I have heard from members that this effort, which required the Service to make listing determinations on more than 250 species was done without consultation of local governments or communities that are impacted by that settlement agreement. With the actions required in that settlement agreement coming to an end in 2016, I am concerned that the Service will see fit to enter into another similar agreement.

How can I be certain that, if we decide to shift money from critical habitat designations to petitions, the Service will not be inclined to enter into a similar, closed-door settlement agreement?

Answer. The Endangered Species Act establishes mandatory duties and timeframes for various listing duties including petition findings, listing determinations, and critical habitat designations. Failure to meet the statutory timeframes can lead to lawsuits. When it is in the best interest of the Government to do so, litigation can be resolved through settlement agreements; this typically occurs when the Service does not have a viable defense and a settlement is expected to achieve more favorable terms through negotiation. To avoid litigation, the Service strives to meet the ESA's deadlines and has requested the funding needed to do so.

The requested amounts in the Listing subactivity reflect the anticipated fiscal year 2017 workload. In fiscal year 2017, the Service will need less funding than in fiscal year 2016 to address critical habitat designation for already listed species because there are fewer such critical habitat designations outstanding. In contrast, the anticipated workload for petition findings will be greater in fiscal year 2017 than in fiscal year 2016; thus, the budget includes funding under the subcap for the functional area to be increased. By having the subcaps reflect the distribution of the workload, the Service hopes to reduce litigation by working on all types of outstanding actions.

Question (6). I have been concerned with the Department's actions related to the polar bear for a number of years. I disagree with the 2008 listing determination and vehemently disagree with the designation of more than 187,000 square miles of land—an area larger than the State of California—as "critical habitat" for polar bears. When combined with the other hostile actions undertaken by the administration when it comes to developing our public lands, the listing and designation has the potential to devastate our State's economy.

My concern has long been that the Department based its listing decision more on the expectation that climate change would decrease polar bear habitat and stocks in the future, than on fact that stocks are currently in decline. I have seen no data to show that polar bear stocks currently are in significant decline across northern Alaska (the issue of potential Russian poaching aside) and thus, the species does not warrant protections under the Endangered Species Act.

Has the Department undertaken any recent efforts to consider new science related to polar bears in an effort to determine whether the species should be listed under the Endangered Species Act? If so, please provide me with the studies that you have considered. If not, please share with me the reason for not moving forward and whether there is a plan for moving forward.

Answer. The Fish and Wildlife Service (Service) initiated a 5-year status review under the Endangered Species Act of 1973, as amended (ESA), for the polar bear (*Ursus maritimus*) on October 13, 2015. The purpose of this 5-year review is to ensure that the polar bear has the appropriate level of protection under the Act. The polar bear's "threatened" status reflects the finding that it is not presently in danger of extinction, but is likely to become endangered in the foreseeable future. A 5-year review affords the opportunity to periodically take a comprehensive look at the full body of information available for a species and assess its progress toward recovery. These reviews assist the Service and its partners in identifying conservation needs, better targeting and prioritizing conservation efforts for the species, and determining whether a species may warrant downlisting, delisting, or uplisting.

As a part of the 5-year review, the Service published its intent to collect the following data regarding the polar bear species: species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics; habitat conditions, including but not limited to amount, distribution, and suitability; conservation measures that have benefited the species; threat status and trends;

and other new information, data, or corrections, including but not limited to changes in taxonomy or nomenclature and identification of erroneous information contained in the List of Endangered and Threatened Wildlife and Plants.

In addition to the 5-year review process, through the Service's participation in co-management arrangements via the U.S.-Russia Bilateral and Inuvialuit-Inupiat Agreements, the Service considers new science on an annual basis as it relates to sustainable harvest levels for the Chukchi and Southern Beaufort Sea subpopulations of the polar bear, which are harvested for subsistence. The Service does not have a recent population estimate for the Chukchi Sea subpopulation, but does have evidence that polar bear body size and condition remains stable despite the declines in habitat (sea ice). In the Southern Beaufort Sea subpopulation, multiple lines of evidence suggest that polar bears may be in decline due to decreased sea ice availability, including reductions in body size, body condition, and recruitment in recent decades (Regehr et al. 2006, Rode et al. 2010, 2014a). A recent publication (Bromaghin et al. 2015) indicates that polar bear numbers in the Southern Beaufort Sea subpopulation significantly declined from 2004 to 2007 and survival of subadult bears declined throughout the entire period of 2001–2010.

Regehr et al. 2006:

Regehr E.V., S.C. Amstrup, and I. Stirling. 2006. Polar bear population status in the southern Beaufort Sea. U.S. Geological Survey Open-File Report 2006–1337, U.S. Geological Survey, Alaska Science Center, Anchorage, AK, USA.

Rode et al. 2014:

Rode, K.D., E.V. Regehr, D.C. Douglas, G. Durner, A.E. Derocher, G.W. Thiemann, and S.M. Budge. 2014. Variation in the response of an Arctic top predator experiencing habitat loss: feeding and reproductive ecology of two polar bear populations. Global Change Biology 20:76–88.

Rode et al. 2010:

Rode K.D., S.C. Amstrup, and E.V. Regehr. 2010. Reduced body size and cub recruitment in polar bears associated with sea ice decline. Ecological Applications 20:768–782.

Bromaghin et al. 2015:

Bromaghin, J. F., T. L. McDonald, I. Stirling, A. E. Derocher, E. S. Richardson, E. V. Regehr, D. C. Douglas, G. M. Durner, T. Atwood, and S. C. Amstrup. 2015. Polar bear population dynamics in the southern Beaufort Sea during a period of sea ice decline. Ecological Applications 25:634–651.

Question (7). The Fish and Wildlife Service has requested the authority to seek compensation from responsible parties who damage or destroy National Wildlife Refuge System or other Service resources. This legislative language has been circulating for a number of years. In 2014, a hearing was held in the Environment and Public Works Committee a bill that was introduced by Senator Cardin. My understanding is that no legislation has been introduced in the current Congress and the Environment and Public Works Committee has not taken action on the matter.

a. Why has the Department only requested this authority for the Fish and Wildlife Service? I understand the National Park Service has similar authority already, but the Bureau of Land Management does not. Is there a reason that the request was made only for the Fish and Wildlife Service?

Answer. The National Park Service (NPS) and Bureau of Land Management both have authorities to allow them to retain collections from damages for repair and restoration.

The NPS authority provided by 54 U.S.C 100721–25 allows NPS to use response costs and damages recovered under the authority or amounts recovered under any statute as a result of damage (destruction, loss of, or injury) to any resource within a unit of the National Park System to be retained and used for response costs, damage assessments, restoration, and replacements.

The Bureau of Land Management's annual appropriations language for Service Charges, Deposits and Forfeitures provides general Federal authority to collect fees for rehabilitation of damaged public lands. The BLM has specific requirements in the BLM Realty Trespass Abatement Handbook on the deposit and use of rehabilitation/stabilization funds. It states that funds received for rehabilitation/stabilization of damaged lands as result of trespass settlement or bond forfeiture are deposited into the Service Charges, Deposits and Forfeitures account and are available for in-State rehabilitation and stabilization work on lands damaged by trespass.

b. I have heard concerns that providing this authority will lead to additional prosecutions of individual because the Service will be incentivized by the prospect of additional revenue. What can you do to assure me that this will not happen?

Answer. The Service has a responsibility to manage public resources for both current and future generations. In order to maintain these resources, the Service expects parties responsible for damaging them, not taxpayers, to pay restoration costs. The intent of this authority is to ensure that the Service, and the American people, will not have to pay for restoration activities and that those causing these impacts pay for their restoration. It is not intended to generate revenue for the Service.

While this authority would be new for the Service, it is not a new authority for government agencies. The National Park Service (NPS), National Oceanic and Atmospheric Administration (NOAA), and the Bureau of Land Management (BLM) have similar authorities and we look to their models to implement this law, if enacted.

Any funds collected to compensate for resource injuries will be used to rectify that specific injury alone. The legislation, if enacted, would deposit the recovered funds into the Department of the Interior Natural Resource Damage Assessment and Restoration Fund, as is done with natural resource damages recovered under the Comprehensive Environmental Response, Compensation, and Liability Act, the Oil Pollution Act, and the Park System Resource Protection Act (16 USC 19jj). These funds would be maintained separately and used solely for cases handled under this authority.

Question (8). The fiscal year 2016 Omnibus Appropriations bill contained a substantial increase for the Land and Water Conservation Fund (LWCF). The total discretionary appropriation was $450 million, an increase of $50 million over the President's fiscal year 2016 discretionary total and $144 million over the fiscal year 2015 enacted level of $306 million. Congress was able to fund the President's proposed discretionary funding lists and increase the NPS State side program to $110 million. Given the funding pressures for the Interior bill this year it will be hard to meet the fiscal year 2016 appropriated level; therefore, we need to carefully look at the projects the President has proposed in his budget submission to make sure they have been fully vetted and are ready to go.

The explanatory statement on the fiscal year 2016 Omnibus stated that many of the projects the administration has proposed over the years lack sufficient information, and that requested projects should have identified properties, willing sellers, updated appraisals or market information, and the support of Federal, State, and local officials.

Have all of the projects submitted in the fiscal year 2017 budget met all of these conditions?

Answer. To the greatest extent possible, LWCF land acquisition projects proposed by the fiscal year 2017 budget meet the conditions laid out by the fiscal year 2016 Omnibus explanatory statement; however, the Department chooses to use discretion when it comes to disclosing certain details on the projects in the Greenbooks for a variety of reasons. Upon request from the Appropriations Committee, the bureaus may provide further details to cover the conditions, and both the bureaus and Department make a point to alert in a timely manner the Interior Appropriations Subcommittees if project details and/or status change.

The bureaus included the following information in the Greenbook project data sheets, as well as briefing materials for Congress, for each proposed acquisition:

—Full page profiles and maps of each acquisition, including estimated cost, acres, and location. Should those details change or be updated, the bureaus and Department relay that information to the Appropriations Committee.

—Contributors known to the bureaus' State and regional offices that are partners or supporters of the proposal acquisition. These identified contributors may include, but are not limited to, the following: State, county or local governments or agencies; national, State or local private non-profit organizations; Federal Government partner agencies; charitable foundations; land and battlefield trusts; and local and regional committees or networks (including those representing ranchers, farmers, hunters, anglers, and other outdoorsmen).

The bureaus did not cite by name in the Greenbook project data sheets individual Federal, State, and local officials who support projects, choosing instead—where applicable—to cite the support of Federal, State, county, or local governments or agencies.

Willing sellers are not identified in the budget for several reasons. Bureaus, working through their field and regional offices, identify land parcels in or adjacent to public lands for purchase, as well as potential willing sellers. Given that acquisition projects may take 2 to 3 years to complete, in the early stage of a budget request,

bureaus may not have concrete willing sellers yet (only potential). Privacy issues may arise when landowners and potentially willing sellers do not want their neighbors to know that they are talking to the government about selling. Additionally, there is the value expectation. If a landowner sees his or her name listed along with a request number, the landowner comes to expect the entire amount, regardless of the actual appraised value.

Details on each land acquisition project also reflect consideration of several additional criteria important to the bureaus and Department, including the ecological, economic, and cultural values the project conserves; contribution of leveraged funds; partner participation and support; and the urgency of project completion to protect natural areas and wildlife species habitats from development or other incompatible uses.

In a continuing effort to provide user friendly data, the Department provides an interactive map of the properties it submitted for consideration to Congress for the 2017 budget at: https://www.doi.gov/sites/doi.gov/files/uploads/LWCF__BIB__map__FY2017.pdf.

Question (9). The explanatory statement also expressed that the agencies should include the feasibility of phasing projects as well as a description of which parcels are being considered for conservation easements or fee simple acquisition.

Discuss compliance with this guidance. What number or percent of the requested projects were identified as able to be accomplished in phases? What number or percent of the projects were identified as acquisitions for conservation easements versus fee simple acquisitions?

Answer. For the BLM, several of the fiscal year 2017 projects could be phased—within discretionary funding 10 of the 14 projects (or 71 percent) could be phased. Within BLM discretionary funding, 68 percent would be invested in fee acquisitions and 32 percent would be invested in easement acquisitions.

The FWS discretionary request for fiscal year 2017 would purchase approximately 16,375 fee acres (39 percent) and 25,670 conservation easement acres (61 percent). Most of the FWS projects have already been phased; however, four of the projects, or 25 percent, can be further phased since they are comprised of multiple tracts.

Of the 33 projects included in the NPS fiscal year 2017 budget for Federal land acquisition, four projects are parts of phased acquisitions:

1. *Grand Teton NP(Discretionary):* The State of Wyoming entered into an agreement with the United States for a phased conveyance of approximately 1,400 acres of State-owned land within Grand Teton National Park. The fiscal year 2017 budget includes $22.5 million which will be obligated to cover the Federal cost of a portion of that phased conveyance.
2. *Hawaii Volcanoes NP (Discretionary):* Funding requested ($6 million) will be used to acquire half of the 16,467-acre Pohue Bay/Kau Coast property at the park.
3. *Hawaii Volcanoes NP (Mandatory):* Funding requested ($6 million), if appropriated, will be used to acquire the second half of the Pohue Bay/Kau Coast property at the park.
4. *Palo Alto NHP (Mandatory):* The requested funds would commence a phased acquisition of a tract containing 1,353.84 acres of land (Total Estimated Value: $9,125,000) located within the national historic site.

Of the 33 projects included in the NPS fiscal year 2017 budget request for Federal land acquisition, three projects are identified as easement or less-than-fee acquisitions (Death Valley NP, Katmai NP and Redwood NP), one project involves both fee and easement acquisitions (Martin Van Buren NHS), and two projects may involve either fee or easement acquisitions (Little River Canyon NPres and Nez Perce NHP). The possibility of acquiring a conservation easement varies, depending on the contemplated Federal use of the property and the willingness of the landowner to sell such easement.

Question (10). The explanatory statement also included language to increase the transparency of the project selection and prioritization processes in the annual budget requests, particularly in regard to collaborative landscape projects. Over the years, there has been concern among many in the community and here in Congress about how the administration picks projects for the discretionary and mandatory lists. It appears that many of the projects have been geared toward the Western US and that geographic distribution of funds has not been a factor in your project selection. Typically Congress has funded the proposed lists in the order requested; however, with questions about the quality of projects and the process used to select projects Congress may need to revisit this approach.

Given these questions about quality and process: What process does the Department use to compile the project lists, including for identifying collaborative areas?

What considerations does the Department take into account when selecting and prioritizing projects? What is the geographic distribution of requested funds?

Answer. The President's fiscal year 2017 budget includes 135 land acquisition projects across the Department of the Interior and the Department of Agriculture's four land management agencies in 41 States. The wide range of projects proposed for funding includes important wildlife habitat and migration corridors in Florida's Everglades, grassland and wetland habitats popular with hunters and anglers in eastern North Dakota and South Dakota, historic structures associated with the Wright brothers and the early development of the airplane at the Dayton Aviation Heritage National Historical Park in Ohio, permanent public access to the South Puget Sound Coastal Forest in Washington State, scenic vistas along the Appalachian Trail, and popular public recreation sites in national monuments in Arizona, Idaho and New Mexico. The attached map shows the location of each proposed land acquisition project, and demonstrates the geographic diversity of projects in fiscal year 2017.

The National Park Service (NPS), Bureau of Land Management (BLM), and Fish and Wildlife Service (FWS) each has its own criteria that are used to evaluate and prioritize proposed land acquisitions.

NPS utilizes a nationwide priority ranking system, the Land Acquisition Ranking System (LARS). The initial information for each project is provided by the park unit and reviewed by regional or field offices of the Land Acquisition Program. Land Acquisition staff in each office assists the Regional staff in ranking the requests received using guidelines provided by the Washington (WASO) Program Office. The LARS incorporates several criteria, including, but not limited to: the threat to and preservation of the resource; a commitment has been made to acquire; involvement of partners, non-profit group support or availability of matching funds; recreational opportunities; existence of legislative authority to acquire; and ability to obligate appropriated dollars.

For BLM, submissions include a completed project narrative, fact sheet, questionnaire, representational map(s) and digital color images—and are limited to no more than 20 projects per State Office (SO). To be eligible projects must be:

1. Within or contiguous to, a unit of the National Landscape Conservation System (NLCS) (with the exception of Wilderness Study Areas), an Area of Critical Environmental Concern or a Special Recreation Management Area;
2. Comply with Section 205 (b) of the Federal Land Policy and Management Act (identified for acquisition within an approved land use plan); and
3. Be available for purchase from a willing seller owner.

Submissions are then reviewed by the National Review Team (NRT). The NRT is a multi-disciplinary team consisting of representatives from different levels of the organization. The NRT recommends a prioritized list of project proposals to the Bureau of Land Management (BLM) leadership. The BLM Land and Water Conservation Fund (LWCF) Land Acquisition list reflects bureau and departmental priorities, potential sources and levels of funding, and the latest information on willing sellers.

FWS's 2014 Strategic Growth Policy directs FWS to focus on acquiring lands and waters in fee, conservation easement, and/or donation that support three conservation priorities:

1. Recovery of threatened and endangered species;
2. Implementing the North American Waterfowl Management Plan; and
3. Conserving migratory birds of conservation concern.

Based on these three priorities to evaluate proposed NWRS land acquisitions, FWS uses the Targeted Resource Acquisition Comparison Tool (TRACT). The TRACT provides a biological, science-based, and transparent process for ranking proposed NWRS land acquisitions.

TRACT biological evaluation plays a role in LWCF budget formulation, but is not the only factor considered when making decisions about where to request LWCF funds for NWRS land acquisition. The LWCF project list submitted by FWS reflects additional considerations, such as bureau operational priorities, partner support, potential non-Federal funding sources, unique land acquisition opportunities, and the latest information on willing sellers. Land acquisition projects proposed for the fiscal year 2017 budget reflect additional important factors, including conservation partner participation, and urgency of project completion to protect natural areas from development or other incompatible uses.

The Service considers the minimum interest necessary to reach management objectives. For example, conservation efforts for the greater sage grouse and central Florida ecosystem are compatible with traditional land use. Therefore the Service may choose to seek conservation easements or, to enhance public access and rec-

reational opportunities, a combination of fee and conservation easements acquisition.

The administration's strategic approach to using LWCF land acquisition funds in fiscal year 2017 includes funding for Collaborative Landscape Planning (CLP) projects. This interagency program brings the Departments of the Interior and Agriculture together with local stakeholders to identify large natural areas where LWCF funds can achieve the most important shared conservation and community goals in the highest priority landscapes. Conserving large-scale natural areas provides multiple resource and economic benefits to the public, including clean drinking water, recreational opportunities, protected habitat for at-risk and game species, and jobs generated on and off these lands. The Secretaries of the Interior and Agriculture follow a rigorous competitive and merit-based based evaluation process to select collaborative landscapes for investment. After evaluating and prioritizing multiple ecosystems, they selected seven landscapes for discretionary and mandatory funding in fiscal year 2017:

—Island Forests at Risk (Hawaii)
—High Divide (Idaho, Montana)
—Rivers of the Chesapeake Collaborative (Maryland, Virginia, West Virginia)
—National Trails System (California, Georgia, Hawaii, Idaho, Montana, New Mexico, Oregon, Pennsylvania, Tennessee)
—Florida-Georgia Longleaf Pine Initiative (Florida)
—Southern Blue Ridge (Georgia, North Carolina, Tennessee, Virginia)
—Pathways to the Pacific (Oregon, Washington).

Qualifying projects are submitted by bureaus which are evaluated and selected for inclusion within available budget resources.

Question (11). According to the EPA, methane emissions from hydraulic fracturing at natural gas wells is down 83 percent since 2011 and total methane emissions from natural gas production are down 38 percent since 2005.

a. Is natural gas a key component of GHG reductions?

Answer. Reducing natural gas emissions reduces waste of America's public resources and provides important greenhouse gas (GHG) emission reductions. Methane, the primary component of natural gas, is an especially powerful GHG. Its climate impact is roughly 25 times that of CO_2, if measured over a 100-year period, or 86 times that of CO_2, if measured over a 20-year period.[1] Thus, measures to conserve such gas, avoid its waste, and reduce unnecessary releases significantly benefit local communities, public health, and the environment.

b. Does the use of natural gas help drive down GHG emissions?

Answer. The effect of use of natural gas on GHG emissions depends on both the energy source that would be used in lieu of the natural gas, and on the quantity of methane lost during the natural gas production process. Assuming limited methane losses, replacing coal or oil with natural gas can help drive down GHG emissions. Where natural gas replaces non-carbon energy sources, such as renewable or nuclear energy, however, the use of natural gas increases GHG emissions. Also, because methane is a far more potent GHG than CO_2, methane lost during the natural gas production process can offset the benefits of using natural gas in place of other fossil fuels.

c. Does the administration want to see U.S. natural gas production continue to help bring down GHG emissions?

Answer. The continued production and use of natural gas are consistent with the administration's goal of achieving a cleaner, more secure energy future, provided that gas losses are minimized. Consistent with this recognition and our overall climate goals, finalization of the recently proposed Methane and Waste Prevention rule will help curb waste of our Nation's natural gas supplies, reduce harmful methane emissions that worsen climate change, and provide a fair return on public resources for Federal taxpayers, tribes and States.

Question (12). Over the course of the U.S. energy boom, according to the Energy Information Administration, marketed natural gas production has increased by 35 percent, over the 9-year period from 2005 to 2013, from about 19 trillion cubic feet of gas per year to about 25 and a half trillion cubic feet of gas per year. Over this same period, EPA data show that methane emissions from hydraulically fractured natural gas wells decreased by about 80 percent, emissions from natural gas produc-

[1] See Intergovernmental Panel on Climate Change, Climate Change 2013: The Physical Science Basis, Chapter 8, *Anthropogenic and Natural Radiative Forcing,* at 714 (Table 8.7), *available at* https://www.ipcc.ch/pdf/assessment-report/ar5/wg1/WG1AR5 Chapter08 FINAL.pdf.

tion decreased by about 38 percent and total methane emissions decreased by about 11 percent.

a. In view of this information, and in view of EPA's continued efforts to reduce methane emissions from industry sources, why has the BLM, under your authority, chosen to promulgate its own methane regulations?

Answer. The proposed Methane and Waste Prevention Rule aims to reduce the waste of natural gas from BLM-administered mineral leases. This gas is lost during oil and gas production activities through flaring or venting of the gas, and equipment leaks. The BLM has an independent statutory responsibility to address this waste. Specifically, the Mineral Leasing Act of 1920 (MLA) requires the BLM to ensure that lessees "use all reasonable precautions to prevent waste of oil or gas . . ." (30 U.S.C. 225). While oil and gas production technology has advanced dramatically in recent years, the BLM's requirements to minimize waste of gas have not been updated in over 30 years. The BLM believes there are economical, cost-effective, and reasonable measures that operators should take to minimize waste, which will enhance our Nation's natural gas supplies, boost royalty receipts for American taxpayers, tribes, and States, and reduce environmental damage from venting and flaring.

EPA has finalized regulations under the Clean Air Act to reduce methane emissions from certain new, reconstructed, and modified oil and gas production activities. While these requirements will have the effect of reducing some losses of gas as well, the EPA requirements are not aimed directly at waste and would not fulfill the BLM's statutory responsibilities. For example, unlike the proposed BLM regulations, the proposed EPA regulations do not address gas losses through flaring, and do not address gas losses from existing sources, unless the existing source is modified or reconstructed (as defined by EPA).

b. Related to this question, can you describe the consultation that the BLM has undertaken with EPA, and with the State regulatory agencies with Clean Air Act authority in the states with operations on BLM lands?

Answer. The BLM has engaged in substantial stakeholder outreach in the course of developing the proposal. In 2014 and 2016, the BLM conducted a series of forums to consult with tribal governments and solicit stakeholder views to inform the development of the proposed rule (2014) and to discuss the proposed rule after publication (2016). The outreach included tribal and public meetings (some of which were livestreamed) in Colorado (2014/2016), New Mexico (2014/2016), North Dakota (2014/2016), Washington, DC (2014), and Oklahoma City (2016).[2] For each forum, BLM held a tribal outreach session in the morning and a public outreach session in the afternoon. The BLM also accepted informal comments generated as a result of the public/tribal outreach sessions (2014).

The BLM also consulted State regulators (both oil and gas regulators and air quality regulators) both while developing the proposal and since its issuance. Specifically, the BLM held discussions with regulators from: North Dakota (2014/2016), Wyoming (2014/2016), Alaska (2014/2016), Colorado (2014/2016), Utah (2014/2016), and New Mexico (2014) to discuss the States' rules and practices, their effectiveness, the States' recommendations with respect to the BLM rulemaking, and their views on the proposal. The BLM is continuing to hold further discussions with States, is looking forward to receiving detailed written comments from State regulators, and will take those comments into careful consideration in developing the final rule.

During the development of the proposed rule, the BLM and the EPA held regular discussions to share data and technical information, identify areas of potential overlap between the two regulatory efforts, consider ways to align the proposed rule requirements as much as practicable, and identify provisions where the BLM could exempt otherwise covered sources or activities because they are or are proposed to be subject to equally effective EPA requirements. Those meetings are continuing during development of the final EPA and BLM rules.

Question (13). Over the last few years the United States has undergone an energy renaissance which has created thousands of new well-paying jobs, made the United States more energy secure and less reliant on evil powers across the globe as well as make U.S. energy more affordable—just look at the cost of gasoline today—all while methane and GHG emissions have dramatically declined. During this same time BLM's permitting process continues to lag which is not only a lost opportunity for the benefits I just described, but also to the detriment of potential revenues to the Federal Treasury and the States. Additionally, the BLM has put out a number of regulations and proposals including the Hydraulic Fracturing, updates to Onshore

[2] Further information can be found at the BLM oil and gas program's outreach–events page: http://www.blm.gov/wo/st/en/prog/energy/public events on oil.html.

Orders 3, 4, and 5, and the proposed venting and flaring rule. Each of these, separately and combined, could have real effects on U.S. energy production, jobs, revenues, etc. If the goal of the Climate Action plan is to decrease GHG emissions, does it make sense to propose a suite of regulations that will shut down U.S. natural gas production?

Answer. The common-sense and cost-effective rules BLM has proposed or finalized in the last 2-plus years are an important component of its efforts to modernize its oil and gas program. These regulations—including the proposed updates to Onshore Orders 3, 4, and 5, the Hydraulic Fracturing Rule, and the proposed Methane and Waste Prevention Rule—are all necessary updates to 30-year old regulatory requirements that no longer reflect modern technology or practices. The BLM expects that these regulatory efforts will increase production and royalty accountability, enhance the safety of operations, and conserve resources, without harming U.S. energy production.

These rules often propose or adopt standards and practices developed by industry that are already being successfully employed by operators. Updating and clarifying the regulations will make them more effective, more transparent, and easier to understand and administer, which will benefit both industry and the public. The proposed and adopted changes will provide modern, effective regulation of oil and gas operations on BLM-administered leases, ensuring such development occurs in an environmentally responsible way that provides a fair return to taxpayers.

Question (14). For several years, the EPA has been working on the development of new requirements for compliance with elements of the Clean Air Act for oil and gas production operations. The process of developing new regulations for emissions from new sources has involved—indeed required—highly technical discussions, and has been characterized by regular opportunities for substantive discussion between EPA and the regulated industry. Why is the BLM undertaking its own separate rulemaking process?

a. Did the BLM work with the EPA to make sure the two packages were not in conflict with one another? If so, why are there many examples of the two rules differing or the BLM requiring something the EPA determined was not necessary or cost prohibitive?

   For example: BLM's inclusion of liquids unloading requirements when EPA has determined there is not a single cost-effective method that can address this source. Additionally, there are differences between survey frequency based on number of leaks (BLM) versus percent of components (EPA).

Answer. The BLM and the EPA have worked closely together throughout the rulemaking processes to ensure that the two regulatory packages are not in conflict with each other, as discussed in more detail in the response to Question 12a. In some cases the two rules are different because they are being adopted under different statutory authorities and they have different primary purposes.

For example, our understanding is that section 111 of the Clean Air Act requires the EPA to base its standards on an identified "best system of emission reduction." The EPA proposed that it could not identify a single best system of emission reduction that should apply in all situations to reduce emissions from liquids unloading. In contrast, the Mineral Leasing Act simply requires the BLM to ensure that lessees "use all reasonable precautions to prevent waste of oil or gas . . ." 30 U.S.C. 225. With respect to liquids unloading, the BLM has determined that there are multiple technologies and practices that would reduce gas losses from liquids unloading, depending upon the particular circumstances of the well. The BLM has not proposed to require operators to use specific technologies. Rather, the BLM has simply proposed a performance-based standard—to prohibit liquids unloading through manual well purging from new wells—allowing operators to choose the technologies or practices to apply to achieve this result.

Question (15). What assurance do we have that the two agencies' efforts can be coordinated such that BLM's rulemaking will be informed by the EPA effort so that regulatory conflict is avoided?

Answer. The BLM and the EPA fully understand the importance of coordinating their approaches, have coordinated closely throughout the rulemaking processes to date, and are committed to continuing to coordinate until both rulemakings are finalized. As a practical matter, the EPA's rulemaking was finalized before the BLM's rulemaking, which allows the BLM to take EPA's final rule fully into account before finalizing the BLM's rule.

Question (16). How do these rules interact with the State's own efforts on methane? What consideration did you give the State programs? Is there a scenario where projects will need to comply with a State methane program and regime, a different

BLM methane program and regime and a different EPA methane program and regime? Is that necessary and reasonable?

Answer. As discussed in the response to Question 12b, the BLM has reached out to many States to gain an understanding of State regulations and the States' experiences with their regulations. In fact, many of the provisions in the proposed rule track elements of effective State programs.

The BLM has also constructed its proposed rule to address concerns about the potential for multiple applicable regulations. To minimize any overlap with EPA regulations, the BLM proposed that sources meeting the EPA requirements would either be exempt from the BLM rules altogether, or be permitted to demonstrate compliance with the EPA requirements in lieu of meeting the BLM requirements, depending on the specific requirement. In addition, the BLM and the EPA proposed to align their requirements to a very significant degree and aim to further align the final rules, to the full extent consistent with legal authorities and with consideration of comments received.

With respect to State rules, the BLM proposed specific provisions to allow variances from one or more BLM requirements where one or more State requirements are equally or more effective.

Question (17). How does the cost-benefit analysis hold up when there are a lot of legacy producing wells that would cost more to comply with these proposals than the energy that is produced which would then result in production being shut-in? Would this mean that DOI loses in royalty revenue?

Answer. The proposed rule includes several exceptions and alternative limits that would apply if implementing provisions of the rule would impose such costs as to cause the operator to cease production and abandon significant recoverable oil reserves under a lease. The Regulatory Impact Analysis for the proposed rule projects that the rule would produce modest increases in both gas production and royalties.

Question (18). In January, a magnitude 7.1 earthquake hit Alaska. Though a handful of families lost their homes, damage was limited because the earthquake occurred away from populated areas. Alaska's history demonstrates clearly, however, that we are not always so fortunate.

a. In 2000, congress authorized the Advanced National Seismic System to "establish and maintain an advanced infrastructure for seismic monitoring throughout the United States that operates with high performance standards . . ." A decade and a half later, many of the baseline performance standards set by this program have not been achieved in Alaska. As other States with high earthquake hazard move on to advanced technologies, such as earthquake early warning, what is the Department doing to make sure Alaska has access to the instrumentation, technology, and funding needed to expand and modernize the seismic infrastructure?

Answer. In the past 15 years, the USGS has invested in earthquake monitoring and reporting, seismic hazard assessment, and other earthquake loss reduction activities in Alaska, and collaborates with several groups in the State. The USGS supports the Alaska Earthquake Center and the University of Alaska—Fairbanks (UAF), our regional seismic network partner in the State, at about $600,000 per year. The USGS also supports the Anchorage Strong Motion Network, a collaborative effort among the USGS National Strong Motion Project, the Alaska Volcano Observatory (a joint center of the USGS, UAF, and Alaska Division of Geological & Geophysical Surveys). The network consists of more than 30 free-field stations, a borehole site, and several instrumented buildings and bridges. USGS monitoring investments in Alaska also include USGS National Network stations, and the services provided by the USGS National Earthquake Information Center.

In recent years, the USGS invested in improvements to the Anchorage and Alaska regional seismic networks. For example, in 2010, USGS made an award to the UAF of $483,000 plus seismic equipment for upgrading these networks. The USGS has also invested in improving the Anchorage monitoring infrastructure. As a result of these improvements, high-quality data on how shaking varied across the Anchorage urban area were successfully collected from the January 2016, magnitude-7.1 earthquake. The USGS has also supported the Delaney Park geotechnical array in Anchorage, operated by the University of California, which provides field observations of earthquake activity and uses these observations as control data for testing models and simulation techniques.

b. Language was included in the fiscal year 2016 omnibus for USGS to conduct a cost benefit study related to earthquake monitoring for Alaska. Please tell me what the status of that report is and when we may be able to expect to see some of the findings?

Answer. A working group has been formed to conduct a cost-benefit study for monitoring improvements in Alaska: the study will be released in the fall of 2016 or before. The working group will evaluate the costs and benefits of seismic station adoptions, earthquake early warning, as well as improvements to existing monitoring operations. USGS will use the results of this study in its planning for future investment in seismic monitoring in Alaska.

c. President Obama's 2013 arctic strategy document emphasizes cooperative efforts with the State of Alaska to respond to natural and man-made disasters. In the last 2 years there have been significant swarms of earthquakes in the Bering Sea, Northwest Alaska and the Arctic National Wildlife Refuge. How does the Department intend to engage with the State of Alaska to develop earthquake mitigation strategies for the Arctic region?

Answer. The USGS is a member of the four-agency National Earthquake Hazards Reduction Program (NEHRP) partnership, but developing earthquake mitigation strategies are primarily the responsibility of the National Institute of Standards and Technology and Federal Emergency Management Agency. As a member of the NEHRP, the USGS conducts and supports targeted geoscience research investigations on earthquake causes and effects; produces seismic hazard maps and assessments; monitors and reports on earthquakes and shaking intensities; works to improve public understanding of earthquake hazards; and coordinates post-earthquake reconnaissance carried out and supported by NEHRP agencies and other organizations.

Question (19). The President's proposal includes an increase of $8.8 million for USGS activities related to the Arctic.

a. Could you provide more detail on the Department's Arctic priorities, particularly as they relate to the administration's "Implementation Plan for its National Strategy for the Arctic Region"?

Answer. On May 10, 2013, the President issued the National Strategy for the Arctic Region (Strategy). The accompanying Implementation Plan set forth the methodology, process, and approach for executing the Strategy. The Implementation Plan follows the structure and objectives of the Strategy's three lines of effort:

—Advance United States Security Interests
—Pursue Responsible Arctic Region Stewardship
—Strengthen International Cooperation

The Implementation Plan reflects the reality of a changing Arctic environment and upholds national interests in safety, security, and environmental protection, and works with international partners to pursue global objectives of addressing climatic changes. The Implementation Plan complements and builds upon existing initiatives by Federal, State, local, and tribal authorities, the private sector, and international partners, and focuses efforts where opportunities exist and action is most needed.

Under the Implementation Plan, the Department's priorities include:

—Ensuring the safe and responsible exploration and development of onshore and offshore Arctic non-renewable energy resources in an environmentally sound manner;
—Implementing Integrated Arctic Management and employing management approaches, such as ecosystem-based management, to enhance good governance to provide for sustainable economies in the region, ensure long-lasting benefits of balanced ecosystems, and preserve cultural activities of the people that depend on the Arctic environment; and,
—Coordinating and integrating terrestrial ecosystem research to increase the understanding of geophysical and ecosystem responses to a changing climate and to inform management decisions and subsistence uses.

The Department continues to study offshore environments, evaluate energy development and spill response capabilities, and to promote safety across all energy development activities. In cooperation with the State of Alaska and Alaska Native organizations, the Department is also encouraging use of Integrated Arctic Management, a science-based, whole-of-government approach for stewardship and planning, that integrates and balances environmental, economic, and cultural needs and objectives.

The Department is also a member of the Interagency Arctic Research Policy Committee (IARPC) to advance research in areas of common interest to member agencies. The IARPC 2013–2017 research plan was drafted with contributions from all IARPC agencies with public involvement. The plan, which is currently being updated, intentionally builds on the strong intellectual accomplishments and ideas of

the research community at the Federal, State, local, and tribal levels as well as inclusion of ideas from the academic community, non-governmental organizations, and industry. As an IARPC member, the Department is engaged in answering key research questions such as determining the impact of diminishing permafrost on Arctic ecosystems and inhabitants.

The 2017 budget request for the Department's activities in the Arctic is $160.6 million, an increase of $15.8 million above the 2016 enacted level. The request for USGS includes increases totaling $9.8 million, which includes $8.8 million in Arctic funding and a net addition of $1 million primarily for Alaska map modernization that will be applied to the Arctic. Across the USGS, these increases will be used to analyze the impacts of a changing climate, including changing distributions of fish and wildlife populations, the melting of glaciers and the resulting impact to fresh water resources; to analyze the risks posed by sea-level rise to coastal communities; and to develop predictive models.

b. Also, can you provide specific details about the type of research and activities that would be conducted if this funding were approved? For example, will these activities improve our understanding of the continental shelf offshore Alaska's north coast?

Answer. With these increases, the USGS will support research and development efforts focused on the Arctic through a multidisciplinary approach designed to both individually understand and holistically evaluate ecosystem processes and interactions in the Arctic to provide the objective science needed for effective management of Arctic resources. Additionally, an increase of $1.5 million within the National Geospatial program for Alaska map modernization will be used in the Arctic region and a proposed decrease in the Mineral Resources program reduces Arctic spending by $500,000. Including the Alaska map modernization funding to be used in the Arctic, the President's budget request includes an increase of $9.8 million for USGS Arctic activities.

The increase of $1.0 million in the Environments Program in the Ecosystems Mission Area will be used to analyze changes in fish and wildlife population distribution and habitats. Additionally, the program will use computer simulations to improve strategies for estimating polar bear populations from data gathered in Western Hudson Bay, the Chukchi Sea, and the Southern Beaufort Sea.

The increase of $500,000 for the DOI Alaska Climate Science Center and other related programs will develop a process to estimate total glacier loss in Alaska and any changes in freshwater input. These and other forecasts will improve understanding of effects on river systems and ecosystem dynamics that affect economically and culturally important species such as salmon and caribou. The funding would build upon other research investments in interior Alaska to better understand the potential for larger scale and more frequent effects of ecological drought in the region.

Additionally, the increase of $1.9 million in the Climate and Land Use Change Mission Area's Land Remote Sensing Program is to develop predictive models for permafrost melt. Using remote sensing data from satellites and airborne systems, in combination with field-based studies, this work will prepare Arctic communities for the effects of the thawing land beneath them and improve global climate modeling.

The increase of $3.5 million in the Coastal and Marine Geology program within the Natural Hazards Mission Area accelerates work for underserved communities dealing with impacts of sea level rise, severe storms and melting permafrost on their coastal communities and economies. The cost of field studies in these large and remote areas, the lack of baseline data, and the poorly understood dynamics of icebound and permafrost coasts limits the availability of coastal change tools to benefit Alaskan communities. The increase will accelerate bringing Artic communities the tools available to open-ocean coastal regions of the coterminous United States. The investment will improve coastal change models for forecasting and assessing vulnerability over the next 10–25 years.

The increase of $2.0 million for the Water Resources Water Availability and Use Science Program will address interactions among water-mediated processes in a warming Arctic and assess system feedbacks (e.g., effects of warming on hydrology and biogeochemical cycling, which subsequently affects climate and hydrology). The program will investigate methods that allow extrapolation from monitored to unmonitored locations and expand monitoring of sentinels of change, including permafrost temperature, streamflow, and materials exported from watersheds.

Within base funding, continued analyses of geologic data resulting from the joint USGS–NOAA–Department of State effort to define the limits of the Extended Continental Shelf will result in enhanced understanding of the continental shelf, slope,

and Arctic Ocean basin. Analyses of these data, and data from surveys supported by USGS–DOE investigations of methane gas hydrates, will enhance our understanding of the stability of the continental shelf and slope and the potential for and consequences of hydrate release in response to changing oceanographic conditions.

c. Will the research improve our understanding of the resource potential for new oil and gas discoveries, as well help us understand how to minimize the risks of utilizing those resources?

Answer. The USGS Energy Resources Program conducts oil and gas resource assessments across the Nation. The program has several active projects in the Arctic, including research on unconventional oil and gas (UOG), which will continue with base program funds. These continued studies of shales and other tight formations on the Alaskan North Slope will help underpin more accurate resource assessments and reduce the uncertainty associated with resource development.

The 2017 President's budget proposes several increases for unconventional oil and gas research across the Nation, including $1.0 million for the USGS Energy Resources Program, a portion of which will support field research in Alaska to assess undiscovered UOG resources on the North Slope of Alaska. This additional funding will provide for field research in Alaska on an annual basis instead of the current research cycle of every other year, allowing more comprehensive data collection and accelerating assessments.

The proposed increase for the program's unconventional oil and gas research will better characterize environmental and operational risks posed by oil and gas development (e.g., the mitigation of produced waters derived by oil and gas production), and the increase supports research and field work activities to lessen the statistical uncertainty associated with resource potential estimates, allowing efficient, environmentally responsible development. The increase for unconventional oil and gas continues leveraging capabilities with the Alaska Department of Natural Resources in support of these field studies.

The USGS Coastal and Marine Geology Program will conduct studies to provide actionable science to respond to changes along the Arctic shoreline, and help inform decisions with respect to infrastructure and development associated with development of energy resources.

Question (20). The Federal Government and the State are joint partners in the Alaska Mapping Initiative, with the goal of improving the topographic maps for the State. Some of the maps are over 50 years old and vital to aviation safety, land use planning, and research. The President's fiscal year 2017 budget proposes to increase funding for this program by $1.5 million.

a. If the President's proposed increase of $1.5 million is included in the fiscal year 2017 appropriations bill, that would bring this initiative to a total program funding level of $6.7 million. At that rate, how long would it take to complete the maps?

Answer. Alaska has many broad mapping needs, including topographic maps. The $1.5 million proposed increase relates to topographic mapping supported/implemented by the USGS National Geospatial Program (NGP). With the proposed increase and continued funding from our Federal partners, we estimate that it would take 5 years (2021) to complete statewide coverage of ifsar elevation data and 6 years (2022) to complete the statewide topographic maps for Alaska.

b. What percentage of the State now has updated maps and what areas pose the most challenges for mapping?

Answer. As of March 2016, 15.6 percent of Alaska has published topographic maps. The NGP's most challenging areas for collecting and assembling high-quality elevation map data for Alaska include low-lying coastal deltas with complex lake and river systems, the Aleutian Islands and other remote islands in the Bering Sea. Other challenges include expensive aircraft mobilization costs, limited time over the acquisition targets, and severe weather conditions.

c. Will these maps be available in digital form and how accurate will they be compared to topographic maps in the Lower 48?

Answer. All Alaska topographic maps are available online in digital format (geoPDF). The data are free and the public can easily use this file type across multiple platforms (desktop, Web, and mobile). Anyone can upload the data into digital mapping/spatial analysis software to build new applications for research, education, or industry.

USGS follows the same procedures used for map production for the lower 48 in compiling new maps for Alaska. The elevation data accuracy for the Alaska topographic maps (produced at a scale of 1:25,000) is the same for topographic maps for the lower 48 States which follow USGS' National Map Accuracy standards for

1:24,000 scale mapping. With current funding, USGS corrects major errors for the majority of Alaska map production and we have updated approximately 10 percent of the State hydrography to meet higher specifications, where State funding contributions have supported these efforts.

Question (21). The United States Geological Survey operates the Alaska Volcano Observatory, a joint entity with the University of Alaska. USGS operates five such observatories in the Western United States. The observatory maintains a series of seismic monitors on volcanoes in Alaska, largely on the Alaska Peninsula and the Aleutian Chain, near the air corridor for flights to America from Asia. Ash from eruptions is particularly dangerous to such flights as shown by the near crash of a jumbo jet years ago.

a. The President's fiscal year 2017 budget proposes a very small increase for the Volcano Hazards Program, $117,000 for fixed costs, even though the entire USGS budget request is an increase of 10 percent. I understand there has been some progress made on the repair and monitoring systems on Alaska Volcanoes and I appreciate the good work that is being done there, but I am afraid we are not doing enough. It was also brought to our attention that the good work we are doing now to repair these systems may not be in compliance with the changing Federal Communications Commission (FCC) regulations over radio frequency spectrum allocations.

Answer. USGS radio telemetry networks fall under the jurisdiction of the National Telecommunications and Information Administration (NTIA) for spectrum allocation. Telemetry networks at most Very High Threat volcanoes in Alaska (Spurr, Redoubt, Augustine, and Makushin) are nearly compliant with NTIA spectrum allocation regulations. The Alaska Volcano Observatory (AVO), operated by the USGS in partnership with the University of Alaska and the Alaska Division of Geological and Geophysical Surveys, is focused on achieving full network compliance at these volcanoes as soon as possible. As part of ongoing maintenance and repairs, the USGS typically converts six to eight stations per year from analog to digital.

To address near-term public safety concerns, the USGS used funding received in 2015 to bring defunct and severely impaired networks back on line. This required maintenance of existing analog telemetry links that USGS cannot use past 2020.

b. Are you familiar with the FCC spectrum allocation issue? Are the systems we are repairing in compliance with the FCC regulations or are we repairing a system that will need to be converted to digital in the next few years?

Answer. USGS radio telemetry networks fall under the jurisdiction of the National Telecommunications and Information Administration (NTIA) for spectrum allocation. Changes to the spectrum guidelines and allocations made USGS analog telemetry networks for volcano monitoring in Alaska non-compliant. NTIA authorization permits USGS to use the deprecated frequencies until 2020, which provides time to bring the system into compliance by transitioning the networks to new digital technology operating on an authorized spectrum.

As part of ongoing repair and maintenance, the USGS makes analog to digital conversions when possible. This typically results in converting six to eight stations per year. To address public safety concerns, the USGS used fiscal year 2015 funding to bring defunct and severely impaired networks back on line. Bringing the networks back on line required maintenance of existing analog telemetry links that the USGS cannot use past 2020.

c. Could you provide this committee with the current gaps in the monitoring infrastructure at the Alaska Volcano Observatory and the estimated costs to complete the monitoring system?

Answer. The USGS has identified five Very High Threat and 27 High Threat volcanoes in Alaska. None of these 32 volcanoes have complete monitoring networks by the USGS standards for the National Volcano Early Warning System (NVEWS) and none of the existing networks are compliant with National Telecommunications and Information Administration (NTIA) regulation and guidelines for spectrum allocation.

The USGS has until 2020 to achieve compliance with the NTIA regulations. Telemetry networks at most Very High Threat volcanoes are nearly compliant. The estimated cost of upgrading to a NTIA-compliant system is $18.5 million over 4 years over current funding levels. Completing the conversion in 3 years, instead of four, would increase the cost to $20.2 million, with the increase necessary to fund additional staff to complete the work at the accelerated pace.

Additionally, to fully reach the USGS standards for NVEWS for the 32 Very High Threat and High Threat volcanoes in Alaska, the USGS estimates 237 additional monitoring instruments (e.g., seismometers, GPS receivers, and remote cameras) are

required. The chart below describes the current monitoring capabilities of the USGS in Alaska. The average cost of deploying an instrument on an Alaskan volcano is approximately $90,000. The total estimated cost to bring Alaska's volcano monitoring networks up to NVEWS standards is $21.3 million ($4.4 million for the five Very High Threat volcanoes and $16.9 million for the 27 High Threat volcanoes). This includes all aspects of installation, including instrument procurement, logistics, power systems, data telemetry, instrument housing, and permitting, but does not include the cost associated with the telemetry upgrades needed for NTIA compliance. The telemetry upgrades are necessary to support the new instrumentation. In most cases, NVEWS-guided augmentation with additional instruments would proceed in tandem with the analog-to-digital conversion work.

Upgrading the monitoring system to NTIA compliance and completing the monitoring system to NVEWS standards would cost an estimated $39.8 to $41.5 million in total.

Current Monitoring Level	Current Monitoring Level Capabilit es	Number of Volcanoes	
		Very High Threat	High Threat
None	Eruptions detected after the fact by satellite or direct observation. Eruption forecasting is not possible. No research potential.	0	4
Minimal	Significant eruptions likely detected, but small events missed. Eruption forecasting is not possible. Little if any research potential.	0	5
Limited	Most eruptions detected. Forecasting possible under ideal circumstances. Sensor data of limited usefulness for research.	1	17
Basic	Nearly all eruptions detected and some successfully forecast. Sensor data have research potential.	4	1
Complete	All eruptions detected and most successfully forecast. Sensor data have excellent research value.	0	0
Totals		5	27

Question (22). In 2014, Congress passed the BLM Permit Processing Improvement Act of 2014.

a. How has the passage of the legislation impacted permit timelines?

Answer. The higher application for permit to drill (APD) fee of $9,500 and associated allocations to the particular BLM offices went into effect on October 1, 2015. The increased fee has the ability to generate additional revenue, and therefore provide increased resources for processing permits, all other things being equal. However, because of market forces beyond the BLM's control, most notably the recent steep drops in the price of natural gas and oil, there has been a significant drop in the number of APDs submitted, which has reduced revenues coming to BLM for APD processing. Based on the past 6 month's observation, the BLM has not seen any overall impacts to the permitting timeline as a result of the Act. That said, over the past 4 years, the BLM has made significant progress in reducing the time to process an APD—permit times have dropped from an average of 307 days in 2011 to an average of 220 days in 2015.

b. The reauthorization also required BLM to report to Congress by February 1 each fiscal year the allocation of funds to each office and the accomplishments of each office. Where is that report?

Answer. The BLM has prepared a draft report for fiscal year 2015. This report is in the Department of the Interior review process and will be submitted as soon as that process has been completed.

Question (23). Over the last several years the Department of the Interior has proposed or finalized a number of offshore and onshore rules and regulations including the BLM hydraulic fracturing rule, updates to BLM Onshore Order 3, 4, and 5, the BLM venting and flaring proposal, the release of BLM Land Use Plan Amendments that limit areas where oil and natural gas development can take place, changes to ONRR's civil penalty regulations, additional regulations to Arctic OCS operations as well as the proposed Well Control Rule, potential changes to onshore royalties, bonus bids, etc. Interior is also expected to propose updates to offshore air regulations and there are also a number of additional items included in the Unified Agenda that have not been proposed. All of this regulatory activity is taking place at a time when investment on Federal land oil and natural gas production continues to fall. Each of these items on their own may have a chilling effect on future invest-

ment and interest in Federal production of oil and gas and taken together, the cumulative impacts could potentially alter not only production on Federal lands but also government revenue as a result.

a. Are you analyzing and considering the cumulative effect of each regulation on an individual basis as well as combined with the entire suite of regulations? How do you ensure that the Department adheres to its multiple-use mandate and continues to place great value on the oil and gas production on Federal lands and the important revenues that come to the Treasury as a result?

Answer. The regulations being updated have not been revised for decades, and it is long past time to modernize them to reflect recent technological advances in oil and gas production, health and safety protection, and waste prevention. Reflecting reasonable and common-sense revisions to existing requirements, these regulatory updates incorporate modern industry practices and technology, and we therefore do not expect them to pose an undue burden on industry.

Consistent with Federal requirements, the Department has conducted analyses of the economic effects of the rules and presented those findings in the Regulatory Impact Analysis for each rule. These analyses evaluate each rule individually, because there is so much geographic and operational variability in where and when the rules will apply, and whether and how they will impact operators. That said, a number of the new standards reflect existing industry best practices, with which many operators are already in partial or full compliance. Moreover, some of the measures will actually save producers money. Finally, many of the rules incorporate grandfathering or other provisions that are specifically designed to take account of operators' concerns about the rules' impacts, including impacts on lower-producing wells.

Question (24). The decision by DOI to pull the Arctic lease sales in the 2012–2017 Five Year Program as well as the denial of lease term extensions was shortsighted and without justification. Access to oil and natural gas resources in the Alaska OCS is essential to the Nation's economy and energy security and predictable leasing and workable regulations are necessary to take advantage of this vast resource. The Arctic contains the world's largest remaining conventional undiscovered oil and natural gas. Given the resource potential and long timelines required to bring Arctic resources to market, decisions made today will have an impact on industry's ability to provide the U.S. oil production of the future.

a. How does the Department view the importance of Arctic resources and our need to continue exploration and development in the Arctic, especially as other nations continue to reap the benefits of Arctic development?

Answer. Alaska continues to be an important part of the Nation's energy strategy. BOEM estimates that there are more than 23 billion barrels of undiscovered technically recoverable oil in the Chukchi Sea and Beaufort Sea planning areas, including multiple geologic plays. This is based on information gathered from over 30 exploration wells drilled in the Arctic, seismic data, and analogous reservoir analysis.

Significant acreage in the Chukchi and Beaufort Seas is already under lease, including some of the best prospects. As of April 2016, there were 434 existing leases in the Chukchi Sea and 77 in the Beaufort Sea. In addition to the Liberty project that is currently under review, should DOI receive any exploration and development proposals from industry, we will review them to ensure safe and careful exploration and development in the Arctic.

Recognizing the significant oil and gas potential in the Arctic OCS region, industry interest, and the views of the State of Alaska, the 2017–2022 Proposed Program, published on March 18, 2016, schedules three potential sales offshore Alaska, one in each of the Beaufort Sea, Chukchi Sea, and Cook Inlet. The Department is soliciting comments on this proposal through June 16, 2016. In March, Director Hopper traveled to the North Slope of Alaska to get input on the proposed Five Year Program and the bureau will continue its outreach to encourage stakeholder and partner feedback from Alaskan communities. Comments received will inform the Proposed Final Program, scheduled to be published in late 2016.

In advance of any potential lease sale offshore Alaska, BOEM will continue to use scientific information and stakeholder and partner feedback to proactively determine which specific areas offer the greatest resource potential while minimizing potential conflicts associated with the environment, subsistence activities, and multiple use concerns.

b. Does the Department's lack of regulatory uncertainty, which only becomes greater with the proposed Arctic rule and the proposed Well Control rule, play a part in the unsuccessful project last year?

Answer. Over the course of two different offshore drilling seasons, the Department has been transparent and consistent about what it will require to ensure drilling operations conducted in the Arctic are conducted in a safe and environmentally responsible manner. On September 28, 2015, Shell announced in a press release that it "found indications of oil and gas. . . . but these were not sufficient to warrant further exploration." This followed the 2015 drilling season, during which BSEE and BOEM approvals were conditioned on requirements consistent with many of the provisions contained in the proposed Arctic Rule. These requirements were similar to a number of the requirements that BSEE and BOEM imposed on Shell during 2012.

Question (25). I am very concerned with the BOEM–BSEE proposed Arctic rule because it imposes prescriptive requirements, including the requirement for a same-season relief well, assuming that one solution universally applies to any given Arctic location. Instead, the rule should look to using performance-based rule which allow an operator to minimize risks by designing a well program specific to the landscape, ecosystem, ice conditions, water depths and weather of that particular well. The rule should focus on prevention and consider fit-for-purpose response planning alternatives to respond to potential loss of well control.

a. What is the likely timing of the final Arctic rule? Do you believe that you have an opportunity to step back and take time to assess the Arctic rules package and examine the NPC report before putting out a final rule since you've closed the door on leasing in this current Five Year program?

Answer. BSEE and BOEM have closely considered the National Petroleum Council (NPC) Arctic Potential Study, as well as many other studies and resources. Representatives from BSEE were involved in the NPC Study and were aware of many of the technical discussions and analysis that occurred prior to publication. The Department is in the process of finalizing its Arctic drilling rule, which would apply to exploratory drilling operations in the U.S. Arctic. The Department is carefully considering all comments received on the Proposed Rule as it works to complete the rulemaking process. We intend to publish a Final Rule later this year.

b. How will this timing match with the BSEE well control rule, which as you know will also apply in the Arctic? Would it make more sense to hold the Arctic rule's final release until after the well control rule is final and allow for comments to inform how both set of rules will affect the Arctic before finalizing and implementing?

Answer. The Department promulgated the Well Control Rule on April 29, 2016 (see 81 FR 25887). BSEE has carefully considered comments on each Rule and the potential overlaps between the two Rules.

c. Has DOI taken a hard look at the NPC report and made agency adjustments or taken counsel from it?

Answer. Yes, the Department has reviewed the NPC Arctic Potential Study carefully, along with many other studies and analyses. Many of the findings are consistent with BOEM and BSEE's assessment of operations in the Arctic.

For example, the NPC study recommends that BSEE "[e]ncourage innovation by providing for the incorporation of technological advancements" (NPC Study, Executive Summary, p. 51). BSEE regulations specifically allow for approval of innovative technologies that provide equal or greater protection to personnel and the environment (30 CFR § 250.141). The proposed Arctic regulations clarify that this provision can be utilized to approve equipment for use in Arctic drilling operations.

Additionally, Chapter 10, entitled "The Human Environment," presents a detailed assessment of the effects of oil and gas activities in the Arctic on human health, economic development, and culture. BSEE agrees with the NPC's recommendations that industry, government, and stakeholders should work to preserve cultural sustainability, ensure food security, optimize consultation and community engagement, develop traditional knowledge studies, standardize socioeconomic impact assessment processes, and evaluate collaboration frameworks.

In some areas, BSEE does not agree with the study. Chapter 8 of the study, entitled "Arctic Offshore Oil Spill Prevention, Control, and Response," stressed the importance of prevention "as the primary defense against loss of well control." The chapter identifies a number of controls and barriers that should be in place to prevent oil spills in the Arctic. BSEE agrees that the identified barriers and controls are crucial to operators' prevention efforts. BSEE does not, however, agree that the implementation of prudent prevention measures should eliminate the need to have available equipment and/or a rig to respond to a loss of well control.

There are many other aspects of the NPC Study—both the findings and the recommendations—that are consistent with both the proposed Arctic offshore drilling

regulations and with BSEE's overall approach to oversight of offshore drilling operations on the Arctic OCS.

Question (26). The increased domestic oil and gas production we have been witnessing is occurring almost entirely on private and State lands where the Federal Government does not have control. This is because it can still take from 240 to as much as 300 days to get a permit to drill on BLM managed lands, and where it can take as much as 10 years to complete an environmental review. The Department has taken steps to expedite the permit process for projects on Federal lands that involve renewables, or the infrastructure for renewables, but in the case of oil and gas resources the Department has increased permitting burdens.

a. Can you explain the apparent discrepancy between how the Department treats permitting for renewable energy projects, and projects for the exploration and production of natural gas and crude oil?

Answer. Since 2008, oil production is up 108 percent on lands where drilling requires a BLM permit. This doubling of production is greater than the 88 percent increase in oil production that occurred on all lands nationwide during the same time period. In fiscal year 2015, the BLM approved over 4,228 Applications for Permit to Drill (APDs) on Federal and Indian lands, yet industry only drilled 1,927 wells. The BLM also continued to make significant progress in reducing the time to process an APD—permit times have dropped from an average of 307 days in 2011 to an average of 220 days in 2015. The BLM also continued to make significant progress in fiscal year 2015 at reducing the number of pending APDs. As of the end of the year, the BLM had roughly 7,500 approved APDs that have not yet been drilled, more than ever before. These APDs are ready for immediate use by industry without further action by the BLM.

To further build upon these improvements, the BLM continues to make strategic investments in technology to streamline the permit review process. Most notably, BLM recently completed the bureau-wide deployment of the update to its permit processing system, AFMSS II. That update will help streamline the review process and will allow BLM and applicants to better track the progress of individual applications. The BLM is committed to building on this progress and continuing to improve the APD review and approval process.

It should also be noted with respect to the BLM's treatment of permitting requests for renewable energy relative to oil and gas that much of the expedited process currently used for renewable energy projects is patterned directly on efficiencies developed in the oil and gas permitting context.

Based on its experience in the oil and gas program, the BLM took the following actions with respect to the Renewable Energy Management program:

—Established special permitting offices (Renewable Energy Coordination Offices),
—Improved early coordination with State and other Federal agencies, and
—Identified important energy zones and then completed comprehensive environmental analyses (i.e. Solar PEIS, Wind PEIS and the Geothermal PEIS), in order to provide additional upfront analysis that could then be used to simplify the project-specific NEPA required for permitting individual development projects.

All of these processes were first developed and utilized for oil and gas. The processes used for both energy sources are largely driven by the same or similar land and environmental laws and procedures. The most expedited solar project approval occurred in the Dry Lake Solar Energy Zone in Nevada; utilizing these steps, the BLM took 300 days from lease sale to project approval.

Question (27). On lands administered by the BLM there are thousands of older wells, many producing less than 15 barrels of oil per day. However, in the aggregate, this so-called "stripper production" represents several percent of America's domestic crude oil production. In the past year, BLM has introduced four rulemakings (site security and commingling, measurement of crude oil, measurement of natural gas, venting and flaring) that taken together could significantly increase costs of operation on these older leases, possibly resulting in shutting in production.

a. Is an agency like BLM that already struggles to issue permits to drill from companies holding BLM leases within 300 days, staffed and equipped to manage the expansion of its regulatory mandate?

Answer. The BLM has an obligation to ensure that operators accurately measure, properly report, and account for all oil and gas production, and reduce waste associated with that production. Yet the BLM's rules governing oil and gas measurements and waste reduction have not been updated in over 25 years. As a result, the Government Accountability Office (GAO), the Office of the Inspector General, and the Department of the Interior Royalty Policy Committee have all concluded that these

existing rules provide no assurance that production is being accurately measured, that all of the royalties due are paid, and that waste is minimized. The proposed rules also address the many new technologies that have been developed and adopted by industry since the current regulations were put in place.

That said, the BLM also recognizes that the royalty risk (i.e., the risk posed by inaccurate measurement from a particular well) at a given well is a function of its overall production level and that low level wells pose less of a risk than higher level wells. It is precisely this recognition that led the BLM to include in the proposed onshore orders thresholds that reduced the requirements applicable to lower volume wells. In some cases these proposed changes reduced the compliance burdens on low volume properties relative to existing requirements. Based on the comments received, the BLM is carefully evaluating those thresholds to see if further refinements are necessary to ensure that the burden imposed on any given facility by the new measurement rules is comparable to the royalty risk presented by that facility.

In addition, the Methane and Waste Prevention Rule includes some provisions to streamline implementation for both industry and the BLM. For example, the flaring provisions would reduce regulatory burden by eliminating the existing requirement to submit a sundry notice for each request to flare gas.

b. Why is the focus of the Department and BLM on adding permit obligations for oil and gas operations when on the contrary the Department's focus is on expediting permitting for renewable energy?

Answer. As part of the administration's All-of-the Above Energy Policy, the BLM manages the public lands for both conventional and renewable energy. The BLM has a statutory obligation to balance this energy development with other use of the public lands and to ensure that the development occurs in an environmentally sound manner and provides a fair return to the taxpayers for use of those lands and mineral resources.

With respect to the permitting requirements for conventional energy development, the BLM is not adding permit obligations, but rather is proposing commonsense updates to its existing rules designed to ensure that operators accurately measure, properly report, and account for all production from Federal and Indian lands. The existing rules do not reflect modern technology or practices, and therefore, in some instances, require the review, submittal, and processing of unwarranted variance requests. These circumstances will be addressed by the final rule.

Question (28). Not long ago, the Social Security Administration engaged in an aggressive program to obtain a new custom designed computer system to deal with disability claims. After spending over $300 million, they had a very little to show for it. They had a program racked with delays and mismanagement, but no new working custom system. Likewise, the U.S. Citizenship and Immigration Services spent more than $1 billion trying to replace its approach to managing immigration documents with digital online forms, and as of this fall it had only a single online form, the form to replace a lost green card online.

You're probably wondering what does this have to do with the Federal land management agencies. But right now, as I understand the situation, those agencies are working to refurbish the Federal Government's campsite booking Web site, Recreation.gov, which hosts virtually all online booking for not only the National Park Service but also the U.S. Fish and Wildlife Service, the Bureau of Reclamation in addition to Forest Service campgrounds, and even many of the Army Corps of Engineers facilities. Many people use this online system every year, and if things go bad it could be a very big black eye for these land management agencies that could have broader impacts to the recreation fee program in general, particularly as we approach the Park Service Centennial.

I am asking for an assurance from you that you are going to do everything possible to make sure that any improvements to the online reservation system doesn't risk ending up with missed deadlines, and rollout delays caused by mismanagement and untested products or custom created software, like I mentioned. I hope you will work to ensure that the system will be dependable, time tested, secure and cost effective for the United States.

a. Will you examine the situation and make sure that we are not headed down a pathway like those I mentioned?

Answer. The Recreation.gov contract is funded entirely by revenues generated from the recreation fees and reservation fees charged to visitors who make reservations. The current contract that provides the reservation and trip planning service for Recreation.gov is nearing the end of the period of performance and will be extended as needed to ensure that there is no disruption of service.

In this digital age, software solutions should be designed not by software engineers writing code but by the people who will be using the system so that the final

product truly serves the needs of the government and the people. It is also critical to ensure that the solution is nimble enough to adapt to emerging technologies throughout the life of the contract. The Recreation One-Stop (R1S) program has been conducting market research for over 2 years in order to identify emerging technologies and additional vendors who can provide the kind of service that meets modern customer expectations.

The R1S program has adopted the tenets laid out in the US Digital Services Playbook in which we will employ 'Agile' software development principles and processes. Agile development is the new norm in the private sector and, by following its best practices, we aim to provide a superior service and pleasant customer experience. This will entail face-to-face meetings with the contractor's program management and software development teams. We intend to work in short 'sprints' to write, test, and deploy usable code that will provide all of the tools for trip planning, reservations, financial processing, reporting, design, and customer service. As sprints are completed, we will test each portion of the code to ensure that it meets the government's needs and public expectations. Code that does not pass testing will be immediately identified for correction. By using this method, the R1S program will be involved at every step to ensure that we do not end up with an unusable product when it is time to transition. The public and many other stakeholders will be involved in the development and testing throughout this process to ensure that we are able to deliver what the public wants. The contract requirements include the highest levels of information security, privacy protection, secure financial processing, and compliance with all applicable laws and regulations pertaining to government IT services.

b. As a way to ensure data security indeed does meet the highest standard, will you be using people who are Payment Card Industry Data Security Standard (PCI) compliant?

Answer. Payment Card Industry Data Security Standard (PCI) compliance is an absolute requirement in the new (and current) contract. With the number of credit card transactions processed, the contractor's system is required to meet the highest level of PCI compliance.

The contractor must also deliver security that ensures compliance with the Federal Risk and Authorization Program (FedRAMP), Federal Information Processing Standards (FIPS), Federal Information Security Management Act (FISMA), and the Privacy Act.

Question (29). While many land management agency units are available as part of Recreation.gov, we know there are additional units that could take benefit from additional exposure. What are you doing to make sure more of your units are able to be part of the recreation.gov system and timeframes for bringing them online?

Answer. Recreation.gov currently hosts reservation services for over 3,200 locations which include campgrounds, picnic shelters, cabins, lookouts, yurts, tour ticketing, event lotteries, and a variety of wilderness permits. More locations continue to be added every year. When the system was launched in 2006, the primary focus was to provide reservations for basic front country campgrounds. Since that time, the R1S program recognized the need to expand the service to cover many different types of facilities and activities. This was one of the driving factors in moving to a more agile approach that affords the agencies the flexibility to use the platform for a wide variety of facilities and activities.

The R1S program expects that, upon launch of a new contract, the service will be able to support many more operations; this should facilitate the incorporation of reservation services more broadly. The new contract also requires that the contractor proactively 'market' the service to all agencies where it is appropriate. This includes offering Web services which can improve the efficiency and effectiveness of local operations.

Question (30). What, if any, human resources planning has OSMRE done in preparation for or in advance of the proposed Stream Protection Rule?

Answer. OSMRE typically makes human resource planning decisions based upon on the overall workload for the entirety of its regulatory and oversight program. The actual staff number may change depending on the program areas, the presence or absence of problems, input from the public, and the terms of the performance agreements in each State. The estimated annual hours for Federal oversight of the proposed Stream Protection Rule does not warrant any additional human resource planning.

Question (31). Which, if any, employment assignments or employee deployments have been made as a consequence of the Stream Protection Rule?

Answer. OSMRE has not found it necessary to make new assignments or employee deployment changes as a consequence of the Stream Protection Rule.

Question (32). Does OSMRE employ any "hydrogeologists"?

Answer. OSMRE currently has about 15 highly qualified technical staff classified under the "hydrologist" title. All have formal education, experience, and technical credentials in the area of surface and groundwater hydrogeology.

Question (33). What, if any, human resources planning has BLM done to satisfy mitigation measures, both those created by the Presidential Memorandum and the Department's own mitigation manual and efforts?

Answer. In the fall of 2013, Secretary Jewell released Secretarial Order 3330, Improving Mitigation Policies and Practices of the Department of the Interior. Secretary Jewell directed the Department and each of its bureaus to follow a common set of principles for its mitigation programs while using a landscape-scale approach building on and expanding concepts pioneered in the BLM's 2013 interim mitigation policy. Consistent with Secretarial Order 3330 and incorporating key lessons learned since release of the interim mitigation policy, the BLM is working to revise and finalize its mitigation policy to ensure it is responsive to emerging best practices and compatible with similar policies being developed by sister agencies and States.

Secretarial Order 3330 and the BLM's interim mitigation policy address concepts that broadly apply to mitigation—including principles of additionality, durability, and transparency—without prescribing the amount of mitigation that might be required for any given project. In general, the BLM will continue to identify appropriate mitigation measures by evaluating the specific impacts of each project proposal, in light of applicable BLM land use plans and in compliance with the National Environmental Policy Act (NEPA).

Mitigation broadly refers to a set of tools that allows the BLM to permit projects while responding to the concerns of local communities and meeting our mission of multiple use and sustained yield. For many years, the BLM has recognized a need to bring greater consistency to the use of these tools and to increase their availability to solve resource challenges like supporting development while planning for the recovery of the Greater sage grouse. Accordingly, the BLM has sought to better plan and train staff to help support the implementation of mitigation policies that will allow for more streamlined permitting, more consistent application of mitigation across offices, and better outcomes for resources. This includes identifying a national mitigation lead in the Washington Office as part of the agency's resource planning and decision support staff to ensure greater consistency and identifying State mitigation leads in each State Office to provide expertise as well as a consistent point of contact for State governments seeking to coordinate with the BLM on mitigation efforts. Already, State governments across the West are working with the BLM and our Federal partner agencies to establish and deploy some of these innovative tools. The BLM seeks to further support these collaborative efforts.

Question (34). Which, if any, employment assignments or employee deployments have been made as a consequence of the new mitigation efforts? If the answer is that mitigation efforts have had no human resource planning or employment consequences, please explain why that is the case.

Answer. As noted above, the BLM has identified a national mitigation lead to bring greater consistency to our efforts and has identified State mitigation leads to provide stronger State-level expertise and coordination with State governments. The BLM has long considered mitigation through the agency's routine resource management planning process and through individual project reviews as appropriate, and that will continue to be the case.

Question (35). What vacancies does the Department currently have, and what are the Department's plans or intentions to fill those vacancies?

Answer. The BLM has not increased staffing levels to address mitigation efforts. However, staffing has been reorganized to meet the requirements of the Presidential Memorandum and the Department's mitigation work. This reorganization includes identifying one position on the Washington Office staff for the role of national mitigation lead. This position is currently being advertised on USAJOBS. At the State level, mitigation leads are assigned as a collateral duty and these are not new positions. At the field level, mitigation functions are generally performed by BLM's existing planning or project management specialists.

Question (36). The BLM's draft updated planning rule, known as Planning 2.0, seeks to updated the agency's planning process.

a. One of the frustrations frequently expressed by public lands communities regarding the planning process is that the BLM takes their comments, but does not truly consider the needs of the area, particularly when it comes to projects that potentially provide opportunities for economic development. How will the new rule improve BLM's coordination with State, county, and local govern-

ments? Will there be certainty for the manner in which BLM will consider the needs of State, county, and local governments.

Answer. The proposed rule would improve coordination with State, county, and local governments by requiring communication and coordination early in the planning process. Two new steps would include (1) input into the development of the planning assessment and (2) review of the preliminary alternatives, rationale for alternatives and basis for analysis prior to issuance of the draft plan.

During the planning assessment the BLM would coordinate with State and local governments to identify the best available data for the planning area. BLM frequently hears from our State and local partners that they often have the best data for a resource and they want to ensure that BLM uses this data. This proposed step would respond to these requests and ensure early coordination on data and information sharing. During this step the BLM would also coordinate with State and local governments to identify existing State and local land use plans to begin to seek consistency between local land use plans and BLM's Resource Management Plans (RMPs).

Once BLM has developed a preliminary range of alternatives, the BLM will make these preliminary alternatives and rationale available to State and local partners for review. This new coordination step will allow State and local governments to provide early feedback to the BLM on the alternatives and whether the range of alternatives adequately considers the needs of State and local governments. The BLM will use this feedback to revise the alternatives and develop a draft resource management plan that is more responsive to the needs of State, county, and local governments.

Question (37). One of the goals of Planning 2.0 is to "improve the BLM's adaptability to respond to social and environmental changes." What types of social change does the BLM need a new rule in order to adapt to? Also, what types of environmental change require the new rule?

Answer. The proposed rule would provide the BLM the tools necessary to respond to both social and environmental change in an efficient and effective manner. Examples of social change that affect the public lands include the increased demand for recreation on public lands, changes in the composition and needs of local communities, or new emerging markets such as the increasing demand for renewable energy development on public lands. Examples of environmental change that affect the public lands include severe drought, catastrophic wildfire, or changes in plant community composition due to invasive species or pest infestations.

Question (38). I've made no secret about my concerns with this administration's practices relating to mitigation. The President's Memorandum entitled, Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment, coupled with your Secretarial Order 3330 on mitigation have only served to further my initial apprehension.

The President's Memorandum mandated that, "[w]ithin 1 year of the date of this memorandum, the Department of the Interior will develop program guidance regarding the use of mitigation projects and measures on lands administered by bureaus or offices of the Department through a land-use authorization, cooperative agreement, or other appropriate mechanism that would authorize a project proponent to conduct actions, or otherwise secure conservation benefits, for the purpose of mitigating impacts elsewhere."

a. Is there a status update as to where the DOI and its relevant agencies are in the development of program guidance?

Answer. The Department is working diligently on the policies required by the Presidential Memorandum (PM), including the guidance document identified above. The primary work by the Bureau of Land Management (BLM) and the Department since the publication of the PM has been to finalize BLM's forthcoming mitigation handbook and manual.

Question (39). I understand mitigation can be a great tool for land managers, but what authority does the Department have to require mitigation for projects on public lands under the Department's jurisdiction? And, to that end, what authority is there to require that mitigation meet a standard of benefit for natural resource damage?

Answer. The Department's authority to seek a net benefit in recommended or required mitigation actions is derived from the underlying statutory authority mandating the management of the impacted resource. Under these authorizations, the bureaus and offices of the Department are responsible for managing different resources and for different purposes.

For example, the Federal Land Policy and Management Act (FLMPA) mandates management of resources in accordance with the principle of sustained yield, which

is defined as the "maintenance in perpetuity of a high annual or regular periodic output" of such resources. Where, for example, past practices have degraded resources so as to reduce their annual or regular periodic output to low levels, requiring that mitigation achieve a net benefit is consistent with the statutory mandate to achieve and maintain a high periodic output by restoring such resources to predegradation levels.

Question (40). Along the same lines, given that much of the framework from the Presidential Memorandum reflects your own mitigation efforts stemming from your Secretarial Order 3330, please explain in detail what you hoped to achieve through your own mitigation efforts?

a. How will those efforts would be implemented across your Department and with other Department sub-agencies and among sister agencies where mitigation efforts and/or natural resource impacts straddle multiple jurisdictions.

Answer. A stated goal of the Council on Environmental Quality and the Department in establishing new mitigation policies is the transparency, efficiency, and consistency such guidance will bring to permitting processes. Although a multitude of factors play a role in successful permitting and project development, mitigation principles espoused by these policies, such as efforts to produce better avoidance and the consideration of mitigation measures early in the permitting process, are intended to reduce permit times and create better outcomes for impacted resources.

To ensure the Department's ability to achieve these objectives consistently, bureaus and offices of the Department have established common frameworks to apply the mitigation hierarchy in the development of mitigation recommendations and requirements. The frameworks create consistency in how bureaus and offices implement mitigation in a number of important ways, including the use of a compensatory mitigation goal; a clear and stated preference when selecting between compensatory mitigation providers; use of standardized definitions and terms; and adherence to a consistent set of standards to ensure equivalency among compensatory mitigation providers, among others.

Question (41). The Bureau of Land Management briefed the Senate on the Presidential Memorandum, and admitted to not having a rigorous understanding of impacts to subsistence use. Nevertheless, the Department assigned an $8 million impact in the National Petroleum Reserve—Alaska (NPR–A). What metrics are used generally to determine dollar values associated with anticipated natural resource damage(s), and specifically, what metrics were relied upon to arrive at the $8 million dollar cost in the NPR–A?

Answer. The Record of Decision for the Greater Mooses Tooth One Project included a voluntary contribution by ConocoPhillips Alaska, Inc. (CPAI) of $8 million to a compensatory mitigation fund to address impacts to subsistence uses that were not sufficiently avoided or minimized in the decision—in particular, encroachment of the project footprint into the established setbacks for Fish Creek and the Ublutuoch River. The Alaska National Interest Lands Conservation Act directs the BLM to specifically consider subsistence uses when reviewing projects and prohibits the BLM from approving projects with significant impacts that have not been adequately addressed (16 USC 3120 section 810). This contribution represents less than 1 percent of the cost estimate cited by CPAI for development of the project.

Question (42). The Department's Budget Brief for 2017 notes "(r)esource management plans provide the basis for every BLM management action and are *necessitated* by changes in resource use and demands . . ." (emphasis added)

a. What, specifically, are the changes in resource uses and demands that necessitate potential management of:

—715,000 acres of the Fortymile and Mosquito Flats Area of Critical Environmental Concern (ACECs) in the Eastern Interior Management Plan;

Answer. Based on public comment on the Eastern Interior Draft Resource Management Plan (EIRMP)/Environmental Impact Statement (EIS), the BLM considered changing the boundary of the proposed Fortymile Area of Critical Environmental Concern (ACEC) and designating a new ACEC on the Mosquito Flats, also in the Fortymile region.

The Fortymile ACEC (685,000 acres) is proposed for the purpose of protecting caribou calving and post calving habitat for the Fortymile caribou herd, and Dall sheep habitat. The Fortymile caribou herd is both a highly important subsistence resource in east central Alaska and an international resource, with a considerable portion of its historic range occurring in Canada. BLM-managed lands in the Fortymile region are used by Fortymile caribou for calving, post-calving, and winter range. The population and range of the herd is currently depressed compared to its historical extent. The herd was estimated at more than 500,000 animals in 1920, but currently numbers 50,000 animals. A cooperative planning effort, involving diverse interests in

Canada and the United States, focuses on the recovery of the herd in numbers and into historic range. Calving and post-calving habitats were identified as the most sensitive habitats by the Fortymile Recovery Planning Team. Additionally, the planning area is predicted to become warmer and drier with a likely rise in tree line. These changes will increase the importance of alpine and subalpine habitats for calving and year-round habitat. Focusing on limiting impacts to the most critical habitat areas is the most efficient strategy for maintaining this important resource.

The Mosquito Flats ACEC (30,000 acres) was proposed to protect a unique high elevation wetland. This wetland is atypical; the Mosquito Fork River flows over continuous sand beds that are uncharacteristically clean, light colored, well-sorted, and low in organics, suggesting the origin of the sand is likely from a past depositional environment, possibly related to eolian deposits of Pleistocene or later age. These wetlands are an important moose calving area and support BLM sensitive species, including nesting trumpeter swans and short-eared owls.

—Nearly 700,000 acres in the Sheefish Bering Sea-Western Interior Plan;

Answer. While developing the Bering Sea-Western Interior (BSWI) RMP, the BLM received a number of public comments and nominations from tribes, advisory councils, and individuals regarding the increased importance of non-Salmon species due to the crash of the salmon population. Sheefish is one of the species specifically mentioned.

Sheefish were mentioned as being a culturally significant fish species along the Kuskokwim River. They are harvested for subsistence use by many, especially in the middle and upper river. Sheefish are often caught before salmon in the spring, and offer an opportunity for fresh fish early in the season. In recent years, salmon have been in decline and there has been an even greater shift in harvest patterns away from salmon and more toward whitefish and other salmon species. Sheefish spawning grounds have very specific needs and occur in small numbers on the Kuskokwim River. Sheefish spawn in relatively small and specific locations, and a section of the Big River located south of McGrath has been identified as a well-known spawning area for sheefish. Local residents depend on the fish and wildlife resources of this drainage. The local Athabascan name for the river is "Zidlaghe Zighashno" which translates as "Sheefish Spearing (Harvest) River" and the river has been expressed as very important to local people.

A November 2012 ADF&G report on sheefish spawning grounds on the Kuskokwim River provides detailed information about documented spawning areas. The report shows three spawning locations on the Kuskokwim River for sheefish, located on the Tonzona, Middle Fork and Big River, all located in the upper Kuskokwim River area. Of these locations, there are BLM-managed lands near the Big River. The sheefish that populate the entire Kuskokwim River spawn in very discrete areas or, smaller tributaries of the main Kuskokwim River. Eighty percent of the sheefish spawning in the Kuskokwim River spawn in a 15.5 mile section of the Big River (Stuby, 2012, Alaska Department of Fish & Game (ADF&G) Report).

As a result of the local importance expressed in public comment and after review of the ADF&G studies, the BLM found there were relevant and important values and proposed the Sheefish ACEC to protect the sheefish spawning areas.

—Any of the over 6 million proposed acres in the Central Yukon Management Plan; and

Answer. The BLM is in the early stages of planning for the Central Yukon RMP and does not anticipate a final decision until 2019. There are approximately 1.8 million acres of existing ACECs in the Central Yukon Planning Area. These were designated in 1986 by the Central Yukon RMP and in 1991 by the Utility Corridor RMP. During scoping and public outreach in 2013–2014, the BLM received numerous nominations for new ACECs (approximately 3.7 million acres) and expansions of existing ACECs (approximately 1 million acres). Many of the nominations identify habitats of important subsistence species such as caribou, Dall sheep, and salmon. The Central Yukon interdisciplinary team members reviewed all ACEC nominations and BLM-managed lands in the planning area to determine whether any areas should be considered for designation as an ACEC. Team members also reviewed all existing ACECs and research natural areas (RNAs) to determine if the designations were still relevant. The interdisciplinary team determined that approximately 5.2 million acres met the relevance and importance criteria. These findings are published in the Central Yukon RMP Web site at: http://www.blm.gov/ak/cyrmp.

To date, the BLM has only made determinations on relevance and importance criteria and not special management attention. If needed, the special management approach is determined by the resource at risk and the BLM implements the least restrictive management needed to protect the resource. These restrictions could be seasonal restrictions on an activity, or additional stipulations on permitted activi-

ties, or limiting off highway vehicle use to designated trails. While the special management needed could be a recommendation to close the area to mineral entry, this would only be the recommendation if a closure is necessary to protect the relevant and important resource at risk.

The BLM will further analyze potential ACECs during development of draft alternatives and in the Draft RMP/EIS. The BLM will allow for public comment on both the preliminary alternatives and the Draft RMP/EIS when reaching those stages of the planning process.

—Some of the proposed ACECs would result in the closure of the public lands to mining or other activities. Please articulate how the Department would satisfy its multiple-use, sustained yield mandate in the Federal Land Policy and Management Act if any of the ACECs proposals that contemplate a form of closure are finalized.

Answer. Areas of Critical Environmental Concern (ACECs) are specifically defined in the Federal Land Policy and Management Act (FLPMA) as "areas within the public lands where special management attention is required . . . to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards." In FLPMA, Congress also directed that, "In the development and revision of land use plans, the Secretary shall . . . give priority to the designation and protection of areas of critical environmental concern . . ." in addition to the broader considerations of multiple use and sustained yield.

In addition to the specific discussion of ACECs, FLPMA sets a policy that the public lands be managed "in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor public recreation and human occupancy and use. . . ."

FLPMA defines the term multiple use as "making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output."

FLPMA defines sustained yield as "achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use."

In the event that some ACECs are closed to the mining laws, the BLM will meet FLPMA's multiple use mandate by allowing mining on lands outside of the those ACECs. For example, in the Eastern Interior RMP Fortymile Subunit, the agency preferred alternative recommends mining be allowed on more than half (70 percent) of the BLM-managed lands in the planning subunit. Should this alternative become the final decision, the BLM will meet the sustained yield mandate for caribou by designating ACECs for calving and post calving habitat.

b. Please tell me what efforts the Department has made to apprise Alaskans, and specifically Fortymile placer miners, of developing management plans, individual obligations and new enforcement approaches?

Answer. The BLM uses a variety of methods to notify and engage the public in planning efforts and changes to policy and practices, depending on the issue and the scope of the impact. For many planning efforts, the BLM is required to publish notices to the *Federal Register.* However, the BLM generally creates many more opportunities for public outreach than the *Federal Register* and is currently revising its planning regulations to include more robust public outreach and collaboration.

Other types of BLM actions require different levels of public involvement. Of recent concern was the development and implementation of the "mining IMs" in Alaska. These Instructional Memoranda (IMs) on mining reclamation and bonding are direction to staff on how to interpret the current mining regulations in 43 CFR 3809 in a consistent way. These IMs provide consistency in how the BLM evaluates reclamation performance and will provide miners with consistent methods for meas-

uring reclamation success. The regulations that define reclamation standards have been in place since 2001.

In 2013 and 2014, BLM staff began discussions with miners and mining organizations on current practices that were not meeting reclamation performance standards. There have been many advances in the last 15 years since the regulations were developed and many of the past practices for rehabilitating fish, wildlife, and riparian habitat after placer mining have, in many cases, failed to meet a number of reclamation performance standards required by regulation. The BLM was also concerned about whether there were adequate financial guarantees to cover all of the Federal mining operations in the State.

After the issuing IMs, the BLM sent a letter with associated information to every Federal miner in Alaska and met with individual miners to go over the regulations and how BLM would be measuring reclamation. The BLM also provided presentations on reclamation and a short course on revegetation with the Alaska Miner Association (AMA) and Alaska Minerals Commission in the Fall of 2015. In the summer 2015, the BLM implemented the Jack Wade Demonstration project in the Fortymile Wild and Scenic River Corridor to test new reclamation techniques for placer mined streams in Alaska. The project is designed to accelerate the recovery of in-stream and riparian habitats in a historically mined area. The ultimate goal was to find new approaches to reclamation and to help miners meet the reclamation standards more quickly. If the techniques are successful it will help miners to plan and implement their own reclamation work and assist them in meeting the reclamation performance standards required by regulation. Several Fortymile miners attended a workshop in Chicken to discuss reclamation evaluations and view the demonstration project. One of the successes from the workshop is that one of the area miners has asked BLM to help develop another demonstration project in 2016 on his mine site.

In April 2016, the BLM plans to give presentations on reclamation and a short course on revegetation at the AMA conference in Fairbanks. The BLM will also organize field workshops and demonstrations for miners in Chicken, Central and Coldfoot in the summer of 2016 and develop booklets and videos describing reclamation techniques.

c. And please elaborate on what the Department's policy is in the interim while new policies, enforcement approaches, management plans and the like are being developed. For example, is it the Department's position to continue operating under existing policies while a new policy is being drafted?

Answer. Existing operations are not affected until new policy, plans or regulations are finalized. In some instances, operations are "grandfathered in" and follow the old regulations. For example, some mining operations are covered by the 1980 version of the CFR while others are covered by the 2001 version. However both versions require revegetation and the rehabilitation of fisheries and wildlife habitat. The mining IMs outline ways to measure the effectiveness of the reclamation and assure that it meets either version of the regulations.

When the new Resource Management Plan is completed, the stipulations in the plan will only affect new or modified mining plans of operation. Existing plans of operation, or those with only minor modifications, are not affected.

Question (43). The administration has been vague on the details surrounding your proposed $10.25/barrel "fee," as you call it.

a. Has the Interior Department performed any analysis of how a $10.25/barrel fee would impact energy production on Federal lands? If not, why not?

Answer. The proposed oil fee, which would be gradually phased in over 5 years, is an important part of the administration's effort to address the challenges of our outdated transportation system. The fee would raise the funding necessary to make these new investments, while also providing for the long-term solvency of the Highway Trust Fund to ensure we maintain the infrastructure we have. By placing a fee on oil, the President's plan creates a clear incentive for private sector innovation to reduce our reliance on oil and at the same time invest in clean energy technologies that will power our future.

The proposed fee is not a wellhead tax and is not specific to oil production from Federal lands. Therefore, BLM has no reason to believe that energy production from Federal lands would be disproportionately impacted—either positively or negatively—by the fee and has not performed an analysis on its impact. The Department understands that the administration has indicated a desire to work with Congress on how to optimize collection of the fee. However, the Department would not have a direct role in developing or implementing the details of this fee proposal. Further questions about this proposal should be directed to the Department of the Treasury.

b. In 2013, a report commissioned by the Department of the Interior concluded that raising royalty rates on onshore oil and gas production on public lands would discourage investment and bring less money to the treasury, and consequently was not warranted. With oil prices drastically lower than in 2013 and the literally thousands of pages of new regulations that have come out of your Department to regulate industry over the last few months, has your Department analyzed what the cumulative impact of all of these actions will be on production on Federal lands and revenue to the treasury?

Answer. Consistent with Federal requirements, the Department has analyzed the economic effects of each rule. These analyses evaluate the rules individually, because there is so much geographic and operational variability in where and when the rules will apply and whether and how they will impact operators. That said, a number of the new standards reflect existing industry best practices, with which many operators are already in partial or full compliance, and some of the measures will actually save producers money. Additionally, many of the rules incorporate grandfathering or other provisions that are specifically designed to take account of operators' concerns about the rules' impacts, including impacts on lower-producing wells.

c. In light of these news regulations and fees, can you tell me that your actions are designed to increase production on public lands, or are you ready to concede that we have different policy objectives when it comes to energy development on Federal lands?

Answer. With respect to onshore production, the Department has a unique and broad mission to manage public lands on behalf of the American people under the dual framework of multiple use and sustained yield. This means we manage these lands for a broad range of uses including renewable and conventional energy development, livestock grazing, timber production, hunting, fishing, recreation, and conservation. These rules are part of a broad regulatory framework designed to balance oil and gas production on the public lands with the many other uses of those lands and assure development of the public's oil and gas resources occurs safely, responsibly, and in the right places.

Question (44). The fiscal year 2015 Omnibus included a requirement for a comprehensive inventory of contaminated sites conveyed through ANCSA and a detailed plan on how the Department intends to complete cleanup of each contaminated site within 180 days of enactment.

a. When will the report be completed and made public?

Answer. The report is complete and in the midst of a final review. It should be available this summer.

b. Does the Department have any plans to accelerate the cleanup of contamination on Native lands, either the lands that BIA, BLM, FWS, NPS, or Bureau of Mines actually caused, and do you have any plans to coordinate a cleanup among the other Federal agencies: DOD, FAA, the National Weather Service and the Forest Service since as Secretary you do have a trust responsibility to Alaska Natives?

Answer. The BLM developed a database with the most comprehensive inventory to date of known contaminated sites on lands conveyed to Alaska Native Corporations through the Alaska Native Claims Settlement Act (ANCSA). The database contains current information about each site's land and regulatory status, including (1) the entity to which the BLM conveyed the property; (2) the precise coordinates, if known, for where the contaminated site is located; (3) the current understanding of the site's type and amount of contaminants, if known; and (4) any data gaps. Before it can be considered final, the inventory needs to be refined with further regulatory and site characteristics, when that information is identified. Additionally, further outreach needs to be completed to those Alaska Native Corporations that did not respond during the BLM's facilitated meetings with stakeholder groups. Once finalized, the inventory will provide Alaska Native entities and the appropriate Federal and State regulators with a powerful tool to help address these contaminated sites.

It is important to stress that, once non-Department of Defense lands pass from Federal ownership, former land-managing agencies no longer have authority under CERCLA and Executive Order 12580 (Superfund) to compel or conduct clean up, although the United States may remain liable for pre-conveyance contamination. The Department of Defense is the only Federal agency besides the Environmental Protection Agency (EPA) authorized to execute or compel cleanup of contaminated lands no longer under its ownership per 10 USC 2701(c)(1)(B). The BLM and DOI have no authority over other entities that may be identified as parties responsible for existing contamination on lands conveyed to ANCSA corporations. With the comple-

tion of this comprehensive database, the BLM has worked to the full extent of its authority in fulfilling its responsibilities under the Consolidated and Further Continuing Appropriations Act, 2014 (Public Law 113–235).

Among the sites known to be in need of cleanup, the Alaska Department of Environmental Conservation (ADEC) has identified a responsible party or parties for almost all sites. For the vast majority of parcels, the BLM was not managing the lands when they became contaminated and ADEC has identified other agencies as the responsible party. Once responsible parties have been documented for the sites identified in the completed inventory, the final phase of work will be directed by the appropriate regulatory agency. Within Alaska, this authority lies with ADEC and EPA for sites not on federally managed lands. For sites where a Federal agency has been identified as the responsible party, funds for cleanup will require budgetary planning and prioritization.

c. Does the Department have any estimates or intend to develop estimates for exactly what it will cost to clean up the lands so they are usable by Natives to generate the benefits that were intended when the Native Claims Settlement Act passed 45 years ago?

Answer. The sites not currently in a clean-up program vary in levels of confirmation with regard to the extent of the contamination. Without the details related to a verification of a release, extent of hazardous material, and other site characteristics that would support estimates for cleanup, it is difficult to predict cleanup costs.

QUESTIONS SUBMITTED BY SENATOR TOM UDALL

Question (1). I'm very pleased that this subcommittee was able to provide an 85 percent increase for Indian school construction and improvements in the 2016 omnibus. That amount includes funds to finish the schools on the 2004 school construction priority list. It also provides a down payment for to begin work on new schools—that BIE is in the process of selecting.

Selecting five new schools for priority construction is only the beginning of the investment we need to make in tribal schools—and I believe we won't get there unless we develop some kind of "Marshall Plan" for Native youth that fully funds infrastructure needs. We included language in the 2016 omnibus urging the Department to follow the lead of the Defense Department—and develop a comprehensive plan to modernize and improve all BIE schools. DOD produced a plan to modernize its education facilities needs in 2009—and has been able to make significant progress towards fixing its schools as a result. There's no reason that the administration and Congress can't work together to do the same for tribal schools.

a. Secretary Jewell, can you share what steps the Department is taking to develop a comprehensive plan to improve all Indian schools?

Answer. Indian Affairs and the Department have directed the Office of Facilities, Property, and Safety Management, through its Division of Facilities Management and Construction to work with a contractor to develop a "Poor-to-Good" 5-year plan to identify the approach and resource requirements necessary to modernize our school facilities. The results of the assessment will be ready for internal review and further strategic planning development in May 2016.

b. Is there any reason that the Department can't move forward with preparing a comprehensive needs assessment—and plan to address the needs identified by such an assessment—this fiscal year?

Answer. As described above, the Office of Facilities, Property, and Safety Management, through its Division of Facilities Management and Constructions is engaged in developing such a plan. The results of the assessment will be ready for internal review and further strategic planning development in May 2016.

Question (2). I understand that the Department is now moving forward with the first phase of the proposed reorganization of the Bureau of Indian Education—including the establishment of new Educational Resource Centers—and that your 2017 budget anticipates additional changes to the Bureau. As part of the first phase of the reorganization, you have proposed a number of staffing changes, including changes to the regional office in Albuquerque, to create these new centers to assist BIE and tribally controlled schools.

a. What is your timeline for staffing up these centers, and what services can schools expect to receive starting in the fall?

Answer. Staff hiring is planned to be completed by the end of June 2016 in time for the new school year 2016–2017.

The Education Resource Centers are geographically positioned close to schools and will be staffed with School Solutions Teams. These Teams will ensure that principals and teachers have the resources and support they need to operate high achieving schools. These Teams will assist schools in their improvement efforts by providing data-supported best practice models in such areas as school management and climate, professional development, curriculum, and instruction. These Teams will not micromanage or direct reforms in schools; rather, they will listen to principals and teachers and then provide the support that is requested.

b. I am still hearing from tribes in New Mexico that they don't feel fully informed about changes to expect from the reorganization. What is your plan to ensure that all stakeholders—including BIE employees whose jobs may be affected—know what to expect during the reorganization?

Answer. The BIE has sought to inform Tribes about the expected changes to the BIE reorganization through consultation and outreach. In 2015, the BIE held 12 regional and individual consultations along with six national consultations. The BIE welcomes further questions or comments.

In terms of informing BIE employees, the BIE Office of Human Resources (HR) has held an open house, as well as encouraged BIE employees to stop by the office to discuss the reorganization and positions. All employees were notified by email that HR was available for private meetings to discuss the reorganization and the potential impact on them individually; approximately 110 individual counseling sessions were held in person or via telephone. Since February 22, 2016, the BIE has issued vacancy announcements for available positions under the new structure. The Acting HR Director and his staff have sent email updates as the vacancy announcements have been made and provided letters to all staff affected by the reorganization. In addition, information is posted on the HR Web site and distributed by the BIE newsletter and flyers. HR has also provided Webinars that can be accessed at any time by staff explaining how to access USAJobs and how to apply for jobs using USAJobs.

c. Your budget request provides $8 million dollars in new funds to implement more changes to the Bureau to "increase capacity" and provide additional services to BIE-funded schools, but it doesn't provide much more detail. What specific changes are you proposing to make, and what additional capacity will BIE build with these funds? Will these funds be used to address shortfalls in facilities management, contracting and other services provided to schools, as identified by the Governmental Accountability Office?

Answer. The additional $8 million is required to stand up the new Schools Operations Division within the Bureau of Indian Education. The School Operations Division will include the following functions: Facilities (school construction, repair and maintenance, school safety and school property); Human Resources; Educational Technology; Acquisitions; Budget and Finance; and Communications. The redesign and restructuring of the Schools Operations Division will address the Government Accountability Office recommendations related to accountability and management of funds, school safety issues, shortfalls in facilities management, and the planning and execution of acquisitions. These issues are addressed in several ways under the restructuring of the BIE as follows: (1) dedicated, additional staffing; (2) establishment of new offices with new responsibilities (e.g., auditing, technical assistance, policy development); (3) new reporting chains to ensure oversight of functional experts; (4) new business processes that support school needs, and (5) consolidation of functions to eliminate duplication.

Question (3). Secretary Jewell, I am pleased to see your 2017 budget includes a $350,000 increase to expand the Manhattan Project National Historical Park, for a total budget of $691,000. I know that the Park Service is still working with the Department of Energy to develop its plan for the park.

Could you please provide an update on what we can expect to happen with the park in 2016, particularly in Los Alamos? What activities do you plan to fund with your requested increase?

Answer. If appropriated, funding would provide for adequate initial staffing of all three park locations, including Los Alamos. A Superintendent, a site manager at each location, and some interpretive staff are planned based on the proposed budget for fiscal year 2017.

If funding is appropriated, the Los Alamos site will hire a site manager in 2017 and will expand interpretive staff. The Department of Energy is working to have the first buildings open to the public in late calendar year 2017.

In the meantime, the park has developed a brochure showing the Manhattan Project resources visitors can see in town, and will be hosting regular ranger talks and tours by summer 2016. NPS anticipates expanding the interpretive presence in

2017 with the additional funding as well as continuing to develop partnerships with the local community.

Question (4). Secretary Jewell, I am very pleased that my colleagues and I were able to provide the BLM National Conservation Lands line item with its first increase since fiscal year 2012. As you know, we recently established two new national monuments in New Mexico—the Organ Mountains-Desert Peaks National Monument in the southern border area of the State, and the Rio Grande del Norte National Monument in the north near Taos. Tourism at these monuments creates critical economic opportunities for the people in surrounding communities—and they are also places that New Mexicans enjoy visiting ourselves. The President's budget once again proposes a significant increase of $13.8 million dollars for monuments throughout the country.

a. Can you tell us what BLM's plans are for utilizing the new funds we provided in fiscal year 2016— particularly to support the monuments in New Mexico?

Answer. The BLM's National Monuments and National Conservation Areas (NM&NCA) program received a $5.0 million increase in fiscal year 2016. The increase brings the program's total appropriation to $36.8 million, which is used to administer 46 areas covering about 12.2 million acres (as of April 1, 2016). New Mexico has received $1.3 million, or 26 percent, of the increase because of several new NM&NCA designations. This brings the State's total NM&NCA program funding to $2.5 million—a 110 percent increase from fiscal year 2015.

These funds will support all NM&NCAs in New Mexico, including newer national monuments. Specific direction includes funding managers, critical staff, signage, and educational materials, among other things. Funding is also directed for New Mexico's critical maintenance needs, to inventory and protect the resources, objects, and values for which units were designated, to reduce staffing vacancies, provide education and interpretation to the public, hire youth and veterans, and provide safe and legal public access.

b. With the increased funding included in the 2017 Budget for national monuments, what will you be working on? What are the needs that should be addressed?

Answer. The BLM plans to use the proposed $13.8 million increase to the NM&NCA program as described in the fiscal year 2017 President's budget. Specifically, the program will use the increase to fill critical management and staff vacancies, conduct vital inventories, provide safe and legal public access, perform basic maintenance on infrastructure, protect wildlife habitat and irreplaceable historical resources, and provide opportunities for recreation, volunteering, youth and veteran engagement, and scientific research.

c. Since the budget was delivered, the President has designated new monuments in California, and I understand there is still the potential for additional designations. Will the funding needs for those areas be covered by the increases you've proposed? If not, how will you fund them without impacting other states like New Mexico?

Answer. The 2017 budget was formulated prior to these most recent designations. BLM base funding has been used to manage these acres prior to their designation as national monuments. Decisions on allocation of the requested increase have yet to be made. The BLM will have a better idea of 2017 funding needs for the new monuments in the coming months, and will be able to reprioritize estimated NM/NCA State allocations at that time.

Question (5). The budget proposes $1.7 million dollars to implement a Departmental Southwest Border Radio Initiative—in partnership with the Forest Service—to improve communications infrastructure amongst the various land management agencies, based on some issues the Inspector General uncovered.

a. Can you talk about how this funding specifically addresses the concerns raised by the Inspector General? Will this initiative improve Interior's ability to communicate with Border Patrol and State and local law enforcement as well?

Answer. The funding proposed for the fiscal year 2017 Bureau of Land Management Deferred Maintenance budget will allow the Department of the Interior to complete the first pilot projects aimed at resolving deficiencies in the land mobile radio program in an area with a critical need for improved communications. Projects to be completed with these funds will focus on resolving concerns over safety of DOI personnel using and maintaining land mobile radio facilities. In addition, land mobile radio infrastructure will be consolidated, removing redundant facilities and upgrading equipment on remaining sites. The priorities for work will be accomplished in collaboration with other DOI Bureaus in the region including the National Park Service (NPS), Fish and Wildlife Service, Bureau of Indian Affairs, the Bureau of

Reclamation and the U.S. Forest Service. There may be as many as 32 sites in the region which could be eliminated through this consolidation.

When completed this project will lead to reduced infrastructure costs since there will be fewer sites to maintain and the condition of the remaining sites will be much improved. A key aspect of this project is the cross Bureau cooperation within DOI and the inclusion of the USFS as a full partner. Safety and effectiveness will also be enhanced with upgraded replacement communication hardware and operational support for the infrastructure will be shared.

Radio coverage and reliability will be enhanced which should lead to better communications with other partners including the U.S. Border Patrol. The work to be done is not focused on correcting interoperability issues. These issues have been addressed through MOUs and exchange of radio frequencies and encryption keys. On the Southwest Border, the DOI and USFS Law Enforcement have been successfully interoperable with the Department of Homeland Security since 2008, in some cases much earlier. Our Officers communicate on these shared frequencies and infrastructure every day.

b. Can you tell us why BLM was chosen as the lead agency and why the Park Service and Fish and Wildlife Service do not have similar increases proposed for this project?

Answer. BLM currently administers and operates a regional interagency dispatch center in Phoenix and has been a leader in managing land mobile radio communications in the region. The Arizona BLM State Directors Office and staff have collaborated with other DOI Bureaus and the USFS to identify priority actions needed to address field communications issues and has entered into a partnership with the NPS, FWS, and the USFS in the border region of New Mexico and Arizona. Radio communications are a common operational activity and BLM has agreed to manage the requested funds to address needs across all Bureaus and the USFS. The funding will be used to consolidate existing infrastructure, removing towers that provide overlapping service and upgrading the towers that will remain and serve all the participating agencies. The specific sites to be worked on will be identified based on technical information gathered through a collaborative effort with the partners involved.

c. What are the tangible impacts we will see on the ground in New Mexico if this program is funded?

Answer. When project work is completed there should be fewer land mobile radio communication sites in New Mexico since sites that provide overlapping service will be removed. This will reduce environmental impacts and maintenance costs for unneeded sites. Maintenance visits to the sites will no longer be required reducing disturbance to sensitive species and removal of equipment and associated infrastructure will allow for restoration of previously impacted sites.

Improvements at remaining communication sites will increase radio coverage and reliability for DOI Bureaus and the USFS and should make these sites viable for colocation use by the New Mexico FirstNet Public Safety Broadband Network, counties, cities, and other Federal agencies.

Question (6). I am the lead cosponsor of legislation with Senator Wyden that would require the Department to collect royalties for coal mined on Federal lands based on the actual market value of coal. The bill also increases transparency within the Federal coal program by making it a requirement to calculate and publish the going market rate for coal and coal transportation.

I know that you have called for a comprehensive review of the coal program. What is the status of that review, and the expected timetable for completion? Will the reforms proposed in our bill be evaluated as part of your review? Please provide a comprehensive list of the issues that you expect to investigate or address as part of the review.

Answer. On January 15, 2016, the Secretary of the Interior issued Order No. 3338 directing the BLM to conduct a broad, programmatic review of the Federal coal program it administers through preparation of a Programmatic EIS under NEPA. The Order was issued in response to a range of concerns raised about the Federal coal program, including, in particular, concerns about whether American taxpayers are receiving a fair return from the development of these publicly owned resources; concerns about market conditions, which have resulted in dramatic drops in coal demand and production in recent years, with consequences for coal-dependent communities; and concerns about whether the leasing and production of large quantities of coal under the Federal coal program is consistent with the Nation's goals to reduce greenhouse gas emissions to mitigate climate change. In light of these issues, the coal Programmatic EIS will identify and evaluate a full range of potential re-

forms to the Federal coal program, including those related to ensuring a fair return to the taxpayer.

On March, 30, 2016, the Department of the Interior published a Notice of Intent (NOI) to prepare a programmatic EIS to review the Federal coal program and conduct public scoping meetings [Pages 17720–17728 [FR DOC # 2016–07138]]. Scoping meetings are scheduled for May and June 2016. The BLM will invite interested agencies, States, American Indian tribes, local governments, industry, organizations and members of the public to submit comments or suggestions to assist in identifying significant issues and in determining the scope of this Programmatic EIS. All comments and recommendations submitted during the scoping process will be collected for consideration. The estimated completion time for the program review is 3 years.

Question (7). Secretary Jewell, the demand for ivory and rhino horns has skyrocketed. The Congressional Research Service reports that a rhino horn is worth more than $50,000 per kilogram—more than even gold and platinum. The profit incentive is just staggering—so it's no surprise that terrorist networks such as al-Shabab and the Lord's Resistance Army are turning to poaching to support their operations.

The fiscal year 2016 Omnibus included $8 million dollars, a 12 percent boost, to the Fish and Wildlife Service's efforts to combat wildlife trafficking. The budget request for fiscal year 2017 would maintain that increased effort.

What progress is the Service making on hiring the planned 45 new specialists and agents, and how quickly will they get into the field? What other steps is the Service planning to take with the new funds, both in 2016 and 2017?

Answer. The fiscal year 2016 Omnibus included an $8 million dollar increase for the U.S. Fish and Wildlife Service's Office of Law Enforcement to combat wildlife trafficking. These funds are being used to strengthen the Service's capacity to combat trafficking by hiring additional international special agent attachés, digital forensic specialists, intelligence analysts, and special agents.

International attachés are experts on investigating wildlife trafficking and breaking up smuggling networks. They are stationed around the world in strategic international locations to strengthen ongoing international partnerships to protect the world's wildlife from poaching and illegal trade. In August 2015, three additional attachés were stationed at U.S. embassies in Dar es Salaam, Tanzania; Gaborone, Botswana; and Lima, Peru. The Service continues to work with the State Department to place a fifth attaché in Beijing, China in May 2016. In 2016, the Service plans to deploy an additional four international attachés in areas of the world that have been determined to be strategically important in the fight to combat illegal wildlife trafficking. The Service is in final discussions with the State Department concerning the placement of four additional attachés. The Service anticipates advertising the positions before July 2016, with selections for the positions to be made in August 2016.

Digital forensic specialists support agents in case development and execution by providing forensic results concerning computers, cell phones, and other digital technologies. The Service is currently reviewing applications for the five new special agent positions funded in the fiscal year 2016 budget. The Service aims to place the new agents at the Digital Evidence and Recovery Computer Forensics Lab by June 2016.

Intelligence analysts support special agents and wildlife inspectors working in the field in numerous ways, including providing information concerning trends in wildlife trafficking, researching information on smuggling syndicates, performing criminal history checks, and producing and distributing intelligence bulletins. The Service is on track to select a new Special Agent in Charge of the expanded Intelligence Unit in June 2016, with plans to bring the remaining agents on board shortly thereafter.

The Service has also hired 43 special agents to ensure its ability to enforce the Nation's wildlife laws and safeguard protected species. The additional special agents will address the current staffing level shortfall that has limited the Service's ability to perform ongoing investigations. A portion of the new agents have completed initial training and are already working at field locations. Final training will take place in June 2016 at the Federal Law Enforcement Training Center in Glynco, Georgia. After completion of all training, new agents will be deployed to the field for direct interdiction of illegal commercial exploitation by organized crime elements.

Through increased staff in these vital areas of expertise, the Service will strengthen our own and our global partners' capacity to prosecute and deter criminals that engage in the poaching and smuggling of wildlife and plants.

Question (8). Secretary Jewell, the Fish and Wildlife Service's efforts to reintroduce the Mexican gray wolf in New Mexico and Arizona has had a promising start. They were virtually eliminated from the wild by the 1970s, but thanks to the program, the population reached 110 wolves in 2014.

Unfortunately, the 2015 count brought some troubling news—the Mexican gray wolf population dropped to 97. I also understand that two wolves passed away during or right after being darted and tagged by the Fish and Wildlife Service. Wild populations can naturally ebb and flow, but we know that these wolves are at risk for a number of factors. It's critical that we investigate closely.

a. Do your scientists have a theory for why the population is trending downward? Are there plans underway to help support a rebound?

Answer. The drop in numbers from 2014 to 2015 represents 1 year and does not yet indicate a trend. The population decline in 2015 was due to a combination of factors. There were 13 Mexican wolf mortalities (5 illegal, 2 natural, 1 capture complication, 5 awaiting necropsy) compared to 11 in 2014. Ten additional wolves are considered fate unknown compared to three in 2014. Finally, a significantly lower proportion of pups survived to December, relative to last year: 55 percent survival in 2015 compared to 86 percent in 2014. In the 2014 Environmental Impact Statement for the revised regulations for the Mexican wolf experimental population, the Service anticipated an average annual population growth of 10 percent. In 2014, Mexican wolves had higher than usual pup survival and a population growth of 30 percent. The Service maintains that the strategy for the experimental population continues to be viable. The Service and its partners remain focused and committed to making this population genetically healthy and robust so that it can contribute to the recovery of the Mexican wolf.

b. Why did the two wolves die during the count and capture operation? Has the Fish & Wildlife Service done a full review of their policies and procedures to prevent similar accidents?

Answer. The Service conducted preliminary investigations immediately following the two deaths during the 2015 count and capture operation. Both wolves are undergoing necropsies at the Service's Forensics Laboratory in Ashland, Oregon, to determine cause of death. We have requested that the lab specifically determine if either wolf experienced capture myopathy and if there was any other contributing underlying health issue. The techniques, protocol, and drugs used were the same as those used throughout this year's and last year's count and capture operations. This year, 13 additional wolves were successfully darted, processed, collared, and released back into the wild. Based on the outcome of the necropsies, the Service will determine if any changes to protocol are needed.

QUESTIONS SUBMITTED BY SENATOR ROY BLUNT

Question (1). Could you please provide a comparison of the revenues returned in the last several fiscal years from oil, gas, and coal leases, versus any revenue brought in from solar energy. Please include in the report what the revenue is generated from, such as rents. Further, please identify where there this money is accounted for in the Interior budget. It does not appear to be documented in Interior's Office of Natural Resources Revenue which lists revenues from other sources.

Answer. A comparison of the revenues generated for oil, gas, coal and solar energy are provided in the tables below.

Revenues from oil, gas, and coal leases: Data with respect to revenue generated by the production of Federal oil, gas, and coal is maintained by ONRR on its Statistical Information Web page (http://statistics.onrr.gov/ReportTool.aspx). Information made available is broken down into information on Revenue Type (reported royalties, rents, bonus, and other revenues), Commodity (leased solid and fluid minerals), and the total Revenue collected. Definitions for these categories are provided by ONRR on its Web site.

The tables below present the total revenue collected from Federal oil, gas, and coal production on both an annual and aggregate basis from fiscal year 2010 through fiscal year 2015.

OIL AND GAS REVENUE

Fiscal Year 2010–2015

Type	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015
Gas (mcf)	$1,444,790,640	$1,360,191,600	$976,195,024	$1,008,066,360	$1,161,006,314	$915,071,846
NGL (gal)	$210,688,138	$253,774,439	$298,372,582	$284,957,168	$279,379,284	$154,241,725
Oil (bbl)	$870,739,500	$1,110,883,193	$1,275,117,598	$1,459,973,589	$1,634,903,295	$1,269,596,134
Total Royalt es	$2,526,218,278	$2,724,849,233	$2,549,685,203	$2,752,997,117	$3,075,288,892	$2,338,909,704
Oil & Gas Rents	$48,800,065	$45,002,896	$43,758,281	$41,036,833	$36,684,823	$30,886,105
Oil & Gas Bonuses	$201,872,509	$233,467,555	$283,051,994	$188,982,219	$161,936,505	$112,651,284
Total Royalty, Rent and Bonus	$2,776,890,852	$3,003,319,684	$2,876,495,478	$2,983,016,170	$3,273,910,220	$2,482,447,094

COAL LEASE REVENUE

Fiscal Year 2010–2015

Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Total Fiscal Year 2010–2015
$856,793,241	$956,018,290	$1,364,744,116	$1,165,066,525	$1,161,706,509	$1,137,450,911	$6,641,809,592

Revenues from Solar Energy: ONRR does not collect renewable resource revenue information. Renewable energy revenue is reported by the BLM in the Public Land Statistics. Since 2010, the BLM has authorized 35 solar projects. As of April 2016, there are 6 projects that have been built and are providing power to the grid. The following table summarizes renewable energy revenues that BLM has collected over the past several years.

The table below reflects annual payments that the BLM collects for solar and wind energy development. It does not include revenues collected through competitive bidding for development parcels at an auction since there has only been one auction held to date, in 2014, which resulted in over $5.8 million in bids. This is an amount that the BLM collected in addition to the amounts reported in the table below. All revenues, including bid monies, are sent to the General Fund at the Treasury.

SOLAR AND WIND ENERGY REVENUE

Fiscal Year 2010–2015

Year	Solar	Wind	Fiscal Year Total
Fiscal Year 2010	$3,911.76	$3,115,480.25	$3,119,392.01
Fiscal Year 2011	$6,230,982.09	$3,713,338.16	$9,944,320.25
Fiscal Year 2012	$5,199,338.42	$4,354,260.32	$9,553,598.74
Fiscal Year 2013	$6,343,817.72	$4,315,856.99	$10,659,674.71
Fiscal Year 2014	$7,307,687.93	$5,402,276.42	$12,709,964.35
Fiscal Year 2015	$10,686,757.63	$4,538,337.65	$15,225,095.28
Totals	$35,772,495.55	$25,439,549.79	$61,212,045.34

Question (2). Given that your department has concluded that a PEIS for the coal leasing program is necessary, will you commit to refraining from other major modifications to the coal program while this analysis is being conducted?

Answer. The intent of the discretionary Programmatic EIS is to analyze potential leasing and management reforms to the current Federal coal program in response to concerns raised by the Government Accountability Office, the Interior Department's Office of Inspector General, Members of Congress, interested stakeholders and the public. Any potential reforms or changes to the Federal coal program will be identified in the scoping process.

Question (3). You have indicated that a number of coal leases that have received record of decisions will be grandfathered. Are you firmly committed to allowing those lease sales to move forward as planned?

Answer. The Secretarial Order states that applications having records of decisions or decision records issued by either the surface management agency or the bureau at the time of the order will be processed and not affected by the pause.

QUESTIONS SUBMITTED BY SENATOR MITCH MCCONNELL

Question (1). The Consolidated Appropriations Act of 2016 (Public Law 114–113) included a directive to require the Office of Surface Mining Reclamation and Enforcement (OSMRE) to provide States with technical reports, data, analyses, comments received, and documents related to the environmental review and environmental impact statements for the agency's proposed stream buffer zone regulation. To date, what has OSMRE done in conjunction with the Department of Interior to comply with Congress' directive?

Answer. OSMRE made these documents available to all of the States on March 24, 2016. Reference materials cited in the proposed rule were uploaded on the Web site *regulations.gov* with the exception of reference materials protected by copyright law.

Question (2). The Office of Surface Mining and Enforcement (OSMRE) claims that States have been reluctant to work with the agency despite their outreach efforts on the proposed stream buffer zone regulation. The Energy and Environment Cabinet in Kentucky sent a letter to your agency on February 8, 2016, indicating that the State agency would be interested in receiving the information directed by Congress in the Consolidated Appropriations Act of 2016 (Public Law 114–113) to see how those studies and assessment documents compare with their own findings and reviews. Where is your agency in the process of responding to this request? What steps will your agency take to ensure that the newly elected and appointed officials in the commonwealth of Kentucky are brought up to speed with the proposed rule and reviews and findings associated with it? What sort of engagement can the Kentucky Energy and Environment Cabinet expect from your agency before the stream buffer zone rule is finalized?

Answer. OSMRE has and will continue to honor its commitment to provide the State of Kentucky as well as all other States the information directed by Congress. In this regard, OSMRE scheduled a series of technical meetings to provide answers to questions the States might have with any of the documents provided. The State of Kentucky was invited to participate in these meetings held on April 14, 2016 and on April 21, 2016.

QUESTIONS SUBMITTED BY SENATOR BILL CASSIDY

Question (1). In 1996 Congress passed the National Technology Transfer and Advancement Act (NTTAA). The law prohibits the use of technical standards unique to the Federal government in lieu of voluntary consensus standards as they relate to agency rule making. However, the Blowout Preventer Systems and Well Control final rule, RIN 1014–AA11 violates the NTTAA by using government unique technical standards. This violation makes it impossible to implement numerous portions of the rule while remaining compliant with existing law. In its formulation of the rule BSEE also infringes upon OMB Circular A–119. The circular requires the publishing of a NTTAA "statement" in its Notice of Proposed Rulemaking (NPRM) detailing why government unique technical standards were necessary in lieu of consensus standards if exceptional reasons existed.

a. Why did BSEE not include a NTTAA statement in its original NPRM?

Answer. BSEE's Blowout Preventer Systems and Well Control final rule is consistent with the NTTAA's requirement that agencies use technical standards that are developed or adopted by voluntary consensus standards bodies rather than government-unique standards. The final rule expressly incorporates the following voluntary consensus technical standards as required by the NTTAA:

—American Petroleum Institute (API) Standard 53 ("Blowout Prevention Equipment Systems for Drilling Wells");
—ANSI/API Specification (Spec.) 11D1 (Packers and Bridge Plugs,
—ANSI/API Spec. 16A (Drill-through Equipment);
—API Spec. 16C (Choke and Kill Systems);
—API Spec. 16D (Control Systems for Drilling Well Control Equipment and Control Systems for Diverter Equipment);
—ANSI/API Spec. 17D (Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment); and

—ANSI/API RP 17H (Remotely Operated Vehicle Interfaces on Subsea Production Systems).

The final rule does not use government-unique standards in lieu of voluntary consensus standards. As a result, BSEE is not required to provide a statement that identifies government-unique standards and explain why using voluntary consensus standards would be inconsistent with law or otherwise impractical.

b. How does BSEE plan to implement all of rule RIN1014–AA11 if key provisions violate existing statues?

Answer. BSEE does not believe that any provisions of the rule violate existing statutes. As BSEE described in the preamble to the proposed rule, pursuant to the Outer Continental Shelf Lands Act (OCSLA), Congress authorized BSEE to promulgate regulations concerning natural resources of the Outer Continental Shelf.[3] BSEE relied on this legal authority as its basis for developing and issuing the final Blowout Preventer Systems and Well Control rule. The final rule is consistent with OCSLA and other existing statutes described in the rulemaking record.

c. Does the Department plan to publish a NTTAA statement and reopen the public comment period?

Answer. As the Blowout Preventer Systems and Well control rule complies with the requirements of the NTTAA and the guidance in OMB Circular A–119 concerning the Bureau's identification of voluntary consensus standards used in the rule, the Department does not plan to reopen the public comment period.

Question (2). The NTTAA does allow for exceptions from the voluntary consensus standards mandate when their use "is inconsistent with applicable law or otherwise impractical" and requires agencies to "transmits to the Office of Management and Budget an explanation of the reasons for using such standards." In accordance with 15 U.S.C. § 272.

a. Please explain the Department's process for justifying a NTTAA exemption when BSEE was actively involved in creating and approving the consensus standards at issue.

Answer. BSEE's promulgation of the final Blowout Preventer Systems and Well Control rule is consistent with the NTTAA's requirement that agencies use technical standards that are developed or adopted by voluntary consensus standards bodies, rather than government–unique standards, when such technical standards are consistent with the law and practical (e.g., when the technical standards would serve the agency's program needs and would not be ineffectual, inefficient or inconsistent with the agency's mission). The final rule does not rely on an exemption from the NTTAA.

b. Please explain the justification that voluntary consensus standards are "impractical", especially taking into account that government-unique standards lack a technical basis and create potential safety risks.

Answer. Each departure from voluntary consensus standards is founded on a sound technical basis, generally accepted engineering best practices, and BSEE's determination that the relevant consensus standard, or a specific provision of the standard, does not provide an acceptable level of risk, risk management, or due care. For example, API Standard 53 contains a provision that allows an operator to opt out of a requirement to have dual shear rams on a subsea blowout preventer. The final version of the Blowout Preventer Systems and Well Control rule incorporates API Standard 53, but does not incorporate the "opt-out" provision as the Bureau determined that full incorporation of Standard 53 cannot provide the same level of safety as an absolute requirement to have dual shear rams. In instances such as this, where the Bureau decided that a departure from consensus standards was appropriate, BSEE exercised its authority carefully with an eye toward establishing an acceptable level of protection while also balancing risks, costs, and the availability of alternative approaches in establishing regulatory requirements.

Question (3). In its NPRM BSEE claims the proposed rule is not a "significant energy action" triggering the need for a Statement of Energy Effects under the Outer Continental Shelf Lands Act ("OCSLA") and procedural requirements under Executive Order 13211 (May 18, 2001) requiring a "Statement of Energy Effects." However, based on comments received from the public it is unreasonable for BSEE and the Department to continue this claim. BSEE has acknowledged that the proposed rule in total "represents one of the most substantial rulemakings in the history of the BSEE and its predecessor organizations." While simultaneously and inconsistently claiming that the proposed rule is not a significant energy action under E.O.

[3] 80 Fed. Reg. 21505 (April 17, 2015); 43 U.S.C. 1334.

13211, BSEE has not met the mandate under OCSLA for a reasoned analysis of the rule.

Given the obvious and BSEE acknowledged impact this rule will have; will the Department renew its analysis and prepare the requisite Statement of Energy Effects and submit the Statement for public comment, as required by law?

Answer. The rule represents one of the most substantial rulemakings in BSEE history because it codifies significant improvements to the safety of well control operations, not because of any possible energy effects. The Bureau's analysis of the final rule indicates that it will not have a significant adverse effect on energy supply, distribution, or use because its estimated impacts will not exceed the thresholds established by OMB.[4]

Question (4). BOEM has stated that offshore sources have not been demonstrated to impact onshore air quality. At the same time, BOEM is currently undergoing air modeling studies to inform its air quality rulemaking and these studies are not expected to conclude until 2017. However it appears the agency is on the cusp of proposing an entirely new regulatory program for offshore operators.

a. Is the agency going to move forward with a proposed rule before receiving the results of the air modeling studies that are intended to inform the rule for which it has commissioned nearly $4 million? What assurance can you provide today that the agency will issue a draft report of the studies for public review and comment prior to finalizing the report or incorporating its conclusions into any revised regulatory requirements?

Answer. The proposed regulations continue the framework of the current BOEM air quality regulations. The framework, a construct in place since 1980 when the Department of the Interior first issued air quality regulations, was designed to meet the Department's statutory mandate to ensure that offshore oil and gas activities do not exceed onshore national ambient air quality standards (NAAQS).

Given today's landscape, we acknowledge the need to update the 36 year-old regulations to reflect current science and technology and recent determinations about pollutant levels that are potentially harmful to human health and the environment. The existing regulations reflect outdated air quality standards that the Environmental Protection Agency (EPA) has since revised to better reflect current science.

The proposed regulations will more effectively protect public health and the welfare of affected States. In addition, BOEM's current regulations do not take into account air quality impacts over State coastal waters, which BOEM believes would more accurately meet its statutory responsibility. Finally, revisions are also needed to address BOEM's responsibility to assess air quality impacts in the Arctic, as required by The Consolidated Appropriations Act, 2012 (Public Law 112–74).

The proposed regulations are designed to allow advances in science and assessment of air quality impacts to be flexibly and efficiently incorporated into BOEM's air quality rules, including results of the modeling studies currently underway. The modeling studies are intended to inform air quality requirements *within* the framework of the proposed regulations, not the framework itself. Consistent with BOEM's practice for scientific standards, the studies will be peer-reviewed and made public once final. Also, as BOEM's proposed regulation provides, any changes in the current emission exemption thresholds, which the models are designed to inform, would not occur until the studies are completed, and would not occur before BOEM gives notice in the *Federal Register* that it intends to revise the thresholds and provide an opportunity for public comment.

Conclusions about the environmental impact of OCS air emissions depend on the focus of review and the most recent science. Those assessments are determined when BOEM reviews site-specific plans of operations. In that context, it is possible for emissions to exceed significant impact levels or lead to deterioration of State air quality. Accordingly, it is necessary for BOEM to conduct a broad cumulative impact analysis, as well as a site-specific review of plans.

b. What justification does the agency have for moving forward without the results of the studies when your agency, through its environmental impact assessments, has repeatedly concluded that offshore sources do not impact onshore air quality?

Answer. The proposed regulations continue the framework of the current BOEM air quality regulations. The framework, a construct in place since 1980 when the Department of the Interior first issued air quality regulations, was designed to meet the Department's statutory mandate to ensure that offshore oil and gas activities do not exceed onshore national ambient air quality standards (NAAQS).

[4] OMB Memoranda 01–27 (Guidance for Implementing E.O. 13211) (2001).

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c. What reassurance can you provide that the agency will not rush, in order to meet an artificial deadline, the regulated community's ability to comment on the proposed rule and allow the agency time to engage with stakeholders as you analyze and digest those comments in order to incorporate any appropriate revisions into the final rule?

Answer. BOEM is proceeding with the rulemaking in a deliberative manner with ample opportunity for public comment. For instance, while drafting the Air Quality proposed rule, BOEM held a number of meetings and listening sessions with other government entities, and environmental and industry stakeholders. The proposed rulemaking provides 60 days for public comment following its publication on April 5, 2016 in the *Federal Register.* Additionally, the proposal was posted on BOEM's Web site on March 17, 2016, providing the public an additional 19 days to review the proposed rule. BOEM will carefully review the comments it receives on the proposed rule as it develops a final rule.

Question (5). BSEE is currently working to finalize its BOP/Well Control Rule which as proposed may actually decrease safety and increase risk. Will the final rule make offshore operations less safe and increase risk like the proposal did?

Answer. The Department announced the final rule on April 14, 2016, and the final rule was published in the *Federal Register* on April 29, 2016. The Bureau's analysis of the administrative record, including the many recommendations associated with the *Deepwater Horizon* blowout and explosion investigations and the public comments indicates that the final rule will reduce the risk of an offshore oil or gas blowout that could result in the loss of life, serious injuries, or substantial harm to the environment. Accordingly, the final rule represents one of the most significant safety and environmental protection reforms the Interior Department has undertaken since *Deepwater Horizon,* and builds upon a number of reforms instituted over the last 6 years to strengthen and modernize offshore energy standards and oversight.

a. Prior to the rule's proposal last year did DOI thoroughly examine all of the safety improvements made since 2010 and identify the existing gaps to determine what this rule needed to address?

Answer. Following the *Deepwater Horizon* tragedy, several immediate actions were taken to address specific offshore safety concerns involving drilling operations. The regulations that were issued in 2010 and 2012 provided new standards for well design, casing and cementing, and third-party certification of designs. These rules represented an important first step in addressing regulatory gaps in the offshore program, but did not address the full cadre of regulatory deficiencies identified after *Deepwater Horizon.*

The Blowout Preventer Systems and Well Control rule represents the next step in the process of creating a robust regulatory program that is responsive to all of

the recommendations received from the several investigations of the *Deepwater Horizon* incident. BSEE employed a number of strategies to ensure that regulatory gaps were identified and addressed, including, but not limited to, involving industry and other stakeholders in the development of the proposed rule and in the final rulemaking process.

b. DOI received significant comments and feedback on a number of safety concerns with the proposed rule. A recent Wall Street Journal article, which may have been written as a result of a DOI leak of the final rule, suggests that changes have been made to the proposal. What changes have been made to enhance safety?

Answer. The Blowout Preventer Systems and Well Control rule codifies many important improvements to offshore drilling. The final rule addresses key recommendations made after the *Deepwater Horizon* tragedy and closes gaps in existing regulations and updates BSEE regulations to reflect industry best practices. Parts of the final rule that were modified after the public comment period on the proposed rule include the safe drilling margin requirement, real-time monitoring, blowout preventer (BOP) inspection requirements, and BOP accumulator capacities.

As to the drilling margin requirement, text was added to clarify the acceptability of risk-based justifications for specifying an alternative drilling margin, which clearly provides the flexibility requested in numerous industry comments. With regards to the real-time monitoring provisions, language was revised to clarify the Bureau's intent and to address misperceptions reflected in the comments. The new provision reflects the Bureau's intent to allow maximum flexibility in complying with real-time monitoring requirements.

In addition to enhancing safety and flexibility, many of the changes reflected in the final rule will result in substantial cost-savings for offshore operators. For example, the final rule modifies the 5-year BOP inspection requirement, allowing inspections to occur in phases, provided every component is inspected once every 5 years. Compliance dates were also extended for several important requirements, including the extension of the requirement to use BSEE-Approved Verification Organizations (BAVOs) to perform certifications from 90 days to no later than 1 year from the date when BSEE publishes the list of BAVOs. In response to industry comments, the requirement to use "hydraulically operated locks" on surface BOPs was modified to allow the use of remote-controlled locks and the effective date of that requirement was extended to 3 years after the date of publication. These are just a few instances where comments and other feedback BSEE received were reflected in changes to the final rule.

c. A number of us in Congress have real concerns with the proposal all centered on safety and as a result the DOI needed to undertake a more robust analysis and engage in real dialogue to make sure the unintended consequences were addressed and the rule actually made offshore operations safer. As a result, the fiscal year 2016 omnibus spending bill expressed the need for more robust analysis and that further examination needed to take place prior to the finalization of the rule. Did DOI heed to the call of the Congress prior to finalizing and sending the rule to OMB? Why or why not?

Answer. Yes. BSEE conducted extensive stakeholder engagement after publication of the proposed rule and during the extended comment period. BSEE participated in numerous meetings with industry and other stakeholders before and after publication of the proposed rule on subject matter related to the Blowout Preventer Systems and Well Control rule, a number of which dealt specifically with clarifying stakeholders' written comments on the rule. BSEE also attended listening sessions arranged by the Office of Management and Budget (OMB) during the E.O. 12866 review period for the draft final rule, most of which were requested by members of industry. BSEE staff carefully considered all stakeholder comments and input.

The Bureau's comprehensive and transparent outreach was critical to the development of the final rule. The final rule does not represent a "one-size-fits-all" approach. Rather, the final rule incorporates sufficient flexibility to allow operators to focus on the ultimate goal of increasing safety and reducing risk offshore. The final rule also allows for the development and deployment of new technologies that lead to safer operations. Additionally, the final rule employs a phased implementation approach for some of its more complex provisions that gives industry sufficient time to come into compliance with new technological requirements.

d. Does the final rule address and fix all of the safety concerns stakeholders and Congress had with the proposal? Does the final rule enhance safety?

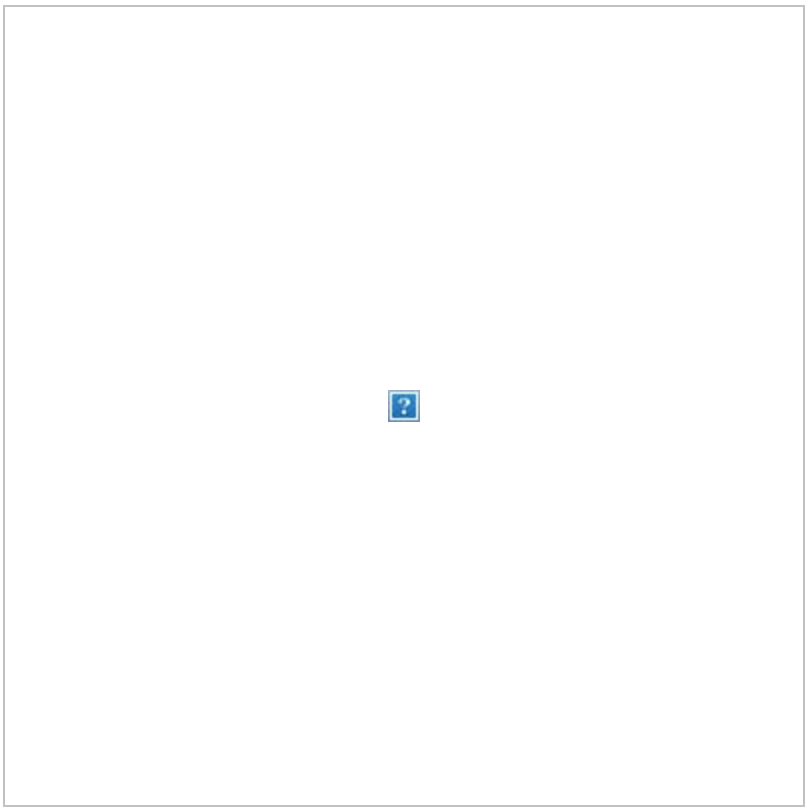
Answer. The final Blowout Preventer Systems and Well Control rule combines prescriptive and performance-based approaches to regulation to ensure that oil and

gas companies and offshore rig operators are cultivating a greater culture of safety with a focus on risk reduction. Based on the extensive technical comments received during the rulemaking process, several adjustments were made to provisions of the proposed rule that are reflected in the final rule. The final rule provides a level of flexibility sufficient to ensure that regulatory oversight keeps pace with technological advancement, provided future innovations can meet the rule's standards for safety performance. The key concerns of industry based on the proposed rule are addressed in the final rule including, but not limited to safe drilling margins, accumulator capacity, BOP inspection intervals, and real-time monitoring requirements. The Bureau firmly believes that the regulatory process has resulted in a final rule that will raise the bar for offshore safety, both in United States Federal waters and internationally.

SUBCOMMITTEE RECESS

[Whereupon, at 12:08 p.m., Wednesday, March 2, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

From: McCarthy Press Shop
To: Kristen_Sarri@ios.doi.gov
Subject: The CRA Wrap-Up To-Date
Date: Friday, February 17, 2017 11:00:09 AM



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February 17, 2017

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We began with regulatory reform first, because we know that if we don't change the structure of Washington and drain the bureaucratic swamp, we'll only get the same results. Not only that, but the Congressional Review Act gives us a limited time to overturn these Obama-regulations. We have a small

window of opportunity, and we're taking it.

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Overall, the House has passed 13 CRAs to overturn 13 terrible regulations:

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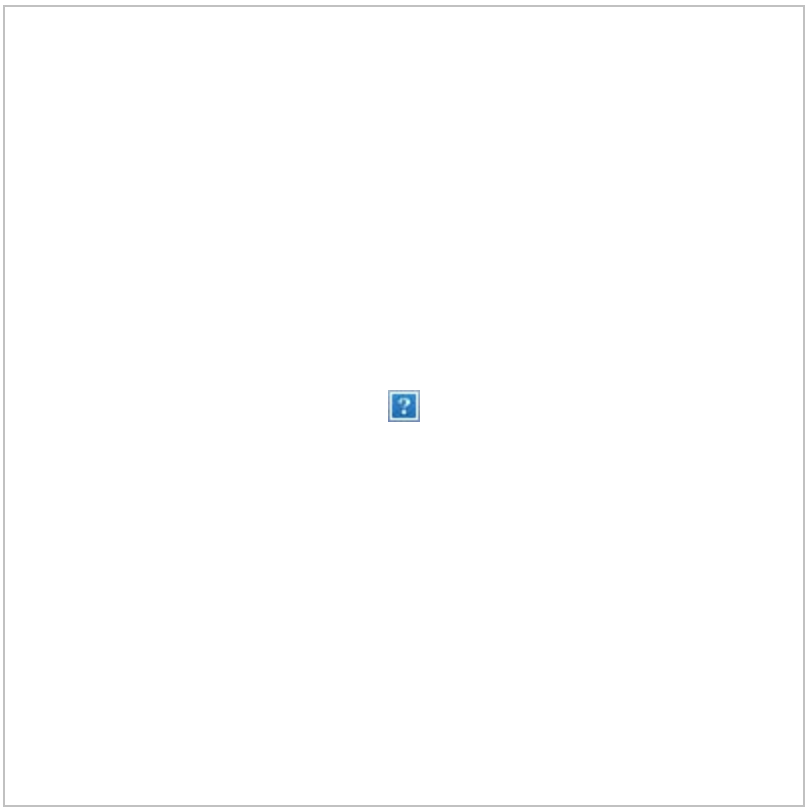

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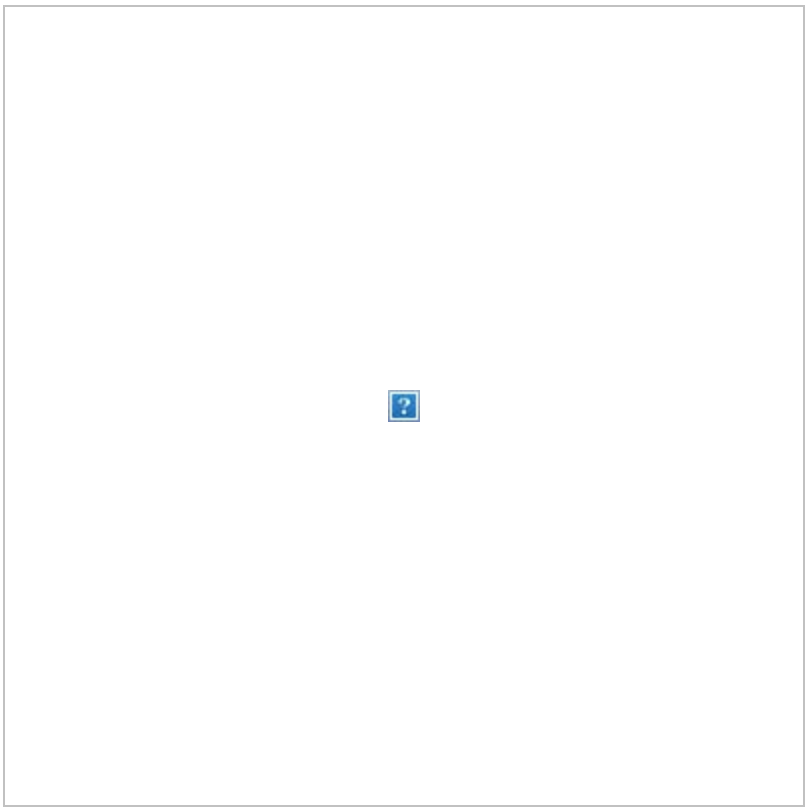

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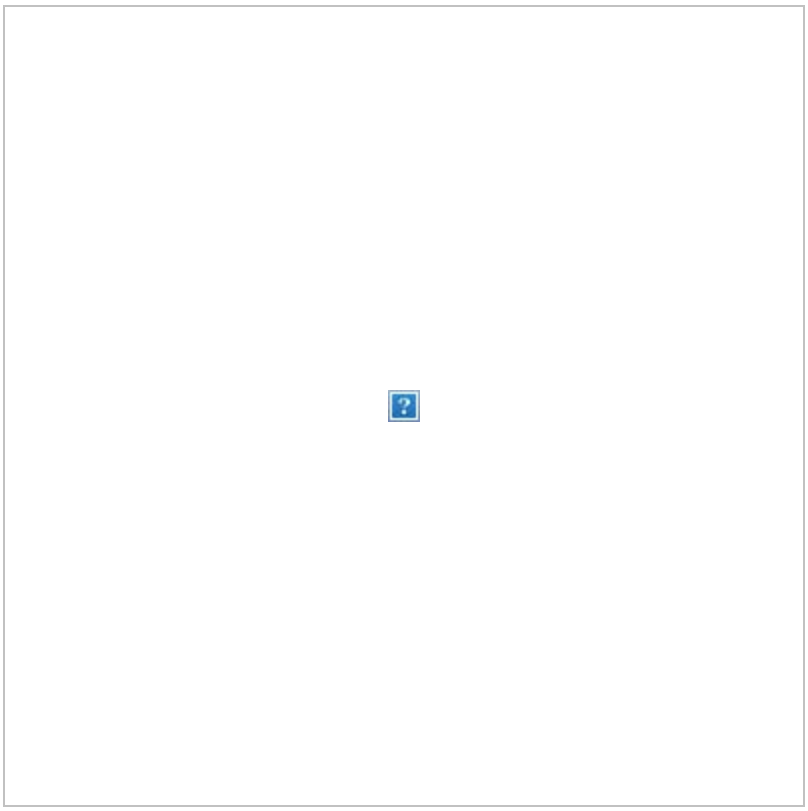

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The CRA Wrap-Up To-Date

For weeks, the House has worked on a large-scale regulatory reform project **to protect our people from the abuses of the bureaucracy, rebalance our constitutional system of government, and improve our economy.**

We're doing this through a two-part plan. First, in order to return power to the people we passed the REINS Act and Regulatory Accountability Act to restructure how the bureaucracy makes and the courts litigate regulations. Second, we used the Congressional Review Act to overturn particular harmful Obama-era regulations and send them to the dustbin of history.

We began with regulatory reform first, because we know that if we don't change the structure of Washington and drain the bureaucratic swamp, we'll only get the same results. Not only that, but the Congressional Review Act gives us a limited time to overturn these Obama-regulations. We have a small

window of opportunity, and we're taking it.

Here's What We've Done

Overall, the House has passed 13 CRAs to overturn 13 terrible regulations:

1) **The Stream Buffer Rule** (H.J. Res. 38) would have saddled mines with unnecessary regulations, putting up to 64% of America's coal reserves off limits and threatening between 40,000 to 70,000 mining jobs. – ***Signed by President Trump***

2) **The SEC Disclosure Rule for Resource Extraction** (H.J. Res. 41) would have put an unreasonable compliance burden on publicly traded American energy companies, putting them at a disadvantage to foreign-owned businesses. – ***Signed by President Trump***

3) **The Social Security Service's Second Amendment Restrictions** (H.J. Res. 40) would increase scrutiny on up to 4.2 million law-abiding disabled Americans attempting to purchase firearms, potentially depriving people of their constitutional rights without proper due process protections. – ***Passed by the Senate***

4) **The Federal Contracts Blacklisting Rule** (H.J. Res. 37) would unjustly block many businesses accused of violating labor laws from federal contracts before they've even had a chance to defend themselves in court.

5) **The Bureau of Land Management Venting and Flaring Rule** (H.J. Res. 36) would further cap methane emissions in the oil and gas industry at a time when the industry is already dramatically reducing emissions, potentially wiping out family-owned marginal wells and costing an estimated $1 billion.

6) **The Bureau of Land Management Planning 2.0 Rule** (H.J. Res. 44) would reduce local authority over large swaths of land out west, massively expanding the federal government's control over more than 175 million acres of land—about 4,000 times the size of Washington, D.C.—in 11 western states.

7) **The Teacher Preparation Rule** (H.J. Res. 58) would force states to use Washington's standards to determine whether a teacher preparation program is effective, undermining local control over education and potentially exacerbating the shortage of special education teachers.

8) **The Education Accountability Rule** (H.J. Res. 57) would be an unfunded mandate imposing Washington's standard for how to assess schools on state and local governments.

9) **The Unemployment Insurance Drug Testing Rule** (H.J. Res. 42) would severely restrict states' ability to limit drug abusers from receiving unemployment benefits even if the drug users are not able and available for work, as the law requires.

10) **The State Retirement Plan Rule** (H.J. Res. 66) would treat employees unequally by allowing states to force some workers into second-tier government-run retirement accounts that lack the same protections as private-sector accounts.

11) **The Local Retirement Plan Rule** (H.J. Res. 67) would treat employees unequally by allowing certain localities to force some workers into second-tier government-run retirement accounts that lack the same protections as private-sector accounts.

12) **The National Wildlife Hunting and Fishing Rule** (H.J. Res. 69) would infringe on Alaska's right to sustainably manage fish and wildlife by overregulating hunting—a move that could set the stage for the federal government to undermine local control across the entire U.S.

13) **The Title X Abortion Funding Rule** (H.J. Res. 43) would force states to administer Title X health funding to abortion providers, even if states want to redirect those funds to community health centers and hospitals that offer more comprehensive coverage.

Hard at Work

From defending American workers to protecting our rights to savings children's lives, the House has been extremely productive the beginning of this year. But this is just the beginning. Regulatory reform—part of our 200-day agenda—will continue, and together with our efforts to repeal and replace Obamacare and reform the tax code, Republicans are just getting started.

Majority Leader Press Office
H-107 | The Capitol
202-225-4000
majorityleader.gov

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From: Rosemarie Calabro Tully
To: tracy_goodluck@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, February 19, 2017 9:30:11 AM

Good morning, Tracy,

Below is your round-up and look-ahead of ENR committee activities. As always, feel free to reach out with questions, and check out @EnergyDems for up-to-date information and timely news clips.

CATCHING UP

Cantwell introduced a bipartisan volcano monitoring bill, S. 346. Residents of the Pacific Northwest are well aware of the hazards that volcanoes pose to many communities. Sen. Cantwell introduced a new volcano monitoring bill to help keep communities and travelers to our region safe. "*Volcano science, forecasts and warnings are critical to volcano preparedness in the Pacific Northwest. Washington state has five high-threat volcanoes in the Cascade Range, yet there is a gap in monitoring and understanding this volcanic activity. My bill seeks to ensure we have the science and technology needed to help keep communities safe. We need science to guide us,*" Sen. Cantwell said.

Cantwell and others urge Secure Rural Schools (SRS) funding. SRS payments provide critical revenues to more than 775 rural counties and 4,400 schools throughout the country, impacting nine million students across 41 states. Sen. Cantwell joined a bicameral, bipartisan delegation, urging OMB Director Mulvaney to fund the SRS program in the president's budget request. "*Without SRS, existing revenue sharing payments are not sufficient to support the services these counties must provide, and counties are forced to choose between critical services for their citizens*." Counties in Washington most affected include Skamania, Chelan, Yakima, Lewis and Okanogan.

WA Congressional Delegation writes Trump on the Pacific Northwest National Laboratory. Sen. Cantwell and the entire Washington Congressional Delegation wrote to President Trump, highlighting the groundbreaking, scientific contributions of the lab and pledging to work together on advancing policies that support the lab. "*The lab has made significant contributions to the resilience, security and reliability of the electric grid. PNNL also leads nuclear nonproliferation work for DOE's National Nuclear Security Administration, including work to safeguard nuclear materials. … We look forward to working with you and the Department of Energy to advance policies that will continue to support the lab's integral scientific innovation and technology development activities*."

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COMING UP

In-state work period: February 20-24. Sen. Cantwell will be in Washington state with her constituents next week.

Once we're back: February 27-March 3

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CRAs. The House has continued to vote on Congressional Review Act (CRA) disapproval resolutions, including one on a National Wildlife Hunting and Fishing Rule that affects Alaska. The Senate has not yet voted on this Alaska rule, the BLM Methane Waste Rule or the BLM Planning 2.0 Rule. We suspect the Senate could take up these and other non-ENR CRAs in the coming weeks.

No hearings. We do not have any hearings scheduled for when the Senate returns to DC. Nomination hearings could pick up once we receive names and paperwork for other Senate-confirmed positions in the Energy and Interior Departments, and the Federal Energy Regulatory Commission.

Cheers,

ROSEMARIE CALABRO TULLY
Democratic Press Secretary
U.S. Senate Committee on Energy & Natural Resources
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From: Rosemarie Calabro Tully
To: joshua_mahan@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, February 19, 2017 12:00:06 PM

Good morning, Joshua,

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From: Rosemarie Calabro Tully
To: fain_gildea@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, February 19, 2017 2:00:16 PM

Good morning, Fain,

Below is your round-up and look-ahead of ENR committee activities. As always, feel free to reach out with questions, and check out @EnergyDems for up-to-date information and timely news clips.

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From: Rosemarie Calabro Tully
To: kerry_rae@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, February 19, 2017 5:00:08 PM

Good morning, Kerry,

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From: Ward, Jimmy
To: Amanda_Averill@ios.doi.gov
Subject: FW: Meeting follow-up Competitive Leasing Rule
Date: Wednesday, February 22, 2017 4:58:32 PM
Attachments: Energyandminerals_Renewable_Wind_solar_finalrule.pdf
2017-02-21_DOI_Final_Competitive_Leasing_Rule_Attachments.pdf

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Hi Amanda,

I hope you're settling in over there nicely!

Could you provide a *very* quick update on what DOI might be able to do to help companies like Anschutz who got wrapped into the Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development regulation? (43 CFR Parts 2800 and 2880)

Thanks,

Jimmy Ward
Senior Legislative Assistant
Rep. Liz Cheney (WY – AL)

From: Roxane Perruso [mailto:Roxane.Perruso@tac-denver.com]
Sent: Tuesday, February 21, 2017 1:23 PM
To: Ward, Jimmy <Jimmy.Ward@mail.house.gov>
Cc: Bill Miller <Bill.Miller@aec-denver.com>
Subject: Meeting follow-up Competitive Leasing Rule

Hi Jimmy,

I hope you had a good holiday weekend. I wanted to follow-up with the materials I mentioned last week on the Department of Interior's final Competitive Leasing Rule. I've attached the Final Rule and our Memorandum regarding the significant financial impact the Final Rule will have on our wind energy project located in Wyoming. Under the Final Rule, we will pay $216 to $275 million over a thirty-year right-of-way grant. The resulting increase in costs is between $47 and $106 million dollars depending on the ultimate power pricing curve.

This Final Rule was issued at the very end of a 10-year permitting process. We believe that as a matter of fundamental fairness, the DOI shouldn't change the rules applicable to projects like ours that have gone through the regular permitting process and thought they had the certainty of the fee structure as it existed prior to this rule being promulgated.
We would love to see a solution to this issue inserted into S. 282/H.R. 825 (PLREDA). We are happy to discuss this further. Please call with any questions or if you need more information.

Thanks again for taking the time to meet with us.

Roxane

Roxane Perruso
Vice President and Senior Counsel
The Anschutz Corporation
555 Seventeenth St., Ste. 2400
Denver, CO 80202

direct: 303.299.1342
fax: 303.299.1356
roxane.perruso@tac-denver.com

DEPARTMENT OF THE INTERIOR **4310-84P**

Bureau of Land Management

43 CFR Parts 2800 and 2880

[LLWO301000.L13400000]

RIN 1004-AE24

Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections for 43 CFR Parts 2800 and 2880

AGENCY: Bureau of Land Management.

ACTION: Final rule.

SUMMARY: Through this final rule the Bureau of Land Management (BLM) is amending its regulations governing rights-of-way issued under the Federal Land Policy and Management Act (FLPMA) and the Mineral Leasing Act (MLA). The principal purposes of these amendments are to facilitate responsible solar and wind energy development on BLM-managed public lands and to ensure that the American taxpayer receives fair market value for such development. This final rule includes provisions to promote the use of preferred areas for solar and wind energy development, called "designated leasing areas" (DLAs). It builds upon existing regulations and policies to expand BLM's ability to utilize competitive processes to offer authorizations for development inside or outside of DLAs. It also addresses the appropriate terms and conditions (including payment and bonding requirements) for solar and wind energy development rights-of-way issued under subparts 2804 and 2809. Finally, the rule makes technical changes, corrections, and clarifications to the existing rights-of-way regulations.

Some of these changes affect all rights-of-way, while some provisions affect only specific rights-of-way, such as those for transmission lines with a capacity of 100 kilovolts (kV) or more.

DATES: Effective Date: This final rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: John Kalish, Bureau of Land Management, at 202-912-7312, for information relating to the BLM's solar and wind renewable energy programs, or the substance of the final rule. For information pertaining to the changes made for any transmission line with a capacity of 100 kV or more you may contact Stephen Fusilier at 202-912-7426. For information on procedural matters or the rulemaking process you may contact Charles Yudson at 202-912-7437. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, to contact the above individuals.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

II. Background

III. Final Rule as Adopted and Responses to Comments

IV. Section-by-Section Analysis for Part 2800

V. Section-by-Section Analysis for Part 2880

VI. Procedural Matters

I. Executive Summary

The BLM initiated this rulemaking in 2011 through publication of an Advance Notice of Proposed Rulemaking (ANPR) seeking public comment on a potential

regulatory framework for competitive solar and wind energy rights-of-way. A proposed rule was published in the Federal Register on September 30, 2014, summarizing and discussing the comments that the BLM received on the ANPR. The proposed rule set forth a framework for the competitive leasing of solar and wind energy rights-of-way both inside and outside of designated leasing areas. It also proposed codifying existing solar and wind energy policies in 43 CFR part 2800, establishing a new acreage rent for wind energy projects, and updating the methods used to set acreage rents and megawatt (MW) capacity fees for existing and future solar and wind energy projects. In addition to the changes related to solar and wind energy development, the rule also proposed related updates to other provisions of the rights-of-way regulations, including those applicable to transmission lines with a capacity of 100 kV or more and pipelines 10 inches or more in diameter. Based on comments on the proposed rule and consideration of other factors, the BLM prepared this final rule.

Statutory and Regulatory Authority

Facilities for the generation, transmission, and distribution of electric energy are authorized under Title V of the FLPMA (43 U.S.C. 1761 – 1771) and its implementing regulations at 43 CFR part 2800. Section 504(g) requires that the BLM generally receive fair market value for a right-of-way. Under Title V, the BLM can issue easements, leases, licenses, and permits to occupy, use or traverse public lands for particular purposes. The BLM generally refers to all such rights-of-way as "grants." The final rule continues to refer to solar and wind energy development rights-of-way issued noncompetitively or outside a DLA as "grants," but designates solar and wind energy development rights-of-way issued competitively and within a DLA under revised subpart

2809 as "leases," to which specific requirements and benefits are attached, as explained below.

Rights-of-way for oil and gas pipelines are authorized under Section 28 of the MLA (30 U.S.C. 185), Sections 302, 303, and 310 of FLPMA (43 U.S.C. 1732, 1733, and 1740), and the applicable implementing regulations at 43 CFR part 2880. The BLM processes applications for these categories of rights-of-way in accordance with section 2884.11.

Policies

The BLM released a Draft Solar Energy Programmatic Environmental Impact Statement (EIS) on December 17, 2010 and released a Supplement to the Draft EIS on October 28, 2011. The Supplement to the Draft EIS contemplated a process to identify and offer public lands in solar energy zones (SEZs) through a competitive leasing process. The Supplement to the Draft EIS described how the BLM intended to pursue a rulemaking process to implement a competitive leasing program within SEZs. The BLM released the Final Solar EIS on July 27, 2012, and the Secretary of the Interior (Secretary) signed the Record of Decision (ROD) on October 12, 2012. The Solar Programmatic EIS ROD, or Western Solar Plan, likewise described the BLM's intent to establish a competitive leasing program within the SEZs.

The Western Solar Plan provides the foundation for a Bureau-initiated competitive process for offering lands for solar energy development within the SEZs. Similar comprehensive or regional land use planning efforts could be initiated by the BLM in the future to designate additional renewable energy development areas, such as for wind development. For example, the recently completed Desert Renewable Energy

Conservation Plan (DRECP) identified Development Focus Areas (DFAs) in Southern California that were designed to support wind, solar, and geothermal development. As explained elsewhere in this preamble, in the Western Solar Plan and in the DRECP Record of Decision (ROD), SEZs and DFAs, like all DLAs, represent areas that have been prescreened by the BLM and identified as having high energy generation potential, access to transmission (either existing or proposed), and low potential for conflicts with other resources. The rule supports the establishment of these areas through procedures to inform their identification and establishment.

Competitive Leasing Process

Existing regulations authorize the BLM to determine whether competition exists among right-of-way applications filed for the same facility or system; however, they do not allow the BLM to offer such lands competitively absent such a finding. The existing regulations allow the BLM to resolve any such competition using competitive bidding procedures. All such grants are issued subject to valid existing rights in accordance with 43 CFR 2805.14.

Building on recommendations and analysis in the Western Solar Plan, this final rule expands the existing regulations to allow the BLM to offer lands competitively on its own initiative, both inside and outside DLAs, even in the absence of identified competition. Within DLAs, the rule will require competitive leasing procedures except in certain circumstances, when applications could be considered outside the competitive process. Outside DLAs, the BLM will have discretion whether to utilize competitive leasing procedures. This rule identifies what constitutes a DLA, and outlines the competitive process for solar and wind energy leasing inside DLAs, including the

nomination process for areas inside DLAs, the process for reviewing nominations, the competitive bidding procedures to be deployed, and the rules governing administration of solar or wind energy leases issued through the competitive process.

Incentives

This rule includes various provisions to incentivize development inside rather than outside of DLAs. For example, the rule establishes a new $15 per acre application filing fee for right-of-way applications outside of DLAs to discourage speculative applications and encourage development in DLAs. In addition, a winning bidder outside a DLA will be deemed the "preferred applicant" and eligible to apply for a grant, while a winning bidder within a DLA will be offered a lease. A primary reason for this distinction is that the prescreening done by the BLM as part of the identification of DLAs enables it to issue a lease prior to the conclusion of the project-specific reviews (such project-specific reviews would, however, have to be completed prior to the commencement of construction).

Further, this final rule establishes a mechanism whereby bidders inside DLAs may qualify for variable offsets (a form of bidding credit) that will give them a financial advantage in the competitive bidding process. Specifically, a bidder that meets the qualifications set forth in the Notice of Competitive Offer for a particular offset will have an opportunity to pre-qualify for a reduction to their bid amount, up to 20 percent of the bid. Suppose, for example, a bidder pre-qualified for a 20 percent offset and then won the auction with a high bid of $100. The bidder would only be obligated to pay the BLM $80 for the lease. These reductions would be sale-specific and would be based on factors identified in the initial sale notice. The final rule gives the BLM the flexibility to vary

the factors that could enable a bidder to obtain a variable offset from one competitive offer to another, but possible factors include having an approved Power Purchase Agreement (PPA) or Interconnect Agreement, or employing a less water-intensive technology. Each of the factors will be identified in the Notice of Competitive Offer, which will also specify the pre-determined reduction (e.g., 5 percent) associated with any individual factor. The total aggregate reduction across all factors cannot exceed 20 percent.

Additional provisions that incentivize development within DLAs include a reduced nomination fee of $5 per acre, which is electively paid by a potential bidder, compared to $15 per acre non-elective application filing fee for competitive parcels outside of DLAs; a 10-year phase-in of the MW capacity fee inside a DLA as opposed to a 3-year phase-in of the fee outside of a DLA; and more favorable bonding requirements inside DLAs. Specifically, outside DLAs, bonding must be determined based on reclamation cost estimates, whereas inside DLAs, the final rule requires a standard bond in the amount of $10,000 per acre for solar energy development and either $10,000 or $20,000 per wind energy turbine for wind energy development, depending on the nameplate capacity of the turbine.

Finally, successful competitive processes within DLAs will result in the issuance of a 30-year fixed-term lease, whereas a successful competitive process outside of a DLA will result in a preferred applicant status for the winner. The 30-year fixed term lease issued to the high bidder for a parcel offered competitively within a DLA will increase the certainty for developers and, in turn, make it easier to secure financing or reach terms on other agreements. Specifically, the lease will provide developers with evidence of site

control, and they will obtain it much earlier in the review process than they would under existing regulations (notably, before project-specific NEPA reviews have been concluded).

Rents and Fees

The rule updates the payments currently established by BLM policies to ensure that the BLM obtains fair market value for the use of the public lands. Specifically, it updates and codifies the acreage rent for both solar and wind energy authorizations. The acreage rent will be based on the acreage of the authorization, using a 10 percent encumbrance value for wind energy authorizations and a 100 percent encumbrance value for solar energy authorizations. This compares to the 50 percent encumbrance value that is used for determining rent for linear rights-of-way on the public lands.

The acreage rent for linear rights-of-way and solar and wind energy rights-of-way will vary by individual counties and is based on agricultural land values determined from data published by the National Agricultural Statistics Service (NASS). The BLM may also determine on a project-specific or regional basis that a different rate should be utilized. The "acreage rent" component captures the value of unimproved rural land encumbered by a project.

In addition to acreage rent, the rule also updates and codifies the MW capacity fee that the BLM already charges under existing policies. As under existing policy, that fee is designed to capture the difference between a particular project area's unimproved land value and the higher value associated with the area's solar or wind energy development potential. The BLM uses a MW capacity fee as a proxy for the area's electrical generation development potential. That fee is calculated using a formula that includes the

nameplate capacity of the approved project, a capacity factor or efficiency factor that varies based on the average potential electric generation of different solar and wind technologies, the average wholesale prices of electricity, and a Federal rate of return based on a 20-year Treasury bond. In this final rule, the capacity factors used for calculating the MW capacity fee are 20 percent for solar photovoltaic (PV), 25 percent for concentrated solar power (CSP), 30 percent for CSP with storage capacity of 3 hours or more, and 35 percent for wind. Additionally, the final rule allows the BLM to determine, on a project-specific or regional basis, that a different net capacity factor is more appropriate, such as if a project takes advantage of a new technology (e.g., energy storage) or project design considerations (e.g., solar array layout).

The final rule increases the MW capacity fee currently established by BLM policy from $4,155 per MW to $5,010 per MW for wind energy authorizations, and reduces the MW capacity fee from $5,256 to $2,863 per MW for PV solar, from $6,570 to $3,578 per MW for concentrated photovoltaic (CPV) or CSP solar, and from $7,884 to $4,294 per MW for CSP with storage capacity of 3 hours or more. The rule provides for a three-year phase-in of the MW capacity fee for right-of-way grants outside DLAs (25 percent in year one, 50 percent in year two, and 100 percent for subsequent years) and for a longer, ten-year phase-in for right-of-way leases inside DLAs (50 percent for the first 10 years and 100 percent for subsequent years).

As explained elsewhere in this preamble, both the acreage rent and MW capacity fees adjust periodically based on identified factors, including changes in NASS survey values and wholesale power prices. In addition, based on comments received on the proposed rule, this final rule includes provisions that allow grant or lease holders the

option to select fixed, scheduled rate adjustments to the applicable per acre zone rate (or rent) and MW rate over the term of the right-of-way grant or lease. This scheduled rate adjustment method would be used in lieu of the rule's standard rate adjustment method, under which those rates could increase or decrease by irregular amounts depending on changes to NASS survey values or wholesale power prices.

The rule includes requirements to hold preliminary application review meetings after the submission of an application for a solar or wind energy project, including authorizing the BLM to collect cost recovery fees for those meetings. Through this final rule the BLM is also extending the preliminary application review meeting requirement to any transmission line having a capacity of 100 kV or more. This change is appropriate because both solar or wind energy projects and transmission lines with a capacity greater than 100 kV are generally large-scale facilities with greater potential for impacts and resource conflicts. Based on experience with existing solar and wind energy projects, the BLM has found that those preliminary application meetings provide both the applicant and the BLM with an opportunity to identify and discuss resource conflicts early on in the process. In addition, the rule provides for additional cost reimbursement measures, consistent with Sections 304(b) and 504(g) of FLPMA.

Changes to 43 CFR Part 2880

In addition to the changes to 43 CFR Part 2800, this final rule also revises several subparts of part 2880. These revisions are necessary to ensure consistency of policies, processes, and procedures, where possible, between rights-of-way applied for and administered under part 2800 and rights-of-way applied for and administered under part 2880. These changes are discussed in more detail in Section II of this preamble.

However, a proposal to require preliminary application review meetings for right-of-way applications for pipelines exceeding 10 inches in diameter was dropped from this final rule in response to comments.

II. Background

A. Rule Overview

The BLM published the proposed rule in the Federal Register on September 30, 2014 (79 FR 59022) for a 60-day comment period ending on December 1, 2014. In response to public requests for extensions of the public comment period the BLM extended the period for an additional 15 days on November 29, 2014, through December 16, 2014. We received 36 comment letters on the proposed rule. We also received similar feedback through stakeholder engagement meetings held as part of BLM's regular course of business. This final rule addresses the comments received during the comment period and during stakeholder engagement meetings in the section-by-section discussion in section III. of this preamble.

As explained above, the primary purpose of this rule is to facilitate the responsible development of solar and wind energy development on the public lands, with a specific focus on incentivizing development on lands identified as DLAs. To that end, this rule, in an amendment of section 2801.5, defines the term "designated leasing area" as a parcel of land with specific boundaries identified by the BLM land use planning process as being a preferred location for solar or wind energy that can be leased competitively for energy development. In this rule, the BLM amends its regulations implementing FLPMA to provide for two competitive processes for solar and wind energy rights-of-way on

public lands. One of the processes is for lands inside DLAs. The other process is for lands outside of DLAs.

For lands outside DLAs, the BLM amends section 2804.23 to provide for a competitive bidding process designed specifically for solar or wind energy development. Prior to this final rule, section 2804.23 authorized a competitive process to resolve competing right-of-way applications for the same facility or system. Under amended section 2804.23, the BLM can now competitively offer lands on its own initiative. The competitive process for solar and wind energy development on lands outside of DLAs is outlined in new section 2804.30.

The competitive process for lands inside DLAs is outlined in revised 43 CFR subpart 2809, which provides for a parcel nomination and competitive offer, instead of an application process.

This rule includes not only these competitive processes, but also a number of amendments to other provisions of the right-of-way regulations found at 43 CFR parts 2800 and 2880. The BLM determined that it is necessary to first articulate the general requirements for rights-of-way in order to set the solar and wind requirements apart.

For example, the final rule has mandatory bonding requirements for solar and wind energy, including a minimum bond amount. The BLM determined that bonding is necessary for all solar and wind energy rights-of-way because of the intensity and duration of the impacts of such authorizations. For other right-of-way authorizations, the BLM will continue to require bonding at its discretion under this final rule.

Other amendments to the regulations include changes in right-of-way application submission and processing requirements, rents and fees, and alternative requirement

requests. In addition, this final rule makes several technical corrections as explained in the section-by-section analysis below.

B. Statutory and Regulatory Background

FLPMA provides comprehensive authority for the administration and protection of the public lands and their resources and directs that the public lands be managed "on the basis of multiple use and sustained yield" (43 U.S.C. 1701(a)(7) and 1732(a)). As defined by FLPMA, the term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands (43 U.S.C. 1702(f)). Title V of FLPMA (43 U.S.C. 1761 – 1771) authorizes the BLM to issue rights-of-way on the public lands for electric generation systems, including solar and wind energy generation systems. FLPMA also mandates that "the United States receive fair market value for the use of the public lands and their resources unless otherwise provided for by statute" (43 U.S.C. 1701(a)(9) and 1764(g)). Section 28 of the MLA (30 U.S.C. 185) and FLPMA provide similar authority for authorizing rights-of-way for oil and gas pipelines. The BLM has authority to issue regulations under both FLPMA (43 U.S.C. 1732, 1733, and 1740) and the MLA (30 U.S.C. 185 and 189).

The Energy Policy Act of 2005 (codified at 42 U.S.C. 15801 et seq.) (EPAct) includes provisions authorizing and encouraging the Federal Government to develop energy producing facilities. Title II of the EPAct includes a provision encouraging the Secretary to approve non-hydropower renewable energy projects (solar, wind, and geothermal) on public lands with a total combined generation capacity of at least 10,000 MWs of electricity by 2015. See Section 211, Public Law 109-58, 119 Stat. 660 (2005).

Since passage of the EPAct, the Secretary has issued several orders that emphasize the importance of renewable energy development on public lands and the Department of the Interior's (Department's) efforts to achieve the goal that Congress established in Section 211 of the EPAct. Secretarial Order No. 3283, "Enhancing Renewable Energy Development on the Public Lands," signed by Secretary Kempthorne on January 16, 2009, facilitates the Department's efforts to achieve the goal established by Congress in Section 211 of the EPAct. On March 11, 2009, Secretary Salazar signed Secretarial Order No. 3285, "Renewable Energy Development by the Department of the Interior," which describes the need for strategic planning and a balanced approach to domestic resource development. This order was amended by Secretarial Order 3285A1 in February 2010. Amended Order 3285A1 establishes the development of renewable energy on public lands as one of the Department's highest priorities.

While the BLM has already met the goal established by Congress by approving over 12,000 MWs of renewable energy by the end of 2012, the development of renewable energy resources on the public lands remains a national priority. To advance that goal, President Obama included in the administration's Climate Action Plan to reduce carbon pollution, released on June 25, 2013, a new goal for the Department to approve at least 20,000 MWs of new renewable energy capacity on federal lands by 2020. As of the end of fiscal year 2015, the BLM has reviewed and approved 60 projects capable of generating over 15,000 MWs of power.

The BLM has issued several instruction memoranda (IMs) that identify policies and procedures related to processing solar and wind energy right-of-way applications. The BLM is incorporating some of these existing policies and procedures into its right-

of-way regulations. The IMs can be found at: http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

Briefly, the IMs are as follows:

1. IM 2009-043, Wind Energy Development Policy. This IM provides guidance on processing right-of-way applications for wind energy projects on public lands;
2. IM 2011-003, Solar Energy Development Policy. This IM provides guidance on the processing of right-of-way applications and the administration of authorized solar energy projects on public lands;
3. IM 2011-059, National Environmental Policy Act (NEPA) Compliance for Utility-Scale Renewable Energy Right-of-Way Authorizations. This IM clarifies NEPA policy for evaluating solar and wind energy project right-of-way applications;
4. IM 2011-060, Solar and Wind Energy Applications – Due Diligence. This IM provides guidance on the due diligence requirements for solar and wind energy development right-of-way applications; and
5. IM 2011-061, Solar and Wind Energy Applications – Pre-Application and Screening. This IM provides guidance on the review of right-of-way applications for solar and wind energy development projects on public lands; and
6. IM 2016-122, Policy Guidance for Federal Land Policy and Management Act Right-of-Way Rent Exemptions for Electric or Telephone Facilities Financed or Eligible for Financing under the Rural Electrification Act of 1936, as amended (IM 2016-122). This IM provides guidance for processing requests for FLPMA right-of-way rent exemptions for electric and telephone facilities financed or

eligible for financing by the United States Department of Agriculture, Rural Utilities Service (RUS) under the Rural Electrification Act of 1936, as amended (Rural Electrification Act), 7 U.S.C.901 et seq. In particular, this IM makes clear that wind and solar entities that qualify under the Rural Electrification Act pay the MW capacity fees but not acreage rent.

In addition, in 2005 and 2012 the BLM issued landscape-level land use plan amendment decisions supported by programmatic EISs to facilitate wind and solar energy development. These land use plan amendments guide future BLM management actions by identifying desired outcomes and allowable uses on public lands.

On June 24, 2005, the BLM published the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States (Wind Programmatic EIS) (70 FR 36651), which analyzed the environmental impact of the development of wind energy projects on public lands in the West and identified approximately 20.6 million acres of public lands with wind energy development potential (http://windeis.anl.gov). Following the publication of the Wind Programmatic EIS, the BLM issued the ROD for Implementation of a Wind Energy Development Program and Associated Land Use Plan Amendments (Wind Programmatic EIS ROD) (71 FR 1768), which amended 48 BLM land use plans. The Wind Programmatic EIS ROD did not identify specific wind energy development leasing areas, but rather identified areas that have potential for the development of wind energy production facilities, along with areas excluded from consideration for wind energy facility development because of other resource values that are incompatible with that use.

On July 27, 2012, the BLM and the Department of Energy published the Notice of Availability of the Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Solar Programmatic EIS) (77 FR 44267). The Solar Programmatic EIS assessed the environmental, social, and economic impacts associated with utility-scale solar energy development on public lands in Arizona, California, Colorado, Nevada, New Mexico, and Utah (http://solareis.anl.gov). On October 12, 2012, the Department and the BLM issued the Western Solar Plan, which amended 89 BLM land use plans to identify 17 solar energy zones (SEZs) and identify mandatory design features applicable to utility-scale solar development on BLM managed lands. The Western Solar Plan also described the BLM's intent to use a competitive offer process to facilitate solar energy development projects in SEZs. SEZs, including those identified in the Western Solar plan, will be considered DLAs under this final rule.

This final rule is one of the steps being taken by the Department and the BLM to promote renewable energy development on the public lands. It implements one of the Western Solar Plan's key recommendations, namely that the BLM institute a process whereby it can competitively offer lands within DLAs. In addition to addressing recommendations in the Western Solar Plan, the final rule also implements suggestions for improving the renewable energy program made by the Department of the Interior's Office of Inspector General for the Department, initially in a draft report and carried over to the final report (Report No. CR-EV-BLM-0004-2010), and by the Government Accountability Office (GAO) (Audit No. 361373), both of which address the use of competitive leasing for solar and wind development authorizations. The Inspector

General (OIG) reviewed the BLM's renewable energy activities to assess the effectiveness of the BLM's development and management of its renewable energy program. The IG also made recommendations on other aspects of the BLM's right-of-way program.

The OIG report discusses only wind energy projects, as the solar energy program was not at a stage where it had been fully implemented. However, based on experience gained from its authorization of solar projects, the BLM believes that recommendations made for the wind energy program would also benefit the solar energy program. Other OIG recommendations pertained to the amounts and collection procedures for bonds for wind energy projects. These recommendations included:

1. Requiring a bond for all wind energy projects and reassessing the minimum bond requirements;
2. Tracking and managing bond information;
3. Developing and implementing procedures to ensure that when a project is transferred from one entity to another, the BLM would return the first bond to the company that obtained it and request a new bond from the newly assigned company; and
4. Developing and implementing Bureau-wide guidance for using competitive bidding on wind and solar energy rights-of-way.

The BLM concurred with all of the OIG's recommendations. The last recommendation is one of the principal reasons for developing this rule. The other recommendations form the basis for other changes being made as part of the BLM's operating procedures that are also addressed through this rulemaking.

Through this rulemaking, the BLM amends regulations in 43 CFR parts 2800 and 2880, and in particular:

1. Section 2804.12, to establish preliminary application review requirements for solar and wind energy development, and for development of any transmission line with a capacity of 100 kV or more;
2. Section 2804.25, to establish application processing and evaluation requirements for solar and wind energy development;
3. Section 2804.30, to establish a competitive process for public lands outside of DLAs for solar and wind energy development;
4. Section 2804.31, to establish a two-step process for solar or wind energy testing and conversion of testing areas to DLAs;
5. Section 2804.35, to establish screening criteria to prioritize applications for solar or wind energy development;
6. Section 2804.40, to establish a requirement to propose alternative requirements with a showing of good cause;
7. Section 2805.11(b), to establish a term for granting rights-of-way for solar or wind energy development;
8. Section 2805.12(c), to establish terms and conditions for a solar or wind energy development grant or lease;
9. Section 2805.20, to provide more detail on bonding requirements;
10. Sections 2806.50, 2806.52, 2806.54, 2806.56, and 2806.58, to provide information on rents for solar energy development rights-of-way;

11. Sections 2806.60, 2806.62, 2806.64, 2806.66, and 2806.68, to provide information on rents for wind energy development rights-of-way;

12. Subpart 2809, to establish a competitive process for leasing public lands inside DLAs for solar and wind energy development; and

13. Provisions in 43 CFR part 2800 pertaining to transmission lines with a capacity of 100 kV or more.

In addition to these amendments, this rule also makes several technical changes, corrections, and clarifications to the regulations at 43 CFR parts 2800 and 2880. The following table provides a summary of the principal changes made in this final rulemaking. The table shows: a description and CFR reference to the existing rule, a description of the changes in the proposed rule, and a description of the changes made in this final rule. The BLM made minor revisions throughout the final rule to improve its readability, which are not noted in this table but are discussed in the section- by- section analysis of this preamble.

Table 1 - Abbreviated Descriptions of the Major Changes Made to **43 CFR Parts 2800 and 2880 by this Rule**

43 CFR Reference and Description	**Changes between Proposed Rule and Existing Regulations**	**Changes between Final Rule and Proposed Rule**	**Additional Comments**
2801.5(b) – Acronyms and terms	Adds definitions for 10 items and revises definitions for 3 items, mostly pertaining to solar and wind energy development.	This final rule adopts the definitions in the proposed rule, except that under the final rule the definitions allow the BLM to determine a more appropriate Net Capacity Factor for rights-of-way with storage on a case-by-	Changes made in this section were based on comments received from the public to account for the application filing fee, energy storage, and MW rate.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		case basis. No other substantive changes were made from the proposed to the final rule.	
2801.6 – Scope	Clarifies that the regulations in this part apply to all systems and facilities identified under section 2801.9(a)	No changes were made from the proposed to the final rule for this section.	
2801.9 – When do I need a grant?	Revises language in paragraph (a)(7) to include solar and wind development facilities. Adds paragraph (d) that references solar and wind energy projects.	The testing provisions at new paragraphs (d)(1) and (d)(2) are revised to include both solar and wind facilities, as opposed to just wind.	Changes made in this section were based on comments received from the public requesting that the testing provisions account for solar facilities as well as wind facilities.
2802.11 – Designation of right-of-way corridors and leasing areas	Adds a process for designating leasing areas for solar and wind energy projects.	No changes were made from the proposed to the final rule.	
2804.10 – Actions to be taken before filing a right-of-way application	Discusses pre-application requirements and specifically addresses solar and wind filing requirements.	Removes all discussion or requirements for pre-application meetings. Now the only change from the existing regulation is to include designated leasing areas in paragraph (a)(2).	Requirements of this section are also applicable to transmission lines with a capacity of 100 kV or more. Based on comments received, the final rule removes the provision in the proposed rule that would have applied certain application

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
			requirements to pipelines greater than 10 inches in diameter.
2804.12 – Right-of-way application requirements	Discusses additional filing fees required for solar and wind energy applications.	This section has been retitled to improve clarity. This section also removes requirements for pre-application meetings and substitutes preliminary application review meetings that will occur after rather than before an application is filed. This section is also revised to clarify how the BLM will use the IPD-GDP to update fees.	Changes made in this section were based on comments received from the public. The paragraphs formerly located in section 2804.10 (b) and (c) are now found in sections 2804.12(b) and (c).
2804.14 – Processing fees for grant applications	Gives the BLM discretion to collect the estimated reasonable costs incurred by other Federal agencies.	No changes were made from the proposed to the final rule for this section.	
2804.18 and 2804.19 – Master agreements and major projects	Adds information on cost reimbursement requirements for work performed by other Federal agencies.	No changes were made from the proposed to the final rule.	
2804.20 – Determining reasonable costs for work on major (Category 6) rights-of-ways	Section title revised for clarity. Adds discussions on right-of-way work performed by other Federal agencies and pre-application requirements for major rights-of-way.	Any reference to "pre-application" requirements was removed to be consistent with other changes made to this final rule to reference preliminary application meetings.	Changes made in this section were based on comments received from the public in regards to collecting cost recovery with the submission of an application.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
2804.23 – Competitive process for applications	Adds provisions for competition for solar and wind energy rights-of-way, both inside and outside of designated leasing areas.	Minor changes were made from the proposed to the final rule. The latter clarifies that the BLM will not competitively offer lands where a plan of development (POD) has been accepted and cost recovery established. The requirement to publish in a newspaper is now optional instead of required.	Changes made in this section were based on comments received from the public requesting that the BLM provide assurance that it will not competitively offer lands if a developer has committed considerable time and resources to a project, as evidenced by the existence of a complete POD and executed cost recovery agreement.
2804.24 – Use of Standard Form 299 for submitting a right-of-way application	Updates the circumstances when an application is not required to account for competitive offers under both sections 2804.23(c) and subpart 2809.	No changes were made from the proposed to the final rule for this section.	
2804.25 – BLM actions in processing a right-of-way application	Describes POD requirements and adds additional other requirements for solar and wind energy applications. Covers instances where a right-of-way is authorized to resolve a trespass.	Changes were made from the proposed to the final rule to reflect the shift from "pre-application meetings" to "preliminary application review meetings" as described in section 2804.12. The requirement to publish in a newspaper is now optional instead of	Changes were made in the final rule for clarity, especially a description of what constitutes "unpaid debts." Other changes were made to accommodate new requirements for solar and wind rights-of-way and to clarify when the

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		required.	time clock begins for a due diligence request.
2804.26 – Circumstances when the BLM may deny your application	Adds additional situations where the BLM may deny your application, including specific examples for solar and wind energy applications.	Adds language to correspond to the due diligence requirements found in sections 2804.12 and 2804.25. Additional language added to provide consideration when the BLM may deny an application when circumstances are outside of an applicant's control.	This change was made to be consistent with other changes in this final rule.
2804.27 – What fees are owed if an application is not completed?	Revises this section to include any pre-application costs that must be paid if an application is withdrawn or rejected.	Removes the term pre-application costs and substitutes preliminary application review costs.	This change was made to be consistent with other changes in this final rule with respect to the pre-application meeting identified in the proposed rule.
2804.30 – Description of the competitive process for solar or wind energy development	Adds section 2804.30, which describes the competitive process for solar or wind energy development outside of DLAs.	Several minor changes were made from the proposed to the final rule, including removing a reference to mitigation costs, a statement that filing fees will be refunded to unsuccessful bidders, and that a successful bidder will have site control over applications from other developers (by virtue of being identified as the	The final rule changes were made principally for clarification. The change in notification requirements is consistent with other changes in this final rule.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		preferred applicant following completion of the sale process). Additionally, the requirement to publish in a newspaper is now optional instead of required.	
2804.31 – Site testing for solar and wind energy	No section 2804.31 in proposed rule.	Adds section 2804.31.This new section describes how the BLM will inform the public that site-testing applications will be accepted for lands within a DLA.	This new section is a result of public comments on the proposed rule requesting clarification on site testing procedures. This new section does not make any changes to existing policies or procedures.
2804.35 – Prioritizing solar and wind energy applications	Adds section 2804.35 which describes a process for prioritizing solar and wind energy applications.	The rule clarifies that the BLM will generally prioritize the processing of solar and wind energy leases issued under subpart 2809 over applications for solar and wind energy grants issued under subpart 2804. Other minor revisions were made in response to comments and discussed further in the section-by-section analysis.	The changes were made to clarify how the BLM will prioritize leases and applications.
2804.40 – Alternative requirements	No section 2804.40 in proposed rule.	Adds a provision that allows an applicant to submit an alternate requirement if it is	This section was added in response to comments about the BLM need for a

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		believed that the original requirements cannot be met.	process for applicants to demonstrate, based on a showing of good cause, the reasons for its failure to meet the rule requirements and demonstrate why alternative requirements should be put in place in their stead.
2805.10 – Approving or denying a grant	Includes right-of-way leases in addition to grants, and adds specific items to be included within a solar or wind energy grant or lease.	No changes were made from the proposed to the final rule.	
2805.11– What does a grant contain?	Adds specific terms for solar and wind energy grants and leases.	Removed specific references to "wind" so that section would apply to project testing for either solar or wind.	This change was made to be consistent with other changes in this final rule.
2805.12 – Terms and conditions in a right-of-way authorization	Revises this section in its entirety and adds specific terms and conditions for solar and wind energy grants and leases.	Adds new section 2805.12(e) stating that good cause must be shown for extension of time requests. This section now includes solar in addition to wind energy development processes. Other revisions in this section are discussed in the section-by-section analysis.	Changes made in this section were based on comments received from the public, concerning a holder's inability to meet BLM requirements in some circumstances.
2805.14 – Rights	Adds section	Removed specific	This change was

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
conveyed by a right-of-way grant	2805.14(g) allowing for renewal applications for wind projects and section 2805.14 (h) allowing renewal for site testing grants	references to "wind" so that section would apply to project testing for either solar or wind.	made to be consistent with other changes in this final rule.
2805.15 – Rights retained by the United States	Adds a provision requiring common use of your right-of-way for compatible uses.	No changes were made from the proposed to the final rule.	
2805.16 – Payment of monitoring fees	Adds a provision to allow the BLM to collect monitoring fees for expenses incurred by other Federal agencies.	Adds the word "inspecting" in addition to the existing word "monitoring."	This change was made to be consistent with other changes in this final rule.
2805.20 – Bonding requirements	Adds new section 2805.20 describing bonding requirements.	The final rule adds a requirement to have periodic reviews of project bonds for adequacy. Also, the bond amounts for wind turbines are changed to be based on the nameplate capacity. The final rule also explains that the BLM may consider factors in addition to the reclamation cost estimate (RCE), such as the salvage value of project components, when determining bond amounts.	Changes made in this section were based on comments received from the public.
2806.12 – Payment of rents	Adds provisions for the payment of rents for non-linear rights-of-way, including	No changes were made from the proposed to the final rule for this section.	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
	solar and wind grants and leases.		
2806.13 – Late payment of rents	Adds penalties for non-payment of rents and removes the $500 limit for late payment fees.	No changes were made from the proposed to the final rule.	
2806.20 – Rents for linear right-of-way grants	Describes where you may obtain a copy of the current rent schedule.	No changes were made from the proposed to the final rule.	
2806.22 – Changes in the Per Acre Rent Schedule	Corrects a reference to the IPD-GDP.	No changes were made from the proposed to the final rule.	
2806.24 – Making payment for a linear grant	Requires making a payment for the initial partial year, along with the first year's rent. Also, provides for multiple year payments.	No changes were made from the proposed to the final rule.	
2806.30 – Communication site rents	The communication site rent schedule is removed. Several other minor changes made for clarification.	No changes were made from the proposed to the final rule.	
2806.34 – Calculation of rent for a multiple-use communication facility	Corrects an existing citation to read section 2806.14(a)(4).	No changes were made from the proposed to the final rule.	
2806.43 – Calculation of rents for passive reflectors and local exchange networks	Changes a former reference to new section 2806.70.	No changes were made from the proposed to the final rule.	
2806.44 – Calculation of rents for a facility	Changes a former reference to new section 2806.70.	No changes were made from the proposed to the final	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
owners that authorizes communication uses		rule.	
2806.50 – Rents and fees for solar energy rights-of-way.	Existing section 2806.50 (provisions for determining rents where the linear right-of-way schedule or the communication rent schedule do not apply) is redesignated as section 2806.70. New section 2806.50 introduces rents and fees for solar energy rights-of-way.	No substantive changes were made to the final rule.	
2806.51 – Scheduled Rate Adjustment	Not in the proposed rule; added to the final rule in response to comments received.	This section gives solar project proponents the option of selecting scheduled rate adjustments to the per acre zone rate and MW rate for an individual grant or lease, instead of following the process in the rule for periodic adjustments in response to changes in NASS values and wholesale market prices. Parallel revisions were made to 2806.52 for grants and 2806.54 for leases.	These changes were made in response to comments received from the public and were designed to provide project proponents with the option to choose greater payment certainty over the life of a right-of-way grant or lease.
2806.52 through 2806.58 Provide data for rents and	Sections 2806.50, 2806.52, 2806.54, 2806.56, and 2806.58	The rule now allows for solar energy site testing. The	The methodology of determining rents and fees for

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
fees for solar energy projects	describe rents and fees for solar energy authorizations.	calculation of the acreage rent has been expanded to explain the process more thoroughly. Acreage rent reductions are now adjusted to show greater rent reductions in certain States for solar energy rights-of-way.	wind is the same as solar, except where noted in the preamble. Changes made in this section were based on comments received from the public and to be consistent with other changes in this final rule.
2806.60 through 2806.68 Provide data for rents and fees for wind energy projects	Sections 2806.60, 2806.62, 2806.64, 2806.66 and 2806.68 describe rents and fees for wind energy authorizations.	The changes to these sections parallel the changes in sections 2806.50 through 2806.58.	Changes made in this section were made to be consistent with other changes in this final rule.
2806.61 – Scheduled Rate Adjustment	Not in the proposed rule; added to the final rule in response to comments received.	Similar to the provisions of 2806.51. This section gives wind project proponents the option of selecting scheduled rate adjustments to the per acre zone rate and MW rate for an individual grant or lease, instead of following the process in the rule for periodic adjustments in response to changes in NASS values and wholesale market prices. Parallel revisions were made to 2806.62 for grants and 2806.64 for leases.	These changes were made in response to comments received from the public and were designed to provide project proponents with an option to choose greater payment certainty over the life of a right-of-way grant or lease.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
2806.70 –Rent determinations for other rights-of-way	Adds redesignated section 2806.70, which contains the text formerly found at section 2806.50, with minor modifications.	No changes were made from the proposed to the final rule.	This section is applicable to all rights-of-way that are not subject to rent schedules.
2807.11 – Contacting the BLM during operations	Specifies requirements when a change in a right-of-way grant is warranted.	No changes were made from the proposed to the final rule.	
2807.17 – Grant suspensions or terminations	This provision contains the regulation formerly located at section 2809.10.	No changes were made from the proposed to the final rule.	
2807.21 – Assigning a grant or lease	Revises the title to include leases and clarifies when an assignment is or is not required.	Adds two events that may require an assignment. Clarifies that changing only a holder's name does not constitute an assignment and explains how the BLM will process a change only to a holder's name for a grant or lease. It also clarifies that ownership changes within the same corporate family do not constitute an assignment.	Changes made in this section were based on comments received from the public requesting clarity on assignments and name changes.
2807.22 – Renewing a grant	Revises the title to include leases and clarifies that if you apply for a renewal before it expires, your grant will not expire until a decision has been made on your renewal request.	No changes were made from the proposed to the final rule.	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
Subpart 2809 – Grants for Federal agencies	Existing language in this subpart redesignated as new paragraph (d) of section 2807.17. The title is changed to reflect that it now pertains to competitive leasing for solar or wind energy rights-of-way. This subpart is divided into several added sections as described below.	No changes were made from the proposed to the final rule.	
2809.10 Competitive process for leasing public lands for solar and wind energy projects	Section 2809.10 provides for solar and wind energy leasing inside designated leasing areas.	Clarifies that leases under this section generally have processing priority over grant applications to the extent they require the same BLM resources. No other changes were made from the proposed to the final rule.	Changes made in this section were made to be consistent with other changes in this final rule.
2809.11 – Solicitation of nominations	Section 2809.11 describes how the BLM will solicit nominations for solar or wind energy development.	The requirement to publish in a newspaper is now optional instead of required.	This change is consistent with other notification requirements in the final rule.
2809.12 – Parcel selection	Section 2809.12 describes how the BLM will select and prepare parcels.	No changes were made from the proposed to the final rule.	
2809.13 – Competitive offers for solar and wind energy development	Section 2809.13 describes how the BLM will conduct a competitive offer for solar or wind energy development.	A reference to lease mitigation requirements is added. The requirement to publish in a newspaper is now	The reference to mitigation was added in response to comments received from the public. The

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		optional instead of required.	notification change is consistent with other notification requirements in the final rule.
2809.14 – Acceptable bids	Section 2809.14 describes the types of bids that the BLM will accept.	The words "and mitigation costs" were removed to be consistent with section 2804.30.	Changes made in this section were made to be consistent with other changes in this final rule.
2809.15 – How will BLM select the successful bidder?	Section 2809.15 describes how the BLM will select a successful bidder.	No changes were made from the proposed to the final rule.	
2809.16 – Variable offsets	Section 2809.16 identifies when variable offsets will be applied.	Added a new offset factor for preparing draft biological strategies and plans.	Changes made in this section were based on comments received from the public on variable offset factors.
2809.17 – Rejection of bids	Section 2809.17 describes conditions when the BLM may reject bids or re-conduct a competitive offer.	No changes were made from the proposed to the final rule.	
2809.18 – Lease terms and conditions	Section 2809.18 identifies terms and conditions that will apply to leases.	Paragraph (e)(2) of this section is changed so bond amounts for wind turbines reflect their nameplate capacity. Paragraph (e)(3) is added to this section to account for testing.	These changes are consistent with changes to section 2805.20.
2809.19 – Applications made inside designated leasing areas	Section 2809.19 describes situations when an application may be accepted inside a DLA.	This section is revised to clarify how the BLM will handle applications submitted inside DLAs.	The changes made in the final rule were made in response to comments and are

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
			intended to clarify the final rule.
2884.10 – What needs to be done before filing an application for an oil or gas pipeline right-of-way?	Adds a provision to this section that describes several additional steps, including pre-application meetings, to be taken if an application is for a pipeline 10 inches or more in diameter.	The reference to pre-application meetings and additional requirements for pipelines greater than 10 inches were removed, resulting in no changes being made from the existing regulation.	See the discussion in section 2804.10 of this preamble for additional information on changes made in response to comment.
2884.11 – Information submitted with application	Adds provision to be consistent with POD template development schedule and other requirements.	No changes were made from the proposed to the final rule.	
2884.12 – Processing fees for an application or permit	Adds information on cost reimbursement requirements for work performed by other Federal agencies.	No changes were made from the proposed to the final rule.	
2884.16 – Master Agreements	Adds information on cost reimbursement requirements for work performed by other Federal agencies.	No changes were made from the proposed to the final rule.	
2884.17 – Processing Category 6 right-of-way applications	Adds discussions on right-of-way costs for work performed by other Federal agencies to this section.	No changes were made from the proposed to the final rule.	
2884.18 – Competing applications for the same pipeline	Adds discussions on right-of-way costs for work performed by other Federal agencies to this section.	The requirement to publish in a newspaper is now optional instead of required.	This change is consistent with other notification requirements of this final rule.
2884.20 – Public notification requirements for an application	Adds a provision to this section that we may put a notice on the Internet or use	The requirements to publish in a newspaper are now optional instead of	This change is consistent with other notification requirements of this

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
	other forms of notification as deemed appropriate.	required.	final rule.
2884.21 – Application processing by the BLM	The BLM will not process your application if you are in trespass. Several other minor changes were made to be consistent with other changes made in these regulations.	Changes are made to section 2884.21 consistent with those made to section 2807.21.	Changes made in this section were made to be consistent with other changes in this final rule.
2884.22 – Additional information requirements	No change was proposed for this section.	This section was revised by changing the reference found in paragraph (a) from section 2804.25(b) to 2804.25(c).	This change was not proposed, but is made to be consistent with other changes in this final rule. No other changes were made to this section.
2884.23 – When can my application be denied?	To be consistent with section 2804.27, section 2884.23 was changed to state that the BLM may deny an application if the required POD fails to meet the development schedule and other requirements for oil and gas pipelines.	No changes were made from the proposed to the final rule.	
2884.24 – Fees owed if application is withdrawn or denied.	Changes made to be consistent with section 2804.27, would require an applicant to pay any pre-application costs submitted under section 2884.10(b)(4).	Since pre-application meetings are no longer required in this final rule and additional requirements for pipelines greater than 10 inches were removed, the final rule	The revisions to this section suggested by the proposed rule are not included in the final rule based on comments received from the public on

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		does not make any changes to this existing provision.	BLM's criteria for large-scale pipeline projects.
2884.30 – Showing of good cause	There was no section 2884.30 in proposed rule.	This section was added to be consistent with section 2804. 40.	This section was added to be consistent with other changes in this final rule.
2885.11 – Terms and conditions	This section makes reference to section 2805.12(b) (bond requirements for FLPMA authorizations) and makes those bonding requirements applicable to MLA rights-of-way. Also, the regulation will be clarified by providing guidance on terms of MLA grants.	No changes were made from the proposed to the final rule.	
2885.15 – Rental charges	Clarifies that there is no reduction in rents for grants or TUPs, except as provided in section 2885.20(b).	No changes were made from the proposed to the final rule.	
2885.16 – When is rent paid?	Requires making a payment for the initial partial year, along with the first years rent. Also, provides for multiple year payments.	No changes were made from the proposed to the final rule.	
2885.17 – Consequences for not paying or paying rent late	New paragraph (e) explains the circumstances under which the BLM would retroactively collect rents or fees.	No changes were made from the proposed to the final rule.	
2885.19 – Rents	Provides information	No changes were	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
for linear right-of-way grants	about where you may obtain a copy of the current rental schedule.	made from the proposed to the final rule.	
2885.20 – Per Acre Rent Schedule calculations	Would remove an obsolete provision (existing paragraph (b)(1)) that provided for a 25 percent reduction in rent for calendar year 2009.	No changes were made from the proposed to the final rule.	
2885.24 – Monitoring fees	Provides an updated table describing monitoring categories, but without the cost schedule. Paragraph (b) provides information about where to obtain a copy of the current monitoring cost schedule.	Minor revisions were made consistent with changes to section 2805.16.	Changes made in this section were made to be consistent with other changes in this final rule.
2886.12 – When you must contact the BLM during operations	Adds to this section, contact requirements for when there is a need for changes to a right-of-way grant and to correct discrepancies.	No changes were made from the proposed to the final rule.	
2887.11 – Assigning a right-of-way grant or TUP	Clarifies this section to show when an assignment is or is not required.	Adds two events that may require an assignment. Clarifies that a change in a holder's name only does not constitute an assignment.	These changes are made to be consistent with section 2807.21.
2887.12 – Renewing a grant	Clarifies that if you apply for a renewal before it expires, your grant will not expire until a decision has	No changes were made from the proposed to the final rule.	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
	been made on your renewal request.		

III. Final Rule as Adopted and Responses to Comments

General Comments by Topic

Competitive Process Comments

A number of comments agreed with the BLM's proposals to create a competitive process for solar and wind development.

One comment stated that the proposed rule, if made final, would be a positive first step in improving the existing processes for solar and wind energy development by incentivizing development in appropriate areas, helping developers estimate costs, and providing a fair return to the taxpayer for the use of public lands. The BLM did not make any changes in response to this comment.

Another comment, on the other hand, recommended that the BLM maintain its current pre-application and application processes rather than adding untested or unproven administrative processes to promote competition inside and outside of DLAs. The BLM notes that it has already successfully used competitive processes when authorizing renewable energy development and it continues to gain experience with competitive auctions. The BLM also intends to continue improving its solar and wind energy policies, including by building upon the provisions codified in this final rule, to reduce administrative timeframes and costs in order to support reasonable and responsible

project development, such as those policies designed to further streamline application review and processing.

Several comments provided statements on the use of a competitive process for issuing grants.

One comment stated that we should clarify that the competitive bid process applies only to renewable energy authorizations. The BLM only agrees with this comment in part. In this final rule, the BLM has codified competitive processes inside of DLAs that relate only to solar and wind energy rights-of-way. However, the final rule modifies existing regulations so that those same competitive processes may also be used outside of DLAs and for other types of rights-of-way in the future, such as when they are necessary to resolve other situations where there are competing right-of-way and other land use authorization requests or when the BLM otherwise determines it is appropriate to initiate a competitive process for a particular use in a given area. Specifically, the final rule expands the BLM's ability to initiate a competitive process for other rights-of-way relative to existing regulations. Should the BLM hold a competitive offer for another type of right-of-way, it would be appropriate for the BLM to use processes similar to those developed for this rule because those policies were developed based on sound competitive principles. Therefore, utilizing them as a model in other areas would promote consistency across the agency.

One comment stated that competitive leasing would both lengthen and complicate project siting, using the recent Dry Lake competitive offering in Nevada as an example, noting that the preparations for competition took years. The BLM believes that much of the work required for competitive leasing has already been completed for solar energy in

the SEZs identified in the Western Solar Plan and other DLAs established by other planning efforts. The upfront work done when identifying these areas provides a basis for them to be offered under the most favorable competitive process provisions of this rule. That analysis also increases the certainty that the BLM will approve a project in those areas, which ultimately reduces the overall project review timeframes. The work done in establishing a DLA through the land use planning process, including completion of a NEPA analysis, provides a framework from which future project-specific analyses can tier, which should save time and money for both the BLM and project developers. Additionally, by expanding the circumstances under which the BLM can utilize competitive procedures the final rules provides a more direct path than was available to the BLM when setting up the Dry Lake SEZ sale in Nevada.

To further support development in these areas, the BLM is also developing regional mitigation strategies for many of the identified SEZs. While the existence of a regional mitigation strategy is not a prerequisite for holding a competitive sale, the BLM believes that such strategies further clarify development requirements in a given area allowing auction participants to more carefully evaluate potential costs and requirements when formulating a project or a bid in advance of competitive sale.

Collectively, these efforts and the provisions of this rule are consistent with existing policies to encourage the timely and responsible development of renewable energy while protecting the public land and its resources.

One comment suggested that competition should be used only where there are multiple applications for use of the same land. While the BLM intends to use competition in those circumstances, it does not believe that is the only circumstances

where such processes are appropriate. The existence of competition is not only indicated by competing application; in some situations competition would be determined where other evidence of competitive interests becomes known through emails, letters, and other contact with the public. As a result, the BLM does not believe it is appropriate to limit the use of competitive leasing regulations to just instances of competing applications. Instead, the provisions of this rule have been designed to provide more flexibility. The BLM is able to hold competitive offers inside DLAs, outside DLA, in response to competing applications, and on its own initiative, in order to encourage development in areas where it determines those processes to be appropriate, such as when it determines that fewer resource conflicts are present. In total, the BLM believes that the competitive processes established by this final rule will enable the BLM to encourage solar and wind energy development on public lands, while also protecting the sensitive resources found on those lands..

Summary of Key Changes Between the Proposed and Final Rule

One comment suggested that we use a table to identify technical changes, corrections, and clarifications being made to the right-of-way regulations by this rule, similar to the table we included in the preamble of the proposed rule. We agree and have included a similar table in this preamble.

Pipeline and Transmission Line Comments

Some comments questioned the BLM's description of pipelines 10 inches or greater in diameter as a measure for large-scale pipeline projects and recommended the removal of additional processes such as mandatory pre-application meetings to facilitate

Federal and State reviews of the project. Alternatives for the description of a large-scale project were suggested, such as using a total acreage of disturbance.

In light of these comments, the BLM has decided to remove the description of large-scale pipelines and additional processes required for such projects from the final rule. While some comments included recommendations for alternative ways of determining a threshold for large-scale pipelines, the BLM decided that it must further analyze how it will identify large-scale pipelines before including requirements for such projects in its regulations. If the BLM were to take such action in the future it would coordinate with other Federal agencies, as appropriate, to identify an appropriate threshold for large-scale pipeline projects and establish consistent, non-duplicative requirements. The removal of the pipeline threshold from the final rule requires deletion of the requirements in the proposed rule that were specifically applicable to large-scale pipeline projects. A more detailed discussion of these revisions can be found in the relevant portions of the section-by-section analysis in this preamble (see sections 2804.10, 2884.10, and 2885.11 of this preamble).

Some comments also questioned the BLM's description of transmission lines with capacities of 100 kV or more as constituting large-scale transmission projects. Those commenters recommended the removal of that threshold and the associated requirements. Some comments suggested that there are no readily identifiable 100 kV transmission projects by which to determine if the proposed threshold is a fair representation of a large-scale project. The BLM does not agree with these comments and believes that the description is appropriate since there is a clear separation between lower voltage transmission lines, generally 69 kV or less, and high voltage transmission lines,

beginning at 115 kV of capacity or more. For example, the North American Electric Reliability Corporation established the 100 kV threshold as a bright line criterion to determine which transmission lines are included in the Bulk Electric System, a system that is used by the Regional Reliability Organization for electric system reliability. The BLM is maintaining the description of transmission lines with capacity of 100 kV or the rule as a suitable description to determine large-scale transmission projects.

Megawatt Capacity Fee Comments

Some comments argued that the BLM lacks authority to collect a MW capacity fee because the Federal Government does not own the sunlight or the wind, which are inexhaustible resources. While the BLM agrees that sunlight and wind are renewable resources present on the public lands, it does not agree that it lacks the authority to collect a fee for the use of such resources.

Under FLPMA, the BLM is generally required to obtain fair market value for the use of the public lands and its resources, including for rights-of-way. In accordance with the BLM's FLPMA authority and existing policies, the BLM has determined that the most appropriate way to obtain fair market value is through the collection of multi-component fee that comprises an acreage rent, a MW capacity fee, and, where applicable, a minimum and a bonus bid for lands offered competitively. The BLM determined that the collection of this multi-component fee will ensure that the BLM obtains fair market value for the BLM-authorized uses of the public lands, including for solar and wind energy generation.

The BLM notes that the MW capacity payments are best characterized as "fees" rather than "rent" because they reflect the commercial utilization value of the public's

resource, above and beyond the rural or agricultural value of the land in its unimproved state. In the BLM's experience, and in accordance with generally accepted appraisal and valuation standards, the value of the public lands for solar or wind energy generation use depends on factors other than the acreage of the occupied land and that land's unimproved value. Other key elements that add value include the solar insolation level, wind speed and density, proximity to demand for electricity, proximity to transmission lines, and the relative degree of resource conflicts that could inhibit solar or wind energy development. To account for these elements of land use value that are not intrinsic to the rural value of the lands in their unimproved state, the solar and wind right-of-way payments in this final rule incorporate "MW capacity fees" in addition to "acreage rent."

The use of a multi-component fee that comprises both an acreage rent and a MW capacity fee, and in some cases also a minimum and a bonus bid, achieves four important BLM objectives. First, the approach allows BLM to ensure that it is capturing the full fair market value of the land being encumbered by these projects. Second, the approach is consistent with the approach employed by the BLM for other uses of the public land (i.e., it ensures that our approach to acreage rent is consistent across various categories of public land uses, while mirroring the multi-component payments received from activities like oil and gas development where both rent and royalties are charged), ensuring consistency across users. Third, the approach encourages the efficient use of the public lands by reducing relative costs for comparable projects that take up less acreage. That is, for a project with a given MW capacity, the overall payments to the BLM will be lower if the project employs a more efficient technology that produces more MW per acre and thus encumbers fewer acres. Fourth, the approach is consistent with existing policies

governing the BLM's renewable energy program, which have been in place since 2008. As explained in the section-by-section analysis in Section IV of this preamble, this final rule refines the calculation of the fee components (e.g., the MW capacity fee for solar is reduced relative to existing policies) but does not alter the basic multi-component fee structure for solar and wind projects on the public lands.

The BLM's multi-component fee structure also bears similarities to one of the more common structures for solar and wind energy development on private lands, where projects pay a rent for the use of an area of land at the outset and, and then a royalty on the power produced once generation commences. (The BLM recognizes that private-land projects use a variety of fee structures. For example, some projects rely solely on an acreage rent – but in those cases, the BLM believes that the increased value of the land due to project development is captured in other ways, such as by charging a higher base rent that reflects more than the land's unimproved value.)

The acreage rent charged by the BLM is analogous to the rent charged in most private land leases. With respect to the MW capacity fee, the BLM uses the approved electrical generation capacity as a component of the value of the use of the public lands for renewable energy development instead of relying on a royalty like private landowners do. On private lands, such royalties are typically assessed after-the-fact, as a percentage of the value of power actually produced, and the rate can range from 2 to 12 percent. The BLM has determined instead to charge a fee based on the installed nameplate MW capacity of an authorized wind or solar project. This approach is consistent with the BLM's legal authority, including the direction in FLPMA that right-of-way holders "pay in advance" the fair market value for the use of the lands. The BLM considered charging

a royalty, assessed as a percentage of power generated, but the FLPMA directive that right-of-way holders must "pay in advance" would require the BLM to collect any such royalty payments in advance of the corresponding power generation and then "true up" at the end of each calendar year. The BLM determined that the MW capacity fee approach in the final rule presents fewer administrative burdens and costs for both the BLM and right-of-way holders than an approach based on in-advance royalty payments followed by annual "true-ups." The BLM worked with the Office of Valuation Services to compare its combined acreage rent and MW capacity fee against the total stream of payments from a similarly situated private land project to ensure the total payments collected by the BLM are comparable to those collected on private land. Finally, the BLM notes that in retaining the multi-component payment structure for solar or wind developments as separate "rent" and "fee" components as established under existing policy, the BLM is retaining its existing interpretation of how that multi-component structure interfaces with the Rural Electrification Act (IM 2016-122). Under the final rule, consistent with existing policy, the acreage payment remains classified as "rent," as it is directly tied to the area of public lands encumbered by the project and the constraints that the project imposes on other uses of the public lands. As noted, however, the MW capacity fee is more properly characterized as a "fee" because it reflects the commercial utilization value of the public's resource, independent of the acreage encumbered. As specified under FLPMA, facilities that qualify for financing under the Rural Electrification Act may be exempt from paying "rental fees." As explained in IM 2016-122, however, the BLM has determined that such facilities are *not* exempt from paying other components of the fair market value of the land, such as the MW capacity fee, minimum bid, bonus bid, or other

administrative costs, as none of those costs are related to the rental value of the unimproved land.

Designated Leasing Areas Comments

Several comments requested clarification about the differences between the competitive processes for lands inside and outside of a DLA. Other comments expressed confusion over whether certain requirements of the proposed rule would apply to both "grants" (authorizations issued under subpart 2804 for solar and wind energy development) and "leases" (authorizations issued under subpart 2809). The BLM has expanded multiple provisions in the final rule to clarify the requirements for solar and wind energy development grants and leases, including those relating to competitive processes, rents and fees, bonding, and due diligence.

Comments Beyond the Scope of the Proposed Rule

In addition to the general comments discussed above and the more specific ones discussed in the section-by-section portion of this preamble below, the BLM received many other comments that suggested revisions to the BLMs right-of-way regulations that were beyond the scope of the proposed rule and/or that are better suited for supplemental policy guidance of the type found in BLM manuals, handbooks, or IMs. The BLM did not make any changes to the proposed rule in light of these comments. However, they are discussed in the relevant portions of the section-by-section analysis of this preamble

Additional Comments on the Rule

During the preparation of this final rule, the BLM received additional comments from various stakeholders and other interested parties following the close of the comment period and participated in additional stakeholder engagement meetings as part of the

BLM's regular course of business. During those meetings and in those comments, stakeholders provided additional information clarifying the concerns, comments, and questions they had previously raised through written comments on the proposed rule. The BLM considered this additional information during the drafting of this final rule. This additional information is addressed in the relevant section-by-section discussion of this preamble.

For example, industry stakeholders provided additional information that was previously unavailable regarding their uncertainty, under the proposed rule, about how both acreage rent and MW capacity fee payments would increase over the life of a lease or grant, and particularly their concern that such rents and fees could increase in an unpredictable manner. These comments and the BLM's responses are discussed further in sections 2806.51 and 2806.61 of this preamble.

Industry stakeholders also raised concern over the factors that the BLM considers when determining a bond amount. This comment and the BLM's response are discussed further under sections 2805.12(e)(1) and 2805.20(a)(3).

Environmental stakeholders also provided additional substantive discussion of their comments. Specifically, they requested additional detail in the final rule explaining the evaluation criteria that the BLM uses when establishing DLAs going forward. The environmental stakeholders' comment and the BLM's response are discussed further in section 2802.11 of this preamble.

IV. Section-by-Section Analysis for Part 2800

This rule makes the following changes in part 2800. The language found at section 2809.10 of the existing regulations is revised and redesignated as section

2807.17(d), while revised subpart 2809 is now devoted to solar and wind energy development in DLAs. This rule also amends parts 2800 and 2880 to clarify the BLM's administrative procedures used to process right-of-way grants and leases. These clarifications ensure uniform application of the BLM's procedures and requirements. A more in-depth discussion of the comments and changes made is provided below.

Subpart 2801— General Information

Section 2801.5 What acronyms and terms are used in these regulations?

This section contains the acronyms and defines the terms that are used in these regulations. Several comments suggested changes to the proposed rule. These suggestions and comments are analyzed under the applicable definition contained in the final rule.

The following terms are added to the definitions in section 2801.5:

"Acreage rent" is a new term that means rent assessed for solar and wind energy development grants and leases that is determined by the number of acres authorized by the grant or lease. The acreage rent is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate in effect at the time the authorization is issued. Provisions addressing adjustments in the acreage rent are found in sections 2806.52, 2806.54, 2806.62, and 2806.64. An example of how to calculate acreage rent is discussed in this preamble in the section-by-section analysis of section 2806.52(a). No comments pertaining to this definition were received and no changes are made from the proposed to the final rule.

"Application filing fee" is a new term that means a filing fee specific to solar and wind energy right-of-way applications for the initial reasonable costs for processing,

inspecting, and monitoring a right-of-way. The fee is $15 per acre for solar and wind energy development applications and $2 per acre for energy project-area testing applications. The BLM will adjust the application filing fee once every 10 years to account for inflation. Further discussion of application filing fees can be found in section 2804.12. This definition is revised for consistency with comments received on sections 2804.12 and 2804.30 on application filing fees. See those respective sections of this preamble for further discussion. No other comments were received and no other change is made from the proposed rule to the final rule concerning this definition.

"Assignment" means the transfer, in whole or in part, of any right or interest in a right-of-way grant or lease from the holder (assignor) to a subsequent party (assignee) with the BLM's written approval. The rule adds this definition to section 2801.5 to help clarify regulations. A more detailed explanation of assignments and the changes made is found under section 2807.21. Although some comments were received pertaining to assignments, as discussed later in this preamble, none of them pertain to the definition. No change is made from the proposed to the final rule concerning this definition.

"Designated leasing area" (DLA) is a new term that means a parcel of land with specific boundaries identified by the BLM's land use planning process as being a preferred location for the leasing of public lands for solar or wind energy development via a competitive offer. Examples of DLAs for solar energy include SEZs designated through the Western Solar Plan; Renewable Energy Development Areas (REDAs) designated through the BLM Arizona Restoration Design Energy Project (REDP) planning process; and Development Focus Areas (DFAs) designated through BLM's California's Desert Renewable Energy Conservation Plan (DRECP) planning process.

The competitive offer process is discussed in subpart 2809 of this preamble. Further discussion of DLAs can be found under section 2802.11 of this preamble.

Comments: Some comments recommended that the definition of DLA should indicate criteria that must be met to designate a DLA, in particular, wind energy-specific DLAs. The comment also suggested the final rule include criteria to identify right-of-way exclusion and avoidance areas. Other comments stated a similar concern, and indicated that land use planning varies by BLM State or field office, so DLA standards should be developed.

Response: The BLM considered establishing standard criteria for DLAs as well as for exclusion and avoidance areas, but this approach is not carried forward in the final rule. Doing so could unintentionally limit the BLM's management of such lands when considering the varied landscapes and resources that the BLM manages. However, the BLM intends to establish guidance, as part of the implementation of this rule, to assist the BLM in establishing DLAs, such as wind energy sites, through its land use planning processes. Further discussion on this issue is found under section 2804.31 of this preamble.

Comments: Some comments stated that identifying new DLAs through land use planning was too time consuming, and therefore DLA designation should be a separate process.

Response: Many land use planning efforts take several years to complete and consider many resources and uses in addition to solar or wind energy development. These types of land use planning efforts would not consider a specific project, but instead the effect of such developments in the planning area, and inform the BLM if the lands

should be an exclusion or avoidance area, or identified as a DLA for solar or wind energy development. Although the BLM's land use planning process may be time consuming, it is necessary for the BLM in its orderly administration of the public lands to use this process to properly protect and manage the public lands. When amending a resource management plan, the BLM must be consistent with its planning regulations (see 43 CFR part 1600). Absent a larger planning effort underway for the same planning area, the BLM could use a targeted land use plan amendment to identify a designated leasing area. In such cases, the land use planning process may be less time consuming than suggested by commenters. For further discussion, please see section 2804.31 of this preamble. No specific changes were made in response to this comment.

In addition to the amendments to section 2804.31, the BLM has begun its Planning 2.0 initiative, which is aimed at improving the BLM's planning process. This initiative includes targeted revisions to the planning regulations (see 43 CFR part 1600) and land use planning handbook, in order to improve the BLM's use of Resource Management Plans, which guide the BLM's administration of the public lands. The Planning 2.0 initiative will help the BLM to conduct effective planning across landscapes at multiple scales, create more dynamic and efficient planning processes that are responsive to change, and provide new and enhanced opportunities for collaboration with the public and partners. You can find further information on the BLM's Planning 2.0 initiative at the following website http://www.blm.gov/wo/st/en/prog/planning/planning_overview/planning_2_0.html.

Comment: A comment recommended that the BLM use one consistent definition to ensure that DLAs represent areas of fewer resource conflicts for solar and wind energy development.

Response: Because of the many variables that the BLM must consider when designating a DLA, the definition provided is intentionally broad and identifies a DLA as a preferred location for development that may be offered competitively. This definition allows the BLM to identify such areas in land use planning processes using plan-specific criteria to best identify the area. However, we are modifying the definition by removing the example of solar energy zones that was cited in the proposed rule in order to eliminate potential confusion about the future identification of additional DLAs, which may not be identified in the same manner as the solar energy zones. No other comments were received concerning this definition.

"Designated right-of-way corridor" is a term that is defined in existing regulations. The word "linear" has been added to this definition in the final rule to distinguish between these corridors and DLAs. No comments were received concerning this definition change and no changes are made from the proposed rule to the final rule.

"Management overhead costs" is defined in existing regulations as Federal expenditures associated with the BLM. This definition has been expanded in the final rule to include other Federal agencies. This revision is consistent with Secretarial Order 3327 and will help to promote effective cost reimbursement. Under Sections 304(b) and 504(g) of FLPMA, the Secretary may require payments intended to reimburse the United States for its reasonable costs with respect to applications and other documents relating to public lands. Secretarial Order 3327 delegated the Secretary's authority under FLPMA

to receive reimbursable payments to the bureaus and offices of the Department. No comments were received pertaining to this definition change, and no revisions were made from the proposed rule to the final rule.

"Megawatt capacity fee" is a new term meaning the fee paid in addition to the acreage rent for solar and wind development grants and leases based on the approved MW capacity of the solar or wind authorization. The MW capacity fee is calculated based on the MW capacity for an approved solar or wind energy project authorized by the BLM. Examples of how MW capacity fees are calculated may be found after the discussion of section 2806.56. While the acreage rent reflects the value of the land itself in its unimproved state, the MW capacity fee reflects the value of the industrial use of the property to generate electricity. Specifically, it captures the additional value of public land used for solar and wind energy generation that are not reflected in the NASS land values.

The BLM revised the definition of MW capacity fee from the proposed to final rule to clarify that the MW capacity fee is calculated for staged developments by multiplying the MW rate by the approved MW capacity for each stage of development. The proposed rule stated that the MW rate would be multiplied to the approved stage of development, but did not specify that it was the approved MW capacity for the stage of development. The BLM made this revision to help improve the public's understanding of the MW capacity fee calculation for staged developments.

Comment: One comment acknowledged that fair market value can be determined by using a competitive process and agreed with the proposed rule's approach of using a competitive process to authorize solar and wind energy development on public lands.

The comment went on to express a preference for a system that includes the payment of a royalty fee for the use of commercial power facilities on public lands.

Response: As explained above, the BLM has established through existing policy, and now by this rule, a multi-component structure for obtaining fair market value from renewable energy development. Since FLPMA directs right-of-way holders "to pay *in advance* the fair market value" for the use of the public lands, subject to certain exceptions (43 U.S.C. 1764(g)), the BLM's existing regulations governing the use of public lands, under Title V of FLPMA, generally require the prepayment of annual rent and fees in amounts determined by the BLM. This requirement is carried forward in existing guidance governing acreage rent and MW capacity fees for wind and solar energy projects and was selected in lieu of other means of obtaining fair market value. Consistent with the BLM's authority under FLPMA, its existing policies, and the proposed rule, the BLM has determined that it will continue to charge in advance both an acreage rent and a MW capacity fee for solar and wind energy projects, as a means of obtaining fair market value for those projects. Given that FLPMA requires payment in advance, the BLM has determined it is appropriate to base that the MW capacity fee on rated MW capacity as opposed to actual generation. In instances where competitive processes are utilized, any minimum and bonus bids represent an additional component of fair market value on top of the annual acreage rent and MW capacity. No other comments were received on the proposed definition of MW capacity fee, and no changes to the definition were made in this final rule.

"Megawatt rate" is a new term that means the price of each MW for various solar and wind energy technologies as determined by the MW rate schedule. The MW rate

equals the (1) the net capacity factor multiplied by (2) the MW per hour (MWh) price multiplied by (3) the rate of return multiplied by (4) the total number of hours per year where:

1. The "net capacity factor" means the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. This rule establishes net capacity factors for different technology types, but the BLM may determine a different net capacity factor to be more appropriate, on a case-by-case or regional basis, to reflect changes in technology, such as a solar or wind project that employs energy storage technologies, or if a grant or lease holder or applicant is able to demonstrate that a different net capacity factor is more appropriate for a particular project design, layout, or location.

The default net capacity factor for each technology type is:

a. Photovoltaic (PV) = 20 percent;

b. Concentrated photovoltaic (CVP) and concentrated solar power (CSP) = 25 percent;

c. CSP with storage capacity of 3 hours or more = 30 percent; and

d. Wind energy = 35 percent.

Comments: Several comments were received concerning the definition and description of net capacity factor. One comment stated that the net capacity factors should not be specified in the proposed rule for CSP projects, as they will undoubtedly increase over time with technology improvements and be updated on a regular basis, in a similar manner as rents. CSP can be designed to operate from a range of 10 to 50 percent efficiency depending on the intended use of the facility (e.g., base load or peaker plant).

Another comment recommended using an estimate of the capacity factor identified in the POD and the plant's design as the basis for this calculation.

Response: The BLM recognizes that there may be technology improvements over time, and that there are variables which may affect a specific project's net capacity factor. For example, a CSP project may be designed to operate at lower or higher efficiency rate depending on its intended use. The BLM took this into account in determining the net capacity factor of the technologies for the final rule. Future rulemaking would be required to change the established net capacity factors for each technology. The BLM will not incorporate the recommendation to use the project owner's estimate of the capacity factor in the POD to calculate its MW capacity fee. The estimated net capacity factor in a POD would be specific to a particular project, but would be a subjective value that could be inaccurate or misleading. Incorporating the methodology suggested by the comment could raise questions as to whether the BLM was truly collecting a reasonable return for use of the public lands.

However, the BLM has revised the final rule, consistent with this comment and those comments submitted regarding storage technologies, to allow the BLM to determine another net capacity factor to be more appropriate on a case-by-case basis. The BLM could determine another net capacity factor to be more appropriate when there is a change in technology, such as when a project employs energy storage technologies. Determining another net capacity factor may also be appropriate if a project uses a more current version of a technology.

Comment: Another comment agreed with the BLM's proposal to use an average net capacity factor for wind energy projects. However, the comment recommended using

a net capacity factor of 26 percent as identified in the wind capacity factor for Western States (see the Department of Energy's 2013 Wind Technologies Report) instead of the national average wind capacity factor of 35 percent.

Response: While the BLM acknowledges that most solar and wind projects on public lands will be located in the western United States, it nevertheless elected to use the national averages in calculating the net capacity factors for both solar and wind projects, because the BLM believes those values are more representative of the technology that will be deployed on projects developed in the future. The net capacity factor for a given project is greatly influenced by project design, layout, and location. The national average reflects a larger set of projects than the regional average, and is therefore more representative of the full range of older and newer technologies currently sited on public lands.

With respect to the wind capacity factor in particular, the BLM reviewed data from the Department of Energy's 2014 and 2015 Wind Technology Reports (https://emp.lbl.gov/sites/all/files/lbnl-188167.pdf and https://emp.lbl.gov/sites/all/files/2015-windtechreport.final.pdf, respectively). Based on its review of that data, the BLM determined that its selection of a 35 percent capacity factor for wind was appropriate for several reasons.

First, the geographic scope of the lands included in the "West Region" of the Department of Energy's reports does not adequately capture the full extent of BLM lands. Using the geographic distribution classifications set by the Department of Energy, BLM lands are located in both the "West" and "Interior" regions, with 7 states in the West and 4 states in the Interior (Colorado, Montana, New Mexico, and Wyoming). It should also

be noted that the four BLM states in the Interior region possess significant wind energy development potential. Accordingly, the BLM believes it is reasonable to select a wind capacity factor between the values for the West and Interior. In the Interior Region the Department of Energy reported capacity factors of 41.2 percent and 42.7 percent in 2014 and 2015, respectively. Data from the 2014 report shows that while the average capacity factor in the West was 27 percent, there was considerable spread in the factors by project, from just below 20 percent to over 37 percent. In the Interior, the spread in capacity factors was from 26 percent to 52 percent. Thirty-five percent represents a reasonable average of these very disparate, project-specific capacity factors.

In addition to looking at capacity factors regionally, the Department of Energy's analysis also controlled for wind quality. Notably, the Department of Energy determined that even in low wind quality areas, which predominate in the West, new projects achieve 35 percent capacity factors. As explained in the reports, this analysis was based on wind turbine specific power, which is the ratio of a turbine's nameplate capacity rating to its rotor-swept area. All else being equal, a decline in specific power leads to an increase in capacity factor according to the analysis presented in the report. In general, since the wind industry is shifting towards deploying lower specific power wind turbines at new wind energy projects across the United States, the BLM believes it is reasonable to select 35 percent as the default capacity factor for a wind project in the final rule.

It should also be noted that the BLM considered basing the net capacity factors for these technologies on an average of the annual capacity factors posted by the Energy Information Administration (EIA) on its Web site at:

http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_6_07_b.

However, the BLM is not carrying this approach forward in the final rule because, as discussed earlier in the preamble regarding net capacity factors, we believe that the 35 percent capacity factor better represents the technologies that will be deployed on projects developed in the future. For this reason, the BLM determined that the EIA annual capacity factors are not appropriate for use in this rule.

Finally, the BLM notes that if an applicant or a grant or lease holder believes that the BLM's net capacity factor is set too high for a particular project, the project proponent can request that the BLM use an alternative net capacity factor when setting the MW capacity rate for the project. Such a request would be made as described under sections 2804.40 for applicants or 2805.12(e) for grant or lease holders. See the section-by-section portion of this preamble for further discussion of requests for alternative requirements.

No other comments were received, and the definition of "net capacity factor" was not changed from the proposed to the final rule as result of this comment.

2. The "MWh price" equals the 5 calendar-year average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States (see sections 2806.52(b) and 2806.62(b)).

Comment: One comment believed that rent and fee calculations may be inaccurate based on inaccurate determinations of the capacity factor and the wholesale price of electricity used in the formula. In the proposed rule, the BLM specified the Intercontinental Exchange (ICE) as the source of data for the wholesale price data.

Response: As discussed under section 2806.52 for MW capacity fee, ICE was removed as the only vendor for the wholesale data. We revised this definition to account

for appropriate wholesale data without limiting it by source. This will allow the BLM to use the best information available, should a company that tracks trading hubs fail to maintain accurate or reliable trade information. No other comments were received concerning this definition.

3. The "rate of return" is the relationship of income to the property owner (or, in this case, the United States) to the revenue generated from authorized solar and wind energy development facilities, based on the 10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-tenth percent.

Comment: One comment believed that the BLM should use a 5-year average, not a 10-year average, eliminate the 4 percent minimum, and consider rounding down or not at all.

Response: The BLM disagrees with the suggestion to use a 5-year average. A 10-year average of the 20-year Treasury bond rate provides a more stable rate of return and will benefit the holder when interest rates rise. Under the same concept, this would benefit the BLM when interest rates decline, as is the case in the current cycle.

The BLM also disagrees that it should eliminate a 4 percent minimum rate of return, considering the risk of energy development projects and the fluctuation of energy commodity prices. It is not uncommon for private parties to insist on a minimum return. The 4 percent minimum rate of return recognizes a grant or lease holder's risk of projects that have other financial safeguards in place, such as performance bonds. The minimum is at the lower end of similar rates in the private sector.

The 4 percent minimum rate of return is established for solar energy in section 2806.52(b)(3)(ii) and for wind energy in section 2806.62(b)(3)(ii). The minimum is not

included in the definitions section of this final rule because setting the minimum is a substantive regulatory provision. This is not a change from the proposed rule. No changes are made in this final rule from the proposed rule regarding the rate of return in the definitions section (section 2801.5) or in the specific solar (section 2806.52(b)(3)(ii)) or wind (section 2806.62(b)(3)(ii)) provisions.

With respect to rounding, the BLM did agree that it should revisit the proposed rule's approach. While it does not agree with the commenter's suggestion that it should always round down, the BLM did determine upon further review that it should round bond yields to the nearest tenth of a percent to avoid a rounding-based surcharge.

4. The number of hours per year is a fixed number (i.e., 8,760 hours, the total number of hours in a 365-day year). No comments were received on the definition of this term and no changes are made to this definition from the proposed rule to the final rule.

"Performance and reclamation bond" is a new term that means the document provided by the holder of a right-of-way grant or lease that provides the appropriate financial guarantees, including cash, to cover potential liabilities or specific requirements identified by the BLM. This term is defined here to clarify the expectations of what a bond accomplishes. The definition also explains which instruments are or are not acceptable. Acceptable bond instruments include cash, cashiers or certified checks, certificate or book entry deposits, negotiable U.S. Treasury securities, surety bonds from the approved list of sureties, and irrevocable letters of credit. The BLM will not accept a corporate guarantee. These provisions codify the BLM's existing procedures and practices.

Comment: A comment suggested adding the words "certificate of insurance or other acceptable security" to each of these paragraphs in appropriate places.

Response: The BLM believes that adding the comment's suggestion to the text of the rule is unnecessary, as the definition of acceptable bond instruments includes insurance policies and does not need to be expanded to include a specific form of insurance. Furthermore, the list of bond instruments that are acceptable is not an all-inclusive list. There may be other forms of bond instruments, but they are not specified in the rule as they are not as common a form of bond as those identified. If we had intended the bond list to be an all-inclusive list we may have unintentionally excluded an acceptable bond instrument. No other comments were received and no changes to this definition were made from the proposed rule to the final rule.

"Reclamation cost estimate (RCE)" is a new term that means the report used by the BLM to estimate the costs to restore the intensive land uses on the right-of-way to a condition that would support pre-disturbance land uses.

The BLM revised this definition from the proposed to final rule to clarify that the reclamation work described must meet the BLM's requirements. This change is important because the BLM is required to protect the public lands and must determine if the reclamation work done by the holder is acceptable.

No comments were received on the definition of this term and no other changes are made from the proposed to the final rule.

"Right-of-way" is defined in existing regulations as the public lands the BLM authorizes a holder to use or occupy under a grant. The revised definition describes the authorizing instrument for use of the public lands as "a particular grant or lease." No

comments were received on the definition of this term and no changes are made from the proposed to the final rule.

"Screening criteria for solar and wind energy development" is a term referring to the policies and procedures that the BLM uses to prioritize how it processes solar and wind energy development right-of-way applications outside of DLAs. Some examples of screening criteria are:

1. Applications filed for areas specifically identified for solar or wind energy development, other than DLAs;
2. Previously disturbed areas or areas located adjacent to previously disturbed areas;
3. Lands currently designated as Visual Resource Management (VRM) Class IV; and
4. Lands identified for disposal in a BLM land use plan.

Screening criteria for solar and wind energy development were previously established by policy through IM 2011-61, and are further discussed in section 2804.25(d)(2) and section 2804.35 of this rule. The IM may be found at: http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html. No changes were made from the proposed rule to the final rule, nor were any comments received pertaining to this definition. However, there are several comments made on the specific screening criteria proposed that are addressed later in the section-by-section analysis of these criteria.

"Short term right-of-way grant" is a new term meaning any grant issued for a term of 3 years or less for such uses as storage sites, construction sites, and short-term site testing and monitoring activities. The holder may find the area unsuitable for development or the BLM may determine that a resource conflict exists in the area. No

comments were received and no changes are made from the proposed rule to the final rule.

Section 2801.6 Scope.

The scope in 43 CFR part 2800 clarifies that the regulations in this part apply to all systems and facilities identified under section 2801.9(a). No comments were received and no changes are made from the proposed rule to the final rule on this provision.

Section 2801.9 When do I need a grant?

Section 2801.9 explains when a grant or lease is required for systems or facilities located on public lands. In section 2801.9(a)(4), the term "systems for generation, transmission, and distribution of electricity" is expanded to include solar and wind energy development facilities and associated short-term authorizations. Language is also added to section 2801.9(a)(7) to allow any temporary or short-term surface-disturbing activities associated with any of the systems described in this section. A new paragraph (d) is added to specifically describe the types of authorizations required for various components of solar and wind energy development projects. These are:

1. Short term authorizations (term to not exceed 3 years);
2. Long term right-of-way grants (up to 30 years); and
3. Solar and wind energy development leases (30 years).

This paragraph also identifies the type of authorizations issued for solar and wind projects depending on whether they are located inside or outside of DLAs. Authorizations for solar or wind energy development outside a DLA, or authorizations issued non-competitively within a DLA, will be issued under subpart 2804 as right-of-

way grants for a term of up to 30 years. Authorizations within a DLA will be issued under subpart 2809 as right-of-way leases for a term of 30 years.

Comments: Some comments were received requesting that the site-specific and project-area testing authorizations be made available for solar energy. A comment further suggested that section 2801.9 be revised so that the authorization types would be listed in the order in which actions are taken to develop a project.

Response: The BLM revised this section, in response to the comment, by removing the specific references to "wind." As a result, the testing provisions apply to both solar and wind energy. The BLM also revised this section to reflect the order in which actions are taken to develop a project. The "other appropriate actions" listed under paragraph (d)(3) of this section in the proposed rule are moved to paragraph (d)(5) of this section in the final rule. Paragraphs (d)(4) and (d)(5) of this section in the proposed rule are now paragraphs (d)(3) and (d)(4) of this section, respectively.

Subpart 2802— Lands Available For FLPMA Grants

Section 2802.11 How does the BLM designate right-of-way corridors and designated leasing areas?

Section 2802.11, which explains how the BLM designates right-of-way corridors, is revised to include DLAs. Under this rule, the BLM will identify DLAs as preferred areas for solar or wind energy development, based on a high potential for energy development and lesser resource impacts. This section provides the factors the BLM considers when determining which lands may be suitable for right-of-way corridors or DLAs. These factors are unchanged from the existing regulations. This final rule

amends paragraphs (a), (b), (b)(3), (b)(4), (b)(6), (b)(7) and (d) of section 2802.11 to include references to DLAs.

Comment: One recommendation was made suggesting that the BLM make it clear that we will not accept applications in areas that are closed to development by means of land use plans or other mechanisms.

Response: The comment's recommendation is addressed in the existing rule at section 2802.10(a). This section clarifies that some lands are not available for a right-of-way grant, which includes those lands that the BLM identifies through the land use planning process as inappropriate for rights-of-way, as well as public land orders, statutes, and regulations that exclude rights-of-way, and lands segregated from application.

Comment: One comment stated that DLAs are created through the BLM's resource management planning process, but that such plans are changed only every 15 to 20 years. Also, many plans are undergoing or have recently undergone such changes, especially in areas having sage-grouse habitat, but those plans do not designate any DLAs.

Response: Due to the timing of the comment submission and the BLM's response, the plans noted in this comment have been finalized and the BLM decisions are issued. The Greater Sage-Grouse Plan Amendments and Revisions did not designate any DLAs. These plans are focused on conservation of the Greater Sage-Grouse and its habitat. The decisions issued in these plans safeguard primary and general habitat from the impacts of development, including solar and wind energy.

However, the BLM may have an opportunity to designate some areas for wind energy development using recent analyses or information that identifies areas suitable for energy development on public lands. Examples of such areas may be those identified as not having significant resource and use siting concerns, as identified in the BLM's wind mapper. The wind mapper is a BLM web-based geographic data viewer, found at http://wwmp.anl.gov, that has up-to-date geographic information representing the BLM's land use planning decisions for administering public lands and other pertinent regulatory information, specific to wind energy resources. Using information on the wind mapper, a targeted land use plan amendment may be completed more expeditiously than the 15 to 20 years discussed in this comment.

Comment: Another comment suggested that we consider developing a generic EIS process suitable to all prospective solar and wind leases, coupled with a specific discussion of variations between areas. Also, the comment suggested that we should automate the EIS process to leverage existing GIS and satellite data whenever possible.

Response: Although worth considering, this concept is outside the scope of this rule, which is focused on the administrative process of solar and wind energy rights-of-way and competitive processes. However, the BLM plans to evaluate its NEPA process and promote automation of the process where possible. Until that time, the BLM will designate such areas through its existing land use planning process.

Comment: Another comment states that the designation of DLAs will waste taxpayers' money and impede development. The cost to the public for the BLM to designate a DLA will not be fully recaptured and the DLA will not provide any additional value to the public through the competitive process.

Response: Costs for the preparation of DLAs will be recaptured at the competitive bidding stage as the administrative costs will be paid by the successful bidder. As demonstrated by the BLM's recent competitive actions for solar energy, there is a monetary return to the public for auctions of parcels within renewable energy development areas.

Comment: During stakeholder engagement meetings, environmental stakeholders expanded on their comment on the definition of "designated leasing area." The stakeholders suggested that the BLM should not only revise the definition of DLA to include additional specific criteria, but also make changes to section 2802.11 to specify that the BLM consider those criteria when designating DLAs. The stakeholders also recommended that the BLM consider sensitive environmental resources when evaluating potential DLAs.

Response: The BLM considered adding additional criteria to section 2802.11 that would be considered when the BLM evaluates an area for inclusion in a DLA, but it ultimately made no changes in the final rule. The existing regulations in section 2802.11(b) already explain in great detail what the BLM considers when making a DLA designation. Adding an undefined term, "sensitive environmental resources," could unintentionally limit the BLM's management of public lands when considering the varied landscapes and resources that are found there. Furthermore, consideration of sensitive resources is already addressed in section 2802.11(b)(2), which requires the BLM to consider "environmental impacts on cultural resources and natural resources, including air, water, soil, fish, wildlife, and vegetation."

While the BLM did not make any changes to the final rule in response to this comment, it should be noted that the BLM intends to establish guidance, as part of the implementation of this rule, to assist the BLM in establishing DLAs through its land use planning processes. The implementing guidance will allow the BLM to be more specific for these areas without unintentionally limiting itself, and maintain the BLM's flexibility to make any necessary adjustments to the process for evaluating potential DLAs across the varied landscapes that it manages.

Subpart 2804— Applying For FLPMA Grants

Section 2804.10 What should I do before I file my application?

Existing section 2804.10 encourages prospective applicants for a right-of-way grant to schedule and hold a pre-application meeting. Under this final rule, section 2804.10 continues to encourage such meetings regarding some right-of-way grants, and under paragraph (a)(2), would now identify DLAs along with right-of-way corridors as a point of discussion for these meetings if held.

Under existing section 2804.10(a)(2), the BLM determines if your application is on BLM land within a right-of-way corridor. This revised paragraph now includes "or a designated leasing area." The BLM generally will not accept applications for grants on lands inside DLAs . The BLM will offer lands inside DLAs competitively through the process described in subpart 2809, which does not involve submitting an application. The BLM will only accept applications on lands inside DLAs in limited circumstances (see sections 2809.19(c) and 2809.19(d)).

The BLM proposed amending paragraphs (a), (a)(2), and (a)(4), and also adding two new paragraphs that would apply to any solar or wind energy project, transmission

line with a capacity of 100 kV or more, or pipeline 10 inches or more in diameter. For these types of projects, the BLM proposed mandatory pre-application meetings. Proposed amendments for paragraph (a) and (a)(4) are not included in the final rule, since pre-application meetings will not be required and specific requirements associated with them are no longer necessary. Paragraph (b) of the existing regulations will not be redesignated and there will be no new paragraphs (b) and (c) in this final rule. The only changes to section 2804.10 in the final rule are found in paragraph (a)(2).

Under this final rule, pre-application meetings will not be required for solar and wind energy developments, or any transmission line with a capacity of 100 kV or more. Instead, the BLM will require what we term "preliminary application review meetings" that will be held after an application for a right-of-way has been filed with the BLM. These meetings will fall under the BLM's cost recovery authority for processing applications and are discussed in greater detail under section 2804.12. Based on comments received, no requirements for pipelines 10 inches or more in diameter are carried forward into the final rule.

Section 2804.12 What must I do when submitting my application?

In this final rule, Section 2804.12 has been retitled from "What information must I submit in my application?" to "What must I do when submitting my application?". Relocation of the early coordination meeting requirements to this section has resulted in revisions to this section that would make the previous title misleading. As revised, section 2804.12 requires that an applicant must provide specific information, and in the case of solar or wind energy development projects and transmission line projects with a

capacity of 100 kV or more, must also complete certain actions when initially submitting an application.

The last sentence in section 2804.12(a) is revised to show that a completed application must include all of the items identified in sections 2804.12(a)(1) through (a)(8). The text of paragraphs (a)(1) through (a)(7) are republished without amendment, and new paragraph (a)(8) is added.

Comments: Several comments were submitted regarding the BLM's proposed pre-application requirements for solar and wind energy development and transmission lines with a capacity of 100 kV or more. Comments suggested that the BLM could not place requirements on a developer prior to an application being submitted to the BLM. This general comment was focused on two aspects of the BLM's proposed requirement for pre-application meetings. The first aspect was that the BLM was requiring that two pre-application meetings be completed prior to a developer submitting an application for a solar or wind energy development project or transmission line with a capacity of 100 kV or more. The second aspect of concern was that the BLM would require the developer to pay cost recovery for the required pre-application meetings. Under the proposed rule, the BLM would have required both of these prior to submission of an application for use of the public lands.

Response: The intent of the pre-meeting requirements is to ensure early coordination with the developer and other Federal, State, and tribal governments to gather information to better inform the developer of different considerations to be made if pursuing their project on BLM-administered lands. Considerations would include existing uses, environmental resources, and cultural or tribal values in the area of the

proposed project. Pre-application meetings are currently required by the BLM's policy. Discussing a proposed project with a developer early on has demonstrated an improvement in project siting and design, avoiding and minimizing impacts the project would have to the public land, and reducing the BLM's processing timeframes. This final rule has been revised and now requires early coordination, not through pre-application meetings, but through preliminary application review meetings, which are to be held after an application is submitted to the BLM. These requirements for early coordination with developer and other Federal, State, and tribal governments are found under section 2804.12(b). Additional discussion of the preliminary application review meetings is found under section 2804.12(b) of this preamble.

Section 2804.12(a)(8) states that if the BLM requires you to submit a POD, you must include a schedule for its submittal in your application. This requirement was in the proposed rule's section 2804.10(c)(4), but is now moved to section 2804.12(a)(8) in the final rule. This provision was proposed in section 2804.10 because the early coordination with BLM was done under pre-application meetings. It is moved to section 2804.12 of this final rule to coincide with the timing of the preliminary application review meetings.

Section 2804.12(b) explains requirements for submitting an application for solar or wind energy development (outside of DLAs), or any transmission line with a capacity of 100 kV or more. Requirements under section 2804.12(b) were found at section 2804.10(b) in the proposed rule, but have been moved to this section instead as application processing requirements. This includes the BLM's requirement for preliminary application review meetings. This provision provides clear instructions to

the public about what they should expect when filing an application for such developments.

The BLM commonly refers to the first filing of an application as an "initial" application due to the BLM's experience with such projects. In most cases, a project POD goes through several iterations during the BLM's application review process and may require additional submissions or revisions of the application to accompany the revised plans. Additional applications are not always necessary when revising a project POD, but could be required.

Section 2804.12(b) also contains provisions from sections 2804.10(b) and 2804.10(c) of the proposed rule. These provisions are moved in the final rule in response to comments. An additional provision is added to paragraph (b) of this section to reiterate that the requirements for submitting a solar or wind application are in addition to those described in paragraph (a) of this section for all rights-of-way.

Comments: Several comments questioned the requirement to hold pre-application meetings, as well as the BLM's authority to require conditions for project processing, prior to the submission of an application to the BLM and collecting cost recovery fees for that time period.

Response: The early coordination that resulted from the pre-application meetings required by existing BLM policy has been essential to the timely review and approval of solar and wind energy projects on the public lands. However, this final rule moves these meetings and requirements so that they occur after the submission of an application in response to comments received. The changes retain BLM's intent to ensure earlier

coordination on such applications with other Federal, State, local, and tribal governments. Under the final rule, such meetings would be subject to cost recovery requirements.

Section 2804.12(b) also states that your application for a solar or wind energy project, or a transmission line project with a capacity of 100 kV or more, must include a general description of the proposed project and a schedule for submittal of a POD, address all known resource conflicts, and initiate early discussions with any grazing permittees that may be affected by the proposed project. Further, section 2804.12(b) requires that you hold two preliminary application review meetings, within 6 months from the date on which the BLM receives the cost recovery fee payment required under section 2804.14.

Section 2804.12(b)(4), as previously described, is relocated from section 2804.10(c) of the proposed rule. Under this paragraph, the BLM will process an application only if the application addresses the following items: 1) Known potential resource conflicts with sensitive resources; 2) Values that are the basis for special designations or protections; and 3) Applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts. For example, some applicant-proposed measures could utilize a landscape-level approach as conceptualized by Secretarial Order 3330 and subsequent reports, and be consistent with the BLM's IM 2013-142, interim policy guidance. Due to the intense use of the land from the projects covered in this section, the BLM will require applicants to identify potential conflicts and how they may be avoided, minimized, or mitigated. The BLM will work with applicants throughout the application process to ensure the most efficient use of public land and to minimize possible resource conflicts. This provision will require an applicant to consider these concerns before

submitting an application and, therefore, provide the BLM with potential plans to minimize and mitigate conflicts.

Comments: Some comments stated that the BLM should ensure that meetings are structured so that participants are provided all the project information necessary so they can meaningfully assist the BLM to make an appropriate determination about the proposed project.

Response: The BLM agrees with these comments and has modified the regulation to have meetings occur after an application is filed, rather than hold the meetings beforehand. The intent of these meetings will be to bring all Federal, State, local, and tribal governments together and provide them with the best available information to have an informed discussion on the right-of-way application. Authorizations for solar and wind energy projects, and transmission lines with a capacity of 100 kV or more, are generally larger and more complex than the average right-of-way authorization, and this extra step will help protect the public lands and make application processing more efficient.

Furthermore, the BLM will not proceed with an application until all appropriate meetings are held and the BLM has notified appropriate grazing permittees (see 43 CFR 4110.4-2(b)). Applicants must pay reasonable or actual costs associated with the requirements identified in section 2804.12(b). Payment for reasonable costs associated with an application must be received by the BLM after the initial filing of the application and prior to the first meeting, consistent with section 2804.14.

After enactment of the Energy Policy Act of 2005, the BLM received an influx of solar and wind energy development applications. Many of these applications were

unlikely to be approved due to issues such as siting, environmental impacts, and lack of involvement with other interested parties. As the BLM gained more experience with these applications, it developed policies and procedures to process applications more efficiently. These policies and procedures required pre-application meetings and use of application screening criteria (see section 2804.35 of this preamble) in order to help BLM and the proponent address siting concerns early on in the process.

Pre-application meetings have helped both the BLM and prospective applicants to identify necessary resource studies, and other interests and concerns associated with a project. Further, the meetings have provided an opportunity to direct development away from lands with high conflict or sensitive resource values. As a result of these meetings, the applications submitted were more appropriately sited and had fewer resource issues than those submitted where no pre-application meetings were held. Holding these meetings early in the application process made the applications more likely to be approved by the BLM. This saved the applicant the time and money spent on doing resource studies and developing projects that may not have been accepted or approved by the BLM.

Some prospective applicants chose not to pursue development after these meetings, once they had a better understanding of the potential issues and resource conflicts with the project as proposed. The BLM found that applicants who participated in these meetings saved money that would have been spent planning a project that the BLM would not have approved. This also saved the BLM time by reducing the number of applications it would need to process and the time spent reviewing resource studies and project plans.

A January 2013 Government Accountability Office report (GAO-13-189) found that the average BLM permitting timeframes have decreased since implementation of BLM's solar and wind energy policies, which include the early inter-agency coordination meeting requirements in this rule. The GAO concluded that applications submitted in 2006 averaged about 4 years to process, while applications submitted in 2009 and later averaged about 1.5 years to process. At the time of the GAO review, these meetings were pre-application meetings. In the final rule, the timing of these early meetings has been changed until after the submission of an application to the BLM. Based on its experience, the BLM believes that holding inter-agency and government coordination meetings early in the review of a proposed large-scale development will continue to save both the BLM and applicant time and money during the BLM's review and processing of the application.

Based on a review of its records, the BLM identified a range of costs and time estimated associated with the processing of each type of application for a use of the public lands. These cost and time estimates varied between the solar and wind energy and transmission line projects. For solar and wind energy rights-of-way a range of costs was identified between $40,000 and $4 million, including up to approximately 40,000 BLM staff labor hours and other non-labor costs per project. For transmission lines 100 kV or larger a range of costs was identified between $260,000 and $2.1 million, including up to approximately 21,000 BLM staff labor hours and other non-labor costs per project. Based on this review, the BLM observed that projects with early coordination generally had lower costs relative to similarly situated projects.

Based on the BLM's experience, two meetings are usually sufficient to address all known potential concerns with a project, which is why the final rule calls for two meetings. However, the BLM understands that additional meetings may be beneficial to a project before an application is submitted. The BLM does not want to limit its ability to hold additional meetings should a project be particularly complex and, therefore, the final rule allows for additional preliminary application review meetings to be held when mutually agreed upon. For example, a project that crosses State lines could require additional coordination with local governments and other interested parties.

Comments: Some comments noted concern over the BLM's existing and proposed pre-application process and its open-ended timeframe. Comments were concerned that this would be a deterrent for pursuing development on the public land, even if the project itself was well sited and designed. A developer would need assurances that a project would proceed expeditiously. Suggested timeframes included 30 days between meetings and application submittal.

Response: New paragraph (b)(4) specifies that within 6 months from the time the BLM receives the cost recovery fee, you must hold at least two preliminary application review meetings. The first meeting will be held with the BLM to discuss the proposal, the right-of-way application process, the status of BLM land use planning for the lands involved, potential siting and environmental issues, and alternative site locations. The second meeting will be held with appropriate Federal and State agencies and tribal and local governments to discuss concerns as identified above. If you do not believe you need to schedule the first or second meeting described above, you can ask the BLM for

an exemption. The process of requesting an exemption is discussed further in section 2804.12(i), under the newly added paragraph labeled "Inter-agency Coordination."

Section 2804.12(c) contains requirements for submitting an application for solar and wind energy development. These requirements, located in sections 2804.10(a)(8) and 2804.10(c)(2) in the proposed rule, have been relocated to sections 2804.12(c)(1) and 2804.12(c)(2) in this final rule. Under section 2804.12(c)(1), the BLM specifies that an application for solar or wind energy development must be submitted for lands outside of DLAs, except as provided for by section 2809.19. Lands inside DLAs will be offered competitively under subpart 2809. See section 2809.19 of this preamble for further discussion. No comments were received and the only changes made to this paragraph are those identified for relocating the requirement to this section and putting it in the context of a requirement for submitting an application.

Section 2804.12(c)(2) requires that an applicant submit an application filing fee with any initial solar or wind energy right-of-way application. Section 304 of FLPMA authorizes the BLM to establish filing and service fees. A per acre application filing fee may discourage applicants from applying for more land than is necessary for a proposed project. Under this final rule, application filing fees will be retained by the BLM as a cost recovery fee, instead of being sent to the General Fund of the Treasury as collected revenue as proposed. A similarly structured nomination fee is established following the same criteria and is described in section 2809.11(b)(1).

Paragraph (c)(2) of this section is revised to replace "by the average annual change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP)" to read as "using the change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP)".

As proposed, this provision may have been interpreted as limiting how the BLM would use the IPD-GDP when updating this fee. It is appropriate for adjustments that occur annually, such as acreage rent, to refer to the average annual change in the IPD-GDP. However, the application filing fee may be adjusted once every ten years and this adjustment would be based on the cumulative change to the IPD-GDP over the 10-year period.

The application filing fee is the initial fee paid to the BLM for the reasonable costs of processing, inspecting, and monitoring a right-of-way. The BLM will use these funds towards processing your application. The balance of these funds, if any, will be allocated towards a cost reimbursement agreement that is later established between the BLM and the applicant or refunded if the application is denied or otherwise terminated. A cost reimbursement agreement is established under the authority of FLPMA section 304(b) and 504(g). This change is made in conformance with those changes made under section 2804.30(e)(4) in response to comments.

The application filing fee is based on the appraisal consultation report performed by the Department's Office of Valuation Services. The appraisal consultation report compared similar costs on private lands, and provided a range between $10 and $25 per acre per year. The nominal range or median was reported as between $15 and $17 per acre per year. The appraisal consultation report is available for review by contacting individuals listed under the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The BLM is adopting a single filing fee at the time of filing an application, as opposed to a yearly payment. Based on the appraisal consultation report, fees are $15 per

acre for solar and wind energy applications and $2 per acre for wind energy project-area and site-specific testing applications.

Comments: Several comments were made concerning the fees identified in the description of requirements for section 2804.12(c)(2). One comment suggested that the $15 per acre filing fee should be made a part of a cost recovery fee and used to reimburse the BLM for its expenses. In addition, the comment suggested that the fee should be refundable if the lands are later made subject to competition.

Response: The BLM has revised this rule, including this section, to make application filing fees part of cost reimbursement paid to the BLM. Payment of cost reimbursement to the BLM is under Sections 304(b) and 504(g) of FLPMA. Application filing fees and other costs associated with the BLM's processing of applications can be recovered because the BLM's application review and other work facilitates, and will generally be essential for, the BLM's processing, inspecting, and monitoring of a right-of-way. Consistent with FLPMA, application filing fees are retained by the BLM as cost reimbursement and will not be sent to the General Fund of the U.S. Treasury as originally proposed. If lands are later subject to a competitive offer for the use for which application filing fees were provided, (e.g., competition for a site development when development application filing fees are paid), then these fees would be refunded to the unsuccessful bidders who had already paid them, except for the reasonable costs incurred.

Comment: One comment opposes the proposed $15 per acre filing fee for wind energy applications and $2 per acre fee for wind energy site-specific testing applications as this would increase processing costs. The comment suggested that fees should be as low as possible to encourage wind energy development on public lands.

Response: The BLM has removed the application filing fee from site-specific testing applications to address concerns of increasing costs for development on the public lands. Site-specific testing generally takes up less than an acre, so it would not be necessary to encourage a smaller area of use. Project area testing and developments can each encompass thousands of acres and a per acre filing fee is appropriate. This final rule retains a $2 per acre filing fee for project area testing applications and a $15 per acre filing fee for development applications to encourage thoughtful development on public lands. Fees for solar and wind energy development applications will be adjusted for inflation once every 10 years, using the Implicit Price Deflator for Gross Domestic Product (IPD-GDP).

Section 2804.12(d) references an applicant's option to request an alternative requirement if the applicant is unable to meet one of the requirements outlined for submitting an application. Requests for an alternative requirement are submitted under section 2804.40. This provision applies to all right-of-way applications submitted to the BLM and is added to the final rule in response to comments submitted on the proposed rule. Further discussion on requesting an alternative requirement is found under section 2804.40.

Comments: Some comments stated that the mandatory pre-application meetings included in the proposed rule would discourage a developer from pursuing public lands for development, since the process and costs associated with development on BLM lands are greater than those on private lands. These comments expressed concern that these requirements are overly burdensome and duplicative of the NEPA process.

Response: Although costs to develop a project may end up being higher on public lands, the BLM has a different scope of authority and responsibility than agencies and offices that administer developments that occur on private land. The BLM is charged with managing the public lands under principles of multiple use and sustained yield. The BLM must take into account resources and use of the public land, and balance those with each additional proposed use and its impacts to resources for current and future generations.

Based on the BLM's experience, these early coordination meetings help reduce the overall time and costs associated with the BLM's application process. The pre-application meetings described in the proposed rule, which are existing policy, are changed in this final rule to "preliminary application review meetings," which take place after an application is submitted. The BLM believes these meetings will facilitate a more efficient application process and will not discourage development on public lands.

The BLM is required, under NEPA, to consider the environmental impacts of a significant action on the public lands. These early coordination meetings help the BLM and proponent determine the best possible approach for developing a proposed project that would avoid, minimize, reduce or otherwise compensate for its environmental impacts. Based on the BLM's experience, these meetings have reduced the overall time of the NEPA analysis necessary for projects on the public lands. The GAO's report (GAO-13-189) found that the average BLM permitting timeframes have decreased since implementation of BLM's solar and wind energy policies, which include the early inter-agency coordination meeting requirements in this rule.

The BLM added section 2804.12(i), "Inter-agency Coordination," in response to these comments. This paragraph provides that an applicant may request an exemption from some of the requirements of this section, should they participate in an inter-agency coordination process with another Federal, State, local, or tribal authority. This final rule allows a developer to formally request an exemption to the requirements under section 2804.12, pertaining to application filings and other requirements that may be duplicative of other activities that a developer is completing. In order for a developer to qualify for an exemption from these requirements, the other activities must meet the same criteria as required by the BLM. An example of such a situation would be if a developer had already met with the Department of Energy for purposes similar to what is required under the BLM's first preliminary application review meeting.

No other comments were received and no additional changes made to this section.

Sections 2804.12(e) through (h) are redesignated in the final rule from paragraphs (b) through (e) of the existing regulations and no other changes were made to these paragraphs.

Section 2804.14 What is the processing fee for a grant application?

Under section 2804.14, applicants must pay for reasonable costs for processing an application as defined by FLPMA. Under section 2804.14(a), the BLM may collect the estimated reasonable costs incurred by other Federal agencies. Applicants may pay those costs to other affected agencies directly instead of paying them to the BLM.

Section 2804.14(b) includes a table of the application processing categories. The specific outdated values for cost recovery categories 1 through 4 have been removed from this table, while the explanations of the categories and the methodology of

calculating the costs remain. These numbers are available in writing upon request or may be found on the BLM's website at http://www.blm.gov/. These cost figures were removed from the regulations because they are outdated after the first year, since the BLM updates these costs annually and has done so since this section of the regulations was originally published. The revision allows the BLM to update these numbers without modifying the CFR and prevents confusion to potential applicants who would see incorrect information. The explanation of how these costs are calculated, formerly found in section 2804.14(c), is moved up to paragraph (b) to provide better context for the amended table. Redundant language is removed from the Category 1 processing fee.

Comments: Some comments were received stating that the BLM does not have authority to collect cost recovery on behalf of other Federal, State, and non-regulatory offices, such as tribal governments and interested public stakeholders. These comments stated that the authority delegated by the Secretarial Order was by the Secretary, and, therefore, delegation of the authority could not apply to any agency or office outside of the Department.

Response: Secretarial Order 3327 delegating cost recovery authority applies only to agencies and offices of the Department of the Interior. Sections 304(b) and 504(g) of FLPMA, however, give the Secretary authority to collect payments intended to reimburse the United States, not just the Department of the Interior. Under Section 304(b) of FLPMA, the Secretary may charge for reasonable costs of the United States concerning "applications and other documents relating to [the public] lands." Section 504(g) of FLPMA provides that the Secretary may charge for "all reasonable administrative and

other costs incurred in processing" a right-of-way application and costs associated with the inspection and monitoring of right-of-way facilities.

The revision under section 2804.14 and other cost recovery provisions of this rule clarify that the BLM's cost recovery authority is consistent with FLPMA, in that it seeks reimbursement to the United States—i.e., it can seek reimbursement of its own costs as well as those of other Federal agencies. This does not include reimbursement of costs for State and non-regulatory offices. The BLM intends that collecting such reasonable costs for other Federal agencies would primarily arise in situations where the BLM's decision to approve or deny a right-of-way application depends on another Federal agency's issuance of a decision or other determination before or in conjunction with the BLM's right-of-way decision. An example of this can been seen in the BLM's May 2013 Memorandum of Understanding with the Fish and Wildlife Service (FWS), where the BLM and FWS have established a protocol for the BLM to collect and then provide cost recovery funds to the FWS for Endangered Species Act and other work that the BLM determines is necessary for it to process right-of-way applications. A copy of the Secretarial Order and Memorandum of Understanding can be found at the following website: http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_information/2013/IB_2013-074.html. No other comments were received, and no changes were made to this section of the final rule.

Section 2804.18 What provisions do Master Agreements contain and what are their limitations?

As defined in section 2804.18, a Master Agreement is a written agreement covering processing and monitoring fees negotiated between the BLM and a right-of-way applicant that involves multiple BLM rights-of-way for projects within a defined geographic area. New section 2804.18(a)(6) requires that a Master Agreement also describe existing agreements between the BLM and other Federal agencies for cost reimbursement. With the recent authority delegated by Secretarial Order 3327 to collect costs for other Federal agencies, it is important for the applicant, the BLM, and other Federal agencies to coordinate and maintain consistency for cost reimbursement. No additional comments were received, except for those discussed under section 2804.14, and no changes were made to this section in the final rule.

Section 2804.19 How will BLM process my Processing Category 6 Application?

Under section 2804.19(a), an applicant for a Category 6 application must enter into a written agreement with the BLM identifying how such applications will be processed. Under this final rule, the final agreement includes a description of any existing agreements the applicant has with other Federal agencies for cost reimbursement associated with the application. No comments were received for this section, and no changes were made from the proposed rule to this section of the final rule.

Under section 2804.19(e), the BLM may collect reimbursement to the United States for its reasonable costs for processing applications and preparation of other documents under this part relating to the public lands. Adding this language to these regulations clarifies the BLM's authority when collecting for other agencies. No additional comments were received, except for those discussed under 2804.14 and no changes were made to this section of the final rule.

Section 2804.20 How does BLM determine reasonable costs for processing Category 6 or monitoring Category 6 applications?

Section 2804.20 is revised to clarify the scope of the BLM's cost recovery and how the BLM will determine reasonable costs of the United States when processing and monitoring Category 6 applications. In paragraph (a)(1) of this section, "BLM" is changed to "the Federal Government," to make it clear that the BLM may collect cost recovery for other Federal agencies as well. Processing costs include reasonable costs for processing a right-of-way application, while monitoring costs include reasonable costs for those actions the Federal Government performs to ensure compliance with the terms, conditions, and stipulations of the right-of-way grant. As pre-application requirements are not included in this final rule, section 2804.20(a)(7) was deleted. No additional comments were received, except for those discussed under 2804.14, and no other changes were made to this section of the final rule.

Section 2804.23 When will the BLM use a competitive process?

Section 2804.23 was previously titled "What if there are two or more competing applications for the same facility or system?" but is revised to read, "When will the BLM use a competitive process?" This change is necessary because, under the final rule, the BLM may use a competitive process even when there are not two competing applications.

Paragraph (a)(1) of this section now requires applicants to reimburse the Federal Government, as opposed to just the BLM, for processing costs, consistent with the cost recovery authority in Sections 304(b) and 504(g) of FLPMA. This means that the BLM could require applicants to reimburse the BLM for the costs incurred by other agencies, such as the U.S. Fish and Wildlife Service, in processing the application.

A new sentence in section 2804.23(c) gives the BLM authority to offer lands through a competitive process on its own initiative. Under the existing regulations, the BLM can use a competitive process only when there were two or more competing applications for a single right-of-way system. This change gives the BLM more flexibility to offer lands competitively, and applies to all potential rights-of-way, not just solar and wind energy development projects.

Throughout the proposed rule, the BLM required publication of a notice in the Federal Register as well as in a newspaper in general circulation in the area affected by the potential right-of-way. Publication in a newspaper is included in the final rule as one of the "other methods" of public notification that the BLM may use, but is no longer a requirement. The potential area affected by a proposed BLM action may not be covered by a single newspaper. As the BLM considers issues at a broader scale, such as multi-state transmission lines, several communities may be affected by a single BLM action. The Federal Register is a national publication that is available to all interested parties. In addition, the BLM will make available a copy of all Federal Register notices on its website at www.blm.gov. The BLM may use a newspaper to notify the public on a case-by-case basis, as appropriate. The public notification methods throughout this final rule are revised consistent with this section.

Comments: Some comments expressed concern that the BLM may determine to hold a competitive offer after an applicant has substantially progressed in the processing of their non-competitive application for a right-of-way grant. These comments argued

that this possibility would discourage developers from submitting a solar or wind energy right-of-way application.

Response: Proposed paragraph (c) of this section has been revised to state that a competitive process will not be held for public lands where a right-of-way application for solar or wind development has been accepted, including the POD and cost recovery agreement. Adding this criterion provides assurances to prospective applicants that the BLM will not competitively offer lands after considerable time and resources have been committed to processing a particular application.

Under section 2804.23(d), lands outside of DLAs are made available for solar or wind energy applications through the competitive process outlined in section 2804.30. This provision directs the reader to new section 2804.30, which explains the competitive process for solar and wind energy development outside of DLAs. This paragraph is necessary to differentiate between development inside and development outside of a DLA. No comments were received on this paragraph, and no changes are made from the proposed rule to the final rule.

Under section 2804.23(e), lands inside a DLA will now be offered competitively through the process described in subpart 2809. This new paragraph directs the reader to revised subpart 2809, which explains the competitive process for solar and wind energy development inside of DLAs. This paragraph is necessary to differentiate between development inside and outside of a DLA. No additional comments were received for this section, except for those discussed under paragraph (c), and no other changes were made from the proposed to the final rule.

Section 2804.24 Do I always have to submit an application for a grant using Standard Form 299?

Section 2804.24, which is unchanged from the proposed rule, explains when you do not have to use Standard Form 299 (SF-299) to apply for a right-of-way. Under the existing rule, you do not have to use SF-299 if the BLM determines competition exists under section 2804.23(c). The BLM only determines competition exists when there are two or more competing applications for the same right-of-way facility or system.

Due to the changes made to section 2804.23, section 2804.24 specifies when an SF-299 is required. Under both the existing regulations and this final rule, the BLM will implement a competitive process if there are two or more competing applications. Under section 2804.24(a), you do not have to submit a SF-299 if the BLM offers lands competitively and you have already submitted an application for that facility or system.

Under paragraph (a) of this section, if you have not submitted an application for that facility or system, you must submit an SF-299, as specified by the BLM. Under the competitive process for solar or wind energy in section 2804.30, for example, the successful bidder becomes the preferred applicant, and may apply for a grant. The preferred applicant will be required to submit an SF-299, but unsuccessful bidders will not.

Paragraph (b) explains that an applicant does not have to use an SF-299 when the BLM is offering lands competitively under subpart 2809. Under subpart 2809, the BLM will offer lands competitively for solar and wind energy development inside DLAs. The successful bidder will be offered a lease if the requirements described in section 2809.15(d) are met. The successful bidder will not have to submit an application using

SF-299. The following chart explains when the filing of an SF-299 is or is not required under this final rule:

When a SF-299 is required

Type of Solar or Wind right-of-way	Would have to submit a SF 299?
Have two or more competing applications for the same area, outside of DLAs	Yes
Lands are offered competitively outside of a DLA and you have already submitted an application for the parcel before the Notice of Competitive Offer	No
Lands are being offered competitively outside of a DLA and you have not submitted an application	Yes
You are the successful bidder in a competitive offer outside of a DLA and have been declared the preferred applicant and may apply for a grant	Yes
Lands are being offered competitively within a DLA under subpart 2809	No

No comments were received and, no were other changes are made to this section of the final rule.

Section 2804.25 How will BLM process my application?

This section of the final rule has been modified from the proposed rule to reflect the shift of early BLM coordination from pre-application meetings, under section 2804.10, to preliminary application review meetings, under section 2804.12. These preliminary application review meetings are now required after the initial filing of a right-of-way application for solar or wind projects, or for electric transmission lines with a capacity of 100 kV or more.

Section 2804.25(a) of this final rule has been modified from the proposed rule to include a provision from current section 2804.25(b) that states the BLM will inform you of any other grant applications that involve any of the lands for which you have applied. This new provision has been added as paragraph (a)(2). Paragraph (a) has been reformatted providing an introductory statement and putting the existing requirement for identifying the processing fee as paragraph (a)(1). This is an existing provision of the regulations and is only added to this paragraph as part of formatting revisions that are made in response to comments submitted concerning confusion with existing requirements of section 2804.25(b).

Comments: Some comments were received noting confusion over the proposed section 2804.25(b) and its requirements.

Response: This paragraph has been reformatted into two new separate paragraphs, 2804.25(b) and 2804.25(c).

New section 2804.25(b) contains existing regulatory requirements that were part of proposed section 2804.25(b). This paragraph helps explain the existing requirements found in section 2808.12 of the regulations. In paragraph (b), the BLM will not process your application if you have any trespass action pending for any activity on BLM-administered lands or have any unpaid debts owed to the Federal Government. If you have an outstanding trespass action, the BLM will only process your application, under part 2800 or part 2920, if it will resolve the underlying trespass. Similarly, if you have any debts outstanding, the BLM will only process your application after those outstanding debts are paid. The requirement in section 2808.12 is often overlooked by potential right-of-way applicants and this addition to the regulations would insert the

requirement into the application process and improve applicant understanding of the BLM's process under subpart 2804.

Comments: Some comments expressed concern with the clarity of this proposed section and were also unsure whether using an application for a right-of-way to resolve trespass was appropriate. Further, concern was raised over what constituted an unpaid debt to the Federal Government.

Response: In response to the comment about clarity, the BLM revised the language in paragraph (b) of this section, by adding paragraphs (b)(1) and (b)(2), discussing when the BLM will not process an application.

Section 2804.25(b)(1) clarifies that the BLM will not process your application if you have an outstanding debt to the Federal Government and then describes what constitutes an outstanding debt to the government. An additional sentence was added to paragraph (b)(1) of this section, explaining that unpaid debts are what are owed to the Federal Government after all administrative collection actions have occurred, including administrative appeal proceedings under applicable Federal regulations and review under the Administrative Procedure Act (APA). Adding this provision to the regulations makes it clear to right-of-way holders and trespassers that the BLM will evaluate applications in this manner.

Paragraph (b)(2) of this section clarifies that if you are in trespass, the BLM will only process an application that would resolve that particular trespass. Reformatting this paragraph in this manner separates the concepts of unpaid debts and existing trespass situations as they pertain to new applications. Under this final rule, the BLM will not always issue a right-of-way to resolve a trespass. The BLM will consider the situation on

a case-by-case basis and will evaluate whether the trespass was knowing and willful. The BLM will also consider whether issuing a right-of-way to resolve the trespass is appropriate. If a right-of-way is not an appropriate way to resolve a trespass, the BLM will consider other options for resolving a trespass, such as requiring its removal from public lands.

Section 2804.25(c) contains the requirements from section 2804.25(b) of the existing regulations, under which the BLM may require the submittal of a POD. The POD or other plans must be submitted to the BLM within the period specified by the BLM.

Under paragraph (c)(1) of this section, the BLM requires an applicant to commence resource surveys or studies within 1 year of receiving a request from the BLM. This requirement was identified in the preamble of the proposed rule and carried forward in this final rule. The requirement to begin the surveys or studies within 1 year of the request establishes a default period, which will apply if the BLM does not specify a different time period within which the survey or study must begin. The BLM may identify a different time period through written correspondence with applicants, or by other means, as appropriate. Generally, these surveys or studies will not require a permit from the BLM or any other agency. Proponents need only coordinate the work with the applicable agencies as appropriate. However, for some surveys or studies, there may be a permit that is necessary, such as when performing pedestrian archaeological surveys. In those instances, the BLM will work with applicants to ensure that the applicable permitting requirements are understood by all parties.

Under paragraph (c)(2) of this section, an applicant could request an alternative requirement to one of the requirements of this section, such as the period of time described in paragraph (c)(1) of this section. However, the applicant must show good cause why it is unable to meet the requirement. This new paragraph directs the reader to new section 2804.40, consistent with revisions made from comments received as discussed under section 2804.40, if the applicant is unable to meet the requirements of this section. Failure to meet the 1 year requirement for application due diligence may result in denial of the application, unless an alternative compliance period has been requested and agreed to by the BLM. Paragraph (c)(2) of this section gives applicants the ability to address circumstances outside of their control with respect to time periods.

Comments: Some comments were received regarding due diligence requirements for applicants to begin resource studies or provide other such survey work to the BLM. Comments recommended varying timeframes for application due diligence ranging from 1 to 3 years after the BLM's approval of survey protocols or other identified study requirements. Comments generally agreed with implementing such requirements for applications.

Response: In consideration of the comments received on application due diligence requirements, the BLM determined that a longer timeframe would not be appropriate. Under this final rule, an applicant would be required to begin surveys or inventories within a year of the BLM's request date, unless otherwise specified by the BLM. The BLM determined that a one year default timeframe was adequate to commence surveys and inventories. This rule does, however, leave the BLM with the discretion to establish a different timeframe where appropriate.

Section 2804.25(c) of the existing regulations is redesignated as paragraph (d) of this section. It remains unchanged and is relocated to make room for the reformatting of this section in response to comments submitted on the proposed rule.

The introductory text of section 2804.25(e), which is redesignated from existing paragraph (d), is revised by replacing the words "before issuing a grant" with "in processing an application." This change is made to account for the situation where the BLM would issue a grant without accepting applications. For example, lands leased inside DLAs will be offered through a competitive bidding process under subpart 2809 in situations where no applications for those lands are received. The provisions in section 2804.25 do not apply to the leases issued under subpart 2809. However, they will apply to all other rights-of-way, including solar and wind energy development grants outside of DLAs. The process for issuing leases inside DLAs is discussed in subpart 2809. This revision clarifies that the requirements of this section apply to applications.

Section 2804.25(e) is further revised to incorporate new provisions for all rights-of-way as well as specific provisions for solar and wind energy development. Existing section 2804.25(d)(5), which provides the requirement to hold a public meeting if there is sufficient public interest, is moved to section 2804.25(e)(1). Revisions are made in this final rule, consistent with those made in section 2804.23(c). Language is added specifying that a public notice may also be provided by other methods, such as publication in a newspaper in the area affected by the potential right-of-way or the Internet.

Section 2804.25(e)(2) contains three separate requirements for solar and wind energy development applications. Under section 2804.25(e)(2)(i), the BLM will hold a

public meeting in the vicinity of the lands affected by the potential right-of-way for all solar or wind energy development applications. Based on the BLM's experience, most solar and wind energy development projects are large-scale projects that draw a high level of public interest. This requirement is added to provide an opportunity for public involvement early in the process. Under paragraph (e)(2)(ii), the BLM will apply screening criteria when processing an application outside of DLAs. These screening criteria are explained further in section 2804.35. The BLM removed the word "priority" from this requirement to improve reader understanding that the screening criteria are used to determine the priority of applications, not "resource priorities."

Under section 2804.25(e)(2)(iii), the BLM will evaluate an application, based on the input it has received from other government and tribal entities, as well as information received in the application, public meetings, and preliminary application review meetings. The BLM may consider information it has received outside of these meetings when evaluating an application. This paragraph is revised in the final rule to remove reference to pre-application meetings and add preliminary application review meeting requirements, consistent with other changes in this final rule. The BLM has also added more detail to this paragraph explaining why it may deny an application at this point in the process. For example, the BLM may deny an application if you fail to address known resource values raised during preliminary application review (see section 2804.12(c)(4)), or during public meetings (see section 2804.25(e)(2)(i)), or if you improperly site the project. The BLM made this revision to help improve the public's understanding of this process.

Based on its evaluation of an application, the BLM will either deny or continue processing it. The BLM's denial of an application will be in writing and is an appealable decision under section 2801.10. The denial or approval of all grant applications is at the BLM's discretion.

As noted previously under section 2804.12, you must submit an application for a solar or wind energy development. Requirements for submitting this application are noted in sections 2804.25(b) and 2804.25(c), and these must be fulfilled before an application is ready to be evaluated by the BLM. Section 2804.25(e)(2)(iii) has been revised to explain what criteria must be met in order for the BLM to continue processing your application. These criteria are: whether the development application is appropriately sited on the public lands (e.g. outside of DLAs – where leasing must proceed under Section 2809 rather than 2804 – and outside of exclusion areas), and whether you address known resource values that were discussed in the preliminary application review meetings. Known resource values must also be addressed in general project descriptions and in further detail in a project's POD.

Under section 2804.25(e)(3), the BLM will determine whether the POD schedule submitted with an application meets the applicable development schedule and other requirements or whether an applicant must provide additional information. This is a necessary step that allows the BLM to evaluate the application requirements under section 2804.12. Those requirements can be found in sections 2804.12(b) and 2804.12(c). The BLM determines if the development schedule and other requirements of the POD templates have been met. The POD templates can be found at http://www.blm.gov.

Under the proposed rule, paragraph (e)(3) of this section applied to applications for solar and wind energy development, transmission lines with a capacity of 100 kV or more, and pipelines 10 inches or greater in diameter. Under this final rule, this paragraph would apply to all applications for which a POD is required. Although a POD is mandatory for some types of projects, the BLM may require an applicant to submit a POD with any type of right-of-way application under section 2804.25(c) of this final rule (section 2804.25(b) of the existing regulations). Should the BLM require an applicant to submit a POD, the application would be evaluated under this paragraph based on the POD schedule submitted with the application.

Section 2804.25(e)(4) of this final rule is revised from the proposed rule to include a cross-reference to the Department's NEPA implementation regulations at 43 CFR part 46. The Departmental regulations reinforce the CEQ's regulations and the requirements to comply with NEPA. This cross-reference is made to increase the public's awareness of these requirements and where they may be found, but does not impose any additional requirements on the public.

Redesignated paragraphs (e)(5), (e)(6), (e)(7), and (e)(8) of this section are existing provisions that were formerly found in paragraph (d) of this section. Former paragraph (e) is redesignated as new paragraph (f). No other comments were received or other changes made to the final rule, except that references to the "U.S." were changed to read "United States."

Section 2804.26 Under what circumstances may BLM deny my application?

Section 2804.26 explains the circumstances in which the BLM may deny an application. The BLM considers the criteria outlined in this section during its decision-

making process, which for right-of-way authorizations ends with the issuance of a decision—either a ROD or a Decision Record (DR), or in the absence of a ROD or DR, the perfection of a right-of-way instrument or the issuance of a written decision denying the right-of-way application. Once the BLM issues a ROD or DR to approve a right-of-way, any subsequent BLM determination that is inconsistent with that ROD or DR, including any decision to suspend or terminate the right-of-way, is a separate action that requires the BLM to complete a separate decision-making process.

Section 2804.26(a)(5) explains one such circumstance. This provision of the existing regulations is revised to include "or operation of facilities" and now reads, "when an applicant does not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities in the proposed right-of-way." The rule adds text to clarify this requirement, which applies to all rights-of-way. The added paragraphs explain how an applicant could provide evidence of the financial and technical capability to be able to construct, operate, maintain, and decommission a solar or wind energy development project. The applicant may provide documented evidence showing prior successful experience in developing similar projects, provide information of sufficient capitalization to carry out development, or provide documentation of loan guarantees, a confirmed PPA, or contracts for the manufacture and/or supply of key components for solar or wind energy project facilities.

Paragraphs (a)(6), (a)(7), and (a)(8) are added to section 2804.26 to reiterate the new requirements of the final rule and explain that the BLM may deny an application should an applicant not comply with these provisions.

Under section 2804.26(a)(6), the BLM may deny your application if you do not meet the POD submittal requirements under sections 2804.12(a)(8), 2804.12(c)(1), and 2804.25(e)(3). The final rule is updated to ensure that the citations match the reformatted rule, after changes were made based upon comments received.

Section 2804.26(a)(7) is a new paragraph added to the final rule that corresponds to the provisions by which the BLM will require surveys under section 2804.25(c). Under section 2804.26(a)(7), the BLM may deny your application if you fail to meet its requirements to commence surveys and studies, or provide plans for permit processing as required by section 2804.25(c). This paragraph is new in the final rule and is added to be consistent with the new requirements in section 2804.25(c), which are added based upon public comment.

Section 2804.26(a)(8) references the possible application denial based on the screening criteria established in section 2804.25(e)(2)(iii).

Comments: Some comments expressed concern regarding the BLM exercising its authority to deny an application without accounting for the fact that some circumstances may be outside an applicant's control.

Response: In response to this generalized concern, the BLM added section 2804.40 to this final rule. Under this new section, an applicant may request an alternative requirement in place of a requirement that they are unable to meet. References are made to this new section in specific parts of the application processing requirements found under subpart 2804.

No other changes were made to this section and no other comments were received.

Section 2804.27 What fees must I pay if BLM denies my application or if I withdraw my application?

The heading of section 2804.27, "What fees do I owe if BLM denies my application or if I withdraw my application?" is revised to read, "What fees must I pay if BLM denies my application or if I withdraw my application?". With the addition of application filing fees, the revised title more clearly describes the requirements of the final rule. A new provision in this paragraph provides that if the BLM denies your application, or if you withdraw it, you must still pay any application filing fees submitted or due under section 2804.12(c)(2), and the processing fee set forth at section 2804.14. Sections 304(b) and 504(g) of FLPMA provide for the deposit of payments to reimburse the United States for reasonable costs with respect to right-of-way applications and other documents relating to the public lands. In the case of preliminary application review meetings, the expense could be considerable, depending on the complexity of the project. The BLM will refund any part of the application filing fees received that is not used for processing the application. This paragraph is revised by removing references to pre-application meetings that were originally proposed for the rule, but not carried forward in the final rule. These revisions are consistent with other changes made in the final rule under section 2804.12 regarding the change from pre-application to preliminary application review meetings. No other comments were received on this section, and no other changes were made to the final rule.

Section 2804.30 What is the competitive process for solar or wind development for lands outside of designated leasing areas?

Section 2804.30 explains the process for the BLM to competitively offer lands outside of DLAs. This bidding process is similar to that established in subpart 2809 (competitive offers inside DLAs), except that the end result of the bidding is different. Under paragraph (f) of this section, the successful bidder will become the preferred right-of-way applicant. Under this section, the high bidder is not guaranteed a grant, but is identified as the "preferred applicant." As explained under paragraph (g) of this section, the preferred applicant is the only party that may submit an application for the parcel identified by the BLM, but the BLM must still review and accept the application. This is different from subpart 2809, which provides that the successful bidder for a lease inside a DLA may be offered a lease upon successfully meeting all requirements of sections 2809.15.

Comments: Three general comments were received on this section. The first comment requested that language be added to encourage additional consultation with members of the public, such as developers, non-governmental organizations, and stakeholders, during the competitive process outside of DLAs.

Response: Many opportunities for public engagement are provided throughout the competitive process for right-of-way applications filed on public lands outside of DLAs. As part of the competitive processes outside of DLAs, the BLM may engage the public through a notice seeking competitive interest in a particular area, which would provide the public and interested stakeholders with an opportunity to comment on the potential development of a particular parcel. If the BLM decides to move forward with a competitive offer for a parcel, a Notice will be published in the Federal Register and may also be announced through other means. Upon the completion of the competitive

process, the BLM will process an application for the solar or wind energy development, following the requirements of this final rule, which include a mandatory public meeting before the BLM determines whether to deny the application or continue processing it. If the BLM continues to review an application, there may be additional opportunities for public involvement through the NEPA process, including during the notice and comment period. As a result of these measures, the BLM believes that there is adequate opportunity for the public to be fully engaged throughout the competitive process, application review, and NEPA processes for projects outside of DLAs.

Comments: The second comment on this section stated that only developers are capable of making a determination of whether development in a particular area will be economically sound and, therefore, a worthwhile pursuit for public land use. The comment contended that developers will not expend the effort necessary to determine the economic suitability for projects before a competitive process is held (either inside or outside areas such as DLAs).

Response: While the BLM agrees that only a developer can determine whether a particular project in a particular area makes sense for them, that determination does not necessarily apply to all developers, nor is it the only consideration relevant to the BLM. Each developer may follow a different business model and may consider different funding, financing, and procurement opportunities when assessing a potential project site. In identifying DLAs, the BLM has to consider the environmental and other resource impacts of a potential development, in addition to the known solar or wind potential for the area. For these reasons, the BLM does not make an economic evaluation when identifying an area for a competitive process. The BLM will rely on developer interest,

among other indications of competitive interest in an area, to determine whether utilization of a competitive process is appropriate. Recognizing that determining economic viability for a particular area may involve site-specific testing information, the final rule contains provisions allowing for such activities. For wind or solar energy projects outside of a DLA, interested developers can apply for testing authorizations as described in section 2804.31 of this rule, or apply for a testing authorization inside DLAs prior to a competitive action as described in section 2809.19(d) of this rule.

Comments: The third comment on this section suggested that the leasing process should be restructured from a local "electric-centric" focus to a macro-level objective to provide the greatest benefit to "We the People." This comment suggests that the BLM should explicitly recognize that the available solar and wind resources could be used to provide most of, and potentially all of, the United States' fuel, electricity, transportation, and natural resource needs.

Response: FLPMA directs the BLM to generally receive fair market value for the use of public lands and to utilize and protect public land resources while balancing the use of the public lands for current and future generations. The BLM intends for this rule to promote the development of solar and wind energy on public lands, while also ensuring a fair return to the Federal Government.

Paragraph (a) of section 2804.30 identifies lands available for competitive lease; paragraph (b) of this section explains the variety of competitive procedure options available; and paragraph (c) explains how the BLM identifies parcels for competitive offers. Under this final rule, the BLM may identify a parcel for competitive offer if competition exists or the BLM elects to offer a parcel on its own initiative. The BLM

may include lands in a competitive offer in response to interest from the public or industry, or to facilitate an individual State's renewable energy goals. This is a change from existing regulations, which only allow the BLM to use a competitive process when there are two competing applications; however, the changes made to section 2804.23(c) in this rule give the BLM more flexibility.

Paragraph (d) of this section, "Notice of competitive offer," establishes the content of the materials of a notice of competitive offer that include the date, time, and location (if any) of the competitive offer, bidding procedures, qualifications of potential bidders, and the minimum bid required. The notice also explains that the successful bidder becomes the preferred applicant, which can then apply for a grant under this subpart. This is different from the competitive offers held under subpart 2809, where the successful bidder is offered a lease.

Paragraph (d)(4) of this section requires that the notice identify the minimum bid amount, explain how the authorized officer determined the minimum bid amount, and describe the administrative costs borne by the Federal agencies involved. As indicated in the general discussion section of this preamble, administrative costs are not a component of fair market value, but instead are a cost reimbursement paid to the Federal Government for its expenses. The BLM will publish a notice containing all of the identified elements in the Federal Register, and may also use other notification methods, including newspapers in the affected area or the internet. Consistent with sections 2804.23(c), this section's public notice requirements were revised, establishing notice through a newspaper or internet as an additional optional form of notice. This change in the final rule is discussed further in section 2804.23(c) of this preamble. No comments

were received on sections 2804.30(a) through (d). However, a cross-reference has been updated in section 2804.30(d)(6) to include section 2804.12, due to revisions made to that section based upon comments received.

Under paragraph (e) of this section, the BLM requires that bid submissions include both the minimum bid amount and at least 20 percent of the bonus bid. The minimum bid consists of administrative costs and an amount determined by the authorized officer. Included in the administrative costs are those expenses pertaining to the development of environmental analyses and those costs to the Federal Government associated with holding the competitive offer.

The authorized officer may specifically identify a second component for the minimum bid(s) submitted for each competitive offer. This amount will be based on the known or potential values of the offered parcel. The authorized officer may consider values that include, but are not limited to, the acreage rent, the MW capacity fee, or other known or potential values of the parcel. For example, the BLM may use a percentage of the acreage rent value for the parcel competitively offered. An explanation of the minimum bid amount and how the BLM derived it will be provided in the notice of competitive offer.

Comments: Several comments were received pertaining to bidding under section 2804.30(e). One comment suggested that the BLM: (1) Establish global objectives to evaluate bids based on the constitutional greater good for the "People" to meet many objectives of the renewable energy bidding process; (2) Ensure that successful bidders use energy to meet public objectives; (3) Ensure that appropriate values are received for the right to develop energy; (4) Ensure that evaluations of electrical supply include the

full costs and benefits to the public; (5) Ensure that effects from manmade impacts on global warming shall be based on transient climate sensitivity; and (6) Focus on "We the People" instead of creating processes that incur higher costs for developments.

Response: The comments submitted are suggesting revisions to the final rule that are outside of the BLM's authority to consider. FLPMA directs the BLM to generally receive fair market value for the use of public lands and to utilize and protect public land resources while balancing the use of the public lands for current and future generations. The provisions of this final rule will ensure that the BLM is receiving fair market value for the uses of the public lands that it authorizes.

The second comment suggested that the BLM direct where or how renewable energy that is generated on public lands is deployed. The BLM could place a requirement on the use of the electricity generated, through a term or condition of a right-of-way, but the BLM expects that it would do so only in limited circumstances, if at all, as it is a land management agency charged with managing the public lands under principles of multiple use and sustained yield.

The BLM evaluates proposed projects before issuing a decision to approve, approve with modifications, or deny a project. In general, the BLM will analyze a project using reasonable scientific or other methods, to understand the impacts to the public lands and other lands, uses, resources and other systems outside of its authority to control. These other lands, uses, resources, and other systems outside of the BLM's authority to control could include electrical transmission systems that may be owned or controlled by an Independent System Operator, or the energy needs of a State or local community as identified by the State government offices, or lands administered by a Federal, State, or

private entity. When evaluating prospective projects, the BLM considers their reasonably foreseeable direct, indirect, and cumulative impact on climate change on a local, regional, and national scale, as appropriate.

Comment: Another comment suggested that administrative costs discussed under section 2804.30(e)(2)(i) should not be included as part of the minimum bid. The initial costs of preparing for and holding a competitive offer are completed at the volition of the BLM, not an applicant. The comment suggested that including administrative costs as part of the minimum bid will discourage development inside and outside of DLAs. The comment suggested that a successful bidder should essentially pay for the same administrative and NEPA costs as noncompetitive applicants for right-of-ways outside of DLAs.

Response: Under the final rule, reimbursement for the reasonable administrative and other costs is generally required from any successful bidder. Consistent with Sections 304(b) and 504(g) of FLPMA, the BLM may recover reasonable administrative and other costs incurred in processing an application for a right-of-way. Administrative and other costs associated with the use of a competitive process to identify a preferred applicant can be recovered because this work facilitates, and will generally be essential to, the BLM's review of a right-of-way application. These costs would be paid only by the preferred applicant. Bidders will be given notice of the administrative costs portion of the minimum bid prior to their bidding at a competitive offer. The BLM believes that it is preferable for a prospective bidder to know these costs, which are required to prepare and hold a competitive auction, before submitting a bid in a competitive offer. Prospective applicants would not otherwise be able to submit an application to the BLM

for development of that area without first being the successful bidder. The BLM considers the competitive process described in subpart 2809 for lands inside a DLA to be even more preferable to prospective developers, as a successful bidder would be issued a lease immediately upon paying the full amount of their winning bid.

Comments: Comments stated that the mitigation costs identified in section 2804.30(e)(2)(ii) should not be factored into the minimum bid because the successful bidder should have to pay separately for mitigation if and when construction commences and not at the time of bidding. A successful bidder cannot pay twice for the same mitigation. Several other comments also addressed what should or should not be included as acceptable factors.

Response: The BLM has removed the reference to mitigation costs found in proposed section 2804.30(e)(2)(ii), as this may be misleading and open to interpretation. However, the BLM has maintained the acreage rent and the megawatt capacity fee as considerations when determining a minimum bid amount. These factors which are used only to determine the amount above the administrative costs where bidding will start (see section 2804.30(e)(2)(ii)). Their inclusion as a potential consideration in the development of the minimum bid does not count towards other obligations. For example, if the BLM arrives at a minimum bid amount using the annual acreage rent for a lease area, a successful bidder will still be required to pay the first year's acreage rent, as identified in this rule, before being awarded a grant or lease. No offset or discount toward future acreage rent will be provided.

Comments: A number of comments expressed concern that requiring unsuccessful bidders to pay application filing fees would discourage prospective

developers. They suggested that application filing fees should be refundable if a bidder is not successful.

Response: New section 2804.30(e)(4) has been revised based on these comments to refund application filing fees for unsuccessful bidders, except for the reasonable costs incurred by the United States. This change is consistent with the revisions under section 2804.12(c)(2) and discussed further under that section of this preamble.

Under section 2804.30(f), the successful bidder is determined by their submission of the highest total bid for a parcel at a competitive offer. The successful bidder must fulfill the payment requirements of the successful bid in order to become the preferred right-of-way applicant. The preferred applicant must submit the balance of the bid to the BLM within 15 calendar days after the end of the competitive offer. No comments were received pertaining to section 2804.30(f), and no other changes are made from the proposed rule to the final rule.

Under section 2804.30(g), a preferred applicant is the only party who may submit an application for the parcel that is offered. Unlike the process under subpart 2809, the approval of a grant under this paragraph is not guaranteed to a successful bidder. Approval of a grant is solely at the BLM's discretion. The preferred applicant may also apply for an energy project-area or site-specific testing grant.

Comments: A comment suggested adding a new provision to the rule stating that upon making a winning bid, the preferred applicant also secures site control. Adding such a condition would provide more certainty to the process for prospective developers, further incentivizing the competitive bidding.

Response: The BLM agrees with this comment and has revised paragraph (g) to make it clear that the BLM will not accept applications on lands where a preferred applicant has been identified, unless submitted or allowed by the preferred applicant in order to provide additional certainty with respect to site control. If ancillary facilities for projects or facilities on adjacent parcels, such as roads or transmission lines, need to be constructed on the parcel where a preferred applicant's project would be sited, the companies constructing the ancillary facilities would need to apply to the BLM for a right-of-way, and the BLM would consult with the preferred applicant before processing any such application. This is intended to provide certainty to the preferred applicant when applying for renewable energy developments on the public lands that applications from other entities will not be accepted for the competitively gained application area unless they are allowed by the preferred applicant.

Section 2804.30(h) describes how the BLM will address certain situations that could arise from a competitive offer. Under paragraph (h)(1) of this section, the BLM retains discretion to reject bids, regardless of the amount offered. For example, the BLM may reject a bid if there is evidence of conflicts of interest or collusion among bidders or if there is new information regarding potential environmental conflicts. The BLM will notify the bidder of the reason for the rejection and what refunds are available. If the BLM rejects a bid, the bidder may administratively appeal that decision (see 43 CFR part 4 for details). Under paragraph (h)(2) of this section, the BLM may make the next highest bidder the preferred applicant if the first successful bidder does not satisfy the requirements under section 2804.30(f). This allows the BLM to determine a preferred

applicant without reoffering the land and could save time and money for the BLM and potential applicants.

The BLM may reoffer lands competitively under section 2804.30(h)(3) if the BLM cannot identify a successful bidder. If there is a tie, this re-offer could either be limited to tied bidders or include all bidders. This provides the BLM with flexibility to resolve ties and other issues that could arise during a competitive offer process.

Under section 2804.30(h)(4), if the BLM receives no bids, the BLM may re-offer the lands through the competitive process provided for in section 2804.30. The BLM may also make the lands available through the non-competitive process described in subparts 2803, 2804, and 2805, if doing so is determined to be in the public interest. No other comments were received, and no additional changes were made to final paragraph (h) of this section, except those discussed above.

Section 2804.31 How will the BLM call for site testing for solar or wind energy applications?

This section, which was not in the proposed rule, is added to this final rule to describe how the BLM will call for site testing for solar and wind energy. This section also explains how the BLM may create a new DLA, through the land use planning process described in new section 2802.11, in response to public interest.

Under new paragraph (a) of this section, the BLM may call for site testing in a DLA by publishing a notice in the Federal Register and may also use other notification methods, such as a local newspaper or the Internet. Paragraph (a) also specifies what information will be included in any public notice issued under the section, including the following information: (1) The date, time, and location where site testing applications

may be sent; (2) The date by which applicants will be notified of the BLM's decision on timely submitted site testing applications; (3) The legal land description of the area for which site testing applications are being requested; and (4) Qualification requirements for applicants. The BLM is limiting the testing authorizations that would be offered under a call for site testing applications under this section to site-specific grants identified under section 2801.9(d)(1). This limitation is established to reduce the potential for multiple interested parties having overlapping applications. The BLM does not intend to use a competitive process for the site testing. Rather, the BLM intends to determine whether there is competitive interest for solar and wind energy development for these public lands. Should there be overlapping testing applications, the BLM will notify those applicants of the overlap and may hold a competitive offer for that site testing location to determine a preferred applicant.

Paragraph (b) of this section explains that any interested parties may request that the BLM hold a call for site testing for certain public lands. However, how the BLM responds to those requests is at its sole discretion. The "call for site testing" may be used as a step in the process for lands either inside or outside of DLAs. A subsequent step would be the competitive offer for an application for a development grant under section 2804.30, or for a development lease under subpart 2809, if the area is designated as a leasing area, as described in section 2804.31(c).

Under paragraph (c) of this section, the BLM may determine that areas receiving interest from the public may be appropriate to establish as a DLA. The BLM may turn an area surrounding the site testing into a DLA as described under section 2802.11. Following the designation of an area for competitive leasing, the rules described under

subpart 2809 would be used for any subsequent competitive processes in the area. Establishing such an area would be performed by following the land use planning process described in the revised section 2802.11. This process would be completed during the time that testing is being undertaken, which is typically a 3 year process. Designating such an area would allow interested developers to benefit from the incentives provided by development in a DLA. This approach also provides a mechanism for public interest to drive the establishment of DLAs.

Comments: Some comments suggested that the BLM retain the discretion to structure the DLA leasing process for wind in accordance with a two-phased development approach. The first phase of this approach would be a competitive process for site testing. The winner of this offer would receive exclusive rights to the parcel offered. The BLM would then create a DLA in the area where this competitive offer was held. The second phase would be a competitive offer for a lease in this newly established DLA.

Response: The BLM recognizes that potential developers should have a clear avenue for helping the BLM identify new DLAs. The BLM added the new section 2804.31 to this final rule in direct response to these comments. This new section provides another way for developers to identify and benefit from the competitive process and DLA incentives established in subpart 2809 of this final rule. Providing a mechanism for site testing while DLA designation is ongoing will allow developers to benefit from the specific data they obtain during testing as they evaluate whether a competitive offer or further development of the lands is in their interest.

Section 2804.35 How will the BLM prioritize my solar or wind energy application?

Section 2804.35 explains how the BLM will prioritize review of an application for a solar or wind energy development right-of-way based on the screening criteria for projects outside of DLAs. The BLM will evaluate such applications based on the screening criteria in that section and categorize the application as high, medium, or low priority.

Through existing guidance, the BLM has established screening criteria (see Instruction Memorandum (IM) 2011-061), which identify and prioritize land use for solar and wind energy development rights-of-way. In order to facilitate environmentally responsible development the IM directs BLM to consider resource conflicts, applicable land use plans, and other statutory and regulatory criteria pertinent to the applications and the lands in question. Applications with lesser resource conflicts are anticipated to be less costly and time-consuming for the BLM to process, and the IM directs that these applications be prioritized over those with greater resource conflicts. IM 2011-061 may be found at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

This rule includes criteria similar to those in the IM. The codification of these criteria gives certainty to applicants that such criteria will not change, and therefore provides more certainty as to how an application might be categorized. By specifying these criteria, applications could be tailored to fit them in order to streamline the processing of an application.

Comment: One comment indicated that the BLM should clarify the proposed rule's application prioritization concept. This comment indicated that the proposed rule left several questions unanswered, including: (1) How the BLM's staff time will be allocated within field staff among projects based on priority and time of submission; (2)

Whether BLM staff working on a medium-conflict priority project will shift focus if a high-priority application is submitted; and (3) Whether BLM staff workload will be shifted across different field offices if certain field offices have a disproportionate number of high-priority applications as compared to others, which may have more medium- or low-priority applications.

Response: This final rule provides the criteria that the BLM will use to prioritize applications it receives. This allows potential applicants to understand not only how these applications will be prioritized, but also how they can submit an application that is more likely to become a high priority for the BLM. The BLM's internal management and workload processes are not addressed as that is not appropriate for a rulemaking. The criteria for determining how workload priorities are addressed are more appropriately handled by the policy guidance for implementing this final rule. Such guidance will elaborate on these points. It should be noted that the BLM will continue to process all applications received, but will prioritize staff workload based upon these priority categorizations.

Comments: Comments were received requesting clarity over whether leases awarded under subpart 2809 would be given priority over applications made outside of DLAs.

Response: New language has been added to the introductory paragraph of this section to clarify that the BLM generally prioritizes the processing of leases awarded under subpart 2809 over applications submitted under subpart 2804. There are some instances where the BLM may determine that it is in the public interest to prioritize the

processing of an application over the processing of a lease. However, the BLM generally intends to prioritize the processing of leases first.

Comments: Comments were received requesting that the BLM expand on the criteria used in the rule and better define and describe the resource areas and potential conflicts. Some specific recommendations were made by the commenters. Each comment provided a greater level of specificity or detail than the proposed rule regarding how the BLM should prioritize resource conflicts.

Response: The descriptions of the resource conflicts in the final rule are mostly unchanged, except where noted in this section's discussion. The BLM determined that the level of specificity and detail recommended by commenters is not appropriate for this final rule. Screening applications to prioritize them has only been done by the BLM recently. Based upon the BLM's experience, it is better to establish broader criteria in this final rule that can then be further refined in its internal guidance. National priorities change and BLM continues to learn more about the resource conflicts associated with solar and wind energy projects. Therefore, the BLM believes that the specific internal guidance, rather than regulatory criteria, is more appropriate to provide a greater level of specificity and detail as recommended by commenters. This approach gives the BLM flexibility to make changes as workload or conditions on the ground or in the wind and solar industry change. Guidance may need to be updated as national priorities change and the BLM better understands these resource conflicts with solar and wind energy projects. As part of the rule's implementation, the BLM will issue guidance aimed at better describing the BLM's considerations and prioritization of applications. This guidance is expected to be issued after this final rule is published.

Section 2804.35(a) identifies criteria for high-priority applications, which are given processing priority over medium- and low-priority applications. These criteria include:

1. Lands specifically identified as appropriate for solar or wind energy development outside DLAs;
2. Previously disturbed sites or areas adjacent to previously disturbed or developed sites;
3. Lands currently designated as Visual Resource Management (VRM) Class IV; and
4. Lands identified as suitable for disposal in the BLM's land use plans.

The BLM may have identified lands that are appropriate for solar or wind energy development, but are not inside DLAs. These lands may include areas approved for solar or wind area development for which a right-of-way was never issued or an existing right-of-way was relinquished.

The VRM inventory process is a means to determine visual resource values. The VRM inventory consists of a scenic quality evaluation, sensitivity level analysis, and a delineation of distance zones. Based on these three factors, BLM-administered lands are placed into one of four VRM classes, with Classes I and II being the most valued, Class III representing a moderate value, and Class IV being of least value. The BLM assigns VRM classes through the land use planning process, and these values can range from areas having few scenic qualities to areas with exceptional scenic quality.

Section 2804.35(b) identifies criteria for medium-priority applications, which will be considered before low-priority applications. These criteria include:

1. BLM special management areas that provide for limited development or where a project may adversely affect lands having value for conservation purposes, such as historical, cultural, or other similar values;
2. Areas where a project may adversely affect conservation lands to include lands with wilderness characteristics that have been identified in an updated wilderness characteristics inventory;
3. Right-of-way avoidance areas;
4. Areas where a project may adversely affect resources listed nationally;
5. Sensitive plant or animal habitat areas;
6. Lands designated as VRM Class III;
7. Department of Defense (DOD) operating areas with land use or operational mission conflicts; and
8. Projects with proposed groundwater uses within groundwater basins that have been allocated by State water resource agencies.

Comment: One comment suggested for Criterion 5, that BLM's designated priority sage-grouse areas be a low priority and not a medium priority.

Response: The BLM removed the reference to sage-grouse habitat in this final rule. In September, 2015, the BLM issued the Greater Sage-Grouse Plan Amendments and Revisions (80 FR 57633, 80 FR 57639). Those plans generally excluded priority habitat areas from major right-of-way developments, including wind energy. General sage-grouse habitat management areas generally fall into the medium-priority application category under Criterion 5.

With the removal of priority sage-grouse habitat from this final rule in criterion 5, the BLM also revised the specificity of "important eagle use areas" to read as "important species use areas." This revision makes the criterion more broad and applicable to all important species areas, and does not unintentionally exclude other identified important species areas that are not specifically identified for eagles.

Comments: Several comments were made concerning the above factors. For Criterion 2, a comment recommended revising the description of "conservation lands" and excluding Alaska from this requirement.

Response: The final rule does not revise the section 2804.35(b)(2) as recommended in the comment. This final rule does not define "conservation lands," which include areas of critical environmental concern and lands inventoried and managed for wilderness characteristics. These lands are often identified for their unique characteristics by the BLM to protect scenic, historic, cultural, and other natural values. The status of conservation lands is considered by the BLM when processing solar and wind energy applications. When the BLM considers such lands for wind or solar use, it evaluates the impacts and effects to the resources, including those resources for which conservation lands are designated. Depending on the proposed development, the impacts to the resources for which the lands were designated for conservation purposes may be very small. Applications, such as those submitted for lands in Alaska, will be reviewed on a case-by-case basis.

Comment: Another comment suggested that Criterion 7 be moved to low priority and changed to read "Areas where the Department of Defense has testing, training, or operational mission impacts."

Response: The BLM considered the suggestion, but did not revise the rule as suggested. The BLM kept this requirement largely unchanged because the DOD has overlapping interest in some locations with the BLM lands – e.g., withdrawn lands that are transferred to the DOD or have an aerial easement – where solar and wind energy development does not pose significant adverse impacts to the DOD operations. However, we did revise criterion number 7 to read as follows "Department of Defense operating areas with land use or operational mission conflicts." The BLM will coordinate with the DOD on solar and wind energy applications submitted to the BLM that may affect DOD operations.

Section 2804.35(c) identifies criteria for low priority applications, which may not be feasible to authorize due to a high potential for conflict. Examples of applications that may be assigned low priority would involve:

1. Lands near or adjacent to areas specifically designated by the Congress, the President, or the Secretary for the conservation of resource values;
2. Lands near or adjacent to wild, scenic, and recreational river and river segments determined as suitable for wild or scenic river status, if project development may have significant adverse effects on sensitive viewsheds, resources, and values;
3. Lands designated as critical habitat for federally designated threatened or endangered species under the ESA;
4. Lands currently designated as VRM Class I or II;
5. Right-of-way exclusion areas
6. Lands currently designated as no surface occupancy areas; and

Comment: One comment recommended that applications within lands under Criterion 2 not be considered a low priority. This comment further suggested that an additional criterion be added that would read as "Nothing in this section creates a protective perimeter or buffer zone around the special status conservation lands specified in Sections 2804.35(c)(1) and 2804.35(c)(2). The fact that a proposed activity or use on BLM-administered lands outside such special status conservation lands can be seen or heard within such special status conservation lands shall not accord an application low-priority status even if the use or activity is prohibited within the special status conservation lands."

Response: Nothing in this criterion creates a protective perimeter or buffer zone around the areas described in this section and, therefore, precludes the BLM's approval of an application that is near or adjacent to such areas. In the BLM's experience, solar and wind energy development applications are complex and difficult to analyze. If a proposed right-of-way would affect such areas, the BLM will consider effects when processing the application. Potential impacts to these areas and their resources may prove unacceptable, even after mitigation.

The BLM also revised criterion 3 of this section from the proposed to final rule, from "is likely to" to "may" "…result in the destruction or adverse modification of that critical habitat." This revision is necessary because it is difficult to determine based on an application what impacts are "likely." However, it is the BLM's responsibility to protect critical habitat. Therefore, any application that may destroy or adversely affect critical habitat will be a categorized as low priority under this final rule.

The low priority status of applications meeting these criteria relates only to the BLM's management of its workload in processing applications; it is not a proxy for the BLM's final decision. No other comments were received, nor were any changes made to section 2804.35.

Section 2804.40 Alternative Requirements.

Section 2804.40 is added to this final rule in response to comments received on the proposed rule.

Comments: Several comments expressed concern that the BLM's proposed requirements were too strict and would be difficult to meet, resulting in applications being denied or a holder's authorization being terminated. They supported the BLM's reference to a showing of good cause to support why a developer was unable to meet the BLM's requirement.

Response: The BLM has added this section to the final rule due to the number of comments received discussing the BLM's requirements that had no specific provision allowing a developer to show good cause why an alternative to a regulatory requirement should be approved.

Section 2804.40 expands on the BLM's show of good cause provision that was in the proposed rule with several different new requirements. This new provision replaces the specific provisions originally proposed and now applies to all rights-of-way and to all requirements the BLM has established under this subpart. An applicant may request an alternative requirement from the BLM by following the process outlined in this section. A similar provision is added in section 2805.12(e). That provision is discussed in that section's preamble discussion.

Paragraph (a) of this section notes that the requester must show good cause for its inability to meet a particular requirement. An applicant may request an alternative requirement for any requirement in this subpart. Requirements include surveys or studies to be completed, timeframes in which to provide information, development and reclamation plans, fees, and other appropriate requirements.

Paragraph (b) of this section states that you must suggest an alternative requirement to the BLM and explain why the alternative requirement is appropriate. The BLM will not approve an alternative requirement without an explanation from the right-of-way holder as to why the current requirement is inappropriate. When implementing this final rule, the BLM intends to issue guidance on what constitutes an "appropriate" alternative requirement.

Paragraph (c) of this section states that a request for an alternative requirement must be in writing and be received by the BLM in a timely manner. In order for the request to be timely, the BLM must have received it prior to the deadline originally given for the relevant requirement. As explained in the final rule, any such request is not approved until you receive BLM approval in writing. The BLM may provide written approval through a letter, email or other written means.

Subpart 2805— Terms and Conditions of Grants

Section 2805.10 How will I know whether the BLM has approved or denied my application, or if my bid for a solar or wind energy development grant or lease is successful or unsuccessful?

The heading for section 2805.10 is revised to read as stated above. This section is updated to reflect the new competitive process for lands inside DLAs (see subpart 2809)

by stating that a successful bidder for a solar or wind development lease on such lands will not have to submit a SF-299 application. Instead, in these circumstances, the successful bidder will have the option to sign the lease offered by the BLM.

Paragraph (a) of this section contains the language from the existing regulations explaining how the BLM will notify you about your application. This paragraph is revised to add a new provision requiring that the BLM send the successful bidder a written response, including an unsigned lease for review and signature. The BLM will notify unsuccessful bidders, and any unused funds submitted with their bids will be returned. If an application is rejected, the applicant must pay any processing costs (see section 2804.14).

In paragraph (a) of this section of the final rule, the BLM changed "will send you an unsigned lease" to "may send you an unsigned lease," for consistency with revisions to section 2809.15(a). See the preamble for that section for more discussion.

Paragraphs (b), (b)(1), and (b)(2) of this section parallel paragraphs (a)(1) and (a)(2) of the existing regulations, and describe the unsigned grant or lease that the BLM will send to you for approval and signature.

Paragraph (b)(3) of this section specifies that in accordance with section 2805.15(e), the BLM may make changes to any grant or lease, including to leases issued under subpart 2809, as a result of the periodic review required by this section. This provision is necessary because it makes clear why the BLM would amend a lease issued under subpart 2809. The terms and conditions of a right-of-way grant or lease may be changed in accordance with section 2805.15(e) as a result of changes in legislation or regulation, or as otherwise necessary to protect public health or safety or the

environment. Because any changes to the terms and conditions of a right-of-way grant or lease would occur after the completion of the agency action (the BLM's decision to approve the right-of-way), the BLM generally anticipates making the change through a separate action, generally initiated at the BLM's discretion and requiring its own decision-making process.

Sections 2805.10(c), 2805.10(d), 2805.10(d)(1), 2805.10(d)(2), and 2805.20(d)(3) contain the language from existing sections 2805.10(b), 2805.10(c), 2805.10(c)(1), 2805.10(c)(2), and 2805.20(c)(3). These provisions remain unchanged from existing regulations. No comments were received and no changes were made from the proposed rule to the final rule.

Section 2805.11 What does a grant contain?

Existing section 2805.11(b) explains how the duration of each potential right-of-way is determined. This paragraph is revised to include specific terms for solar and wind energy authorizations, because they are unique and different from other right-of-way authorizations. Where the proposed rule discussed only wind energy testing in some portions, the final rule is changed to include both solar and wind for each type of authorization. This revision is made in connection with changes made under section 2801.9(d), where comments requested that site- and project-area testing authorizations include solar energy, and not be exclusive to wind.

Section 2805.11(b)(2)(i) limits the term for a site-specific grant for testing and monitoring of wind energy potential to 3 years. Under this rule, this type of grant will be issued only for a single meteorological tower or study facility and will include any access necessary to reach the site. This authorization cannot be renewed. If a holder of a grant

wishes to keep its site for additional time, it must reapply. These authorizations are intended for testing, not energy generation, and are limited to an area large enough for only a single tower or study facility. If a developer wishes for a larger study area, it can apply for a project-area testing grant under paragraph (b)(2)(ii) of this section.

Section 2805.11(b)(2)(ii) provides for an initial term of 3 years for project-area energy testing. Such grants may include any number of meteorological towers or study facilities inside the right-of-way. Any renewal application must be submitted before the end of the third year if a proponent wishes to continue the grant. For the BLM to be able to renew such an authorization, the project-area testing grant holder must submit two applications, one for renewal of the project-area testing grant and one for a solar or wind energy development grant, plus a POD for the facility covered by the development application. Renewals for project-area testing grants may be authorized for one additional 3-year term.

Section 2805.11(b)(2)(iii) provides for a short-term grant for all other associated actions, such as geotechnical testing and other temporary land-disturbing activities, with a term of 3 years or less. A renewal of this grant may be issued for an additional 3-year term.

Section 2805.11(b)(2)(iv) provides for an initial grant term of up to 30 years for solar and wind energy grants outside of DLAs, with a possibility of renewal in accordance with section 2805.14(g). A holder must apply for renewal before the end of the authorization term.

Section 2805.11(b)(2)(v) provides for a 30-year term for solar and wind energy development leases issued under subpart 2809. A holder may apply for renewal for this term and any subsequent terms of the lease before the end of the authorization.

Comment: A comment suggested that the standard term be 40 years for both solar and wind energy grants (outside of DLAs) and up to 100 years for leases (inside of DLAs), with a condition of the grant or lease providing for renegotiation every 10 years. Other comments suggested longer terms for grants and leases.

Response: The final rule remains as proposed. The comment did not provide any justification for adding the additional years to the term of the grant or lease or explain why the additional time is necessary. Generally, it takes 1 year to secure a PPA after a project is authorized and an additional 2 to 3 years to construct. Since the term of a PPA is generally 20 to 25 years, the BLM believes that a 30 year period is sufficient to cover the developer's needs for constructing and operating a facility, while protecting the public lands from unnecessary burdens. If a longer term is suitable or desired by a developer, an application to renew the grant or lease may be submitted to the BLM pursuant to the applicable requirements.

For all grants and leases under this section with terms greater than 3 years, the actual term will include the number of full years specified, plus the initial partial year, if any. This provision differs from the grant term for rights-of-way authorized under the MLA (see the discussion of section 2885.11 later in this preamble) as FLPMA rights-of-way may be issued for terms greater than 30 years, while an MLA right-of-way may be issued for a maximum term of 30 years and a partial year would count as the first year of a grant.

Section 2805.11(b)(3) contains the language from section 2805.11(b)(2) of the existing regulations, but further requires that grants and leases with terms greater than 3 years include the number of full years specified, plus the partial year, if any. A grant that is issued for a term of 3 years will expire on its anniversary date, 3 years after it was first issued. This change affects the duration of all FLPMA right-of-way grants that are issued or amended after the final rule becomes effective. This change provides specific direction for consistently calculating the term of a right-of-way grant or lease.

No other comments were received, nor were any changes made to this section.

Section 2805.12 What terms and conditions must I comply with?

Section 2805.12 lists terms and conditions with which all right-of-way holders must comply. This section is reorganized to better present a large amount of information. Paragraph (a) of this section carries forward, without adjustment, most of the requirements from the existing regulations found at section 2805.12. Paragraph (b) of this section refers the reader to new section 2805.20, which explains bonding requirements for right-of-way holders. Paragraph (c) of this section contains specific terms and conditions for solar or wind energy right-of-way authorizations. Paragraph (d) describes specific requirements for energy site or project testing grants. Paragraph (e) is a show of good cause condition that is added to the final rule consistent with the provisions added as new section 2804.40. All requirements of paragraph (a) are part of the existing regulations and are not discussed in this preamble unless we received a substantive comment.

Comments: Two general comments were received concerning this section. One comment stated that terms and conditions for leasing public lands for power generation

should be the same regardless of the power source. The second comment suggested that the free market should drive success, not government policy on the terms and conditions of an authorization.

Response: The BLM processes each development proposal for use of public lands on a project-by-project basis. All of the terms and conditions in section 2805.12 would apply to power generation authorizations, regardless of the technology used. However, based on the BLM's experience with solar and wind energy developments, additional terms and conditions are required for such authorizations on public lands because the different types of technology may have varying impacts on the public lands and the resources they contain. For example, a string of wind turbines or an array of solar panels will have a different footprint, and accordingly will have a different impact on the lands and resources than other energy generation types.

Separately, the free market alone (a market without oversight), cannot determine the use of the public lands, as those lands are managed by the BLM on behalf of the American public. The terms and conditions of each BLM authorization address the protection of the public lands and resources, consistent with the BLM's responsibility to manage the public lands under FLPMA's multiple use and sustained yield mandate. Without regulations that ensure the necessary terms and conditions are put in place, development of the public lands could result in the unacceptable loss of the public lands and the resources they contain.

The BLM regularly engages the public, including private businesses, to seek comments and input on the BLM's administration of the public lands. The BLM will continue to do so through this rulemaking and its other decision- making processes.

Section 2805.12(a)(5) contains language from existing section 2805.12(e) with two small changes. The word "phase" was changed to "stage" to prevent confusion with the use of "phase-in of the MW capacity fee" and similar phrases in this rule.

This paragraph also prohibits discrimination based on sexual orientation. Adding sexual orientation as a protected class in this regulation is consistent with the policy of the Department that no employee or applicant for employment be subjected to discrimination or harassment because of his or her sexual orientation. See 373 Departmental Manual 7 (June 5, 2013). Several comments were received either for or against modifying this paragraph.

Comments: One comment recommended that additional language be added to identify "pregnancy and gender relations" as protected classes, while another recommended deleting "sexual orientation" from the rule.

Response: We did not revise the rule as a result of these comments. This paragraph refers to existing Federal law prohibiting discrimination and does not add or expand upon requirements under existing law.

Comments: Some comments suggested that the BLM include greater connection between the rule and landscape-level mitigation as described in Secretarial Order 3330 and subsequent reports, and be consistent with the BLM's IM 2013-142, interim policy guidance for offsite mitigation.

Response: Developing landscape-level mitigation policy for use of the public lands is an ongoing BLM effort. Examples of landscape mitigation plans are the solar regional mitigation strategies. The BLM is currently developing regional mitigation strategies for many of the SEZs established as part of the Western Solar Plan. For an

example of a complete mitigation plan, see the BLM's Dry Lake regional mitigation strategy known as Technical Note 444, which may be found on the BLM's website at: http://www.blm.gov/style/medialib/blm/wo/blm_library/tech_notes.Par.29872.File.dat/TN_444.pdf. Since more detailed requirements and guidance will be addressed in the BLM's policies, handbooks, and other forms of guidance that are currently under development, the BLM did not make any changes in response to this comment.

Section 2805.12(a)(8)(iv) is added to the final rule based upon comments on the proposed rule to incorporate clear measures that are consistent with landscape-level mitigation and the BLM's IM 2013-142 for offsite mitigation. The added provision clarifies that the BLM can require offsite mitigation to address residual impacts associated with a right-of-way. Any compensatory mitigation requirements would be established through a land use planning decision or implementation decision, possibly relying on a previously developed strategy, such as a solar regional mitigation strategy.

Section 2805.12(a)(8)(vi) requires compliance with project-specific terms, conditions, and stipulations, including proper maintenance and repair of equipment during the operation of a grant. This is an existing policy requirement affecting all rights-of-way and in this rule is expanded to include leases offered under revised subpart 2809. In addition, this provision requires a holder to comply with the terms and conditions in the POD. This may include project-specific conditions to maintain the project in a manner that will not unnecessarily harm the public land by poor maintenance and operational practices. Any holder that does not comply with the POD approved by the BLM would be subject to remedial actions under section 2807.17, which may include the suspension or termination of the grant or lease

Comment: Another comment suggested adding language that the BLM implement a condition to begin early coordination with State fish and wildlife offices.

Response: In the proposed rule, the BLM identified two pre-application meetings under section 2804.10. One meeting was focused on early coordination among the BLM, applicant, and other Federal, State, and tribal authorities. This early coordination requirement has been carried forward in the final rule under section 2804.12 as part of a preliminary application review meeting for proposed solar and wind energy projects and transmission lines with a capacity of 100 kV or more. No other change has been made in the final rule. Early coordination among Federal and State wildlife offices has been carried forward into the final rule.

Paragraph (a)(8)(vii) of this section discusses the use of State standards and requires the right-of-way holder to comply with such standards when they are more stringent than Federal standards.

Comment: A comment suggested that we add the word "environmental" so that the paragraph would now read, "When the State [environmental] standards are more stringent than Federal standards, comply with State standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way."

Response: Under FLPMA, the BLM considers an array of State standards, including those relating to public health and safety. Under the existing regulations, the BLM may apply State standards when those standards do not conflict with Federal law or policy for the administration of the public lands. No revision was made to the text of this paragraph in response to this comment.

Paragraph (a)(8)(viii) of this section requires that a grantee or lessee "Grant the BLM an equivalent authorization for an access road across the applicant's land if the BLM determines that a reciprocal authorization is needed in the public interest and the authorization the BLM issues to you is also for road access."

Comment: One comment was concerned that the BLM was proposing to revise section 2804.25 rule to read, "If your application is for a road, BLM will determine if it is in the public interest to require you to grant the U.S. an equivalent authorization across land you own." The comment raised concern that section 2805.12(a)(8) appeared to be directed at landowners and not utility companies. The comment expressed concern about waiving rental payments and who would be responsible for maintenance and repair of damage caused to the road.

Response: The BLM did not propose to revise section 2804.25 to read as noted. The quoted text from the comment is from regulations that were formerly found at existing section 2804.25(d)(3) and are now identified as section 2804.25(e)(6) of this final rule. The paragraph was redesignated in this final rule after the rest of the section was revised. In section 2805.12, the requirement regarding reciprocal rights-of-way has also been redesignated as 2805.12(a)(8)(viii).

This text in the final rule, which remains unchanged from the text in the existing regulation, is used by the BLM for administration of the public lands. Where there are inter-mixed or adjoining private and public lands, the issuance of reciprocal right-of-way authorizations would allow the BLM to cross your land to inspect and administer the public lands as well as grant you access across the public lands for purposes of ingress and egress to your property. The reciprocal authorization may include use for the public

to access your land, but does not require such an authorization as the intended use is for the BLM to utilize the right-of-way. A reciprocal right-of-way is not intended as a public use access, such as those issued by a State's Department of Transportation or the Federal Highway Administration. Each reciprocal authorization is evaluated on a case-by-case basis, and additional questions may be addressed at that time.

Comment: A comment raised further concerns about the proposed requirements of section 2805.12(a)(3), which read "Build and maintain suitable crossings for existing roads and significant trails that intersect the project," noting that this should only be applicable if the roads or trails are used by the grant holder. The comment also noted that the grant holder should not be responsible for repairing or maintaining these roads or trails if they have not caused or contributed to damages.

Response: The BLM did not propose to revise the terms and conditions found at section 2805.12 to read as noted in the comment. The quoted text is from section 2805.12(c) of the existing regulations, now identified as section 2805.12(a)(3) of this final rule. The paragraph is redesignated in the final rule for readability, and is not amended further.

This condition is retained from the existing regulations as the BLM must allow for multiple-use of the public lands. Should a right-of-way be granted, it does not displace other uses of the public land, including use of existing trails and other crossing that may intersect the project. The BLM will require that such trails and accesses are maintained by the right-of-way grant holder only to the extent that they have impacted it. If there is damage to the trail or access that is not the fault of the grant holder, then they will not be required to repair or fix it.

Comment: A comment raised concerns over the proposed requirements of section 2805.12(a)(4), "Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area." The comment noted that utilities frequently perform fire prevention activities as part of regular maintenance, which are frequently delayed by the BLM. The comment further noted that the grant holder should not be responsible for performing activities outside of the right-of-way, and that the fighting of fires should be the responsibility of the BLM, not the grant holder.

Response: The BLM did not propose to revise the terms and conditions found at section 2805.12 to read as noted by the comment. The quoted text is from regulations that were formerly found at 2805.12(d) and are now identified as section 2805.12(a)(4) of this final rule. The paragraph is redesignated in the final rule for readability. This condition is retained from the existing regulations in this final rule without amendment. The condition requires the holder of an authorization to do everything that is reasonable to prevent or suppress wildfires. This condition is not intended to require a grant holder to perform actions outside of a right-of-way, unless the actions are related to the right-of-way, such as trimming trees as a component of BLM-authorized regular maintenance on an overhead transmission line. Other actions outside of the right-of-way, which are not related to the right-of-way, would not be the holder's responsibility.

Additionally, this condition does not delay actions that are already permitted in the right-of-way grant, which would be completed by a grant holder to prevent or suppress wildfires. However, actions proposed to be taken by a grant holder may be delayed if they are outside the permission granted by the BLM.

Comment: One comment raised concerns over the BLM proposing to revise the terms and conditions to read, "Assume full liability if third parties are injured or damages occur on or near the right-of-way." The comment raised concerns that this appeared to be an unreasonable requirement since a grant-holder does not generally have authority to enforce laws. The comment also said that grant holders could be responsible for damages related to faulty equipment, but should not be responsible for actions outside of lands they are authorized to use, and for actions that are not their own, such as those by vandals or even the BLM.

Response: The BLM did not propose to revise the terms and conditions found at section 2805.12 to read as noted. The quoted text is from regulations that were formerly found at 2805.12(h) and are now identified as section 2804.12(a)(7) of this final rule. The paragraph is redesignated in the final rule for readability.

The condition is retained from existing regulations in this final rule without amendment. The condition does not require that a holder should enforce the laws and regulations on public lands. However, the condition provides notice that, when agreeing to be a right-of-way holder on the public lands, the grant holder assumes responsibility for the permitted use. A holder assumes the responsibility for any injury or damages caused that are associated with their right-of-way. Injury or damages could be those that are directly caused by the grant holder, such as by electrocution or collision with a permitted use, or indirectly, such as those from flood events which can carry objects outside of the permitted right-of-way, but are still the responsibility of the grant holder.

Section 2805.12(a)(15) requires that a grant holder or lessee provide, or make available upon the BLM's direction, any pertinent environmental, technical, and financial

records for inspection and review. Any confidential or proprietary information will be kept confidential to the extent allowed by law. Review of the requested records facilitates the BLM's monitoring and inspection activities related to the development it authorizes. The records will also be used to determine if the holder is complying with the requirements for holding a grant under section 2803.10(b).

Comments: Several comments stated that: (1) The BLM does not have authority to make such requirements; (2) In the case of a PPA or other similar type agreements, the BLM has no need to see such documents; and (3) These documents relate to private party transactions and are subject to confidentiality provisions.

Response: The BLM does not need all of the documents described in this paragraph for every right-of-way. However, in some circumstances the BLM might need these documents when processing an application or where the BLM may need verification that such an agreement has been put in place, such as if a variable offset is to be awarded under the competitive leasing process inside a DLA. Information that is proprietary or confidential that is submitted to the BLM will be treated as such to the extent allowed by law. The BLM will require information under this provision, including PPAs, only if it is necessary for the BLM's administration of an authorization.

Section 2805.12(b) requires that grant holders and lessees comply with the bonding requirements of added section 2805.20. The former bonding requirements were lacking in detail and this new section will help clarify the requirements of a grant or lease. This paragraph is revised in this final rule to state that the BLM will not issue a Notice to Proceed or give written approval until the grant holder complies with the bonding requirements of section 2805.20. This revision clarifies that when required by

the BLM, a bond must be obtained before beginning ground-disturbing activities. No comments were received and no other changes made from the proposed rule to the final rule.

Section 2805.12(c) identifies specific terms and conditions for grants and leases issued for solar or wind energy development, including those issued under subpart 2809. Several comments were received on this paragraph and these are discussed at the end of section 2805.12(c)(6). Minor revisions are made from the proposed to the final rule to improve readability, but any significant changes are discussed in detail in this preamble.

Section 2805.12(c)(1) prohibits ground-disturbing activities until either a notice to proceed is issued under section 2807.10 or the BLM states in writing that all requirements have been met to allow construction to begin. Requirements may include the payment of rents, fees, or monitoring costs, and securing a performance and reclamation bond. The BLM will generally apply this requirement to all solar and wind rights-of-way due to the large scale of most of these projects.

Section 2805.12(c)(2) requires that construction be completed within the timeframes provided in the approved POD. Construction must begin within 24 months of the effective date of the grant authorization or within 12 months, if approved as a staged development. This section is revised from the proposed to final rule to include a "or as otherwise authorized by the BLM." This revision is consistent with other sections of this final rule where the BLM retains discretion to approve or authorize different timeframes or requirements. The BLM may approve a request for an alternative requirement (see section 2805.12(e)), but the BLM may also authorize a different timeframe in the approved POD. The BLM made similar revisions to the requirements described in

sections 2805.12(c)(3)(ii) and 2805.12(c)(3)(iii). Further discussion of a staged development is found under section 2806.50.

Section 2805.12(c)(3) describes the requirements for projects that include staged development in the POD, unless other agreements have been made between the developer and the BLM. Minor revisions are made from the proposed to the final rule to improve readability, but any significant changes are discussed in detail in this preamble.

Under paragraph (c)(3)(i) of this section, a developer must begin construction of the initial phase of development within 12 months after issuance of the Notice to Proceed, but no later than 24 months after the effective date of the right-of-way authorization.

Paragraph (c)(3)(ii) of this section requires that each stage of construction after the first begin within 3 years after construction began for the previous stage of development. Construction must be completed no later than 24 months after the start of construction for that stage of development, unless otherwise authorized by the BLM.

These time periods were selected after evaluating the timing of other completed energy development projects. These timeframes will help ensure that the public land is not unreasonably encumbered by these large authorizations, which are exclusive to other rights during the construction period of the project.

Section 2805.12(c)(3)(iii) limits the number of development stages to three, unless the BLM specifically approves additional stages. The BLM will generally approve up to three stages for solar and wind energy development. An applicant may request approval of additional stages with a showing of good cause under section 2804.40. This request must be accompanied by a supporting discussion showing good

cause for your inability to meet the conditions of the right-of-way. A grant holder may request alternative stipulations, terms, or conditions under section 2805.12(e). The BLM revised paragraph (c)(3)(iii) of this section, from the proposed to final rule by removing "in advance" when referring to the BLM's approval. The requirement in this section is unchanged from the proposed rule but is rephrased for consistency with other sections of the final rule. The addition of 2805.12(e) provides additional information about the requests for alternative requirements.

Paragraphs (c)(4), (c)(5), and (c)(6) of this section contain specific requirements for diligent development and the potential consequences of not complying with these requirements.

Section 2805.12(c)(4) requires the holder to maintain all onsite electrical generation equipment and facilities in accordance with the design standards of the approved POD. This paragraph reiterates the requirement to comply with the POD that must be submitted as scheduled under section 2804.12(c)(1).

Section 2805.12(c)(5) provides requirements for repairing or removing damaged or abandoned equipment and facilities within 30 days of receipt of a notice from the BLM. The BLM will issue a notice of noncompliance under this provision only after identifying damaged or abandoned facilities that present an unnecessary hazard to the public health or safety or the environment for a continuous period of 3 months. Upon receipt of a notice of noncompliance under this provision, an operator must take appropriate remedial action within 30 days, or show good cause for any delays. Failure to comply with these requirements may result in suspension or termination of a grant or lease.

Under section 2805.12(c)(6), the BLM may suspend or terminate a grant if the holder does not comply with the diligent development requirements of the authorization. The citation in this section is revised in the final rule from section 2807.17 to sections 2807.17 through 2807.19. Sections 2807.18 and 2807.19 are existing sections of the regulations, which are not a part of this final rule, that describe the BLM's processes for suspending or terminating rights-of-way. This revision does not represent a change in meaning, but provides more information for the reader.

Comments: Comments disagreed with the proposed rule and suggested that it would require arbitrary and disparate terms and conditions between rights-of-way issued under subpart 2804 and those issued under subpart 2809. The comments stated that the authority granted by FLPMA does not authorize the BLM to penalize developers who submit an application for and obtain BLM approval for rights-of-way on other BLM managed lands (i.e., non-DLAs).

Response: The BLM disagrees. A focus of the proposed and final rule is to encourage solar and wind energy development inside DLAs. Encouraging DLA developments is meant to locate large scale developments in areas with lesser impacts to resources and uses of the public lands. Incentivizing the use of DLAs is achieved by increasing certainty, longevity, and reducing some costs in a DLA relative to other areas. The proposed rule does not increase costs and uncertainty outside of the DLAs. In areas outside of DLAs, the BLM is simply incorporating its processes established by policy for solar and wind energy. The BLM believes that the final rule will reduce costs and increase certainty inside of DLAs and maintain the streamlined application process for lands outside of DLAs.

Comments: Some comments stated that a CFR reference cited in 2805.12(c)(6)(iii) was incorrect.

Response: The comment is correct and this reference is revised to paragraph (c)(7)) of this section. Furthermore, another citation was updated in this paragraph, referring to submitting a written request for an extension for a timeline in a POD. The updated reference now cites paragraph (e) of this section where a right-of-way holder may request an alternative requirement.

Comment: Some comments opposed the requirement in section 2805.12(c)(7) that a bond include Indian cultural resource identification, protection, and mitigation. The comments assert this is in error because there are no distinguishing factors that can justify requiring cultural resource bonding for non-DLA authorizations, but not for DLA authorizations.

Response: Paragraph (c) applies to all solar and wind energy rights-of-way, both leases issued under subpart 2809 and grants issued under subpart 2804. This requirement does not distinguish between requirements for grants and leases.

However, the BLM recognizes that these costs are difficult to determine and revised this section to specifically include "the estimated costs of cultural resource and Indian cultural resource identification, protection, and mitigation for project impacts." This revision helps tie the required costs to the impacts of the project.

Comment: One comment suggested that bonding for cultural, scenic, and wildlife impacts adds unnecessary risk to a project. The comment stated that bonding for such impacts is unnecessary for solar activities, as the majority of mitigation expenses are

incurred during construction, and operation expenses are minimal and easily covered by fixed PPA revenues in excess of low operational costs.

Response: The bond instrument required by the BLM is necessary to protect public lands and their resources. A minimum bond and standard bond amount are provided in sections 2805.20 and 2809.18 of this final rule. Including these amounts in the rule provide the opportunity for a developer to incorporate these costs in their project plan, reducing unexpected and unnecessary risk to a project that may keep it from proceeding.

The bonding requirement for cultural, scenic, and wildlife impacts protects the public land resources when developing the land for various uses. For example, possible damages to the public land that would need to be covered by a bond could include surface disturbing activities, recontouring of soils to alter the flow of water, and the removal of vegetation. Other damages could be those to resources outside the right-of-way that are diminished, such as water supply or biological resources. No revision to this paragraph is made as a result of this comment.

Comment: One comment suggested that the BLM's timeframes are too restrictive and would be a disincentive to the development of solar and wind energy on public lands.

Response: No changes were made to this provision; however, the addition of section 2805.12(e) allows adjustments of the timeframes, provided that a good cause rationale is submitted by the project proponent and the BLM approves the request. No other comments were received or changes made to the paragraphs under section 2805.12(c).

Section 2805.12(d) describes specific requirements for energy site or project testing grants. Because these are short term grants, for three years or less, the BLM believes it is appropriate to require facilities to be installed within 12 months of the effective date of the grant. All equipment must be maintained and failure to comply with any terms may result in termination of the authorization.

No comments were received on this paragraph. However, two revisions have been made as follows. The word "wind" has been removed from the text of the paragraph describing the energy site- and project-area testing grants, to make it clear that these grants are not limited to wind project proponents, but are also available to solar project proponents. This change is consistent with other parts of the final rule where commenters requested that the BLM make the site- and project-area testing grants available for both solar and wind energy. Additionally, the language from the proposed rule that required a showing of good cause for an extension of project timelines has been revised to direct the reader to paragraph (e) of this section in the final rule, which governs reporting requirements for instances of noncompliance and requests for alternative stipulations, terms, or conditions. No other comments were received and no additional changes were made to this section.

Section 2805.12(e) addresses reporting requirements for instances of noncompliance, and requests by project proponents for alternative stipulations, terms, or conditions of the approved right-of-way grant or lease. This provision was added to the final rule based on comments received. This section is similar to section 2804.40 of the final rule, but that section applies to subpart 2804 of the final rule and the application process for a grant, whereas this section applies to grant and lease holders and applies to

the terms, conditions, and stipulations of all approved authorizations. Under this section, a holder must notify the BLM of noncompliance, and may request an alternative requirement during project operation.

Paragraph (e)(1) of this section provides that a holder of a right-of-way must notify the BLM as soon as the holder either anticipates noncompliance or learns of its noncompliance with any stipulation, term, or condition of the approved right-of-way grant or lease. Notification to the BLM must be in writing and show good cause for the noncompliance, including an explanation of the reasons for failure.

Comments: As noted previously in the preamble of this final rule, the BLM participated in stakeholder engagement meetings as part of the BLM's regular course of business. During some such meetings, stakeholders clarified the concerns they had previously raised through written comments on the proposed rule. Specifically, industry representatives expressed concern that the rule did not include provisions giving the BLM flexibility to respond to project-specific or regional circumstances by, for example, adjusting capacity factors based on technical considerations or adjusting county zone assignments using land value assessments, which could be more accurate than NASS land values in a given area.

Industry also provided additional information regarding its concern that the proposed rule's bonding requirements were too rigorous. Commenters suggested that the BLM add provisions to the rule that authorize it to consider other factors when determining a bond amount, instead of only the reclamation cost estimate.

Response: The BLM agrees that it may be reasonable to set alternative terms, conditions, and stipulations, and to consider other factors in setting bond amounts on a

project-specific or regional basis. After considering this comment, the BLM included a new provision in the final rule, paragraph 2805.12(e)(2), under which a grant or lease holder may request an alternative to the terms, conditions, and stipulations of their authorization, including requesting an alternative bonding requirement. The requested alternative requirement could include those identified in a project's POD, the right-of-way's terms and conditions, or other such requirements, such as a request for an extension of time. A request for an alternative payment requirement may include a request for an alternative net capacity factor or per acre zone rate consideration. Requests may be submitted after notification has been provided as required in paragraph (e)(1) of this section or at the holder's request. However, this section specifically notes that any request for an alternative must comply with applicable law in order to be considered.

The BLM recognizes that some requests, such as those related to acreage rent, may be appropriately considered on a larger, regional scale. Under the authority in section 2806.70 of this final rule, therefore, the BLM may adjust the acreage rent schedule or MW capacity fee applicable to a particular project or in a given area, so long as the BLM determines such changes are based on reasonable methods for determining appropriate values for the use of public land resources.

With respect to bonding requirements, the BLM recognizes it may be appropriate to consider other factors in addition to the reclamation cost estimate, such as the salvage value of project components. The BLM amended both section 2805.12(e)(2) and section 2805.20(a)(3) to accommodate that possibility, as discussed further in the section of this preamble that discusses paragraph 2805.20(a)(3). Any proposed alternative to bonding

must provide the United States with adequate financial security for the potential liabilities associated with any particular grant or lease. For example, a request for an alternative bonding requirement may include a holder's request for consideration of project salvage values, but must also include the cost for processing and handling salvage actions.

No alternative requirements request is approved unless and until you receive BLM approval in writing.

Comments: As discussed in section 2804.40, several comments on various rule provisions expressed concern that a developer may not be able to meet BLM requirements. Comments said that failure to meet such requirements may be due to delays or environmental changes outside a developer's control, statutory or policy changes, or other unanticipated situations.

Response: The BLM believes that new paragraph (e) of this section addresses these concerns. The BLM intends to issue policies to address how it will implement these provisions following the issuance of this final rule. Consistent use of the final rule's requirements and clear expectations will be outlined in these policies, to include the provisions of this paragraph and those of section 2804.40.

Section 2805.14 What rights does a grant convey?

The BLM has added two new paragraphs to section 2805.14, both addressing applications for renewal of existing grants or leases. Paragraph (g) states that a holder of a solar or wind energy development grant or lease may apply for renewal under section 2807.22. Paragraph (h) of this section states that a holder of an energy project-area testing grant may apply for a renewal of such a grant for up to an additional 3 years, provided that the renewal application also includes an energy development application.

Paragraph (g) is added to this rule to explain how one may apply for a solar or wind energy development grant or lease renewal. The BLM added paragraph (h) to recognize that project-area testing may be necessary for longer than an initial 3-year term, even after an applicant believes that energy development at a proposed project site is feasible. Revisions in this final rule were made consistent with those made in section 2801.9 for project-area grants.

The proposed rule stated that specific project-area grants were for only wind energy, but based upon comments received, project-area grants have been expanded to include project-area testing grants for solar energy as well. No other comments were received or additional changes made to this section.

Section 2805.15 What rights does the United States retain?

In section 2805.15, the word "facilities" and a reference to section 2805.14(b) are added to the first sentence of paragraph (b) to clarify that the BLM may require common use of right-of-way facilities. The sentence now makes clear that the BLM retains the right to "require common use of your right-of-way, including facilities (see § 2805.14(b)), subsurface, and air space, and authorize use of the right-of-way for compatible uses." The term "facility" is defined in the BLM's existing regulations at section 2801.5 and means an improvement or structure owned and controlled by the grant holder or lessee. Common use of a right-of-way occurs when more than one entity uses the same area for their authorization. This revision facilitates the cooperation and coordination between users of the public lands managed by the BLM so that resources are not unnecessarily impacted. An example of common use of a facility is authorization for a roadway and an adjacent transmission line. In this case, maintenance of the

transmission line would include use of the adjacent roadway. Under existing section 2805.14(b), the BLM may authorize or require common use of a facility as a term of the grant and a grant holder may charge for the use of its facility. Section 2805.15(b) is revised to include a reference to section 2805.14(b).

Comment: Two comments were received on this proposed change. One comment suggested clarifying that the change in section 2805.15(b) is intended to harmonize this paragraph with section 2805.14(b). The comment made special note that they do not protest this amendment to include "facilities," so long as this was the only intent of the requirement.

Response: The BLM agrees with the comment, and believes that the proposed adjustments to this rule would make the regulations consistent and not open to interpretation. The intent of this revision is not to go beyond what is discussed in the preamble for this paragraph. No changes to the proposed rule are necessary in response to this comment.

Comment: The second comment stated that the rule deletes language from the existing section that prohibits charges for the common use of rights-of-way. The comment recommended modifying the section, but not deleting it, suggesting that the modification should prohibit charges except for pro-rata, fair-share cost allocations for the shared construction and/or operation and maintenance of facilities authorized under a grant or lease. The comment expressed concern that if this section is not modified, the first holder could intentionally charge a prohibitively expensive fee for common use.

Response: The proposed rule did not delete this requirement from the existing regulations. Instead, it added the two words "including facilities." Requiring a pro-rata,

fair-share cost allocation agreement between private parties is outside BLM's role of administering the public lands. The BLM believes that two private parties should reach an agreement without the BLM dictating its conditions. The BLM did not make any change in response to this comment since dictating third party contracts is beyond the scope of this rule.

No other comments were received, nor were any additional changes made to this section.

Section 2805.16 If I hold a grant, what monitoring fees must I pay?

The table of monitoring categories in section 2805.16 no longer has the outdated dollar amounts for the category fees. Paragraph (b) explains that the current year's monitoring cost schedule is available from any BLM State, district, or field office, or by writing, and is adjusted annually for inflation using the same methodology as the table in section 2804.14(b). The table now includes only the definition of the monitoring categories in terms of hours worked, instead of providing specific dollar amounts. Also, the word "application" found in each category is changed to "inspecting and monitoring" to clarify that the inspecting and monitoring does not apply to right-of-way applications. This change was made to avoid either adjusting the table each year through a rulemaking or relying on outdated material. The current monitoring fee schedule may be found at http://www.blm.gov.

This paragraph also provides that you may pay directly to another Federal agency their incurred costs in monitoring your grant instead of paying the fee to the BLM. As the regulations will no longer identify the costs by category, the current cost information

is provided in the following table. The monitoring fees and work hours for FY 2015 are as follows:

Monitoring Categories and Fees for FY 2016

Monitoring Category	Federal work hours	Fees for FY 2016
(1) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > 1 ≤ 8	$122
(2) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > > 8 ≤ 24	$428
(3) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > < 24 ≤ 36	$806
(4) Monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > 36 ≤ 50	$1,156
(5) Master Agreements	Varies	As specified in the agreement
(6) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > 50	As specified in the agreement

Consistent with revisions made under monitoring fees table in 2805.16(a), the BLM is adding the words "inspecting and" to section 2805.16(a). This additional language is not a change from current BLM practice or policy and will allow the BLM to inspect and monitor the right-of-way to ensure project compliance with the terms and conditions of an authorization. Under this provision, if a project is out of compliance, the BLM could inspect the project to ensure that the required actions are completed to the satisfaction of the BLM, such as continued maintenance of the required activity or efficacy of the requirement.

The BLM added a new sentence to paragraph (a) of this section that directs the reader to section 2805.17(c), which is an existing section of the regulations that describes category 6 monitoring fees. The two sentences preceding this revision describe when the

other monitoring categories are updated, but there was no reference for category 6 monitoring fees. This revision is made for consistency with how the other monitoring categories are described in this section. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2805.20 Bonding requirements.

Section 2805.20 provides bonding requirements for all grant holders or lessees. These provisions are moved from existing section 2805.12. Under the existing regulations, bonds are required only at the BLM's discretion. This expanded section explains the details of when a bond is required and what the bond must cover. This is not a change from existing practice and is intended to provide clarity to the public. Specific bonding requirements for solar and wind energy development are outlined in paragraphs (b) and (c) of this section. This final rule explains requires are for the performance of the terms and conditions of a grant or lease and reclamation of a right-of-way grant or lease area.

Comments: One comment indicated that solar facilities should not be subject to the same bonding framework as surface mining. The proposed bonding imposes unnecessary costs on the solar industry without providing any additional land protection. Surface mining operations may be abandoned and there is often significant surface disturbance, which is not the case with solar developments. Some comments said that acceptable bonding instruments should include corporate guarantees backed by financial tests. Bonding costs could be expensive, even doubling annual operating costs. The use of letters of credit could significantly reduce the bond amounts. Also, the BLM could

have an initial lower bond amount until decommissioning is near and at that time the bond could be increased.

Response: The framework used by surface mining development was a starting point for the solar and wind energy development process on what to consider when completing a RCE and determining the bond amount. However, this framework has been adapted to address circumstances specific to solar and wind energy development as well as all other right-of-way developments on the public lands. The bond amounts, as determined by an RCE or those using a standard bond, are necessary to ensure the protection of the public lands.

Corporate guarantees are not an acceptable form of bond for the BLM. They are too risky to accept, even when financial tests are used, because they require continual confirmation of the quality of the corporate guarantee. However, irrevocable letters of credit are accepted by the BLM. Furthermore, the BLM cannot accept a lesser bond amount until the decommissioning of a grant or lease, because the BLM cannot be responsible for the financial stability of any company, nor can it bear the risk that a company may default or go bankrupt during the term of a grant, before decommissioning. To secure an increased bond at that time would be difficult if not impossible and having such a regulatory provision would place the public lands at unnecessary risk from the impacts of unreclaimed developments.

Section 2805.20(a) provides that, if required by the BLM, you must obtain or certify that you have obtained a performance and reclamation bond or other acceptable bond instrument to cover any losses, damages, or injury to human health or damages to property or the environment in connection with your use of an authorized right-of-way.

This paragraph also includes the language from existing section 2805.12(g), which details bonding requirements.

Consistent with other revisions made in the final rule for better understanding of the rule, section 2805.20(a) is revised to add "costs associated with" when discussing what a bond will cover when terminating a grant. This added language makes it clear that the bond covers costs associated with terminating a grant.

Comments: Some comments suggested expanding the language of this and subsequent bonding paragraphs to include "certificate of insurance or other acceptable security" in appropriate places.

Response: Adding the language "certificate of insurance or other acceptable security" is unnecessary in the text of the regulation as the definition of acceptable bond instruments includes insurance policies, and therefore a specific form of insurance does not need to be included in the text of the regulation. Furthermore, the list of bond instruments that are acceptable is not an all-inclusive list. There are other forms of bond instruments, but they are not specified in the text of the rule because they are not as common as the ones identified. If the bond instrument list were to be considered as "all inclusive" it could unintentionally exclude acceptable bond instruments. As a result, the recommended addition to the rule text is not incorporated in the final rule.

Section 2805.20(a)(1) requires that bonds list the BLM as an additionally covered party if a State regulatory authority requires a bond to cover some portion of environmental liabilities. If the BLM were not named as an additionally covered party for such bonds, the BLM would not be covered by the instrument. This provision allows

the BLM to accept a State bond to satisfy a portion of the BLM's bonding requirement, thus, limiting double bonding.

Comment: One comment was received pertaining to this paragraph. The comment stated that bond requirements are unnecessary for "regulated entities" and that additional bonding requirements are duplicative and pose additional costs on a public utility's customers.

Response: The BLM disagrees, because regulated utilities present the same risks as unregulated utilities. Under section 2805.20(a), a bond is not required for all authorizations. Requirement of a bond for an authorization is at the discretion of the BLM and is dependent on the scale of the development and potential for risk to the public lands. Also, the BLM may accept a bonding instrument submitted to the State if it meets the criteria identified in subparagraphs (i) through (iii) of section 2805.20(a)(1). The intent of the bonding provisions in section 2805.20(a)(1)(iii) is to mitigate the potential for duplicative costs to right-of-way holders using the public lands.

An additional requirement is added to paragraph (a) in this final rule that requires periodic review of bonds for adequacy. This provision is added to ensure consistency with the provisions added in response to comments on section 2805.20(c). This additional requirement includes bonds held by a State and accepted by the BLM and applies to all bonds held by the BLM, regardless of the size or complexity of an authorized project. The frequency of the bond adequacy reviews will be described in greater detail within BLM guidance issued as part of implementation of this rule. Review frequency, as described in the recently issued instruction memorandum 2015-138, will be

no less than once every 5 years, giving review priority to those that pose a greater risk to the public lands.

Under section 2805.20(a)(1)(i), a State bond must be redeemable by the BLM. If such instrument is provided to the BLM and it is not redeemable, the BLM would be unable to use the bond for its intended purpose(s).

Under section 2805.20(a)(1)(ii), a State bond must be held or approved by a State agency for the same reclamation requirements as the BLM requires.

Under section 2805.20(a)(1)(iii), a State bond must provide the same or greater financial guarantee than the BLM requires for the portion of environmental liabilities covered by the State's bond.

Comment: One comment concerning this paragraph stated that section 2805.20(a)(3) makes clear that a bond will not be required for solar energy projects developed inside DLAs, and bonds will be required for solar projects outside DLAs.

Response: This comment is not correct. Section 2809.18(e) requires a specific performance bond for leases authorized under subpart 2809, identified as a standard bond. Standard bonds are not determined by a RCE, but rather are set as specified in the regulations.

Under section 2805.20(a)(2) a bond must be approved by the BLM's authorized officer. This approval ensures that the bond meets the BLM's standards. Under section 2805.20(a)(3), the bond amount is determined by the BLM based on a RCE, and must also include the BLM's costs for administering a reclamation contract. As defined in section 2801.5, a RCE identifies an appropriate amount for financial guarantees for uses of the public lands. An additional requirement is included in paragraph (a)(3) requiring

periodic review of bonds for adequacy. This requirement was added to ensure consistency with the provisions added to section 2805.20(c). Both paragraphs (c)(3) and (c)(4) of this section contain a stipulation that they do not apply to leases issued under subpart 2809. Bonds issued under subpart 2809 for leases inside DLAs have standard amounts. Bond acceptance and amounts for solar and wind energy facilities outside of DLAs are discussed in paragraphs (b) and (c) of this section.

Paragraph (a)(3) of this section is revised from the proposed to final rule to improve readability. Specifically, the BLM removed the second sentence of the paragraph that stated the BLM may require you to prepare an acceptable RCE. The first sentence of this paragraph is revised to include ", which the BLM may require you to prepare and submit." This revision is intended to improve the reader's understanding of the final rule and its requirements by streamlining the text of the rule.

In addition to the changes made for readability, this paragraph is revised by adding, "The BLM may also consider other factors, such as salvage values, when determining the bond amount." This revision responds to concerns raised in stakeholder engagement meetings and is consistent with section 2805.12(e)(2) of this final rule, which specifies that a developer may request an alternative requirement for bonding.

A request for an alternative bonding requirement may include a holder's request for consideration of project component salvage values. Such a request may reduce the BLM's bond determination amount, even to an amount below the minimum or standard bond amount. However, the request must be fully supported by documentation from the requestor that includes the costs for processing and handling salvage materials, such as information about distribution centers for such materials and other reasonable

considerations. Further, as noted under paragraph 2805.12(e)(2), requests for an alternative bonding requirement must comply with applicable law in order to be considered, and must provide the United States with adequate financial security for potential liabilities.

Regardless of the nature of the request, any such request is not approved until you receive BLM approval in writing.

Section 2805.20(a)(4) requires that a bond be submitted on or before the deadline provided by the BLM. Current regulations have no such provision, and this revision makes it clear what the BLM expects when it requires a bond instrument. The BLM believes this provision will improve the timely collection of bonds. The timely submittal of a bond promotes efficient stewardship of the public lands and ensures that the bond amount provided is acceptable to the BLM and available prior to beginning -ground-disturbing activities.

Section 2805.20(a)(5) outlines the components to be addressed when determining a RCE. They include environmental liabilities, maintenance of equipment and facilities, and reclamation of the right-of-way. This paragraph consolidates and presents what liabilities the bond must cover.

Under section 2805.20(a)(6), a holder of a grant or lease may ask the BLM to accept a replacement bond. The BLM must review and approve the replacement bond before accepting it. If a replacement bond is accepted, the surety company for the old bond is not released from obligations that accrued while the old bond was in effect, unless the new bond covers such obligations to the BLM's satisfaction. This gives the

grant holder flexibility to find a new bond, potentially reducing their costs, while ensuring that the right-of-way is adequately bonded.

Under section 2805.20(a)(7), a holder of a grant or lease is required to notify the BLM that reclamation has occurred. If the BLM determines reclamation is complete, the BLM may release all or part of the bond that covers these liabilities. However, section 2805.20(a)(8) reiterates that a grant holder is still liable in certain circumstances under section 2807.12. Despite the bonding requirements of this section, grant holders are still liable for damage done during the term of the grant or lease even if: the BLM releases all or part of your bond, the bond amount does not cover the cost of reclamation, or no bond remains in place.

Sections 2805.20(b) and 2805.20(c) identify specific bond requirements for solar and wind energy development respectively outside of DLAs. A holder of a solar or wind energy grant outside of a DLA will be required to submit a RCE to help the BLM determine the bond amount. For solar energy development grants outside of DLAs, the bond amount will be no less than $10,000 per acre. For wind energy development grants outside of DLAs, the bond amount will be no less than $10,000 per authorized turbine with a nameplate generating capacity of less than one MW, and no less than $20,000 per authorized turbine with a nameplate generating capacity of one MW or greater.

Section 2805.20(d) is new to the final rule. This paragraph separates site- and project-area testing authorization bond requirements from section 2805.20(c). This change is consistent with other provisions that have been modified to expand the wind energy site- and project-area testing authorizations in the proposed rule to include solar energy. With this adjustment, meteorological and other instrumentation facilities are

required to be bonded at no less than $2,000 per location. These bond amounts are the same as standard bond amounts for leases required under section 2809.18(e)(3).

The BLM recently completed a review of bonded solar and wind energy projects and based the bond amounts provided in this final rule on the information found during the review. When determining these bond amounts, the BLM considered potential liabilities associated with the lands affected by the rights-of-way, such as potential impacts to cultural values, wildlife habitat, and scenic values. The range of costs included in the review represented the cost differences in performing reclamation activities for solar and wind energy developments throughout the various geographic regions the BLM manages. The BLM used the review to determine an appropriate bond amount to cover potential liabilities associated with solar and wind energy projects.

Minimum bond amounts are set for solar development for each acre of authorization because solar energy development encumbers 100 percent of the lands and excludes them from other uses. The recent review of bonds showed a range of bond amounts for solar energy development of approximately $10,000 to $18,000 per acre of the rights-of-way on public lands. Minimum bond amounts for wind energy development are set for each wind turbine authorized on public land, rather than per acre, because the encumbrance is factored at 10 percent and is not exclusive to other uses. The review showed that the bond amounts for recently authorized wind energy development ranged between $22,000 and $60,000 per wind turbine. Recently bonded wind energy projects use wind turbines that are one MW or larger in nameplate capacity, whereas older projects generally use turbines that are less than one MW.

Comment: Some comments suggested that bonds should not be required for solar facilities on the public lands because they pose low environmental risk and that some solar energy generation technologies have less potential impacts than others and, therefore, less risk.

Response: The BLM agrees that generally, solar facilities do not pose the same environmental hazards as other energy development facilities. However, the BLM's requirement for bonding is not only for the potential environmental risks that a development poses on the public lands. Rather, a bond is required to cover direct impacts to the resources and their reclamation to a condition as near as possible to what they were before development occurred.

This comment is specific to solar energy, but raises the question of lesser risk for certain developments, which is an issue that arises with respect to wind energy as well. In the BLM's review of recently bonded solar and wind energy projects, for example, the range of bond amounts identified was for newer wind energy turbines, with a nameplate capacity of one MW or greater. These wind energy turbines are larger, have a greater footprint, and require larger and more equipment and materials to install and remove than wind turbines that have a smaller nameplate capacity. In order to accommodate developments that employ smaller wind turbines that pose lesser risk to resources, the BLM is including in the final rule the existing policy requirement of a $10,000 minimum bond amount for projects utilizing smaller turbines. Turbines with a nameplate capacity of one MW or greater will have a minimum bond amount of $20,000, consistent with the proposed rule. A reclamation cost estimate will still be required for each project on lands outside of designated leasing areas, as described in section 2805.20(a)(3) of this rule.

The BLM's bond amount determination for wind energy projects using turbines with lesser nameplate capacities could exceed the minimum bond amount based upon site-specific risks.

Subpart 2806 – Annual Rents and Payments

Existing subpart 2806, has been retitled to more clearly and consistently identify the content of and revisions to this subpart of the final rule. The content and revisions to this subpart of the final rule include those requiring a payment of an acreage rent and MW capacity fee for rights-of-way. Retitling this subpart makes it clear that the BLM may require payments that are not specifically a rent.

Section 2806.12 When and where do I pay rents?

The heading of section 2806.12 is revised by adding the words "and where." This revision is not a change in the BLM's practice or policy, but is intended to help clarify where rental payments should be made.

Section 2806.12(a) describes the proration of rent for the first year of a grant. Specific dates are used for proration to prevent any confusion to grant holders and promote consistent implementation by the BLM. Rent is prorated for the first partial year of a grant, since the use of public lands in such situations is for only a partial year. Paragraph (a)(2) of this section explains that if you have a short-term grant, you may request that the BLM bill you for the entire duration of the grant in the first payment. Some short term grant holders may wish to pay this amount up front. Consistent with other sections of the final rule, a revision to paragraph (a)(2) has been made to delete the reference to wind energy in connection with site-specific testing.

Paragraph (b) of this section is revised by removing the word "other" from the first sentence. This revision is intended to clarify that all rental payments must be made in accordance with the payment plan described in section 2806.24. This revision is made to improve readability, but does not constitute a change from existing requirements.

Section 2806.12(d) directs right-of-way grant holders to make rental payments as instructed by the BLM or as otherwise provided for by Secretarial Order or legislative authority. This provision acknowledges that either the Secretary or Congress may take action that could affect rents and fees. The BLM will provide payment instructions for grant holders that will include where payments may be made. The word "must" is added into the first sentence of this paragraph to improve readability and for consistency with the phrasing of other requirements in this final rule. This revision does not constitute a change from existing requirements. No comments were received on this section, and no other changes were made from the proposed rule to the final rule.

Section 2806.13 What happens if I do not pay rents and fees or if I pay the rents and fees late?

Section 2806.13 is revised from "What happens if I pay the rent late?" to read "What happens if I do not pay rents and fees or if I pay the rents and fees late?" This change addresses the addition of paragraph (e) to this section, which specifies that the BLM may retroactively bill for uncollected or under-collected rents and fees. The BLM will collect rent retroactively if: (1) A clerical error is identified; (2) A rental schedule adjustment is not applied; or (3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

Paragraph (a) of this section is amended by removing language from the existing rule that stated a fee for a late rental payment may not exceed $500 per authorization. The BLM determined that the current $500 limit is not a sufficient financial incentive to ensure the timely payment of rent. Therefore, under this final rule, late fees will now be proportional to late rental amounts, to provide more incentive for the timely payment of rents to the BLM. The BLM also added the term "fees" so the MW capacity fees for solar and wind energy development grants and leases may be collected consistently with any rent due.

New paragraph (g) of this section allows the BLM to condition any further activities associated with the right-of-way on the payment of outstanding payments. The BLM believes that this consequence imposed for outstanding payments is further incentive to timely pay rents and fees to the BLM.

Comment: A comment suggested that the BLM should be responsible for clerical and other possible errors, and that the holder should not be responsible for payment of rents, fees, or late payments if such an error occurs due to the BLM. Further, the comment suggested a 6 month time limit for enforcing such corrections that would be retroactive, and that a late payment fee would be no more than 5 percent of the total rents and fees.

Response: The BLM considered the 6-month and 5 percent limits suggested by the comment and decided to not include these limits in the final rule. When entering into a right-of-way agreement with the BLM, a holder agrees to the terms and conditions for the use of the public lands. Included as part of these terms and conditions is the requirement that a holder pay, in advance, the appropriate amount for the use of the

public lands. Generally, the BLM sends a bill or other notice to a holder that is a notice of payment due to the BLM, as agreed to in the right-of-way grant. Even if the BLM were to make a clerical or administrative error when transmitting a notice of payment obligations, such an error in a notice would not permanently relieve a right-of-way grant holder from its independent requirement to pay the appropriate amount for the use of the public lands as specified in the grant. No other comments were received for this section, and no changes were made to the final rule.

Section 2806.20 What is the rent for a linear right-of-way grant?

In section 2806.20, the address to obtain a current rent schedule for linear rights-of-way is updated. Also, district offices are added to State and field offices as a location where you may request a rent schedule. These minor corrections are made to provide current information to the public. No comments were received on this provision, and no changes are made from the proposed rule to it in the final rule.

Section 2806.22 When and how does the per acre rent change?

A technical change in section 2806.22 corrects the acronym IPD-GDP, referring to the Implicit Price Deflator for Gross Domestic Product. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2806.23 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

In the existing regulations, paragraph (b) of this section provides for phasing in the initial implementation of the Per Acre Rent Schedule by allowing a one-time reduction of 25 percent of the 2009 acreage rent for grant holders. This paragraph was flagged for removal in the proposed rule and is being removed by this final rule because

the phase-in for the updated rent schedule referenced in that provision ended in 2011 and thus is no longer applicable. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2806.24 How must I make payments for a linear grant?

Section 2806.24(c) explains how the BLM prorates the first year rental amount. The rule adds an option to pay rent for multiple year periods. The new language requires payment for the remaining partial year along with the first year, or multiples thereof, if proration applies. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2806.30 What are the rents for communication site rights-of-way?

Section 2806.30 is amended by removing paragraph (b), which contained the communications site rent schedule table. Paragraph (c) is redesignated as new paragraph (b). Section 2806.30(a) is revised to remove redundant language referring to the BLM communication site rights-of-way rent schedule. Section 2806.30(a)(1) is revised to update the mailing address. Section 2806.30(a)(2) is revised by removing references to the table that has been removed. This paragraph still describes the methodology for updating the schedule, but directs the reader to the BLM's website or BLM offices instead. No comments were received, and no other changes are made inform the proposed rule to the final rule.

Section 2806.34 How will BLM calculate the rent for a grant or lease authorizing a multiple-use communication facility?

Section 2806.34(b)(4) is revised to fix a citation in the existing regulations that was incorrect. No comments were received, and no other changes are made from the proposed rule to the final rule.

Section 2806.43 How does BLM calculate rent for passive reflectors and local exchange networks? and

Section 2806.44 How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses?

Sections 2806.43(a) and 2806.44(a) are each revised by changing the cross-reference from section 2806.50 to section 2806.70. Section 2806.50 is redesignated as section 2806.70, and these citations are updated to reflect this change.

Section 2806.44 is retitled from "How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses subject to the communication use rent schedule and communication uses whose rent BLM determines by other means?" to read as above. This section has been retitled to more clearly identify the content and additions made. The addition is a new introductory paragraph describing that this section applies to grants or leases. Such authorizations may include a mixture of communication uses, some of which are subject to the BLM's communication rent schedule. Such rent determinations will be made under the provisions of this section. No comments were received, and no other changes are made from the proposed rule to the final rule.

Sections 2806.50 through 2806.68 Rents and fees for solar energy rights-of-way and wind energy rights-of-way.

Sections 2806.50 through 2806.58 and sections 2806.60 through 2806.68 provide new rules for the rents and fees for solar and wind energy development, respectively. The rents and fees described in these sections, along with the bidding process, will help the BLM generally receive fair market value for the use of public lands. There are similarities between the provisions governing solar and wind energy grants and leases. For example, each type of project and authorization instrument is subject to acreage rent and MW capacity fee obligations. However, there are differences in the final rule with respect to wind and solar projects (e.g., solar energy projects assume 100% encumbrance within the project footprint, whereas wind energy projects assume 10% encumbrance). There are also differences in the way acreage rent and MW capacity fees are applied to solar energy grants versus leases. These differences are discussed in sections 2806.52 and 2806.54; wind energy grants and leases are discussed in sections 2806.62 and 2806.64, respectively. Section 2806.50 is retitled "Rents and fees for solar energy rights-of-way." The former regulation at section 2806.50 has been redesignated as section 2806.70. Section 2806.51 is added to this final rule in response to comments received regarding potential payment uncertainty.

Revised section 2806.50 requires a holder of a solar energy right-of-way authorization to pay annual rents and fees for right-of-way authorizations issued under subparts 2804 and 2809. Those right-of-way holders with authorizations issued under subpart 2804 will pay rent for a grant and those right-of-way holders with authorizations issued under subpart 2809 will pay rent for a lease. Payment obligations for both types of right-of-way authorizations now consist of an acreage rent and MW capacity fee. The acreage rent must be paid in advance, prior to the issuance of an authorization, and the

MW capacity fee will be phased-in after the start of energy generation. Both the acreage rent and MW capacity fee must be paid in advance annually during the term of the authorization. The initial acreage rent and MW capacity fee are calculated, charged, and prorated consistently with the requirements found in sections 2806.11 and 2806.12. Rent for solar authorizations vary depending on the number of acres, technology of the solar development, and whether the right-of-way authorization is a grant or lease.

The BLM received some comments that generally applied to its rental provisions of the final rule. The BLM also revised sections 2806.50 through 2806.68 to improve the readability of these sections.

Comment: One comment on the rental provisions stated that the proposed rule requires full payment immediately upon the award of an authorization. The comment suggested that payment should begin at the time infrastructure is placed in service instead at the time of award.

Response: The BLM does not require full payment immediately upon award of an authorization. Both an acreage rent and MW capacity fee are charged for solar and wind energy authorizations, but only the acreage rent is paid at the time a right-of-way is authorized. Acreage rent is charged upon the authorization of such developments as the public lands are being encumbered. The MW capacity fee may be phased-in during the term of the right-of-way as approved in the POD. This meets the concerns of the comment because the rules do not require full payment of rents and fees immediately upon authorization of a right-of-way.

Comments: Some comments stated that the BLM does not have authority to levy a MW capacity fee. These comments argued that because the Federal Government lacks

an ownership interest in sunlight or the wind, it cannot sell the rights to use them for profit (unlike the sale of Federal mineral interests at fair market value), charge a royalty against sale proceeds (unlike Federal oil and gas rights), or charge rent for the use of sunlight (unlike Federal land surface occupancy rights). Aside from the ownership issue, these commenters argued that the MW capacity fee is an inappropriate element of fair market value because it is based on the value of electricity generated and sold, rather than the value of the underlying land itself. For example, the comments pointed out, if two facilities occupy the same amount of land, but one has more efficient technology, the more efficient facility would pay more because of the additional electricity generated, not because of land rental values. The comments recommended that, for solar and wind energy generation rights-of-way, the BLM should exclusively charge rent, through a per acre rent schedule informed only by the NASS.

Response: FLPMA generally requires the BLM to obtain fair market value for the use of the public lands, including for rights-of-way. In accordance with the BLM's authority, and similar to valuation practices for solar and wind energy development on private lands, the BLM uses electrical generation capacity as a component of the value it assigns to the use of the lands by the projects. From information the BLM has been provided by industry or has otherwise collected, the BLM determined that private land owners customarily charge a "royalty," typically a percentage of the value of actual production, for the use of private land. As explained above, the BLM has elected in this final rule to charge a fee based on installed MW capacity rather than a royalty. This fee, when added to the applicable acreage rent and any minimum and bonus bids received,

ensures that the BLM will obtain an appropriate value for the use of the public lands by solar and wind energy projects.

The BLM classifies MW capacity payments as "fees" rather than "rent," because they reflect the commercial utilization value of the public's resource, above and beyond the rural or agricultural value of the land in its unimproved state. In the BLM's experience and consistent with generally accepted valuation methods, the value of the public lands for solar or wind energy generation use depends on factors other than the acreage occupied and the underlying land's unimproved value. Other key factors include the solar insolation value or wind speed and density, proximity to demand for electricity, proximity to transmission lines, and the relative absence of resource conflicts that tend to inhibit solar and wind energy development. To account for these elements of land use value that are not intrinsic to the rural value of the lands in their unimproved state, under this final rule, solar and wind right-of-way payments include "MW capacity fees" in addition to the "acreage rent" as a component of fair market value for these authorizations.

The acreage payment remains classified as "rent" under the final rule, as it is directly tied to the area of public lands encumbered by the project and the constraints the project imposes on other uses of the public lands. Electric or telephone facilities that qualify for financing under the Rural Electrification Act may be exempt from paying a "rental fee," which includes the solar or wind energy acreage rents. However, as explained in IM 2016-122, and consistent with the BLM's current practice, any such facilities must pay other costs associated with the fair market value of the land, such as the MW capacity fee, minimum bid, or bonus bid, because these other payments are

independent of the land acreage and value of the unimproved land, and therefore are not appropriately termed "rental fees."

The use of an acreage rent and MW capacity fee is also intended to encourage a developer to more efficiently use the public lands encumbered by a project. In the situation where two parcels with the same MW capacity for projects have differing technologies, the more efficient technology (and therefore the higher approved MW capacity) would be paying more in fees, but less in acreage rent for the same generation capacity as the more efficient technology would allow a developer to pay less in acreage rent to achieve the same approved MW capacity.

The BLM intends to evaluate the adequacy and impact of the provisions of this final rule after it has had an opportunity to observe how the payment requirements and rate adjustment methods put in place affect the BLM's ability to support renewable energy development and simultaneously collect fair market value from the projects it authorizes.

Section 2806.50 Rents and fees for solar energy rights-of-way.

The BLM revised section 2806.50 to include site- and project-area testing. In the proposed rule, rights-of-way for site-specific and project-area testing were allowed only for wind energy. The final rule deletes the word "wind", to make the provision generally applicable to wind or solar energy testing. This change is made in response to a comment, which will be discussed under section 2806.58 of this preamble. No other comments were received, and no other changes made to the final rule.

Section 2806.51 Scheduled Rate Adjustment

Comments: After the comment period of the proposed rule closed, the BLM continued to hold general meetings with stakeholders about the BLM's renewable energy program. In some of those meetings, stakeholders asked questions about the proposed rulemaking and clarified concerns they had raised through their written comments. Industry representatives shared additional information regarding their concerns with the proposed rule's approach to calculating annual payment requirements, including uncertainty about potential future payment requirements over the life of the right-of-way authorization. Specifically, commenters expressed concerns about the potential for NASS values in certain areas to jump significantly between surveys, resulting in unexpected and unsustainable changes in the per acre zone rates for those lands.

The BLM understands that when financing a project, developers must predict project costs, including for the construction, operation, and maintenance phases of the project. Included with these costs are expenses for land use, such as annual payment requirements of a BLM grant or lease. The BLM also understands that in some areas there is the potential for NASS land values to change significantly from one 5-year period to the next in a manner that is unpredictable, and that can result in significant acreage rent increases or decreases. For lands that experience those large changes in NASS land values, the standard rate adjustment method's periodic update to rates may create financial uncertainty. This may, in turn, complicate project financing and require a developer to pay a higher cost of capital.

Response: The BLM agrees with these comments and recognizes that increasing payment certainty over the term of the grant or lease may help facilitate project financing and even reduce financing costs. To respond to these comments and

concerns, the BLM added section 2806.51 to the final rule. This section allows a grant or lease holder to choose one of two rate adjustment methods, the "standard" rate adjustment method, or the scheduled rate adjustment method.

Under the standard rate adjustment method, which was described in the proposed rule and is now named in the final rule, the BLM will periodically reassess the rates it charges for use of the public lands and resources based on the latest NASS survey data and the applicable western hub energy prices, as well as other data discussed in greater detail in connection with section 2806.52 of this final rule.

By contrast, if the grant or lease holder chooses the scheduled rate adjustment method, the BLM will implement scheduled, predictable rate increases over the term of the grant. Under this approach, annual project costs are easily modeled, which increases the certainty as to future costs. By selecting the scheduled adjustment method a proponent would trade the potential upsides of rate adjustments pegged to a fluctuating national indicator (which may only increase slightly in a given period, or may even go down) for greater payment certainty.

Based on historical trends, the BLM expects that in some areas, the rates under the standard rate adjustment method will increase by more than they would under the scheduled rate adjustment method. However, the opposite is also true: in other areas, rates under the standard method may increase by very little, or even decrease, while rates under the scheduled rate adjustment method will increase by a fixed amount at fixed intervals. The BLM determined that it is appropriate to allow developers to choose between these rate adjustment methods, as some grant or lease holders may want to take

advantage of the possibility that NASS values could stay nearly constant or even go down, while other holders may want to increase payment certainty.

The adjustments contemplated under the scheduled rate increase are similar to the terms found in many power purchase agreements, which build in fixed annual increases. The BLM based the scheduled adjustment approach on an evaluation of market trends over the last 10 years. The trend over that period is consistent with a longer term trend showing power pricing has increased generally. The BLM believes that the scheduled rate adjustment method provides certainty for prospective developers while also ensuring that the BLM will obtain fair market value for the use of the public lands.

Paragraph (a) of this section provides that a holder may choose the standard rate adjustments for a right-of-way, which are detailed in sections 2806.52(a)(5) and 2806.52(b)(3) for grants, or 2806.54(a)(4) and 2806.54(c) for leases, or the scheduled rate adjustments for a right-of-way, which are detailed in sections 2806.52(d) for grants, or 2806.54(d) for leases. If a holder selects the standard adjustment method, the BLM will increase or decrease the per acre zone rate and MW rate for the authorization, as dictated by the specified calculation method, at fixed intervals over the term of a grant or lease. If a holder selects the scheduled rate adjustment method, the BLM will increase the per acre zone rate and MW rate by a fixed amount, described in section 2806.52(d) or 2806.54(d), respectively, at those same intervals. The BLM created the scheduled rate adjustment method using percentages and values that reflect current market conditions and trends; if, in the future, the BLM considers it necessary to revise the applicable rates in the scheduled rate adjustment provisions, it will do so via rulemaking.

Once a holder selects a rate adjustment method, the holder will not be able to change the rate adjustment method until the grant or lease is renewed. This rule clearly articulates the differences between these methods. As such, a holder will not be able to change its selection in the future, if one method proves more favorable than another during the term of the authorization. The rates paid by grant or lease holders that chose the standard adjustment approach may, in some cases, diverge from the rates paid by grant or lease holders that chose the scheduled adjustment approach. The BLM believes, however, that over the length of the grant or lease both methods will provide fair market value for the underlying authorization to use the public lands and resources.

Paragraph (b) of this section requires that a holder provide written notice to the BLM, before a grant or lease is issued, if the holder wishes to select the scheduled rate adjustment. In the absence of such a notice, the BLM will continue to use the standard rate adjustment method for the authorization.

The BLM will generally not consider a request for an alternative rate structure or terms from holders that select the scheduled rate adjustment method. The holder knows what their rates will be when selecting the scheduled rate adjustment method and is committing to those rates, understanding that they cannot change this selection. Paragraph (c) of this section explains how the final rule will affect existing grant holders. Like new grant holders, existing grant holders also have the option to choose between standard or scheduled rate adjustments. The holder of a solar or wind energy grant that is in effect prior to the effective date of this final rule may request that the BLM apply the scheduled rate adjustment to their grant, rather than the standard rate adjustment. Any such request must be received by the BLM in writing within 2 years of this rule's

publication in the Federal Register. The BLM determined that 2 years was a reasonable amount of time for grant holders to consider the benefits of the different rate adjustment methods.

For existing grant holders that choose the scheduled rate adjustment method, the BLM will apply the scheduled rate adjustment in section 2806.52(d) to the rates in effect prior to the publication of this final rule.

For existing grant holders that choose the scheduled rate adjustment method, however, the BLM will first adjust the rates in existing grants and leases upward by 20%, to account for the fact that the BLM elected not to undertake the most recent adjustment under its existing guidance because of the pendency of this rulemaking process. The scheduled rate adjustment method will then apply, resulting in fixed rate increases at set intervals thereafter.

The BLM will continue to apply the standard rate adjustments to the rates for existing grant holders unless and until written notice is received requesting the scheduled rate adjustment method. As previously mentioned, the standard rate adjustment is BLM's default method and current practice, as outlined in existing policy.

Section 2806.52 Rents and fees for solar energy development grants.

Section 2806.52 requires a grant holder to make annual payments that include the acreage rent and MW capacity fee.

Comments: Some comments expressed confusion over whether certain costs in the proposed rule were a "rent" or a "fee."

Response: The introductory paragraph for section 2806.52 in the final rule has been revised to clarify what is a "rent" and what is a "fee." "Rent" is now described as

an "acreage rent," and "fee" has been clarified as a "MW capacity fee." Paragraph (a) of this section describes the acreage rent requirements and calculation methodology, and paragraph (b) of this section describes the MW capacity fee requirements and calculation methodology.

Section 2806.52(a), "Acreage rent," describes the acreage rent payment for solar energy grants. "Acreage rent," as defined in section 2801.5, means rents assessed for solar energy development grants and leases that are determined by the number of acres authorized for the grant or lease times the per acre zone rate. Under existing policy, entities that qualify for financing under the Rural Electrification Act may be exempted from paying solar acreage rent (IM 2016-122).

Comments: Several comments were concerned about using the values set for NASS and believed that they would not apply to vacant BLM land. Comments suggested that solar and wind energy development should be appraised or assessed differently than other authorization types, such as linear rights-of-way. To determine the acreage rent for such developments following the same criteria as linear facilities would make development cost prohibitive on the public lands due to unfairly applying a linear acreage rent.

Response: In response to these comments, both sections 2806.52 and 2806.62 are revised to incorporate State-specific reductions from the baseline NASS values in the calculation of acreage rents. The proposed rule used the linear rent schedule as the basis for determining acreage rent values by proposing solar and wind acreage rent as a percentage factor of the linear rent schedule. Using a percentage factor for acreage rent

allows the BLM to adopt the linear rent calculation and effectively change the encumbrance factor to be specific for solar or wind energy.

For the final rule, the BLM has further modified the calculation used to determine acreage rent for solar and wind energy authorizations. The BLM recognizes that the NASS agricultural values may not always be a fair representation of public lands because they include the agricultural improvements (e.g., buildings, ditches, irrigation) to the land. To account for this possibility, the final rule uses the NASS agricultural values as a baseline for the determination of acreage rent, then incorporates a 20 percent or greater State-specific reduction that accounts for the extent to which the NASS values reflect agricultural improvements to land in each State. By applying these State-specific reductions to the baseline NASS values when calculating acreage rent, the BLM more accurately identifies the value of unimproved land for a project site.

The proposed rule based the acreage rent calculation on the linear rent schedule, which uses a nationwide reduction of 20 percent. In the final rule, the State-specific factors will be no less than the 20 percent reduction initially proposed for the rule, but may be greater. A more detailed discussion on how these values are calculated and a table showing the specific values for each State is found under section 2806.52(a)(2) of this preamble.

Paragraph (a)(1) summarizes how the BLM identifies a per acre zone rate using the NASS land values. Paragraph (a)(2) describes how the BLM adjusts the per acre zone rate, by 20 percent or more, to account for agricultural improvements to the lands in each State. A State with a larger calculated reduction than the minimum 20 percent may lower a particular county's acreage rent. In the case of some States, such as Utah, the State-

specific reduction that applies to unimproved agricultural land values is approximately 50 percent. This is discussed in greater detail under section 2806.52(a)(2).

Using this methodology, the BLM is able to establish a method for calculating acreage rents for solar and wind energy developments that are appropriate for the location of the development. New section 2806.52(c) is added to this final rule providing the BLM's implementation of the acreage rent and MW capacity fee for solar energy developments.

Under section 2806.52(a)(1), the acreage rent for solar energy rights-of-way is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate in effect at the time the authorization is issued. Under section 2806.52(a)(1), the initial per acre zone rate for solar energy authorizations is now established by considering four factors; the per acre zone value multiplied by the encumbrance factor multiplied by the rate of return multiplied by the annual adjustment factor. This calculation is reflected in the following formula – $A \times B \times C \times D = E$, where:

"A" is the per acre zone value, as described in the linear rent schedule in section 2806.20(c);

"B" is the encumbrance, equaling 100 percent;

"C" is the rate of return, equaling 5.27 percent;

"D" is the annual adjustment factor, equaling the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS census data becomes available; and

"E" is the annual per acre zone rate.

The BLM will adjust the per acre zone rates each year, based on the average annual change in the IPD-GDP, consistent with section 2806.22(a). Adjusted rates are effective each year on January first.

Under new section 2806.52(a)(2), counties (or other geographical areas) are assigned to a Per Acre Zone Value on the solar energy acreage rent schedule, based on the State-specific percent of the average land and building value published in the NASS Census.

The BLM currently uses an acreage rent schedule for linear rights-of-way to determine annual payments. The rent schedule separates land values into 15 different zones and establishes values for each zone ranging from $0 to $1,000,000 per acre. These values are based on the published agricultural values of the land, as determined by the NASS. Solar and wind energy acreage rents will be determined using the same zone values as linear rights-of-way. However, the BLM will use a state specific reduction when assigning lands to a zone.

The Per Acre Zone Value is a component of calculating the Per Acre Zone Rate under paragraph (a)(1) of this section. The calculation in this paragraph establishes a State-specific percent factor that represents the difference between the improved agricultural land values provided by NASS and the unimproved rangeland values that represent BLM land. This calculation is reflected in the following formula – (A/B) – (C/D) = E, where:

"A" is the NASS Census statewide average per acre value of non-irrigated acres;

"B" is the NASS Census statewide average per acre land and building value;

"C" is the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

"D" is the total statewide acres in farms; and

"E" is the State-specific percent factor or 20 percent, whichever is greater.

The county average per acre land and building values that exceed the 20 percent threshold for solar and wind energy development are as follows for BLM managed lands.

Table of State-Specific Factors and other Data for Applicable States

State	**Existing Regulations and Proposed Rule: Nationwide 20 percent factor**	**Final rule State-by-state calculated factor**	**Final Rule State-specific factor**
Alaska	20%	12%	20%
Arizona	20%	49%	49%
California	20%	51%	51%
Colorado	20%	24%	24%
Idaho	20%	29%	29%
Montana	20%	12%	20%
Nevada	20%	16%	20%
New Mexico	20%	24%	24%
North Dakota	20%	5%	20%
South Dakota	20%	5%	20%
Oregon	20%	2%	20%
Texas	20%	-1%	20%

Utah	20%	54%	54%
Washington	20%	21%	21%
Wyoming	20%	16%	20%
Average	20%	21%	27%

Assignment of counties example: This example uses the zone numbers and values of the acreage rent schedule to assign Clark County, Nevada, to the appropriate zone. Current NASS land values for Clark County are $5,611 per acre. The state-specific factor for Nevada is 16 percent, which is less than the 20 percent minimum established in this rule. Therefore, the BLM applied a 20 percent reduction to the NASS land values, which results in a per acre value of $4,489. Based on this, Clark County is assigned to zone 7 (counties with zone values between $3,394.01 and $4,746 per acre). For the purposes of calculating the acreage rent, the BLM will use the value for zone 7, which is $4,746 per acre.

The following paragraph is an acreage rent example describing the acreage rent for solar energy development.

Acreage rent example: The 2016 acreage rent for a 4,000 acre solar energy development in Clark County Nevada (zone 7) would be $ 1,021,480 (4,000 acres × $255.37 per acre). Please note that the acreage rent calculation rounds the per acre dollar amount for the county to the nearest cent. In this example ($4,746/acre × 100% × 5.27% × 1.021%) is rounded to $255.37 per acre.

As specified in new section 2806.52(a)(3), the initial assignment of counties to the zones on the solar energy acreage rent schedule is based upon the NASS Census data from 2012 and is established for year 2016 through 2020. Subsequent reassignments of

counties will occur every 5 years following the publication of the NASS Census as is described in section 2806.21.

Comment: The BLM received comments expressing concern that the assignment of some counties or regions to zones on the solar acreage rent schedule may not accurately reflect the value of those lands.

Response: The BLM recognizes that it may be necessary to adjust the initial assignment of counties to zones on the solar energy acreage rent schedule. Section 2806.52(a)(3) of the final rule is revised to clarify that the BLM may, on its own initiative or in response to requests, adjust initial NASS survey data-based county assignments on a regional basis if it determines that assignments based solely on NASS data do not accurately reflect the values of the BLM lands in question. A similar clarification was made to section 2806.62(a)(3).

Section 2806.52(a)(4) requires acreage rent payments each year, regardless of the stage of development or status of operations of a grant. Acreage rent must be paid for the public land acreage described in the right-of-way grant prior to issuance of the grant and prior to the start of each subsequent year of the authorized term. There is no phase-in period for acreage rent, which must be paid annually and in full upon issuance of the grant. In the event of undue hardship, a rent payment plan may be requested and approved by a BLM State director, consistent with section 2806.15(c), so long as such a plan is in the public interest.

Section 2806.52(a)(5) states that the BLM will adjust the per acre zone rates each year based on the average annual change in the IPD–GDP as determined under section 2806.22(a). The acreage rent also will adjust each year for solar energy development

grants issued under subpart 2804. The BLM will use the most current per acre zone rates to calculate the acreage rent for each year of the grant term, unless the holder selects the scheduled rate adjustment method under section 2806.52(d). The acreage rent for a solar energy development lease is adjusted under section 2806.54(a)(4).

This paragraph is revised in the final rule by removing "for authorizations outside of designated leasing areas, the BLM…" from the first sentence and replacing it with "We." This edit is consistent with the acreage rent adjustment provision for wind energy (see section 2806.62(b)(5)). It is necessary because the BLM may issue a grant inside a DLA in some situations (see section 2809.19) and the proposed section would have been inaccurate. This paragraph is also revised in the final rule by including the reference to the scheduled rate adjustment option, as described in section 2806.51 of this preamble.

Section 2806.52(a)(6) explains where you may obtain a copy of the current per acre zone rates for solar energy development (solar energy acreage rent schedule) from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M St, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. This paragraph is added so the public is aware of where to obtain a copy of the solar energy acreage rent schedule described under this section. The BLM also posts the solar energy acreage rent schedule online at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

Section 2806.52(b), "MW capacity fee," describes the components used to calculate this fee. Paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) explain the MW rate, MW rate schedule, adjustments to the MW rate, and the phase-in of the MW rate. As explained in IM 2016-122, electric and telephone facilities that qualify for financing

under the Rural Electrification Act must pay the MW capacity fee and other payments required under this rule, except the acreage rent.

Comments: Some comments noted uncertainty regarding the meaning or definition of words in the proposed rule, such as "MW capacity fee" and its component parts of the MW rate, MW hour price, net capacity factor, and rate of return.

Response: The BLM acknowledges that this rule introduces a number of new terms and concepts. The BLM attempted to clearly define these terms in section 2801.5(b). Some of the terminology is similar as some terms relate to the same general subject matter (e.g., MW capacity fee and MW rate). The BLM has revised the regulations and provided additional discussion in the preamble to help facilitate a better understanding of the rule and its requirements. For example, a more specific citation is provided in section 2806.52(b)(1) and other locations in the final rule to help readers better locate and understand the terms of the final rule. These revisions and terms are discussed in greater detail throughout the preamble for sections 2806.50 through 2806.68.

The MW capacity fee, as defined in section 2801.5(b), refers to payment, in addition to the acreage rent, for solar energy development grants and leases based on the approved MW capacity of the solar energy authorization. The MW capacity fee is the total authorized MW capacity approved by the BLM for a project**,** or an approved stage of development, multiplied by the appropriate MW rate. The MW capacity fee is prorated and must be paid for the first partial calendar year in which generation of electricity starts or when identified within an approved POD. This fee captures the increased value of the right-of-way for the particular solar-or wind-project use, above the limited rural or agricultural land value captured by the acreage rent. The MW capacity

fee will vary, depending on the size and type of solar project and technology and whether the solar energy right-of-way authorization is a grant (issued under subpart 2804) or a lease (issued under subpart 2809). The MW capacity fee is paid annually either when electricity generation begins, or as otherwise stated in the approved POD, whichever comes first. If electricity generation does not begin on or before the time approved in the POD, the BLM will begin charging a MW capacity fee at the time identified in the POD.

The POD submitted to the BLM by the right-of-way applicant must identify the stages of development for the solar or wind energy project's energy generation, including the time by which energy generation is projected to begin. The BLM will generally allow up to three development stages for a solar energy project. As the facility becomes operational, the approved MW capacity will increase as described in the POD. These stages are part of the approved POD and allow the BLM to enforce the diligence requirements associated with the grant.

Comments: Other comments suggested that a bid could include an alternative payment structure to the BLM over the life of the project. This alternative payment structure would replace the acreage rent and MW capacity fee described in this final rule. The comments further suggested that the BLM reduce costs to developers by eliminating the MW capacity fee, conducting regional mitigation planning for DLAs, and performing a majority of the work necessary for the NEPA and Section 7 (endangered species) reviews early in the process inside DLAs.

Response: As explained elsewhere in this preamble, the BLM has determined that the rule's multi-component payment structure, involving both an "acreage rent" and "MW capacity fee" constitute the full fair market value for the use of the public lands by

a wind and solar energy project. An alternative payment structure may not provide a fair return for the use of the public lands, and therefore, would be inconsistent with the BLM's obligations under FLPMA. The rule's structure is consistent with existing policy. That said, the final rule does allow the BLM to establish alternate fiscal terms for an individual project or region upon sufficient showing by an applicant that such alternative terms are justified. These alternative terms, if approved by the BLM, would be used in lieu of the default terms established by the rule inside and outside of designated leasing areas.

Under the rule's multi-component structure, the "acreage rent" represents the value of the raw undeveloped land, while the MW capacity fee represents the value for this particular commercial use of the public lands above and beyond the rural or agricultural value of the land in its unimproved state. Both are necessary components of obtaining the fair market value for the use of the public lands for wind and solar energy development. As explained above, this multi-component structure bears similarities to private land leases, which typically involve a land rent and royalty rate.

As suggested by the comments, the BLM does perform a majority of the work up front for the NEPA and Section 7 compliance processes for right-of-way leases inside DLAs. Mitigation work and costs may be identified in some cases before a competitive process occurs, such as in Dry Lake Valley solar energy zone in Nevada. The BLM held a competitive process in 2014 and reached a decision within 10 months of the auction. This was less than half the time it generally takes to process the project applications.

The BLM had great success in the Dry Lake Valley solar auction, at least in part, because there was a regional mitigation strategy in place. However, there may be

instances in the future where a mitigation strategy is not appropriate or necessary. The BLM will not include a requirement for mitigation strategies in this final rule, but will be consistent with its interim policy guidance for offsite mitigation (IM 2013-142).

Comments: Some comments argue that the value of land for purposes of renewable energy development should be determined exclusively by MW capacity fees or by fees based on the number of MWs actually produced and delivered, not by the right-of-way's acreage value.

Response: Under the final rule, the BLM does not calculate annual charges for solar and wind energy development by using only a MW capacity fee, as suggested by the comments. The BLM has determined that requiring an acreage rent and MW capacity fee is the best method, consistent with applicable legal authorities, for determining the appropriate value of a solar or wind energy development right-of-way. The BLM also notes that the MW capacity fee and acreage rent in the final rule have been discounted from comparable costs that are typically charged in the private sector to account for the cost to comply with the terms and conditions of the BLM's authorization (bonding, due diligence, etc.).

Comments: A comment suggested that the BLM treat solar and wind energy technologies the same when setting acreage rents and MW capacity fees. Another comment suggested that the BLM give additional consideration to the use of energy storage technologies when setting acreage rents and MW capacity fees.

Response: In the BLM's examination of the different energy generation technologies it was determined that some technologies, such as CSP, are generally more efficient (i.e., generate more energy using the same amount of sunlight) than other

technology types and often require that the site selected for development include certain specific characteristics, such as limited grade. This is evidenced by the average efficiencies of the various solar technologies as reflected in the capacity factors on the EIA's website. Since the efficiencies of PV and CSP technologies are inherent to the technologies and are, in part, related to the particular conditions of the land to be used, the BLM maintained this distinction in the final rule and did not implement the comment's suggestion on limiting the various solar technology MW capacity fees to a single non-distinct fee.

The BLM did reconsider how it considers storage when charging a MW capacity fee. The BLM will maintain the proposed net capacity factor for CSP with storage capacity of 3 hours or more. CSP is a technology which is generally engineered with storage, which increases the efficiency, but decreases overall net capacity. The BLM is confident, based on its experience, that this is the appropriate net capacity factor for this technology based on the technology currently deployed and available information.

However, the BLM does recognize that storage could have implications for other technology types as well. Based upon the premise that storage increases the efficiency of a project, the BLM requested that the National Renewable Energy Laboratory (NREL) provide a report on the status of energy storage in the United States. The BLM hoped to use this report to establish in the regulations an appropriate methodology for determining the value of storage for solar and wind projects on public lands. However, NREL's report noted that energy storage is an emerging and rapidly growing market, so there is not enough empirical data and commercial experience on storage to support an accurate calculation for valuing storage. Therefore, the BLM determined that it would be

premature to add energy storage values to the regulations at this time beyond the one provided for CSP with 3 hours of storage.

In this final rule, the BLM adds a new sentence under the definition of MW rate to explain that in the future, the BLM may establish a different net capacity factor on a case-by-case basis, such as when a project uses storage, and the BLM determines that the efficiency rating varies from the established net capacity factors in this final rule. For example, if a wind energy project includes storage in its design, the BLM may determine an appropriate net capacity factor for that project.

Section 2806.52(b)(1) identifies the "MW rate" as a formula that is the product of four components: The hours per year, multiplied by the net capacity factor, multiplied by the MWh price, multiplied by the rate of return. This can be represented by the following equation: MW Rate = H (8,760 hrs.) × N (net capacity factor) × MWh (Megawatt Hour price) × R (rate of return). The components of this formula are discussed here at greater length.

Hours per year. This component of the MW rate formula is the fixed number of hours in a year (8,760). The BLM uses this number of hours per year for both standard and leap years.

Net capacity factor. The net capacity factor is the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. A net capacity factor is used to identify the efficiency at which a project operates. The net capacity factor is influenced by several common factors such as geographic location and topography and the technology employed. Other factors can influence a project's net capacity factor. For

example, placement of a solar panel in the direction that captures the most sun may increase the efficiency at which a project operates. These other factors tend to be specifically related to a project and its design and layout. An increase in the net capacity factor is most readily seen when a developer sites a project geographically for the energy source they are seeking and utilizes the best technology for harnessing the power. An example of this is placing wind turbines in a steady wind speed location using a wind turbine designed for optimal performance at those wind speeds.

The efficiency rates may vary by location for each specific project, but the BLM will use the national average for each technology. Efficiency rates for solar and wind energy technology can be found in the market reports provided by the Department of Energy through its Lawrence Berkeley National Laboratory. For solar energy see "Utility-Scale Solar 2012" at http://emp.lbl.gov/sites/all/files/lbnl-6408e_0.pdf and for wind energy, please see "2012 Wind Technologies Market Report" at http://emp.lbl.gov/sites/all/files/lbnl-6356e.pdf. This rule establishes the net capacity factor for each technology as follows:

Technology Type	Net Capacity Factor
Photovoltaic (PV)	20 percent
Concentrated Photovoltaic (CPV) or Concentrated Solar Power (CSP)	25 percent
CSP w/Storage Capacity of 3 Hours or More	30 percent
Wind Energy	35 percent

As previously discussed in this preamble, the BLM has revised the proposed description of net capacity factor in this final rule. This final rule maintains the proposed net capacity factor for CSP with storage capacity of 3 hours or more at 30 percent. The

BLM adds in this final rule a description of the net capacity factor in the definition recognizing that as technology evolves, the BLM may determine a net capacity factor for a specific project on a case-by-case basis in the future, as appropriate. This will better allow the BLM to receive fair market value payment for use of the public lands in the rapidly changing storage market.

The BLM intends to periodically review the efficiency factors for the various solar and wind technologies.

In the proposed rule, the BLM considered basing the net capacity factors for these technologies on an average of the annual capacity factors listed by the EIA. The EIA posts an average of the capacity factors on its Web site at http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_6_07_b. However, the BLM decided not to go forward with this provision and removed it from the final rule because those annual capacity factors are not reviewed or confirmed by technical experts, such as those at the National Laboratories, and therefore, they are not a sufficiently reliable source of information on which to base the net capacity factor. Further, EIA may not continue to maintain and update this information in the future, and therefore, it may not be a viable source of information in the future.

MWh price. This component of the MW rate formula is the full 5 calendar-year average of the annual weighted average wholesale prices of electricity per MWh for the major trading hubs serving the 11 Western States of the continental United States. This wholesale price of the trading hubs is the price paid for energy on the open market between power purchasers and is an indication of current pricing for the purchase of power. Several comments were submitted concerning the MWh price.

Comment: One comment suggested that this component not be rounded to the nearest half cent.

Response: The BLM proposed to round the MWh price to the nearest 5-dollar increment. In other portions of the regulations the BLM rounds to the nearest cent. The proposed rule was explicit that the MWh price would be rounded to the nearest 5-dollar increment, but the final rule has been adjusted to round the MWh price to the nearest dollar increment. Rounding to the nearest dollar increment is consistent with current BLM practices for calculating annual payments. The BLM declined, however, to adopt the commenter's suggestion and round to the nearest half cent, because the MWh price is an estimated 5-year average of wholesale prices. Providing a more specific calculated MWh price could give a false precision to the actual rates provided by the BLM.

Comment: Another comment stated that we should not rely on the ICE trading hub as our source for data. Relying on a single vendor for determining the MWh price may lead to inaccurate fees if the vendor's data is inaccurate. There are other vendors that have current data available for the major trading hubs in the West as well.

Response: The proposed rule identified the ICE as the source of data to be used in calculating the MWh price. However, the final rule is revised to remove ICE as the only source of the major trading hub data in section 2806.52(b)(3)(i). Removing the specific source of data from the final rule is consistent with the proposed rule, in that the BLM has indicated that other sources may be used in the future should ICE stop providing such data. Furthermore, since publication of the proposed rule, the BLM became aware that the ICE no longer provides such market data for free to the public, but now offers these data under a paid subscription. Future updates to the MWh price may

use ICE or other similar purveyors of market data to determine the major trading hubs and the wholesale market prices of electricity. Under this final rule, the BLM is using market data from SNL Financial to calculate the 5-year average of the annual weighted average wholesale price per MWh.

Comments: Several comments requested an update of the MWh price and stated that any update being made should include language to identify the most recent full calendar year data and to remove the uncertainty of how the BLM will determine the most recent 5-year data with future updates. Commenters further indicated that the data used in calculating the MWh price were skewed to numbers higher than the true recent market average since market pricing for the year 2008 were much higher than the years preceding or following it.

Response: The BLM understands the concern regarding the intent to establish the MWh price using current market data. In the proposed rule, market data from calendar years 2008 through 2012 were used to determine the MWh price. In the final rule section 2806.52(b)(3)(i), the BLM updated the MWh price to reflect the most recent full 5 calendar-year data (that is, data from 2010-2014) from the major trading hubs located in the West.

In addition, the BLM adjusted provisions governing revisions to the MWh price to account for the fact that under section 2806.50, the BLM bills customers in advance for the following year. Specifically, the BLM revised the final rule so that the next update to the MWh price will occur for 2021, not 2020. This will allow the BLM to set the new price during 2020 using the most current market data for the previous five full years (2015-2019) without using the 2014 data twice. Market data for 2019 are not

expected to be available until early 2020. Once data are available, the BLM will calculate the new, 2021-2025 MW capacity fee using the full five calendar-year average of the market data for 2015-2019, and notify existing right-of-way holders of the new fee.

In addition to using years 2010 through 2014 in calculating the MWh price, and adjusting the provisions governing revisions to that price, the BLM also revised the final rule to require that the MWh price be rounded to the nearest dollar increment, as opposed to the proposed rule's approach of rounding up to the nearest five-dollar increment. The BLM made this change to avoid imposing a surcharge due solely to rounding. The BLM found that at the current MWh price, rounding to the nearest five-dollar increment could impose a surcharge of up to 5 percent, or $158 per MW of project capacity. Rounding to the nearest dollar increment will limit the surcharge without implying false precision.

Note that the current MW rate is $38 per MWh as calculated using wholesale market data from SNL Financial for the major trading hubs in the west. The calculation for the MWh price is described in more detail in following paragraphs with a table provided showing the averages for the trading hubs used in the calculation.

When calculating the MWh price, the BLM used the yearly average value for each of the major trading hubs that cover the BLM public lands in the West. The BLM then calculated the overall annual average yearly hub value for each of the years 2010-2014, and then averaged these five annual values to establish the MWh price. The average of the five annual average values for 2010 through 2014 is $38.07, so the BLM set the MWh price at $38.00.

Year	Mid-Columbia Hub	Palo-verde Hub	Four Corners Hub	Mead Hub	SP15-EZ CA Hub*	NP15 Hub	CA-OR Border Hub	West US	Avg.
2010	$35.86	$38.79	$40.13	$40.07	$39.86	$39.81	$38.80	$39.05	$39.05
2011	$29.48	$36.43	$36.66	$37.02	$36.78	$36.00	$32.93	$35.04	$35.04
2012	$22.90	$29.68	$30.59	$30.87	$34.86	$32.03	$27.09	$29.72	$29.72
2013	$37.59	$37.66	-	$39.84	$48.34	$43.97	$40.19	$41.27	$41.27
2014	$38.67	$42.42	-	$44.84	$51.13	$51.06	$43.48	$45.27	$45.27
2010-2015 Avg.									**$38.07**

Rate of return. The rate of return component used in the MW rate schedule reflects the relationship of income (to the property owner) to revenue generated from authorized solar or wind energy development facilities on the encumbered property. A rate of return for the developed land can range from 2 to 12 percent, but is typically around 5 percent, as identified in the appraisal consultation report completed by the Office of Valuation Services. These rates take into account certain risk considerations, i.e., the possibility of not receiving or losing future income benefits, and do not normally include an allowance for inflation.

An applicant seeking a right-of-way from the BLM must show that it is financially able to construct and operate the facility. In addition, the BLM may require surety or performance bonds from the holder to facilitate compliance with the terms and conditions of the authorization, including any payment obligations. This reduces the BLM's risk and should allow the BLM to use a "safe rate" of return, i.e., the prevailing rate on guaranteed government securities that includes an allowance for inflation. The BLM has established a rate of return that adjusts every 5 years to reflect the preceding

10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-tenth percent, with a minimum rate of 4 percent. Applying this criterion, the initial rate of return is 4 and 3 tenths percent (the 10-year average of the 20-year U.S. Treasury bond yield (4.32 percent), rounded to the nearest one-tenth percent).

This final rule is revised to round the rate of return to the nearest one-tenth percent to address a commenter's concern that BLM's usual rounding convention (rounding to the nearest one half percent) could result in rate jumps due only to rounding; rounding to the nearest one-tenth percent will limit the change in BLM's rates without giving a false impression of precision.

As provided under paragraph (b)(2) of this section, the MW rate schedule is made available to the public in the MW rate schedule for Solar and Wind Energy Development. The current MW rate schedule is available to the public at any BLM office, via mail by request, or at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

MW Rate Schedule for Solar and Wind Energy Development (2016-2020)

Type of Energy Technology	Hours per Year	Net Capacity Factor	MWh Price	Rate of Return	MW Rate 2016 - 2020
Solar - Photovoltaic (PV)	8,760	0.20	$38	0.043	$2,863
Solar - Concentrated photovoltaic (CPV) and concentrated solar power (CSP)	8,760	0.25	$38	0.043	$3,578
CSP with storage capacity of 3 hours or more	8,760	0.30	$38	0.043	$4,294
Wind – All technologies	8,760	0.35	$38	0.043	$5,010

For lease holders that choose the standard rate adjustment method, the periodic adjustments in the MW rate are discussed in connection with section 2806.52(b)(3).

Under that section, adjustments to the MW rate will occur every 5 years, beginning with the 2021 rate, by recalculating the MWh price and rate of return, as provided in paragraphs 2806.52(b)(3)(i) and (ii), respectively

Section 2806.52(b)(3)(i) requires that the MW rate be adjusted using the full 5 calendar-year average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States. The next update for the MW rate will use years 2015 through 2019, rounded to the nearest dollar increment. Following this methodology, the resulting MWh price will be used to determine the MW rate for each subsequent 5-year interval. The availability of data to establish the MWh price is described in this preamble in the discussion of the definition of MWh price, a component of the MW rate in section 2801.5(b).

As noted above, section 2806.52(b)(3)(ii) provides that when adjusting the rate of return, the BLM will use the 10-year average of the 20-year U.S. Treasury bond yield for the full 10 calendar-year period preceding the rate of return adjustment. The rate of return is rounded to the nearest one-tenth percent, and must be no less than 4 percent. In the final rule, the rate of return was calculated using years 2003 through 2012 of the 20-year U.S. Treasury bond yield (4.32 percent), rounded to the nearest one-tenth percent (4.3 percent). The rate of 4.3 percent will be used for calendar years 2016 through 2020. The rate of return will be recalculated every 5 years beginning in 2020, by determining the 10-year average of the 20-year U.S. Treasury bond yield for the previous ten calendar years (2010 through 2019, for 2020) rounded to the nearest one-tenth percent. The resulting rate of return, if not less than 4 percent, will be used to determine the MW rate for calendar years 2020 through 2024, and so forth. The 20-year U.S. Treasury bond

yields are tracked daily and are accessible at http://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=longtermrateAll.

To allow for a reasonable and diligent testing and operational period, under section 2806.52(b)(4)(i), the BLM will provide for a 3-year phase-in of the MW capacity fee for solar energy development grants issued under subpart 2804 of 25 percent for the first year, 50 percent the second year, and 100 percent the third and subsequent years of operations. The first year is the first partial calendar year of operations and the second year is the first full year. For example, if a facility begins producing electricity in June 2016, 25 percent of the capacity fee would be assessed for July through December of 2016 and 50 percent of the capacity fee would be assessed for January through December of 2017. One hundred percent would be assessed thereafter.

This BLM will apply the phase-in after electricity generation begins, or is scheduled to begin in the approved POD, whichever comes first. The proposed rule stated that the BLM would apply the phase-in "…after the generation of electricity starts." The BLM revised section 2806.52(b)(4)(i), from the proposed to final rule, for consistency with other sections, including 2806.52(b). The BLM made a corresponding revision to section 2806.62(b)(4)(i).

Under section 2806.52(b)(4)(ii), this rule explains the staged development of a right-of-way. Such staged development, consistent with the rule in section 2805.12(c)(3)(iii), can have no more than three development stages, unless the BLM approves in advance additional development stages. The 3-year phase-in of the MW rate applies individually to each stage of the solar development. The MW capacity fee is calculated using the authorized MW capacity approved for that stage multiplied by the

MW rate for that year of the phase-in, plus any previously approved stages multiplied by the MW rate.

Section 2806.52(b)(5) is added to this final rule to explain that the general payment provisions of subpart 2806, except for section 2804.14(a)(4), apply to the MW capacity fee. For example, section 2806.12 explains when and where a grant holder must pay rent. These requirements would also apply to the MW capacity fee. Although the MW capacity fee is charged to reflect the commercial utilization value of the public's resource, it is an annual payment required to the BLM and these general payment provisions will apply.

The final rule specifies that section 2804.14(a)(4) does not apply to the MW capacity fee. As explained in IM 2016-122, the MW capacity fee is not a rental fee, and therefore must be paid by electric and telephone facilities that qualify for financing under the Rural Electrification Act. A new section (see section 2806.62(b)(4)) that parallels this requirement is added into the wind energy provisions for consistency.

Section 2806.52(c) is included in the final rule in support of revisions the BLM has made to charge fairly for the use of solar and wind energy authorizations. See the comment discussion under section 2806.52(a) for further information.

Section 2806.52(c) describes how the BLM will reduce the acreage rent and the MW capacity fee. The BLM will compare the total annual payment of the acreage rent and MW capacity fee for 2017 to the base rent and MW capacity fee currently established by policy for the 2016 billing year. Any net increase in costs to a right-of-way holder will be reduced by 50 percent for the 2017 billing year. This one-year reduction is intended to ease the transition for grant holders from the current policies to this final rule.

If 2017 is the first year for which you make an annual payment, the phase-in described under section 2806.52(b)(4) will apply without the BLM implementation reduction of 50 percent. The rates established by policy will remain in effect until 2017 for rights-of-way that are not issued under subpart 2809 of this final rule in order to provide notice of the adjusted rent and fees to existing holders.

Section 2806.52(d) is added to this final rule to establish the method by which the BLM will perform scheduled rate adjustments for solar and wind energy grants. In order for scheduled rate adjustments to be applied to a grant, a grant holder must have selected the scheduled rate adjustment method and notified the BLM, as provided in section 2806.51 of the final rule.

Paragraph 2806.52(d)(1) specifies which rates will be used initially for the scheduled rate adjustments. For new grants, the BLM will use the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) in place when your grant is issued. For existing grants that are in place prior to the publication of this final rule, the BLM will use the per acre zone rate and MW rate in place prior to this rule's publication, as adjusted in paragraph (d)(6) of this section and discussed further in corresponding section 2806.52(d)(6) of this preamble.

Paragraph 2806.52(d)(2) specifies that the per acre zone rate will be adjusted in two ways: annually, the rate will adjust upward by the current average change in the IPD-GDP, as described in § 2806.22(b); and every five years, the rate will adjust upward by an additional 20 percent. In other words, under the scheduled rate adjustment method, per acre zone rates will be adjusted in years 1 through 5 by the IPD-GDP; in year 6, the BLM will apply a 20 percent increase to the year-5 rate. The same two-part adjustment

process will then repeat itself in years 6-10 (IPD-GDP) and year 11 (20%); years 11-15 (IPD-GDP) and year 16 (20%); years 16-20 (IPD-GDP) and year 21 (20%); years 21-25 (IPD-GDP) and year 26 (20%); and finally, years 26-30 (IPD-GDP). If the grant is renewed, the rates in place at the time of renewal, as identified in section 2806.52(d)(1), will be used to establish the initial rates for the term of the renewed right-of-way.

As explained previously in connection with section 2806.51, the BLM developed the scheduled rate adjustment method in response to concerns that NASS values in certain areas have the potential to jump significantly. To address this concern while ensuring the BLM obtains fair market value for these uses of the public lands, the BLM reviewed changes in national per acre land values in NASS and determined that making fixed rate adjustments of 20 percent every 5 years would reflect historical trends.

The BLM reached this conclusion as follows. The NASS values are released every 5 years, reflecting the increases and decreases in land values. Over a period of 10 years, land values could change drastically in some counties, but the national and western state average changes in land values over the 10-year period from 2003 and ending 2012 were an 80 percent and a 65 percent increase, respectively. For the BLM lands in the west, the range in land value changes were increases of 33 to 253 percent. The BLM determined from these findings that the scheduled rate adjustment method, including both the annual IPD-GDP adjustment and the every-five-year scheduled adjustment, should target an upwards adjustment of about 60 percent for every 10 year period.

To achieve this outcome, over the term of a grant, the BLM will make five 20-percent adjustments to the per acre zone rates, in years 6, 11, 16, 21, and 26. Compounded, these five 20-percent adjustments will result in a 150 percent increase in

the per acre zone rate over the 30-year life of the grant (on top of whatever increases are dictated by the annual change in IPD-GDP). This adjustment is within the identified historic range of changes in land values from NASS, which reflect a change between 99 and 759 percent over a 30-year period, and is also in line with industry's recommended rate increase of 4 percent per year (which amounts to 324 percent over a 30 year period, if compounded annually).

Paragraph 2806.52(d)(3) specifies that the MW rate will also increase by 20 percent every 5 years. The BLM reviewed national changes in power pricing since 1960 and determined that adjusting the MW rate by 20 percent every 5 years is appropriate. Since 1960, power pricing has increased by over 450 percent, but over the last 30 years, it has increased approximately 90 percent. Pricing trends show that power pricing seldom drops on an annual basis. The BLM will make 5 20-percent adjustments to the MW rate, which amounts to a 150 percent increase when compounded over the 30-year life of the grant. This 150 percent adjustment is in line with the 4 percent annual rate increase indicated by industry representatives. It is also in line with historical changes in power prices.

Paragraph 2806.52(d)(4) makes it clear that the scheduled rate adjustment option will enter into effect in year 1 of the rule, for both the acreage rent and MW capacity fee. The phase-in (see section 2806.52(b)(4)) and initial implementation (see section 2806.52(c)) sections apply only for grants to which the standard rate adjustment applies. Grant holders that select the scheduled rate adjustment method choose a defined payment stream over the variable rates that may be applied with the standard rate adjustment method. As such, phase-ins are not included with the scheduled rate adjustment method.

Paragraph 2806.52(d)(5) explains that if the approved POD provides for staged development of the project, the BLM will calculate the MW capacity fee in each year using the MW capacity approved for that stage.

Paragraph 2806.52(d)(6) specifies that the existing rates for grant holders that select the scheduled rate adjustment method will be adjusted for year 1. The adjustment reflects the fact that, due to this rulemaking process, the BLM did not make the rate adjustments called for under existing policy in either 2008 (for wind energy) or 2010 (for solar energy). If the BLM does not update the rates for existing grant holders as specified in this section, it could be as long as 12 years between rate updates. Accordingly, in year 1 of this rule, the BLM will increase the per acre zone rate for these grant holders by 20 percent plus the annual change in the IPD-GDP, as described in § 2806.22(b), and increase the MW rate by 20 percent. The scheduled rate adjustments will then be based off of these adjusted, year-1 rates.

No additional comments were received, nor were other changes made to this section of the final rule, except for minor changes to improve readability.

Section 2806.54 Rents and fees for solar energy development leases.

The title of this section is revised by removing "inside designated leasing areas." In conjunction with a previous comment, the BLM has made various edits to the final rule to improve readability. The difference between grants and leases is explained earlier in this preamble, so this language is unnecessary and potentially confusing.

The introductory paragraph to section 2806.54 requires a holder of a solar energy lease obtained through the competitive process under subpart 2809 to pay an annual acreage rent and MW capacity fee. The first-year of acreage rent must be paid in

advance, prior to BLM's issuance of a lease, and the MW capacity fee will be phased-in and calculated based on the total authorized MW capacity of the solar energy development. Rents or fees for solar authorizations will vary depending on the number of acres, technology employed by the solar development, and whether the right-of-way authorization is a grant or lease.

There are many similarities in the rent and MW capacity fee for leases and grants for solar development. This section references the rent and MW capacity fee of grants under subpart 2804, as appropriate, and provides further discussion on how the rent MW capacity fee for a lease differs from that of a grant. Unlike grants, leases issued under subpart 2809 will be charged the full amount of the acreage rent and MW capacity fee schedules once this final rule is effective as there are no existing solar energy development leases. Although the BLM held a competitive offer relating to solar energy development in the Dry Lake SEZ, the successful bidders submitted applications and received right-of-way grants.

Paragraph (a) of this section identifies the acreage rent for a solar lease, which will be calculated in the same way as acreage rent for solar grants outside a DLA (see section 2806.52(a)). The acreage rent for the first year of a lease must be calculated and paid prior to BLM's issuance of a lease. Zone rates and payment of the acreage rent are the same for leases as they are for grants. For the per acre zone rates, see section 2806.52(a)(1). For the assignment of counties, see sections 2806.52(a)(2) and 2806.52(a)(3). For the acreage rent payment, see section 2806.52(a)(4).

Consistent with other revisions in this final rule, the BLM added "This acreage rent will be based on the following:" at the end of paragraph 2806.54(a). This revision

makes it clear that the following paragraphs will be the basis for BLM's acreage rent for leases in DLAs.

Section 2806.54(a)(4) describes the adjustments to the acreage rent that may be made for a lease. Once an acreage rent is determined for a lease under paragraph (a) of this section, any adjustments in the annual acreage rent will be made at 10-year intervals thereafter – the first adjustment would be made in year 11 of the lease term and the next in year 21. During the 10-year periods, the acreage rent for a lease will remain constant and not be adjusted.

The BLM will, however, adjust the per acre zone rates of the acreage rent schedule each year based on the average annual change in the IPD–GDP, as described in section 2806.22(a). This annual adjustment will not be applied to the acreage rent payments for a lease until the next 10-year interval, where the payment will be recalculated using the current acreage rent schedule. The BLM will use the most current per acre zone rates to calculate the acreage rent when first determining a new lease's acreage rent or when recalculating the acreage rent for the next 10-year period of a lease, unless the holder selected the scheduled rate adjustment method under section 2806.54(d).

Section 2806.54(b) identifies the MW capacity fee for solar development leases, which will be calculated in the same way as the MW capacity fee for solar grants outside of a DLA. The phase-in of the MW capacity fee is different from grants. For an explanation of when the BLM requires payment of the MW capacity fee, see section 2806.52(b). For the MW rate, see section 2806.52(b)(1). For the MW rate schedule, see

section 2806.52(b)(2). For periodic adjustments in the MW rate, see section 2806.52(b)(3).

Reference to section 2806.52(b) has been added to the final rule. In conjunction with a previous comment, the BLM has made various edits to the final rule to improve readability. The BLM has explained when and how it will require payment and adding this specific citation will make this section more understandable.

Section 2806.54(c) describes the MW rate phase-in for solar energy development leases. Unless the holder selected the scheduled rate adjustment method under section 2806.54(d), the MW rate in effect at the time the lease is issued will be used for the first 20 years of the lease. The MW rate in effect in year 21 of the lease will be used for years 21–30 of the lease.

In order to improve readability in this section, the BLM provided a more specific citation to section 2806.52(b)(2). This should help direct the reader to the appropriate section of this final rule.

Section 2806.54(c)(1) provides for a 10-year phase-in of the MW capacity fee, plus the initial partial year, if any. For the first ten years of a lease, the MW capacity fee is calculated by multiplying the authorized MW capacity by 50 percent of the MW rate for the applicable type of solar technology employed by the project. The MW rate schedule is provided for under section 2806.52(b)(2). The phase-in applies to the MW rate for either solar or wind energy leases (see section 2806.64(c)).

Section 2806.54(c)(2) applies to the MW rate phase-in for years 11 through 20 of a lease. The MW capacity fee for years 11 through 20 will be calculated by multiplying the MW capacity by 100 percent of the MW rate.

Section 2806.54(c)(3) applies to the MW rate for years 21 through 30 of a lease. The MW capacity fee for years 21 through 30 will be calculated by multiplying the MW capacity by 100 percent of the MW rate. If the POD requires that electricity generation will begin after year 10 of the lease, the MW capacity fee will be calculated using section 2806.54(c)(2) or 2806.54(c)(3), as appropriate.

Comments: Some comments suggested establishing a low cost payment structure, which is different from that proposed. The suggested payment structure would include a phase-in during the first half of a project's life and then raise fees to regular (full) rates for all solar and wind leases. The payment structure could require an upfront cost payment, and then full costs only when financial costs are being incurred by the developer. An example would be to reduce payments to 10 percent of the gross lease rate for the first 15 years for a lease within a designated solar energy development leasing area.

Response: The BLM did not change the payment structure as suggested by the commenter. FLPMA requires that the BLM generally receive fair market value for the use of the public lands. The suggested low cost payment structure may not provide fair market value.

Comments: Some comments suggested removing the distinction between solar or wind technologies and their respective base rent or fees (i.e., wind is 30 percent and solar is 25 percent without differentiation between technologies). The comment also suggested that the BLM incentivize storage for solar facilities, to promote grid stability, by offering a reduced rate.

Response: The BLM's methodology for collecting fair market value through rents and fees is similar to market comparable practices from non-Federal lands. Use of a technology-specific net capacity factor is appropriate for determining the MW rate for solar and wind energy development. Further, the BLM is not responsible for directing a technology's costs or its success in the energy market. Intentionally setting rates below market values or without market support, such as by establishing a net capacity factor, is not appropriate for this final rule. These suggestions have not been incorporated into the final rule, and the language in the proposed rule is carried forward to the final rule, with some revision as noted in the discussion of section 2806.52(b).

Comment: Another comment recommends that if a MW capacity fee is adopted in the final rule for leases (issued under subpart 2809), the MW rate should be phased-in at 50 percent for the life of the lease; for grants (issued under subpart 2804), the MW rate should be phased-in over a 5- year period. The comment also recommends using the MW rate in effect when the lease or grant is issued without adjustment. PPAs are generally fixed for a term, usually 20 years. A developer places a higher premium on certainty and stability of the MW capacity fee over the potential for reduced rates in the future in case of a long-term downward trend in prices.

Response: The BLM is aware that certainty and stability are factors to consider when developing and establishing its rules. However, based on the BLM's experience, most solar and wind energy developments break even with the costs of constructing and operating a facility within 15 to 20 years after the start of generation of electricity. The BLM has taken this into account as part of its formulation of the MW rate updates and phase-in.

The MW rate is set when a lease is issued, and not updated until year 21 of the lease. The MW rate is phased-in for the first 10 years at 50 percent of the full rate, after which the MW rate is no longer phased-in. Any updates to the MW rate schedule will not result in an adjustment to leases during the 10-year phase-in or the first 20 years of the lease. Only at year 21 and each following 10-year interval will the MW rate adjust, using the currently established MW rate schedule.

A grant's MW rate, however, is set each year, beginning when a project starts generating electricity. The MW rate is phased-in for the first 3 years at 25/50/100 percent of the MW rate, respectively. The BLM will recalculate the MW rate schedule once every 5 years, at which time the next year's payment by a developer will adjust consistent with the updated MW rate schedule.

Section 2806.54(c)(4) describes the MW capacity fee of the lease if it were to be renewed. The MW capacity fee is calculated using the then-current MW rates at the beginning of the new lease period and remain at that rate through the initial 10-year period of the renewal term. The MW capacity fee will be adjusted using the then-current MW rate at the beginning of each subsequent 10-year period of the renewed lease term.

Under section 2806.54(c)(5), the rule provides for the staged development of leases. Such staged development, consistent with section 2805.12(c)(3)(iii), will have no more than three development stages, unless the BLM approved more development stages in advance. The MW capacity fee is calculated using the authorized MW capacity approved for that stage multiplied by the MW rate for that year of the phase-in, plus any previously approved stages multiplied by the MW rate as described in section 2806.54(c).

Section 2806.54(d) is added to this final rule to establish the method by which the BLM will perform scheduled rate adjustments for leases, similar to the scheduled rate adjustments for grants in section 2806.52(d). In order for scheduled rate adjustments to be applied to a lease, a lease holder must have selected the scheduled rate adjustment method, as required in section 2806.51.

Paragraph 2806.54(d)(1) specifies which rates will be used initially for the scheduled rate adjustments. The BLM will use the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) that are in place when your lease is issued.

Paragraph 2806.54(d)(2) specifies that the per acre zone rate will be increased every 10 years by the change in the IPD-GDP for the preceding 10-year period. (In contrast, the per acre zone rate for grants is adjusted every 5 years.) The 10-year average IPD-GDP change used for this increase is the same that is used to adjust the per acre rent schedule annually for linear rights-of-way under section 2806.22(b), except that it will be adjusted once cumulatively every ten years, rather than annually. For example, the current annual change in IPD-GDP is 2.1 percent, which would result in a roughly 21 percent change in year ten. In addition to the IPD-GDP change, a 40 percent increase every 10 years will be applied as part of the scheduled rate adjustment (in contrast to a 20 percent increase every 5 years for grants). The BLM will continue to apply this adjustment every 10 years (that is, in years 11 and 21 for the 30-year lease).

Similar to the approach taken for grants, the BLM reviewed changes in national per acre land values in NASS when establishing the 40 percent adjustment. Over the term of a lease, the BLM would make two adjustments to the per acre zone rates. These

two adjustments would compound on each other, for a cumulative increase of 96% over the 30-year life of the lease. This adjustment is within the identified change in land values from NASS and is also in line with industry's recommendation of an annual change in rates limited to no more than 4 percent. (A 4 percent annual increase, compounded annually over 30 years, amounts to a 324 percent increase over the life of the lease.) For further discussion on this, see the preamble discussion of section 2806.52(d)(2).

Paragraph 2806.52(d)(3) specifies that likewise, the MW rate will increase by 40 percent every 10 years. The BLM reviewed national changes in power pricing since 1960 and determined that 40 percent adjustments to the MW rate every 10 years are appropriate. Over the term of the lease, the BLM would make 2 adjustments to the MW rate (in years 11 and 21). These 2 adjustments would compound on each other for a cumulative increase of 96% over the 30-year life of the lease. This adjustment is within the identified range of power pricing changes and is also in line with industry's recommendation of an annual change in rates limited to no more than 4 percent. (A 4 percent annual increase, compounded annually over 30 years, amounts to a 324 percent increase over the life of the lease.) For further discussion on this, see the preamble discussion of section 2806.52(d)(3).

Paragraph 2806.54(d)(4) specifies that the phase in of the MW rate for standard rate adjustments in section 2806.54(c) does not apply to authorizations that are using the scheduled rate adjustments. Instead, for years 1 through 5 of a lease, plus any initial partial year, the MW capacity fee is 50 percent of the otherwise applicable solar rate.

This reduction is applied only to new leases and only during the initial term; the phase-in will not be applied to leases when renewed.

Like the phase-in period under the standard rate adjustment method, the initial MW capacity is also subject to a phase-in; however, it is shorter (a 5-year period instead of a 10-year period). Again, the purpose of the phase-in period is to provide a financial incentive to developers to use the public lands within their grant earlier (since the clock on the phase-in starts running at lease issuance, even though the obligation to pay the MW capacity fee does not attach until power generation commences). The BLM selected a 5-year phase-in under the scheduled rate adjustment method instead of the 10-year phase-in from section 2806.54(c) because of the difference in rate structures. Under the standard rate adjustment, the MW capacity fee will not adjust for the first 20 years of a lease term, and that initial rate is phased-in for the first half of that period (10 years). Under the scheduled rate adjustments, the rate adjusts every 10 years and the phase-in is provided for half of the initial rate period (5 years). Both the 10-year and 5-year phase-in are consistent with market practices.

Paragraph 2806.54(d)(5) explains that if the approved POD provides for staged development of the project, the BLM will calculate the MW capacity fee using the MW capacity approved for that stage. Only development stages in operation during the first 5 years of a lease will be phased-in.

MW capacity fee-example 1: The MW capacity fee for a 400-MW photovoltaic solar energy right-of-way grant would be $1,145,200 per year (400 MWs × $2,863 per MW), implemented over a 3-year period after the start of electricity generation. In the first partial year after start of generation in July for a solar energy right-of-way, the MW

capacity fee would be $143,150 (400 MWs × $2,863 per MW × 25 percent × 0.5 year); in the second year after the start of electricity generation, the MW capacity fee would be $572,600 (400 MWs × $2,863 per MW × 50 percent × 1 year); and in the third year after the start of electricity generation, and each year thereafter, the MW capacity fee would be $1,145,200 per year (400 MWs × $2,863 per MW × 1 year).

MW capacity fee-example 2: The MW capacity fee for a 400 MW concentrated PV or concentrated solar power right-of-way grant would be $1,431,200 per year (400 MWs × $3,578 per MW), implemented over a 3-year period after the start of electricity generation. In the first partial year assuming the start of electricity generation in January for a solar energy right-of-way, the MW capacity fee would be $357,800 (400 MWs × $3,578 per MW × 25 percent × 1 year); in the second year after the start of electricity generation, the MW capacity fee would be $715,600 (400 MWs × $3,578 per MW × 50 percent × 1 year); and in the third year after start of generation and each year thereafter, the MW capacity fee would be $1,431,200 per year (400 MWs × $3,578 per MW × 1 year).

MW capacity fee-example 3: The MW capacity fee for a 400 MW solar power right-of-way grant with a storage capacity of 3 hours or more would be $1,717,600 per year (400 MWs × $4,294 per MW), implemented over a 3-year period after the start of electricity generation. Assuming generation began in January, in the first partial year after the start of electricity generation, the MW capacity fee would be $429,400 for a solar energy right-of-way (400 MWs × $4,294 per MW × 25 percent × 1 year); in the second year after the start of electricity generation, the MW capacity fee would be $858,800 (400 MW × $4,294 per MWs × 50 percent × 1 year); and in the third year after

the start of electricity generation, and each year thereafter, the MW capacity fee would be $1,717,600 per year (400 MW × $4,294 per MWs × 1 year).

Acreage rent and MW capacity fee example for a solar energy development grant: The annual acreage rent and MW capacity fee for 2016 for a 400 MW photovoltaic solar energy development grant located on 4,000 acres in Clark County, NV after the phase-in period would be approximately $2,231,480. (The acreage rent of $1,021,480 (4,000 acres × $255.37 per acre) plus the MW capacity fee of $1,261,600 (400 MWs × $3,154 per MW) equals $2,283,080).

No comments were received and no changes are made from the proposed rule to the final rule.

Section 2806.56 Rent for support facilities authorized under separate grant(s).

Under this section, support facilities for solar development will be authorized under a grant. Support facilities may include administration buildings, groundwater wells, and construction laydown and staging areas. Rent for support facilities authorized under separate grants is determined using the Per Acre Rent Schedule for linear facilities under existing section 2806.20(c). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2806.58 Rent for energy development testing grant(s).

Comments: Several comments suggested that site- and project-area testing should be allowed for both solar and wind energy.

Response: The final rule now includes site- and project-area testing authorizations for both solar energy and wind energy. New section 2806.58 has been added in this final rule to incorporate this change. Changes in this section are consistent

with section 2806.68, which did not receive any comments, but was modified to remove the word "wind" from the naming of the type of grants to remain consistent with the types of authorizations that the BLM will issue.

Section 2806.58(a) describes the rent for any energy site-specific testing grant. A minimum rent is established as $100 per year for each grant issued. Under this paragraph rent is set by incorporating into the final rule the site-specific rent amount found in the BLM's IM No. 2009-043, as follows: Site-specific grants are authorized only for one site and do not allow multiple sites to be authorized under a single grant; however, a single entity may hold more than one site-area testing grant. If a BLM office has an approved small site rental schedule, that office may use the rents, so long as the rent exceeds the $100 minimum. Small site rental schedules are provided to the BLM from the Department's Office of Valuation Services and reflect accurate determination of market value. In lieu of annual payments for a site-specific testing grant, a grant holder may pay for the entire 3-year term of the grant. See sections 2801.9(d)(1) and 2805.11(b)(2)(i) of this preamble for further discussion of site-specific energy testing grants.

Section 2806.58(b) describes the rent for any energy project-area testing grant. A per-year minimum rent is established at $2,000 per authorization or $2 per acre for the lands authorized by the grant, whichever is greater. The appraisal consultation report by the Office of Valuation Services supports the rent established in this final rule. Project-area grants may authorize multiple meteorological or instrumentation testing sites. There is no additional charge or rent for an increased number of sites authorized under such grants. See sections 2801.9(d)(2) and 2805.11(b)(2)(ii) of this preamble for further discussion of project-area energy testing grants.

Section 2806.60 Rents and fees for wind energy rights-of-way.

Section 2806.60 requires a holder of a wind energy right-of-way authorization to pay annual rent and MW capacity fees for right-of-way grants issued under subpart 2804 and leases issued under subpart 2809.

As noted earlier in this preamble, there are similarities between rents and MW capacity fees for solar and wind energy, as well as between rents and MW capacity fees for authorizations issued under subparts 2804 and 2809. The BLM intentionally designed the rents and fees for solar and wind energy development projects to match as closely as possible in order to reduce the potential for confusion and misunderstanding of the requirements. The methodology for calculating rents, fees, phase-ins, adjustments, and rate proration is the same for wind as for solar. Many of the terms and conditions of a lease issued under this subpart will also be the same. No comments were received on this section, and no changes were made between the proposed and final versions of this section, other than those discussed in connection with section 2806.50 of this preamble.

Section 2806.61 Scheduled Rate Adjustment

Section 2806.61 is added to the final rule, consistent with section 2806.51 of this final rule. This section parallels 2806.51 with no substantive differences, except that this section applies to wind energy grants and leases instead of solar energy grants and leases. See section 2806.51 of this preamble for further discussion. Parallel changes are also made in sections 2806.62(d) and 2806.64(d) of this preamble. See sections 2806.52(d) and 2806.54(d) of this preamble for further discussion of those sections.

Section 2806.62 Rents and fees for wind energy development grants.

Section 2806.62 parallels section 2806.52, which discusses rents and MW capacity fees for solar energy development grants. The discussion on all components of the wind energy development grants duplicates the provisions for solar rents and fees, except for paragraph (a)(1) of this section which discusses the per acre zone rates and paragraphs (a)(6), (a)(7), and (b)(4)(iii) of this section, which discuss the BLM implementation of the new acreage rent and MW capacity fee. Revisions have been made to the requirements of this section consistent with comments on the proposed rule. See comments discussed under section 2806.52 for further information and details regarding the revisions made to the final rule.

Section 2806.62(a) addresses the acreage rent for wind energy development. See section 2806.52(a) for a discussion of acreage rent. The acreage rent is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate in effect at the time the authorization is issued. The annual zone rate is derived from the wind energy acreage rent schedule in effect at the time the authorization is issued.

Section 2806.62(a)(1) addresses per acre zone rates for wind energy development grants. The methodology for calculating the acreage rent is the same for wind as it is for solar, but wind and solar energy have different encumbrance factors. Solar energy projects encumber approximately 100 percent of the land, while wind energy projects encumber approximately 10 percent of the land. Therefore, for wind, the per acre zone rate is calculated using a 10 percent encumbrance factor instead of 100 percent encumbrance factor.

Under section 2806.62(a)(1), the initial per acre zone rate for wind energy projects is now established by considering four factors: the per acre zone value multiplied by the encumbrance factor multiplied by the rate of return multiplied by the annual adjustment factor. This calculation is reflected in the following formula – A x B x C x D = E, where:

"A" is the per acre zone value are the same per acre zone values described in the linear rent schedule in section 2806.20(c);

"B" is the encumbrance equaling 10 percent;

"C" is the rate of return equaling 5.27 percent;

"D" is the annual adjustment factor equaling the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS census data becomes available; and

"E" is the annual per acre zone rate. The BLM will adjust the per acre zone rates each year, based on the average annual change in the IPD-GDP, as described in section 2806.22(a). Adjusted rates are effective each year on January first.

Under section 2806.62(a)(2), counties (or other geographical areas) are assigned a Per Acre Zone Value on the wind energy acreage rent schedule, based on the State-specific percent of the average land and building value published in the NASS Census. The Per Acre Zone Value is a component of calculating the Per Acre Zone Rate under paragraph (a)(1) of this section. As specified in new section 2806.62(a)(3), the initial assignment of counties to the zones on the wind energy acreage rent schedule will be based upon the NASS Census data from 2012 and be established for calendar years 2016 through 2020. Subsequent reassignments of counties will occur every 5 years following

the publication of the NASS Census, as described in section 2806.21. State-specific percentage factors will be recalculated once every 10 years at the same time the linear rent schedule is updated, as described in section 2806.22(b).

Section 2806.62(a)(2) provides the calculation to establish a State-specific percent factor that represents the difference between the improved agricultural land values provided by NASS and the unimproved rangeland values that represent BLM land. The calculation for determining the State-specific percent factor is (A/B) – (C/D) = E, where:

"A" is the NASS Census statewide average per acre value of non-irrigated acres;

"B" is the NASS Census statewide average per acre land and building value;

"C" is the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

"D" is the total statewide acres in farms; and

"E" is the State-specific percent factor or 20 percent, whichever is greater.

The county average per acre land and building values that exceed the 20 percent threshold for solar and wind energy development are as follows for the BLM managed lands:

Table of State-Specific Factors and other Data for Applicable States

State	**Existing Regulations and Proposed Rule: nationwide 20 percent factors**	**Final rule State-by-State calculated factors**	**Final Rule State-specific factors**
Alaska	20%	12%	20%

Arizona	20%	49%	49%
California	20%	51%	51%
Colorado	20%	24%	24%
Idaho	20%	29%	29%
Montana	20%	12%	20%
Nevada	20%	16%	20%
New Mexico	20%	24%	24%
North Dakota	20%	5%	20%
South Dakota	20%	5%	20%
Oregon	20%	2%	20%
Texas	20%	-1%	20%
Utah	20%	54%	54%
Washington	20%	21%	21%
Wyoming	20%	16%	20%
Average	20%	21%	27%

The following table lists the paragraphs where the wind energy grant provision parallels the solar energy provision for the same topic. The discussion for each relevant wind energy provision is found in this preamble under the associated solar energy provision.

Topic	**Wind**	**Solar**
Acreage Rent	43 CFR 2806.62(a)	43 CFR 2806.52(a)
Per acre Zone Rate	43 CFR 2806.62(a)(1)	43 CFR 2806.52(a)(1)
Assignment of Counties	43 CFR 2806.62(a)(2)	43 CFR 2806.52(a)(2)

Initial Assignment of Counties	43 CFR 2806.62(a)(3)	43 CFR 2806.52(a)(3)
Acreage Rent Payment	43 CFR 2806.62(a)(4)	43 CFR 2806.52(a)(4)
Acreage Rent Adjustments	43 CFR 2806.62(a)(5)	43 CFR 2806.52(a)(5)
Obtain a Copy of Rent Schedule	43 CFR 2806.62(a)(7)	43 CFR 2806.52(a)(6)
MW Capacity Fee	43 CFR 2806.62(b)	43 CFR 2806.52(b)
MW Rate	43 CFR 2806.62(b)(1)	43 CFR 2806.52(b)(1)
MW Rate Schedule	43 CFR 2806.62(b)(2)	43 CFR 2806.52(b)(2)
MW Rate Adjustments	43 CFR 2806.62(b)(3)	43 CFR 2806.52(b)(3)
MW Rate Formula	43 CFR 2806.62(b)(3)(i)	43 CFR 2806.52(b)(3)(i)
Rate of Return	43 CFR 2806.62(b(3)(ii)	43 CFR 2806.52(b)(3)(ii)
MW Rate Phase-in	43 CFR 2806.62(b)(4)	43 CFR 2806.52(b)(4)
Scheduled Rate Adjustment	43 CFR 2806.62(d)	43 CFR 2806.52(d)
Initial Rates Used	43 CFR 2806.62(d)(1)	43 CFR 2806.52(d)(1)
Acreage Rate Adjustment	43 CFR 2806.62(d)(2)	43 CFR 2806.52(d)(2)
MW Rate Adjustment	43 CFR 2806.62(d)(3)	43 CFR 2806.52(d)(3)
MW Rate Phase-in	43 CFR 2806.62(d)(4)	43 CFR 2806.52(d)(4)
Stage of Development	43 CFR 2806.62(d)(5)	43 CFR 2806.52(d)(5)
Existing Grants	43 CFR 2806.62(d)(6)	43 CFR 2806.52(d)(6)

Section 2806.62(a)(6) is added to this final rule to explain that holders of wind energy development grants must pay acreage rent as described in section 2806.62(a), except that for holders of wind energy development grants, the acreage rent will be phased in as described in section 2806.62(c).

Section 2806.62(b)(4)(i) addresses the term of the MW rate phase-in. Paragraphs (b)(4)(i)(A), (B), and (C) of this section address the percentages of the phase-in. See section 2806.52(b)(4)(i) for a discussion of the term of the MW rate phase-in and paragraphs (b)(4)(i)(A), (B), and (C) for the percentages of the phase-in. No change is made to the final rule, other than the change made for consistency with section 2806.52(b)(4)(i).

New section 2806.62(b)(4)(ii) addresses the MW rate phase-in for a staged development. Paragraph (b)(4)(ii)(A) of this section addresses the percentages of the phase-in and paragraph (b)(4)(ii)(B) addresses the calculation of the rent for the phase-in of a staged development. See section 2806.52(b)(4)(ii) for a discussion of the MW rate phase-in for a staged development, paragraph (A) for the percentages of the phase-in, and paragraph (B) for the calculation of the rent for the phase-in of a staged development.

New section 2806.62(b)(4)(iii) states that the MW rate will be implemented as described in section 2806.62(c).

Comment: A comment noted that the BLM has not yet designated any wind energy zones or other preferred wind energy development areas that would become a DLA. Without any such areas designated for wind energy, the BLM's rule would put wind energy at a disadvantage in comparison to solar energy since wind energy would not be able to benefit from the incentives available for development in such areas.

Response: The BLM agrees that there are currently no wind energy development areas and that wind energy developers cannot yet benefit from the incentives provide for DLAs in subpart 2809 of this final rule. The BLM intends to establish wind energy DLAs in the future. However, this would be done through amending or revising a land

use plan, which can take several years. Therefore, the BLM has added section 2806.62(c) to this final rule to explain how the BLM will implement the acreage rent and MW capacity fee for wind energy grants.

Developers that submitted an application prior to the publication of the proposed rule would not have known the potential incentives for developing inside a DLA. This final rule provides a payment reduction to developers that had committed to a project on the public lands before this rule was proposed. However, developers that submitted applications after the publication of the proposed rule were aware of the BLM's proposed rule and incentives and knew that they did not qualify for these incentives.

Section 2806.62(c) implements this payment reduction. Specifically, section 2806.62(c) applies to all wind energy development grants that have made a payment for billing year 2016, or for which an application to the BLM was filed before September 30, 2014. This is explained in the following paragraphs.

Under paragraph 2806.62(c)(1) of this section, the BLM will reduce the acreage rent and the MW capacity fee. The BLM will compare the total annual payment of the acreage rent and MW capacity fee for 2017 to the total annual payment currently required by policy for the 2016 billing year. Any net increase in costs to a right-of-way holder will be reduced by 50 percent for 2017 billing year. This one-year reduction is intended to ease the transition for grant holders from the current policies to this final rule. If 2017 is the first year for which you make an annual payment, the phase-in described under section 2806.52(b)(4) will apply without an implementation reduction of 50 percent. The rates established by policy will remain in effect until 2017 for rights-of-way that are not

issued under subpart 2809 of this final rule in order to provide notice to existing holders of the adjusted rent and fees.

Section 2806.62(c)(2) explains how the BLM will implement the acreage rent and MW capacity fee for wind energy grants for which an application to the BLM was filed before September 30, 2014. In addition to the timely filing requirement, a grant holder must also have an accepted POD and cost recovery agreement established before September 30, 2014.

The BLM intends for this section to apply to applications that were filed before the BLM issued the proposed rule on September 30, 2014. Anyone who submitted an application before this date would not have known about the proposed requirements of the final rule, including updates to the payment requirements and the incentives for developing inside a DLA.

Under paragraph (c)(2)(i) of this section, the BLM will reduce the acreage rent of the grant for the first year by 50 percent. This reduction applies only to the first year's annual payment, even if it is for a partial year. If the BLM requires an upfront payment for the first partial year and next full calendar year, only the partial year will be reduced by 50 percent. The BLM may require such payment for the year in advance for rights-of-way authorized consistent with section 2806.12 of this final rule. No reduction will be applied to the acreage rent for the subsequent years of the grant.

Under paragraph (c)(2)(ii) of this section when the project has reached a point where the BLM requires a MW capacity fee payment, the MW capacity fee will be reduced by 75 percent for the first and second year and 50 percent for the third and fourth year of the grant. The first year is the initial partial year, if any, after electricity

generation begins. The fifth and subsequent years will be charged at 100 percent of the MW capacity fee. This reduction applies to each approved stage of development.

No further comments were received and no other changes were made to this section, beyond those that were already discussed in this preamble in connection with section 2806.52.

Section 2806.64 Rents and fees for wind energy development leases.

The title of this section was revised by adding "and fees" and removing "inside designated leasing areas." This was done to be consistent with the title of section 2806.54.

See section 2806.54 for a discussion of all components of rent for a wind energy development lease, except for section 2806.54(a)(1), which discusses the per acre zone rates. Section 2806.54(a)(1) does not apply to wind energy development grants and leases because solar and wind energy acreage rents are calculated using different encumbrance factors. Section 2806.64(a)(1) addresses the per acre zone rate for wind energy leases. See section 2806.54(a)(1) for a discussion of acreage rent.

Section 2806.64(a)(1) addresses per acre zone rates for wind energy leases. See section 2806.62(a)(1) for a discussion of acreage rent, which differs from solar energy development. The per acre rents are calculated using the methodology discussed in section 2806.62(a)(1), which reflects the 10 percent encumbrance factor for wind energy development.

The following chart lists the paragraphs where the wind energy lease provisions parallel the solar energy provisions for the same topic. The discussions for each relevant

wind energy provision are found in the preamble under the associated solar energy provision.

Topic	Wind	Solar
Acreage Rent	43 CFR 2806.64(a)	43 CFR 2806.54(a)
Per acre Zone Rate	43 CFR 2806.64(a)(1)	43 CFR 2806.54(a)(1)
Assignment of Counties	43 CFR 2806.64(a)(2)	43 CFR 2806.54(a)(2)
Acreage Rent Payments	43 CFR 2806.64(a)(3)	43 CFR 2806.54(a)(3)
Acreage Rent Adjustments	43 CFR 2806.64(a)(4)	43 CFR 2806.54(a)(4)
MW Capacity Fee	43 CFR 2806.64(b)	43 CFR 2806.54(b)
MW Rate	43 CFR 2806.64(b)(1)	43 CFR 2806.54(b)(1)
MW Rate Schedule	43 CFR 2806.64(b)(2)	43 CFR 2806.54(b)(2)
MW Rate Adjustments	43 CFR 2806.64(b)(3)	43 CFR 2806.54(b)(3)
MW Rate Phase-in	43 CFR 2806.64(c)	43 CFR 2806.54(c)
Years 1-10	43 CFR 2806.64(c)(1)	43 CFR 2806.54(c)(1)
Years 11-20	43 CFR 2806.64(c)(2)	43 CFR 2806.54(c)(2)
Years 21-30	43 CFR 2806.64(c)(3)	43 CFR 2806.54(c)(3)
MW Capacity Fee if Renewed	43 CFR 2806.64(c)(4)	43 CFR 2806.54(c)(4)
Scheduled Rate Adjustment	43 CFR 2806.64(d)	43 CFR 2806.54(d)
Initial Rates Used	43 CFR 2806.64(d)(1)	43 CFR 2806.54(d)(1)
Acreage Rate Adjustment	43 CFR 2806.64(d)(2)	43 CFR 2806.54(d)(2)
MW Rate Adjustment	43 CFR 2806.64(d)(3)	43 CFR 2806.54(d)(3)
MW Rate Phase-in	43 CFR 2806.64(d)(4)	43 CFR 2806.54(d)(4)
Stage of Development	43 CFR 2806.64d)(5)	43 CFR 2806.54(d)(5)

MW Capacity for a Staged Development	43 CFR 2806.64(c)(5)	43 CFR 2806.54(c)(5)
Rent for Support Facilities	43 CFR 2806.66	43 CFR 2806.56

No comments were received on this section, and no changes were made from the proposed to the final version of this section, beyond those discussed in connection with section 2806.54.

Section 2806.66 Rent for support facilities authorized under separate grants.

This section states that if a wind energy development project includes separate right-of-way authorizations for support facilities such as wells, control structures, staging areas, or linear rights-of-way (e.g., roads, pipelines, transmission lines, etc.), then the rent schedule will be determined using the Per Acre Rent Schedule for linear facilities found at section 2806.20(c). No comments were received on this section, and no changes were made from the proposed to the final version of this section, beyond those discussed in connection with section 2806.56.

Section 2806.68 Rent for energy development testing grant(s).

Section 2806.68(a) describes the rent for any energy site-specific testing grant. A minimum rent is established as $100 per year for each grant issued. Under this section, rent is set by incorporating in this final rule the site-specific rent amount from IM 2009-043, Wind Energy Development Policy. Site-specific grants are authorized only for one site and do not allow multiple sites to be authorized under a single grant; however, a single entity may hold more than one grant. If a BLM office has an approved small site rental schedule, that office may use the rent amount established in the small site rental

schedule, so long as the rent schedule charges more than the $100 minimum rent per year found in the regulations. Since small site rental schedules are provided to the BLM by the Department's Office of Valuation Services, they represent a third party determination of market value. In lieu of annual payments for a site-specific testing grant, a grant holder may pay for the entire 3-year term of the grant. See sections 2801.9(d)(1) and 2805.11(b)(2)(i) of this preamble for further discussion of site-specific energy testing grants.

Consistent with comments received and discussed under section 2801.9 of this preamble, the title of this section is changed from the proposed rule to read as shown above. A similar change was made for the title of paragraphs (a) and (b) of this section. These changes are made in order to ensure the headings of the rule are consistent with revisions to the final rule that will allow site-specific and project-area testing to be available for both solar and wind energy testing.

Section 2806.68(b) describes the rent for a wind energy project-area testing grant. A per-year minimum rent is established at $2,000 per authorization or $2 per acre for the lands authorized by the grant, whichever is greater. The appraisal consultation report by the Office of Valuation Services supports the rent amounts established in this final rule. Project-area grants may authorize multiple meteorological or instrumentation testing sites. There is no additional charge or rent for an increased number of sites authorized under such grants. See sections 2801.9(d)(2) and 2805.11(b)(2)(ii) of this preamble for further discussion of project-area energy testing grants.

No further comments were received on this section and no additional changes were made in the final rule.

Section 2806.70 How will the BLM determine the payment for a grant or lease when the linear, communication use, solar energy, or wind energy payment schedules do not apply?

Section 2806.70 is redesignated from existing section 2806.50 and is retitled as shown above. This section provides guidance on how the BLM determines the payment for a grant or lease when the linear rent schedule, the communication use rent schedule, the solar acreage rent and MW capacity fee provisions, or the wind acreage rent and MW capacity fee provisions are not applicable.

The title of this section is amended by replacing "rent" with "payment" in two places. This final rule introduces the concept of MW capacity fees, which are a payment to the BLM for the commercial utilization value of the public lands, above the rural land values. The term "payment" includes both rents and fees, which is why it was selected. No other change is intended by this revision.

The only other change to this redesignated section is that solar and wind energy rights-of-way are now included in the listed rent schedules. No comments were received and no other changes are made from the proposed rule to the final rule.

Subpart 2807— Grant Administration and Operation

Section 2807.11 When must I contact BLM during operations?

This section is revised to make it clear that you must notify the BLM when your use requires a substantial deviation from the issued grant. Under the changes made to section 2807.11(b), "substantial deviations" from the right-of-way grant now require an amendment to the grant. "Substantial deviations" include changing the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in

use for the right-of-way. Substantial deviations to a grant may require adjustment to a grant or lease rent and fees under subpart 2806, or bonding requirements under subparts 2805 and 2809.

Consistent with other revisions to the final rule intended to improve readability, the BLM revised paragraph (b) of this section to read as "the BLM's" instead of "our." This revision is intended to improve understanding of who the BLM is referring to in the final rule.

Comment: One comment asked the BLM to narrow the circumstances under which a right-of-way holder must notify the BLM, suggesting that these reporting requirements be limited to changes that necessitate an assignment under the standards identified in section 2807.21(h).

Response: The requirement to report changes in partners, financial conditions, or business or corporate status is a requirement of the existing regulations found under section 2807.11(c). Section 2807.11(c) was not proposed for revision and is not revised or redesignated by this final rule. In addition, the BLM must have accurate and up-to-date information about right-of-way holders in order to facilitate its management of the public lands.

Paragraph (d) of this section requires you to contact the BLM when site-specific circumstances or conditions result in the need for you to propose changes to an approved right-of-way grant, POD, site plan, or other procedures that are not substantial deviations in location or use. Examples of proposed "minor deviations" include changes in location of improvements in the POD or design of facilities that are all within the existing boundaries of an approved right-of-way. Other such proposed non-substantial deviations

might include the modification of mitigation measures or project materials. For purposes of this provision, project materials include the POD, site plan, and other documents that are created or provided by a grant holder. These project materials are a basis for the BLM's inspection and monitoring activities and are often appended to a right-of-way grant, which is why the BLM needs to understand any changes to those materials. The requested changes may be considered as grant or lease modification requests. Proposals for non-substantial deviations will require review and approval by the authorized officer or other appropriate personnel. The preliminary application review meetings found under section 2804.12 and public meetings found under section 2804.25 are not required for an assignment.

Paragraph (e) requires that right-of-way holders contact the BLM to correct discrepancies or inconsistencies.

Section 2807.17 Under what conditions may the BLM suspend or terminate my grant?

Section 2807.17(d) contains the provisions formerly located at section 2809.10. This section was redesignated in order to make room for the renewable energy right-of-way leasing provisions. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2807.21 May I assign or make other changes to my grant or lease?

Some revisions were made to this section in response to comments, which are discussed in the following paragraphs. A summary of other revisions to this section is included after these comments and responses.

Comments: Some comments noted confusion over the BLM's requirements for name changes and assignments, specifically, what constitutes a name change or assignment. Additionally, comments noted that mergers and acquisitions are not assignments and that a name change or assignment should not be the basis for or occasion on which the BLM redrafts the terms and conditions of right-of-way agreements.

Response: Section 2807.21 is revised to provide clarity on the BLM's requirements for assignments and name changes. Sections 2807.21(b) and (c) of the proposed rule have been combined into section 2807.21(b) in this final rule. As a result of these changes, several paragraphs are also redesignated in the final rule. The BLM agrees with commenters that name changes should not necessitate the rewriting of the terms and conditions of a right-of-way agreement.

The BLM disagrees with the commenter equating mergers and acquisitions with name changes. A merger or acquisition is different in character as they can result in material changes to the corporate structure under which a right-of-way grantee or leaseholder operators. Such changes can affect financial positions or the technical capability of a parent company. As a result, the BLM determined that it was appropriate to expand the definition of assignment in both the final and proposed rules to include changes in ownership and other related change in control transactions, including "mergers or acquisitions." However, recognizing that there are changes in corporate structure within the same corporate family that may technically constitute change in control transactions, but that do not implicate BLM's concern about technical and financial capability of a grant- or lease- holder's parent, the BLM has revised sections 2807.21(a)(2) and (b)(2) to clarify that change in control transaction within the scope of

that provision do not include transactions or restructurings within the same corporate family.

When a right or interest in a right-of-way grant or lease is assigned from one party to another, the involved parties are identified as the assignor and assignee. The BLM generally evaluates the assignee, the party that is intended to receive the right or interest, as if they were a new applicant. The BLM may determine that additional terms and conditions are required when assigning the right or interest and would include them as a term or condition of the grant at the time of assignment. New terms and conditions could include the requirement to bond the authorized facility, such as in the case when a potential assignee of a grant has a poor history of meeting the terms and conditions of a BLM grant, that may have not applied to the assignor. The evaluation and determination of whether new terms and conditions should be applied would occur when the BLM considers the proposed conveyance of a right-of-way.

Other revisions to the terms and conditions that may occur with assignments are those which the BLM retains authority to revise, such as rents, fees, bonding, and other revisions identified under section 2805.15(e). Section 2805.15(e) allows the BLM to amend the terms and conditions of a right-of-way grant or lease as a result of changes in legislation, regulation, or as otherwise necessary to protect public health or safety or the environment. Because any changes to the terms and conditions of a right-of-way grant or lease would occur after the completion of the agency action (the BLM's decision to approve the right-of-way), the BLM anticipates doing so through a separate action, generally initiated at the BLM's discretion and requiring its own decision-making process.

Updating corporate or individual filings within a State where only a name is changed, but the filing does not transfer a right or interest to another party, qualifies as a name change. Name changes for a right-of-way grantee or lessee do not require a NEPA analysis and the right-of-way would not be subject to revision. When changing a name, the BLM does not issue a new right-of-way grant or lease, but would re-issue the same right-of-way grant or lease with the new name on it. This is because the BLM would be dealing with the same entity to which it had originally authorized the right-of-way. Name changes are an administrative action taken by the BLM to update its records showing the proper name of the entity it has authorized. In the case of a name change, there is no assignment, in whole or part, of any right or interest in a grant or lease.

A name change would occur if an entity had filed paperwork with a State for a name change. Re-issuing a grant or lease with the new name would only provide the BLM an opportunity to notify the right-of-way holder of updated rent, bonding, or other such revised provisions made under section 2805.15(e).

Section 2807.21 is amended by revising the section heading and existing paragraphs (a), (d), and (f); adding paragraphs (b), (g), and (h); and making other appropriate redesignations of the remaining paragraphs. We are further revising this section with a few changes made in the final rule in response to comments, which will be explained in greater detail in the discussion of each specific paragraph. The heading for this section is changed from "May I assign my grant?" to read as "May I assign or make other changes to my grant or lease?" The existing regulations do not cover all instances where an assignment is necessary and the section is revised to address situations where assignments may not be required. The changes are necessary to: (1) Add and describe

additional changes to a grant other than assignments; (2) Clarify what changes require an assignment; and (3) Specify that right-of-way leases issued under part 2809 are subject to the regulations in this section.

Without the BLM's approval of a right-of-way assignment, a private party's business transaction would not be recognized by the BLM and this lack of recognition could hinder a new holder's management and administration of the right-of-way. This rule also clarifies the responsibilities of a grant holder should such private party transactions occur.

Paragraph (a) of this section is revised to describe two events that may necessitate an assignment: (1) A transfer by the holder of any right or interest in the right-of-way grant or lease to a third party (e.g., a change in ownership); and (2) A change in control involving the right-of-way grant or lease holder such as a corporate merger or acquisition.

Paragraph (a)(1) in this final rule is revised by removing the word "voluntary" when describing a transfer. There are some situations, such as bankruptcy, when a transfer may be involuntary. The BLM did not intend to exclude those circumstances from this section.

Paragraph (a)(2) is revised to remove reference to changes in status as a "wholly owned subsidiary." That provision created confusion and was removed. No additional comments were received and no further changes were made to this paragraph.

New paragraph (b) of this section is revised to clarify and remove ambiguities in this section of the rule that explains the circumstances that do not constitute an assignment, but may necessitate filing new or revised information. A change in the holder's name only does not require an assignment nor do changes in a holder's articles

of incorporation. However, sometimes a change in a holder's name or articles of incorporation may indicate that an assignment occurred. The BLM will review the documentation filed with it in order to determine if a transfer in part or whole of the right-of-way has occurred or a change in control transaction of the grant-holder or lease holder has occurred.

This section is revised from the proposed to the final rule to help further explain these situations more clearly to the public. The introductory text of paragraph (b) of this section is revised to clarify that even though an assignment may not be necessary, some circumstances may necessitate filing new or revised information. Paragraphs (b)(1), (b)(2) and (b)(3) of this section provide examples for when this filing may be necessary. Paragraph (b)(1) of this section is added to this final rule to explain that transactions within the same corporate family do not constitute an assignment. Paragraphs (b)(2) and (b)(3) of this section contain the provisions of proposed paragraphs (b) and (c) of this section with some minor revisions.

Existing paragraph (b) of this section is revised and redesignated as paragraph (c). As revised, this paragraph requires the payment of application filing fees in addition to processing fees. This revision promotes consistency between applications for assignments and other applications for rights-of-way. For example, the rule (at section 2804.12(c)(2)) now requires an application filing fee for solar and wind energy applications. As revised, new paragraph (c) also provides that the BLM will not approve any assignment until the assignor makes any outstanding payments that are due. This paragraph is revised from the proposed to final rule by adding a provision stating that preliminary application review meetings are not required for an assignment.

Comments: Some comments stated that the pre-application requirements for would be burdensome for an assignments, name changes or even renewals and suggested excluding those requirements for assignments, name changes and renewals.

Response: Sections 2807.21 (c) and 2807.21(h)(1) are revised to make clear that the pre-application (now known as preliminary application review) meetings are not required for assignments and name changes. No other revisions have been made to these paragraphs in response to this comment.

Existing paragraph (c) of this section is redesignated, unchanged, as paragraph (d) and is included in the final rule. Existing paragraph (d) of this section is revised and redesignated as paragraph (e). As revised, new paragraph (e) will except leases issued under revised 43 CFR subpart 2809 (i.e., right-of-way authorizations inside a DLA) from the BLM's authority to modify terms and conditions when it recognizes an assignment. This provision provides incentives for potential right-of-way lessee to develop lands inside DLAs.

The BLM revised the first sentence in paragraph (e) of this section from the proposed to final rule to clarify how an assignment is recognized. The BLM will approve an assignment in writing.

Comment: A comment requested clarification of the BLM's right to modify terms of a lease issued under subpart 2809. As written, the proposed rule would have prohibited the BLM from modifying a lease issued under subpart 2809 when approving an assignment. In addition, the comment requested clarification of the relationship between section 2805.15(e) and sections 2807.21 and 2887.11.

Response: The BLM agrees with this suggestion and in the final rule further clarification has been provided to show the relationship between section 2805.15(e) and this provision for leases issued under subpart 2809. Revised section 2807.21(e) now includes an additional statement to make clear that a lease will not be modified to include additional terms and conditions when approving an assignment, unless a modification is required under section 2805.15(e).

The BLM may, however, "require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable bond instrument" (see section 2805.20(a)) when approving an assignment. A bond is required for a right-of-way at the BLM's discretion and is always required for a solar or wind energy grant or lease. If a bond is required, the BLM must be certain that a bond is in place to ensure the protection of the public lands before approving an assignment.

In addition, section 2809.18(f) has been modified to be consistent with this provision. The statement that a lease will not be modified to include additional terms and conditions is specific to when the BLM completes an assignment. Under a separate action which may occur at the same time an assignment is completed, the terms and conditions may be modified if requested by a lessee pursuant to section 2805.12(e).

No revision has been made under 2887.11 on this matter since leases issued under subpart 2809 cannot be assigned under section 2887.11.

Redesignated section 2807.21(f) provides that the BLM will process assignment applications according to the same time and conditions as in section 2804.25(d). This provision was formerly identified in the regulations as paragraph (e) of this same section. This provision applies the BLM's customer service standard to processing assignment

applications. This paragraph has been revised to update the referenced citation, consistent with the revisions made to the final rule under section 2804.25.

Section 2807.21(g) explains that only interests in right-of-way grants or leases are assignable. A pending right-of-way application cannot be assigned. A revision is made to the second sentence of this paragraph, to be consistent with changes made under section 2804.30(g), that clarifies that competitively gained applications held by a preferred applicant do provide a right and interest in the public lands. This revision is made here to be consistent with similar changes made under section 2804.30(g).

Section 2807.21(h) addresses how a holder informs the BLM of a name change when the name change is not the result of an underlying change in control of a grant. These procedures are necessary to ensure that the BLM can send rent bills or other correspondence to the appropriate party. This new provision addresses several specific circumstances. For example, it requires any corporation requesting a name change to supply: (1) A copy of the corporate resolution(s) proposing and approving the name change; (2) A copy of the acceptance of the change in name by the State or Territory in which it is incorporated; and (3) A copy of the appropriate resolution(s), order(s), or other documentation that shows the name change. Under this provision, the BLM could also modify a grant, or add bonding and other requirements, including additional terms and conditions when recognizing such changes. However, the only way that the BLM may modify a lease issued under subpart 2809 would be in accordance with section 2805.15(e), or as otherwise described in the regulations. Such modifications under section 2805.15(e) would be a result of changes in legislation, regulation, or to protect

public health, safety, or the environment. Any such name change would be recognized in writing by the BLM.

Section 2807.21(h)(1) was modified from the proposed to final rule to improve readability. The first and second sentences were combined and "preliminary application review and public meetings" were added to the list of exempted requirements during a name change only. This change was made to remain consistent with revisions made under section 2807.21(b), which excludes applications for assignments from preliminary application review meetings and public meetings for solar or wind energy development projects and transmission lines with a capacity of 100 kV or more.

The BLM revised paragraph (h)(2) of this section from the proposed to final rule in order to clarify the differences in how a grant and lease may be modified during a name change. The BLM added new paragraphs (h)(2)(i) and (h)(2)(ii) in order to more clearly separate these situations. Paragraph (h)(2)(i) of this section explains that the BLM may modify a grant to add bonding and other requirements when processing a name change only. However, under paragraph (h)(2)(ii) of this section, the BLM may modify a lease issued under subpart 2809 in accordance with section 2805.15(e). This is not a change from the requirements proposed rule, but it may not have been clear from the way it was phrased. The final rule is intended to prevent any possible confusion.

Generally, the BLM intends to make changes to a grant or lease during a name change only to reflect relevant changes consistent with section 2805.15 (e). This existing section explains the BLM's right to "[c]hange the terms and conditions of your grant as a result of changes in legislation, regulation, or as otherwise necessary to protect public

health or safety or the environment." The BLM will not make any other changes to lease issued under subpart 2809 as part of a name change only.

However, the BLM may take this opportunity to update other aspects of a grant, as appropriate. For example, under section 2805.20(a), "[t]he BLM will periodically review your bond for adequacy and may require a new bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or lease." The BLM may determine that additional actions are necessary, such as updates to the bond (see section 2805.20(a)) or the 10-year updates to the payment provisions (see sections 2806.54 or 2806.64. If the BLM determines that these actions are necessary, they will be taken separate from the name change only as appropriate.

Paragraph (h)(3) of this section is revised in this final rule to read: "Your name change is not recognized until the BLM approves it in writing." As proposed, the rule was not clear whether a name change would be recognized if submitted in writing to the BLM, or if approved in writing by the BLM. This revision makes it clear to readers of the final rule that it must be the BLM's approval in writing to recognize a name change.

Comments: Some comments recommend that the financial information of the original owner or its subsidiary may be used to meet financial qualification requirements of the grantee when assigning or changing the name on a grant or lease.

Response: The BLM will only accept the financial or technical information of the holder of the authorization. The holder is the legally responsible party for the right-of-way and will be held as such under the regulations and any subsequent authorization. However, substitution of one entity's financial and technical capabilities may be acceptable, provided that documentation showing the two entities are linked, such as in

the case of a subsidiary company where the parent company asserts the technical or financial responsibilities of the subsidiary. No revision to the rule was made in response to this comment. No other comments were received or changes made to the final rule.

Section 2807.22 How do I renew my grant or lease?

The title for section 2807.22 is revised by adding "or lease" to the end of the sentence so that leases issued under subpart 2809 are covered by this section. Likewise, paragraphs (a), (b), and (d) of this section are revised to include leases. Paragraphs (c) and (e) remain unchanged. A new paragraph (f) is also added to this section.

Paragraph (f) of this section explains how the BLM would ensure continued operations of a right-of-way during the renewal process. If a holder makes a timely and sufficient application for renewal, the grant or lease does not expire until the BLM acts upon the application for renewal.

The second part of this paragraph describes the circumstances in which the BLM would "reissue" a grant or lease instead of "renew" it. Most of the authorizations managed by the BLM are issued under FLPMA's authority, but some remaining authorizations were issued before FLPMA was enacted. In this situation, the BLM would reissue the grant under FLPMA's authority. Minor revisions are made to paragraph (f) to improve readability of this new paragraph.

This paragraph protects the interests of holders of rights-of-way who have timely and sufficiently made an application for the continued use of an authorization (see 5 U.S.C. 558(c)(1)), and is consistent with policy. In this situation, the authorized activity will not expire until the BLM evaluates the application and issues a decision. No comments were received and no other changes are made to the final rule.

Subpart 2809 Competitive process for leasing public lands for solar and wind energy development inside designated leasing areas.

Existing subpart 2809, which formerly consisted of a single regulation (section 2809.10) pertaining to Federal agency right-of-way grants, is revised and redesignated as new paragraph (d) of section 2807.17. Existing section 2809.10(b) explains that Federal agencies are generally not required to pay rent for a grant. This paragraph is removed, not redesignated, since existing section 2806.14(a)(2) already addresses rental exemptions for Federal agencies and, therefore, 2809.10(b) is no longer necessary.

Revised subpart 2809 is now dedicated to the competitive process for leasing public lands for solar and wind energy development.

Comment: Several comments raised concerns that the priority for handling solar or wind energy leases was unclear when compared to solar and wind grant applications under Part 2804.

Response: Application prioritization is discussed under section 2804.35 of this rule, which specifically states that leases issued under this subpart having priority over grant applications. A new section 2809.10(d) is added to the final rule, consistent with comments received and revisions made in section 2804.35, that clearly identifies the handling of leases issued under subpart 2809 have the highest priority with respect to solar and wind energy on the public lands.

Comment: Several comments suggest that regional mitigation strategies should be used for every designated leasing area and should be part of the land use planning process.

Response: BLM development of a regional mitigation strategy is not necessary prior to holding a competitive auction inside a DLA or otherwise authorizing solar or wind energy development. However, regional mitigation strategies further increase certainty to developers and stakeholders when considering a solar or wind energy development. The BLM believes that the regional mitigation strategies are a good tool to use when making decisions that would affect resources in certain areas, such as a DLA. Regional mitigations strategies provide a durable basis to evaluate mitigation for the impacted lands and the BLM may use such strategies when making land use planning decisions. The BLM is in the process of developing regional mitigation strategies for many SEZs, which qualify as DLAs under this final rule.

The BLM is currently in the process of establishing its mitigation policies and guidance, which include guidance for regional mitigation strategies. Consistent with this guidance, the BLM generally intends to prepare regional mitigation strategies, with opportunities for public review and engagement, before authorizing wind or solar energy development in DLAs, potentially including when the BLM designates DLAs in the future through land use planning.

Comment: One comment suggested that the BLM incorporate the FWS's Wind Energy Guidelines (WEG), which can be found on the Internet at http://www.fws.gov/ecological-services/es-library/pdfs/WEG_final.pdf, into the rule for pre-construction due diligence.

Response: The BLM did not revise the rule as a result of this comment. The BLM has a different scope of authority and responsibility in administering the public lands than the FWS and must take into account biological resources, cultural resources,

and land uses consistent with FLPMA's mandate that public lands be used for multiple use and sustained yield for current and future generations. This is different than the FWS's authority and objectives which do not have a multiple use mandate and generally require limited review for cultural resources. However, the BLM uses processes similar to the WEGs in the review and analysis of resources on the public lands. For wind energy site testing actions similar to steps 2 and 3 of the WEGs are completed prior to a BLM decision. Actions similar to steps 1 through 3 are incorporated into the BLM's processing of a development grant, as well as monitoring protocols that address similar issues as those in the steps of the WEGs.

Comments: Some comments suggest that all final granted right-of-way instrument terms and conditions, regardless of location, should be substantially the same, unless sufficiently justified.

Response: The BLM believes that it has adequate reason for differences in terms and conditions of the energy development projects issued as leases under subpart 2809, as compared to those issued as grants under subpart 2804. There are limited differences in leases and grants, which have been explained in great detail in this preamble. These differences are intended to incentivize development in DLAs, which the BLM has identified as preferred areas for solar or wind energy development, based on a high potential for energy development and lesser resource impacts. Consistent with SO 3285, which describes the need for strategic planning and a balanced approach to domestic resource development, the BLM believes that focusing solar and wind energy development in preferred areas would provide a benefit to the public by reducing potential resource conflicts.

The BLM identifies DLAs through its land use planning process, which requires the BLM to consider the effects of solar or wind energy developments in the area. Due to this prior planning process, the BLM is able to issue a lease almost immediately after holding an auction, because that type of use has already been approved for the area. Subsequent tiered NEPA analysis will generally be necessary for the BLM to evaluate the lease-holder's POD to ensure that it fits within the BLM's decisions before allowing development of the land.

Additionally, the rent and fee payment for leases issued under subpart 2809 are phased in over a longer period of time or updated less frequently than those issued under subpart 2804. The rent and fee payment structure is explained in more detail in sections 2806.50 through 2806.68 of this preamble. This difference in payment of the rent and fee allows the BLM to collect the determined fair market value of the public lands while incentivizing solar and wind energy development in DLAs over other public lands.

No other comments were received or changes made to the final rule for this section.

Section 2809.10 General.

Under section 2809.10, only lands inside DLAs will be available for solar and wind competitive leasing using the procedures under this subpart. Lands outside of DLAs may be offered competitively using the procedures under section 2804.35 of this rule. Under section 2809.10, the BLM may either include lands in a competitive offer on its own initiative or solicit nominations through a call for nominations (see section 2809.11).

A new paragraph (d) is added to this section in the final rule in response to comments on the proposed rule. Paragraph (d) states that the processing of leases awarded under this part will generally be prioritized ahead of grant applications, consistent with revisions made to section 2804.35, clarifying that leases generally have priority over grant applications. This revision is to show how the BLM will prioritize its handling of solar and wind energy development on the public lands. The BLM will generally prioritize leases because they are issued inside DLAs, which are the BLM's preferred areas for solar and wind energy development. The BLM recognizes that only a few wind energy DLAs have been identified to date, and therefore there are only limited opportunities for project proponents to obtain wind energy leases as opposed to grants. The BLM intends to consider this when prioritizing wind energy applications during this transition period, as the BLM develops additional wind energy DLAs. No other changes are made to the final rule for this section and no other comments were received.

Section 2809.11 How will BLM solicit nominations?

This section explains the process by which the BLM will request nominations for parcels of lands inside DLAs to be offered competitively for solar or wind energy development.

Under paragraph (a) of this section, "Call for nominations," the BLM requests expressions of interest and nominations for parcels of land located in a DLA. The BLM will publish a notice in the Federal Register for solar and wind energy development and may use other notification methods, such as a newspaper of general circulation in the area affected by a potential offer or the Internet. This final rule is revised to make notice in a newspaper an optional form of public notice. This section's public notice requirements

are consistent with revisions to other sections of this final rule and are described more fully in section 2804.23(c) of this preamble.

Paragraph (b) of this section, "Nomination submission," outlines the requirements for nominating a parcel of land for a competitive offer.

Paragraph (b)(1) of this section requires a payment of $5 per acre for the parcel(s) nominated. This payment is nonrefundable, except when submitted by an individual or company that does not meet the qualifications identified in section 2809.11(d). The average area of solar and wind grant or lease ranges between 4,000 and 6,000 acres. The $5 per acre fee is derived from an appraisal consultation report prepared by the Department's Office of Valuation Services and will be adjusted for inflation once every 10 years, using the change in the IPD-GDP for the preceding 10-year period. The appraisal consultation report provided a range of $10 - $27 per acre per year with the nominal range being $15 - $17 per acre as the fair market value for these uses of the public lands. The BLM is establishing the nomination fee below the indicated range in the analysis since the submission of a nomination does not ensure that the nominator would be the successful bidder.

The average annual change in the IPD-GDP from 2004-2013 is about 2.1 percent, which will be applied through 2025. The fee will be required only with a nomination and not on a yearly basis and this is noted under section 2809.11(b)(1). The nomination fee is lower than an application filing fee for grants issued under subpart 2804 in order to increase interest and encourage nominators to propose efficient use of the public lands inside DLAs. Payment of fair market value will be received through a combination of the bids (not including Federal administrative costs) received during a competitive process

and the rents and MW capacity fees described in sections 2806.50 through 2806.68 of this final rule.

Nomination fees are collected under Sections 304(b) and 504(g) of FLPMA as cost recovery fees. The nomination fees will reimburse the BLM for the expense of preparing and holding the competitive process for lands inside a DLA. Furthermore, the nomination allows the BLM to see specifically what parcel of land is of interest to a developer and would inform the BLM of parcel configurations for a competitive process. A variable offset may be offered for qualified bidders who submitted nominations. Variable offsets are discussed further in section 2809.16.

The BLM revised paragraph (b) of this section from the proposed to final rule to prevent confusion over how the BLM uses the IPD-GDP to adjust the nomination fees. This revision is consistent with the revision to section 2804.12(c)(2), which describes application filing fees. Both application filing fees and nomination fees may be adjusted once every 10 years. See the preamble discussion for section 2804.12(c)(2) for more information on this revision.

Paragraph (b)(2) of this section requires the nomination to include the nominator's name and address of record. This information is necessary for the BLM to communicate with the nominator about future leasing issues.

Paragraph (b)(3) of this section requires that a nomination be accompanied by a legal land description and map of the parcel of land in a DLA. This information will help the BLM in identifying parcels in the competitive offer.

Under paragraph (c) of this section, the BLM may consider informal expressions of interest. An expression of interest is an informal submission to the BLM, suggesting

that a parcel inside a designated leasing area be considered for a competitive offer. An expression of interest only provides a tentative bidder's interest in a parcel(s) of land located inside a DLA. If the expression of interest identifies a specific parcel, it must be submitted in writing, include the legal land description of the parcel, and a rationale for its inclusion in a competitive offer. There is no fee required to make an expression of interest, but submission does not qualify a potential bidder for a variable offset, as would formal nominations.

Under paragraph (d) of this section, you must qualify to hold a grant or lease under section 2803.10 in order to submit a nomination.

Under paragraph (e) of this section, a nomination cannot be withdrawn, except by the BLM for cause, in which case nomination monies would be refunded. This clause parallels language in the BLM's other competitive process regulations and encourages serious nominations for parcels on public lands.

Comments: Some comments stated that nomination fees, as discussed under section 2809.11(b)(1), should reflect the cost for the BLM to plan and conduct a competitive lease process. In addition, one comment recommended that the nomination fee be set at $5 per acre and be adjusted downward to a minimum of $2 per acre for large parcels. In the event the entity that nominates the parcel is not the successful bidder, then the nomination should be refunded to that party and assessed to the successful bidder.

Response: The BLM will maintain a flat rate fee for nominations. A tiered or sliding scale approach to such fees would create an unnecessarily complicated system. A flat fee ensures that such costs are consistent for each action and the expectation to meet the requirements are clear. In addition, nomination fees are kept as a non-refundable fee

because they are a cost recovery payment to the BLM for expenses the agency incurs. These fees would be used by the BLM to prepare and hold a competitive offer. Submission of a nomination demonstrates a developer's seriousness for use of an area. No other comments were received and nor changes are made from the proposed rule to the final rule.

Section 2809.12 How will BLM select and prepare parcels?

This section provides that the BLM will identify parcels suitable for leasing based on either nominations, expressions of interest, or its own initiative. Before offering the selected lands competitively, the BLM and as appropriate, other Federal or State entities, will conduct studies, comply with NEPA and other applicable laws, and complete other necessary site preparation work. This work is necessary to ensure that the parcels are ready for competitive leasing, to provide appropriate terms and conditions for any issued lease, to appropriately protect valuable resources, and to be consistent with the BLM's plan(s) for the area.

Paragraph (b) of this section is revised from the proposed to final rule by adding "as applicable" after "other Federal agencies." This revision clarifies that other Federal agencies will be involved, as applicable, but may not be involved on all projects. It may not always be necessary to include other Federal agencies and those agencies may not want to participate.

Comments: Some comments recommended that the BLM should include a procedural requirement in the regulation that a regional mitigation strategy must be completed before the initiation of a competitive leasing process. It is also suggested that this approach would benefit the project proponents with enhanced certainty regarding

compensatory mitigation costs. One comment specifically recommended the addition of the following text, "b) work, including applicable environmental reviews and public meetings and publish the availability of a final regional mitigation strategy, before . . . ."

Response: The BLM considered including a requirement to complete a regional mitigation strategy; however, the BLM did not revise the rule as a result of the comment because each competitive offer will vary based upon resource concerns, public, tribal, and developer issues, and government interests. The BLM is currently in the process of establishing its mitigation policies and guidance, which include guidance for regional mitigation strategies. Consistent with this guidance, the BLM intends to prepare regional mitigation strategies, with opportunities for public review and engagement, before authorizing wind or solar energy development in DLAs, potentially including when the BLM designates DLAs in the future through land use planning.

Section 2809.13 How will the BLM conduct competitive offers?

Under this section, the BLM may use any type of competitive process or procedure to conduct its competitive offer. Several options, such as oral auctions, sealed bidding, a combination of oral and sealed bidding, and others are identified in section 2809.13(a). Oral auctions are planned events where bidders are asked to orally bid for a lease at a predetermined time and location. Sealed bidding would occur when bidders are asked to submit bids in writing by a certain date and time. Combination bidding is when sealed bids are first opened and then afterward an oral auction would occur, with oral bids having to exceed the highest sealed bid.

Under paragraph (b) of this section, the BLM would publish a notice of competitive offer at least 30 days before bidding takes place in the Federal Register and

through other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the Internet. This section of the final rule is revised, consistent with revisions to other sections of this final rule, to make notice in a newspaper an optional method for public notice. See section 2804.23(c) of this preamble for further discussion of these revisions. Minor revisions are also made from the proposed to the final rule to paragraph (b)(5) of this section to improve readability. The word "factor" is added throughout paragraph (b)(6) of this section for the final rule. This is intended to help the reader understand that an offset factor is part of the variable offset that may be presented in the notice of competitive offer. A notice of competitive offer must include:

1. The date, time, and location (if any) of the competitive offer;
2. The legal land description of the parcel to be offered;
3. The bidding methodology and procedures that will be used in conducting the competitive offer, including any of the applicable competitive procedures identified in section 2809.13(a);
4. The required minimum bid (see section 2809.14(a));
5. The qualification requirements for potential bidders (see section 2809.11(d));
6. If applicable, the variable offset (see section 2809.16), including:

i. The percent of each offset factor;

ii. How bidders may pre-qualify for each offset factor; and

iii. The documentation required to pre-qualify for each offset factor; and

7. The terms and conditions to be contained in the lease, including requirements for the successful bidder to submit a POD for the lands involved in the competitive offer (see section 2809.18) and the lease mitigation requirements.

Section 2809.13(b)(7) is revised in the final rule to include in the terms and conditions of a notice of competitive offer any mitigation requirements, including those for compensatory mitigation to address residual impacts associated with the right-of-way. This revision is made to clarify where the BLM will incorporate mitigation in its administrative processes. Including mitigation requirements in this final rule is discussed in greater detail in the general comment and responses portion of this preamble.

Under paragraph (c) of this section, the BLM will notify you of its decision to conduct a competitive offer at least 30 days in advance of the bidding if you nominated lands and paid the nomination fees required by section 2809.11(b)(1). No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2809.14 What types of bids are acceptable?

Section 2809.14 explains the requirements for bids submitted under the competitive process outlined in this subpart.

Paragraph (a) of this section provides that your bid submission will be accepted by the BLM only if it included the minimum bid established in the competitive offer, plus at least 20 percent of your bonus bid, and you are able to demonstrate that you are qualified to hold a right-of-way by meeting the requirements in section 2803.10. Consistent with comments received and revisions made to the final rule, the words, "or lease" are added to this paragraph of the final rule to help improve its clarity. As proposed, the rule only referenced a grant, which is defined in these regulations to

include the term lease. For the final rule, language was added to make it clear that the qualifications to hold a lease are the same as to hold a grant.

Paragraph (b) of this section provides that a minimum bid will consist of three components. The first component is the amount required for reimbursement of administrative costs incurred by the BLM and other Federal agencies in preparing and conducting the competitive offer. Administrative costs include all costs required for the BLM to comply with NEPA plus any other associated costs, including costs identified by other Federal agencies. As mentioned in the general discussion section of this preamble, administrative costs are not a component of fair market value, but are used to reimburse the Federal Government for its work in processing a competitive offer and performing other necessary work.

The second component of the minimum bid is an amount determined by the authorized officer for each competitive offer. The BLM will consider known values of the parcel when determining this amount, which include, but are not limited to, the acreage rent and a megawatt capacity fee. The authorized officer will identify these factors and explain how they were used to determine this amount. The third component is a bonus bid submitted by the bidder as part of a bid package. This amount will be determined by the bidder.

Consistent with section 2804.30(e)(2)(ii) for notice of competitive offers outside of DLAs, the BLM has removed the reference to mitigation costs from section 2809.14(b)(2). Please see section 2804.30 of this preamble for further discussion on this topic.

In other BLM programs, the minimum bid is often a statutory requirement or is based on fair market value of the resource, but there are no statutory requirements for a minimum bid for the right-of-way renewable energy program. The acreage rent is based on the value of the land and the MW capacity fee is based on the value of the commercial use of the land. The BLM plans to base this minimum bid on factors such as these that are known values of the parcel. The minimum bid amount, how it was determined, and the factors used in this determination will be clearly articulated in the notice of competitive offer for each parcel.

A minimum bid is not a determination of fair market value, but a point at which bidding may start. Fair market value will be received through a combination of rent, MW capacity fees, and competitive bidding and this process will determine what the market is willing and able to pay for the parcel. Payment of cost recovery fees is also required, but is not considered a part of the minimum bid. The minimum bid is paid only by the successful bidder and is not prorated among all of the bidders.

As described in paragraph (c) of this section, a bonus bid consists of any dollar amount that a bidder wishes to bid, beyond the minimum bid. The total bid equals the minimum bid plus any additional bonus bid amount offered. If you are not the successful bidder, as defined in section 2809.15(a), your bid will be refunded.

Comments: Two comments were received pertaining to this section. The first comment states that the proposed rule does not provide an effective mechanism for incentivizing solar development in SEZs by eliminating or significantly reducing developer costs associated with NEPA compliance.

Response: There are significant incentives to developers for leases issued under subpart 2809, including the up-front land use planning and other environmental work that the BLM will complete and the certainty that after winning a competitive auction inside a DLA, a successful bidder would be awarded a lease. In addition, the BLM offers variable offsets, longer phase-ins for MW capacity fees, and greater time between acreage rent and MW capacity fees rate updates for leases issued under subpart 2809 that are not available for grants issued under subpart 2804.

Comment: The second comment stated that the BLM should not include the potential for lands to be developed for solar energy generation when determining the minimum bid for a competitive offer.

Response: Section 2809.14(b)(2) describes how the BLM will consider known and potential land values. While other competitive processes, such as the BLM's coal program, include a statutory requirement for the minimum bid, the BLM has no such requirement for the solar or wind energy programs. Therefore, the BLM determined that it would be appropriate to tie the minimum bid to the known values of the parcel being auctioned. These known values, such as the acreage rent, would reflect the potential for lands to be developed for solar energy. This minimum bid component will be explained in each notice of competitive offer.

Section 2809.15 How will the BLM select the successful bidder?

This section explains how the successful bidder is determined and what requirements they must meet in order to be offered a lease. The bidder with the highest total bid, prior to any variable offset, will be declared the successful bidder and may be offered a lease in accordance with section 2805.10. In paragraph (a) of this section,

"will" is changed to "may." The BLM will not offer a lease if the successful bidder does not meet the requirements described in paragraph (d) of this section. As written, paragraphs (a) and (d) of this section were inconsistent with each other and this revision is intended to resolve this inconsistency.

The BLM will determine the appropriate variable offset percentage by applying the appropriate factors identified in section 2809.16, before issuing final payment terms. The specific factors will be identified in the competitive offer. If you are the successful bidder, your payment must be submitted to the BLM by the close of official business hours on the day of the offer or at such other time as the BLM may have specified in the offer notice. Your payment must be made by personal check, cashier's check, certified check, bank draft, or money order, or by any other means the BLM deemed acceptable. Your remittance must be payable to the "Department of the Interior—Bureau of Land Management." Your payment must include at least 20 percent of the bonus bid prior to application of the variable offset described in section 2809.16, and the total amount of the minimum bid specified in section 2809.14(b). Within 15 calendar days after the day of the offer, you must submit to the BLM the balance of the bonus bid less the variable offset (see section 2809.16) and the acreage rent for the first full year of the solar or wind energy lease as provided for in sections 2806.54(a) or 2806.64(a), respectively. Submit these payments to the BLM office conducting the offer or as otherwise directed by the BLM in the offer notice.

In section 2809.15(d) of this final rule, the BLM revised "will approve your right-of-way lease" to "will offer you a right-of-way-lease." This change is for consistency in terminology with paragraphs (a) and (e) of this section, which refer to the offering of a

lease and not its approval. Under paragraph (e) of this section, the BLM will not offer a lease if the requirements of section (d) are not met. The BLM does not intend for this revision to change how it offers a lease to successful bidders.

Under section 2809.15(e), the BLM will not offer the successful bidder a lease, and will keep all money submitted, if the requirements of section 2809.15(d) are not met. In this circumstance, the BLM may offer the lease to the next highest bidder under section 2809.17(b) or re-offer the lands under section 2809.17(d). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2809.16 When do variable offsets apply?

Section 2809.16 provides that a successful bidder inside a DLA may be eligible for a variable offset of the bonus bid (in essence, a bidding credit), based on the factors identified in the notice of competitive offer. Variable offsets are not available outside of DLAs.

In providing for these offsets, the BLM intends to promote thoughtful and reasonable development based upon known environmental factors and impacts of different technologies. The BLM believes providing these offsets will increase the likelihood that a project is developed, expedite the development of that project, and encourage development that will result in lesser resource impacts from the right-of-way. Overall, the BLM believes the structure of these offsets will help encourage the production of clean renewable energy on public lands, which is a benefit to the general public.

Pre-qualified bidders may be eligible for offsets limited to no more than 20 percent of the high bid. Factors for a bidder to pre-qualify may vary from one

competitive lease offer to another and may include offsets for bidders with an approved PPA or Interconnect Agreement, among other factors.

For example, the BLM may apply a 5 percent offset factor to a bidder that has a PPA. This offset factor could encourage a bidder to secure an agreement before the offer, which could increase the likelihood of a project being developed and expedite the completion of such development. In the BLM's experience with solar and wind energy developments, a project is not always developed after a right-of-way is issued. Based on this experience, the BLM believes that it is appropriate to award an offset to a bidder with an agreement in place to sell power, because that bidder will be more likely to develop a project on the right-of-way. This could prevent the unnecessary encumbrance of a right-of-way being issued to a holder who never develops the intended project.

The BLM may also identify as an offset factor the submission of a plan showing a reasonable development scenario. For example, the BLM may apply a 5 percent offset factor to a bidder that would use a particular technology. The BLM may identify a preferred technology type that would reduce impacts to identified environmental or cultural resources on the proposed parcel.

The BLM anticipates selected factors for the offsets to be in increments of 5 percent. These will be reviewed at the BLM Washington Office for consistency and relevance prior to each competitive offer made in the first several years after publication of the final rule. The BLM intends to provide additional guidance on the use of these individual factors to ensure consistency between individual notices of competitive offer.

The BLM may offer a different percentage for each offset factor based on how qualified the bidder is for a specific offset factor. For example, the BLM may offer a 3

percent offset for an interim step in the PPA process or a 5 percent offset for a signed PPA. The BLM acknowledges that in some circumstances qualifying for these offsets may be difficult. For this reason, the BLM may offer incremental offset percentages to bidders that are working toward such qualifications. These offset factors (and their various increments) will be identified in the notice of competitive offer (see section 2809.13(b)(6)).

The notice of competitive offer will identify each factor for which BLM may grant a variable offset, and the corresponding maximum percentage offset that would be applied to a qualified bidder's bonus bid. The notice will also identify the documentation a bidder must submit to pre-qualify for the offset. The authorized officer will determine the total offset for each competitive offer, based on the parcel(s) to be offered and any associated environmental concerns or technological limitations.

As identified under paragraph (c) of this section, the factors for which the BLM may grant a variable offset in a particular lease sale include:

1. Power purchase agreement. This could be a signed agreement between the potential lessee and an entity that agrees to purchase the power generated from the solar or wind energy facility;
2. Large generator interconnect agreement. This would consist of a signed agreement from the holder of an electrical transmission facility and the potential lessee that power would be accepted on the grid controlled by the holder to be transported to a power receiving source;

3. Preferred solar or wind energy technologies. This would be an incentive to use technologies for generating or storing solar or wind energy that would efficiently use public lands or reduce impacts to identified resources such as water;
4. Prior site testing and monitoring inside the DLA. This would consist of evidence that the potential lessee or others associated with the lessee had previously performed appropriate testing or monitoring to determine the suitability and capability of the site for establishment of a successful solar or wind energy generating facility;
5. Pending applications inside the DLA. This would be a situation where the potential lessee had previously filed for authorization to construct facilities inside the DLA;
6. Submission of nomination fees. These are required when submitting a formal nomination (see section 2809.11(b));
7. Submission of biological opinions, strategies, or plans. This could include biological opinions, bird and bat conservation strategies, and habitat conservation plans;
8. Environmental benefits. This factor would include any positive environmental considerations such as identifying and salvaging archaeological or historical artifacts, additional protection for protected plant or animal species, or similar factors;
9. Holding a solar or wind energy grant or lease on adjacent or mixed land ownership. This could show the bidder's vested interest in developing the right-of-way;
10. Public benefits. These could include documented commitments or agreements to provide jobs or other support for local communities or supporting local public purposes projects; or

11. Other similar factors. These could include support for other Federal Government programs or national security by providing power for defense purposes or meeting government purchase contracts.

The only changes made in the listed variable offset factors between the proposed and final rule is for Factor Number 7, and those made for clarity and consistency in the final rule, are described in greater detail in the response to comments.

Comment: One comment requested that the BLM not use the variable offset concept, as it is unworkable and would result in appeals by rejected bidders.

Response: Throughout the preambles to the proposed and final rules, the BLM has explained DLAs and the various aspects of the competitive process for solar and wind energy in these areas. By creating incentives for prospective developers and encouraging various conditions that would lead to environmental and other public benefits, the use of a variable offset is an integral aspect of this process.

The BLM manages the public land under the principles of multiple use and sustained yield, but does not expect all interested stakeholders to agree with all of the BLM's decisions. This is, in part, the reason for the BLM's appeal process, allowing the public to seek an administrative remedy for the BLM's decisions by which they have been adversely affected. The BLM expects that there will be appeals or protests on decisions that are made regarding management of the public lands.

For each notice of competitive offer, the BLM will include the factor(s) of a variable offset, as well as the requirements a bidder must meet to qualify for each incremental percentage. Bidders, as well as the public, will have this information made available to them through the notice of competitive offer and be able to act according to

their interests or concerns over the proposed actions. The variable offset is carried forward in the final rule.

Comment: A comment expressed confusion over how the BLM would implement the proposed factor Number 7 (Timeliness of project development, financing and economic factors), and if the potential for meeting project timelines was even possible as a variable offset factor since the reduction in bid money would precede the demonstration of meeting agreed-upon time frames. Acts of God and other such influences that are outside the bidder's control were noted as possible reasons a bidder that received such a factor offset may not be able to meet it.

Response: Proposed factor number 7 for timeliness is removed from the final rule. The BLM agrees with the comment that implementing a timeliness factor would be difficult. There are many reasons outside of a winning bidder's control that may cause a delay to the development of a project. The proposed criteria for timeliness offset factor is a desired objective for an incentive, but was determined too difficult to enforce.

Comment: Another comment stated that the BLM must not shortchange taxpayers or other landowners through a discount that unjustly encourages development of public lands rather than comparable private lands. The BLM must ensure fair market value for the use of public lands.

Response: The variable offset is not a discount to a developer for the use of public lands. It is an incentive provided to a developer of the public lands, that accounts for certain steps a developer has already taken in a particular designated leasing area. Factors of the variable offset may also address the reduction of resource impacts, such as when a less water intensive technology is used. The variable offsets recognize these

early developer steps that could increase the certainty of the successful development of a lease area and assist the BLM in its management of the public lands under the multiple use and sustained yield principles. This increased certainty benefits the public by not having public lands unnecessarily encumbered by a lease that may not be developed and increases the likelihood that solar or wind power generation would occur on public lands.

Comment: A third comment believes that incentives for DLAs should be reached exclusively by reducing rents rather than a complicated structure of variable offsets, time limits, bonding provisions, authorization terms, and MW capacity fees, and that the BLM proposed incentives should be removed from the final rule. This comment specifically addressed some of the proposed factors as follows:

Comment (1): Factors 1 (Power purchase agreement) and 2 (Large generator interconnect agreement) cannot be attained without demonstrated site control.

Response (1): Although securing a PPA or large generator interconnect agreement (LGIA) may not be attainable without site control, the notice may identify interim steps toward meeting the requirements of the offset factor. The final rule allows for interim steps in each of these identified offset factors. The text of the rule cites that the "variable offset may be based on any of the following factors." The notice of competitive offer would include the specific criteria required to qualify for a factor of the variable offset under paragraphs (c)(1) and (c)(2) of this section, including any interim steps toward those factors.

Comment (2): Factor 3 (Preferred solar or wind energy technologies) for preferred technologies should be removed as it could discriminate against certain technologies

without having the expertise of an energy regulatory body (outside of the BLM's authority and expertise).

Response (2): The BLM has expertise in many areas, including the impacts that a certain a technology type may have on the public lands and its resources. This may include technologies with fewer impacts to wildlife or visual resources, or technologies that consume less water. The BLM may choose to provide a variable offset factor for a preferred technology that reduces impacts to the public lands and resources. However, in some cases, the BLM may choose to consult with one of the national laboratories or State authorities for their expertise for some technologies which may be outside of the BLM's expertise to determine as a preferred technology.

Comment (3): The comment asserts that under section 2809.19(a)(1), applications that are filed prior to the publication of the draft land use plan amendment that establishes a DLA should not make a bidder eligible for factors (4) (prior site testing in a DLA) and (5) (pending applications in a DLA). This would only encourage the strategic filing of speculative applications after publication of the draft land use plan amendment in order to qualify for factors (4) and (5).

Response (3): Applications that are filed on public lands before the publication of a notice of intent or other form of public notice by the BLM for a land use plan amendment that are later designated as a DLA will continue to be processed by the BLM and not subject to the competitive offer process of subpart 2809. The filing of speculative applications will not prevent the BLM from holding competitive offers in a particular area.

If the BLM elects to hold a competitive offer for the DLA, the applicant may qualify for offset factors (4) or (5) if they chose to participate. The BLM believes that submitting an application after a notice of intent or other public notice, paying the application filing fee, and waiting for the BLM to hold a competitive offer, should qualify an applicant for variable offset factor 4 or 5.

Comment (4): Factor 6 (submission of nomination fees) is not an incentive if a bidder can submit an expression of interest, which requires no fee, and increase their bonus bid by the amount of the nomination fee that they would have paid, thereby increasing their chances of being the winning bidder.

Response (4): Neither submitting an expression of interest nor submitting a nomination will guarantee that the BLM selects that parcel for a competitive offer. However, if a developer has a particular parcel in mind, the payment of a nomination fee may be preferable so that they may qualify for a variable offset factor. In addition, 5 percent of the bonus bid may result in greater savings to the bidder than the amount submitted for the nomination fees.

Comment (5): Factors 8 (environmental benefits) and 10 (public benefits) are open to distortion and variability across field offices.

Response (5): The BLM intends that in each notice of competitive offer it will identify each applicable variable offset factor offered and specify how a bidder may qualify for each factor. The criteria listed in the final rule are intended to be broad and varied so that they can be adapted for each competitive offer.

Factor 9 is revised from the proposed to the final rule to include grants. As proposed, the factor could appear to only apply for adjacent leases. In this final rule, the

BLM may authorize a grant under subpart 2804 inside a DLA, which may be adjacent to a parcel which is bid on. The parcel may also be adjacent to a grant that is outside the DLA. This revision clarifies that the BLM would consider the site control of adjacent lands, regardless of the instrument.

Comment: One comment suggests the following variable offsets be added: (1) A bird and bat conservation strategy for the project site; (2) A commitment to a specific right-of-way lease condition to obtain a bald and golden eagle protection act permit; (3) A plan to employ best available operation minimization strategies; and (4) agreement to: (a) Conduct monitoring and research with land-based WEG and Eagle Conservation Plan Guidance; (b) Provide this monitoring data to the public to facilitate a greater understanding to the wildlife impacts; and (c) implement avoidance measures to avoid impacts.

Response: A variable offset factor has been added in the final rule to account for biological opinions, strategies and plans. This factor has been added in the place of offset factor 7 which, as noted in an earlier response to comment, has been removed from this rule. New variable offset factor 7 reads as "Submission of biological opinions, strategies, or plans." This will encourage the early and thoughtful development of the public lands. To have such a plan or opinion completed at this point could lead to fewer biological resource impacts and quicker NEPA review of the project POD. The BLM does not expect many projects to complete a biological opinion at this point in the process, but interim steps toward such a plan would demonstrate the developer's commitment to protecting resources on public lands. Such interim steps could qualify a developer for

this factor of a variable offset, which would be described in the notice of competitive offer.

No other comments were received and no other changes are made to this section.

Section 2809.17 Will the BLM ever reject bids or re-conduct a competitive offer?

This section identifies situations where the BLM may reject a bid, offer a lease to another bidder, re-offer a parcel, and take other appropriate actions when no bids are received. Under section 2809.17(a), the BLM could reject bids regardless of the amount offered. Bid rejection could be for various reasons, such as discovery of resource values that cannot adequately be mitigated through stipulations (e.g., the only known site of a rare or endangered plant or for security purposes). If this occurs, the bidder will be notified and the notice will explain the reason(s) for the rejection and whether you are entitled to any refunds. If the BLM rejects a bid, the bidder may appeal that decision under section 2801.10. Minor revisions are made from the proposed to the final rule to improve readability of this section's title by adding the word "the" before BLM.

The BLM could offer the lease to the next highest qualified bidder if the first successful bidder is later disqualified or does not sign and accept the offered lease (see section 2809.17(b)).

Under paragraph (c) of this section, the BLM could re-offer a parcel if it cannot determine a successful bidder. This may happen in the case of a tie or if a successful bidder is later determined to be unqualified to hold a lease.

Under paragraph (d) of this section, if public lands offered competitively under this subpart receive no bids, the BLM could either reoffer the parcels through the competitive process under section 2809.13 or make the lands available through the non-

competitive process found in subparts 2803, 2804, and 2805. If the lands are offered on a noncompetitive basis, the successful applicant would receive a right-of-way grant issued under subpart 2804, rather than a lease issued under subpart 2809, and the offsets described in section 2809.16 would not apply.

Comment: A comment stated that the right to appeal a rejected bid must be qualified (i.e., not be a spurious appeal). The comment goes on to say that this may be remedied by the BLM: (1) prohibiting the issuance of a stay against a lease award while there is a pending appeal filed under section 2801.10; and (2) Specifying that a successful appeal would not rescind a lease award, but instead result in an automatic 20 percent offset for the next DLA competitive process in which the successful appellant participates.

Response: The BLM agrees that appeals should not be spurious or intended to disrupt the BLM's administration of the public lands. However, the BLM does not agree that it should prohibit the issuance of a stay in its regulations. The right to appeal a BLM decision, including the issuance of a stay, is an important part of the BLM's orderly administration of the public lands.

Should an appeal be successful in the IBLA, the BLM would not award a 20 percent variable offset to the appellant. A successful appeal may be grounds for a re-offer of the parcels or other similar action that would be consistent with the administrative status of the BLM decision that was appealed. Also, should a variable offset be awarded to successful appellants, it would likely incite further appeals from other unsuccessful bidders in the hopes to secure such a future credit. Therefore, the BLM will not provide for such variable offset awards in the rule for successful

appellants. No other comments were received or changes made to the final rule for this section.

Section 2809.18 What terms and conditions apply to leases?

Section 2809.18 lists the terms and conditions of solar and wind energy leases issued inside DLAs.

Under paragraph (a) of this section, the term of a lease issued under subpart 2809 will be 30 years and the lessee may apply for renewal under section 2805.14(g). While the BLM will issue grants under subpart 2804 for a term up to 30 years (see section 2805.11), leases issued under subpart 2809 are guaranteed a lease term of 30 years.

Under paragraph (b) of this section, a lessee must pay rent and MW capacity fees as specified in section 2806.54, if the lease is for solar energy development or as specified in section 2806.64, if the lease is for wind energy development. Rent and MW capacity fees are discussed in greater detail in sections 2806.50 through 2806.68 of the section-by-section analysis. Minor revisions are made from the proposed to the final rule to improve readability, but any significant changes are discussed in detail in this preamble.

Under paragraph (c) of this section, a lessee must submit, within 2 years of the lease issuance date, a POD that: (1) Is consistent with the development schedule and other requirements in the POD template posted on the BLM's website http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html; and (2) Addresses all pre-development and development activities. A POD is often required for rights-of-way under section 2804.25(c) of this final rule and is currently required for all renewable energy projects through policy. Due to their complexity, solar and wind energy

development projects will always require a POD. The POD must provide site-specific information that will be reviewed by the BLM and other Federal agencies in accordance with NEPA and other relevant laws.

Under paragraph (d) of this section, a lessee must pay the reasonable costs for the BLM or other Federal agencies to review and process the POD and to monitor the lease. The authority for collecting costs is derived from Sections 304(b) and 504(g) of FLPMA that authorize reimbursement to the United States of all reasonable and administrative costs associated with processing right-of-way applications and other documents relating to the public lands, and in the inspection and monitoring of construction, operation, and termination of right-of-way facilities. Such costs may be determined based on consideration of actual costs. A lessee may choose to pay full actual costs for the review of the POD and the monitoring activities of the lease. Through the BLM's experience, a lessee is more likely to choose payment of full actual costs as this expedites the BLM's review and monitoring actions by removing administrative steps in cost estimations and verifying estimated account balances.

Under paragraph (e) of this section, a lessee must provide a performance and reclamation bond for a solar or wind energy project. Bond amounts for leases issued under subpart 2809 will be set at a standard dollar amount (per acre for solar, or per turbine for wind) for either solar or wind energy development. See section 2805.20 of this preamble for additional information on the determination of these bond amounts. As explained in the general discussion section of this preamble, the BLM does not intend to change the amount of a standard bond after the lease is issued unless there is a change in

use. As previously discussed, these bond amounts were determined based on a review of recently bonded solar and wind energy projects.

Comments: Several comments were received on paragraph (e) of this section. One comment suggested that the BLM should require bonds that are tied to the actual cost of reclamation and mitigation of the project, rather than an arbitrary per acre or per project figure.

Response: It is the intent that these standard bond amounts would incentivize solar and wind energy development in DLAs. Reclamation of the lands in these DLAs is anticipated to be less than other locations outside of DLAs as the resource impacts are not expected to be as great, and the land could, in turn, be used for solar or wind development again if a developer failed to complete their lease obligation in developing the land. Additionally, consistent with its interim policy guidance for offsite mitigation (IM 2013-142)consistent with the recently issued mitigation manual and handbook guidance, the BLM intends to prepare regional mitigation strategies before authorizing wind or solar energy development in DLAs. These plans may identify additional costs for mitigating residual impacts of the right-of-way.

As noted in the preamble for section 2805.20, the minimum and standard bond amounts are the same. The BLM recently completed a review of existing bonded solar and wind energy projects and based the standard bond amounts provided in this final rule on the information found during this review. When determining these bond amounts, the BLM considered potential liabilities associated with the lands affected by the rights-of-way, such as cultural values, wildlife habitat, and scenic values, and the mitigation and reclamation of the project site. The BLM used this review to determine an appropriate

standard bond amount to cover the potential liabilities associated with solar and wind energy projects.

Comment: Another comment stated that both DLA and non-DLA bonding requirements should be the same. The BLM should use differences in rent to encourage development of DLAs.

Response: Bonding requirements for both grants issued under subpart 2804 and leases issued under subpart 2809 are established to protect the public lands. The requirements for leases are established using the same methodology as those minimum amounts established outside of a DLA. However, the standard bond amount recognizes that the impacts to resources and uses are likely to be less inside of a DLA than outside of a DLA, due to the BLM's effort to establish DLAs in areas where resource conflicts are expected to be lower. Furthermore, standard bond amounts increase the certainty for developers of costs when planning for and developing their project.

Comment: A comment recommended that the BLM reevaluate the standard bond amounts and identify a range commensurate with actual costs of decommissioning. The comment noted that the preamble to the proposed rule stated the range of solar bonding costs of $10,000 to $20,000 and wind bonding costs of $22,000 to $60,000. This comment asked if the minimum and standard bond amounts chosen at the bottom or below the stated ranges were adequate.

Response: The BLM has considered the recommendation to identify a range of standard bond amounts, but intends to keep these amounts as proposed. In order to accommodate the wind turbines that pose lesser risk to resources, and consistent with revisions made in section 2805.20, the BLM is including in the final rule a $10,000

standard bond amount for projects utilizing smaller turbines. Turbines with a nameplate capacity of one MW or greater will have a standard bond amount of $20,000, consistent with the proposed rule. This is because these amounts represent bond figures that are representative of the impacts to the resources of the public lands and the intended management decisions of DLAs for solar or wind energy development. Should a developer default or fail to fulfill the lease terms, the BLM may pursue a competitive offer to lease those lands again. The full amount of the bond may not be used in this situation. The balance will be returned to the previous leaseholder upon the completion of reclamation activities. See section 2805.20(d) comment responses of this preamble for further discussion on the added $10,000 bond amount.

BLM has determined that establishing the proposed standard bond amounts as proposed is appropriate. Using the proposed bond amounts reduces the potential for the BLM to secure bonds in amounts beyond what is necessary for the project. If a higher bond amount were selected, the BLM might over-bond the project, especially considering that the BLM has already identified these areas as having lower potential for resource impacts. Grant holders are still liable for damage done during the term of the grant or lease even if the bond amount does not cover the cost of reclamation.

The bonds collected for a project issued under subpart 2809 consider hazardous material liabilities, reclamation, and project site restoration. In addition to the required bond, BLM may require a mitigation fee to address adverse impacts resulting from the right-of-way authorization. Between securing the bond and collection of mitigation fees, the BLM believes that the impacts to the public lands are adequately protected.

A new provision (section 2809.18(e)(3)) has been added to this final rule to explain that lease holders for the testing sites that will be authorized under a lease in a DLA will provide a standard bond amount of $2,000 per site. This addition to the final rule is to make this section consistent with revisions to section 2801.9(d), which open up the site-specific and project-area testing authorizations to solar and wind energy. The standard bond amount for a lease issued under subpart 2809 is the same as a minimum bond amount in the proposed rule. Grants issued in a DLA for testing purposes will have a minimum bond amount as determined under section 2805.20. Testing and monitoring facilities include meteorological towers and instrumentation facilities.

For a solar energy development project, a lessee must provide a bond in the amount of $10,000 per acre at the time the BLM approves the POD. See the discussion at section 2805.20(b) for additional information. For a wind energy development project, a lessee must provide a bond in the amount of $10,000 or $20,000 per authorized turbine before the BLM issues a Notice to Proceed or otherwise gives permission to begin construction on of the development. See sections 2805.20(c) and 2805.20(d) of this preamble for additional information.

The BLM will adjust the solar or wind energy development bond amounts for inflation every 10 years by the average annual change in the IPD-GDP for the preceding 10-year period, and round the bond amount to the nearest $100. This adjustment would be made at the same time that the Per Acre Rent Schedule for linear rights-of-way is adjusted under section 2806.22.

The BLM revised paragraph (e)(4) of this section from the proposed to final rule for consistency with other sections of this final rule where the BLM uses the IPD-GDP to

adjust an amount every 10 years. See the preamble discussion of section 2804.12(c)(2) for further information about this revision

Under paragraph (f) of this section, a lessee may assign a lease under section 2807.21, and if an assignment is approved, the BLM would not make any changes to the lease terms or conditions, as provided in section 2807.21(e). See section 2807.21(e) of this preamble for further discussion of this topic, in response to a comment asking that we clarify the BLM's right to modify the terms of a lease issued under subpart 2809. We added language in paragraph (e) of this section to be consistent with section 2807.21(e) to state that changes made to a lease issued under this subpart will be made only when there is a danger to the public health and safety, environment, or a change to the statutory authority and other responsibilities of the BLM. These changes would only be made in coordination with the lessee.

Under paragraph (g) of this section, a lessee must start construction of a project within 5 years and begin generating electricity no later than 7 years from the date of lease issuance, as specified in the approved POD. The approved POD will outline the specific development requirements for the project, but all PODs require a lessee to start generating electricity within 7 years. The 5 years to start construction and 7 years to begin generating electricity contained in the rule should allow leaseholders time to construct and start generation of electricity and give a leaseholder time to address any concerns that are outside of the BLM's authority. Such concerns include PPAs or private land permitting or site control transactions. A request for an extension may be granted for up to 3 years with a show of good cause and BLM approval. If a leaseholder is unable to meet this timeframe, and does not obtain an extension, the BLM may terminate

the lease. No other comments were received or changes made to the final rule for this section.

Section 2809.19 Applications in DLAs or on lands that later become DLAs.

Section 2809.19 explains how the BLM processes applications for lands located inside DLAs or on lands that later become DLAs. Under the rule, lands inside DLAs will be offered through the competitive bidding process described in this subpart, and applications may not be filed inside these areas after the lands have been offered for competitive bid.

Section 2809.19 is revised from proposed to the final rule by adding a paragraph (a)(3) and redesignating proposed paragraphs (b) and (c) as paragraphs (c) and (d), respectively. The BLM also moved some provisions of proposed paragraph (a)(2) to a new paragraph (b). These changes are made to clarify how the BLM handles applications in areas that later become designated leasing areas. There is no change from the proposed requirements in the final rule.

Paragraph (a) of this section explains how the BLM will process applications filed for solar or wind energy development on lands outside of DLAs that subsequently become DLAs.

Under paragraph (a)(1) of this section, if an application is filed before the BLM publishes a notice of intent or other public announcement of intent for a land use plan amendment that considers designating an area for solar or wind energy, the BLM would continue to process the application, which would not be subject to the competitive leasing offer process found in this subpart. After publication of this notice, the public will have been notified of the BLM's intent to create a DLA.

Under paragraph (a)(2) of this section, if an application is filed after the notice of the proposed land use plan amendment, the application will remain in a pending status, unless it is withdrawn by the applicant or the BLM denies it or issues a grant. The BLM made a minor revision to this section from the proposed rule by adding "or issues a grant." This revision gives the BLM the option to approve a grant in pending status, if it chooses. This revision is made because the proposed rule inadvertently omitted the possibility that a pending application could be approved, instead of only being withdrawn or denied.

New paragraph (a)(3) of this section is added in this final rule to explain that applications may resume being processed by the BLM if lands in a DLA later become available for application. Under paragraph 2809.17(d)(2), the BLM may make the lands in a DLA available for application in some circumstances. For example, the BLM may hold a competitive offer and receive no bids. In this situation, the BLM may make these lands available for application and would resume processing any applications that are pending on these lands. This is consistent with the proposed rule but is added to the final rule to clarify how the BLM will handle such applications in these circumstances.

Some provisions of proposed paragraph (a)(2) of this section are moved into new paragraph (b) in this final rule. These provisions remain mostly unchanged and are discussed as follows.

Under new paragraph (b) of this section, if the subject lands become available for leasing under this subpart, an applicant could submit a bid for the lands. Under new paragraph (b)(1) of this section, any entity with an application pending on a parcel that

submits a bid on such parcel may qualify for a variable offset as provided for under section 2809.16.

Under paragraph (b)(2) of this section, the applicant may receive a refund for any unused application fees or processing costs if the lands described in the application are later leased to another entity under section 2809.15. This provision is revised consistent with changes made for application filing fees in this final rule, which are now a cost recovery payment. The BLM may use some of these fees in processing an application and will refund any unused fees to the applicant.

Proposed paragraph (b) of this section is redesignated as paragraph (c) in this final rule. Under paragraph (c) of this section, the BLM will not accept a new application for solar or wind energy development inside DLAs after the effective date of this rule (see sections 2804.12(b)(1) and 2804.23(e), except as provided for by section 2809.17(d)(2).

Proposed paragraph (c) of this section is redesignated as paragraph (d) in this final rule. Under paragraph (d) of this section, the BLM can authorize short term (3-year) grants for testing and monitoring purposes inside DLAs. These would be processed in accordance with sections 2805.11(b)(2)(i) or 2805.11(b)(2)(ii). These testing grants may qualify an entity for a variable offset under section 2809.16(b)(4).

Comment: One comment was received pertaining to paragraph (a)(1) of this section. The comment stated that the pending application exception in the paragraph requires clarification. A pending project exemption should be tied to a notice of intent rather than a notice of availability (NOA) to avoid a number of filings made immediately after publication of a notice of intent. Also, a pending project exemption should apply to

the potential competitive leasing of non-DLA lands under section 2804.30. In addition, the BLM should clarify that the rule would not apply to applications accepted and serialized or a grant issued before the rule takes effect.

Response: The BLM agrees in part with these suggestions. In this final rule, this section has been modified so that a notice of intent or other public notice will be the point at which the BLM determines that your application qualifies as a pending application. The notice of intent is specific to land use plan amendments that use an EIS for the analysis. Because a plan amendment may also be using an environmental assessment, which does not require a notice of intent, the BLM added the language, "other public announcement" into this section. The BLM believes that it is appropriate to continue processing applications that were submitted before the BLM provided public notice (e.g., through a notice of intent).

The final rule will apply to applications that are accepted and serialized as well as grants that are issued before this rule is effective. There may be exceptions to whether the rule will fully apply to an application or right-of-way grant. For example, application filing fees and preliminary application review meetings may not be required for some pending applications. Applications do not confer land use rights to an applicant, and other provisions of the rule such as rent and fees may be determined at the time a right-of-way is authorized, not at the time an application is submitted. Therefore, under the provisions of new section 2804.40 and 2805.12(e), you may request alternative requirements, stipulations, terms, and conditions from the BLM with a showing of good cause, and an explanation or reason for an alternative requirements, stipulations, terms, and conditions.

V. Section-by-Section Analysis for Part 2880

In addition to the revisions to its regulations governing rights-of-way for solar and wind energy development, the BLM is also revising several subparts of part 2880. These revisions are necessary to make rights-of-way administered under part 2880 consistent, where possible, with the policies, processes, and procedures for those administered under part 2800. Specific areas where we are making consistency changes include: bonding requirements; determination of initial rental payment periods; and when you must contact the BLM, including grant, lease, and temporary use permit (TUP) modification requests, assignments, and renewal requests. The BLM has removed the provision found in the proposed rule regarding pre application requirements and fees for any pipeline 10 inches or more in diameter from this final rule. This is because, based on further analysis and comments received, the use of a 10-inch diameter pipeline was found not to be an appropriate measure that could readily provide a basis for additional requirements.

This final rule adds Section 310 of FLPMA to the authority citation for this part to clarify that FLPMA authority may be used in processing a pipeline right-of-way. The MLA authorizes the Secretary to approve MLA pipeline rights-of-way that cross Federal lands when those pipeline rights-of-way are administered by the Secretary or by two or more Federal agencies. Where the Secretary authorizes a pipeline right-of-way across lands managed by the Secretary, including any bureaus or offices of the Department, other authorities applicable to the management of those lands would generally apply to the authorization. We have cited FLPMA specifically because that authority, governing

the management of the public lands generally, is the authority most commonly relied upon in such authorizations.

Subpart 2884—Applying for MLA Grants or TUPs

Section 2884.10 What should I do before I file my application?

In the proposed rule, this section included requirements for pre-application meetings when applying for a right-of-way for an oil or gas pipeline having a diameter exceeding 10 inches. Many comments were received concerning this proposal, including many comments stating that it was not a reasonable criterion to use in determining the need for pre-application meetings. After considering these comments and upon further evaluation of the proposal the BLM decided to not require these pre-application meetings. As a result, the proposed changes were not made to the regulations in this section.

Section 2884.11 What information must I submit with my application?

Section 2884.11 includes requirements for submitting applications. This section has been retitled from "What information must I submit in my application?" to read as shown above. This revision is consistent with the title revision of section of 2804.12. Proposed requirements for pipelines with a diameter of 10 inches or more have been removed from this section in the final rule.

Section 2884.11(c)(5) is amended by adding a second sentence that further explains that your POD must be consistent with the development schedule and other requirements that are noted on the POD template for oil or gas pipelines at http://www.blm.gov.

Comment: One comment suggested that paragraph (c)(5) of this section be revised to read as follows: "The estimated schedule for constructing, operating, maintaining, and terminating the project (a POD). Your POD must address the elements specified on the POD template for oil and gas pipelines at http://www.blm.gov." This suggestion would remove the requirement for the POD to be consistent with the development schedule in the POD template.

Response: The BLM did not make the suggested changes. The suggested revision to the rule would require that the applicant address each element of a POD, but would not require consistency with the POD template. This could allow a developer to acknowledge the development timeline, but not provide it to the BLM. It is important that applicants provide the necessary information to the BLM for the orderly administration of public lands, including the development schedule for the POD. No other comments were received and no changes are made from the proposed to the final rule.

Section 2884.12 What is the processing fee for a grant or TUP application?

Section 2884.12 explains the fees associated with an application, including those that involve Federal agencies other than the BLM. The applicant may either pay the BLM for work done by those Federal agencies or pay those Federal agencies directly for their work. This authority was recently delegated to the BLM by the Secretary by Secretarial Order 3327.

Paragraph (b) of this section revises the processing fee schedule to remove the 2005 category fees. Paragraph (c) of this section provides instructions on where you may obtain a copy of the current processing fee schedule. These changes parallel those made

to section 2804.14, which describe processing fees for grant applications. A further analysis of these changes can be found in that part of the section-by-section analysis. No comments were received and no, changes are made from the proposed rule to the final rule.

Section 2884.16 What provisions do Master Agreements contain and what are their limitations?

Section 2884.16 is revised to require that Master Agreements describe existing agreements with other Federal agencies for cost reimbursement associated with the application. This change parallels changes made in section 2804.18, which describes Master Agreements for all other rights-of-way. With the authority recently delegated by Secretarial Order 3327 to collect costs for other Federal agencies, it is important for the applicant, the BLM, and other Federal agencies to coordinate and be consistent regarding cost reimbursement. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2884.17 How will BLM process my Processing Category 6 Application?

Section 2884.17 explains how the BLM processes Category 6 applications and these changes parallel changes in section 2804.19. Under paragraph (e) of this section, the BLM may collect reimbursement for the United States for actual costs with respect to right-of-way applications and other document processing relating to Federal lands. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2884.18 What if there are two or more competing applications for the same pipeline?

Section 2884.18 parallels section 2804.23. Under paragraph (a)(1) of this section, the requirement to reimburse the BLM is expanded to allow for cost reimbursement from all Federal agencies for the processing of these right-of-way authorizations.

Under paragraph (c) of this section, the BLM may offer lands through a competitive process on its own initiative. Language is added to this paragraph to include "other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the Internet." This revision is consistent with other public notice sections of this rule. See section 2804.23(c) of this preamble for further discussion. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2884.20 What are the public notification requirements for my application?

Under section 2884.20, the phrase "and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet" is added to paragraphs (a) and (d) to provide for additional methods to notify the public of a pending application or to announce any public hearings or meetings. This final rule is revised, consistent with changes made to other notification language throughout this rule, to make notice in a newspaper an optional method of notice. See section 2804.23(c) of this preamble for further discussion. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2884.21 How will BLM process my application?

Under section 2884.21, the BLM will not process your application if you have any trespass action pending for any activity on BLM administered lands (see section 2888.11) or have any unpaid debts owed to the Federal Government. The only

application the BLM will process to resolve the trespass is for a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after all outstanding debts are paid. This provision is added to provide incentives for the applicant to resolve outstanding debts or other infractions involving the Federal Government and parallels section 2804.25.

New language is added to paragraph (b) of this section stating that outstanding debts are those currently unpaid debts owed to the Federal Government after all administrative collection actions have occurred, including administrative appeal proceedings under applicable Federal regulations and review under the APA. This language is added to be consistent with section 2804.25(d). No comments were received for section 2884.21, but comments were received and addressed under section 2804.25. The notification language contained in paragraph (d)(4) of this section is amended by adding the phrase "and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet." This section is revised, consistent with changes made to other notification language throughout this rule, to make notice in a newspaper an optional method of notice. See section 2804.23(c) of this preamble for further discussion.

Section 2884.22 Can BLM ask me for additional information?

Section 2884.22 describes what information the BLM may require in processing an application. This section was revised by changing the reference found in paragraph (a) from section 2804.25(b) to 2804.25(c). This change was not proposed, but is made to be consistent with other changes made in this final rule. No other changes were made to this section.

Section 2884.23 Under what circumstances may BLM deny my application?

Section 2884.23 describes the circumstances when the BLM may deny an application. In the proposed rule, section 2884.23(a)(6), stated that the BLM may deny an application if the required POD fails to meet the development schedule and other requirements for oil and gas pipelines.

Comment: Several comments suggested that the BLM remove the 10-inch pipeline threshold requirement in the proposed rule.

Response: As noted previously in the preamble, the BLM removed the proposed requirements for pipelines "10 inch or larger in diameter" from the final rule. This includes requirements such as the pre-application meetings, the POD timeline, and other such requirements that are specific to pipelines 10 inches in diameter or larger. The timeliness requirement, among others associated with the large-scale pipeline projects description has been removed from the final rule.

Comment: One comment stated that the BLM should account for instances when a developer does not meet the timeframe due to reasons outside of their control.

Response: The final rule adds a new section 2884.30 that parallels section 2804.40, both of which address situations in which a developer misses a timeframe or is unable to meet a requirement because of circumstances beyond its control. The preamble for section 2804.40 explains in greater detail the circumstances when an applicant may be unable to meet a requirement.

No other comments were received and no other changes made from the proposed rule to the final rule.

Section 2884.24 What fees do I owe if BLM denies my application or if I withdraw my application?

In the proposed rule, this section was consistent with section 2804.27. The proposed section would have required an applicant to pay any pre-application costs submitted under section 2884.10(b)(4). The BLM removed the "10 inches or larger in diameter" criteria used for determining large-scale pipeline projects from the final rule and as a result, requirements that are specific to large-scale pipeline projects are not carried forward in the final rule. This includes requirements such as the pre-application meetings, application submission, POD and other such requirements.

Section 2884.30 Showing of good cause.

This section was not in the proposed rule. It is added here to clarify that if you cannot meet one or more of the right-of-way process requirements for a MLA application, then you may: (a) Show good cause as to why you cannot meet a requirement; and (b) Suggest an alternative requirement and explain why that requirement is appropriate. This request must be in writing and received by the BLM before your deadline to meet a requirement(s) has passed. This section is added to respond to comments requesting a way to meet the intent of the regulation if an applicant believes that a requirement(s) cannot be met. Additional discussion can be found in section 2804.40 of this preamble.

Subpart 2885—Terms and Conditions of MLA Grants and TUPs

Section 2885.11 What terms and conditions must I comply with?

Section 2885.11 explains the terms and conditions of a grant. Paragraph (a) of this section is revised by adding the phrase "with the initial year of the grant considered

to be the first year of the term." This revision clarifies what BLM considers to be the first year of a grant. For example, a 30-year grant issued on September 1, 2015, will expire on December 31, 2044, and have an effective term of 29 years and 4 months. This is consistent with law, policy, and procedures. For all grants issued under parts 2800 and 2880 with terms greater than 3 years, the actual term will include the number of full years, including any partial year. The term for a MLA grant differs from the term for rights-of-way authorized under FLPMA, as FLPMA rights-of-way may be issued for periods greater than 30 years, while a MLA right-of-way may be issued for a maximum period of 30 years. If a 30 year FLPMA grant is issued on a date other than the first of a calendar year, that partial year will count as additional time of the grant (see discussion of section 2805.11 earlier in this preamble section).

A new sentence is added to the end of section 2885.11(b)(7) referencing new section 2805.20 that explains the bonding requirements for all rights-of-way. The introduction of this paragraph is revised consistent with the introduction made to paragraph 2805.20(a) that has the similar provision by which the BLM may require a bond. The introduction of this paragraph now reads: "The BLM may require that you obtain," instead of "If we require it…." This revision is for consistency within the final rule and its regulations.

Comments: Several concerns were raised about bonding requirements. One comment suggested that bonding should focus only on large scale operations (e.g., use a 60 acre or greater criterion), that right-of-way holders should be able to use liability insurance to satisfy bonding requirements, and asked that the rule make it clear that the new requirements would not affect existing operations.

Response: This final rule does not require bonding for any rights-of-way, except for solar and wind energy developments. As previously noted, the BLM has removed the criteria for large scale projects from this final rule. The BLM will continue to determine whether a bond is necessary and what the bond amount will be on a case-by-case basis.

In this final rule, the BLM accepts many bond instruments, including insurance policies. Insurance policies would include those that are issued for general liabilities of a company, individual, or organization.

The bonding provisions in the final rule apply to the grants that were issued before the effective date of this rule. The existing regulations require that a holder obtain or certify that they have obtained a bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property incurred in connection with the use and occupancy of the right-of-way or TUP area. The current regulations allow the BLM to adjust the bond requirements for any right-of-way grant or lease when a situation warrants it. These requirements in the existing rule are incorporated in this final rule and will continue to apply to existing and future grant holders.

Comments: Another comment suggested copying the bonding requirements from part 2800 into part 2880, instead of referring to the relevant requirements.

Response: The BLM intends to maintain the continuity of the regulations, as they currently exist. Section 2885.11(b)(7) refers to the terms and conditions in section 2805.12. This creates a consistent use of the regulations for the public as well as the BLM in its administration of the public lands. It is not necessary to duplicate the subpart

2805 regulations in part 2880. No other comments were received and no other changes made from the proposed rule to the final rule.

Section 2885.15 How will BLM charge me rent?

Section 2885.15 discusses how the BLM will prorate and charge rent for rights-of-way. Revisions to section 2885.15 clarify that there are no reductions of rents for grants or TUPs, except as provided under section 2885.20(b). Section 2885.20(b) is an existing provision under which a grant holder can qualify for phased-in rent. This section is revised to clarify existing requirements and add a cross-reference to another section of these regulations. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.16 When do I pay rent?

Revisions to section 2885.16 clarify that the BLM prorates the initial rental amount based on the number of full months left in the calendar year after the effective date of the grant or TUP. If your grant qualifies for annual payments, the initial rent bill consists of the beginning partial year plus the next full year. For example, the initial rent payment required for a 10-year grant issued on September 1 would be for 1 year and 3 months if the grant qualifies for annual billing. The initial rental bill for the same grant would be for 9 years and 3months if the grant does not qualify for annual billing. This is a new provision that parallels section 2806.24(c) and creates consistency in how all rights-of-way are prorated. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.17 What happens if I do not pay rents and fees or if I pay the rents or fees late?

Section 2885.17(e) parallels section 2806.13(e), which identifies when the BLM would retroactively bill for uncollected or under-collected rent, late payments, and administrative fees. The BLM will collect such rents if: (1) A clerical error is identified; (2) A rental schedule adjustment is not applied; or (3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

Comment: One comment pointed out that the titles of sections 2806.13(e) and 2885.17(e) were not consistent and also questioned the location of the new subject matter within these paragraphs.

Response: The BLM agrees with the comment that the titles of the two paragraphs identified are not consistent, therefore we revised the section heading to read as above. However, we did not revise the placement of the subject matter within the final regulations. After revisions to this section heading, the provisions for retroactive billing and unpaid or under collected rents are appropriately placed in this section. No other comments were received and no other changes made from the proposed rule to the final rule.

Section 2885.19 What is the rent for a linear right-of-way grant?

Section 2885.19 is revised by updating the addresses in paragraph (b). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.20 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

Section 2885.20is amended by removing paragraph (b)(1) that discussed the phase-in of the Per Acre Rent Schedule and the 2009 per acre rent, because this provision

is no longer applicable. Paragraph (b) now consists of the language formerly found at paragraph (b)(2). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.24 If I hold a grant or TUP what monitoring fees must I pay?

The changes in section 2885.24 parallel the changes made to other sections of this rule that contained tables with outdated numbers. Specific numbers are removed from the table. However, the monitoring fee amounts are available to the public either from BLM offices or on the BLM website. The rule adds the methodology for adjusting these fees on an annual basis to paragraph (a) of this section. Since this methodology has been added to paragraph (a), a description of how the BLM updates the schedule has been removed from paragraph (b) of this section.

Consistent with revisions made under 2805.16, the BLM is adding the words "inspecting and" to section 2885.24. This additional language codifies current practice or policy. It will allow the BLM to inspect and monitor the right-of-way to ensure a project's compliance with the terms and conditions of an authorization. Under this provision, if a project is out of compliance, the BLM could inspect the project to ensure that the required actions are completed to the satisfaction of the BLM, such as continued maintenance of the required activity. No comments were received and no other changes are made from the proposed rule to the final rule.

Subpart 2886—Operations on MLA Grants and TUPs

Section 2886.12 When must I contact BLM during operations?

Section 2886.12 describes when a right-of-way grant holder must contact the BLM during operations. The changes in this section parallel the changes made to section

2807.11. A grant holder is required to contact the BLM when site-specific circumstances require changes to an approved right-of-way grant, POD, site plan, or other procedures, even when the changes are not substantial deviations in location or use. These types of changes are considered to be grant or TUP modification requests. Paragraph (e) is added to conform to similar provisions found at section 2807.11(e), which requires you to contact the BLM if your authorization requires submission of a certificate of construction. See section 2807.11 for further discussion of these topics.

Comment: One comment stated that requiring grant holders to contact the BLM prior to making non-substantial deviations in location or use, including operational changes, project materials, and mitigation measures, is overly burdensome.

Response: Unless a grant provides for non-substantial deviations, a grant holder must contact the BLM and request approval of non-substantial deviations for an authorization. Should a holder not receive approval from the BLM, they could be found to be in noncompliance with the terms and conditions of the grant. The requirements of this section are required in order for the BLM to review and approve a non-substantial deviation and to ensure that the BLM is meeting its responsibilities under the MLA and any other applicable authorities, including FLPMA. It is the BLM's responsibility to determine if a deviation is substantial, not a grant holder's. No other comments were received and nor changes are made from the proposed rule to the final rule.

Subpart 2887—Amending, Assigning, or Renewing MLA Grants and TUPs

Section 2887.11 May I assign or make other changes to my grant or TUP?

The final rule revises section 2887.11 to parallel the revisions made to section 2807.21, which describes assigning or making other changes to a FLPMA grant or lease.

We received comments to sections 2807.21 and 2887.11 that apply to both sections. Sections 2807.21 and 2887.11 are consistent with each other in formatting and content, except where cross-references are made to their respective regulatory provisions.

The section heading for section 2887.11 is changed to be consistent with the section heading for section 2807.21 and the text in the final section. The existing regulations do not cover all instances when an assignment is necessary and also do not address situations when assignments are not required. The revisions to this section are necessary to: (1) Add and describe additional changes to a grant other than assignments; (2) Clarify what changes require an assignment; and (3) Make right-of-way grants or TUPs subject to the regulations in this section.

Paragraph (a) is revised to include two events that may require the filing of an assignment: (1) The transfer by the holder of any right or interest in the right-of-way grant to a third party, e.g., a change in ownership; and (2) A change in control transactions involving the right-of-way grantee. See section 2807.21 of this preamble for further discussion.

Revised paragraph (b) clarifies that a change in the holder's name only does not require an assignment. It also clarifies that changes in a holder's articles of incorporation do not trigger an assignment.

Revised paragraph (c) pertains to payments for assignments and adds a requirement to pay application fees in addition to processing fees. Also, the BLM may now condition a grant assignment on payment of outstanding cost recovery fees to the BLM.

Added paragraph (g) clarifies that only interests in right-of-way grants or TUPs are assignable. A pending right-of-way application is not a property right or other interest that can be assigned. No comments were received and no other changes made from the proposed rule to the final rule.

Section 2887.12 How do I renew my grant?

Section 2887.12 adds paragraph (d), to be consistent with the revisions made to section 2807.22, explaining that if a holder makes a timely and sufficient application for renewal, the existing grant or lease does not expire until BLM issues a decision on the application for renewal. This provision is derived from the APA (5 U.S.C. 558(c)(1)), and it protects the interests of existing right-of-way holders who have timely and sufficiently made an application for the continued use of an existing authorization. In this situation, the authorized activity does not expire until the application for continued use has been evaluated and a decision on the extension is made by the agency. This reiterates and clarifies existing policy and procedures.

Under section 2887.12(e), you may appeal the BLM's decision to deny your application under section 2881.10. This paragraph parallels the language under proposed section 2807.22(f), which is redesignated as section 2807.22(g). No comments were received and no changes are made from the proposed rule to the final rule.

VI. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is significant because it could raise novel legal or policy issues.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. This Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

This rule includes provisions intended to facilitate responsible solar and wind energy development and to receive fair market value for such development. These provisions are designed to:

1. Promote the use of preferred areas for solar and wind energy development (i.e., DLAs); and
2. Establish competitive processes, terms, and conditions (including rental and bonding requirements) for solar and wind energy development rights-of-way both inside and outside of DLAs.

These provisions also will assist the BLM in: (a) Meeting goals established in Section 211 of the EPAct of 2005, Secretarial Order 3285A1, and the President's Climate Action Plan; and (b) Implementing recommendations from the GAO and OIG regarding renewable energy development.

In addition to provisions that would affect renewable energy specifically, this rule also includes some provisions that affect all rights-of-way, and some that affect only transmission lines with a capacity of 100 kV or more. These provisions clarify existing regulations and codify existing policies.

Economic Impacts

The rule does not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The BLM anticipates this rule will reduce total costs to all applicants, lessees, and operators by up to approximately 17.9 million per year. The change in rents and fees from those currently set by policy primarily reflect changing market conditions. Increases in the minimum bond amounts also reflect increases in estimated reclamation costs. These impacts are discussed in detail in the Economic and Threshold Analysis for the rule.

Other Agencies

This rule does not create a serious inconsistency or otherwise interfere with another agency's actions or plans. The BLM is the only agency that may promulgate regulations for rights-of-way on public lands.

Budgetary Impacts

This rule does not materially alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights or obligations of their recipients.

Novel Legal or Policy Issues

This rule may raise novel legal or policy issues. It codifies existing BLM policies and provides additional detail about submitting applications for solar or wind energy development grants, and for transmission lines with a capacity of 100 kV or more. In addition, the rule provides for a competitive process for those entities seeking solar and wind energy development leases inside of DLAs.

National Environmental Policy Act (NEPA)

These regulatory amendments are of an administrative or procedural nature and thus are eligible to be categorically excluded from the requirement to prepare an environmental assessment (EA) or EIS. See 43 CFR 46.205 and 46.210(i). They do not present any of the extraordinary circumstances listed at 43 CFR 46.215.

Nonetheless, the BLM prepared an EA and Finding of No Significant Impact (FONSI) analyzing the final rule to inform agency decision-makers and the public. The EA/FONSI incorporates by reference the Final Solar Energy Development Programmatic Environmental Impact Statement (July 2012) and the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States (June 2005). The EA concludes that this rule does not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)). A detailed statement under NEPA is not required. To obtain single copies of the Programmatic EISs or the EA/FONSI, you may contact the person listed under the section of this rule titled, "**FOR FURTHER INFORMATION CONTACT**." You may also view the EA/FONSI and Programmatic Environmental Impact Statements at, respectively, http://windeis.anl.gov/,

http://solareis.anl.gov/, and

http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. For the purposes of this analysis, the BLM assumes that all entities (all grant holders, lessees, and applicants for rights-of-way for solar or wind energy projects, pipelines, or transmission lines with a capacity of 100 kV or more) that may be affected by this rule are small entities, even though that is not actually the case.

This rule does not have a significant economic effect on a substantial number of small entities under the RFA.

The rule does affect new applicants or bidders for authorizations of solar or wind energy development and transmission lines with a capacity of 100 kV or more. The BLM reviewed current holders of such authorizations to determine whether they are small businesses as defined by the SBA. The BLM was unable to find financial reports or other information for all potentially affected entities, so this analysis assumes that the rule could potentially affect a substantial number of small entities.

To determine the extent to which this rule will impact these small entities, we took two approaches. First, we attempted to measure the direct costs of the rule as a portion of the net incomes of affected small entities. However, we were unable to obtain

the financial records for a representative sample. Next, we estimated the direct costs of the rule as a portion of the total costs of a project.

The analysis showed that a range of potential impacts on the total cost of a project varied from a savings of 0.08 percent to a cost of 1.45 percent of the total project cost. The BLM determined that this was an insignificant impact in the context of developing a project and, therefore, not a significant economic impact on a substantial number of small businesses. For a more detailed discussion, please see the economic analysis.

Small Business Regulatory Enforcement Fairness Act

For the same reasons as discussed under the Executive Order 12866, Regulatory Planning and Review section of this preamble, this rule is not a "major rule" as defined at 5 U.S.C. 804(2). That is, it would not have an annual effect on the economy of $100 million or more; it would not result in major cost or price increases for consumers, industries, government agencies, or regions; and it would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector of $100 million or more per year; nor would it have a significant or unique effect on State, local, or tribal governments. This rule amends portions of the regulations found at 43 CFR parts 2800 and 2880, redesignates existing 43 CFR part 2809 in its entirety to a new paragraph found at 2801.6(a)(2), adds new 43 CFR part 2809, and modifies the MLA pipeline regulations in 43 CFR part 2880, but does not result in any unfunded mandates. Therefore, the BLM does not need to prepare a

statement containing the information required by Sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531 et seq. The rule is also not subject to the requirements of Section 203 of UMRA because it contains no regulatory requirements that might uniquely affect small governments, nor does it contain requirements that either apply to such governments or impose obligations upon them.

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

This rule is not a government action that interferes with constitutionally protected property rights. This rule sets out competitive processes for solar and wind energy development and revises some requirements for pipelines and electric transmission facilities on BLM-managed public lands. It establishes rent and fee schedules for various components of the development of such facilities inside DLAs that are conducive to competitive right-of-way leasing and clarifies a process that would rely on the BLM's existing land use planning system to allow for these types of uses. Because any land use authorizations and resulting development of facilities under this rule are subject to valid existing rights, it does not interfere with constitutionally protected property rights. Therefore, the Department determined that this rule does not have significant takings implications and does not require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The BLM determined that this rule does not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. It

does not apply to State or local governments or State or local government entities. Therefore, in accordance with Executive Order 13132, the BLM determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Department determined that this rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Department's Office of the Solicitor has reviewed this rule to eliminate drafting errors and ambiguity. It has been written to minimize litigation, provide clear legal standards for affected conduct rather than general standards, promote simplification, and avoid unnecessary burdens.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM found that this rule does not have significant tribal implications. Additionally, because the rulemaking itself is administrative in nature and does not establish any DLAs or approve any specific projects, the BLM has determined that it does not require tribal consultation.

Moreover, in the future when additional DLAs are established or projects are approved, the rule calls for further tribal consultation by the BLM and right-of-way applicants. Specifically, DLAs will be identified through the BLM's land use planning process. Tribal consultation is an important component of that process and will be undertaken when DLAs are identified. In addition to the preliminary review covered in the planning process, existing BLM regulations require site-specific analysis for specific

projects. As part of that site-specific analysis, right-of-way applicants must consult with affected tribes to discuss the proposed action and other aspects of the proposed project. For example, site-specific requirements for applications for a grant issued under subpart 2804 include application review, public meetings, and tribal consultation. The BLM would be able to deny an application after these meetings based on a variety of criteria, including tribal concerns.

Data Quality Act

In promulgating this rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Section 515 of Public Law 106-554). In accordance with the Data Quality Act, the Department has issued guidance regarding the quality of information that it relies upon for regulatory decisions. This guidance is available at the Department's website at: http://www.doi.gov/archive/ocio/iq.html.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action'' is defined as any action by an agency that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; (2) Is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) Is designated by the Administrator of OIRA as a significant energy action.

This rule could raise novel legal or policy issues within the meaning of Executive Order 12866 or any successor order. However, the BLM believes this rule is unlikely to

have a significant adverse effect on the supply, distribution, or use of energy, and may in fact have a positive impact on energy supply, distribution, or use. In fact, its intent is to facilitate such development. The rule codifies BLM policies and provides additional detail about the process for submitting applications for solar or wind energy development grants issued under subpart 2804, or for solar or wind energy development leases issued under subpart 2809.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM determined that this rule will not impede the facilitation of cooperative conservation. The rule takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodates local participation in the Federal decision-making process; and provides that the programs, projects, and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501-3521) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. Collections of information include requests and requirements that an individual, partnership, or corporation obtain information, and report it to a Federal agency. See 44 U.S.C. 3502(3); 5 CFR 1320.3(c) and (k).

This rule contains information collection activities that require approval by the OMB under the Paperwork Reduction Act. The BLM included an information collection

request in the proposed rule. OMB has approved the information collection for the final rule under control number 1004-0206.

Some of the information collection activities in the final rule require the use of Standard Form 299 (SF-299), Application for Transportation and Utility Systems and Facilities on Federal Lands. SF-299 is approved for use by the BLM and other Federal agencies under control number 0596-0082. The U.S. Forest Service administers control number 0596-0082. The OMB has approved the information collection activities in this final rule under control number 1004-0206.

The information collection activities in this rule are described below along with estimates of the annual burdens. Included in the burden estimates are the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each component of the proposed information collection.

The following features of the final rule pertain to more than one information collection activity.

Designated leasing areas: As defined in an amendment to 43 CFR 2801.5, a designated leasing area is a parcel of land identified in a BLM land use plan as a preferred location for solar or wind energy development. Regulations at 43 CFR subpart 2809 provide for the issuance of solar or wind right-of-way development "leases" inside a designated leasing area. Regulations at subpart 2804 provide for right-of-way development "grants" for solar or wind energy projects outside of any designated leasing area. Regulations at subpart 2804 also provide for testing grants for solar or wind energy inside or outside designated leasing areas.

Competitive process for solar or wind energy outside any designated leasing area: Section 2804.30 provides that the BLM may invite bids for land outside any designated leasing area for solar or wind energy testing and development. Section 2804.30(g) allows only one applicant (i.e., a "preferred applicant") to apply for a right-of-way grant for solar or wind energy testing or development outside any designated leasing area. The preferred applicant is the successful bidder in the competitive process outlined in subpart 2804.

Competitive process for solar or wind energy inside a designated leasing area: Subpart 2809 outlines a competitive process for land inside a designated leasing area, which provides for a parcel nomination and competitive offer instead of an application process.

Application filing fees: Section 2804.12(c)(2) requires an "application filing fee" as follows:

(1) $15 per acre for applications for solar or wind energy development outside any designated leasing area; and

(2) $2 per acre for applications for energy project-area testing inside or outside designated leasing areas.

As defined in an amendment to section 2801.5, an application filing fee is specific to solar and wind energy right-of-way applications. Section 2804.30(e)(4) provides that the BLM will refund the fee, except for the reasonable costs incurred on behalf of the applicant, if the applicant is not a successful bidder under subpart 2804 or subpart 2809. The proposed rule would have required an application filing fee for energy site-specific testing grants. On consideration of comments questioning whether site-specific testing

should be subject to an application filing fee, the BLM has removed that requirement from the final rule. The $2 per acre filing fee applies to applications for energy project-area testing, but not to energy site-specific testing.

Applications: Section 2804.12(b) refers to applications in the context of large-scale projects. In the BLM's experience, most applications and plans of development for large-scale projects evolve from several iterations of the first application that is submitted. Some requirements in the final rule (for example, application filing fees) apply to the first time an application is submitted but not to subsequent submissions of an application for the same project.

The information collection activities in the final rule are discussed below.

Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area (43 CFR 2804.12 and 2804.30(g)); and

Application for an Electric Transmission Line with a Capacity of 100 kV or More (43 CFR 2804.12)

New requirements at 2804.12(b) apply to the following types of applications:

- Solar and wind energy development grants outside any designated leasing area; and
- Electric transmission lines with a capacity of 100 kV or more.

In addition to these categories of applications, the proposed rule would have made these new requirements applicable to applications for pipelines 10 inches or greater. The rationale was that these applications, as well as the other 2 types of applications, were for large-scale operations that warrant their own procedures. Some comments questioned the

BLM's description of pipelines 10 inches or greater in diameter as a measure for large-scale pipeline projects, and suggested that the scale of pipeline projects is better measured by acreage than pipeline diameter. The BLM agrees. Rights-of-way for pipelines 10 inches or greater in diameter are not subject to section 2804.12 of the final rule.

Section 2804.12(b) includes the following requirements for applications for a solar or wind energy development project outside a designated leasing area, and to applications for a transmission line project with a capacity of 100 kV or more:

- A discussion of all known potential resource conflicts with sensitive resources and values, including special designations or protections; and
- Applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts, if any.

Section 2804.12(b) also requires applicants to initiate early discussions with any grazing permittees that may be affected by the proposed project. This requirement stems from FLPMA Section 402(g) (43 U.S.C. 1752(g)) and a BLM grazing regulation (43 CFR 4110.4-2(b)) that require 2 years' prior notice to grazing permittees and lessees before cancellation of their grazing privileges.

In addition to the information listed at 43 CFR 2804.12(b), an application for a solar or wind project, or for a transmission line of at least 100 kV, must include the information listed at 43 CFR 2804.12(a)(1) through (a)(7). These provisions are not amended in the final rule. The requirements at section 2804.12(e) (formerly section 2804.12(b)) apply to applicants that are business entities. These requirements are not amended substantively in the final rule. The burdens for all of these regulations are

already included in the burdens associated with the BLM for SF-299 and control number 0596-0082, and therefore are not included in the burdens for the final rule.

Applications for solar or wind energy development outside any designated leasing area, but not applications for large-scale transmission lines, are subject to a requirement (at 43 CFR 2804.12(c)(2)) to submit an "application filing fee" of $15 per acre. As defined in an amendment to section 2801.5, an application filing fee is specific to solar and wind energy right-of-way applications. Section 2804.30(e)(4) provides that the BLM will refund the fee, except for the reasonable costs incurred on behalf of the applicant, if the applicant is not a successful bidder in the competitive process outlined in subpart 2804.

General Description of a Proposed Project and Schedule for Submittal of a POD (2804.12(b)(1) and (b)(2))

Paragraph 2804.12(b)(1) and (b)(2) require applicants for a solar or wind development project outside a designated leasing area to submit the following information, using Form SF-299:

- A general description of the proposed project and a schedule for the submission of a POD conforming to the POD template at http://www.blm.gov;
- A discussion of all known potential resource conflicts with sensitive resources and values, including special designations or protections; and
- Proposals to avoid, minimize, and compensate for such resource conflicts, if any.

Preliminary Application Review Meetings for a Large-Scale Right-of-Way (43 CFR 2804.12 (b)(4))

The proposed rule would have required pre-application meetings for each large-scale project (defined in the proposed rule as an application for a solar or wind energy development project outside a designated leasing area, a transmission line project with a capacity of 100 kV or more, or a pipeline 10 inches or more in diameter). Several comments suggested that the BLM lacks authority to impose requirements on a developer before submission of an application without an application being submitted to the BLM.

The BLM agrees with these comments and has revised the proposed rule. Instead of pre-application meetings, the final rule requires "preliminary application review meetings" that will be held after an application for a large-scale right-of-way has been filed with the BLM. As discussed above, the BLM also has decided to remove 10-inch pipelines from the final rule, in response to comments questioning the characterization of pipelines 10 inches or greater in diameter as large-scale projects.

Within 6 months from the time the BLM receives the cost recovery fee for an application for a large-scale project (i.e., for solar or wind energy development outside a designated leasing area or for a transmission line with a capacity of 100 kV or more), the applicant must schedule and hold at least two preliminary application review meetings.

In the first meeting, the BLM will collect information from the applicant to supplement the application on subjects such as the general project proposal. The BLM will also discuss with the applicant subjects such as the status of BLM land use planning for the lands involved, potential siting issues or concerns, potential environmental issues or concerns, potential alternative site locations, and the right-of-way application process.

In the second meeting, the applicant and the BLM will meet with appropriate Federal and State agencies and tribal and local governments to facilitate coordination of potential environmental and siting issues and concerns.

The applicant and the BLM may agree to hold additional preliminary application review meetings.

Application for an Energy Site-Specific Testing Grant (43 CFR 2804.30, 2805.11(b)(2)(i), and 2809.19(c));

Application for an Energy Project-Area Testing Grant (43 CFR 2804.30, 2805.11(b)(2)(ii), and 2809.19(c)); and

Application for a Short-Term Grant (43 CFR 2805.11(b)(2)(iii))

Section 2804.30(g) authorizes only one applicant (i.e., a "preferred applicant") to apply for an energy project-area testing grant or an energy site-specific testing grant for land outside any designated leasing area. Section 2809.19(c) authorizes only one applicant (i.e., the successful bidder in the competitive process outlined at 43 CFR subpart 2809) to apply for an energy project-area testing grant or an energy site-specific testing grant for land inside a designated leasing area. Section 2805.11(b) authorizes applications for short-term grants for other purposes (such as geotechnical testing and temporary land-disturbing activities) either inside or outside a designated leasing area.

Each of these grants is for 3 years or less. All of these applications must be submitted on an SF-299. Applications for project-area grants (but not site-specific grants) are subject to a $2 per-acre application filing fee in accordance with section 2804.12(c)(2). Applicants for short-term grants for other purposes (such as geotechnical

testing and temporary land-disturbing activities) are subject to a processing fee in accordance with section 2804.14.

The proposed rule would have limited testing grants to wind energy. Some comments suggested that these authorizations should be made available for solar energy. The BLM has adopted this suggestion in the final rule.

Showing of Good Cause (43 CFR 2805.12(c)(6))

Any authorization for a solar and wind energy right-of-way requires due diligence in development. In accordance with section 2805.12(c)(6), the BLM will notify the holder before suspending or terminating a right-of-way for lack of due diligence. This notice will provide the holder with a reasonable opportunity to correct any noncompliance or to start or resume use of the right-of-way. A showing of good cause will be required in response. That showing must include:

- Reasonable justification for any delays in construction (for example, delays in equipment delivery, legal challenges, and acts of God);
- The anticipated date for the completion of construction and evidence of progress toward the start or resumption of construction; and
- A request for extension of the timelines in the approved POD.

The BLM will use the information to determine whether or not to suspend or terminate the right-of-way for failure to comply with due diligence requirements.

Reclamation Cost Estimate for Lands Outside Any Designated Leasing Area (43 CFR 2805.20(a)(3) and (a)(5))

New section 2805.20(a)(3) provides that the bond amount for projects other than a solar or wind energy lease under subpart 2809 (i.e., inside a designated leasing area) will be determined based on the preparation of a reclamation cost estimate that includes the cost to the BLM to administer a reclamation contract and review it periodically for adequacy.

New section 2805.20(a)(5) provides that reclamation cost estimate must include at minimum:

- Remediation of environmental liabilities such as use of hazardous materials waste and hazardous substances, herbicide use, the use of petroleum-based fluids, and dust control or soil stabilization materials;
- The decommissioning, removal, and proper disposal, as appropriate, of any improvements and facilities; and
- Interim and final reclamation, re-vegetation, recontouring, and soil stabilization. This component must address the potential for flood events and downstream sedimentation from the site that may result in offsite impacts.

Request to Assign a Solar or Wind Energy Development Right-of-Way (43 CFR 2807.21)

Section 2807.21, as amended, provides for assignment, in whole or in part, of any right or interest in a grant or lease for a solar or wind development right-of-way. Actions that may require an assignment include the transfer by the holder (assignor) of any right or interest in the grant or lease to a third party (assignee) or any change in control

transaction involving the grant holder or lease holder, including corporate mergers or acquisitions.

The proposed assignee must file an assignment application, using SF-299, and pay application and processing fees. No preliminary application review meetings and or public meetings are required.

The assignment application must include:

- Documentation that the assignor agrees to the assignment; and
- A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations.

Application for Renewal of an Energy Project-Area Testing Grant or Short-Term Grant (43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22)

Section 2805.11(b)(2), as amended, provides that holders of some types of grants may seek renewal of those grants. For an energy site-specific testing grant, the term is 3 years or less, without the option of renewal. However, for an energy project-area testing grant, the initial term is 3 years or less, with the option to renew for one additional 3-year period when the renewal application is also accompanied by a solar or wind energy development application and a POD. For short-term grants, such as for geotechnical testing and temporary land-disturbing activities, the term is 3 years or less with an option for renewal.

Applications for renewal of testing grants (except site-specific testing grants) may be filed, using SF-299, under section 2805.14(h) and 2807.22. Processing fees in accordance with section 2804.14, as amended, apply to these renewal applications.

Section 2807.22 provides that an application for renewal of any right-of-way grant or lease must be submitted at least 120 calendar days before the grant or lease expires. The application must show that the grantee or lessee is in compliance with the renewal terms and conditions (if any), with the other terms, conditions, and stipulations of the grant or lease, and with other applicable laws and regulations. The application also must explain why a renewal of the grant or lease is necessary.

Environmental, Technical, and Financial Records, Reports, and Other Information (43 CFR 2805.12(a)(15))

Section 2805.12(a)(15) authorizes the BLM to require a holder of any type of right-of-way to provide, or give the BLM access to, any pertinent environmental, technical, and financial records, reports, and other information. The use of SF-299 is required. The BLM will use the information for monitoring and inspection activities.

Application for Renewal of a Solar or Wind Energy Development Grant or Lease (43 CFR 2805.14(g) and 2807.22)

Amendments to sections 2805.14 and 2807.22 authorize holders of leases and grants to apply for renewal of their rights-of-way. A renewal requires submission of the same information, on SF-299, that is necessary for a new application. Processing fees, in accordance with 43 CFR 2804.14, as amended, will apply to these renewal applications. The BLM will use the information submitted by the applicant to decide whether or not to renew the right-of-way.

Request for an Amendment or Name Change, Amendment, or Assignment (FLPMA) (43 CFR 2807.11(b) and (d)) and 2807.21)

New section 2807.11(b) requires a holder of any type of right-of-way grant to contact the BLM, seek an amendment to the grant under section 2807.20 (a regulation that is not amended in this final rule), and obtain the BLM's approval before beginning any activity that is a "substantial deviation" from what is authorized.

New section 2807.11(d) requires contact with the BLM, a request for an amendment to the pertinent right-of-way grant or lease, and prior approval whenever site-specific circumstances or conditions result in the need for changes to an approved right-of-way grant or lease, plan of development, site plan, mitigation measures, or construction, operation, or termination procedures that are not "substantial deviations."

New section 2807.21 authorizes assignment of a grant or leased with the BLM's approval. It also authorizes the BLM to require a grant or lease holder to file new or revised information in circumstances that include, but are not limited to:

- Transactions within the same corporate family;
- Changes in the holder's name only; and
- Changes in the holder's articles of incorporation.

A request for an amendment of a right-of-way, using SF-299, is required in cases of a substantial deviation (for example, a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, must be submitted

to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay application and processing fees. In order to request a name change, the holder will be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee is required. The following documents are also required in the case of a name change:

- A copy of the court order or legal document effectuating the name change of an individual; or
- If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change.

In all these cases, the BLM will use the information to monitor and inspect rights-of-way, and to maintain current data.

Nomination of a Parcel of Land Inside a Designated Leasing Area (43 CFR 2809.10 and 2809.11)

Sections 2809.10 and 2809.11 authorize the BLM to offer land competitively inside a designated leasing area for solar or wind energy development on its own initiative. These regulations also authorize the BLM to solicit nominations for such development. In order to nominate a parcel under this process, the nominator must be qualified to hold a right-of-way under 43 CFR 2803.10. After publication of a notice by

the BLM, anyone meeting the qualifications may submit a nomination for a specific parcel of land to be developed for solar or wind energy. There is a fee of $5 per acre for each nomination. The following information is required:

- The nominator's name and personal or business address;
- The legal land description; and
- A map of the nominated lands.

The BLM will use the information to communicate with the nominator and to determine whether or not to proceed with a competitive offer.

Expression of Interest in Parcel of Land Inside a Designated Leasing Area (43 CFR 2809.11(c))

Section 2809.11(c) authorizes the BLM to consider informal expressions of interest suggesting specific lands inside a designated leasing area to be included in a competitive offer. The expression of interest must include a description of the suggested lands and a rationale for their inclusion in a competitive offer. The information will assist the BLM in determining whether or not to proceed with a competitive offer.

Plan of Development for a Solar or Wind Energy Development Lease Inside a Designated Leasing Area (43 CFR 2809.18)

Section 2809.l8(c) requires the holder of a solar or wind energy development lease for land inside a designated leasing area to submit a plan of development, using SF-299, within 2 years of the lease issuance date. The plan must address all pre-development and development activities. This collection activity is necessary to ensure diligent development.

This new provision will be a new use of Item # 7 of SF-299, which calls for the following information:

> Project description (describe in detail): (a) Type of system or facility (e.g., canal, pipeline, road); (b) related structures and facilities; (c) physical specifications (length, width, grading, etc.); (d) term of years needed; (e) time of year of use or operation; (f) volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction.

This collection has been justified and authorized under control number 0596-0082. In addition, section 2809.18(c) provides that the minimum requirements for either a "Wind Energy Plan of Development" or "Solar Energy Plan of Development" can be found at a link to a template at www.blm.gov. To some extent, that template duplicates the information required by Item # 7 of SF-299. The following requirements do not duplicate the elements listed in SF-299:

- Financial Operations and maintenance. This information will assist the BLM in verifying the right-of-way holder's compliance with terms and conditions regarding all aspects of operations and maintenance, including road maintenance and workplace safety;
- Environmental considerations. This information will assist the BLM in monitoring compliance with terms and conditions regarding mitigation measures and site-specific issues such as protection of sensitive species and avoidance of conflicts with recreation uses of nearby lands;

- Maps and drawings. This information will assist the BLM in monitoring compliance with all terms and conditions; and
- Supplementary information. This information, which will be required after submission of the holder's initial POD, will assist the BLM in reviewing possible alternative designs and mitigation measures for a final POD.

Section 2809.18(d) requires the holder of a solar or wind energy development lease for land inside a designated leasing area to pay reasonable costs for the BLM or other Federal agencies to review and approve the plan of development and to monitor the lease. To expedite review and monitoring, the holder may notify BLM in writing of an intention to pay the full actual costs incurred by the BLM.

Request for an Amendment, Assignment, or Name Change (MLA) (43 CFR 2886.12(b) and (d) and 2887.11)

Sections 2886.12 and 2887.11 pertain to holders of rights-of-way and temporary use permits authorized under the Mineral Leasing Act (MLA). A temporary use permit authorizes a holder of a MLA right-of-way to use land temporarily in order to construct, operate, maintain, or terminate a pipeline, or for purposes of environmental protection or public safety. See 43 CFR 2881.12. The regulations require these holders to contact the BLM:

- Before engaging in any activity that is a "substantial deviation" from what is authorized;
- Whenever site-specific circumstances or conditions arise that result in the need for changes that are not substantial deviations;

- When the holder submits a certification of construction;
- Before assigning, in whole or in part, any right or interest in a grant or lease;
- Before any change in control transaction involving the grant- or lease- holder; and
- Before changing the name of a holder (i.e., when the name change is not the result of an underlying change in control of the right-of-way).

A request for an amendment of a right-of-way or temporary use permit is required in cases of a substantial deviation (e.g., a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, are required to be submitted to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay processing fees. In order to request a name change, the holder will be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee is required. The following documents are also required in the case of a name change:

- A copy of the court order or legal document effectuating the name change of an individual; or
- If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing

acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change. The use of SF-299 is required. In all these cases, the BLM will use the information for monitoring and inspection purposes, and to maintain current data on rights-of-way.

Certification of Construction (43 CFR 2886.12(f))

A certification of construction is a document a holder of an MLA right-of-way must submit, using SF-299, to the BLM after finishing construction of a facility, but before operations begin. The BLM will use the information to verify that the holder has constructed and tested the facility to ensure that it complies with the terms of the right-of-way and is in accordance with applicable Federal and State laws and regulations.

Estimated Hour Burdens

The estimated hour burdens of the proposed supplemental collection requirements are shown in the following table.

Information Collection Requirements: Estimated Annual Hour Burdens

A. Type of Response	**B. Number of Responses**	**C. Hours Per Response**	**D. Total Hours (Column B x Column C)**
Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area 43 CFR 2804.12 and 2804.30(g) Form SF-299	10	8	80
Application for an Electric Transmission Line with a Capacity of 100 kV or More 43 CFR 2804.12 Form SF-299	10	8	80

General Description of a Proposed Project and Schedule for Submittal of a Plan of Development 43 CFR 2804.12(b)(1) and (b)(2) Form SF-299	20	2	40
Preliminary Application Review Meetings for a Large-Scale Right-of-Way 43 CFR 2804.12 (b)(4)	20	2	40
Application for an Energy Site-Specific Testing Grant 43 CFR 2804.30, 2805.11(b)(2)(i), and 2809.19(c) Form SF-299	20	8	160
Application for an Energy Project-Area Testing Grant 43 CFR 2804.30, 2805.11(b)(2)(ii), and 2809.19(c) Form SF-299	20	8	160
Application for a Short-Term Grant 43 CFR 2805.11(b)(2)(iii) Form SF-299	1	8	8
Showing of good cause 43 CFR 2805.12(c)(6)	1	2	2
Reclamation Cost Estimate for Lands Outside Any Designated Leasing Area 43 CFR 2805.20(a)(3) and (a)(5)	1	10	10
Request to Assign a Solar or Wind Energy Development Right-of-Way 43 CFR 2807.21 Form SF-299	11	8	88
Application for Renewal of an Energy Project-Area Testing Grant or Short-Term Grant 43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22 Form SF-299	6	6	36
Environmental, Technical, and Financial Records, Reports, and Other Information 43 CFR 2805.12(a)(15) Form SF-299	20	4	80
Application for Renewal of a Solar or Wind Energy Development Grant or Lease 43 CFR 2805.14(g) and 2807.22 Form SF-299	1	12	12

Request for an Amendment or Name Change (FLPMA) 43 CFR 2807.11(b) and (d) and 2807.21 Form SF-299	30	16	480
Nomination of a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.10 and 2809.11	1	4	4
Expression of Interest in a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.11(c)	1	4	4
Plan of Development for a Solar or Wind Energy Development Lease Inside a Designated Leasing Area 43 CFR 2809.18(c) Form SF-299	2	8	16
Request for an Amendment, Assignment, or Name Change (MLA) 43 CFR 2886.12(b) and (d) and 2887.11 Form SF-299	2,862	16	45,792
Certification of Construction 43 CFR 2886.12(f) Form SF-299	5	4	20
Totals	3,042	130	47,112

Estimated Non-Hour Burdens

The non-hour burdens of this final rule consist of fees authorized by Sections 304 and 504(g) of FLPMA (43 U.S.C.1734 and 1764(g)). Section 1734 authorizes the Secretary of the Interior to establish reasonable filing and service fees and reasonable charges with respect to applications and other documents relating to the public lands. Section 504(g) authorizes the Secretary to promulgate regulations that require, as a condition of a right-of-way, that an applicant for or holder of a right-of-way reimburse the United States for all reasonable administrative and other costs incurred with respect to right-of-way applications and with respect to inspection and monitoring of construction, operation, and termination of a facility pursuant to such right-of-way.

The fees (i.e., non-hour burdens) are itemized in the following table.

Information Collection Requirements: Estimated Annual Non-Hour Burdens

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area 43 CFR 2804.12 and 2804.30(g) Form SF-299	43 CFR 2804.12(c)(2)	10	$15 per acre x average of 6,000 acres per application = $90,000	$900,000
Application for an Electric Transmission Line with a Capacity of 100 kV or More 43 CFR 2804.12 Form SF-299	43 CFR 2804.14	10	$1,156[1]	$11,560

[1] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Application for an Energy Project-Area Testing Grant 43 CFR 2804.30, 2805.11(b)(2)(ii), and 2809.19(c) Form SF-299	43 CFR 2804.12(c)(2)	20	$2 per acre x average of 6,000 acres per application = $12,000	$240,000
Application for a Short-Term Grant 43 CFR 2805.11(b)(2)(iii) Form SF-299	43 CFR 2804.14	1	$1,156[2]	$1,156
Request to Assign a Solar or Wind Energy Development Right-of-Way 43 CFR 2807.21 Form SF-299	43 CFR 2804.14	11	$15 per acre x average of 6,000 acres per application = $90,000	$990,000

[2] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Application for Renewal of an Energy Project-Area Testing Grant or Short-Term Grant 43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22 Form SF-299	43 CFR 2804.14	6	$1,156[3]	$6,936
Application for Renewal of a Solar or Wind Energy Development Grant or Lease 43 CFR 2805.14(g) and 2807.22 Form SF-299	43 CFR 2804.14	1	$1,156[4]	$1,156

[3] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").
[4] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Nomination of a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.10 and 2809.11	43 CFR 2809.11(b)(1)	1	$5 per acre x average of 6,000 acres per nomination = $30,000	$30,000
Total				$2,180,808

Authors

The principal author of this rule is Jayme Lopez, Program Lead, National Renewable Energy Coordination Office Washington Office, Bureau of Land Management, Department of the Interior, assisted by Charles Yudson, Jean Sonneman and Ian Senio, Office of Regulatory Affairs, BLM Washington Office; Michael Ford, Economist, BLM Washington Office; Michael Hildner, Planning and Environmental Analyst; Dylan Fuge, Counselor to the Director, BLM Washington Office; and Gregory Russell, Attorney Advisor, Office of the Solicitor, Department of the Interior.

List of Subjects

43 CFR Part 2800

Communications, Electric power, Highways and roads, Penalties, Public lands and rights-of-way, Reporting and recordkeeping requirements.

43 CFR Part 2880

Administrative practice and procedures, Common carriers, Pipelines, Federal lands and rights-of-way, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, the BLM amends 43 CFR parts 2800 and 2880 as set forth below:

PART 2800–RIGHTS-OF-WAY UNDER THE FEDERAL LAND POLICY AND MANAGEMENT ACT

1. Revise the heading of part 2800 to read as set forth above.

2. The authority citation for part 2800 continues to read as follows:

AUTHORITY: 43 U.S.C. 1733, 1740, 1763, and 1764.

Subpart 2801—General Information

3. Amend § 2801.5(b) by:

a. Adding, in alphabetical order, definitions of "Acreage rent," "Application filing fee," "Assignment," "Designated leasing area," "Megawatt (MW) capacity fee," "Megawatt rate," "Performance and reclamation bond," "Reclamation cost estimate (RCE)," "Screening criteria for solar and wind energy development," and "Short-term right-of-way grant;" and

b. Revising the definitions of "Designated right-of-way corridor," "Management overhead costs," and "Right-of-way."

The additions and revisions read as follows:

§ 2801.5 What acronyms and terms are used in the regulations in this part?

*****

Acreage rent means rent assessed for solar and wind energy development grants and leases that is determined by the number of acres authorized for the grant or lease.

*****

Application filing fee means a filing fee specific to solar and wind energy applications. This fee is an initial payment for the reasonable costs for processing, inspecting, and monitoring a right-of-way.

Assignment means the transfer, in whole or in part, of any right or interest in a right-of-way grant or lease from the holder (assignor) to a subsequent party (assignee) with the BLM's written approval. A change in ownership of the grant or lease, or other related change-in-control transaction involving the holder, including a merger or acquisition, also constitutes an assignment for purposes of these regulations requiring the BLM's written approval, unless applicable statutory authority provides otherwise.

*****

Designated leasing area means a parcel of land with specific boundaries identified by the BLM land use planning process as being a preferred location for solar or wind energy development that may be offered competitively.

Designated right-of-way corridor means a parcel of land with specific boundaries identified by law, Secretarial order, the land use planning process, or other management decision, as being a preferred location for existing and future linear rights-of-way and facilities. The corridor may be suitable to accommodate more than one right-of-way use or facility, provided that they are compatible with one another and the corridor designation.

*****

Management overhead costs means Federal expenditures associated with a particular Federal agency's directorate. The BLM's directorate includes all State Directors and the

entire Washington Office staff, except where a State Director or Washington Office staff member is required to perform work on a specific right-of-way case.

Megawatt (MW) capacity fee means the fee paid in addition to the acreage rent for solar and wind energy development grants and leases. The MW capacity fee is the approved MW capacity of the solar or wind energy grant or lease multiplied by the appropriate MW rate. A grant or lease may provide for stages of development, and the grantee or lessee will be charged a fee for each stage by multiplying the MW rate by the approved MW capacity for the stage of the project.

Megawatt rate means the price of each MW of capacity for various solar and wind energy technologies as determined by the MW rate formula. Current MW rates are found on the BLM's MW rate schedule, which can be obtained at any BLM office or at http://www.blm.gov. The MW rate is calculated by multiplying the total hours per year by the net capacity factor, by the MW hour (MWh) price, and by the rate of return, where:

(1) Net capacity factor means the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. The BLM establishes net capacity factors for different technology types but may determine another net capacity factor to be more appropriate, on a case-by-case or regional basis, to reflect changes in technology, such as a solar or wind project that employs energy storage technologies, or if a grant or lease holder or applicant is able to demonstrate that another net capacity factor is appropriate for a particular project or region. The net capacity factor for each technology type is:

(i) Photovoltaic (PV) – 20 percent;

(ii) Concentrated photovoltaic (CPV) and concentrated solar power (CSP) – 25 percent;

(iii) CSP with storage capacity of 3 hours or more – 30 percent; and

(iv) Wind energy – 35 percent;

(2) Megawatt hour (MWh) price means the 5 calendar-year average of the annual weighted average wholesale prices per MWh for the major trading hubs serving the 11 western States of the continental United States (U.S.);

(3) Rate of return means the relationship of income (to the property owner) to revenue generated from authorized solar and wind energy development facilities based on the 10-year average of the 20-year U.S. Treasury bond yield rounded to the nearest one-tenth percent; and

(4) Hours per year means the total number of hours in a year, which, for purposes of this part, means 8,760 hours.

*****

Performance and reclamation bond means the document provided by the holder of a right-of-way grant or lease that provides the appropriate financial guarantees, including cash, to cover potential liabilities or specific requirements identified by the BLM for the construction, operation, decommissioning, and reclamation of an authorized right-of-way on public lands.

(1) Acceptable bond instruments include cash, cashier's or certified check, certificate or book entry deposits, negotiable U.S. Treasury securities, and surety bonds from the approved list of sureties (U.S. Treasury Circular 570) payable to the BLM. Irrevocable

letters of credit payable to the BLM and issued by banks or financial institutions organized or authorized to transact business in the United States are also acceptable bond instruments. An insurance policy can also qualify as an acceptable bond instrument, provided that the BLM is a named beneficiary of the policy, and the BLM determines that the insurance policy will guarantee performance of financial obligations and was issued by an insurance carrier that has the authority to issue policies in the applicable jurisdiction and whose insurance operations are organized or authorized to transact business in the United States.

(2) Unacceptable bond instruments. The BLM will not accept a corporate guarantee as an acceptable form of bond instrument.

*****

Reclamation cost estimate (RCE) means the estimate of costs to restore the land to a condition that will support pre-disturbance land uses. This includes the cost to remove all improvements made under the right-of-way authorization, return the land to approximate original contour, and establish a sustainable vegetative community, as required by the BLM. The RCE will be used to establish the appropriate amount for financial guarantees of land uses on the public lands, including those uses authorized by right-of-way grants or leases issued under this part.

*****

Right-of-way means the public lands that the BLM authorizes a holder to use or occupy under a particular grant or lease.

*****

Screening criteria for solar and wind energy development refers to the policies and procedures that the BLM uses to prioritize how it processes solar and wind energy development right-of-way applications to facilitate the environmentally responsible development of such facilities through the consideration of resource conflicts, land use plans, and applicable statutory and regulatory requirements. Applications for projects with lesser resource conflicts are anticipated to be less costly and time-consuming for the BLM to process and will be prioritized over those with greater resource conflicts.

Short-term right-of-way grant means any grant issued for a term of 3 years or less for such uses as storage sites, construction areas, and site testing and monitoring activities, including site characterization studies and environmental monitoring.

*****

4. In § 2801.6, revise paragraph (a)(2) to read as follows:

§ 2801.6 Scope.

(a) ***

(2) Grants to Federal departments or agencies for all systems and facilities identified in § 2801.9(a), including grants for transporting by pipeline and related facilities, commodities such as oil, natural gas, synthetic liquid or gaseous fuels, and any refined products produced from them; and

*****

5. Amend § 2801.9 by revising paragraphs (a)(4) and (a)(7), and by adding paragraph (d) to read as follows:

§ 2801.9 When do I need a grant?

(a) ***

(4) Systems for generating, transmitting, and distributing electricity, including solar and wind energy development facilities and associated short-term actions, such as site and geotechnical testing for solar and wind energy projects;

*****

(7) Such other necessary transportation or other systems or facilities, including any temporary or short-term surface disturbing activities associated with approved systems or facilities, which are in the public interest and which require rights-of-way.

*****

(d) All systems, facilities, and related activities for solar and wind energy projects are specifically authorized as follows:

(1) Energy site-specific testing activities, including those with individual meteorological towers and instrumentation facilities, are authorized with a short-term right-of-way grant issued for 3 years or less;

(2) Energy project-area testing activities are authorized with a short-term right-of-way grant for an initial term of 3 years or less with the option to renew for one additional 3-year period under § 2805.14(h) when the renewal application is accompanied by an energy development application;

(3) Solar and wind energy development facilities located outside designated leasing areas, and those facilities located inside designated leasing areas under § 2809.17(d)(2), are authorized with a right-of-way grant issued for up to 30 years (plus the initial partial year of issuance). An application for renewal of the grant may be submitted under § 2805.14(g);

(4) Solar and wind energy development facilities located inside designated leasing areas are authorized with a solar or wind energy development lease when issued competitively under subpart 2809. The term is fixed for 30 years (plus the initial partial year of issuance). An application for renewal of the lease may be submitted under § 2805.14(g); and

(5) Other associated actions not specifically included in § 2801.9(d)(1) through (4), such as geotechnical testing and other temporary land disturbing activities, are authorized with a short-term right-of-way grant issued for 3 years or less.

Subpart 2802—Lands Available for FLPMA Grants

6. In § 2802.11, revise the section heading and paragraph (a), revise the introductory language of paragraph (b), and revise paragraphs (b)(3), (b)(4), (b)(6), (b)(7), and (d) to read as follows:

§ 2802.11 How does the BLM designate right-of-way corridors and designated leasing areas?

(a) The BLM may determine the locations and boundaries of right-of-way corridors or designated leasing areas during the land use planning process described in part 1600 of this chapter. During this process, the BLM coordinates with other Federal agencies, State, local, and tribal governments, and the public to identify resource-related issues, concerns, and needs. The process results in a resource management plan or plan amendment, which addresses the extent to which you may use public lands and resources for specific purposes.

(b) When determining which lands may be suitable for right-of-way corridors or designated leasing areas, the factors the BLM considers include, but are not limited to, the following:

*****

(3) Physical effects and constraints on corridor placement or leasing areas due to geology, hydrology, meteorology, soil, or land forms;

(4) Costs of construction, operation, and maintenance and costs of modifying or relocating existing facilities in a proposed right-of-way corridor or designated leasing area (i.e., the economic efficiency of placing a right-of-way within a proposed corridor or providing a lease inside a designated leasing area);

*****

(6) Potential health and safety hazards imposed on the public by facilities or activities located within the proposed right-of-way corridor or designated leasing area;

(7) Social and economic impacts of the right-of-way corridor or designated leasing area on public land users, adjacent landowners, and other groups or individuals;

*****

(d) The resource management plan or plan amendment may also identify areas where the BLM will not allow right-of-way corridors or designated leasing areas for environmental, safety, or other reasons.

Subpart 2804—Applying for FLPMA Grants

7. Amend § 2804.10 by revising paragraph (a)(2) to read as follows:

§ 2804.10 What should I do before I file my application?

(a)*****

(2) Determine whether the lands are located inside a designated or existing right-of-way corridor or a designated leasing area;

*****

8. Revise § 2804.12 to read as follows:

§ 2804.12 What must I do when submitting my application?

(a) File your application on Standard Form 299, available from any BLM office or at http://www.blm.gov, and fill in the required information as completely as possible. Your completed application must include the following:

(1) A description of the project and the scope of the facilities;

(2) The estimated schedule for constructing, operating, maintaining, and terminating the project;

(3) The estimated life of the project and the proposed construction and reclamation techniques;

(4) A map of the project, showing its proposed location and existing facilities adjacent to the proposal;

(5) A statement of your financial and technical capability to construct, operate, maintain, and terminate the project;

(6) Any plans, contracts, agreements, or other information concerning your use of the right-of-way and its effect on competition;

(7) A statement certifying that you are of legal age and authorized to do business in the State(s) where the right-of-way would be located and that you have submitted correct information to the best of your knowledge; and

(8) A schedule for the submission of a plan of development (POD) conforming to the POD template at http://www.blm.gov, should the BLM require you to submit a POD under § 2804.25(c).

(b) When submitting an application for a solar or wind energy development project or for a transmission line project with a capacity of 100 kV or more, in addition to the information required in subparagraph (a), you must:(1) Include a general description of the proposed project and a schedule for the submission of a POD conforming to the POD template at http://www.blm.gov;

(2) Address all known potential resource conflicts with sensitive resources and values, including special designations or protections, and include applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts, if any;

(3) Initiate early discussions with any grazing permittees that may be affected by the proposed project in accordance with 43 CFR 4110.4-2(b); and

(4) Within 6 months from the time the BLM receives the cost recovery fee under § 2804.14, schedule and hold two preliminary application review meetings as follows:

(i) The first meeting will be with the BLM to discuss the general project proposal, the status of BLM land use planning for the lands involved, potential siting issues or concerns, potential environmental issues or concerns, potential alternative site locations and the right-of-way application process;

(ii) The second meeting will be with appropriate Federal and State agencies and tribal and local governments to facilitate coordination of potential environmental and siting issues and concerns; and

(iii) You and the BLM may agree to hold additional preliminary application review meetings.

(c) When submitting an application for a solar or wind energy project under this subpart rather than subpart 2809, you must:

(1) Propose a project sited on lands outside a designated leasing area, except as provided for by § 2809.19; and

(2) Pay an application filing fee of $15 per acre for solar or wind energy development applications and $2 per acre for energy project-area testing applications. The BLM will refund your fee, except for the reasonable costs incurred on your behalf, if you are the unsuccessful bidder in a competitive offer held under § 2804.30 or subpart 2809. The BLM will adjust the application filing fee at least once every 10 years using the change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP) for the preceding 10-year period and round it to the nearest one-half dollar. This 10-year average will be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under § 2806.22.

(d) If you are unable to meet a requirement of the application outlined in this section, you may submit a request for an alternative requirement under § 2804.40.

(e) If you are a business entity, you must also submit the following information:

(1) Copies of the formal documents creating the entity, such as articles of incorporation, and including the corporate bylaws;

(2) Evidence that the party signing the application has the authority to bind the applicant;

(3) The name and address of each participant in the business;

(4) The name and address of each shareholder owning 3 percent or more of the shares and the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote;

(5) The name and address of each affiliate of the business;

(6) The number of shares and the percentage of any class of voting stock owned by the business, directly or indirectly, in any affiliate controlled by the business;

(7) The number of shares and the percentage of any class of voting stock owned by an affiliate, directly or indirectly, in the business controlled by the affiliate; and

(8) If you have already provided the information in paragraphs (b)(1) through (7) of this section to the BLM and the information remains accurate, you need only reference the BLM serial number under which you previously filed it.

(f) The BLM may require you to submit additional information at any time while processing your application. See §2884.11(c) of this chapter for the type of information we may require.

(g) If you are a Federal oil and gas lessee or operator and you need a right-of-way for access to your production facilities or oil and gas lease, you may include your right-of-way requirements with your Application for Permit to Drill or Sundry Notice required under parts 3160 through 3190 of this chapter.

(h) If you are filing with another Federal agency for a license, certificate of public convenience and necessity, or other authorization for a project involving a right-of-way on public lands, simultaneously file an application with the BLM for a grant. Include a

copy of the materials, or reference all the information, you filed with the other Federal agency.

(i) Inter-agency Coordination: You may request, in writing, an exemption from the requirements of this section if you can demonstrate to the BLM that you have satisfied similar requirements by participating in an inter-agency coordination process with another Federal, State, local, or Tribal authority. No exemption is approved until you receive BLM approval in writing.

9. In § 2804.14, revise paragraphs (a), (b), and (c) to read as follows:

§ 2804.14 What is the processing fee for a grant application?

(a) Unless you are exempt under § 2804.16, you must pay a fee to the BLM for the reasonable costs of processing your application. Subject to applicable laws and regulations, if processing your application involves Federal agencies other than the BLM, your fee may also include the reasonable costs estimated to be incurred by those Federal agencies. Instead of paying the BLM a fee for the reasonable costs incurred by other Federal agencies in processing your application, you may pay other Federal agencies directly for such costs. Reasonable costs are those costs as defined in Section 304(b) of FLPMA (43 U.S.C. 1734(b)). The fees for Processing Categories 1 through 4 (see paragraph (b) of this section) are one-time fees and are not refundable. The fees are categorized based on an estimate of the amount of time that the Federal Government will expend to process your application and issue a decision granting or denying the application.

(b) There is no processing fee if the Federal Government's work is estimated to take 1 hour or less. Processing fees are based on categories. The BLM will update the

processing fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD-GDP, as measured second quarter to second quarter, rounded to the nearest dollar. The BLM will update Category 5 processing fees as specified in the Master Agreement. These categories and the estimated range of Federal work hours for each category are:

Processing Categories

Processing category	Federal work hours involved
(1) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are >1 ≤ 8
(2) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 8 ≤ 24
(3) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 24 ≤ 36
(4) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 36 ≤ 50
(5) Master agreements	Varies
(6) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 50

(c) You may obtain a copy of the current year's processing fee schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current processing fee schedule at http://www.blm.gov.

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10. Amend § 2804.18 by redesignating paragraphs (a)(6) through (a)(8) as paragraphs (a)(7) through (a)(9) and adding new paragraph (a)(6). The addition reads as follows:

§ 2804.18 What provisions do Master Agreements contain and what are their limitations?

(a) ***

(6) Describes existing agreements between the BLM and other Federal agencies for cost reimbursement;

*****

11. Amend § 2804.19 by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 2804.19 How will BLM process my Processing Category 6 application?

(a) For Processing Category 6 applications, you and the BLM must enter into a written agreement that describes how the BLM will process your application. The final agreement consists of a work plan, a financial plan, and a description of any existing agreements you have with other Federal agencies for cost reimbursement associated with your application.

*****

(e) We may collect reimbursement for reasonable costs to the United States for processing applications and other documents under this part relating to the public lands.

12. Amend § 2804.20 by revising paragraphs (a)(1) and (a)(5), redesignating paragraph (a)(6) as paragraph (a)(7), and adding new paragraphs (a)(6). The revisions and additions read as follows:

§ 2804.20 How does BLM determine reasonable costs for Processing Category 6 or Monitoring Category 6 applications?

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(a) ***

(1) Actual costs to the Federal Government (exclusive of management overhead costs) of processing your application and of monitoring construction, operation, maintenance, and termination of a facility authorized by the right-of-way grant;

*****

(5) Any tangible improvements, such as roads, trails, and recreation facilities, which provide significant public service and are expected in connection with constructing and operating the facility; and

(6) Existing agreements between the BLM and other Federal agencies for cost reimbursement associated with such application.

*****

13. Amend § 2804.23 by revising the section heading and paragraphs (a)(1) and (c) and adding new paragraphs (d) and (e) to read as follows:

§ 2804.23 When will the BLM use a competitive process?

(a) ***

(1) Processing Category 1 through 4. You must reimburse the Federal Government for processing costs as if the other application or applications had not been filed.

*****

(c) If we determine that competition exists, we will describe the procedures for a competitive bid through a bid announcement in the Federal Register. We may also provide notice by other methods, such as a newspaper of general circulation in the area affected by the potential right-of-way, or the Internet. We may offer lands through a competitive process on our own initiative. The BLM will not competitively offer lands

for which the BLM has accepted an application and received a plan of development and cost recovery agreement.

(d) Competitive process for solar and wind energy development outside designated leasing areas. Lands outside designated leasing areas may be made available for solar and wind energy applications through a competitive application process established by the BLM under § 2804.30.

(e) Competitive process for solar and wind energy development inside designated leasing areas. Lands inside designated leasing areas may be offered competitively under subpart 2809.

14. Amend § 2804.24 by revising paragraph (a), redesignating paragraph (b) as paragraph (c), and adding new paragraph (b) to read as follows:

§ 2804.24 Do I always have to submit an application for a grant using Standard Form 299?

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(a) The BLM offers lands competitively under § 2804.23(c) and you have already submitted an application for the facility or system;

(b) The BLM offers lands for competitive lease under subpart 2809 of this part; or

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15. Revise § 2804.25 to read as follows:

§ 2804.25 How will BLM process my application?

(a) The BLM will notify you in writing when it receives your application. This notification will also:

(1) Identify your processing fee described at §2804.14 of this subpart; and

(2) Inform you of any other grant applications which involve all or part of the lands for which you applied.

(b) The BLM will not process your application if you have any:

(1) Outstanding unpaid debts owed to the Federal Government. Outstanding debts are those currently unpaid debts owed to the Federal Government after all administrative collection actions have occurred, including any appeal proceedings under applicable Federal regulations and the Administrative Procedure Act; or

(2) Trespass action pending against you for any activity on BLM-administered lands (see § 2808.12), except those to resolve the trespass with a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after outstanding unpaid debts are paid.

(c) The BLM may require you to submit additional information necessary to process the application. This information may include a detailed construction, operation, rehabilitation, and environmental protection plan (i.e., a POD), and any needed cultural resource surveys or inventories for threatened or endangered species. If the BLM needs more information, the BLM will identify this information in a written deficiency notice asking you to provide the additional information within a specified period of time.

(1) For solar or wind energy development projects, and transmission lines with a capacity of 100 kV or more, you must commence any required resource surveys or inventories within one year of the request date, unless otherwise specified by the BLM; or

(2) If you are unable to meet any of the requirements of this section, you must show good cause and submit a request for an alternative under § 2804.40.

(d) Customer service standard. The BLM will process your completed application as follows:

Processing category	Processing time	Conditions
1-4	60 calendar days	If processing your application will take longer than 60 calendar days, the BLM will notify you in writing of this fact prior to the 30th calendar day and inform you of when you can expect a final decision on your application.
5	As specified in the Master Agreement	The BLM will process applications as specified in the Agreement.
6	Over 60 calendar days	The BLM will notify you in writing within the initial 60-day processing period of the estimated processing time.

(e) In processing an application, the BLM will:

(1) Hold public meetings if sufficient public interest exists to warrant their time and expense. The BLM will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved in the area affected by the potential right-of-way or the Internet, to announce in advance any public hearings or meetings;

(2) If your application is for solar or wind energy development:

(i) Hold a public meeting in the area affected by the potential right-of-way;

(ii) Apply screening criteria to prioritize processing applications with lesser resource conflicts over applications with greater resource conflicts and categorize screened applications according to the criteria listed in § 2804.35; and

(iii) Evaluate the application based on the information provided by the applicant and input from other parties, such as Federal, State, and local government agencies, and

tribes, as well as comments received in preliminary application review meetings held under § 2804.12(b)(4) and the public meeting held under paragraph (e)(2)(i) of this section. The BLM will also evaluate your application based on whether you propose to site the development appropriately (e.g. outside of a designated leasing area or exclusion area) and whether you address known resource values discussed in the preliminary application review meetings. Based on these evaluations, the BLM will either deny your application or continue processing it.

(3) Determine whether a POD schedule submitted with your application meets the development schedule or other requirements described by the BLM, such as in § 2804.12(b);

(4) Complete appropriate National Environmental Policy Act (NEPA) compliance for the application, as required by 43 CFR part 46 and 40 CFR parts 1500 through 1508;

(5) Determine whether your proposed use complies with applicable Federal and State laws;

(6) If your application is for a road, determine whether it is in the public interest to require you to grant the United States an equivalent authorization across lands that you own;

(7) Consult, as necessary, on a government-to-government basis with tribes and other governmental entities; and

(8) Take any other action necessary to fully evaluate and decide whether to approve or deny your application.

(f)(1) The BLM may segregate, if it finds it necessary for the orderly administration of the public lands, lands included in a right-of-way application under 43 CFR subpart 2804

for the generation of electrical energy from wind or solar sources. In addition, the BLM may also segregate lands that it identifies for potential rights-of-way for electricity generation from wind or solar sources when initiating a competitive process for solar or wind development on particular lands. Upon segregation, such lands would not be subject to appropriation under the public land laws, including location under the Mining Law of 1872 (30 U.S.C. 22 et seq.), but would remain open under the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.) or the Materials Act of 1947 (30 U.S.C. 601 et seq.). The BLM would effect a segregation by publishing a Federal Register notice that includes a description of the lands being segregated. The BLM may effect segregation in this way for both pending and new right-of-way applications.

(2) The effective date of segregation is the date of publication of the notice in the Federal Register. Consistent with 43 CFR 2091-3.2, the segregation terminates and the lands automatically open on the date that is the earliest of the following:

(i) When the BLM issues a decision granting, granting with modifications, or denying the application for a right-of-way;

(ii) Automatically at the end of the segregation period stated in the Federal Register notice initiating the segregation; or

(iii) Upon publication of a Federal Register notice terminating the segregation and opening the lands.

(3) The segregation period may not exceed 2 years from the date of publication in the Federal Register of the notice initiating the segregation, unless the State Director determines and documents in writing, prior to the expiration of the segregation period, that an extension is necessary for the orderly administration of the public lands. If the

State Director determines an extension is necessary, the BLM will extend the segregation for up to 2 years by publishing a notice in the Federal Register, prior to the expiration of the initial segregation period. Segregations under this part may only be extended once and the total segregation period may not exceed 4 years.

16. Amend § 2804.26 by revising paragraph (a)(5), redesignating paragraph (a)(6) as paragraph (a)(8), and adding new paragraphs (a)(6), (a)(7), and (c). The revisions read as follows:

§ 2804.26 Under what circumstances may BLM deny my application?

(a) ***

(5) You do not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities within the right-of-way.

(i) Applicants must have or be able to demonstrate technical and financial capability to construct, operate, maintain, and terminate a project throughout the application process and authorization period. You can demonstrate your financial and technical capability to construct, operate, maintain, and terminate a project by:

(A) Documenting any previous successful experience in construction, operation, and maintenance of similar facilities on either public or non-public lands;

(B) Providing information on the availability of sufficient capitalization to carry out development, including the preliminary study stage of the project and the environmental review and clearance process; or

(C) Providing written copies of conditional commitments of Federal and other loan guarantees; confirmed power purchase agreements; engineering, procurement, and

construction contracts; and supply contracts with credible third-party vendors for the manufacture or supply of key components for the project facilities.

(ii) Failure to demonstrate and sustain technical and financial capability is grounds for denying an application or terminating an authorization;

(6) The PODs required by §§ 2804.25(e)(3), 2804.12,(a)(8), and 2804.12(c)(1) do not meet the development schedule or other requirements in the POD template and the applicant is unable to demonstrate why the POD should be approved;

(7) Failure to commence necessary surveys and studies, or plans for permit processing as required by § 2804.25(c); or

(8) The BLM's evaluation of your solar or wind application made under § 2804.25(e)(2)(iii) provides a basis for a denial.

(b)***

(c) If you are unable to meet any of the requirements in this section you may request an alternative from the BLM (see § 2804.40).

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17. In § 2804.27, revise the section heading and introductory text to read as follows:

§ 2804.27 What fees must I pay if BLM denies my application or if I withdraw my application?

If the BLM denies your application or you withdraw it, you must still pay any application filing fees under § 2804.12(b)(2), and any processing fee set forth at § 2804.14, unless you have a Processing Category 5 or 6 application. Then, the following conditions apply:

*****

18. Add § 2804.30 to subpart 2804 to read as follows:

§ 2804.30 What is the competitive process for solar or wind energy development for lands outside of designated leasing areas?

(a) Available land. The BLM may offer through a competitive process any land not inside a designated leasing area and open to right-of-way applications under § 2802.10.

(b) Variety of competitive procedures available. The BLM may use any type of competitive process or procedure to conduct its competitive offer and any method, including the use of the Internet, to conduct the actual auction or competitive bid procedure. Possible bid procedures could include, but are not limited to: Sealed bidding, oral auctions, modified competitive bidding, electronic bidding, and any combination thereof.

(c) Competitive offer. The BLM may identify a parcel for competitive offer if competition exists or may include land in a competitive offer on its own initiative.

(d) Notice of competitive offer. The BLM will publish a notice in the Federal Register at least 30 days prior to the competitive offer and may use other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the Internet. The notice would explain that the successful bidder would become the preferred applicant (see paragraph (g) of this section) and may then apply for a grant. The Federal Register and other notices must also include:

(1) The date, time, and location, if any, of the competitive offer;

(2) The legal land description of the parcel to be offered;

(3) The bidding methodology and procedures to be used in conducting the competitive offer, which may include any of the competitive procedures identified in § 2804.30(b);

(4) The minimum bid required (see § 2804.30(e)(2));

(5) The qualification requirements for potential bidders (see § 2803.10); and

(6) The requirements for the successful bidder to submit a schedule for the submission of a POD for the lands involved in the competitive offer (see § 2804.12(c)(1)).

(e) Bidding.

(1) Bid submissions. The BLM will accept your bid only if it includes payment for the minimum bid and at least 20 percent of the bonus bid.

(2) Minimum bid. The minimum bid is not prorated among all bidders, but paid entirely by the successful bidder. The minimum bid consists of:

(i) The administrative costs incurred by the BLM and other Federal agencies in preparing for and conducting the competitive offer, including required environmental reviews; and

(ii) An amount determined by the authorizing officer and disclosed in the notice of competitive offer. This amount will be based on known or potential values of the parcel. In setting this amount, the BLM will consider factors that include, but are not limited to, the acreage rent and megawatt capacity fee.

(3) Bonus bid. The bonus bid consists of any dollar amount that a bidder wishes to bid in addition to the minimum bid.

(4) If you are not the successful bidder, as defined in paragraph (f) of this section, the BLM will refund your bid and any application filing fees, less the reasonable costs incurred by the United States in connection with your application, under § 2804.12(c)(2).

(f) Successful bidder. The successful bidder is determined by the highest total bid. If you are the successful bidder, you become the preferred applicant only if, within 15 calendar days after the day of the offer, you submit the balance of the bonus bid to the BLM office conducting the competitive offer. You must make payments by personal

check, cashier's check, certified check, bank draft, money order, or by other means deemed acceptable by the BLM, payable to the "Department of the Interior—Bureau of Land Management."

(g) Preferred applicant. The preferred applicant may apply for an energy project-area testing grant, an energy site-specific testing grant, or a solar or wind energy development grant for the parcel identified in the offer. Grant approval is not guaranteed by winning the subject bid and is solely at the BLM's discretion. The BLM will not accept applications on lands where a preferred applicant has been identified, unless allowed by the preferred applicant.

(h) Reservations.

(1) The BLM may reject bids regardless of the amount offered. If the BLM rejects your bid under this provision, you will be notified in writing and such notice will include the reasons for the rejection and any refunds to which you are entitled.

(2) The BLM may make the next highest bidder the preferred applicant if the first successful bidder fails to satisfy the requirements under paragraph (f) of this section.

(3) If the BLM is unable to determine the successful bidder, such as in the case of a tie, the BLM may re-offer the lands competitively to the tied bidders, or to all bidders.

(4) If lands offered under this section receive no bids the BLM may:

(i) Re-offer the lands through the competitive process under this section; or

(ii) Make the lands available through the non-competitive application process found in subparts 2803, 2804, and 2805 of this part, if the BLM determines that doing so is in the public interest.

19. Add § 2804.31 to subpart 2804 to read as follows:

§ 2804.31 How will the BLM call for site testing for solar and wind energy?

(a) Call for site testing. The BLM may, at its own discretion, initiate a call for site testing. The BLM will publish this call for site testing in the Federal Register and may also use other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way, or the Internet. The Federal Register and any other notices will include:

(1) The date, time, and location that site testing applications identified under §2801.9(d)(1) of this part may be submitted;

(2) The date by which applicants will be notified of the BLM's decision on timely submitted site testing applications;

(3) The legal land description of the area for which site testing applications are being requested; and

(4) The qualification requirements for applicants (see § 2803.10).

(b) You may request that the BLM hold a call for site testing for certain public lands. The BLM may proceed with a call for site testing at its own discretion.

(c) The BLM may identify lands surrounding the site testing as designated leasing areas under § 2802.11. If a designated leasing area is established, a competitive offer for a development lease under subpart 2809 may be held at the discretion of the BLM.

20. Add § 2804.35 to subpart 2804 to read as follows:

§ 2804.35 How will the BLM prioritize my solar or wind energy application?

The BLM will prioritize your application by placing it into one of three categories and may re-categorize your application based on new information received through surveys, public meetings, or other data collection, or after any changes to the application. The

BLM will generally prioritize the processing of leases awarded under subpart 2809 before applications submitted under subpart 2804. For applications submitted under subpart 2804, the BLM will categorize your application based on the following screening criteria.

(a) High-priority applications are given processing priority over medium- and low-priority applications and may include lands that meet the following criteria:

(1) Lands specifically identified as appropriate for solar or wind energy development, other than designated leasing areas;

(2) Previously disturbed sites or areas adjacent to previously disturbed or developed sites;

(3) Lands currently designated as Visual Resource Management Class IV; or

(4) Lands identified as suitable for disposal in BLM land use plans.

(b) Medium-priority applications are given priority over low-priority applications and may include lands that meet the following criteria:

(1) BLM special management areas that provide for limited development, including recreation sites and facilities;

(2) Areas where a project may adversely affect conservation lands, including lands with wilderness characteristics that have been identified in an updated wilderness characteristics inventory;

(3) Right-of-way avoidance areas;

(4) Areas where project development may adversely affect resources and properties listed nationally such as the National Register of Historic Places, National Natural Landmarks, or National Historic Landmarks;

(5) Sensitive habitat areas, including important species use areas, riparian areas, or areas of importance for Federal or State sensitive species;

(6) Lands currently designated as Visual Resource Management Class III;

(7) Department of Defense operating areas with land use or operational mission conflicts; or

(8) Projects with proposed groundwater uses within groundwater basins that have been allocated by State water resource agencies.

(c) Low-priority applications may not be feasible to authorize. These applications may include lands that meet the following criteria:

(1) Lands near or adjacent to lands designated by Congress, the President, or the Secretary for the protection of sensitive viewsheds, resources, and values (e.g., units of the National Park System, Fish and Wildlife Service Refuge System, some National Forest System units, and the BLM National Landscape Conservation System), which may be adversely affected by development;

(2) Lands near or adjacent to Wild, Scenic, and Recreational Rivers and river segments determined suitable for Wild or Scenic River status, if project development may have significant adverse effects on sensitive viewsheds, resources, and values;

(3) Designated critical habitat for federally threatened or endangered species, if project development may result in the destruction or adverse modification of that critical habitat;

(4) Lands currently designated as Visual Resource Management Class I or Class II;

(5) Right-of-way exclusion areas; or

(6) Lands currently designated as no surface occupancy for oil and gas development in BLM land use plans.

21. Add § 2804.40 to subpart 2804 to read as follows:

§ 2804.40 Alternative Requirements.

If you are unable to meet any of the requirements in this subpart you may request approval for an alternative requirement from the BLM. Any such request is not approved until you receive BLM approval in writing. Your request to the BLM must:

(a) Show good cause for your inability to meet a requirement;

(b) Suggest an alternative requirement and explain why that requirement is appropriate; and

(c) Be received in writing by the BLM in a timely manner, before the deadline to meet a particular requirement has passed.

Subpart 2805—Terms and Conditions of Grants

22. Amend § 2805.10 as follows:

a. Revise the section heading;

b. Revise paragraph (a);

c. Redesignate paragraph (b) and (c) as paragraphs (c) and (d), respectively; and

d. Add new paragraph (b).

The revisions and additions read as follows:

§ 2805.10 How will I know whether the BLM has approved or denied my application or if my bid for a solar or wind energy development grant or lease is successful or unsuccessful?

(a) The BLM will send you a written response when it has made a decision on your application or if you are the successful bidder for a solar or wind energy development grant or lease. If we approve your application, we will send you an unsigned grant for your review and signature. If you are the successful bidder for a solar or wind energy lease inside a designated leasing area under § 2809.15, we may send you an unsigned

lease for your review and signature. If your bid is unsuccessful, it will be refunded under §§ 2804.30(e)(4) or 2809.14(d) and you will receive written notice from us.

(b) Your unsigned grant or lease document:

(1) Will include any terms, conditions, and stipulations that we determine to be in the public interest, such as modifying your proposed use or changing the route or location of the facilities;

(2) May include terms that prevent your use of the right-of-way until you have an approved Plan of Development (POD) and BLM has issued a Notice to Proceed; and

(3) Will impose a specific term for the grant or lease. Each grant or lease that we issue for 20 or more years will contain a provision requiring periodic review at the end of the twentieth year and subsequently at 10-year intervals. We may change the terms and conditions of the grant or lease, including leases issued under subpart 2809, as a result of these reviews in accordance with § 2805.15(e).

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23. Amend § 2805.11 by redesignating paragraph (b)(2) as paragraph (b)(3), adding new paragraph (b)(2), and revising newly redesignated paragraph (b)(3) to read as follows:

§ 2805.11 What does a grant contain?

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(b) ***

(2) Specific terms for solar and wind energy grants and leases are as follows:

(i) For an energy site-specific testing grant, the term is 3 years or less, without the option of renewal;

(ii) For an energy project-area testing grant, the initial term is 3 years or less, with the option to renew for one additional 3-year period when the renewal application is also accompanied by a solar or wind energy development application and a POD as required by § 2804.25(e)(3);

(iii) For a short-term grant for all other associated actions not specifically included in paragraphs (b)(2)(i) and (ii) of this section, such as geotechnical testing and other temporary land disturbing activities, the term is 3 years or less;

(iv) For solar and wind energy development grants, the term is up to 30 years (plus the initial partial year of issuance) with adjustable terms and conditions. The grantee may submit an application for renewal under § 2805.14(g); and

(v) For solar and wind energy development leases located inside designated leasing areas, the term is fixed for 30 years (plus the initial partial year of issuance). The lessee may submit an application for renewal under § 2805.14(g).

(3) All grants and leases, except those issued for a term of 3 years or less and those issued in perpetuity, will expire on December 31 of the final year of the grant or lease. For grants and leases with terms greater than 3 years, the actual term includes the number of full years specified, plus the initial partial year, if any.

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24. Revise § 2805.12 to read as follows:

§ 2805.12 What terms and conditions must I comply with?

(a) By accepting a grant or lease, you agree to comply with and be bound by the following terms and conditions. During construction, operation, maintenance, and termination of the project you must:

(1) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and State laws and regulations applicable to the authorized use;

(2) Rebuild and repair roads, fences, and established trails destroyed or damaged by the project;

(3) Build and maintain suitable crossings for existing roads and significant trails that intersect the project;

(4) Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area;

(5) Not discriminate against any employee or applicant for employment during any stage of the project because of race, creed, color, sex, sexual orientation, or national origin. You must also require subcontractors to not discriminate;

(6) Pay monitoring fees and rent described in § 2805.16 and subpart 2806;

(7) Assume full liability if third parties are injured or damages occur to property on or near the right-of-way (see § 2807.12);

(8) Comply with project-specific terms, conditions, and stipulations, including requirements to:

(i) Restore, revegetate, and curtail erosion or conduct any other rehabilitation measure the BLM determines necessary;

(ii) Ensure that activities in connection with the grant comply with air and water quality standards or related facility siting standards contained in applicable Federal or State law or regulations;

(iii) Control or prevent damage to:

(A) Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat;

(B) Public and private property; and

(C) Public health and safety;

(iv) Provide for compensatory mitigation for residual impacts associated with the right-of-way.

(v) Protect the interests of individuals living in the general area who rely on the area for subsistence uses as that term is used in Title VIII of Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111 et seq.);

(vi) Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant or lease, including the approved POD, if one was required;

(vii) When the State standards are more stringent than Federal standards, comply with State standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way; and

(viii) Grant the BLM an equivalent authorization for an access road across your land if the BLM determines that a reciprocal authorization is needed in the public interest and the authorization the BLM issues to you is also for road access;

(9) Immediately notify all Federal, State, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify the BLM at the same time and send the BLM a copy of any written notification you prepared;

(10) Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant;

(11) Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, (42 U.S.C. 11001 et seq.), when you receive, assign, renew, amend, or terminate your grant;

(12) Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to the BLM's satisfaction and to the satisfaction of any other Federal, State, tribal, or local agency having jurisdiction over the land, resource, or hazardous material;

(13) Comply with all liability and indemnification provisions and stipulations in the grant;

(14) As the BLM directs, provide diagrams or maps showing the location of any constructed facility;

(15) As the BLM directs, provide, or give access to, any pertinent environmental, technical, and financial records, reports, and other information, such as Power Purchase and Interconnection Agreements or the production and sale data for electricity generated from the approved facilities on public lands. Failure to comply with such requirements may, at the discretion of the BLM, result in suspension or termination of the right-of-way authorization. The BLM may use this and similar information for the purpose of monitoring your authorization and for periodic evaluation of financial obligations under the authorization, as appropriate. Any records the BLM obtains will be made available to

the public subject to all applicable legal requirements and limitations for inspection and duplication under the Freedom of Information Act. Any information marked confidential or proprietary will be kept confidential to the extent allowed by law; and

(16) Comply with all other stipulations that the BLM may require.

(b) You must comply with the bonding requirements under § 2805.20. The BLM will not issue a Notice to Proceed or give written approval to proceed with ground disturbing activities until you comply with this requirement.

(c) By accepting a grant or lease for solar or wind energy development, you also agree to comply with and be bound by the following terms and conditions. You must:

(1) Not begin any ground disturbing activities until the BLM issues a Notice to Proceed (see § 2807.10) or written approval to proceed with ground disturbing activities;

(2) Complete construction within the timeframes in the approved POD, but no later than 24 months after the start of construction, unless the project has been approved for staged development, or as otherwise authorized by the BLM;

(3) If an approved POD provides for staged development, unless otherwise approved by the BLM:

(i) Begin construction of the initial phase of development within 12 months after issuance of the Notice to Proceed, but no later than 24 months after the effective date of the right-of-way authorization;

(ii) Begin construction of each stage of development (following the first) within 3 years of the start of construction of the previous stage of development, and complete construction of that stage no later than 24 months after the start of construction of that stage, unless otherwise authorized by the BLM; and

(iii) Have no more than 3 development stages, unless otherwise authorized by the BLM.

(4) Maintain all onsite electrical generation equipment and facilities in accordance with the design standards in the approved POD;

(5) Repair and place into service, or remove from the site, damaged or abandoned facilities that have been inoperative for any continuous period of 3 months and that present an unnecessary hazard to the public lands. You must take appropriate remedial action within 30 days after receipt of a written noncompliance notice, unless you have been provided an extension of time by the BLM. Alternatively, you must show good cause for any delays in repairs, use, or removal; estimate when corrective action will be completed; provide evidence of diligent operation of the facilities; and submit a written request for an extension of the 30-day deadline. If you do not comply with this provision, the BLM may suspend or terminate the authorization under §§ 2807.17 through 2807.19; and

(6) Comply with the diligent development provisions of the authorization or the BLM may suspend or terminate your grant or lease under §§ 2807.17 through 2807.19. Before suspending or terminating the authorization, the BLM will send you a notice that gives you a reasonable opportunity to correct any noncompliance or to start or resume use of the right-of-way (see § 2807.18). In response to this notice, you must:

(i) Provide reasonable justification for any delays in construction (for example, delays in equipment delivery, legal challenges, and acts of God);

(ii) Provide the anticipated date of completion of construction and evidence of progress toward the start or resumption of construction; and

(iii) Submit a written request under paragraph (e) of this section for extension of the timelines in the approved POD. If you do not comply with the requirements of paragraph (c)(7) of this section, the BLM may deny your request for an extension of the timelines in the approved POD.

(7) In addition to the RCE requirements of § 2805.20(a)(5) for a grant, the bond secured for a grant or lease must cover the estimated costs of cultural resource and Indian cultural resource identification, protection, and mitigation for project impacts.

(d) For energy site or project testing grants:

(1) You must install all monitoring facilities within 12 months after the effective date of the grant or other authorization. If monitoring facilities under a site testing and monitoring right-of-way authorization have not been installed within 12 months after the effective date of the authorization or consistent with the timeframe of the approved POD, you must request an extension pursuant to paragraph (e) of this section;

(2) You must maintain all onsite equipment and facilities in accordance with the approved design standards;

(3) You must repair and place into service, or remove from the site, damaged or abandoned facilities that have been inoperative for any continuous period of 3 months and that present an unnecessary hazard to the public lands; and

(4) If you do not comply with the diligent development provisions of either the site testing and monitoring authorization or the project testing and monitoring authorization, the BLM may terminate your authorization under § 2807.17.

(e) <u>Notification of Noncompliance and Request for Alternative Requirements</u>.

(1) As soon as you anticipate that you will not meet any stipulation, term, or condition of the approved right-of-way grant or lease, or in the event of your noncompliance with any such stipulation, term, or condition, you must notify the BLM in writing and show good cause for the noncompliance, including an explanation of the reasons for the failure.

(2) You may also request that the BLM consider alternative stipulations, terms, or conditions. Any request for an alternative stipulation, term, or condition must comply with applicable law in order to be considered. Any proposed alternative to applicable bonding requirements must provide the United States with adequate financial assurance for potential liabilities associated with your right-of-way grant or lease. Any such request is not approved until you receive BLM approval in writing.

25. Amend § 2805.14 by removing "and" from the end of paragraph (e), removing the period from the end of paragraph (f) and adding "; and" in its place, and adding paragraphs (g) and (h) to read as follows:

§ 2805.14 What rights does a grant convey?

*****

(g) Apply to renew your solar or wind energy development grant or lease, under § 2807.22; and

(h) Apply to renew your energy project-area testing grant for one additional term of 3 years or less when the renewal application also includes an energy development application under § 2801.9(d)(2).

26. In § 2805.15, revise the first sentence of paragraph (b) to read as follows:

§ 2805.15 What rights does the United States retain?

*****

(b) Require common use of your right-of-way, including facilities (see § 2805.14(b)), subsurface, and air space, and authorize use of the right-of-way for compatible uses. ***
*****

27. Revise § 2805.16 to read as follows:

§ 2805.16 If I hold a grant, what monitoring fees must I pay?

(a) You must pay a fee to the BLM for the reasonable costs the Federal Government incurs in inspecting and monitoring the construction, operation, maintenance, and termination of the project and protection and rehabilitation of the public lands your grant covers. Instead of paying the BLM a fee for the reasonable costs incurred by other Federal agencies in monitoring your grant, you may pay the other Federal agencies directly for such costs. The BLM will annually adjust the Category 1 through 4 monitoring fees in the manner described at § 2804.14(b). The BLM will update Category 5 monitoring fees as specified in the Master Agreement. Category 6 monitoring fees are addressed at § 2805.17(c). The BLM categorizes the monitoring fees based on the estimated number of work hours necessary to monitor your grant. Category 1 through 4 monitoring fees are one-time fees and are not refundable. The monitoring categories and work hours are as follows:

Monitoring Categories

Monitoring category	Federal work hours involved
(1) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are $> 1 \leq 8$

(2) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 8 ≤ 24
(3) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 24 ≤ 36
(4) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 36 ≤ 50
(5) Master Agreements	Varies
(6) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 50

(b) The monitoring cost schedule is available from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at http://www.blm.gov.

28. Add § 2805.20 to subpart 2805 to read as follows:

§ 2805.20 Bonding requirements.

If you hold a grant or lease under this part, you must comply with the following bonding requirements:

(a) The BLM may require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable bond instrument to cover any losses, damages, or injury to human health, the environment, or property in connection with your use and occupancy of the right-of-way, including costs associated with

terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. The BLM will periodically review your bond for adequacy and may require a new bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or lease.

(1) The BLM must be listed as an additionally named insured on the bond instrument if a State regulatory authority requires a bond to cover some portion of environmental liabilities, such as hazardous material damages or releases, reclamation, or other requirements for the project. The bond must:

(i) Be redeemable by the BLM;

(ii) Be held or approved by a State agency for the same reclamation requirements as specified by our right-of-way authorization; and

(iii) Provide the same or greater financial guarantee that we require for the portion of environmental liabilities covered by the State's bond.

(2) Bond acceptance. The BLM authorized officer must review and approve all bonds, including any State bonds, prior to acceptance, and at the time of any right-of-way assignment, amendment, or renewal.

(3) Bond amount. Unless you hold a solar or wind energy lease under subpart 2809, the bond amount will be determined based on the preparation of a RCE, which the BLM may require you to prepare and submit. The estimate must include our cost to administer a

reclamation contract and will be reviewed periodically for adequacy. The BLM may also consider other factors, such as salvage value, when determining the bond amount.

(4) You must post a bond on or before the deadline that we give you.

(5) Bond components that must be addressed when determining the RCE amount include, but are not limited to:

(i) Environmental liabilities such as use of hazardous materials waste and hazardous substances, herbicide use, the use of petroleum-based fluids, and dust control or soil stabilization materials;

(ii) The decommissioning, removal, and proper disposal, as appropriate, of any improvements and facilities; and

(iii) Interim and final reclamation, re-vegetation, recontouring, and soil stabilization. This component must address the potential for flood events and downstream sedimentation from the site that may result in offsite impacts.

(6) You may ask us to accept a replacement performance and reclamation bond at any time after the approval of the initial bond. We will review the replacement bond for adequacy. A surety company is not released from obligations that accrued while the surety bond was in effect unless the replacement bond covers those obligations to our satisfaction.

(7) You must notify us that reclamation has occurred and you may request that the BLM reevaluate your bond. If we determine that you have completed reclamation, we may release all or part of your bond.

(8) If you hold a grant, you are still liable under § 2807.12 if:

(i) We release all or part of your bond;

(ii) The bond amount does not cover the cost of reclamation; or

(iii) There is no bond in place;

(b) If you hold a grant for solar energy development outside of designated leasing areas, you must provide a performance and reclamation bond (see paragraph (a) of this section) prior to the BLM issuing a Notice to Proceed (see § 2805.12(c)(1)). We will determine the bond amount based on the RCE (see paragraph (a)(3) of this section) and it must be no less than $10,000 per acre that will be disturbed;

(c) If you hold a grant for wind energy development outside of designated leasing areas, you must provide a performance and reclamation bond (see paragraph (a) of this section) prior to the BLM issuing a Notice to Proceed (see § 2805.12(c)(1)). We will determine the bond amount based on the RCE (see paragraph (a)(3) of this section) and it must be no less than $10,000 per authorized turbine less than 1 MW in nameplate capacity or $20,000 per authorized turbine equal to or greater than 1 MW in nameplate capacity; and

(d) For short-term right-of-way grants for energy site or project-area testing, the bond amount must be no less than $2,000 per authorized meteorological tower or instrumentation facility location and must be provided before the written approval to proceed with ground disturbing activities (see § 2805.12(c)(1)).

29. Revise the heading for subpart 2806 to read as follows:

Subpart 2806—Annual Rents and Payments

30. Amend § 2806.12 by revising the section heading and paragraphs (a) and (b) and adding paragraph (d) to read as follows:

§ 2806.12 When and where do I pay rent?

(a) You must pay rent for the initial rental period before the BLM issues you a grant or lease.

(1) If your non-linear grant or lease is effective on:

(i) January 1 through September 30 and qualifies for annual payments, your initial rent bill is pro-rated to include only the remaining full months in the initial year; or

(ii) October 1 through December 31 and qualifies for annual payments, your initial rent bill is pro-rated to include the remaining full months in the initial year plus the next full year.

(2) If your non-linear grant allows for multi-year payments, such as a short term grant issued for energy site-specific testing, you may request that your initial rent bill be for the full term of the grant instead of the initial rent bill periods provided under paragraphs (a)(1)(i) or (ii) of this section.

(b) You must make all rental payments for linear rights-of-way according to the payment plan described in § 2806.24.

*****

(d) You must make all rental payments as instructed by us or as provided for by Secretarial order or legislative authority.

31. Amend § 2806.13 by:

a. Revising the section heading and paragraph (a);

b. Redesignating paragraph (e) as paragraph (f); and

c. Adding new paragraphs (e) and (g).

The revisions and additions read as follows:

§ 2806.13 What happens if I do not pay rents and fees or if I pay the rents or fees late?

(a) If the BLM does not receive the rent or fee payment required in subpart 2806 within 15 calendar days after the payment was due under § 2806.12, we will charge you a late payment fee of $25 or 10 percent of the amount you owe, whichever is greater, per authorization.

*****

(e) Subject to applicable laws and regulations, we will retroactively bill for uncollected or under-collected rent, fees, and late payments, if:

(1) A clerical error is identified;

(2) An adjustment to rental schedules is not applied; or

(3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

*****

(g) We will not approve any further activities associated with your right-of-way until we receive any outstanding payments that are due.

32. In § 2806.20, revise paragraph (c) to read as follows:

§ 2806.20 What is the rent for a linear right-of-way grant?

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(c) You may obtain a copy of the current Per Acre Rent Schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE, Room 2134LM, Washington, DC 20003. We also post the current rent schedule at http://www.blm.gov.

33. In § 2806.22, revise the second sentence of paragraph (a) to read as follows:

§ 2806.22 When and how does the Per Acre Rent Schedule change?

(a) ***For example, the average annual change in the IPD–GDP from 1994 to 2003 (the 10-year period immediately preceding the year (2004) that the 2002 National Agricultural Statistics Service Census data became available) was 1.9 percent.***

*****

34. Amend § 2806.23 by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

35. In § 2806.24, revise paragraph (c) to read as follows:

§ 2806.24 How must I make rental payments for a linear grant?

*****

(c) Proration of payments. The BLM prorates the first year rental amount based on the number of months left in the calendar year after the effective date of the grant. If your grant requires, or you chose a 10-year payment term, or multiples thereof, the initial rent bill consists of the remaining partial year plus the next 10 years, or multiple thereof.

36. Amend § 2806.30 by:

a. Revising paragraphs (a)(1) and (a)(2);

b. Removing paragraph (b); and

c. Redesignating paragraph (c) as paragraph (b).

The revisions read as follows:

§ 2806.30 What are the rents for communication site rights-of-way?

(a) Rent schedule. (1) The BLM uses a rent schedule to calculate the rent for communication site rights-of-way. The schedule is based on nine population strata (the

population served), as depicted in the most recent version of the Ranally Metro Area (RMA) Population Ranking, and the type of communication use or uses for which we normally grant communication site rights-of-way. These uses are listed as part of the definition of "communication use rent schedule," set out at § 2801.5(b). You may obtain a copy of the current schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. We also post the current communication use rent schedule at http://www.blm.gov.

(2) We update the schedule annually based on two sources: The U.S. Department of Labor Consumer Price Index for All Urban Consumers, U.S. City Average (CPI-U), as of July of each year (difference in CPI-U from July of one year to July of the following year), and the RMA population rankings.

*****

37. In § 2806.34, revise the second sentence of paragraph (b)(4) to read as follows:

§ 2806.34 How will BLM calculate the rent for a grant or lease authorizing a multiple-use communication facility?

*****

(4) *** This paragraph does not apply to facilities exempt from rent under § 2806.14(a)(4) except when the facility also includes ineligible facilities.

38. In § 2806.43, revise the third sentence of paragraph (a) to read as follows:

§ 2806.43 How does BLM calculate rent for passive reflectors and local exchange networks?

(a) *** For passive reflectors and local exchange networks not covered by a Forest Service regional schedule, we use the provisions in § 2806.70 to determine rent. *** *****

39. Amend § 2806.44 by adding introductory text and revising paragraph (a) to read as follows:

§ 2806.44 How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses?

This section applies to a grant or lease that authorizes a mixture of communication uses, some of which are subject to the communication use rent schedule and some of which are not. We will determine rent for these leases under the provisions of this section.

(a) The BLM establishes the rent for each of the uses in the facility that are not covered by the communication use rent schedule using § 2806.70.

*****

40. Remove the undesignated centered heading preceding § 2806.50.

41. Redesignate § 2806.50 as § 2806.70.

42. Add an undesignated centered heading and new § 2806.50, 2806.51, 2806.52, 2806.54, 2806.56, and 2806.58, to read as follows:

Solar Energy Rights-of-Way

§ 2806.50 Rents and fees for solar energy rights-of-way.

If you hold a right-of-way authorizing solar energy site-specific or project-area testing, or solar energy development, you must pay an annual rent and fee in accordance with this section and subpart. Your solar energy right-of-way authorization will either be a grant (if issued under subpart 2804) or a lease (if issued under subpart 2809). Rents and fees

for either type of authorization consist of an acreage rent that must be paid prior to issuance of the authorization and a phased-in MW capacity fee. Both the acreage rent and the phased-in MW capacity fee are charged and calculated consistent with § 2806.11 and prorated consistent with § 2806.12(a). The MW capacity fee will vary depending on the size and technology of the solar energy development project.

§ 2806.51 Scheduled Rate Adjustment.

(a) The BLM will adjust your acreage rent and MW capacity fee over the course of your authorization as described in these regulations. For new grants or leases, you may choose either the standard rate adjustment method (see §§ 2806.52(a)(5) and 2806.52(b)(3) for grants; see §§ 2806.54(a)(4) or 2806.54(c) for leases) or the scheduled rate adjustment method (see § 2806.52(d) for grants; see § 2806.54(d) for leases). Once you select a rate adjustment method, that method will be fixed until you renew your grant or lease (see § 2807.22).

(b) For new grants or leases, if you select the scheduled rate adjustment method you must notify the BLM of your decision in writing. Your decision must be received by the BLM before your grant or lease is issued. If you do not select the scheduled rate adjustment method, the standard rate adjustment method will apply.

(c) If you hold a grant that is in effect prior to [INSERT EFFECTIVE DATE OF THIS FINAL RULE], you may either accept the standard rate adjustment method or request in writing that the BLM apply the scheduled rate adjustment method, as set forth in § 2806.52(d), to your grant. To take advantage of the scheduled rate adjustment option, your request must be received by the BLM before [INSERT DATE TWO YEARS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The BLM will continue to

apply the standard rate adjustment method to adjust your rates unless and until it receives your request to use the scheduled rate adjustment method.

§ 2806.52 Rents and fees for solar energy development grants.

You must pay an annual acreage rent and MW capacity fee for your solar energy development grant as follows:

(a) Acreage rent. The BLM will calculate the acreage rent by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the annual per acre zone rate from the solar energy acreage rent schedule in effect at the time the authorization is issued;

(1) Per acre zone rate. The annual per acre zone rate from the solar energy acreage rent schedule is calculated using the per acre zone value (as assigned under paragraph (a)(2) of this section), encumbrance factor, rate of return, and the annual adjustment factor. The calculation for determining the annual per acre zone rate is A × B × C × D = E where:

(i) A is the per acre zone value = the same per acre zone values described in the linear rent schedule in § 2806.20(c);

(ii) B is the encumbrance factor = 100 percent;

(iii) C is the rate of return = 5.27 percent;

(iv) D is the annual adjustment factor = the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS Census data becomes available (see § 2806.22(a)). The BLM will adjust the per acre zone rates each year based on the average annual change in the IPD–GDP as determined under § 2806.22(a). Adjusted rates are effective each year on January 1; and

(v) E is the annual per acre zone rate.

(2) Assignment of counties: The BLM will calculate the per acre zone rate in paragraph (a)(1) of this section by using a State-specific factor to assign a county to a zone in the solar energy acreage rent schedule. The BLM will calculate a State-specific factor and apply it to the NASS data (county average per acre land and building value) to determine the per acre value and assign a county (or other geographical area) to a zone. The State-specific factor represents the percent difference between improved agricultural land and unimproved rangeland values, using NASS data. The calculation for determining the State-specific factor is (A/B) – (C/D) = E where:

(i) A = the NASS Census statewide average per acre value of non-irrigated acres;

(ii) B = the NASS Census statewide average per acre land and building value;

(iii) C = the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

(iv) D = the total statewide acres in farms; and

(v) E = the State-specific percent factor or 20 percent, whichever is greater.

(3) The initial assignment of counties to the zones on the solar energy acreage rent schedule will be based upon the most recent NASS Census data (2012) for years 2016 through 2020. The BLM may on its own or in response to requests consider making regional adjustments to those initial assignments, based on evidence that the NASS Census values do not accurately reflect the value of the BLM-managed lands in a given area. The BLM will update this rent schedule once every 5 years by re-assigning counties to reflect the updated NASS Census values as described in § 2806.21 and recalculate the State-specific percent factor once every 10 years as described in § 2806.22(b).

(4) Acreage rent payment. You must pay the acreage rent regardless of the stage of development or operations on the entire public land acreage described in the right-of-way authorization. The BLM State Director may approve a rental payment plan consistent with § 2806.15(c);

(5) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.51). The BLM will adjust the acreage rent annually to reflect the change in the per acre zone rates as specified in paragraph (a)(1) of this section. The BLM will use the most current per acre zone rates to calculate the acreage rent for each year of the grant term; and

(6) You may obtain a copy of the current per acre zone rates for solar energy development (solar energy acreage rent schedule) from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current solar energy acreage rent schedule for solar energy development at http://www.blm.gov;

(b) MW capacity fee. The MW capacity fee is calculated by multiplying the approved MW capacity by the MW rate (for the applicable type of technology employed by the project) from the MW rate schedule (see paragraph (b)(2) of this section). You must pay the MW capacity fee annually when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first:

(1) MW rate. The MW rate is calculated by multiplying the total hours per year, by the net capacity factor, by the MWh price, by the rate of return. For an explanation of each of these terms, see the definition of MW rate in § 2801.5(b).

(2) MW rate schedule. You may obtain a copy of the current MW rate schedule for solar energy development from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current MW rate schedule for solar energy development at http://www.blm.gov;

(3) Periodic adjustments in the MW rate. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.51). The BLM will adjust the MW rate applicable to your grant every 5 years, beginning in 2021, by recalculating the following two components of the MW rate formula:

(i) The adjusted MWh price is the average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States for the full 5 calendar-year period preceding the adjustment, rounded to the nearest dollar increment; and

(ii) The adjusted rate of return is the 10-year average of the 20-year U.S. Treasury bond yield for the full 10 calendar-year period preceding the adjustment, rounded to the nearest one-tenth percent, with a minimum rate of return of 4 percent.

(4) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.51). If you hold a solar energy development grant, the MW rate will be phased in as follows:

(i) There is a 3-year phase-in of the MW rate when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first, at the rates of:

(A) 25 percent for the first year. This rate applies for the first partial calendar year of operations, from the date electricity generation begins until Dec. 31 of that year;

(B) 50 percent for the second year; and

(C) 100 percent for the third and subsequent years of operations.

(ii) After generation of electricity starts and an approved POD provides for staged development:

(A) The 3-year phase-in of the MW rate applies to each stage of development; and

(B) The MW capacity fee is calculated using the authorized MW capacity approved for that stage plus any previously approved stages, multiplied by the MW rate.

(5) The general payment provisions for rents described in this subpart, except for § 2806.14(a)(4), also apply to the MW capacity fee.

(c) Initial implementation of the acreage rent and MW capacity fee. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.51). If you hold a solar energy grant and made payments for billing year 2016, the BLM will reduce by 50 percent the net increase in annual costs between billing year 2017 and billing year 2016. The net increase will be calculated based on a full calendar year.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment method (see § 2806.51), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) in place when your grant is issued, or for existing grants, the per acre zone rate and MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], as adjusted under paragraph (d)(6) of this section;

(2) The per acre zone rate will increase:

(i) Annually, beginning after the first full calendar year plus any initial partial year following issuance of your grant, by the average annual change in the IPD-GDP as described in § 2806.22(b); and

(ii) Every 5 years, beginning after the first 5 calendar years, plus any initial partial year, following issuance of your grant, by 20 percent;

(3) The MW rate will increase by 20 percent every 5 years, beginning after the first 5 years, plus the initial partial year, if any, your grant is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.52(b)(4) or the reduction under § 2806.52(c);

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for the current stage plus any previously approved stages, multiplied by the MW rate, as described under this section.

(6) For grants in place prior to [INSERT EFFECTIVE DATE OF FINAL RULE] that select the scheduled rate adjustment method offered under § 2806.51(c), the per acre zone rate and the MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be adjusted for the first year's payment using the scheduled rate adjustment method as follows:

(i) The per acre zone rate will increase by the average annual change in the IPD-GDP as described in § 2806.22(b) plus 20 percent;

(ii) The MW rate will increase by 20 percent; and

(iii) Subsequent increases will be performed as set forth in paragraphs (d)(2) and (d)(3) of this section from the date of the initial adjustment under this paragraph.

§ 2806.54 Rents and fees for solar energy development leases.

If you hold a solar energy development lease obtained through competitive bidding under subpart 2809 of this part, you must make annual payments in accordance with this section and subpart, in addition to the one-time, upfront bonus bid you paid to obtain the lease. The annual payment includes an acreage rent for the number of acres included within the solar energy lease and an additional MW capacity fee based on the total authorized MW capacity for the approved solar energy project on the public lands.

(a) Acreage rent. The BLM will calculate and bill you an acreage rent that must be paid prior to issuance of your lease as described in § 2806.52(a). This acreage rent will be based on the following:

(1) Per acre zone rate. See § 2806.52(a)(1).

(2) Assignment of counties. See §§ 2806.52(a)(2) and 2806.52(a)(3)

(3) Acreage rent payment. See § 2806.52(a)(4).

(4) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.51). Once the acreage rent is determined under § 2806.52(a), no further adjustments in the annual acreage rent will be made until year 11 of the lease term and each subsequent 10-year period thereafter. The BLM will use the per acre zone rates in effect when it adjusts the annual acreage rent at those 10-year intervals,

(b) MW capacity fee. See §§ 2806.52 (b), (b)(1), (2), and (3).

(c) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.51). If you hold a solar energy development lease, the MW capacity fee will be phased in, starting when electricity begins to be generated. The MW capacity fee for years 1-20 will be calculated using the MW rate in effect when the lease is issued. The MW capacity fee for years 21-30 will be calculated using the MW rate in effect in year 21 of the lease. These rates will be phased-in as follows:

(1) For years 1 through 10 of the lease, plus any initial partial year, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2);

(2) For years 11 through 20 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2).

(3) For years 21 through 30 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2).

(4) If the lease is renewed, the MW capacity fee is calculated using the MW rates at the beginning of the renewed lease period and will remain at that rate through the initial 10-year period of the renewal term. The MW capacity fee will be adjusted using the MW rate at the beginning of each subsequent 10-year period of the renewed lease term.

(5) If an approved POD provides for staged development, the MW capacity fee is calculated using the MW capacity approved for that stage plus any previously approved stages, multiplied by the MW rate as described under this section.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment (see § 2806.51), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) in place when your lease is issued;

(2) The per acre zone rate will increase every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect, by the average annual change in the IPD-GDP for the preceding 10-year period as described in § 2806.22(b) plus 40 percent;

(3) The MW rate will increase by 40 percent every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.52(c). Instead, for years 1 through 5, plus any initial partial year, the BLM will calculate the MW capacity fee by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate. This phase-in will not be applied to renewed leases; and

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for the current stage plus any previously approved stages, multiplied by the MW rate, as described under this section.

§ 2806.56 Rent for support facilities authorized under separate grant(s).

If a solar energy development project includes separate right-of-way authorizations issued for support facilities only (administration building, groundwater wells, construction lay down and staging areas, surface water management and control

structures, etc.) or linear right-of-way facilities (pipelines, roads, power lines, etc.), rent is determined using the Per Acre Rent Schedule for linear facilities (see § 2806.20(c)).

§ 2806.58 Rent for energy development testing grants.

(a) Grants for energy site-specific testing. You must pay $100 per year for each meteorological tower or instrumentation facility location. BLM offices with approved small site rental schedules may use those fee structures if the fees in those schedules charge more than $100 per meteorological tower per year. In lieu of annual payments, you may instead pay for the entire term of the grant (3 years or less).

(b) Grants for energy project-area testing. You must pay $2,000 per year or $2 per acre per year for the lands authorized by the grant, whichever is greater. There is no additional rent for the installation of each meteorological tower or instrumentation facility located within the site testing and monitoring project-area.

43. Add an undesignated centered heading and new §§ 2806.60, 2806.61, 2806.62, 2806.64, 2806.66, and 2806.68, to read as follows:

Wind Energy Rights-of-Way

§ 2806.60 Rents and fees for wind energy rights-of-way.

If you hold a right-of-way authorizing wind energy site-specific testing or project-area testing or wind energy development, you must pay an annual rent and fee in accordance with this section and subpart. Your wind energy development right-of-way authorization will either be a grant (if issued under subpart 2804) or a lease (if issued under subpart 2809). Rents and fees for either type of authorization consist of an acreage rent that must be paid prior to issuance of the authorization and a phased-in MW capacity fee. Both the acreage rent and the phased-in MW capacity fee are charged and calculated consistent

with § 2806.11 and prorated consistent with § 2806.12(a). The MW capacity fee will vary depending on the size of the wind energy development project.

§ 2806.61 Scheduled Rate Adjustment.

(a) The BLM will adjust your acreage rent and MW capacity fee over the course of your authorization as described in these regulations. For new grants or leases, you may choose either the standard rate adjustment method (see §§ 2806.52(a)(5) and 2806.52(b)(3) for grants; see §§ 2806.54(a)(4) or 2806.54(c) for leases) or the scheduled rate adjustment method (see § 2806.52(d) for grants; see § 2806.54(d) for leases). Once you select a rate adjustment method, that method will be fixed until you renew your grant or lease (see § 2807.22).

(b) For new grants or leases, if you select the scheduled rate adjustment method you must notify the BLM of your decision in writing. Your decision must be received by the BLM before your grant or lease is issued. If you do not select the scheduled rate adjustment method, the standard rate adjustment method will apply.

(c) If you hold a grant that is in effect prior to [INSERT EFFECTIVE DATE OF THIS FINAL RULE], you may either accept the standard rate adjustment method or request in writing that the BLM apply the scheduled rate adjustment method, as set forth in § 2806.52(d), to your grant. To take advantage of the scheduled rate adjustment option, your request must be received by the BLM before [INSERT DATE TWO YEARS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The BLM will continue to apply the standard rate adjustment method to adjust your rates unless and until it receives your request to use the scheduled rate adjustment method.

§ 2806.62 Rents and fees for wind energy development grants.

You must pay an annual acreage rent and MW capacity fee for your wind energy development grant as follows:

(a) Acreage rent. The BLM will calculate the acreage rent by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate from the wind energy acreage rent schedule in effect at the time the authorization is issued;

(1) Per acre zone rate. The annual per acre zone rate from the wind energy acreage rent schedule is calculated using the per acre zone value (as assigned in accordance with paragraph (a)(2) of this section), encumbrance factor, rate of return, and the annual adjustment factor. The calculation for determining the annual per acre zone rate is A × B × C × D = E where:

(i) A is the per acre zone value = the same per- acre zone values described in the linear rent schedule in § 2806.20(c);

(ii) B is the encumbrance factor = 10 percent;

(iii) C is the rate of return = 5.27 percent;

(iv) D is the annual adjustment factor = the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS Census data becomes available (see § 2806.22(a)). The BLM will adjust the per acre rates each year based on the average annual change in the IPD–GDP as determined under § 2806.22(a). Adjusted rates are effective each year on January 1; and

(v) E is the annual per acre zone rate.

(2) Assignment of counties: The BLM will calculate the per acre zone rate in paragraph (a)(1) of this section by using a State-specific factor to assign a county to a zone in the

wind energy acreage rent schedule. The BLM will calculate a State-specific factor and apply it to the NASS data (county average per acre land and building value) to determine the per acre value and assign a county (or other geographical area) to a zone. The State-specific factor represents the percent difference between improved agricultural land and unimproved rangeland values, using NASS data. The calculation per acre for determining the State-specific factor is (A/B) – (C/D) = E where:

(i) A = the NASS Census statewide average per acre value of non-irrigated acres;

(ii) B = the NASS Census statewide average per acre land and building value;

(iii) C = the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

(iv) D = the total statewide acres in farms; and

(v) E = the State-specific percent factor or 20 percent, whichever is greater.

(3) The initial assignment of counties to the zones on the wind energy acreage rent schedule will be based upon the most recent NASS Census data (2012) for years 2016 through 2020. The BLM may on its own or in response to requests consider making regional adjustments to those initial assignments, based on evidence that the NASS Census values do not accurately reflect those of the BLM-managed lands. The BLM will update this rent schedule once every 5 years by re-assigning counties to reflect the updated NASS Census values as described in § 2806.21 and recalculate the State-specific percent factor once every 10 years as described in § 2806.22(b).

(4) Acreage rent payment. You must pay the acreage rent regardless of the stage of development or operations on the entire public land acreage described in the right-of-way

authorization. The BLM State Director may approve a rental payment plan consistent with § 2806.15(c); and

(5) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.61). The BLM will adjust the acreage rent annually to reflect the change in the per acre zone rates as specified in paragraph (a)(1) of this section. The BLM will use the most current per acre zone rates to calculate the acreage rent for each year of the grant term; and(6) The acreage rent must be paid as described in § 2806.62(a) except for the initial implementation of the wind energy acreage rent schedule of section §2806.62(c).

(7) You may obtain a copy of the current per acre zone rates for wind energy development (wind energy acreage rent schedule) from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current wind energy acreage rent schedule for wind energy development at http://www.blm.gov.

(b) MW capacity fee. The MW capacity fee is calculated by multiplying the approved MW capacity by the MW rate. You must pay the MW capacity fee annually when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first.

(1) MW rate. The MW rate is calculated by multiplying the total hours per year by the net capacity factor, by the MWh price, by the rate of return. For an explanation of each of these terms, see the definition of MW rate in § 2801.5(b).

(2) MW rate schedule. You may obtain a copy of the current MW rate schedule for wind energy development from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current MW rate schedule for wind energy development at http://www.blm.gov;

(3) Periodic adjustments in the MW rate. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.61). We will adjust the MW rate every 5 years, beginning in 2021, by recalculating the following two components of the MW rate formula:

(i) The adjusted MWh price is the average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States for the full 5 calendar-year period preceding the adjustment, rounded to the nearest dollar increment; and

(ii) The adjusted rate of return is the 10-year average of the 20-year U.S. Treasury bond yield for the full 10 calendar-year period preceding the adjustment, rounded to the nearest one-tenth percent, with a minimum rate of return of 4 percent.

(4) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61). If you hold a wind energy development grant, the MW rate will be phased in as follows:

(i) There is a 3-year phase-in of the MW rate when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first, at the rates of:

(A) 25 percent for the first year. This rate applies for the first partial calendar year of operations;

(B) 50 percent for the second year; and

(C) 100 percent for the third and subsequent years of operations.

(ii) After generation of electricity starts and an approved POD provides for staged development:

(A) The 3-year phase-in of the MW rate applies to each stage of development; and

(B) The MW capacity fee is calculated using the authorized MW capacity approved for that stage, plus any previously approved stages, multiplied by the MW rate.

(iii) The MW rate may be phased in further, as described in paragraph (c) of this section.

(5) The general payment provisions for rents described in this subpart, except for § 2806.14(a)(4), also apply to the MW capacity fee.

(c) Initial implementation of the acreage rent and MW capacity fee. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61).

(1) If you hold a wind energy grant and made payments for billing year 2016, the BLM will reduce by 50 percent the net increase in annual costs between billing year 2017 and billing year 2016. The net increase will be calculated based on a full calendar year.

(2) If the BLM accepted your application for a wind energy development grant, including a plan of development and cost recovery agreement, prior to September 30, 2014, the BLM will phase in your payment of the acreage rent and MW capacity fee by reducing the:

(i) Acreage rent of the grant by 50 percent for the initial partial year of the grant; and

(ii) MW capacity fee by 75 percent for the first (initial partial) and second years and by 50 percent for the third and fourth years for which the BLM requires payment of the MW capacity fee. This reduction to the MW capacity fee applies to each stage of development.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment (see § 2806.61), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.62(a)(1)) and MW rate (see § 2806.62(b)(1)) in place when your grant is issued, or for existing grants, the per acre zone rate and MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], as adjusted under paragraph (d)(6) of this section;

(2) The per acre zone rate will increase:

(i) Annually, beginning after the first full year plus the initial partial year, if any, your grant is in effect by the average annual change in the IPD-GDP as described in § 2806.22(b); and

(ii) Every 5 years, beginning after the first 5 years, plus the initial partial year, if any, your grant is in effect, by 20 percent;

(3) The MW rate will increase by 20 percent every 5 years, beginning after the first 5 years, plus the initial partial year, if any, your grant is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.62(b)(4) or the reduction under § 2806.62(c);

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for that stage in question

plus any previously approved stages, multiplied by the MW rate as described under this section.

(6) For grants in place prior to [INSERT EFFECTIVE DATE OF FINAL RULE] that select the scheduled rate adjustment method offered under § 2806.61(c), the per acre zone rate and the MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be adjusted for the first year's payment using the scheduled rate adjustment method as follows:

(i) The per acre zone rate will increase by the average annual change in the IPD-GDP as described in § 2806.22(b) plus 20 percent;

(ii) The MW rate will increase by 20 percent; and

(iii) Subsequent increases will be performed as set forth in paragraphs (d)(2) and (d)(3) of this section from the date of the initial adjustment under paragraph (d)(6) of this section.

§ 2806.64 Rents and fees for wind energy development leases.

If you hold a wind energy development lease obtained through competitive bidding under subpart 2809 of this part, you must make annual payments in accordance with this section and subpart, in addition to the one-time, up front bonus bid you paid to obtain the lease. The annual payment includes an acreage rent for the number of acres included within the wind energy lease and an additional MW capacity fee based on the total authorized MW capacity for the approved wind energy project on the public lands.

(a) Acreage rent. The BLM will calculate and bill you an acreage rent that must be paid prior to issuance of your lease as described in § 2806.62(a). This acreage rent will be based on the following:

(1) Per acre zone rate. See § 2806.62(a)(1).

(2) Assignment of counties. See §§ 2806.62(a)(2) and 2806.62(a)(3).

(3) Acreage rent payment. See § 2806.62(a)(4).

(4) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61). Once the acreage rent is determined under § 2806.62(a), no further adjustments in the annual acreage rent will be made until year 11 of the lease term and each subsequent 10-year period thereafter. We will use the per acre zone rates in effect at the time the acreage rent is due (at the beginning of each 10-year period) to calculate the annual acreage rent for each of the subsequent 10-year periods.

(b) MW capacity fee. See §§ 2806.62 (b), (b)(1), (2), and (3).

(c) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61). If you hold a wind energy development lease, the MW capacity fee will be phased in, starting when electricity begins to be generated. The MW capacity fee for years 1-20 will be calculated using the MW rate in effect when the lease is issued. The MW capacity fee for years 21-30 will be calculated using the MW rate in effect in year 21 of the lease. These rates will be phased-in as follows:

(1) For years 1 through 10 of the lease, plus any initial partial year, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 50 percent of the wind energy technology MW rate, as described in § 2806.62(b)(2);

(2) For years 11 through 20 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the wind energy technology MW rate described in § 2806.62(b)(2);

(3) For years 21 through 30 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the wind energy technology MW rate as described in § 2806.62(b)(2);

(4) If the lease is renewed, the MW capacity fee is calculated using the MW rates at the beginning of the renewed lease period and will remain at that rate through the initial 10 year period of the renewal term. The MW capacity fee will continue to adjust at the beginning of each subsequent 10 year period of the renewed lease term to reflect the then currently applicable MW rates; and

(5) If an approved POD provides for staged development, the MW capacity fee is calculated using the MW capacity approved for that stage plus any previously approved stage, multiplied by the MW rate, as described in this section.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment (see § 2806.61), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.62(a)(1)) and MW rate (see § 2806.62(b)(1)) in place when your lease is issued;

(2) The per acre zone rate will increase every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect, by the average annual change in the IPD-GDP for the preceding 10-year period as described in § 2806.22(b) plus 40 percent;

(3) The MW rate will increase by 40 percent every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.62(c). Instead, for years 1 through 5, plus any initial partial year, the BLM will calculate the MW

capacity fee by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate. This phase-in will not be applied to renewed leases; and

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for that stage in question plus any previously approved stages, multiplied by the MW rate as described under this section.

§ 2806.66 Rent for support facilities authorized under separate grant(s).

If a wind energy development project includes separate right-of-way authorizations issued for support facilities only (administration building, groundwater wells, construction lay down and staging areas, surface water management, and control structures, etc.) or linear right-of-way facilities (pipelines, roads, power lines, etc.), rent is determined using the Per Acre Rent Schedule for linear facilities (see § 2806.20(c)).

§ 2806.68 Rent for energy development testing grants.

(a) Grant for energy site-specific testing. You must pay $100 per year for each meteorological tower or instrumentation facility location. BLM offices with approved small site rental schedules may use those fee structures if the fees in those schedules charge more than $100 per meteorological tower per year. In lieu of annual payments, you may instead pay for the entire term of the grant (3 years or less).

(b) Grant for energy project-area testing. You must pay $2,000 per year or $2 per acre per year for the lands authorized by the grant, whichever is greater. There is no additional rent for the installation of each meteorological tower or instrumentation facility located within the site testing and monitoring project area.

44. Add an undesignated centered heading between §§ 2806.68 and 2806.70 to read as follows:

Other Rights-of-Way

45. Revise newly redesignated § 2806.70 to read as follows:

§ 2806.70 How will the BLM determine the payment for a grant or lease when the linear, communication use, solar energy, or wind energy payment schedules do not apply?

When we determine that the linear, communication use, solar, or wind energy payment schedules do not apply, we may determine your payment through a process based on comparable commercial practices, appraisals, competitive bids, or other reasonable methods. We will notify you in writing of the payment determination. If you disagree with the payment determination, you may appeal our final determination under § 2801.10.

Subpart 2807—Grant Administration and Operation

46. Amend § 2807.11 by:

a. Revising paragraph (b);

b. Redesignating paragraphs (d) and (e) as paragraphs (f) and (g); and

c. Adding new paragraphs (d) and (e).

The revisions and additions read as follows:

§ 2807.11 When must I contact BLM during operations?

*****

(b) When your use requires a substantial deviation from the grant. You must seek an amendment to your grant under § 2807.20 and obtain the BLM's approval before you begin any activity that is a substantial deviation;

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(d) Whenever site-specific circumstances or conditions result in the need for changes to an approved right-of-way grant or lease, POD, site plan, mitigation measures, or construction, operation, or termination procedures that are not substantial deviations in location or use authorized by a right-of-way grant or lease. Changes for authorized actions, project materials, or adopted mitigation measures within the existing, approved right-of-way area must be submitted to us for review and approval.

(e) To identify and correct discrepancies or inconsistencies.

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47. Amend § 2807.17 by redesignating existing paragraph (d) as paragraph (e) and adding new paragraph (d) to read as follows:

§ 2807.17 Under what conditions may the BLM suspend or terminate my grant?

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(d) The BLM may suspend or terminate another Federal agency's grant only if:

(1) The terms and conditions of the Federal agency's grant allow it; or

(2) The agency head holding the grant consents to it.

*****

48. Revise § 2807.21 to read as follows:

§ 2807.21 May I assign or make other changes to my grant or lease?

(a) With the BLM's approval, you may assign, in whole or in part, any right or interest in a grant or lease. Assignment actions that may require BLM approval include, but are not limited to, the following:

(1) The transfer by the holder (assignor) of any right or interest in the grant or lease to a third party (assignee); and

(2) Changes in ownership or other related change in control transactions involving the BLM right-of-way holder and another business entity (assignee), including corporate mergers or acquisitions, but not transactions within the same corporate family.

(b) The BLM may require a grant or lease holder to file new or revised information in some circumstances that do not constitute an assignment (see subpart 2803 and §§ 2804.12(e) and 2807.11). Circumstances that would not constitute an assignment but may necessitate this filing include, but are not limited to:

(1) Transactions within the same corporate family;

(2) Changes in the holder's name only (see paragraph (i) of this section); and

(3) Changes in the holder's articles of incorporation.

(c) In order to assign a grant or lease, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, including paying application and processing fees, and the grant must be in compliance with the terms and conditions of § 2805.12. The preliminary application review meetings and public meeting under §§ 2804.12 and 2804.25 are not required for an assignment. We will not approve any assignment until the assignor makes any outstanding payments that are due (see § 2806.13(g)).

(d) The assignment application must also include:

(1) Documentation that the assignor agrees to the assignment; and

(2) A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations.

(e) Your assignment is not recognized until the BLM approves it in writing. We will approve the assignment if doing so is in the public interest. Except for leases issued under subpart 2809 of this part, we may modify the grant or lease or add bonding and other requirements, including additional terms and conditions, to the grant or lease when approving the assignment, unless a modification to a lease issued under subpart 2809 of this part is required under § 2805.15(e). We may decrease rents if the new holder qualifies for an exemption (see § 2806.14) or waiver or reduction (see § 2806.15) and the previous holder did not. Similarly, we may increase rents if the previous holder qualified for an exemption or waiver or reduction and the new holder does not. If we approve the assignment, the benefits and liabilities of the grant or lease apply to the new grant or lease holder.

(f) The processing time and conditions described at § 2804.25(d) of this part apply to assignment applications.

(g) Only interests in issued right-of-way grants and leases are assignable. Except for applications submitted by a preferred applicant under § 2804.30(g), pending right-of-way applications do not create any property rights or other interest and may not be assigned from one entity to another, except that an entity with a pending application may continue to pursue that application even if that entity becomes a wholly owned subsidiary of a new third party.

(h) To complete a change in name only, (i.e., when the name change in question is not the result of an underlying change in control of the right-of-way grant), the following requirements must be met:

(1) The holder must file an application requesting a name change and follow the same procedures as for a new grant, including paying processing fees. However, the application fees (see subpart 2804 of this part) and the preliminary application review and public meetings (see §§ 2804.12 and 2804.25) are not required. The name change request must include:

(i) If the name change is for an individual, a copy of the court order or other legal document effectuating the name change; or

(ii) If the name change is for a corporation, a copy of the corporate resolution(s) proposing and approving the name change, a copy of the acceptance of the change in name by the State or Territory in which it is incorporated, and a copy of the appropriate resolution, order or other documentation showing the name change.

(2) When reviewing a proposed name change only, we may determine it is necessary to:

(i) Modify a grant issued under subpart 2804 to add bonding and other requirements, including additional terms and conditions to the grant; or

(ii) Modify a lease issued under subpart 2809 in accordance with § 2805.15(e).

(3) Your name change is not recognized until the BLM approves it in writing.

49. Amend § 2807.22 by:

a. Revising the section heading and paragraphs (a), (b), and (d);

b. Redesignating paragraph (f) as paragraph (g); and

c. Adding new paragraph (f).

The revisions and additions read as follows:

§ 2807.22 How do I renew my grant or lease?

(a) If your grant or lease specifies the terms and conditions for its renewal, and you choose to renew it, you must request a renewal from the BLM at least 120 calendar days before your grant or lease expires consistent with the renewal terms and conditions specified in your grant or lease. We will renew the grant or lease if you are in compliance with the renewal terms and conditions; the other terms, conditions, and stipulations of the grant or lease; and other applicable laws and regulations.

(b) If your grant or lease does not specify the terms and conditions for its renewal, you may apply to us to renew the grant or lease. You must send us your application at least 120 calendar days before your grant or lease expires. In your application you must show that you are in compliance with the terms, conditions, and stipulations of the grant or lease and other applicable laws and regulations, and explain why a renewal of your grant or lease is necessary. We may approve or deny your application to renew your grant or lease.

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(d) We will review your application and determine the applicable terms and conditions of any renewed grant or lease.

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(f) If you make a timely and sufficient application for a renewal of your existing grant or lease, or for a new grant or lease, in accordance with this section, the existing grant does not expire until we have issued a decision to approve or deny the application.

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50. Revise subpart 2809 to read as follows:

Subpart 2809—Competitive Process for Leasing Public Lands for Solar and Wind Energy Development Inside Designated Leasing Areas

Sec.

2809.10 General.

2809.11 How will the BLM solicit nominations?

2809.12 How will the BLM select and prepare parcels?

2809.13 How will the BLM conduct competitive offers?

2809.14 What types of bids are acceptable?

2809.15 How will the BLM select the successful bidder?

2809.16 When do variable offsets apply?

2809.17 Will the BLM ever reject bids or re-conduct a competitive offer?

2809.18 What terms and conditions apply to leases?

2809.19 Applications in designated leasing areas or on lands that later become designated leasing areas.

Subpart 2809—Competitive Process for Leasing Public Lands for Solar and Wind Energy Development Inside Designated Leasing Areas

§ **2809.10 General.**

(a) Lands inside designated leasing areas may be made available for solar and wind energy development through a competitive leasing offer process established by the BLM under this subpart.

(b) The BLM may include lands in a competitive offer on its own initiative.

(c) The BLM may solicit nominations by publishing a call for nominations under § 2809.11(a).

(d) The BLM will generally prioritize the processing of "leases" awarded under this subpart over the processing of non-competitive "grant" applications under subpart 2804, including those that are "high priority" under § 2804.35.

§ **2809.11 How will the BLM solicit nominations?**

(a) Call for nominations. The BLM will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the area affected by the potential offer of public land for solar and wind energy development or the Internet; to solicit nominations and expressions of interest for parcels of land inside designated leasing areas for solar or wind energy development.

(b) Nomination submission. A nomination must be in writing and must include the following:

(1) Nomination fee. If you nominate a specific parcel of land under paragraph (a) of this section, you must also include a non-refundable nomination fee of $5 per acre. We will adjust the nomination fee once every 10 years using the change in the IPD-GDP for the preceding 10-year period and round it to the nearest half dollar. This 10 year average will be adjusted at the same time as the per acre rent schedule for linear rights-of-way under § 2806.22;

(2) Nominator's name and personal or business address. The name of only one citizen, association, partnership, corporation, or municipality may appear as the nominator. All communications relating to leasing will be sent to that name and address, which constitutes the nominator's name and address of record; and

(3) The legal land description and a map of the nominated lands.

(c) We may consider informal expressions of interest suggesting lands to be included in a competitive offer. If you submit a written expression of interest, you must provide a description of the suggested lands and rationale for their inclusion in a competitive offer.

(d) In order to submit a nomination, you must be qualified to hold a grant or lease under § 2803.10.

(e) Nomination withdrawals. A nomination cannot be withdrawn, except by the BLM for cause, in which case all nomination monies will be refunded to the nominator.

§ 2809.12 How will the BLM select and prepare parcels?

(a) The BLM will identify parcels for competitive offer based on nominations and expressions of interest or on its own initiative.

(b) The BLM and other Federal agencies, as applicable, will conduct necessary studies and site evaluation work, including applicable environmental reviews and public meetings, before offering lands competitively.

§ 2809.13 How will the BLM conduct competitive offers?

(a) Variety of competitive procedures available. The BLM may use any type of competitive process or procedure to conduct its competitive offer, and any method, including the use of the Internet, to conduct the actual auction or competitive bid procedure. Possible bid procedures could include, but are not limited to: Sealed bidding, oral auctions, modified competitive bidding, electronic bidding, and any combination thereof.

(b) Notice of competitive offer. We will publish a notice in the Federal Register at least 30 days prior to the competitive offer and may use other notification methods, such as a

newspaper of general circulation in the area affected by the potential right-of-way or the Internet. The Federal Register and other notices will include:

(1) The date, time, and location, if any, of the competitive offer;

(2) The legal land description of the parcel to be offered;

(3) The bidding methodology and procedures to be used in conducting the competitive offer, which may include any of the competitive procedures identified in paragraph (a) of this section;

(4) The minimum bid required (see § 2809.14(a)), including an explanation of how we determined this amount;

(5) The qualification requirements for potential bidders (see § 2803.10);

(6) If a variable offset (see § 2809.16) is offered:

(i) The percent of each offset factor;

(ii) How bidders may pre-qualify for each offset factor; and

(iii) The documentation required to pre-qualify for each offset factor; and

(7) The terms and conditions of the lease, including the requirements for the successful bidder to submit a POD for the lands involved in the competitive offer (see § 2809.18) and any lease mitigation requirements, including compensatory mitigation for residual impacts associated with the right-of-way.

(c) We will notify you in writing of our decision to conduct a competitive offer at least 30 days prior to the competitive offer if you nominated lands and paid the nomination fees required by § 2809.11(b)(1).

§ 2809.14 What types of bids are acceptable?

(a) Bid submissions. The BLM will accept your bid only if:

(1) It includes the minimum bid and at least 20 percent of the bonus bid; and

(2) The BLM determines that you are qualified to hold a grant or lease under § 2803.10. You must include documentation of your qualifications with your bid, unless we have previously approved your qualifications under §§ 2809.10(d) or 2809.11(d).

(b) Minimum bid. The minimum bid is not prorated among all bidders, but must be paid entirely by the successful bidder. The minimum bid consists of:

(1) The administrative costs incurred by the BLM and other Federal agencies in preparing for and conducting the competitive offer, including required environmental reviews; and

(2) An amount determined by the authorized officer and disclosed in the notice of competitive offer. This amount will be based on known or potential values of the parcel. In setting this amount, the BLM will consider factors that include, but are not limited to, the acreage rent and megawatt capacity fee.

(c) Bonus bid. The bonus bid consists of any dollar amount that a bidder wishes to bid in addition to the minimum bid.

(d) If you are not the successful bidder, as defined in § 2809.15(a), the BLM will refund your bid.

§ 2809.15 How will the BLM select the successful bidder?

(a) The bidder with the highest total bid, prior to any variable offset, is the successful bidder and may be offered a lease in accordance with § 2805.10.

(b) The BLM will determine the variable offsets for the successful bidder in accordance with § 2809.16 before issuing final payment terms.

(c) Payment terms. If you are the successful bidder, you must:

(1) Make payments by personal check, cashier's check, certified check, bank draft, or money order, or by other means deemed acceptable by the BLM, payable to the Department of the Interior—Bureau of Land Management; and

(2) By the close of official business hours on the day of the offer or such other time as the BLM may have specified in the offer notices, submit for each parcel:

(i) Twenty percent of the bonus bid (before the offsets are applied under paragraph (b) of this section); and

(ii) The total amount of the minimum bid specified in § 2809.14(b);

(3) Within 15 calendar days after the day of the offer, submit the balance of the bonus bid (after the variable offsets are applied under paragraph (b) of this section) to the BLM office conducting the offer; and

(4) Within 15 calendar days after the day of the offer, submit the acreage rent for the first full year of the solar or wind energy development lease as provided in §§ 2806.54(a) or 2806.64(a), respectively. This amount will be applied toward the first 12 months acreage rent, if the successful bidder becomes the lessee.

(d) The BLM will offer you a right-of-way lease if you are the successful bidder and:

(1) Satisfy the qualifications in § 2803.10;

(2) Make the payments required under paragraph (c) of this section; and

(3) Do not have any trespass action pending against you for any activity on BLM-administered lands (see § 2808.12) or have any unpaid debts owed to the Federal Government.

(e) The BLM will not offer a lease to the successful bidder and will keep all money that has been submitted, if the successful bidder does not satisfy the requirements of

paragraph (d) of this section. In this case, the BLM may offer the lease to the next highest bidder under § 2809.17(b) or re-offer the lands under § 2809.17(d).

§ **2809.16 When do variable offsets apply?**

(a) The successful bidder may be eligible for an offset of up to 20 percent of the bonus bid based on the factors identified in the notice of competitive offer.

(b) The BLM may apply a variable offset to the bonus bid of the successful bidder. The notice of competitive offer will identify each factor of the variable offset, the specific percentage for each factor that would be applied to the bonus bid, and the documentation required to be provided to the BLM prior to the day of the offer to qualify for the offset. The total variable offset cannot be greater than 20 percent of the bonus bid.

(c) The variable offset may be based on any of the following factors:

(1) Power purchase agreement;

(2) Large generator interconnect agreement;

(3) Preferred solar or wind energy technologies;

(4) Prior site testing and monitoring inside the designated leasing area;

(5) Pending applications inside the designated leasing area;

(6) Submission of nomination fees;

(7) Submission of biological opinions, strategies, or plans;

(8) Environmental benefits;

(9) Holding a solar or wind energy grant or lease on adjacent or mixed land ownership;

(10) Public benefits; and

(11) Other similar factors.

(d) The BLM will determine your variable offset prior to the competitive offer.

§ **2809.17 Will the BLM ever reject bids or re-conduct a competitive offer?**

(a) The BLM may reject bids regardless of the amount offered. If the BLM rejects your bid under this provision, you will be notified in writing and such notice will include the reason(s) for the rejection and what refunds to which you are entitled. If the BLM rejects a bid, the bidder may appeal that decision under § 2801.10.

(b) We may offer the lease to the next highest qualified bidder if the successful bidder does not execute the lease or is for any reason disqualified from holding the lease.

(c) If we are unable to determine the successful bidder, such as in the case of a tie, we may re-offer the lands competitively (under § 2809.13) to the tied bidders or to all prospective bidders.

(d) If lands offered under § 2809.13 receive no bids, we may:

(1) Re-offer the lands through the competitive process under § 2809.13; or

(2) Make the lands available through the non-competitive application process found in subparts 2803, 2804, and 2805 of this part, if we determine that doing so is in the public interest.

§ **2809.18 What terms and conditions apply to leases?**

The lease will be issued subject to the following terms and conditions:

(a) Lease term. The term of your lease includes the initial partial year in which it is issued, plus 30 additional full years. The lease will terminate on December 31 of the final year of the lease term. You may submit an application for renewal under § 2805.14(g).

(b) Rent. You must pay rent as specified in:

(1) Section 2806.54, if your lease is for solar energy development; or

(2) Section 2806.64, if your lease is for wind energy development.

(c) POD. You must submit, within 2 years of the lease issuance date, a POD that:

(1) Is consistent with the development schedule and other requirements in the POD template posted at http://www.blm.gov; and

(2) Addresses all pre-development and development activities.

(d) Cost recovery. You must pay the reasonable costs for the BLM or other Federal agencies to review and approve your POD and to monitor your lease. To expedite review of your POD and monitoring of your lease, you may notify BLM in writing that you are waiving paying reasonable costs and are electing to pay the full actual costs incurred by the BLM.

(e) Performance and reclamation bond. (1) For Solar Energy Development, you must provide a bond in the amount of $10,000 per acre prior to written approval to proceed with ground disturbing activities.

(2) For Wind Energy Development, you must provide a bond in the amount of $10,000 per authorized turbine less than 1 MW in nameplate capacity or $20,000 per authorized turbine equal or greater than 1 MW in nameplate capacity prior to written approval to proceed with ground disturbing activities.

(3) For testing and monitoring sites authorized under a development lease, you must provide a bond in the amount of $2,000 per site prior to receiving written approval to proceed with ground disturbing activities.

(4) The BLM will adjust the solar and wind energy development bond amounts every 10 years using the change in the IPD-GDP for the preceding 10-year period rounded to the

nearest $100. This 10-year average will be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under § 2806.22.

(f) Assignments. You may assign your lease under § 2807.21, and if an assignment is approved, the BLM will not make any changes to the lease terms or conditions, as provided for by § 2807.21(e) except for modifications required under § 2805.15(e).

(g) Due diligence of operations. You must start construction within 5 years and begin generation of electricity no later than 7 years from the date of lease issuance, as specified in your approved POD. A request for an extension may be granted for up to 3 years with a show of good cause and approval by the BLM.

§ **2809.19 Applications in designated leasing areas or on lands that later become designated leasing areas.**

(a) Applications for solar or wind energy development filed on lands outside of designated leasing areas, which subsequently become designated leasing areas will:

(1) Continue to be processed by the BLM and are not subject to the competitive leasing offer process of this subpart, if such applications are filed prior to the publication of the notice of intent or other public announcement from the BLM of the proposed land use plan amendment to designate the solar or wind leasing area; or

(2) Remain in pending status unless withdrawn by the applicant, denied, or issued a grant by the BLM, or the subject lands become available for application or leasing under this part, if such applications are filed on or after the date of publication of the notice of intent or other public announcement from the BLM of the proposed land use plan amendment to designate the solar or wind leasing area.

(3) Resume being processed by the BLM if your application is pending under paragraph (a)(2) of this section and the lands become available for application under 2809.17(d)(2).

(b) An applicant that submits a bid on a parcel of land for which an application is pending under paragraph (a)(2) of this section may:

(1) Qualify for a variable offset under § 2809.16; and

(2) Receive a refund for any unused application fees or processing costs if the lands identified in the application are subsequently leased to another entity under § 2809.13.

(c) After the effective date of this regulation, the BLM will not accept a new application for solar or wind energy development inside designated leasing areas (see §§ 2804.12(b)(1) and 2804.23(e)), except as provided by § 2809.17(d)(2).

(d) You may file a new application under part 2804 for testing and monitoring purposes inside designated leasing areas. If the BLM approves your application, you will receive a short term grant in accordance with §§ 2805.11(b)(2)(i) or (ii), which may qualify you for an offset under § 2809.16.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

51. Revise the authority citation for part 2880 to read as follows:

AUTHORITY: 30 U.S.C. 185 and 189, and 43 U.S.C. 1732(b), 1733, and 1740.

Subpart 2884—Applying for MLA Grants or TUPs

52. In § 2884.11, revise paragraph (c)(5) to read as follows:

§ 2884.11 What information must I submit in my application?

*****

(c) ***

(5) The estimated schedule for constructing, operating, maintaining, and terminating the project (a POD). Your POD must be consistent with the development schedule and other requirements as noted on the POD template for oil and gas pipelines at http://www.blm.gov;

*****

53. In § 2884.12, revise paragraphs (a), (b), and (c) to read as follows:

§ 2884.12 What is the processing fee for a grant or TUP application?

(a) You must pay a processing fee with the application to cover the costs to the Federal Government of processing your application before the Federal Government incurs them. Subject to applicable laws and regulations, if processing your application will involve Federal agencies other than the BLM, your fee may also include the reasonable costs estimated to be incurred by those Federal agencies. Instead of paying the BLM a fee for the estimated work of other Federal agencies in processing your application, you may pay other Federal agencies directly for the costs estimated to be incurred by them in processing your application. The fees for Processing Categories 1 through 4 are one-time fees and are not refundable. The fees are categorized based on an estimate of the amount of time that the Federal Government will expend to process your application and issue a decision granting or denying the application.

(b) There is no processing fee if work is estimated to take 1 hour or less. Processing fees are based on categories. We update the processing fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD-GDP, as measured second quarter to second quarter. We will round these changes to the nearest dollar. We will update Category 5 processing fees as specified in the Master Agreement.

These processing categories and the estimated range of Federal work hours for each category are:

Processing Categories

Processing category	Federal work hours involved
(1) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >1 ≤8
(2) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >8 ≤24
(3) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >24 ≤36
(4) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >36 ≤50
(5) Master Agreements	Varies
(6) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >50

(c) You may obtain a copy of the current schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at http://www.blm.gov.

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54. Amend § 2884.16 by redesignating paragraphs (a)(6), (a)(7), and (a)(8) as paragraphs (a)(7), (a)(8), and (a)(9), and adding new paragraph (a)(6). The addition reads as follows:

§ 2884.16 What provisions do Master Agreements contain and what are their limitations?

(a) ***

(6) Describes existing agreements between the BLM and other Federal agencies for cost reimbursement;

*****

55. Amend § 2884.17 by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 2884.17 How will BLM process my Processing Category 6 application?

(a) For Processing Category 6 applications, you and the BLM must enter into a written agreement that describes how we will process your application. The final agreement consists of a work plan, a financial plan, and a description of any existing agreements you have with other Federal agencies for cost reimbursement associated with such application.

*****

(e) We may collect funds to reimburse the Federal Government for reasonable costs for processing applications and other documents under this part relating to the Federal lands.

56. In § 2884.18, revise paragraphs (a)(1) and (c) to read as follows:

§ 2884.18 What if there are two or more competing applications for the same pipeline?

(a) ***

(1) Processing Categories 1 through 4. You must reimburse the Federal Government for processing costs as if the other application or applications had not been filed.

*****

(c) If we determine that competition exists, we will describe the procedures for a competitive bid through a bid announcement in the Federal Register and may use other notification methods, such as a newspaper of general circulation or the Internet. We may offer lands through a competitive process on our own initiative.

57. Amend § 2884.20 by revising the introductory text of paragraph (a) and revising paragraph (d) to read as follows:

§ 2884.20 What are the public notification requirements for my application?

(a) When the BLM receives your application, it will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet. If we determine the pipeline(s) will have only minor environmental impacts, we are not required to publish this notice. The notice will, at a minimum, contain:

*****

(d) We may hold public hearings or meetings on your application if we determine that there is sufficient interest to warrant the time and expense of such hearings or meetings. We will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet, to announce in advance any public hearings or meetings.

58. Amend § 2884.21 by:

a. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d);

b. Adding new paragraph (b); and

c. Revising redesignated paragraph (d)(4).

The revisions and additions read as follows:

§ 2884.21 How will BLM process my application?

*****

(b) The BLM will not process your application if you have any trespass action pending against you for any activity on BLM-administered lands (see § 2888.11) or have any unpaid debts owed to the Federal Government. The only applications the BLM would process are those to resolve the trespass with a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after outstanding debts are paid. Outstanding debts are those currently unpaid debts owed to the Federal Government after all administrative collection actions have occurred, including any appeal proceedings under applicable Federal regulations and the Administrative Procedure Act.

*****

(d) ***

(4) Hold public meetings, if sufficient public interest exists to warrant their time and expense. The BLM will publish a notice in the Federal Register and may use other methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet, to announce in advance any public hearings or meetings; and

*****

59. Amend § 2884.22 by revising paragraph (a) to read as follows:

§ 2884.22 Can BLM ask me for additional information?

(a) If we ask for additional information, we will follow the procedures in § 2804.25(c) of this chapter.

*****

60. Amend § 2884.23 by revising paragraph (a)(6), redesignating paragraph (b) as paragraph (c), and adding new paragraph (b), to read as follows:

§ 2884.23 Under what circumstances may BLM deny my application?

(a) ***

(6) You do not adequately comply with a deficiency notice (see § 2804.25(c) of this chapter) or with any requests from the BLM for additional information needed to process the application.

(b) If you are unable to meet any of the requirements in this section you may request an alternative from the BLM (see § 2884.30).

(c)***

*****

61. Add new § 2884.30 to read as follows:

§2884.30 Showing of good cause.

If you are unable to meet any of the processing requirements in this subpart, you may request approval for an alternative requirement from the BLM. Any such request is not approved until you receive BLM approval in writing. Your request to the BLM must:

(a) Show good cause for your inability to meet a requirement;

(b) Suggest an alternative requirement and explain why that requirement is appropriate; and

(c) Be received in writing by the BLM in a timely manner, before the deadline to meet a particular requirement has passed.

Subpart 2885—Terms and Conditions of MLA Grants and TUPs

62. Amend § 2885.11 by revising the introductory text of paragraph (a) and revising paragraph (b)(7) to read as follows:

§ 2885.11 What terms and conditions must I comply with?

(a) Duration. All grants, except those issued for a term of 3 years or less, will expire on December 31 of the final year of the grant. The term of a grant may not exceed 30 years, with the initial partial year of the grant considered to be the first year of the term. The term of a TUP may not exceed 3 years. The BLM will consider the following factors in establishing a reasonable term:

*****

(b) ***

(7) The BLM may require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property incurred in connection with your use and occupancy of the right-of-way or TUP area, including terminating the grant or TUP, and to secure all obligations imposed by the grant or TUP and applicable laws and regulations. Your bond must cover liability for damages or injuries resulting from releases or discharges of hazardous materials. We may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or TUP. This bond is in addition to any individual lease, statewide, or nationwide oil and gas bonds you may have. All other provisions in§ 2805.12(b) of this chapter regarding bond requirements for grants and leases issued under FLPMA also apply to grants or TUPs for oil and gas pipelines issued under this part;

*****

63. Amend § 2885.15 by revising paragraph (b) to read as follows:

§ 2885.15 How will BLM charge me rent?

*****

(b) There are no reductions or waivers of rent for grants or TUPs, except as provided under § 2885.20(b).

*****

64. Amend § 2885.16 by revising paragraph (a) to read as follows:

§ 2885.16 When do I pay rent?

(a) You must pay rent for the initial rental period before we issue you a grant or TUP. We prorate the initial rental amount based on the number of full months left in the calendar year after the effective date of the grant or TUP. If your grant qualifies for annual payments, the initial rent consists of the remaining partial year plus the next full year. If your grant or TUP allows for multi-year payments, your initial rent payment may be for the full term of the grant or TUP. See § 2885.21 for additional information on payment of rent.

*****

65. Amend § 2885.17 by revising the section heading, redesignating paragraph (e) as paragraph (f), and by adding new paragraph (e) to read as follows:

§ 2885.17 What happens if I do not pay rents and fees or if I pay the rents or fees late?

*****

(e) We will retroactively bill for uncollected or under-collected rent, including late payment and administrative fees, upon discovery if:

(1) A clerical error is identified;

(2) An adjustment to rental schedules is not applied; or

(3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

*****

66. In § 2885.19, revise paragraph (b) to read as follows:

§ 2885.19 What is the rent for a linear right-of-way grant?

*****

(b) You may obtain a copy of the current Per Acre Rent Schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current rent schedule at http://www.blm.gov.

67. In § 2885.20, revise paragraph (b) to read as follows:

§ 2885.20 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

(a) ***

(b) Phase-in provisions: If, as the result of any revisions made to the Per Acre Rent Schedule under § 2885.19(a)(2), the payment of your new annual rental amount would cause you undue hardship, you may qualify for a 2-year phase-in period if you are a small business entity as that term is defined in Small Business Administration regulations and if it is in the public interest. We will require you to submit information to support your

claim. If approved by the BLM State Director, payment of the amount in excess of the previous year's rent may be phased-in by equal increments over a 2-year period. In addition, the BLM will adjust the total calculated rent for year 2 of the phase-in period by the annual index provided by § 2885.19(a)(1).

*****

68. Revise § 2885.24 to read as follows:

§ 2885.24 If I hold a grant or TUP, what monitoring fees must I pay?

(a) Monitoring fees. Subject to § 2886.11, you must pay a fee to the BLM for any costs the Federal Government incurs in inspecting and monitoring the construction, operation, maintenance, and termination of the pipeline and protection and rehabilitation of the affected public lands your grant or TUP covers. We update the monitoring fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD-GDP, as measured second quarter to second quarter. We will round these changes to the nearest dollar. We will update Category 5 monitoring fees as specified in the Master Agreement. We categorize the monitoring fees based on the estimated number of work hours necessary to monitor your grant or TUP. Monitoring fees for Categories 1 through 4 are one-time fees and are not refundable. These monitoring categories and the estimated range of Federal work hours for each category are:

Monitoring Categories

Monitoring category	Federal work hours involved
(1) Inspecting and monitoring of new grants and TUPs,	Estimated Federal work

assignments, renewals, and amendments to existing grants and TUPs	hours are >1 ≤8
(2) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs	Estimated Federal work hours are >8 ≤24
(3) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs	Estimated Federal work hours are >24 ≤36
(4) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPS	Estimated Federal work hours are >36 ≤50
(5) Master Agreements	Varies
(6) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs	Estimated Federal work hours >50.

(b) The current monitoring cost schedule is available from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at http://www.blm.gov.

69. Amend § 2886.12 by:

a. Revising paragraph (b);

b. Redesignating paragraph (d) as paragraph (g); and

c. Adding new paragraphs (d), (e), and (f).

The revisions and additions read as follows:

§ 2886.12 When must I contact BLM during operations?

*****

(b) When your use requires a substantial deviation from the grant or TUP. You must seek an amendment to your grant or TUP under § 2887.10 and obtain our approval before you begin any activity that is a substantial deviation;

*****

(d) Whenever site-specific circumstances or conditions arise that result in the need for changes to an approved right-of-way grant or TUP, POD, site plan, mitigation measures, or construction, operation, or termination procedures that are not substantial deviations in location or use authorized by a right-of-way grant or TUP. Changes for authorized actions, project materials, or adopted mitigation measures within the existing, approved right-of-way or TUP area must be submitted to the BLM for review and approval;

(e) To identify and correct discrepancies or inconsistencies;

(f) When you submit a certification of construction, if the terms of your grant require it. A certification of construction is a document you submit to the BLM after you have finished constructing a facility, but before you begin operating it, verifying that you have constructed and tested the facility to ensure that it complies with the terms of the grant and with applicable Federal and State laws and regulations; and

*****

Subpart 2887—Amending, Assigning, or Renewing MLA Grants and TUPs

70. Revise § 2887.11 to read as follows:

§ 2887.11 May I assign or make other changes to my grant or TUP?

(a) With the BLM's approval, you may assign, in whole or in part, any right or interest in a grant or TUP. Assignment actions that may require BLM approval include, but are not limited to, the following:

(1) The transfer by the holder (assignor) of any right or interest in the grant or TUP to a third party (assignee); and

(2) Changes in ownership or other related change in control transactions involving the BLM right-of-way grant holder or TUP holder and another business entity (assignee), including corporate mergers or acquisitions, but not transactions within the same corporate family.

(b) The BLM may require a grant or lease holder to file new or revised information in some circumstances that do not constitute an assignment (see subpart 2883 and §§ 2884.11(c) and 2886.12). Circumstances that would not constitute an assignment but may necessitate this filing include, but are not limited to:

(1) Transactions within the same corporate family;

(2) Changes in the holder's name only (see paragraph (h) of this section); and

(3) Changes in the holder's articles of incorporation.

(c) In order to assign a grant or TUP, the proposed assignee, subject to § 2886.11, must file an application and follow the same procedures and standards as for a new grant or TUP, including paying processing fees (see § 2884.12).

(d) The assignment application must also include:

(1) Documentation that the assignor agrees to the assignment; and

(2) A signed statement that the proposed assignee agrees to comply with and to be bound by the terms and conditions of the grant or TUP that is being assigned and all applicable laws and regulations.

(e) Your assignment is not recognized until the BLM approves it in writing. We will approve the assignment if doing so is in the public interest. The BLM may modify the

grant or TUP or add bonding and other requirements, including terms and conditions, to the grant or TUP when approving the assignment. If we approve the assignment, the benefits and liabilities of the grant or TUP apply to the new grant or TUP holder.

(f) The processing time and conditions described at § 2884.21 apply to assignment applications.

(g) Only interests in issued right-of-way grants and TUPs are assignable. Pending right-of-way and TUP applications do not create any property rights or other interest and may not be assigned from one entity to another, except that an entity with a pending application may continue to pursue that application even if that entity becomes a wholly owned subsidiary of a new third party.

(h) Change in name only of holder. Name-only changes are made by individuals, partnerships, corporations, and other right-of-way and TUP holders for a variety of business or legal reasons. To complete a change in name only, (i.e., when the name change in question is not the result of an underlying change in control of the right-of-way grant or TUP), the following requirements must be met:

(1) The holder must file an application requesting a name change and follow the same procedures as for a new grant or TUP, including paying processing fees (see subpart 2884 of this part). The name change request must include:

(i) If the name change is for an individual, a copy of the court order or other legal document effectuating the name change; or

(ii) If the name change is for a corporation, a copy of the corporate resolution(s) proposing and approving the name change, a copy of the filing/acceptance of the change

in name by the State or territory in which it is incorporated, and a copy of the appropriate resolution(s), order(s), or other documentation showing the name change.

(2) In connection with processing of a name change only, the BLM retains the authority under § 2885.13(e) to modify the grant or TUP, or add bonding and other requirements, including additional terms and conditions, to the grant or TUP.

(3) Your name change is not recognized until the BLM approves it in writing.

71. In § 2887.12, add new paragraphs (d) and (e) to read as follows:

§ 2887.12 How do I renew my grant?

*****

(d) If you make a timely and sufficient application for a renewal of your existing grant or for a new grant in accordance with this section, the existing grant does not expire until we have issued a decision to approve or deny the application.

(e) If we deny your application, you may appeal the decision under § 2881.10.

_____ _____

Amanda C. Leiter
Acting Assistant Secretary for Land and Minerals Management
Department of the Interior

Date

The Impact of the Department of the Interior's Final Rule Regarding Competitive Leasing on the Cho□echerr□ and Sierra Madre Wind Energ□ Pro□ect being developed b□The Anschut□Corporation

Under the final rule, the holder of a right-of-way (ROW) grant from the Bureau of Land Management (BLM) for wind development pays two types of fees: (1) an acreage rental fee; and (2) a Megawatt (MW) capacity fee based upon the nameplate capacity approved in the ROW grant. The holder of the ROW grant must then choose either a Standard Rate Adjustment or a Scheduled Rate Adjustment. In sum, the Standard Rate Adjustment is less predictable because it is based upon factors discussed below, such as the market price of power. The Scheduled Rate of Adjustment provides certainty, but increases the fees at an unacceptable rate.

I. Standard Rate Ad□ustment

A. Acreage Rent

The per acre rent is calculated using the following formula:
(Per Acre Zone Rate) x (Encumbrance Rate of 10□) x (Rate of Return 5.27□) x (1.021 Current IPD-GPD Rate) □Per acre rental rate. Then, the total acreage rent is calculated by multiplying the (per acre rent) x (total acreage).

The current Per Acre Zone Rate for Carbon County, Wyoming (Zone 2) is $579 per acre. Thus, the current per acre acreage rent is $3.12. The per acre rental rate is adjusted in two different ways. First, it is adjusted on an annual basis by the IPD-GPD. Second, in years, 6, 11, 16, 21 and 26, the per acre zone rate is reviewed and adjusted as appropriate. Finally, there is a 50□ reduction in the rate for the first year.

Based upon a 2.1□ annual IPD-GPD and no change in the current Per Acre Zone Rate, the acreage rental for the CCSM Project over the 30 year period of the ROW Grant is $10,093,523. *See Attachment A, Acreage Rent Standard Rate.*

B. MW Capacity Fee

The MW Capacity Fee is calculated as follows:
(Hours 8760) x (Net Capacity of 35□) x (MWh Price) x (Rate of Return) □MW Capacity Fee
Then, the total MW Capacity Fee is calculated by multiplying the approved nameplate capacity of the project by the MW Capacity Fee.

The current MW Capacity Fee is calculated as follows:
(Hours 8760) x (Net Capacity Factor of 35□) x (MWh Price of $38.07) x (Rate of Return of 4.3□) □$5,010.

The MW Capacity Fee is adjusted every five years starting in 2021 by calculating a new MWh Price based upon the full 5 calendar-year average of the annual weighted average wholesale prices of electricity per MWh for the major trading hubs serving the 11 Western States. The Rate of Return will also be reviewed every five years to reflect the preceding 10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-tenth percent, with a minimum rate of 4 percent.

In addition, there is a "phase-in" of the MW Capacity Fee as follows: Year 1 - 25□; Year 2 - 50□ and Year 3 - 100□.

Based upon the current MW Capacity Fee of $5,010 and no change, that is, no adjustment either upwards or downwards, over the 30 year period of the ROW Grant, the total MW Capacity Fees paid is $226,143,046. *See Attachment B, MW Capacity Fee, Standard Rate, No Escalation.*

Based upon an estimate of the forward power curve through 2025, the total MW Capacity Fees paid is $275,426,774. *See Attachment C, MW Capacity Fee, Standard Rate, Forward Power Curve Increases.*

SUMMARY TABLE	Acreage Rent	MW Capacity Fee	Total	Additional Cost
Current	0	$179,184,375	$179,184,375 ($/MWh $1.01)	
Final Rule Standard Rate No Escalation in MW Capacity Fee	$10,093,523	$216,049,523	$226,143,046 ($/MWh $1.27)	$46,958,671
Final Rule Standard Rate with Forward Pricing Curve Estimate for MW Capacity Fee	$10,093,523	$275,426,774	$285,520,298 ($/MWh $1.61)	$106,335,923

II. Scheduled Rate Adjustment

A. Acreage Rent

Under the Scheduled Rate Adjustment, the per acre rental rate is adjusted in two different ways. First, it is adjusted on an annual basis by the IPD-GPD. Second, in years, 6, 11, 16, 21 and 26, the per acre zone rate is adjusted 20%. Finally, there is a 50% reduction in the rate for the first year.

Based upon a 2.1% annual IPD-GPD and the scheduled 20% increase in the Per Acre Zone Rate in years 6, 11, 16, 21 and 26, the acreage rental for the CCSM Project over the 30 year period of the ROW Grant is $16,533,658. *See Attachment D, Acreage Rent Scheduled Rate.*

B. MW Capacity Fee

Under the Scheduled Rate Adjustment, the MW Capacity Fee is adjusted 20% every five years beginning in 2021. Based upon a 20% increase every 5 years beginning in 2021 and considering the phase-in over the first three years, the MW Capacity Fee over the 30 year period of the ROW Grant is estimated at $422,657,012. *See Attachment E, Megawatt Capacity Fee, Scheduled Rate.*

SUMMARY TABLE	Acreage Rent	MW Capacity Fee	Total	Additional Cost
Current	0	$179,184,375	$179,184,375 ($/MWh $1.01)	
Final Rule Scheduled Rate	$16,533,658	$422,657,012	$432,750,536 ($/MWh $2.44)	$253,566,16

Based on the additional cost estimates discussed above, choosing the Scheduled Rate is not recommended. While the Standard Rate is more uncertain, there appears to be little chance that the Acreage Rent and MW Capacity Fee will be increased to the levels set out in the Scheduled Rate.

ATTACHMENT A

Final Rule Acreage Rent - Standard Rate		
Acreage Subject to Rent	79,585	
County Per Acre Zone Value (Zone 2)	$579	
Encumbrance for Wind	10.0%	
Rate of Return	5.27%	
IDP-GDP	2.1%	
	ROW - Current	ROW - Final
Total Acreage Rent	**0**	**10,093,523**

MW Capacity Fee Schedule				
	ROW - Current	ROW - Final		
Operating Year		IDP-DGP	ROW Acreage Rate	ROW - Proposed
1	0	2.10%	$3.12	123,970
2	0	2.10%	$3.18	253,146
3	0	2.10%	$3.25	258,463
4	0	2.10%	$3.32	263,890
5	0	2.10%	$3.39	269,432
6	0	2.10%	$3.46	275,090
7	0	2.10%	$3.53	280,867
8	0	2.10%	$3.60	286,765
9	0	2.10%	$3.68	292,787
10	0	2.10%	$3.76	298,936
11	0	2.10%	$3.84	305,213
12	0	2.10%	$3.92	311,623
13	0	2.10%	$4.00	318,167
14	0	2.10%	$4.08	324,848
15	0	2.10%	$4.17	331,670
16	0	2.10%	$4.26	338,635
17	0	2.10%	$4.34	345,747
18	0	2.10%	$4.44	353,007
19	0	2.10%	$4.53	360,421
20	0	2.10%	$4.62	367,989
21	0	2.10%	$4.72	375,717
22	0	2.10%	$4.82	383,607
23	0	2.10%	$4.92	391,663
24	0	2.10%	$5.02	399,888
25	0	2.10%	$5.13	408,285
26	0	2.10%	$5.24	416,859
27	0	2.10%	$5.35	425,614
28	0	2.10%	$5.46	434,551
29	0	2.10%	$5.57	443,677
30	0	2.10%	$5.69	452,994
Total	**0**			**10,093,523**

ATTACHMENT B

Megawatt Capacity Fee - No Adjustment							
Nominal Project Size (MW)		1,500					
Net Capacity Factor (BLM)		35.0%					
ROW - Current			ROW - Final Rule				
MW Capacity Fee ($/MW)		$4,155					$5,010
Total MW Capacity Fee (30 yrs)		179,184,375					216,049,523
Increase							**36,865,148**
% Increase							**20.6%**
MW Capacity Fee Schedule							
Calendar Year	Year	ROW - Current	Rate of Return	MWh Price[1]	MW Rate	Escalation	ROW - Final
2020	1	1,558,125	4.3%	$38.00	5,010	0.0%	1,878,692
2021	2	3,116,250	4.3%	$38.00	5,010	0.0%	3,757,383
2022	3	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2023	4	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2024	5	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2025	6	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2026	7	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2027	8	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2028	9	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2029	10	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2030	11	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2031	12	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2032	13	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2033	14	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2034	15	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2035	16	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2036	17	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2037	18	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2038	19	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2039	20	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2040	21	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2041	22	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2042	23	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2043	24	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2044	25	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2045	26	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2046	27	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2047	28	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2048	29	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2049	30	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
Total MW Capacity Fees		**179,184,375**					**216,049,523**
Acreage Rent Fees		0					10,093,523
Total Fees		**179,184,375**					**226,143,046**
ROW ($/MWh)		**$1.01**					**$1.27**

Notes: 1) BLM will use $38.00/MWh for 2020 MWh price. 2021-2025 price will be based on the 5 year average (2015-2019 of annual average on-peak price in WECC.

ATTACHMENT C

Megawatt Capacity Fee - Standard Rate Adjustment							
Nominal Project Size (MW)		1,500					
Net Capacity Factor (BLM)		35.0%					
ROW - Current			ROW - Final Rule				
MW Capacity Fee ($/MW)		$4,155					$5,010
Total MW Capacity Fee (30 yrs)		179,184,375					275,426,774
Increase							**96,242,399**
% Increase							**53.7%**
MW Capacity Fee Schedule							
Calendar Year	Year	ROW - Current	Rate of Return	MWh Price[1]	MW Rate	Escalation	ROW - Final
2020	1	1,558,125	4.3%	$38.00	5,010	0.0%	1,878,692
2021	2	3,116,250	4.3%	$30.50	4,021	(19.7%)	3,015,873
2022	3	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2023	4	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2024	5	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2025	6	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2026	7	6,232,500	4.3%	$38.00	5,010	24.6%	7,514,766
2027	8	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2028	9	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2029	10	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2030	11	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2031	12	6,232,500	4.3%	$44.00	5,801	15.8%	8,701,308
2032	13	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2033	14	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2034	15	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2035	16	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2036	17	6,232,500	4.3%	$52.00	6,856	18.2%	10,283,364
2037	18	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2038	19	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2039	20	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2040	21	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2041	22	6,232,500	4.3%	$60.00	7,910	15.4%	11,865,420
2042	23	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2043	24	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2044	25	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2045	26	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2046	27	6,232,500	4.3%	$69.00	9,097	15.0%	13,645,233
2047	28	6,232,500	4.3%	$69.00	9,097	0.0%	13,645,233
2048	29	6,232,500	4.3%	$69.00	9,097	0.0%	13,645,233
2049	30	6,232,500	4.3%	$69.00	9,097	0.0%	13,645,233
Total MW Capacity Fees		**179,184,375**					**275,426,774**
Acreage Rent Fees		0					10,093,523
Total Fees		**179,184,375**					**285,520,298**
ROW ($/MWh)		**$1.01**					**$1.61**

Notes: 1) BLM will use $38.00/MWh for 2020 MWh price. 2021-2025 price will be based on the 5 year average (2015-2019 of annual average on-peak price in WECC. SNL Forward curves used through 2025, then escalated at 3%

ATTACHMENT D

Final Rule Acreage Rent - Scheduled Rate		
Acreage Subject to Rent	79,585	
County Per Acre Zone Value (Zone 2)	$579	
Encumbrance for Wind	10.0%	
Rate of Return	5.27%	
	2.1%	
	ROW - Current	ROW - Final
Total Acreage Rent	**0**	**16,533,658**

MW Capacity Fee Schedule				
	ROW - Current	ROW - Final		
Operating Year		IDP-DGP	ROW Acreage Rate	ROW - Proposed
1	0	2.10%	$3.12	123,970
2	0	2.10%	$3.18	253,146
3	0	2.10%	$3.25	258,463
4	0	2.10%	$3.32	263,890
5	0	2.10%	$3.39	269,432
6	0	20.00%	$4.06	323,318
7	0	2.10%	$4.15	330,108
8	0	2.10%	$4.23	337,040
9	0	2.10%	$4.32	344,118
10	0	2.10%	$4.41	351,345
11	0	20.00%	$5.30	421,614
12	0	2.10%	$5.41	430,467
13	0	2.10%	$5.52	439,507
14	0	2.10%	$5.64	448,737
15	0	2.10%	$5.76	458,160
16	0	20.00%	$6.91	549,792
17	0	2.10%	$7.05	561,338
18	0	2.10%	$7.20	573,126
19	0	2.10%	$7.35	585,162
20	0	2.10%	$7.51	597,450
21	0	20.00%	$9.01	716,940
22	0	2.10%	$9.20	731,996
23	0	2.10%	$9.39	747,368
24	0	2.10%	$9.59	763,063
25	0	2.10%	$9.79	779,087
26	0	20.00%	$11.75	934,904
27	0	2.10%	$11.99	954,537
28	0	2.10%	$12.25	974,583
29	0	2.10%	$12.50	995,049
30	0	2.10%	$12.77	1,015,945
Total	**0**			**16,533,658**

ATTACHMENT E

Megawatt Capacity Fee - Scheduled Rate Adjustment							
Nominal Project Size (MW)	1,500						
Net Capacity Factor (BLM)	35.0%						
ROW - Current		ROW - Final Rule					
MW Capacity Fee ($/MW)	$4,155						$5,010
Total MW Capacity Fee (30 yrs)	179,184,375						422,657,012
Increase							**243,472,637**
% Increase							**135.9%**
MW Capacity Fee Schedule							
Calendar Year	Year	ROW - Current	Rate of Return	MWh Price[1]	MW Rate	Escalation	ROW - Final
2020	1	1,558,125	4.3%	$38.00	5,010	0.0%	1,878,692
2021	2	3,116,250	4.3%	$45.60	6,012	20.0%	4,508,860
2022	3	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2023	4	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2024	5	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2025	6	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2026	7	6,232,500	4.3%	$54.72	7,214	20.0%	10,821,263
2027	8	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2028	9	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2029	10	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2030	11	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2031	12	6,232,500	4.3%	$65.66	8,657	20.0%	12,985,516
2032	13	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2033	14	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2034	15	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2035	16	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2036	17	6,232,500	4.3%	$78.80	10,388	20.0%	15,582,619
2037	18	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2038	19	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2039	20	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2040	21	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2041	22	6,232,500	4.3%	$94.56	12,466	20.0%	18,699,143
2042	23	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2043	24	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2044	25	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2045	26	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2046	27	6,232,500	4.3%	$113.47	14,959	20.0%	22,438,971
2047	28	6,232,500	4.3%	$113.47	14,959	0.0%	22,438,971
2048	29	6,232,500	4.3%	$113.47	14,959	0.0%	22,438,971
2049	30	6,232,500	4.3%	$113.47	14,959	0.0%	22,438,971
Total MW Capacity Fees		**179,184,375**					**422,657,012**
Acreage Rent Fees		0					10,093,523
Total Fees		**179,184,375**					**432,750,536**
ROW ($/MWh)		**$1.01**					**$2.44**

Notes: 1) BLM will use $38.00/MWh for 2020 MWh price. The Scheduled Rate adjustment increases MWh Price by 20% every five years.

From: Ward, Jimmy
To: Macgregor, Katharine
Subject: FW: Meeting follow-up Competitive Leasing Rule
Date: Wednesday, February 22, 2017 5:03:09 PM
Attachments: Energyandminerals_Renewable_Wind_solar_finalrule.pdf
2017-02-21_DOI_Final_Competitive_Leasing_Rule_Attachments.pdf

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Hi Kate,

I hope you're settling in over there nicely!

Do you have the email of the staffer I could ask about the Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development regulation? (43 CFR Parts 2800 and 2880)

Thanks,

Jimmy Ward
Senior Legislative Assistant
Rep. Liz Cheney (WY – AL)

From: Roxane Perruso [mailto:Roxane.Perruso@tac-denver.com]
Sent: Tuesday, February 21, 2017 1:23 PM
To: Ward, Jimmy <Jimmy.Ward@mail.house.gov>
Cc: Bill Miller <Bill.Miller@aec-denver.com>
Subject: Meeting follow-up Competitive Leasing Rule

Hi Jimmy,

I hope you had a good holiday weekend. I wanted to follow-up with the materials I mentioned last week on the Department of Interior's final Competitive Leasing Rule. I've attached the Final Rule and our Memorandum regarding the significant financial impact the Final Rule will have on our wind energy project located in Wyoming. Under the Final Rule, we will pay $216 to $275 million over a thirty-year right-of-way grant. The resulting increase in costs is between $47 and $106 million dollars depending on the ultimate power pricing curve.

This Final Rule was issued at the very end of a 10-year permitting process. We believe that as a matter of fundamental fairness, the DOI shouldn't change the rules applicable to projects like ours that have gone through the regular permitting process and thought they had the certainty of the fee structure as it existed prior to this rule being promulgated.
We would love to see a solution to this issue inserted into S. 282/H.R. 825 (PLREDA). We are happy to discuss this further. Please call with any questions or if you need more information.

Thanks again for taking the time to meet with us.

Roxane

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DEPARTMENT OF THE INTERIOR **4310-84P**

Bureau of Land Management

43 CFR Parts 2800 and 2880

[LLWO301000.L13400000]

RIN 1004-AE24

Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections for 43 CFR Parts 2800 and 2880

AGENCY: Bureau of Land Management.

ACTION: Final rule.

SUMMARY: Through this final rule the Bureau of Land Management (BLM) is amending its regulations governing rights-of-way issued under the Federal Land Policy and Management Act (FLPMA) and the Mineral Leasing Act (MLA). The principal purposes of these amendments are to facilitate responsible solar and wind energy development on BLM-managed public lands and to ensure that the American taxpayer receives fair market value for such development. This final rule includes provisions to promote the use of preferred areas for solar and wind energy development, called "designated leasing areas" (DLAs). It builds upon existing regulations and policies to expand BLM's ability to utilize competitive processes to offer authorizations for development inside or outside of DLAs. It also addresses the appropriate terms and conditions (including payment and bonding requirements) for solar and wind energy development rights-of-way issued under subparts 2804 and 2809. Finally, the rule makes technical changes, corrections, and clarifications to the existing rights-of-way regulations.

Some of these changes affect all rights-of-way, while some provisions affect only specific rights-of-way, such as those for transmission lines with a capacity of 100 kilovolts (kV) or more.

DATES: Effective Date: This final rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: John Kalish, Bureau of Land Management, at 202-912-7312, for information relating to the BLM's solar and wind renewable energy programs, or the substance of the final rule. For information pertaining to the changes made for any transmission line with a capacity of 100 kV or more you may contact Stephen Fusilier at 202-912-7426. For information on procedural matters or the rulemaking process you may contact Charles Yudson at 202-912-7437. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, to contact the above individuals.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

II. Background

III. Final Rule as Adopted and Responses to Comments

IV. Section-by-Section Analysis for Part 2800

V. Section-by-Section Analysis for Part 2880

VI. Procedural Matters

I. Executive Summary

The BLM initiated this rulemaking in 2011 through publication of an Advance Notice of Proposed Rulemaking (ANPR) seeking public comment on a potential

regulatory framework for competitive solar and wind energy rights-of-way. A proposed rule was published in the Federal Register on September 30, 2014, summarizing and discussing the comments that the BLM received on the ANPR. The proposed rule set forth a framework for the competitive leasing of solar and wind energy rights-of-way both inside and outside of designated leasing areas. It also proposed codifying existing solar and wind energy policies in 43 CFR part 2800, establishing a new acreage rent for wind energy projects, and updating the methods used to set acreage rents and megawatt (MW) capacity fees for existing and future solar and wind energy projects. In addition to the changes related to solar and wind energy development, the rule also proposed related updates to other provisions of the rights-of-way regulations, including those applicable to transmission lines with a capacity of 100 kV or more and pipelines 10 inches or more in diameter. Based on comments on the proposed rule and consideration of other factors, the BLM prepared this final rule.

Statutory and Regulatory Authority

Facilities for the generation, transmission, and distribution of electric energy are authorized under Title V of the FLPMA (43 U.S.C. 1761 – 1771) and its implementing regulations at 43 CFR part 2800. Section 504(g) requires that the BLM generally receive fair market value for a right-of-way. Under Title V, the BLM can issue easements, leases, licenses, and permits to occupy, use or traverse public lands for particular purposes. The BLM generally refers to all such rights-of-way as "grants." The final rule continues to refer to solar and wind energy development rights-of-way issued noncompetitively or outside a DLA as "grants," but designates solar and wind energy development rights-of-way issued competitively and within a DLA under revised subpart

2809 as "leases," to which specific requirements and benefits are attached, as explained below.

Rights-of-way for oil and gas pipelines are authorized under Section 28 of the MLA (30 U.S.C. 185), Sections 302, 303, and 310 of FLPMA (43 U.S.C. 1732, 1733, and 1740), and the applicable implementing regulations at 43 CFR part 2880. The BLM processes applications for these categories of rights-of-way in accordance with section 2884.11.

Policies

The BLM released a Draft Solar Energy Programmatic Environmental Impact Statement (EIS) on December 17, 2010 and released a Supplement to the Draft EIS on October 28, 2011. The Supplement to the Draft EIS contemplated a process to identify and offer public lands in solar energy zones (SEZs) through a competitive leasing process. The Supplement to the Draft EIS described how the BLM intended to pursue a rulemaking process to implement a competitive leasing program within SEZs. The BLM released the Final Solar EIS on July 27, 2012, and the Secretary of the Interior (Secretary) signed the Record of Decision (ROD) on October 12, 2012. The Solar Programmatic EIS ROD, or Western Solar Plan, likewise described the BLM's intent to establish a competitive leasing program within the SEZs.

The Western Solar Plan provides the foundation for a Bureau-initiated competitive process for offering lands for solar energy development within the SEZs. Similar comprehensive or regional land use planning efforts could be initiated by the BLM in the future to designate additional renewable energy development areas, such as for wind development. For example, the recently completed Desert Renewable Energy

Conservation Plan (DRECP) identified Development Focus Areas (DFAs) in Southern California that were designed to support wind, solar, and geothermal development. As explained elsewhere in this preamble, in the Western Solar Plan and in the DRECP Record of Decision (ROD), SEZs and DFAs, like all DLAs, represent areas that have been prescreened by the BLM and identified as having high energy generation potential, access to transmission (either existing or proposed), and low potential for conflicts with other resources. The rule supports the establishment of these areas through procedures to inform their identification and establishment.

Competitive Leasing Process

Existing regulations authorize the BLM to determine whether competition exists among right-of-way applications filed for the same facility or system; however, they do not allow the BLM to offer such lands competitively absent such a finding. The existing regulations allow the BLM to resolve any such competition using competitive bidding procedures. All such grants are issued subject to valid existing rights in accordance with 43 CFR 2805.14.

Building on recommendations and analysis in the Western Solar Plan, this final rule expands the existing regulations to allow the BLM to offer lands competitively on its own initiative, both inside and outside DLAs, even in the absence of identified competition. Within DLAs, the rule will require competitive leasing procedures except in certain circumstances, when applications could be considered outside the competitive process. Outside DLAs, the BLM will have discretion whether to utilize competitive leasing procedures. This rule identifies what constitutes a DLA, and outlines the competitive process for solar and wind energy leasing inside DLAs, including the

nomination process for areas inside DLAs, the process for reviewing nominations, the competitive bidding procedures to be deployed, and the rules governing administration of solar or wind energy leases issued through the competitive process.

Incentives

This rule includes various provisions to incentivize development inside rather than outside of DLAs. For example, the rule establishes a new $15 per acre application filing fee for right-of-way applications outside of DLAs to discourage speculative applications and encourage development in DLAs. In addition, a winning bidder outside a DLA will be deemed the "preferred applicant" and eligible to apply for a grant, while a winning bidder within a DLA will be offered a lease. A primary reason for this distinction is that the prescreening done by the BLM as part of the identification of DLAs enables it to issue a lease prior to the conclusion of the project-specific reviews (such project-specific reviews would, however, have to be completed prior to the commencement of construction).

Further, this final rule establishes a mechanism whereby bidders inside DLAs may qualify for variable offsets (a form of bidding credit) that will give them a financial advantage in the competitive bidding process. Specifically, a bidder that meets the qualifications set forth in the Notice of Competitive Offer for a particular offset will have an opportunity to pre-qualify for a reduction to their bid amount, up to 20 percent of the bid. Suppose, for example, a bidder pre-qualified for a 20 percent offset and then won the auction with a high bid of $100. The bidder would only be obligated to pay the BLM $80 for the lease. These reductions would be sale-specific and would be based on factors identified in the initial sale notice. The final rule gives the BLM the flexibility to vary

the factors that could enable a bidder to obtain a variable offset from one competitive offer to another, but possible factors include having an approved Power Purchase Agreement (PPA) or Interconnect Agreement, or employing a less water-intensive technology. Each of the factors will be identified in the Notice of Competitive Offer, which will also specify the pre-determined reduction (e.g., 5 percent) associated with any individual factor. The total aggregate reduction across all factors cannot exceed 20 percent.

Additional provisions that incentivize development within DLAs include a reduced nomination fee of $5 per acre, which is electively paid by a potential bidder, compared to $15 per acre non-elective application filing fee for competitive parcels outside of DLAs; a 10-year phase-in of the MW capacity fee inside a DLA as opposed to a 3-year phase-in of the fee outside of a DLA; and more favorable bonding requirements inside DLAs. Specifically, outside DLAs, bonding must be determined based on reclamation cost estimates, whereas inside DLAs, the final rule requires a standard bond in the amount of $10,000 per acre for solar energy development and either $10,000 or $20,000 per wind energy turbine for wind energy development, depending on the nameplate capacity of the turbine.

Finally, successful competitive processes within DLAs will result in the issuance of a 30-year fixed-term lease, whereas a successful competitive process outside of a DLA will result in a preferred applicant status for the winner. The 30-year fixed term lease issued to the high bidder for a parcel offered competitively within a DLA will increase the certainty for developers and, in turn, make it easier to secure financing or reach terms on other agreements. Specifically, the lease will provide developers with evidence of site

control, and they will obtain it much earlier in the review process than they would under existing regulations (notably, before project-specific NEPA reviews have been concluded).

Rents and Fees

The rule updates the payments currently established by BLM policies to ensure that the BLM obtains fair market value for the use of the public lands. Specifically, it updates and codifies the acreage rent for both solar and wind energy authorizations. The acreage rent will be based on the acreage of the authorization, using a 10 percent encumbrance value for wind energy authorizations and a 100 percent encumbrance value for solar energy authorizations. This compares to the 50 percent encumbrance value that is used for determining rent for linear rights-of-way on the public lands.

The acreage rent for linear rights-of-way and solar and wind energy rights-of-way will vary by individual counties and is based on agricultural land values determined from data published by the National Agricultural Statistics Service (NASS). The BLM may also determine on a project-specific or regional basis that a different rate should be utilized. The "acreage rent" component captures the value of unimproved rural land encumbered by a project.

In addition to acreage rent, the rule also updates and codifies the MW capacity fee that the BLM already charges under existing policies. As under existing policy, that fee is designed to capture the difference between a particular project area's unimproved land value and the higher value associated with the area's solar or wind energy development potential. The BLM uses a MW capacity fee as a proxy for the area's electrical generation development potential. That fee is calculated using a formula that includes the

nameplate capacity of the approved project, a capacity factor or efficiency factor that varies based on the average potential electric generation of different solar and wind technologies, the average wholesale prices of electricity, and a Federal rate of return based on a 20-year Treasury bond. In this final rule, the capacity factors used for calculating the MW capacity fee are 20 percent for solar photovoltaic (PV), 25 percent for concentrated solar power (CSP), 30 percent for CSP with storage capacity of 3 hours or more, and 35 percent for wind. Additionally, the final rule allows the BLM to determine, on a project-specific or regional basis, that a different net capacity factor is more appropriate, such as if a project takes advantage of a new technology (e.g., energy storage) or project design considerations (e.g., solar array layout).

The final rule increases the MW capacity fee currently established by BLM policy from $4,155 per MW to $5,010 per MW for wind energy authorizations, and reduces the MW capacity fee from $5,256 to $2,863 per MW for PV solar, from $6,570 to $3,578 per MW for concentrated photovoltaic (CPV) or CSP solar, and from $7,884 to $4,294 per MW for CSP with storage capacity of 3 hours or more. The rule provides for a three-year phase-in of the MW capacity fee for right-of-way grants outside DLAs (25 percent in year one, 50 percent in year two, and 100 percent for subsequent years) and for a longer, ten-year phase-in for right-of-way leases inside DLAs (50 percent for the first 10 years and 100 percent for subsequent years).

As explained elsewhere in this preamble, both the acreage rent and MW capacity fees adjust periodically based on identified factors, including changes in NASS survey values and wholesale power prices. In addition, based on comments received on the proposed rule, this final rule includes provisions that allow grant or lease holders the

option to select fixed, scheduled rate adjustments to the applicable per acre zone rate (or rent) and MW rate over the term of the right-of-way grant or lease. This scheduled rate adjustment method would be used in lieu of the rule's standard rate adjustment method, under which those rates could increase or decrease by irregular amounts depending on changes to NASS survey values or wholesale power prices.

The rule includes requirements to hold preliminary application review meetings after the submission of an application for a solar or wind energy project, including authorizing the BLM to collect cost recovery fees for those meetings. Through this final rule the BLM is also extending the preliminary application review meeting requirement to any transmission line having a capacity of 100 kV or more. This change is appropriate because both solar or wind energy projects and transmission lines with a capacity greater than 100 kV are generally large-scale facilities with greater potential for impacts and resource conflicts. Based on experience with existing solar and wind energy projects, the BLM has found that those preliminary application meetings provide both the applicant and the BLM with an opportunity to identify and discuss resource conflicts early on in the process. In addition, the rule provides for additional cost reimbursement measures, consistent with Sections 304(b) and 504(g) of FLPMA.

Changes to 43 CFR Part 2880

In addition to the changes to 43 CFR Part 2800, this final rule also revises several subparts of part 2880. These revisions are necessary to ensure consistency of policies, processes, and procedures, where possible, between rights-of-way applied for and administered under part 2800 and rights-of-way applied for and administered under part 2880. These changes are discussed in more detail in Section II of this preamble.

However, a proposal to require preliminary application review meetings for right-of-way applications for pipelines exceeding 10 inches in diameter was dropped from this final rule in response to comments.

II. Background

A. Rule Overview

The BLM published the proposed rule in the Federal Register on September 30, 2014 (79 FR 59022) for a 60-day comment period ending on December 1, 2014. In response to public requests for extensions of the public comment period the BLM extended the period for an additional 15 days on November 29, 2014, through December 16, 2014. We received 36 comment letters on the proposed rule. We also received similar feedback through stakeholder engagement meetings held as part of BLM's regular course of business. This final rule addresses the comments received during the comment period and during stakeholder engagement meetings in the section-by-section discussion in section III. of this preamble.

As explained above, the primary purpose of this rule is to facilitate the responsible development of solar and wind energy development on the public lands, with a specific focus on incentivizing development on lands identified as DLAs. To that end, this rule, in an amendment of section 2801.5, defines the term "designated leasing area" as a parcel of land with specific boundaries identified by the BLM land use planning process as being a preferred location for solar or wind energy that can be leased competitively for energy development. In this rule, the BLM amends its regulations implementing FLPMA to provide for two competitive processes for solar and wind energy rights-of-way on

public lands. One of the processes is for lands inside DLAs. The other process is for lands outside of DLAs.

For lands outside DLAs, the BLM amends section 2804.23 to provide for a competitive bidding process designed specifically for solar or wind energy development. Prior to this final rule, section 2804.23 authorized a competitive process to resolve competing right-of-way applications for the same facility or system. Under amended section 2804.23, the BLM can now competitively offer lands on its own initiative. The competitive process for solar and wind energy development on lands outside of DLAs is outlined in new section 2804.30.

The competitive process for lands inside DLAs is outlined in revised 43 CFR subpart 2809, which provides for a parcel nomination and competitive offer, instead of an application process.

This rule includes not only these competitive processes, but also a number of amendments to other provisions of the right-of-way regulations found at 43 CFR parts 2800 and 2880. The BLM determined that it is necessary to first articulate the general requirements for rights-of-way in order to set the solar and wind requirements apart.

For example, the final rule has mandatory bonding requirements for solar and wind energy, including a minimum bond amount. The BLM determined that bonding is necessary for all solar and wind energy rights-of-way because of the intensity and duration of the impacts of such authorizations. For other right-of-way authorizations, the BLM will continue to require bonding at its discretion under this final rule.

Other amendments to the regulations include changes in right-of-way application submission and processing requirements, rents and fees, and alternative requirement

requests. In addition, this final rule makes several technical corrections as explained in the section-by-section analysis below.

B. Statutory and Regulatory Background

FLPMA provides comprehensive authority for the administration and protection of the public lands and their resources and directs that the public lands be managed "on the basis of multiple use and sustained yield" (43 U.S.C. 1701(a)(7) and 1732(a)). As defined by FLPMA, the term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands (43 U.S.C. 1702(f)). Title V of FLPMA (43 U.S.C. 1761 – 1771) authorizes the BLM to issue rights-of-way on the public lands for electric generation systems, including solar and wind energy generation systems. FLPMA also mandates that "the United States receive fair market value for the use of the public lands and their resources unless otherwise provided for by statute" (43 U.S.C. 1701(a)(9) and 1764(g)). Section 28 of the MLA (30 U.S.C. 185) and FLPMA provide similar authority for authorizing rights-of-way for oil and gas pipelines. The BLM has authority to issue regulations under both FLPMA (43 U.S.C. 1732, 1733, and 1740) and the MLA (30 U.S.C. 185 and 189).

The Energy Policy Act of 2005 (codified at 42 U.S.C. 15801 et seq.) (EPAct) includes provisions authorizing and encouraging the Federal Government to develop energy producing facilities. Title II of the EPAct includes a provision encouraging the Secretary to approve non-hydropower renewable energy projects (solar, wind, and geothermal) on public lands with a total combined generation capacity of at least 10,000 MWs of electricity by 2015. See Section 211, Public Law 109-58, 119 Stat. 660 (2005).

Since passage of the EPAct, the Secretary has issued several orders that emphasize the importance of renewable energy development on public lands and the Department of the Interior's (Department's) efforts to achieve the goal that Congress established in Section 211 of the EPAct. Secretarial Order No. 3283, "Enhancing Renewable Energy Development on the Public Lands," signed by Secretary Kempthorne on January 16, 2009, facilitates the Department's efforts to achieve the goal established by Congress in Section 211 of the EPAct. On March 11, 2009, Secretary Salazar signed Secretarial Order No. 3285, "Renewable Energy Development by the Department of the Interior," which describes the need for strategic planning and a balanced approach to domestic resource development. This order was amended by Secretarial Order 3285A1 in February 2010. Amended Order 3285A1 establishes the development of renewable energy on public lands as one of the Department's highest priorities.

While the BLM has already met the goal established by Congress by approving over 12,000 MWs of renewable energy by the end of 2012, the development of renewable energy resources on the public lands remains a national priority. To advance that goal, President Obama included in the administration's Climate Action Plan to reduce carbon pollution, released on June 25, 2013, a new goal for the Department to approve at least 20,000 MWs of new renewable energy capacity on federal lands by 2020. As of the end of fiscal year 2015, the BLM has reviewed and approved 60 projects capable of generating over 15,000 MWs of power.

The BLM has issued several instruction memoranda (IMs) that identify policies and procedures related to processing solar and wind energy right-of-way applications. The BLM is incorporating some of these existing policies and procedures into its right-

of-way regulations. The IMs can be found at: http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

Briefly, the IMs are as follows:

1. IM 2009-043, Wind Energy Development Policy. This IM provides guidance on processing right-of-way applications for wind energy projects on public lands;
2. IM 2011-003, Solar Energy Development Policy. This IM provides guidance on the processing of right-of-way applications and the administration of authorized solar energy projects on public lands;
3. IM 2011-059, National Environmental Policy Act (NEPA) Compliance for Utility-Scale Renewable Energy Right-of-Way Authorizations. This IM clarifies NEPA policy for evaluating solar and wind energy project right-of-way applications;
4. IM 2011-060, Solar and Wind Energy Applications – Due Diligence. This IM provides guidance on the due diligence requirements for solar and wind energy development right-of-way applications; and
5. IM 2011-061, Solar and Wind Energy Applications – Pre-Application and Screening. This IM provides guidance on the review of right-of-way applications for solar and wind energy development projects on public lands; and
6. IM 2016-122, Policy Guidance for Federal Land Policy and Management Act Right-of-Way Rent Exemptions for Electric or Telephone Facilities Financed or Eligible for Financing under the Rural Electrification Act of 1936, as amended (IM 2016-122). This IM provides guidance for processing requests for FLPMA right-of-way rent exemptions for electric and telephone facilities financed or

eligible for financing by the United States Department of Agriculture, Rural Utilities Service (RUS) under the Rural Electrification Act of 1936, as amended (Rural Electrification Act), 7 U.S.C.901 et seq. In particular, this IM makes clear that wind and solar entities that qualify under the Rural Electrification Act pay the MW capacity fees but not acreage rent.

In addition, in 2005 and 2012 the BLM issued landscape-level land use plan amendment decisions supported by programmatic EISs to facilitate wind and solar energy development. These land use plan amendments guide future BLM management actions by identifying desired outcomes and allowable uses on public lands.

On June 24, 2005, the BLM published the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States (Wind Programmatic EIS) (70 FR 36651), which analyzed the environmental impact of the development of wind energy projects on public lands in the West and identified approximately 20.6 million acres of public lands with wind energy development potential (http://windeis.anl.gov). Following the publication of the Wind Programmatic EIS, the BLM issued the ROD for Implementation of a Wind Energy Development Program and Associated Land Use Plan Amendments (Wind Programmatic EIS ROD) (71 FR 1768), which amended 48 BLM land use plans. The Wind Programmatic EIS ROD did not identify specific wind energy development leasing areas, but rather identified areas that have potential for the development of wind energy production facilities, along with areas excluded from consideration for wind energy facility development because of other resource values that are incompatible with that use.

On July 27, 2012, the BLM and the Department of Energy published the Notice of Availability of the Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Solar Programmatic EIS) (77 FR 44267). The Solar Programmatic EIS assessed the environmental, social, and economic impacts associated with utility-scale solar energy development on public lands in Arizona, California, Colorado, Nevada, New Mexico, and Utah (http://solareis.anl.gov). On October 12, 2012, the Department and the BLM issued the Western Solar Plan, which amended 89 BLM land use plans to identify 17 solar energy zones (SEZs) and identify mandatory design features applicable to utility-scale solar development on BLM managed lands. The Western Solar Plan also described the BLM's intent to use a competitive offer process to facilitate solar energy development projects in SEZs. SEZs, including those identified in the Western Solar plan, will be considered DLAs under this final rule.

This final rule is one of the steps being taken by the Department and the BLM to promote renewable energy development on the public lands. It implements one of the Western Solar Plan's key recommendations, namely that the BLM institute a process whereby it can competitively offer lands within DLAs. In addition to addressing recommendations in the Western Solar Plan, the final rule also implements suggestions for improving the renewable energy program made by the Department of the Interior's Office of Inspector General for the Department, initially in a draft report and carried over to the final report (Report No. CR-EV-BLM-0004-2010), and by the Government Accountability Office (GAO) (Audit No. 361373), both of which address the use of competitive leasing for solar and wind development authorizations. The Inspector

General (OIG) reviewed the BLM's renewable energy activities to assess the effectiveness of the BLM's development and management of its renewable energy program. The IG also made recommendations on other aspects of the BLM's right-of-way program.

The OIG report discusses only wind energy projects, as the solar energy program was not at a stage where it had been fully implemented. However, based on experience gained from its authorization of solar projects, the BLM believes that recommendations made for the wind energy program would also benefit the solar energy program. Other OIG recommendations pertained to the amounts and collection procedures for bonds for wind energy projects. These recommendations included:

1. Requiring a bond for all wind energy projects and reassessing the minimum bond requirements;
2. Tracking and managing bond information;
3. Developing and implementing procedures to ensure that when a project is transferred from one entity to another, the BLM would return the first bond to the company that obtained it and request a new bond from the newly assigned company; and
4. Developing and implementing Bureau-wide guidance for using competitive bidding on wind and solar energy rights-of-way.

The BLM concurred with all of the OIG's recommendations. The last recommendation is one of the principal reasons for developing this rule. The other recommendations form the basis for other changes being made as part of the BLM's operating procedures that are also addressed through this rulemaking.

Through this rulemaking, the BLM amends regulations in 43 CFR parts 2800 and 2880, and in particular:

1. Section 2804.12, to establish preliminary application review requirements for solar and wind energy development, and for development of any transmission line with a capacity of 100 kV or more;
2. Section 2804.25, to establish application processing and evaluation requirements for solar and wind energy development;
3. Section 2804.30, to establish a competitive process for public lands outside of DLAs for solar and wind energy development;
4. Section 2804.31, to establish a two-step process for solar or wind energy testing and conversion of testing areas to DLAs;
5. Section 2804.35, to establish screening criteria to prioritize applications for solar or wind energy development;
6. Section 2804.40, to establish a requirement to propose alternative requirements with a showing of good cause;
7. Section 2805.11(b), to establish a term for granting rights-of-way for solar or wind energy development;
8. Section 2805.12(c), to establish terms and conditions for a solar or wind energy development grant or lease;
9. Section 2805.20, to provide more detail on bonding requirements;
10. Sections 2806.50, 2806.52, 2806.54, 2806.56, and 2806.58, to provide information on rents for solar energy development rights-of-way;

11. Sections 2806.60, 2806.62, 2806.64, 2806.66, and 2806.68, to provide information on rents for wind energy development rights-of-way;

12. Subpart 2809, to establish a competitive process for leasing public lands inside DLAs for solar and wind energy development; and

13. Provisions in 43 CFR part 2800 pertaining to transmission lines with a capacity of 100 kV or more.

In addition to these amendments, this rule also makes several technical changes, corrections, and clarifications to the regulations at 43 CFR parts 2800 and 2880. The following table provides a summary of the principal changes made in this final rulemaking. The table shows: a description and CFR reference to the existing rule, a description of the changes in the proposed rule, and a description of the changes made in this final rule. The BLM made minor revisions throughout the final rule to improve its readability, which are not noted in this table but are discussed in the section- by- section analysis of this preamble.

Table 1 - Abbreviated Descriptions of the Major Changes Made to **43 CFR Parts 2800 and 2880 by this Rule**

43 CFR Reference and Description	**Changes between Proposed Rule and Existing Regulations**	**Changes between Final Rule and Proposed Rule**	**Additional Comments**
2801.5(b) – Acronyms and terms	Adds definitions for 10 items and revises definitions for 3 items, mostly pertaining to solar and wind energy development.	This final rule adopts the definitions in the proposed rule, except that under the final rule the definitions allow the BLM to determine a more appropriate Net Capacity Factor for rights-of-way with storage on a case-by-	Changes made in this section were based on comments received from the public to account for the application filing fee, energy storage, and MW rate.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		case basis. No other substantive changes were made from the proposed to the final rule.	
2801.6 – Scope	Clarifies that the regulations in this part apply to all systems and facilities identified under section 2801.9(a)	No changes were made from the proposed to the final rule for this section.	
2801.9 – When do I need a grant?	Revises language in paragraph (a)(7) to include solar and wind development facilities. Adds paragraph (d) that references solar and wind energy projects.	The testing provisions at new paragraphs (d)(1) and (d)(2) are revised to include both solar and wind facilities, as opposed to just wind.	Changes made in this section were based on comments received from the public requesting that the testing provisions account for solar facilities as well as wind facilities.
2802.11 – Designation of right-of-way corridors and leasing areas	Adds a process for designating leasing areas for solar and wind energy projects.	No changes were made from the proposed to the final rule.	
2804.10 – Actions to be taken before filing a right-of-way application	Discusses pre-application requirements and specifically addresses solar and wind filing requirements.	Removes all discussion or requirements for pre-application meetings. Now the only change from the existing regulation is to include designated leasing areas in paragraph (a)(2).	Requirements of this section are also applicable to transmission lines with a capacity of 100 kV or more. Based on comments received, the final rule removes the provision in the proposed rule that would have applied certain application

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
			requirements to pipelines greater than 10 inches in diameter.
2804.12 – Right-of-way application requirements	Discusses additional filing fees required for solar and wind energy applications.	This section has been retitled to improve clarity. This section also removes requirements for pre-application meetings and substitutes preliminary application review meetings that will occur after rather than before an application is filed. This section is also revised to clarify how the BLM will use the IPD-GDP to update fees.	Changes made in this section were based on comments received from the public. The paragraphs formerly located in section 2804.10 (b) and (c) are now found in sections 2804.12(b) and (c).
2804.14 – Processing fees for grant applications	Gives the BLM discretion to collect the estimated reasonable costs incurred by other Federal agencies.	No changes were made from the proposed to the final rule for this section.	
2804.18 and 2804.19 – Master agreements and major projects	Adds information on cost reimbursement requirements for work performed by other Federal agencies.	No changes were made from the proposed to the final rule.	
2804.20 – Determining reasonable costs for work on major (Category 6) rights-of-ways	Section title revised for clarity. Adds discussions on right-of-way work performed by other Federal agencies and pre-application requirements for major rights-of-way.	Any reference to "pre-application" requirements was removed to be consistent with other changes made to this final rule to reference preliminary application meetings.	Changes made in this section were based on comments received from the public in regards to collecting cost recovery with the submission of an application.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
2804.23 – Competitive process for applications	Adds provisions for competition for solar and wind energy rights-of-way, both inside and outside of designated leasing areas.	Minor changes were made from the proposed to the final rule. The latter clarifies that the BLM will not competitively offer lands where a plan of development (POD) has been accepted and cost recovery established. The requirement to publish in a newspaper is now optional instead of required.	Changes made in this section were based on comments received from the public requesting that the BLM provide assurance that it will not competitively offer lands if a developer has committed considerable time and resources to a project, as evidenced by the existence of a complete POD and executed cost recovery agreement.
2804.24 – Use of Standard Form 299 for submitting a right-of-way application	Updates the circumstances when an application is not required to account for competitive offers under both sections 2804.23(c) and subpart 2809.	No changes were made from the proposed to the final rule for this section.	
2804.25 – BLM actions in processing a right-of-way application	Describes POD requirements and adds additional other requirements for solar and wind energy applications. Covers instances where a right-of-way is authorized to resolve a trespass.	Changes were made from the proposed to the final rule to reflect the shift from "pre-application meetings" to "preliminary application review meetings" as described in section 2804.12. The requirement to publish in a newspaper is now optional instead of	Changes were made in the final rule for clarity, especially a description of what constitutes "unpaid debts." Other changes were made to accommodate new requirements for solar and wind rights-of-way and to clarify when the

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		required.	time clock begins for a due diligence request.
2804.26 – Circumstances when the BLM may deny your application	Adds additional situations where the BLM may deny your application, including specific examples for solar and wind energy applications.	Adds language to correspond to the due diligence requirements found in sections 2804.12 and 2804.25. Additional language added to provide consideration when the BLM may deny an application when circumstances are outside of an applicant's control.	This change was made to be consistent with other changes in this final rule.
2804.27 – What fees are owed if an application is not completed?	Revises this section to include any pre-application costs that must be paid if an application is withdrawn or rejected.	Removes the term pre-application costs and substitutes preliminary application review costs.	This change was made to be consistent with other changes in this final rule with respect to the pre-application meeting identified in the proposed rule.
2804.30 – Description of the competitive process for solar or wind energy development	Adds section 2804.30, which describes the competitive process for solar or wind energy development outside of DLAs.	Several minor changes were made from the proposed to the final rule, including removing a reference to mitigation costs, a statement that filing fees will be refunded to unsuccessful bidders, and that a successful bidder will have site control over applications from other developers (by virtue of being identified as the	The final rule changes were made principally for clarification. The change in notification requirements is consistent with other changes in this final rule.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		preferred applicant following completion of the sale process). Additionally, the requirement to publish in a newspaper is now optional instead of required.	
2804.31 – Site testing for solar and wind energy	No section 2804.31 in proposed rule.	Adds section 2804.31.This new section describes how the BLM will inform the public that site-testing applications will be accepted for lands within a DLA.	This new section is a result of public comments on the proposed rule requesting clarification on site testing procedures. This new section does not make any changes to existing policies or procedures.
2804.35 – Prioritizing solar and wind energy applications	Adds section 2804.35 which describes a process for prioritizing solar and wind energy applications.	The rule clarifies that the BLM will generally prioritize the processing of solar and wind energy leases issued under subpart 2809 over applications for solar and wind energy grants issued under subpart 2804. Other minor revisions were made in response to comments and discussed further in the section-by-section analysis.	The changes were made to clarify how the BLM will prioritize leases and applications.
2804.40 – Alternative requirements	No section 2804.40 in proposed rule.	Adds a provision that allows an applicant to submit an alternate requirement if it is	This section was added in response to comments about the BLM need for a

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		believed that the original requirements cannot be met.	process for applicants to demonstrate, based on a showing of good cause, the reasons for its failure to meet the rule requirements and demonstrate why alternative requirements should be put in place in their stead.
2805.10 – Approving or denying a grant	Includes right-of-way leases in addition to grants, and adds specific items to be included within a solar or wind energy grant or lease.	No changes were made from the proposed to the final rule.	
2805.11– What does a grant contain?	Adds specific terms for solar and wind energy grants and leases.	Removed specific references to "wind" so that section would apply to project testing for either solar or wind.	This change was made to be consistent with other changes in this final rule.
2805.12 – Terms and conditions in a right-of-way authorization	Revises this section in its entirety and adds specific terms and conditions for solar and wind energy grants and leases.	Adds new section 2805.12(e) stating that good cause must be shown for extension of time requests. This section now includes solar in addition to wind energy development processes. Other revisions in this section are discussed in the section-by-section analysis.	Changes made in this section were based on comments received from the public, concerning a holder's inability to meet BLM requirements in some circumstances.
2805.14 – Rights	Adds section	Removed specific	This change was

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
conveyed by a right-of-way grant	2805.14(g) allowing for renewal applications for wind projects and section 2805.14 (h) allowing renewal for site testing grants	references to "wind" so that section would apply to project testing for either solar or wind.	made to be consistent with other changes in this final rule.
2805.15 – Rights retained by the United States	Adds a provision requiring common use of your right-of-way for compatible uses.	No changes were made from the proposed to the final rule.	
2805.16 – Payment of monitoring fees	Adds a provision to allow the BLM to collect monitoring fees for expenses incurred by other Federal agencies.	Adds the word "inspecting" in addition to the existing word "monitoring."	This change was made to be consistent with other changes in this final rule.
2805.20 – Bonding requirements	Adds new section 2805.20 describing bonding requirements.	The final rule adds a requirement to have periodic reviews of project bonds for adequacy. Also, the bond amounts for wind turbines are changed to be based on the nameplate capacity. The final rule also explains that the BLM may consider factors in addition to the reclamation cost estimate (RCE), such as the salvage value of project components, when determining bond amounts.	Changes made in this section were based on comments received from the public.
2806.12 – Payment of rents	Adds provisions for the payment of rents for non-linear rights-of-way, including	No changes were made from the proposed to the final rule for this section.	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
	solar and wind grants and leases.		
2806.13 – Late payment of rents	Adds penalties for non-payment of rents and removes the $500 limit for late payment fees.	No changes were made from the proposed to the final rule.	
2806.20 – Rents for linear right-of-way grants	Describes where you may obtain a copy of the current rent schedule.	No changes were made from the proposed to the final rule.	
2806.22 – Changes in the Per Acre Rent Schedule	Corrects a reference to the IPD-GDP.	No changes were made from the proposed to the final rule.	
2806.24 – Making payment for a linear grant	Requires making a payment for the initial partial year, along with the first year's rent. Also, provides for multiple year payments.	No changes were made from the proposed to the final rule.	
2806.30 – Communication site rents	The communication site rent schedule is removed. Several other minor changes made for clarification.	No changes were made from the proposed to the final rule.	
2806.34 – Calculation of rent for a multiple-use communication facility	Corrects an existing citation to read section 2806.14(a)(4).	No changes were made from the proposed to the final rule.	
2806.43 – Calculation of rents for passive reflectors and local exchange networks	Changes a former reference to new section 2806.70.	No changes were made from the proposed to the final rule.	
2806.44 – Calculation of rents for a facility	Changes a former reference to new section 2806.70.	No changes were made from the proposed to the final	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
owners that authorizes communication uses		rule.	
2806.50 – Rents and fees for solar energy rights-of-way.	Existing section 2806.50 (provisions for determining rents where the linear right-of-way schedule or the communication rent schedule do not apply) is redesignated as section 2806.70. New section 2806.50 introduces rents and fees for solar energy rights-of-way.	No substantive changes were made to the final rule.	
2806.51 – Scheduled Rate Adjustment	Not in the proposed rule; added to the final rule in response to comments received.	This section gives solar project proponents the option of selecting scheduled rate adjustments to the per acre zone rate and MW rate for an individual grant or lease, instead of following the process in the rule for periodic adjustments in response to changes in NASS values and wholesale market prices. Parallel revisions were made to 2806.52 for grants and 2806.54 for leases.	These changes were made in response to comments received from the public and were designed to provide project proponents with the option to choose greater payment certainty over the life of a right-of-way grant or lease.
2806.52 through 2806.58 Provide data for rents and	Sections 2806.50, 2806.52, 2806.54, 2806.56, and 2806.58	The rule now allows for solar energy site testing. The	The methodology of determining rents and fees for

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
fees for solar energy projects	describe rents and fees for solar energy authorizations.	calculation of the acreage rent has been expanded to explain the process more thoroughly. Acreage rent reductions are now adjusted to show greater rent reductions in certain States for solar energy rights-of-way.	wind is the same as solar, except where noted in the preamble. Changes made in this section were based on comments received from the public and to be consistent with other changes in this final rule.
2806.60 through 2806.68 Provide data for rents and fees for wind energy projects	Sections 2806.60, 2806.62, 2806.64, 2806.66 and 2806.68 describe rents and fees for wind energy authorizations.	The changes to these sections parallel the changes in sections 2806.50 through 2806.58.	Changes made in this section were made to be consistent with other changes in this final rule.
2806.61 – Scheduled Rate Adjustment	Not in the proposed rule; added to the final rule in response to comments received.	Similar to the provisions of 2806.51. This section gives wind project proponents the option of selecting scheduled rate adjustments to the per acre zone rate and MW rate for an individual grant or lease, instead of following the process in the rule for periodic adjustments in response to changes in NASS values and wholesale market prices. Parallel revisions were made to 2806.62 for grants and 2806.64 for leases.	These changes were made in response to comments received from the public and were designed to provide project proponents with an option to choose greater payment certainty over the life of a right-of-way grant or lease.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
2806.70 –Rent determinations for other rights-of-way	Adds redesignated section 2806.70, which contains the text formerly found at section 2806.50, with minor modifications.	No changes were made from the proposed to the final rule.	This section is applicable to all rights-of-way that are not subject to rent schedules.
2807.11 – Contacting the BLM during operations	Specifies requirements when a change in a right-of-way grant is warranted.	No changes were made from the proposed to the final rule.	
2807.17 – Grant suspensions or terminations	This provision contains the regulation formerly located at section 2809.10.	No changes were made from the proposed to the final rule.	
2807.21 – Assigning a grant or lease	Revises the title to include leases and clarifies when an assignment is or is not required.	Adds two events that may require an assignment. Clarifies that changing only a holder's name does not constitute an assignment and explains how the BLM will process a change only to a holder's name for a grant or lease. It also clarifies that ownership changes within the same corporate family do not constitute an assignment.	Changes made in this section were based on comments received from the public requesting clarity on assignments and name changes.
2807.22 – Renewing a grant	Revises the title to include leases and clarifies that if you apply for a renewal before it expires, your grant will not expire until a decision has been made on your renewal request.	No changes were made from the proposed to the final rule.	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
Subpart 2809 – Grants for Federal agencies	Existing language in this subpart redesignated as new paragraph (d) of section 2807.17. The title is changed to reflect that it now pertains to competitive leasing for solar or wind energy rights-of-way. This subpart is divided into several added sections as described below.	No changes were made from the proposed to the final rule.	
2809.10 Competitive process for leasing public lands for solar and wind energy projects	Section 2809.10 provides for solar and wind energy leasing inside designated leasing areas.	Clarifies that leases under this section generally have processing priority over grant applications to the extent they require the same BLM resources. No other changes were made from the proposed to the final rule.	Changes made in this section were made to be consistent with other changes in this final rule.
2809.11 – Solicitation of nominations	Section 2809.11 describes how the BLM will solicit nominations for solar or wind energy development.	The requirement to publish in a newspaper is now optional instead of required.	This change is consistent with other notification requirements in the final rule.
2809.12 – Parcel selection	Section 2809.12 describes how the BLM will select and prepare parcels.	No changes were made from the proposed to the final rule.	
2809.13 – Competitive offers for solar and wind energy development	Section 2809.13 describes how the BLM will conduct a competitive offer for solar or wind energy development.	A reference to lease mitigation requirements is added. The requirement to publish in a newspaper is now	The reference to mitigation was added in response to comments received from the public. The

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		optional instead of required.	notification change is consistent with other notification requirements in the final rule.
2809.14 – Acceptable bids	Section 2809.14 describes the types of bids that the BLM will accept.	The words "and mitigation costs" were removed to be consistent with section 2804.30.	Changes made in this section were made to be consistent with other changes in this final rule.
2809.15 – How will BLM select the successful bidder?	Section 2809.15 describes how the BLM will select a successful bidder.	No changes were made from the proposed to the final rule.	
2809.16 – Variable offsets	Section 2809.16 identifies when variable offsets will be applied.	Added a new offset factor for preparing draft biological strategies and plans.	Changes made in this section were based on comments received from the public on variable offset factors.
2809.17 – Rejection of bids	Section 2809.17 describes conditions when the BLM may reject bids or re-conduct a competitive offer.	No changes were made from the proposed to the final rule.	
2809.18 – Lease terms and conditions	Section 2809.18 identifies terms and conditions that will apply to leases.	Paragraph (e)(2) of this section is changed so bond amounts for wind turbines reflect their nameplate capacity. Paragraph (e)(3) is added to this section to account for testing.	These changes are consistent with changes to section 2805.20.
2809.19 – Applications made inside designated leasing areas	Section 2809.19 describes situations when an application may be accepted inside a DLA.	This section is revised to clarify how the BLM will handle applications submitted inside DLAs.	The changes made in the final rule were made in response to comments and are

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
			intended to clarify the final rule.
2884.10 – What needs to be done before filing an application for an oil or gas pipeline right-of-way?	Adds a provision to this section that describes several additional steps, including pre-application meetings, to be taken if an application is for a pipeline 10 inches or more in diameter.	The reference to pre-application meetings and additional requirements for pipelines greater than 10 inches were removed, resulting in no changes being made from the existing regulation.	See the discussion in section 2804.10 of this preamble for additional information on changes made in response to comment.
2884.11 – Information submitted with application	Adds provision to be consistent with POD template development schedule and other requirements.	No changes were made from the proposed to the final rule.	
2884.12 – Processing fees for an application or permit	Adds information on cost reimbursement requirements for work performed by other Federal agencies.	No changes were made from the proposed to the final rule.	
2884.16 – Master Agreements	Adds information on cost reimbursement requirements for work performed by other Federal agencies.	No changes were made from the proposed to the final rule.	
2884.17 – Processing Category 6 right-of-way applications	Adds discussions on right-of-way costs for work performed by other Federal agencies to this section.	No changes were made from the proposed to the final rule.	
2884.18 – Competing applications for the same pipeline	Adds discussions on right-of-way costs for work performed by other Federal agencies to this section.	The requirement to publish in a newspaper is now optional instead of required.	This change is consistent with other notification requirements of this final rule.
2884.20 – Public notification requirements for an application	Adds a provision to this section that we may put a notice on the Internet or use	The requirements to publish in a newspaper are now optional instead of	This change is consistent with other notification requirements of this

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
	other forms of notification as deemed appropriate.	required.	final rule.
2884.21 – Application processing by the BLM	The BLM will not process your application if you are in trespass. Several other minor changes were made to be consistent with other changes made in these regulations.	Changes are made to section 2884.21 consistent with those made to section 2807.21.	Changes made in this section were made to be consistent with other changes in this final rule.
2884.22 – Additional information requirements	No change was proposed for this section.	This section was revised by changing the reference found in paragraph (a) from section 2804.25(b) to 2804.25(c).	This change was not proposed, but is made to be consistent with other changes in this final rule. No other changes were made to this section.
2884.23 – When can my application be denied?	To be consistent with section 2804.27, section 2884.23 was changed to state that the BLM may deny an application if the required POD fails to meet the development schedule and other requirements for oil and gas pipelines.	No changes were made from the proposed to the final rule.	
2884.24 – Fees owed if application is withdrawn or denied.	Changes made to be consistent with section 2804.27, would require an applicant to pay any pre-application costs submitted under section 2884.10(b)(4).	Since pre-application meetings are no longer required in this final rule and additional requirements for pipelines greater than 10 inches were removed, the final rule	The revisions to this section suggested by the proposed rule are not included in the final rule based on comments received from the public on

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		does not make any changes to this existing provision.	BLM's criteria for large-scale pipeline projects.
2884.30 – Showing of good cause	There was no section 2884.30 in proposed rule.	This section was added to be consistent with section 2804. 40.	This section was added to be consistent with other changes in this final rule.
2885.11 – Terms and conditions	This section makes reference to section 2805.12(b) (bond requirements for FLPMA authorizations) and makes those bonding requirements applicable to MLA rights-of-way. Also, the regulation will be clarified by providing guidance on terms of MLA grants.	No changes were made from the proposed to the final rule.	
2885.15 – Rental charges	Clarifies that there is no reduction in rents for grants or TUPs, except as provided in section 2885.20(b).	No changes were made from the proposed to the final rule.	
2885.16 – When is rent paid?	Requires making a payment for the initial partial year, along with the first years rent. Also, provides for multiple year payments.	No changes were made from the proposed to the final rule.	
2885.17 – Consequences for not paying or paying rent late	New paragraph (e) explains the circumstances under which the BLM would retroactively collect rents or fees.	No changes were made from the proposed to the final rule.	
2885.19 – Rents	Provides information	No changes were	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
for linear right-of-way grants	about where you may obtain a copy of the current rental schedule.	made from the proposed to the final rule.	
2885.20 – Per Acre Rent Schedule calculations	Would remove an obsolete provision (existing paragraph (b)(1)) that provided for a 25 percent reduction in rent for calendar year 2009.	No changes were made from the proposed to the final rule.	
2885.24 – Monitoring fees	Provides an updated table describing monitoring categories, but without the cost schedule. Paragraph (b) provides information about where to obtain a copy of the current monitoring cost schedule.	Minor revisions were made consistent with changes to section 2805.16.	Changes made in this section were made to be consistent with other changes in this final rule.
2886.12 – When you must contact the BLM during operations	Adds to this section, contact requirements for when there is a need for changes to a right-of-way grant and to correct discrepancies.	No changes were made from the proposed to the final rule.	
2887.11 – Assigning a right-of-way grant or TUP	Clarifies this section to show when an assignment is or is not required.	Adds two events that may require an assignment. Clarifies that a change in a holder's name only does not constitute an assignment.	These changes are made to be consistent with section 2807.21.
2887.12 – Renewing a grant	Clarifies that if you apply for a renewal before it expires, your grant will not expire until a decision has	No changes were made from the proposed to the final rule.	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
	been made on your renewal request.		

III. Final Rule as Adopted and Responses to Comments

General Comments by Topic

Competitive Process Comments

A number of comments agreed with the BLM's proposals to create a competitive process for solar and wind development.

One comment stated that the proposed rule, if made final, would be a positive first step in improving the existing processes for solar and wind energy development by incentivizing development in appropriate areas, helping developers estimate costs, and providing a fair return to the taxpayer for the use of public lands. The BLM did not make any changes in response to this comment.

Another comment, on the other hand, recommended that the BLM maintain its current pre-application and application processes rather than adding untested or unproven administrative processes to promote competition inside and outside of DLAs. The BLM notes that it has already successfully used competitive processes when authorizing renewable energy development and it continues to gain experience with competitive auctions. The BLM also intends to continue improving its solar and wind energy policies, including by building upon the provisions codified in this final rule, to reduce administrative timeframes and costs in order to support reasonable and responsible

project development, such as those policies designed to further streamline application review and processing.

Several comments provided statements on the use of a competitive process for issuing grants.

One comment stated that we should clarify that the competitive bid process applies only to renewable energy authorizations. The BLM only agrees with this comment in part. In this final rule, the BLM has codified competitive processes inside of DLAs that relate only to solar and wind energy rights-of-way. However, the final rule modifies existing regulations so that those same competitive processes may also be used outside of DLAs and for other types of rights-of-way in the future, such as when they are necessary to resolve other situations where there are competing right-of-way and other land use authorization requests or when the BLM otherwise determines it is appropriate to initiate a competitive process for a particular use in a given area. Specifically, the final rule expands the BLM's ability to initiate a competitive process for other rights-of-way relative to existing regulations. Should the BLM hold a competitive offer for another type of right-of-way, it would be appropriate for the BLM to use processes similar to those developed for this rule because those policies were developed based on sound competitive principles. Therefore, utilizing them as a model in other areas would promote consistency across the agency.

One comment stated that competitive leasing would both lengthen and complicate project siting, using the recent Dry Lake competitive offering in Nevada as an example, noting that the preparations for competition took years. The BLM believes that much of the work required for competitive leasing has already been completed for solar energy in

the SEZs identified in the Western Solar Plan and other DLAs established by other planning efforts. The upfront work done when identifying these areas provides a basis for them to be offered under the most favorable competitive process provisions of this rule. That analysis also increases the certainty that the BLM will approve a project in those areas, which ultimately reduces the overall project review timeframes. The work done in establishing a DLA through the land use planning process, including completion of a NEPA analysis, provides a framework from which future project-specific analyses can tier, which should save time and money for both the BLM and project developers. Additionally, by expanding the circumstances under which the BLM can utilize competitive procedures the final rules provides a more direct path than was available to the BLM when setting up the Dry Lake SEZ sale in Nevada.

To further support development in these areas, the BLM is also developing regional mitigation strategies for many of the identified SEZs. While the existence of a regional mitigation strategy is not a prerequisite for holding a competitive sale, the BLM believes that such strategies further clarify development requirements in a given area allowing auction participants to more carefully evaluate potential costs and requirements when formulating a project or a bid in advance of competitive sale.

Collectively, these efforts and the provisions of this rule are consistent with existing policies to encourage the timely and responsible development of renewable energy while protecting the public land and its resources.

One comment suggested that competition should be used only where there are multiple applications for use of the same land. While the BLM intends to use competition in those circumstances, it does not believe that is the only circumstances

where such processes are appropriate. The existence of competition is not only indicated by competing application; in some situations competition would be determined where other evidence of competitive interests becomes known through emails, letters, and other contact with the public. As a result, the BLM does not believe it is appropriate to limit the use of competitive leasing regulations to just instances of competing applications. Instead, the provisions of this rule have been designed to provide more flexibility. The BLM is able to hold competitive offers inside DLAs, outside DLA, in response to competing applications, and on its own initiative, in order to encourage development in areas where it determines those processes to be appropriate, such as when it determines that fewer resource conflicts are present. In total, the BLM believes that the competitive processes established by this final rule will enable the BLM to encourage solar and wind energy development on public lands, while also protecting the sensitive resources found on those lands..

Summary of Key Changes Between the Proposed and Final Rule

One comment suggested that we use a table to identify technical changes, corrections, and clarifications being made to the right-of-way regulations by this rule, similar to the table we included in the preamble of the proposed rule. We agree and have included a similar table in this preamble.

Pipeline and Transmission Line Comments

Some comments questioned the BLM's description of pipelines 10 inches or greater in diameter as a measure for large-scale pipeline projects and recommended the removal of additional processes such as mandatory pre-application meetings to facilitate

Federal and State reviews of the project. Alternatives for the description of a large-scale project were suggested, such as using a total acreage of disturbance.

In light of these comments, the BLM has decided to remove the description of large-scale pipelines and additional processes required for such projects from the final rule. While some comments included recommendations for alternative ways of determining a threshold for large-scale pipelines, the BLM decided that it must further analyze how it will identify large-scale pipelines before including requirements for such projects in its regulations. If the BLM were to take such action in the future it would coordinate with other Federal agencies, as appropriate, to identify an appropriate threshold for large-scale pipeline projects and establish consistent, non-duplicative requirements. The removal of the pipeline threshold from the final rule requires deletion of the requirements in the proposed rule that were specifically applicable to large-scale pipeline projects. A more detailed discussion of these revisions can be found in the relevant portions of the section-by-section analysis in this preamble (see sections 2804.10, 2884.10, and 2885.11 of this preamble).

Some comments also questioned the BLM's description of transmission lines with capacities of 100 kV or more as constituting large-scale transmission projects. Those commenters recommended the removal of that threshold and the associated requirements. Some comments suggested that there are no readily identifiable 100 kV transmission projects by which to determine if the proposed threshold is a fair representation of a large-scale project. The BLM does not agree with these comments and believes that the description is appropriate since there is a clear separation between lower voltage transmission lines, generally 69 kV or less, and high voltage transmission lines,

beginning at 115 kV of capacity or more. For example, the North American Electric Reliability Corporation established the 100 kV threshold as a bright line criterion to determine which transmission lines are included in the Bulk Electric System, a system that is used by the Regional Reliability Organization for electric system reliability. The BLM is maintaining the description of transmission lines with capacity of 100 kV or the rule as a suitable description to determine large-scale transmission projects.

Megawatt Capacity Fee Comments

Some comments argued that the BLM lacks authority to collect a MW capacity fee because the Federal Government does not own the sunlight or the wind, which are inexhaustible resources. While the BLM agrees that sunlight and wind are renewable resources present on the public lands, it does not agree that it lacks the authority to collect a fee for the use of such resources.

Under FLPMA, the BLM is generally required to obtain fair market value for the use of the public lands and its resources, including for rights-of-way. In accordance with the BLM's FLPMA authority and existing policies, the BLM has determined that the most appropriate way to obtain fair market value is through the collection of multi-component fee that comprises an acreage rent, a MW capacity fee, and, where applicable, a minimum and a bonus bid for lands offered competitively. The BLM determined that the collection of this multi-component fee will ensure that the BLM obtains fair market value for the BLM-authorized uses of the public lands, including for solar and wind energy generation.

The BLM notes that the MW capacity payments are best characterized as "fees" rather than "rent" because they reflect the commercial utilization value of the public's

resource, above and beyond the rural or agricultural value of the land in its unimproved state. In the BLM's experience, and in accordance with generally accepted appraisal and valuation standards, the value of the public lands for solar or wind energy generation use depends on factors other than the acreage of the occupied land and that land's unimproved value. Other key elements that add value include the solar insolation level, wind speed and density, proximity to demand for electricity, proximity to transmission lines, and the relative degree of resource conflicts that could inhibit solar or wind energy development. To account for these elements of land use value that are not intrinsic to the rural value of the lands in their unimproved state, the solar and wind right-of-way payments in this final rule incorporate "MW capacity fees" in addition to "acreage rent."

The use of a multi-component fee that comprises both an acreage rent and a MW capacity fee, and in some cases also a minimum and a bonus bid, achieves four important BLM objectives. First, the approach allows BLM to ensure that it is capturing the full fair market value of the land being encumbered by these projects. Second, the approach is consistent with the approach employed by the BLM for other uses of the public land (i.e., it ensures that our approach to acreage rent is consistent across various categories of public land uses, while mirroring the multi-component payments received from activities like oil and gas development where both rent and royalties are charged), ensuring consistency across users. Third, the approach encourages the efficient use of the public lands by reducing relative costs for comparable projects that take up less acreage. That is, for a project with a given MW capacity, the overall payments to the BLM will be lower if the project employs a more efficient technology that produces more MW per acre and thus encumbers fewer acres. Fourth, the approach is consistent with existing policies

governing the BLM's renewable energy program, which have been in place since 2008. As explained in the section-by-section analysis in Section IV of this preamble, this final rule refines the calculation of the fee components (e.g., the MW capacity fee for solar is reduced relative to existing policies) but does not alter the basic multi-component fee structure for solar and wind projects on the public lands.

The BLM's multi-component fee structure also bears similarities to one of the more common structures for solar and wind energy development on private lands, where projects pay a rent for the use of an area of land at the outset and, and then a royalty on the power produced once generation commences. (The BLM recognizes that private-land projects use a variety of fee structures. For example, some projects rely solely on an acreage rent – but in those cases, the BLM believes that the increased value of the land due to project development is captured in other ways, such as by charging a higher base rent that reflects more than the land's unimproved value.)

The acreage rent charged by the BLM is analogous to the rent charged in most private land leases. With respect to the MW capacity fee, the BLM uses the approved electrical generation capacity as a component of the value of the use of the public lands for renewable energy development instead of relying on a royalty like private landowners do. On private lands, such royalties are typically assessed after-the-fact, as a percentage of the value of power actually produced, and the rate can range from 2 to 12 percent. The BLM has determined instead to charge a fee based on the installed nameplate MW capacity of an authorized wind or solar project. This approach is consistent with the BLM's legal authority, including the direction in FLPMA that right-of-way holders "pay in advance" the fair market value for the use of the lands. The BLM considered charging

a royalty, assessed as a percentage of power generated, but the FLPMA directive that right-of-way holders must "pay in advance" would require the BLM to collect any such royalty payments in advance of the corresponding power generation and then "true up" at the end of each calendar year. The BLM determined that the MW capacity fee approach in the final rule presents fewer administrative burdens and costs for both the BLM and right-of-way holders than an approach based on in-advance royalty payments followed by annual "true-ups." The BLM worked with the Office of Valuation Services to compare its combined acreage rent and MW capacity fee against the total stream of payments from a similarly situated private land project to ensure the total payments collected by the BLM are comparable to those collected on private land. Finally, the BLM notes that in retaining the multi-component payment structure for solar or wind developments as separate "rent" and "fee" components as established under existing policy, the BLM is retaining its existing interpretation of how that multi-component structure interfaces with the Rural Electrification Act (IM 2016-122). Under the final rule, consistent with existing policy, the acreage payment remains classified as "rent," as it is directly tied to the area of public lands encumbered by the project and the constraints that the project imposes on other uses of the public lands. As noted, however, the MW capacity fee is more properly characterized as a "fee" because it reflects the commercial utilization value of the public's resource, independent of the acreage encumbered. As specified under FLPMA, facilities that qualify for financing under the Rural Electrification Act may be exempt from paying "rental fees." As explained in IM 2016-122, however, the BLM has determined that such facilities are *not* exempt from paying other components of the fair market value of the land, such as the MW capacity fee, minimum bid, bonus bid, or other

administrative costs, as none of those costs are related to the rental value of the unimproved land.

Designated Leasing Areas Comments

Several comments requested clarification about the differences between the competitive processes for lands inside and outside of a DLA. Other comments expressed confusion over whether certain requirements of the proposed rule would apply to both "grants" (authorizations issued under subpart 2804 for solar and wind energy development) and "leases" (authorizations issued under subpart 2809). The BLM has expanded multiple provisions in the final rule to clarify the requirements for solar and wind energy development grants and leases, including those relating to competitive processes, rents and fees, bonding, and due diligence.

Comments Beyond the Scope of the Proposed Rule

In addition to the general comments discussed above and the more specific ones discussed in the section-by-section portion of this preamble below, the BLM received many other comments that suggested revisions to the BLMs right-of-way regulations that were beyond the scope of the proposed rule and/or that are better suited for supplemental policy guidance of the type found in BLM manuals, handbooks, or IMs. The BLM did not make any changes to the proposed rule in light of these comments. However, they are discussed in the relevant portions of the section-by-section analysis of this preamble

Additional Comments on the Rule

During the preparation of this final rule, the BLM received additional comments from various stakeholders and other interested parties following the close of the comment period and participated in additional stakeholder engagement meetings as part of the

BLM's regular course of business. During those meetings and in those comments, stakeholders provided additional information clarifying the concerns, comments, and questions they had previously raised through written comments on the proposed rule. The BLM considered this additional information during the drafting of this final rule. This additional information is addressed in the relevant section-by-section discussion of this preamble.

For example, industry stakeholders provided additional information that was previously unavailable regarding their uncertainty, under the proposed rule, about how both acreage rent and MW capacity fee payments would increase over the life of a lease or grant, and particularly their concern that such rents and fees could increase in an unpredictable manner. These comments and the BLM's responses are discussed further in sections 2806.51 and 2806.61 of this preamble.

Industry stakeholders also raised concern over the factors that the BLM considers when determining a bond amount. This comment and the BLM's response are discussed further under sections 2805.12(e)(1) and 2805.20(a)(3).

Environmental stakeholders also provided additional substantive discussion of their comments. Specifically, they requested additional detail in the final rule explaining the evaluation criteria that the BLM uses when establishing DLAs going forward. The environmental stakeholders' comment and the BLM's response are discussed further in section 2802.11 of this preamble.

IV. Section-by-Section Analysis for Part 2800

This rule makes the following changes in part 2800. The language found at section 2809.10 of the existing regulations is revised and redesignated as section

2807.17(d), while revised subpart 2809 is now devoted to solar and wind energy development in DLAs. This rule also amends parts 2800 and 2880 to clarify the BLM's administrative procedures used to process right-of-way grants and leases. These clarifications ensure uniform application of the BLM's procedures and requirements. A more in-depth discussion of the comments and changes made is provided below.

Subpart 2801— General Information

Section 2801.5 What acronyms and terms are used in these regulations?

This section contains the acronyms and defines the terms that are used in these regulations. Several comments suggested changes to the proposed rule. These suggestions and comments are analyzed under the applicable definition contained in the final rule.

The following terms are added to the definitions in section 2801.5:

"Acreage rent" is a new term that means rent assessed for solar and wind energy development grants and leases that is determined by the number of acres authorized by the grant or lease. The acreage rent is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate in effect at the time the authorization is issued. Provisions addressing adjustments in the acreage rent are found in sections 2806.52, 2806.54, 2806.62, and 2806.64. An example of how to calculate acreage rent is discussed in this preamble in the section-by-section analysis of section 2806.52(a). No comments pertaining to this definition were received and no changes are made from the proposed to the final rule.

"Application filing fee" is a new term that means a filing fee specific to solar and wind energy right-of-way applications for the initial reasonable costs for processing,

inspecting, and monitoring a right-of-way. The fee is $15 per acre for solar and wind energy development applications and $2 per acre for energy project-area testing applications. The BLM will adjust the application filing fee once every 10 years to account for inflation. Further discussion of application filing fees can be found in section 2804.12. This definition is revised for consistency with comments received on sections 2804.12 and 2804.30 on application filing fees. See those respective sections of this preamble for further discussion. No other comments were received and no other change is made from the proposed rule to the final rule concerning this definition.

"Assignment" means the transfer, in whole or in part, of any right or interest in a right-of-way grant or lease from the holder (assignor) to a subsequent party (assignee) with the BLM's written approval. The rule adds this definition to section 2801.5 to help clarify regulations. A more detailed explanation of assignments and the changes made is found under section 2807.21. Although some comments were received pertaining to assignments, as discussed later in this preamble, none of them pertain to the definition. No change is made from the proposed to the final rule concerning this definition.

"Designated leasing area" (DLA) is a new term that means a parcel of land with specific boundaries identified by the BLM's land use planning process as being a preferred location for the leasing of public lands for solar or wind energy development via a competitive offer. Examples of DLAs for solar energy include SEZs designated through the Western Solar Plan; Renewable Energy Development Areas (REDAs) designated through the BLM Arizona Restoration Design Energy Project (REDP) planning process; and Development Focus Areas (DFAs) designated through BLM's California's Desert Renewable Energy Conservation Plan (DRECP) planning process.

The competitive offer process is discussed in subpart 2809 of this preamble. Further discussion of DLAs can be found under section 2802.11 of this preamble.

Comments: Some comments recommended that the definition of DLA should indicate criteria that must be met to designate a DLA, in particular, wind energy-specific DLAs. The comment also suggested the final rule include criteria to identify right-of-way exclusion and avoidance areas. Other comments stated a similar concern, and indicated that land use planning varies by BLM State or field office, so DLA standards should be developed.

Response: The BLM considered establishing standard criteria for DLAs as well as for exclusion and avoidance areas, but this approach is not carried forward in the final rule. Doing so could unintentionally limit the BLM's management of such lands when considering the varied landscapes and resources that the BLM manages. However, the BLM intends to establish guidance, as part of the implementation of this rule, to assist the BLM in establishing DLAs, such as wind energy sites, through its land use planning processes. Further discussion on this issue is found under section 2804.31 of this preamble.

Comments: Some comments stated that identifying new DLAs through land use planning was too time consuming, and therefore DLA designation should be a separate process.

Response: Many land use planning efforts take several years to complete and consider many resources and uses in addition to solar or wind energy development. These types of land use planning efforts would not consider a specific project, but instead the effect of such developments in the planning area, and inform the BLM if the lands

should be an exclusion or avoidance area, or identified as a DLA for solar or wind energy development. Although the BLM's land use planning process may be time consuming, it is necessary for the BLM in its orderly administration of the public lands to use this process to properly protect and manage the public lands. When amending a resource management plan, the BLM must be consistent with its planning regulations (see 43 CFR part 1600). Absent a larger planning effort underway for the same planning area, the BLM could use a targeted land use plan amendment to identify a designated leasing area. In such cases, the land use planning process may be less time consuming than suggested by commenters. For further discussion, please see section 2804.31 of this preamble. No specific changes were made in response to this comment.

In addition to the amendments to section 2804.31, the BLM has begun its Planning 2.0 initiative, which is aimed at improving the BLM's planning process. This initiative includes targeted revisions to the planning regulations (see 43 CFR part 1600) and land use planning handbook, in order to improve the BLM's use of Resource Management Plans, which guide the BLM's administration of the public lands. The Planning 2.0 initiative will help the BLM to conduct effective planning across landscapes at multiple scales, create more dynamic and efficient planning processes that are responsive to change, and provide new and enhanced opportunities for collaboration with the public and partners. You can find further information on the BLM's Planning 2.0 initiative at the following website http://www.blm.gov/wo/st/en/prog/planning/planning_overview/planning_2_0.html.

Comment: A comment recommended that the BLM use one consistent definition to ensure that DLAs represent areas of fewer resource conflicts for solar and wind energy development.

Response: Because of the many variables that the BLM must consider when designating a DLA, the definition provided is intentionally broad and identifies a DLA as a preferred location for development that may be offered competitively. This definition allows the BLM to identify such areas in land use planning processes using plan-specific criteria to best identify the area. However, we are modifying the definition by removing the example of solar energy zones that was cited in the proposed rule in order to eliminate potential confusion about the future identification of additional DLAs, which may not be identified in the same manner as the solar energy zones. No other comments were received concerning this definition.

"Designated right-of-way corridor" is a term that is defined in existing regulations. The word "linear" has been added to this definition in the final rule to distinguish between these corridors and DLAs. No comments were received concerning this definition change and no changes are made from the proposed rule to the final rule.

"Management overhead costs" is defined in existing regulations as Federal expenditures associated with the BLM. This definition has been expanded in the final rule to include other Federal agencies. This revision is consistent with Secretarial Order 3327 and will help to promote effective cost reimbursement. Under Sections 304(b) and 504(g) of FLPMA, the Secretary may require payments intended to reimburse the United States for its reasonable costs with respect to applications and other documents relating to public lands. Secretarial Order 3327 delegated the Secretary's authority under FLPMA

to receive reimbursable payments to the bureaus and offices of the Department. No comments were received pertaining to this definition change, and no revisions were made from the proposed rule to the final rule.

"Megawatt capacity fee" is a new term meaning the fee paid in addition to the acreage rent for solar and wind development grants and leases based on the approved MW capacity of the solar or wind authorization. The MW capacity fee is calculated based on the MW capacity for an approved solar or wind energy project authorized by the BLM. Examples of how MW capacity fees are calculated may be found after the discussion of section 2806.56. While the acreage rent reflects the value of the land itself in its unimproved state, the MW capacity fee reflects the value of the industrial use of the property to generate electricity. Specifically, it captures the additional value of public land used for solar and wind energy generation that are not reflected in the NASS land values.

The BLM revised the definition of MW capacity fee from the proposed to final rule to clarify that the MW capacity fee is calculated for staged developments by multiplying the MW rate by the approved MW capacity for each stage of development. The proposed rule stated that the MW rate would be multiplied to the approved stage of development, but did not specify that it was the approved MW capacity for the stage of development. The BLM made this revision to help improve the public's understanding of the MW capacity fee calculation for staged developments.

Comment: One comment acknowledged that fair market value can be determined by using a competitive process and agreed with the proposed rule's approach of using a competitive process to authorize solar and wind energy development on public lands.

The comment went on to express a preference for a system that includes the payment of a royalty fee for the use of commercial power facilities on public lands.

Response: As explained above, the BLM has established through existing policy, and now by this rule, a multi-component structure for obtaining fair market value from renewable energy development. Since FLPMA directs right-of-way holders "to pay *in advance* the fair market value" for the use of the public lands, subject to certain exceptions (43 U.S.C. 1764(g)), the BLM's existing regulations governing the use of public lands, under Title V of FLPMA, generally require the prepayment of annual rent and fees in amounts determined by the BLM. This requirement is carried forward in existing guidance governing acreage rent and MW capacity fees for wind and solar energy projects and was selected in lieu of other means of obtaining fair market value. Consistent with the BLM's authority under FLPMA, its existing policies, and the proposed rule, the BLM has determined that it will continue to charge in advance both an acreage rent and a MW capacity fee for solar and wind energy projects, as a means of obtaining fair market value for those projects. Given that FLPMA requires payment in advance, the BLM has determined it is appropriate to base that the MW capacity fee on rated MW capacity as opposed to actual generation. In instances where competitive processes are utilized, any minimum and bonus bids represent an additional component of fair market value on top of the annual acreage rent and MW capacity. No other comments were received on the proposed definition of MW capacity fee, and no changes to the definition were made in this final rule.

"Megawatt rate" is a new term that means the price of each MW for various solar and wind energy technologies as determined by the MW rate schedule. The MW rate

equals the (1) the net capacity factor multiplied by (2) the MW per hour (MWh) price multiplied by (3) the rate of return multiplied by (4) the total number of hours per year where:

1. The "net capacity factor" means the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. This rule establishes net capacity factors for different technology types, but the BLM may determine a different net capacity factor to be more appropriate, on a case-by-case or regional basis, to reflect changes in technology, such as a solar or wind project that employs energy storage technologies, or if a grant or lease holder or applicant is able to demonstrate that a different net capacity factor is more appropriate for a particular project design, layout, or location.

The default net capacity factor for each technology type is:

a. Photovoltaic (PV) = 20 percent;

b. Concentrated photovoltaic (CVP) and concentrated solar power (CSP) = 25 percent;

c. CSP with storage capacity of 3 hours or more = 30 percent; and

d. Wind energy = 35 percent.

Comments: Several comments were received concerning the definition and description of net capacity factor. One comment stated that the net capacity factors should not be specified in the proposed rule for CSP projects, as they will undoubtedly increase over time with technology improvements and be updated on a regular basis, in a similar manner as rents. CSP can be designed to operate from a range of 10 to 50 percent efficiency depending on the intended use of the facility (e.g., base load or peaker plant).

Another comment recommended using an estimate of the capacity factor identified in the POD and the plant's design as the basis for this calculation.

Response: The BLM recognizes that there may be technology improvements over time, and that there are variables which may affect a specific project's net capacity factor. For example, a CSP project may be designed to operate at lower or higher efficiency rate depending on its intended use. The BLM took this into account in determining the net capacity factor of the technologies for the final rule. Future rulemaking would be required to change the established net capacity factors for each technology. The BLM will not incorporate the recommendation to use the project owner's estimate of the capacity factor in the POD to calculate its MW capacity fee. The estimated net capacity factor in a POD would be specific to a particular project, but would be a subjective value that could be inaccurate or misleading. Incorporating the methodology suggested by the comment could raise questions as to whether the BLM was truly collecting a reasonable return for use of the public lands.

However, the BLM has revised the final rule, consistent with this comment and those comments submitted regarding storage technologies, to allow the BLM to determine another net capacity factor to be more appropriate on a case-by-case basis. The BLM could determine another net capacity factor to be more appropriate when there is a change in technology, such as when a project employs energy storage technologies. Determining another net capacity factor may also be appropriate if a project uses a more current version of a technology.

Comment: Another comment agreed with the BLM's proposal to use an average net capacity factor for wind energy projects. However, the comment recommended using

a net capacity factor of 26 percent as identified in the wind capacity factor for Western States (see the Department of Energy's 2013 Wind Technologies Report) instead of the national average wind capacity factor of 35 percent.

Response: While the BLM acknowledges that most solar and wind projects on public lands will be located in the western United States, it nevertheless elected to use the national averages in calculating the net capacity factors for both solar and wind projects, because the BLM believes those values are more representative of the technology that will be deployed on projects developed in the future. The net capacity factor for a given project is greatly influenced by project design, layout, and location. The national average reflects a larger set of projects than the regional average, and is therefore more representative of the full range of older and newer technologies currently sited on public lands.

With respect to the wind capacity factor in particular, the BLM reviewed data from the Department of Energy's 2014 and 2015 Wind Technology Reports (https://emp.lbl.gov/sites/all/files/lbnl-188167.pdf and https://emp.lbl.gov/sites/all/files/2015-windtechreport.final.pdf, respectively). Based on its review of that data, the BLM determined that its selection of a 35 percent capacity factor for wind was appropriate for several reasons.

First, the geographic scope of the lands included in the "West Region" of the Department of Energy's reports does not adequately capture the full extent of BLM lands. Using the geographic distribution classifications set by the Department of Energy, BLM lands are located in both the "West" and "Interior" regions, with 7 states in the West and 4 states in the Interior (Colorado, Montana, New Mexico, and Wyoming). It should also

be noted that the four BLM states in the Interior region possess significant wind energy development potential. Accordingly, the BLM believes it is reasonable to select a wind capacity factor between the values for the West and Interior. In the Interior Region the Department of Energy reported capacity factors of 41.2 percent and 42.7 percent in 2014 and 2015, respectively. Data from the 2014 report shows that while the average capacity factor in the West was 27 percent, there was considerable spread in the factors by project, from just below 20 percent to over 37 percent. In the Interior, the spread in capacity factors was from 26 percent to 52 percent. Thirty-five percent represents a reasonable average of these very disparate, project-specific capacity factors.

In addition to looking at capacity factors regionally, the Department of Energy's analysis also controlled for wind quality. Notably, the Department of Energy determined that even in low wind quality areas, which predominate in the West, new projects achieve 35 percent capacity factors. As explained in the reports, this analysis was based on wind turbine specific power, which is the ratio of a turbine's nameplate capacity rating to its rotor-swept area. All else being equal, a decline in specific power leads to an increase in capacity factor according to the analysis presented in the report. In general, since the wind industry is shifting towards deploying lower specific power wind turbines at new wind energy projects across the United States, the BLM believes it is reasonable to select 35 percent as the default capacity factor for a wind project in the final rule.

It should also be noted that the BLM considered basing the net capacity factors for these technologies on an average of the annual capacity factors posted by the Energy Information Administration (EIA) on its Web site at:

http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_6_07_b.

However, the BLM is not carrying this approach forward in the final rule because, as discussed earlier in the preamble regarding net capacity factors, we believe that the 35 percent capacity factor better represents the technologies that will be deployed on projects developed in the future. For this reason, the BLM determined that the EIA annual capacity factors are not appropriate for use in this rule.

Finally, the BLM notes that if an applicant or a grant or lease holder believes that the BLM's net capacity factor is set too high for a particular project, the project proponent can request that the BLM use an alternative net capacity factor when setting the MW capacity rate for the project. Such a request would be made as described under sections 2804.40 for applicants or 2805.12(e) for grant or lease holders. See the section-by-section portion of this preamble for further discussion of requests for alternative requirements.

No other comments were received, and the definition of "net capacity factor" was not changed from the proposed to the final rule as result of this comment.

2. The "MWh price" equals the 5 calendar-year average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States (see sections 2806.52(b) and 2806.62(b)).

Comment: One comment believed that rent and fee calculations may be inaccurate based on inaccurate determinations of the capacity factor and the wholesale price of electricity used in the formula. In the proposed rule, the BLM specified the Intercontinental Exchange (ICE) as the source of data for the wholesale price data.

Response: As discussed under section 2806.52 for MW capacity fee, ICE was removed as the only vendor for the wholesale data. We revised this definition to account

for appropriate wholesale data without limiting it by source. This will allow the BLM to use the best information available, should a company that tracks trading hubs fail to maintain accurate or reliable trade information. No other comments were received concerning this definition.

3. The "rate of return" is the relationship of income to the property owner (or, in this case, the United States) to the revenue generated from authorized solar and wind energy development facilities, based on the 10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-tenth percent.

Comment: One comment believed that the BLM should use a 5-year average, not a 10-year average, eliminate the 4 percent minimum, and consider rounding down or not at all.

Response: The BLM disagrees with the suggestion to use a 5-year average. A 10-year average of the 20-year Treasury bond rate provides a more stable rate of return and will benefit the holder when interest rates rise. Under the same concept, this would benefit the BLM when interest rates decline, as is the case in the current cycle.

The BLM also disagrees that it should eliminate a 4 percent minimum rate of return, considering the risk of energy development projects and the fluctuation of energy commodity prices. It is not uncommon for private parties to insist on a minimum return. The 4 percent minimum rate of return recognizes a grant or lease holder's risk of projects that have other financial safeguards in place, such as performance bonds. The minimum is at the lower end of similar rates in the private sector.

The 4 percent minimum rate of return is established for solar energy in section 2806.52(b)(3)(ii) and for wind energy in section 2806.62(b)(3)(ii). The minimum is not

included in the definitions section of this final rule because setting the minimum is a substantive regulatory provision. This is not a change from the proposed rule. No changes are made in this final rule from the proposed rule regarding the rate of return in the definitions section (section 2801.5) or in the specific solar (section 2806.52(b)(3)(ii)) or wind (section 2806.62(b)(3)(ii)) provisions.

With respect to rounding, the BLM did agree that it should revisit the proposed rule's approach. While it does not agree with the commenter's suggestion that it should always round down, the BLM did determine upon further review that it should round bond yields to the nearest tenth of a percent to avoid a rounding-based surcharge.

4. The number of hours per year is a fixed number (i.e., 8,760 hours, the total number of hours in a 365-day year). No comments were received on the definition of this term and no changes are made to this definition from the proposed rule to the final rule.

"Performance and reclamation bond" is a new term that means the document provided by the holder of a right-of-way grant or lease that provides the appropriate financial guarantees, including cash, to cover potential liabilities or specific requirements identified by the BLM. This term is defined here to clarify the expectations of what a bond accomplishes. The definition also explains which instruments are or are not acceptable. Acceptable bond instruments include cash, cashiers or certified checks, certificate or book entry deposits, negotiable U.S. Treasury securities, surety bonds from the approved list of sureties, and irrevocable letters of credit. The BLM will not accept a corporate guarantee. These provisions codify the BLM's existing procedures and practices.

Comment: A comment suggested adding the words "certificate of insurance or other acceptable security" to each of these paragraphs in appropriate places.

Response: The BLM believes that adding the comment's suggestion to the text of the rule is unnecessary, as the definition of acceptable bond instruments includes insurance policies and does not need to be expanded to include a specific form of insurance. Furthermore, the list of bond instruments that are acceptable is not an all-inclusive list. There may be other forms of bond instruments, but they are not specified in the rule as they are not as common a form of bond as those identified. If we had intended the bond list to be an all-inclusive list we may have unintentionally excluded an acceptable bond instrument. No other comments were received and no changes to this definition were made from the proposed rule to the final rule.

"Reclamation cost estimate (RCE)" is a new term that means the report used by the BLM to estimate the costs to restore the intensive land uses on the right-of-way to a condition that would support pre-disturbance land uses.

The BLM revised this definition from the proposed to final rule to clarify that the reclamation work described must meet the BLM's requirements. This change is important because the BLM is required to protect the public lands and must determine if the reclamation work done by the holder is acceptable.

No comments were received on the definition of this term and no other changes are made from the proposed to the final rule.

"Right-of-way" is defined in existing regulations as the public lands the BLM authorizes a holder to use or occupy under a grant. The revised definition describes the authorizing instrument for use of the public lands as "a particular grant or lease." No

comments were received on the definition of this term and no changes are made from the proposed to the final rule.

"Screening criteria for solar and wind energy development" is a term referring to the policies and procedures that the BLM uses to prioritize how it processes solar and wind energy development right-of-way applications outside of DLAs. Some examples of screening criteria are:

1. Applications filed for areas specifically identified for solar or wind energy development, other than DLAs;
2. Previously disturbed areas or areas located adjacent to previously disturbed areas;
3. Lands currently designated as Visual Resource Management (VRM) Class IV; and
4. Lands identified for disposal in a BLM land use plan.

Screening criteria for solar and wind energy development were previously established by policy through IM 2011-61, and are further discussed in section 2804.25(d)(2) and section 2804.35 of this rule. The IM may be found at: http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html. No changes were made from the proposed rule to the final rule, nor were any comments received pertaining to this definition. However, there are several comments made on the specific screening criteria proposed that are addressed later in the section-by-section analysis of these criteria.

"Short term right-of-way grant" is a new term meaning any grant issued for a term of 3 years or less for such uses as storage sites, construction sites, and short-term site testing and monitoring activities. The holder may find the area unsuitable for development or the BLM may determine that a resource conflict exists in the area. No

comments were received and no changes are made from the proposed rule to the final rule.

Section 2801.6 Scope.

The scope in 43 CFR part 2800 clarifies that the regulations in this part apply to all systems and facilities identified under section 2801.9(a). No comments were received and no changes are made from the proposed rule to the final rule on this provision.

Section 2801.9 When do I need a grant?

Section 2801.9 explains when a grant or lease is required for systems or facilities located on public lands. In section 2801.9(a)(4), the term "systems for generation, transmission, and distribution of electricity" is expanded to include solar and wind energy development facilities and associated short-term authorizations. Language is also added to section 2801.9(a)(7) to allow any temporary or short-term surface-disturbing activities associated with any of the systems described in this section. A new paragraph (d) is added to specifically describe the types of authorizations required for various components of solar and wind energy development projects. These are:

1. Short term authorizations (term to not exceed 3 years);
2. Long term right-of-way grants (up to 30 years); and
3. Solar and wind energy development leases (30 years).

This paragraph also identifies the type of authorizations issued for solar and wind projects depending on whether they are located inside or outside of DLAs. Authorizations for solar or wind energy development outside a DLA, or authorizations issued non-competitively within a DLA, will be issued under subpart 2804 as right-of-

way grants for a term of up to 30 years. Authorizations within a DLA will be issued under subpart 2809 as right-of-way leases for a term of 30 years.

Comments: Some comments were received requesting that the site-specific and project-area testing authorizations be made available for solar energy. A comment further suggested that section 2801.9 be revised so that the authorization types would be listed in the order in which actions are taken to develop a project.

Response: The BLM revised this section, in response to the comment, by removing the specific references to "wind." As a result, the testing provisions apply to both solar and wind energy. The BLM also revised this section to reflect the order in which actions are taken to develop a project. The "other appropriate actions" listed under paragraph (d)(3) of this section in the proposed rule are moved to paragraph (d)(5) of this section in the final rule. Paragraphs (d)(4) and (d)(5) of this section in the proposed rule are now paragraphs (d)(3) and (d)(4) of this section, respectively.

Subpart 2802— Lands Available For FLPMA Grants

Section 2802.11 How does the BLM designate right-of-way corridors and designated leasing areas?

Section 2802.11, which explains how the BLM designates right-of-way corridors, is revised to include DLAs. Under this rule, the BLM will identify DLAs as preferred areas for solar or wind energy development, based on a high potential for energy development and lesser resource impacts. This section provides the factors the BLM considers when determining which lands may be suitable for right-of-way corridors or DLAs. These factors are unchanged from the existing regulations. This final rule

amends paragraphs (a), (b), (b)(3), (b)(4), (b)(6), (b)(7) and (d) of section 2802.11 to include references to DLAs.

Comment: One recommendation was made suggesting that the BLM make it clear that we will not accept applications in areas that are closed to development by means of land use plans or other mechanisms.

Response: The comment's recommendation is addressed in the existing rule at section 2802.10(a). This section clarifies that some lands are not available for a right-of-way grant, which includes those lands that the BLM identifies through the land use planning process as inappropriate for rights-of-way, as well as public land orders, statutes, and regulations that exclude rights-of-way, and lands segregated from application.

Comment: One comment stated that DLAs are created through the BLM's resource management planning process, but that such plans are changed only every 15 to 20 years. Also, many plans are undergoing or have recently undergone such changes, especially in areas having sage-grouse habitat, but those plans do not designate any DLAs.

Response: Due to the timing of the comment submission and the BLM's response, the plans noted in this comment have been finalized and the BLM decisions are issued. The Greater Sage-Grouse Plan Amendments and Revisions did not designate any DLAs. These plans are focused on conservation of the Greater Sage-Grouse and its habitat. The decisions issued in these plans safeguard primary and general habitat from the impacts of development, including solar and wind energy.

However, the BLM may have an opportunity to designate some areas for wind energy development using recent analyses or information that identifies areas suitable for energy development on public lands. Examples of such areas may be those identified as not having significant resource and use siting concerns, as identified in the BLM's wind mapper. The wind mapper is a BLM web-based geographic data viewer, found at http://wwmp.anl.gov, that has up-to-date geographic information representing the BLM's land use planning decisions for administering public lands and other pertinent regulatory information, specific to wind energy resources. Using information on the wind mapper, a targeted land use plan amendment may be completed more expeditiously than the 15 to 20 years discussed in this comment.

Comment: Another comment suggested that we consider developing a generic EIS process suitable to all prospective solar and wind leases, coupled with a specific discussion of variations between areas. Also, the comment suggested that we should automate the EIS process to leverage existing GIS and satellite data whenever possible.

Response: Although worth considering, this concept is outside the scope of this rule, which is focused on the administrative process of solar and wind energy rights-of-way and competitive processes. However, the BLM plans to evaluate its NEPA process and promote automation of the process where possible. Until that time, the BLM will designate such areas through its existing land use planning process.

Comment: Another comment states that the designation of DLAs will waste taxpayers' money and impede development. The cost to the public for the BLM to designate a DLA will not be fully recaptured and the DLA will not provide any additional value to the public through the competitive process.

Response: Costs for the preparation of DLAs will be recaptured at the competitive bidding stage as the administrative costs will be paid by the successful bidder. As demonstrated by the BLM's recent competitive actions for solar energy, there is a monetary return to the public for auctions of parcels within renewable energy development areas.

Comment: During stakeholder engagement meetings, environmental stakeholders expanded on their comment on the definition of "designated leasing area." The stakeholders suggested that the BLM should not only revise the definition of DLA to include additional specific criteria, but also make changes to section 2802.11 to specify that the BLM consider those criteria when designating DLAs. The stakeholders also recommended that the BLM consider sensitive environmental resources when evaluating potential DLAs.

Response: The BLM considered adding additional criteria to section 2802.11 that would be considered when the BLM evaluates an area for inclusion in a DLA, but it ultimately made no changes in the final rule. The existing regulations in section 2802.11(b) already explain in great detail what the BLM considers when making a DLA designation. Adding an undefined term, "sensitive environmental resources," could unintentionally limit the BLM's management of public lands when considering the varied landscapes and resources that are found there. Furthermore, consideration of sensitive resources is already addressed in section 2802.11(b)(2), which requires the BLM to consider "environmental impacts on cultural resources and natural resources, including air, water, soil, fish, wildlife, and vegetation."

While the BLM did not make any changes to the final rule in response to this comment, it should be noted that the BLM intends to establish guidance, as part of the implementation of this rule, to assist the BLM in establishing DLAs through its land use planning processes. The implementing guidance will allow the BLM to be more specific for these areas without unintentionally limiting itself, and maintain the BLM's flexibility to make any necessary adjustments to the process for evaluating potential DLAs across the varied landscapes that it manages.

Subpart 2804— Applying For FLPMA Grants

Section 2804.10 What should I do before I file my application?

Existing section 2804.10 encourages prospective applicants for a right-of-way grant to schedule and hold a pre-application meeting. Under this final rule, section 2804.10 continues to encourage such meetings regarding some right-of-way grants, and under paragraph (a)(2), would now identify DLAs along with right-of-way corridors as a point of discussion for these meetings if held.

Under existing section 2804.10(a)(2), the BLM determines if your application is on BLM land within a right-of-way corridor. This revised paragraph now includes "or a designated leasing area." The BLM generally will not accept applications for grants on lands inside DLAs . The BLM will offer lands inside DLAs competitively through the process described in subpart 2809, which does not involve submitting an application. The BLM will only accept applications on lands inside DLAs in limited circumstances (see sections 2809.19(c) and 2809.19(d)).

The BLM proposed amending paragraphs (a), (a)(2), and (a)(4), and also adding two new paragraphs that would apply to any solar or wind energy project, transmission

line with a capacity of 100 kV or more, or pipeline 10 inches or more in diameter. For these types of projects, the BLM proposed mandatory pre-application meetings. Proposed amendments for paragraph (a) and (a)(4) are not included in the final rule, since pre-application meetings will not be required and specific requirements associated with them are no longer necessary. Paragraph (b) of the existing regulations will not be redesignated and there will be no new paragraphs (b) and (c) in this final rule. The only changes to section 2804.10 in the final rule are found in paragraph (a)(2).

Under this final rule, pre-application meetings will not be required for solar and wind energy developments, or any transmission line with a capacity of 100 kV or more. Instead, the BLM will require what we term "preliminary application review meetings" that will be held after an application for a right-of-way has been filed with the BLM. These meetings will fall under the BLM's cost recovery authority for processing applications and are discussed in greater detail under section 2804.12. Based on comments received, no requirements for pipelines 10 inches or more in diameter are carried forward into the final rule.

Section 2804.12 What must I do when submitting my application?

In this final rule, Section 2804.12 has been retitled from "What information must I submit in my application?" to "What must I do when submitting my application?". Relocation of the early coordination meeting requirements to this section has resulted in revisions to this section that would make the previous title misleading. As revised, section 2804.12 requires that an applicant must provide specific information, and in the case of solar or wind energy development projects and transmission line projects with a

capacity of 100 kV or more, must also complete certain actions when initially submitting an application.

The last sentence in section 2804.12(a) is revised to show that a completed application must include all of the items identified in sections 2804.12(a)(1) through (a)(8). The text of paragraphs (a)(1) through (a)(7) are republished without amendment, and new paragraph (a)(8) is added.

Comments: Several comments were submitted regarding the BLM's proposed pre-application requirements for solar and wind energy development and transmission lines with a capacity of 100 kV or more. Comments suggested that the BLM could not place requirements on a developer prior to an application being submitted to the BLM. This general comment was focused on two aspects of the BLM's proposed requirement for pre-application meetings. The first aspect was that the BLM was requiring that two pre-application meetings be completed prior to a developer submitting an application for a solar or wind energy development project or transmission line with a capacity of 100 kV or more. The second aspect of concern was that the BLM would require the developer to pay cost recovery for the required pre-application meetings. Under the proposed rule, the BLM would have required both of these prior to submission of an application for use of the public lands.

Response: The intent of the pre-meeting requirements is to ensure early coordination with the developer and other Federal, State, and tribal governments to gather information to better inform the developer of different considerations to be made if pursuing their project on BLM-administered lands. Considerations would include existing uses, environmental resources, and cultural or tribal values in the area of the

proposed project. Pre-application meetings are currently required by the BLM's policy. Discussing a proposed project with a developer early on has demonstrated an improvement in project siting and design, avoiding and minimizing impacts the project would have to the public land, and reducing the BLM's processing timeframes. This final rule has been revised and now requires early coordination, not through pre-application meetings, but through preliminary application review meetings, which are to be held after an application is submitted to the BLM. These requirements for early coordination with developer and other Federal, State, and tribal governments are found under section 2804.12(b). Additional discussion of the preliminary application review meetings is found under section 2804.12(b) of this preamble.

Section 2804.12(a)(8) states that if the BLM requires you to submit a POD, you must include a schedule for its submittal in your application. This requirement was in the proposed rule's section 2804.10(c)(4), but is now moved to section 2804.12(a)(8) in the final rule. This provision was proposed in section 2804.10 because the early coordination with BLM was done under pre-application meetings. It is moved to section 2804.12 of this final rule to coincide with the timing of the preliminary application review meetings.

Section 2804.12(b) explains requirements for submitting an application for solar or wind energy development (outside of DLAs), or any transmission line with a capacity of 100 kV or more. Requirements under section 2804.12(b) were found at section 2804.10(b) in the proposed rule, but have been moved to this section instead as application processing requirements. This includes the BLM's requirement for preliminary application review meetings. This provision provides clear instructions to

the public about what they should expect when filing an application for such developments.

The BLM commonly refers to the first filing of an application as an "initial" application due to the BLM's experience with such projects. In most cases, a project POD goes through several iterations during the BLM's application review process and may require additional submissions or revisions of the application to accompany the revised plans. Additional applications are not always necessary when revising a project POD, but could be required.

Section 2804.12(b) also contains provisions from sections 2804.10(b) and 2804.10(c) of the proposed rule. These provisions are moved in the final rule in response to comments. An additional provision is added to paragraph (b) of this section to reiterate that the requirements for submitting a solar or wind application are in addition to those described in paragraph (a) of this section for all rights-of-way.

Comments: Several comments questioned the requirement to hold pre-application meetings, as well as the BLM's authority to require conditions for project processing, prior to the submission of an application to the BLM and collecting cost recovery fees for that time period.

Response: The early coordination that resulted from the pre-application meetings required by existing BLM policy has been essential to the timely review and approval of solar and wind energy projects on the public lands. However, this final rule moves these meetings and requirements so that they occur after the submission of an application in response to comments received. The changes retain BLM's intent to ensure earlier

coordination on such applications with other Federal, State, local, and tribal governments. Under the final rule, such meetings would be subject to cost recovery requirements.

Section 2804.12(b) also states that your application for a solar or wind energy project, or a transmission line project with a capacity of 100 kV or more, must include a general description of the proposed project and a schedule for submittal of a POD, address all known resource conflicts, and initiate early discussions with any grazing permittees that may be affected by the proposed project. Further, section 2804.12(b) requires that you hold two preliminary application review meetings, within 6 months from the date on which the BLM receives the cost recovery fee payment required under section 2804.14.

Section 2804.12(b)(4), as previously described, is relocated from section 2804.10(c) of the proposed rule. Under this paragraph, the BLM will process an application only if the application addresses the following items: 1) Known potential resource conflicts with sensitive resources; 2) Values that are the basis for special designations or protections; and 3) Applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts. For example, some applicant-proposed measures could utilize a landscape-level approach as conceptualized by Secretarial Order 3330 and subsequent reports, and be consistent with the BLM's IM 2013-142, interim policy guidance. Due to the intense use of the land from the projects covered in this section, the BLM will require applicants to identify potential conflicts and how they may be avoided, minimized, or mitigated. The BLM will work with applicants throughout the application process to ensure the most efficient use of public land and to minimize possible resource conflicts. This provision will require an applicant to consider these concerns before

submitting an application and, therefore, provide the BLM with potential plans to minimize and mitigate conflicts.

Comments: Some comments stated that the BLM should ensure that meetings are structured so that participants are provided all the project information necessary so they can meaningfully assist the BLM to make an appropriate determination about the proposed project.

Response: The BLM agrees with these comments and has modified the regulation to have meetings occur after an application is filed, rather than hold the meetings beforehand. The intent of these meetings will be to bring all Federal, State, local, and tribal governments together and provide them with the best available information to have an informed discussion on the right-of-way application. Authorizations for solar and wind energy projects, and transmission lines with a capacity of 100 kV or more, are generally larger and more complex than the average right-of-way authorization, and this extra step will help protect the public lands and make application processing more efficient.

Furthermore, the BLM will not proceed with an application until all appropriate meetings are held and the BLM has notified appropriate grazing permittees (see 43 CFR 4110.4-2(b)). Applicants must pay reasonable or actual costs associated with the requirements identified in section 2804.12(b). Payment for reasonable costs associated with an application must be received by the BLM after the initial filing of the application and prior to the first meeting, consistent with section 2804.14.

After enactment of the Energy Policy Act of 2005, the BLM received an influx of solar and wind energy development applications. Many of these applications were

unlikely to be approved due to issues such as siting, environmental impacts, and lack of involvement with other interested parties. As the BLM gained more experience with these applications, it developed policies and procedures to process applications more efficiently. These policies and procedures required pre-application meetings and use of application screening criteria (see section 2804.35 of this preamble) in order to help BLM and the proponent address siting concerns early on in the process.

Pre-application meetings have helped both the BLM and prospective applicants to identify necessary resource studies, and other interests and concerns associated with a project. Further, the meetings have provided an opportunity to direct development away from lands with high conflict or sensitive resource values. As a result of these meetings, the applications submitted were more appropriately sited and had fewer resource issues than those submitted where no pre-application meetings were held. Holding these meetings early in the application process made the applications more likely to be approved by the BLM. This saved the applicant the time and money spent on doing resource studies and developing projects that may not have been accepted or approved by the BLM.

Some prospective applicants chose not to pursue development after these meetings, once they had a better understanding of the potential issues and resource conflicts with the project as proposed. The BLM found that applicants who participated in these meetings saved money that would have been spent planning a project that the BLM would not have approved. This also saved the BLM time by reducing the number of applications it would need to process and the time spent reviewing resource studies and project plans.

A January 2013 Government Accountability Office report (GAO-13-189) found that the average BLM permitting timeframes have decreased since implementation of BLM's solar and wind energy policies, which include the early inter-agency coordination meeting requirements in this rule. The GAO concluded that applications submitted in 2006 averaged about 4 years to process, while applications submitted in 2009 and later averaged about 1.5 years to process. At the time of the GAO review, these meetings were pre-application meetings. In the final rule, the timing of these early meetings has been changed until after the submission of an application to the BLM. Based on its experience, the BLM believes that holding inter-agency and government coordination meetings early in the review of a proposed large-scale development will continue to save both the BLM and applicant time and money during the BLM's review and processing of the application.

Based on a review of its records, the BLM identified a range of costs and time estimated associated with the processing of each type of application for a use of the public lands. These cost and time estimates varied between the solar and wind energy and transmission line projects. For solar and wind energy rights-of-way a range of costs was identified between $40,000 and $4 million, including up to approximately 40,000 BLM staff labor hours and other non-labor costs per project. For transmission lines 100 kV or larger a range of costs was identified between $260,000 and $2.1 million, including up to approximately 21,000 BLM staff labor hours and other non-labor costs per project. Based on this review, the BLM observed that projects with early coordination generally had lower costs relative to similarly situated projects.

Based on the BLM's experience, two meetings are usually sufficient to address all known potential concerns with a project, which is why the final rule calls for two meetings. However, the BLM understands that additional meetings may be beneficial to a project before an application is submitted. The BLM does not want to limit its ability to hold additional meetings should a project be particularly complex and, therefore, the final rule allows for additional preliminary application review meetings to be held when mutually agreed upon. For example, a project that crosses State lines could require additional coordination with local governments and other interested parties.

Comments: Some comments noted concern over the BLM's existing and proposed pre-application process and its open-ended timeframe. Comments were concerned that this would be a deterrent for pursuing development on the public land, even if the project itself was well sited and designed. A developer would need assurances that a project would proceed expeditiously. Suggested timeframes included 30 days between meetings and application submittal.

Response: New paragraph (b)(4) specifies that within 6 months from the time the BLM receives the cost recovery fee, you must hold at least two preliminary application review meetings. The first meeting will be held with the BLM to discuss the proposal, the right-of-way application process, the status of BLM land use planning for the lands involved, potential siting and environmental issues, and alternative site locations. The second meeting will be held with appropriate Federal and State agencies and tribal and local governments to discuss concerns as identified above. If you do not believe you need to schedule the first or second meeting described above, you can ask the BLM for

an exemption. The process of requesting an exemption is discussed further in section 2804.12(i), under the newly added paragraph labeled "Inter-agency Coordination."

Section 2804.12(c) contains requirements for submitting an application for solar and wind energy development. These requirements, located in sections 2804.10(a)(8) and 2804.10(c)(2) in the proposed rule, have been relocated to sections 2804.12(c)(1) and 2804.12(c)(2) in this final rule. Under section 2804.12(c)(1), the BLM specifies that an application for solar or wind energy development must be submitted for lands outside of DLAs, except as provided for by section 2809.19. Lands inside DLAs will be offered competitively under subpart 2809. See section 2809.19 of this preamble for further discussion. No comments were received and the only changes made to this paragraph are those identified for relocating the requirement to this section and putting it in the context of a requirement for submitting an application.

Section 2804.12(c)(2) requires that an applicant submit an application filing fee with any initial solar or wind energy right-of-way application. Section 304 of FLPMA authorizes the BLM to establish filing and service fees. A per acre application filing fee may discourage applicants from applying for more land than is necessary for a proposed project. Under this final rule, application filing fees will be retained by the BLM as a cost recovery fee, instead of being sent to the General Fund of the Treasury as collected revenue as proposed. A similarly structured nomination fee is established following the same criteria and is described in section 2809.11(b)(1).

Paragraph (c)(2) of this section is revised to replace "by the average annual change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP)" to read as "using the change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP)".

As proposed, this provision may have been interpreted as limiting how the BLM would use the IPD-GDP when updating this fee. It is appropriate for adjustments that occur annually, such as acreage rent, to refer to the average annual change in the IPD-GDP. However, the application filing fee may be adjusted once every ten years and this adjustment would be based on the cumulative change to the IPD-GDP over the 10-year period.

The application filing fee is the initial fee paid to the BLM for the reasonable costs of processing, inspecting, and monitoring a right-of-way. The BLM will use these funds towards processing your application. The balance of these funds, if any, will be allocated towards a cost reimbursement agreement that is later established between the BLM and the applicant or refunded if the application is denied or otherwise terminated. A cost reimbursement agreement is established under the authority of FLPMA section 304(b) and 504(g). This change is made in conformance with those changes made under section 2804.30(e)(4) in response to comments.

The application filing fee is based on the appraisal consultation report performed by the Department's Office of Valuation Services. The appraisal consultation report compared similar costs on private lands, and provided a range between $10 and $25 per acre per year. The nominal range or median was reported as between $15 and $17 per acre per year. The appraisal consultation report is available for review by contacting individuals listed under the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The BLM is adopting a single filing fee at the time of filing an application, as opposed to a yearly payment. Based on the appraisal consultation report, fees are $15 per

acre for solar and wind energy applications and $2 per acre for wind energy project-area and site-specific testing applications.

Comments: Several comments were made concerning the fees identified in the description of requirements for section 2804.12(c)(2). One comment suggested that the $15 per acre filing fee should be made a part of a cost recovery fee and used to reimburse the BLM for its expenses. In addition, the comment suggested that the fee should be refundable if the lands are later made subject to competition.

Response: The BLM has revised this rule, including this section, to make application filing fees part of cost reimbursement paid to the BLM. Payment of cost reimbursement to the BLM is under Sections 304(b) and 504(g) of FLPMA. Application filing fees and other costs associated with the BLM's processing of applications can be recovered because the BLM's application review and other work facilitates, and will generally be essential for, the BLM's processing, inspecting, and monitoring of a right-of-way. Consistent with FLPMA, application filing fees are retained by the BLM as cost reimbursement and will not be sent to the General Fund of the U.S. Treasury as originally proposed. If lands are later subject to a competitive offer for the use for which application filing fees were provided, (e.g., competition for a site development when development application filing fees are paid), then these fees would be refunded to the unsuccessful bidders who had already paid them, except for the reasonable costs incurred.

Comment: One comment opposes the proposed $15 per acre filing fee for wind energy applications and $2 per acre fee for wind energy site-specific testing applications as this would increase processing costs. The comment suggested that fees should be as low as possible to encourage wind energy development on public lands.

Response: The BLM has removed the application filing fee from site-specific testing applications to address concerns of increasing costs for development on the public lands. Site-specific testing generally takes up less than an acre, so it would not be necessary to encourage a smaller area of use. Project area testing and developments can each encompass thousands of acres and a per acre filing fee is appropriate. This final rule retains a $2 per acre filing fee for project area testing applications and a $15 per acre filing fee for development applications to encourage thoughtful development on public lands. Fees for solar and wind energy development applications will be adjusted for inflation once every 10 years, using the Implicit Price Deflator for Gross Domestic Product (IPD-GDP).

Section 2804.12(d) references an applicant's option to request an alternative requirement if the applicant is unable to meet one of the requirements outlined for submitting an application. Requests for an alternative requirement are submitted under section 2804.40. This provision applies to all right-of-way applications submitted to the BLM and is added to the final rule in response to comments submitted on the proposed rule. Further discussion on requesting an alternative requirement is found under section 2804.40.

Comments: Some comments stated that the mandatory pre-application meetings included in the proposed rule would discourage a developer from pursuing public lands for development, since the process and costs associated with development on BLM lands are greater than those on private lands. These comments expressed concern that these requirements are overly burdensome and duplicative of the NEPA process.

Response: Although costs to develop a project may end up being higher on public lands, the BLM has a different scope of authority and responsibility than agencies and offices that administer developments that occur on private land. The BLM is charged with managing the public lands under principles of multiple use and sustained yield. The BLM must take into account resources and use of the public land, and balance those with each additional proposed use and its impacts to resources for current and future generations.

Based on the BLM's experience, these early coordination meetings help reduce the overall time and costs associated with the BLM's application process. The pre-application meetings described in the proposed rule, which are existing policy, are changed in this final rule to "preliminary application review meetings," which take place after an application is submitted. The BLM believes these meetings will facilitate a more efficient application process and will not discourage development on public lands.

The BLM is required, under NEPA, to consider the environmental impacts of a significant action on the public lands. These early coordination meetings help the BLM and proponent determine the best possible approach for developing a proposed project that would avoid, minimize, reduce or otherwise compensate for its environmental impacts. Based on the BLM's experience, these meetings have reduced the overall time of the NEPA analysis necessary for projects on the public lands. The GAO's report (GAO-13-189) found that the average BLM permitting timeframes have decreased since implementation of BLM's solar and wind energy policies, which include the early inter-agency coordination meeting requirements in this rule.

The BLM added section 2804.12(i), "Inter-agency Coordination," in response to these comments. This paragraph provides that an applicant may request an exemption from some of the requirements of this section, should they participate in an inter-agency coordination process with another Federal, State, local, or tribal authority. This final rule allows a developer to formally request an exemption to the requirements under section 2804.12, pertaining to application filings and other requirements that may be duplicative of other activities that a developer is completing. In order for a developer to qualify for an exemption from these requirements, the other activities must meet the same criteria as required by the BLM. An example of such a situation would be if a developer had already met with the Department of Energy for purposes similar to what is required under the BLM's first preliminary application review meeting.

No other comments were received and no additional changes made to this section.

Sections 2804.12(e) through (h) are redesignated in the final rule from paragraphs (b) through (e) of the existing regulations and no other changes were made to these paragraphs.

Section 2804.14 What is the processing fee for a grant application?

Under section 2804.14, applicants must pay for reasonable costs for processing an application as defined by FLPMA. Under section 2804.14(a), the BLM may collect the estimated reasonable costs incurred by other Federal agencies. Applicants may pay those costs to other affected agencies directly instead of paying them to the BLM.

Section 2804.14(b) includes a table of the application processing categories. The specific outdated values for cost recovery categories 1 through 4 have been removed from this table, while the explanations of the categories and the methodology of

calculating the costs remain. These numbers are available in writing upon request or may be found on the BLM's website at http://www.blm.gov/. These cost figures were removed from the regulations because they are outdated after the first year, since the BLM updates these costs annually and has done so since this section of the regulations was originally published. The revision allows the BLM to update these numbers without modifying the CFR and prevents confusion to potential applicants who would see incorrect information. The explanation of how these costs are calculated, formerly found in section 2804.14(c), is moved up to paragraph (b) to provide better context for the amended table. Redundant language is removed from the Category 1 processing fee.

Comments: Some comments were received stating that the BLM does not have authority to collect cost recovery on behalf of other Federal, State, and non-regulatory offices, such as tribal governments and interested public stakeholders. These comments stated that the authority delegated by the Secretarial Order was by the Secretary, and, therefore, delegation of the authority could not apply to any agency or office outside of the Department.

Response: Secretarial Order 3327 delegating cost recovery authority applies only to agencies and offices of the Department of the Interior. Sections 304(b) and 504(g) of FLPMA, however, give the Secretary authority to collect payments intended to reimburse the United States, not just the Department of the Interior. Under Section 304(b) of FLPMA, the Secretary may charge for reasonable costs of the United States concerning "applications and other documents relating to [the public] lands." Section 504(g) of FLPMA provides that the Secretary may charge for "all reasonable administrative and

other costs incurred in processing" a right-of-way application and costs associated with the inspection and monitoring of right-of-way facilities.

The revision under section 2804.14 and other cost recovery provisions of this rule clarify that the BLM's cost recovery authority is consistent with FLPMA, in that it seeks reimbursement to the United States—i.e., it can seek reimbursement of its own costs as well as those of other Federal agencies. This does not include reimbursement of costs for State and non-regulatory offices. The BLM intends that collecting such reasonable costs for other Federal agencies would primarily arise in situations where the BLM's decision to approve or deny a right-of-way application depends on another Federal agency's issuance of a decision or other determination before or in conjunction with the BLM's right-of-way decision. An example of this can been seen in the BLM's May 2013 Memorandum of Understanding with the Fish and Wildlife Service (FWS), where the BLM and FWS have established a protocol for the BLM to collect and then provide cost recovery funds to the FWS for Endangered Species Act and other work that the BLM determines is necessary for it to process right-of-way applications. A copy of the Secretarial Order and Memorandum of Understanding can be found at the following website: http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_information/2013/IB_2013-074.html. No other comments were received, and no changes were made to this section of the final rule.

Section 2804.18 What provisions do Master Agreements contain and what are their limitations?

As defined in section 2804.18, a Master Agreement is a written agreement covering processing and monitoring fees negotiated between the BLM and a right-of-way applicant that involves multiple BLM rights-of-way for projects within a defined geographic area. New section 2804.18(a)(6) requires that a Master Agreement also describe existing agreements between the BLM and other Federal agencies for cost reimbursement. With the recent authority delegated by Secretarial Order 3327 to collect costs for other Federal agencies, it is important for the applicant, the BLM, and other Federal agencies to coordinate and maintain consistency for cost reimbursement. No additional comments were received, except for those discussed under section 2804.14, and no changes were made to this section in the final rule.

Section 2804.19 How will BLM process my Processing Category 6 Application?

Under section 2804.19(a), an applicant for a Category 6 application must enter into a written agreement with the BLM identifying how such applications will be processed. Under this final rule, the final agreement includes a description of any existing agreements the applicant has with other Federal agencies for cost reimbursement associated with the application. No comments were received for this section, and no changes were made from the proposed rule to this section of the final rule.

Under section 2804.19(e), the BLM may collect reimbursement to the United States for its reasonable costs for processing applications and preparation of other documents under this part relating to the public lands. Adding this language to these regulations clarifies the BLM's authority when collecting for other agencies. No additional comments were received, except for those discussed under 2804.14 and no changes were made to this section of the final rule.

Section 2804.20 How does BLM determine reasonable costs for processing Category 6 or monitoring Category 6 applications?

Section 2804.20 is revised to clarify the scope of the BLM's cost recovery and how the BLM will determine reasonable costs of the United States when processing and monitoring Category 6 applications. In paragraph (a)(1) of this section, "BLM" is changed to "the Federal Government," to make it clear that the BLM may collect cost recovery for other Federal agencies as well. Processing costs include reasonable costs for processing a right-of-way application, while monitoring costs include reasonable costs for those actions the Federal Government performs to ensure compliance with the terms, conditions, and stipulations of the right-of-way grant. As pre-application requirements are not included in this final rule, section 2804.20(a)(7) was deleted. No additional comments were received, except for those discussed under 2804.14, and no other changes were made to this section of the final rule.

Section 2804.23 When will the BLM use a competitive process?

Section 2804.23 was previously titled "What if there are two or more competing applications for the same facility or system?" but is revised to read, "When will the BLM use a competitive process?" This change is necessary because, under the final rule, the BLM may use a competitive process even when there are not two competing applications.

Paragraph (a)(1) of this section now requires applicants to reimburse the Federal Government, as opposed to just the BLM, for processing costs, consistent with the cost recovery authority in Sections 304(b) and 504(g) of FLPMA. This means that the BLM could require applicants to reimburse the BLM for the costs incurred by other agencies, such as the U.S. Fish and Wildlife Service, in processing the application.

A new sentence in section 2804.23(c) gives the BLM authority to offer lands through a competitive process on its own initiative. Under the existing regulations, the BLM can use a competitive process only when there were two or more competing applications for a single right-of-way system. This change gives the BLM more flexibility to offer lands competitively, and applies to all potential rights-of-way, not just solar and wind energy development projects.

Throughout the proposed rule, the BLM required publication of a notice in the Federal Register as well as in a newspaper in general circulation in the area affected by the potential right-of-way. Publication in a newspaper is included in the final rule as one of the "other methods" of public notification that the BLM may use, but is no longer a requirement. The potential area affected by a proposed BLM action may not be covered by a single newspaper. As the BLM considers issues at a broader scale, such as multi-state transmission lines, several communities may be affected by a single BLM action. The Federal Register is a national publication that is available to all interested parties. In addition, the BLM will make available a copy of all Federal Register notices on its website at www.blm.gov. The BLM may use a newspaper to notify the public on a case-by-case basis, as appropriate. The public notification methods throughout this final rule are revised consistent with this section.

Comments: Some comments expressed concern that the BLM may determine to hold a competitive offer after an applicant has substantially progressed in the processing of their non-competitive application for a right-of-way grant. These comments argued

that this possibility would discourage developers from submitting a solar or wind energy right-of-way application.

Response: Proposed paragraph (c) of this section has been revised to state that a competitive process will not be held for public lands where a right-of-way application for solar or wind development has been accepted, including the POD and cost recovery agreement. Adding this criterion provides assurances to prospective applicants that the BLM will not competitively offer lands after considerable time and resources have been committed to processing a particular application.

Under section 2804.23(d), lands outside of DLAs are made available for solar or wind energy applications through the competitive process outlined in section 2804.30. This provision directs the reader to new section 2804.30, which explains the competitive process for solar and wind energy development outside of DLAs. This paragraph is necessary to differentiate between development inside and development outside of a DLA. No comments were received on this paragraph, and no changes are made from the proposed rule to the final rule.

Under section 2804.23(e), lands inside a DLA will now be offered competitively through the process described in subpart 2809. This new paragraph directs the reader to revised subpart 2809, which explains the competitive process for solar and wind energy development inside of DLAs. This paragraph is necessary to differentiate between development inside and outside of a DLA. No additional comments were received for this section, except for those discussed under paragraph (c), and no other changes were made from the proposed to the final rule.

Section 2804.24 Do I always have to submit an application for a grant using Standard Form 299?

Section 2804.24, which is unchanged from the proposed rule, explains when you do not have to use Standard Form 299 (SF-299) to apply for a right-of-way. Under the existing rule, you do not have to use SF-299 if the BLM determines competition exists under section 2804.23(c). The BLM only determines competition exists when there are two or more competing applications for the same right-of-way facility or system.

Due to the changes made to section 2804.23, section 2804.24 specifies when an SF-299 is required. Under both the existing regulations and this final rule, the BLM will implement a competitive process if there are two or more competing applications. Under section 2804.24(a), you do not have to submit a SF-299 if the BLM offers lands competitively and you have already submitted an application for that facility or system.

Under paragraph (a) of this section, if you have not submitted an application for that facility or system, you must submit an SF-299, as specified by the BLM. Under the competitive process for solar or wind energy in section 2804.30, for example, the successful bidder becomes the preferred applicant, and may apply for a grant. The preferred applicant will be required to submit an SF-299, but unsuccessful bidders will not.

Paragraph (b) explains that an applicant does not have to use an SF-299 when the BLM is offering lands competitively under subpart 2809. Under subpart 2809, the BLM will offer lands competitively for solar and wind energy development inside DLAs. The successful bidder will be offered a lease if the requirements described in section 2809.15(d) are met. The successful bidder will not have to submit an application using

SF-299. The following chart explains when the filing of an SF-299 is or is not required under this final rule:

When a SF-299 is required

Type of Solar or Wind right-of-way	Would have to submit a SF 299?
Have two or more competing applications for the same area, outside of DLAs	Yes
Lands are offered competitively outside of a DLA and you have already submitted an application for the parcel before the Notice of Competitive Offer	No
Lands are being offered competitively outside of a DLA and you have not submitted an application	Yes
You are the successful bidder in a competitive offer outside of a DLA and have been declared the preferred applicant and may apply for a grant	Yes
Lands are being offered competitively within a DLA under subpart 2809	No

No comments were received and, no were other changes are made to this section of the final rule.

Section 2804.25 How will BLM process my application?

This section of the final rule has been modified from the proposed rule to reflect the shift of early BLM coordination from pre-application meetings, under section 2804.10, to preliminary application review meetings, under section 2804.12. These preliminary application review meetings are now required after the initial filing of a right-of-way application for solar or wind projects, or for electric transmission lines with a capacity of 100 kV or more.

Section 2804.25(a) of this final rule has been modified from the proposed rule to include a provision from current section 2804.25(b) that states the BLM will inform you of any other grant applications that involve any of the lands for which you have applied. This new provision has been added as paragraph (a)(2). Paragraph (a) has been reformatted providing an introductory statement and putting the existing requirement for identifying the processing fee as paragraph (a)(1). This is an existing provision of the regulations and is only added to this paragraph as part of formatting revisions that are made in response to comments submitted concerning confusion with existing requirements of section 2804.25(b).

Comments: Some comments were received noting confusion over the proposed section 2804.25(b) and its requirements.

Response: This paragraph has been reformatted into two new separate paragraphs, 2804.25(b) and 2804.25(c).

New section 2804.25(b) contains existing regulatory requirements that were part of proposed section 2804.25(b). This paragraph helps explain the existing requirements found in section 2808.12 of the regulations. In paragraph (b), the BLM will not process your application if you have any trespass action pending for any activity on BLM-administered lands or have any unpaid debts owed to the Federal Government. If you have an outstanding trespass action, the BLM will only process your application, under part 2800 or part 2920, if it will resolve the underlying trespass. Similarly, if you have any debts outstanding, the BLM will only process your application after those outstanding debts are paid. The requirement in section 2808.12 is often overlooked by potential right-of-way applicants and this addition to the regulations would insert the

requirement into the application process and improve applicant understanding of the BLM's process under subpart 2804.

Comments: Some comments expressed concern with the clarity of this proposed section and were also unsure whether using an application for a right-of-way to resolve trespass was appropriate. Further, concern was raised over what constituted an unpaid debt to the Federal Government.

Response: In response to the comment about clarity, the BLM revised the language in paragraph (b) of this section, by adding paragraphs (b)(1) and (b)(2), discussing when the BLM will not process an application.

Section 2804.25(b)(1) clarifies that the BLM will not process your application if you have an outstanding debt to the Federal Government and then describes what constitutes an outstanding debt to the government. An additional sentence was added to paragraph (b)(1) of this section, explaining that unpaid debts are what are owed to the Federal Government after all administrative collection actions have occurred, including administrative appeal proceedings under applicable Federal regulations and review under the Administrative Procedure Act (APA). Adding this provision to the regulations makes it clear to right-of-way holders and trespassers that the BLM will evaluate applications in this manner.

Paragraph (b)(2) of this section clarifies that if you are in trespass, the BLM will only process an application that would resolve that particular trespass. Reformatting this paragraph in this manner separates the concepts of unpaid debts and existing trespass situations as they pertain to new applications. Under this final rule, the BLM will not always issue a right-of-way to resolve a trespass. The BLM will consider the situation on

a case-by-case basis and will evaluate whether the trespass was knowing and willful. The BLM will also consider whether issuing a right-of-way to resolve the trespass is appropriate. If a right-of-way is not an appropriate way to resolve a trespass, the BLM will consider other options for resolving a trespass, such as requiring its removal from public lands.

Section 2804.25(c) contains the requirements from section 2804.25(b) of the existing regulations, under which the BLM may require the submittal of a POD. The POD or other plans must be submitted to the BLM within the period specified by the BLM.

Under paragraph (c)(1) of this section, the BLM requires an applicant to commence resource surveys or studies within 1 year of receiving a request from the BLM. This requirement was identified in the preamble of the proposed rule and carried forward in this final rule. The requirement to begin the surveys or studies within 1 year of the request establishes a default period, which will apply if the BLM does not specify a different time period within which the survey or study must begin. The BLM may identify a different time period through written correspondence with applicants, or by other means, as appropriate. Generally, these surveys or studies will not require a permit from the BLM or any other agency. Proponents need only coordinate the work with the applicable agencies as appropriate. However, for some surveys or studies, there may be a permit that is necessary, such as when performing pedestrian archaeological surveys. In those instances, the BLM will work with applicants to ensure that the applicable permitting requirements are understood by all parties.

Under paragraph (c)(2) of this section, an applicant could request an alternative requirement to one of the requirements of this section, such as the period of time described in paragraph (c)(1) of this section. However, the applicant must show good cause why it is unable to meet the requirement. This new paragraph directs the reader to new section 2804.40, consistent with revisions made from comments received as discussed under section 2804.40, if the applicant is unable to meet the requirements of this section. Failure to meet the 1 year requirement for application due diligence may result in denial of the application, unless an alternative compliance period has been requested and agreed to by the BLM. Paragraph (c)(2) of this section gives applicants the ability to address circumstances outside of their control with respect to time periods.

Comments: Some comments were received regarding due diligence requirements for applicants to begin resource studies or provide other such survey work to the BLM. Comments recommended varying timeframes for application due diligence ranging from 1 to 3 years after the BLM's approval of survey protocols or other identified study requirements. Comments generally agreed with implementing such requirements for applications.

Response: In consideration of the comments received on application due diligence requirements, the BLM determined that a longer timeframe would not be appropriate. Under this final rule, an applicant would be required to begin surveys or inventories within a year of the BLM's request date, unless otherwise specified by the BLM. The BLM determined that a one year default timeframe was adequate to commence surveys and inventories. This rule does, however, leave the BLM with the discretion to establish a different timeframe where appropriate.

Section 2804.25(c) of the existing regulations is redesignated as paragraph (d) of this section. It remains unchanged and is relocated to make room for the reformatting of this section in response to comments submitted on the proposed rule.

The introductory text of section 2804.25(e), which is redesignated from existing paragraph (d), is revised by replacing the words "before issuing a grant" with "in processing an application." This change is made to account for the situation where the BLM would issue a grant without accepting applications. For example, lands leased inside DLAs will be offered through a competitive bidding process under subpart 2809 in situations where no applications for those lands are received. The provisions in section 2804.25 do not apply to the leases issued under subpart 2809. However, they will apply to all other rights-of-way, including solar and wind energy development grants outside of DLAs. The process for issuing leases inside DLAs is discussed in subpart 2809. This revision clarifies that the requirements of this section apply to applications.

Section 2804.25(e) is further revised to incorporate new provisions for all rights-of-way as well as specific provisions for solar and wind energy development. Existing section 2804.25(d)(5), which provides the requirement to hold a public meeting if there is sufficient public interest, is moved to section 2804.25(e)(1). Revisions are made in this final rule, consistent with those made in section 2804.23(c). Language is added specifying that a public notice may also be provided by other methods, such as publication in a newspaper in the area affected by the potential right-of-way or the Internet.

Section 2804.25(e)(2) contains three separate requirements for solar and wind energy development applications. Under section 2804.25(e)(2)(i), the BLM will hold a

public meeting in the vicinity of the lands affected by the potential right-of-way for all solar or wind energy development applications. Based on the BLM's experience, most solar and wind energy development projects are large-scale projects that draw a high level of public interest. This requirement is added to provide an opportunity for public involvement early in the process. Under paragraph (e)(2)(ii), the BLM will apply screening criteria when processing an application outside of DLAs. These screening criteria are explained further in section 2804.35. The BLM removed the word "priority" from this requirement to improve reader understanding that the screening criteria are used to determine the priority of applications, not "resource priorities."

Under section 2804.25(e)(2)(iii), the BLM will evaluate an application, based on the input it has received from other government and tribal entities, as well as information received in the application, public meetings, and preliminary application review meetings. The BLM may consider information it has received outside of these meetings when evaluating an application. This paragraph is revised in the final rule to remove reference to pre-application meetings and add preliminary application review meeting requirements, consistent with other changes in this final rule. The BLM has also added more detail to this paragraph explaining why it may deny an application at this point in the process. For example, the BLM may deny an application if you fail to address known resource values raised during preliminary application review (see section 2804.12(c)(4)), or during public meetings (see section 2804.25(e)(2)(i)), or if you improperly site the project. The BLM made this revision to help improve the public's understanding of this process.

Based on its evaluation of an application, the BLM will either deny or continue processing it. The BLM's denial of an application will be in writing and is an appealable decision under section 2801.10. The denial or approval of all grant applications is at the BLM's discretion.

As noted previously under section 2804.12, you must submit an application for a solar or wind energy development. Requirements for submitting this application are noted in sections 2804.25(b) and 2804.25(c), and these must be fulfilled before an application is ready to be evaluated by the BLM. Section 2804.25(e)(2)(iii) has been revised to explain what criteria must be met in order for the BLM to continue processing your application. These criteria are: whether the development application is appropriately sited on the public lands (e.g. outside of DLAs – where leasing must proceed under Section 2809 rather than 2804 – and outside of exclusion areas), and whether you address known resource values that were discussed in the preliminary application review meetings. Known resource values must also be addressed in general project descriptions and in further detail in a project's POD.

Under section 2804.25(e)(3), the BLM will determine whether the POD schedule submitted with an application meets the applicable development schedule and other requirements or whether an applicant must provide additional information. This is a necessary step that allows the BLM to evaluate the application requirements under section 2804.12. Those requirements can be found in sections 2804.12(b) and 2804.12(c). The BLM determines if the development schedule and other requirements of the POD templates have been met. The POD templates can be found at http://www.blm.gov.

Under the proposed rule, paragraph (e)(3) of this section applied to applications for solar and wind energy development, transmission lines with a capacity of 100 kV or more, and pipelines 10 inches or greater in diameter. Under this final rule, this paragraph would apply to all applications for which a POD is required. Although a POD is mandatory for some types of projects, the BLM may require an applicant to submit a POD with any type of right-of-way application under section 2804.25(c) of this final rule (section 2804.25(b) of the existing regulations). Should the BLM require an applicant to submit a POD, the application would be evaluated under this paragraph based on the POD schedule submitted with the application.

Section 2804.25(e)(4) of this final rule is revised from the proposed rule to include a cross-reference to the Department's NEPA implementation regulations at 43 CFR part 46. The Departmental regulations reinforce the CEQ's regulations and the requirements to comply with NEPA. This cross-reference is made to increase the public's awareness of these requirements and where they may be found, but does not impose any additional requirements on the public.

Redesignated paragraphs (e)(5), (e)(6), (e)(7), and (e)(8) of this section are existing provisions that were formerly found in paragraph (d) of this section. Former paragraph (e) is redesignated as new paragraph (f). No other comments were received or other changes made to the final rule, except that references to the "U.S." were changed to read "United States."

Section 2804.26 Under what circumstances may BLM deny my application?

Section 2804.26 explains the circumstances in which the BLM may deny an application. The BLM considers the criteria outlined in this section during its decision-

making process, which for right-of-way authorizations ends with the issuance of a decision—either a ROD or a Decision Record (DR), or in the absence of a ROD or DR, the perfection of a right-of-way instrument or the issuance of a written decision denying the right-of-way application. Once the BLM issues a ROD or DR to approve a right-of-way, any subsequent BLM determination that is inconsistent with that ROD or DR, including any decision to suspend or terminate the right-of-way, is a separate action that requires the BLM to complete a separate decision-making process.

Section 2804.26(a)(5) explains one such circumstance. This provision of the existing regulations is revised to include "or operation of facilities" and now reads, "when an applicant does not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities in the proposed right-of-way." The rule adds text to clarify this requirement, which applies to all rights-of-way. The added paragraphs explain how an applicant could provide evidence of the financial and technical capability to be able to construct, operate, maintain, and decommission a solar or wind energy development project. The applicant may provide documented evidence showing prior successful experience in developing similar projects, provide information of sufficient capitalization to carry out development, or provide documentation of loan guarantees, a confirmed PPA, or contracts for the manufacture and/or supply of key components for solar or wind energy project facilities.

Paragraphs (a)(6), (a)(7), and (a)(8) are added to section 2804.26 to reiterate the new requirements of the final rule and explain that the BLM may deny an application should an applicant not comply with these provisions.

Under section 2804.26(a)(6), the BLM may deny your application if you do not meet the POD submittal requirements under sections 2804.12(a)(8), 2804.12(c)(1), and 2804.25(e)(3). The final rule is updated to ensure that the citations match the reformatted rule, after changes were made based upon comments received.

Section 2804.26(a)(7) is a new paragraph added to the final rule that corresponds to the provisions by which the BLM will require surveys under section 2804.25(c). Under section 2804.26(a)(7), the BLM may deny your application if you fail to meet its requirements to commence surveys and studies, or provide plans for permit processing as required by section 2804.25(c). This paragraph is new in the final rule and is added to be consistent with the new requirements in section 2804.25(c), which are added based upon public comment.

Section 2804.26(a)(8) references the possible application denial based on the screening criteria established in section 2804.25(e)(2)(iii).

Comments: Some comments expressed concern regarding the BLM exercising its authority to deny an application without accounting for the fact that some circumstances may be outside an applicant's control.

Response: In response to this generalized concern, the BLM added section 2804.40 to this final rule. Under this new section, an applicant may request an alternative requirement in place of a requirement that they are unable to meet. References are made to this new section in specific parts of the application processing requirements found under subpart 2804.

No other changes were made to this section and no other comments were received.

Section 2804.27 What fees must I pay if BLM denies my application or if I withdraw my application?

The heading of section 2804.27, "What fees do I owe if BLM denies my application or if I withdraw my application?" is revised to read, "What fees must I pay if BLM denies my application or if I withdraw my application?". With the addition of application filing fees, the revised title more clearly describes the requirements of the final rule. A new provision in this paragraph provides that if the BLM denies your application, or if you withdraw it, you must still pay any application filing fees submitted or due under section 2804.12(c)(2), and the processing fee set forth at section 2804.14. Sections 304(b) and 504(g) of FLPMA provide for the deposit of payments to reimburse the United States for reasonable costs with respect to right-of-way applications and other documents relating to the public lands. In the case of preliminary application review meetings, the expense could be considerable, depending on the complexity of the project. The BLM will refund any part of the application filing fees received that is not used for processing the application. This paragraph is revised by removing references to pre-application meetings that were originally proposed for the rule, but not carried forward in the final rule. These revisions are consistent with other changes made in the final rule under section 2804.12 regarding the change from pre-application to preliminary application review meetings. No other comments were received on this section, and no other changes were made to the final rule.

Section 2804.30 What is the competitive process for solar or wind development for lands outside of designated leasing areas?

Section 2804.30 explains the process for the BLM to competitively offer lands outside of DLAs. This bidding process is similar to that established in subpart 2809 (competitive offers inside DLAs), except that the end result of the bidding is different. Under paragraph (f) of this section, the successful bidder will become the preferred right-of-way applicant. Under this section, the high bidder is not guaranteed a grant, but is identified as the "preferred applicant." As explained under paragraph (g) of this section, the preferred applicant is the only party that may submit an application for the parcel identified by the BLM, but the BLM must still review and accept the application. This is different from subpart 2809, which provides that the successful bidder for a lease inside a DLA may be offered a lease upon successfully meeting all requirements of sections 2809.15.

Comments: Three general comments were received on this section. The first comment requested that language be added to encourage additional consultation with members of the public, such as developers, non-governmental organizations, and stakeholders, during the competitive process outside of DLAs.

Response: Many opportunities for public engagement are provided throughout the competitive process for right-of-way applications filed on public lands outside of DLAs. As part of the competitive processes outside of DLAs, the BLM may engage the public through a notice seeking competitive interest in a particular area, which would provide the public and interested stakeholders with an opportunity to comment on the potential development of a particular parcel. If the BLM decides to move forward with a competitive offer for a parcel, a Notice will be published in the Federal Register and may also be announced through other means. Upon the completion of the competitive

process, the BLM will process an application for the solar or wind energy development, following the requirements of this final rule, which include a mandatory public meeting before the BLM determines whether to deny the application or continue processing it. If the BLM continues to review an application, there may be additional opportunities for public involvement through the NEPA process, including during the notice and comment period. As a result of these measures, the BLM believes that there is adequate opportunity for the public to be fully engaged throughout the competitive process, application review, and NEPA processes for projects outside of DLAs.

Comments: The second comment on this section stated that only developers are capable of making a determination of whether development in a particular area will be economically sound and, therefore, a worthwhile pursuit for public land use. The comment contended that developers will not expend the effort necessary to determine the economic suitability for projects before a competitive process is held (either inside or outside areas such as DLAs).

Response: While the BLM agrees that only a developer can determine whether a particular project in a particular area makes sense for them, that determination does not necessarily apply to all developers, nor is it the only consideration relevant to the BLM. Each developer may follow a different business model and may consider different funding, financing, and procurement opportunities when assessing a potential project site. In identifying DLAs, the BLM has to consider the environmental and other resource impacts of a potential development, in addition to the known solar or wind potential for the area. For these reasons, the BLM does not make an economic evaluation when identifying an area for a competitive process. The BLM will rely on developer interest,

among other indications of competitive interest in an area, to determine whether utilization of a competitive process is appropriate. Recognizing that determining economic viability for a particular area may involve site-specific testing information, the final rule contains provisions allowing for such activities. For wind or solar energy projects outside of a DLA, interested developers can apply for testing authorizations as described in section 2804.31 of this rule, or apply for a testing authorization inside DLAs prior to a competitive action as described in section 2809.19(d) of this rule.

Comments: The third comment on this section suggested that the leasing process should be restructured from a local "electric-centric" focus to a macro-level objective to provide the greatest benefit to "We the People." This comment suggests that the BLM should explicitly recognize that the available solar and wind resources could be used to provide most of, and potentially all of, the United States' fuel, electricity, transportation, and natural resource needs.

Response: FLPMA directs the BLM to generally receive fair market value for the use of public lands and to utilize and protect public land resources while balancing the use of the public lands for current and future generations. The BLM intends for this rule to promote the development of solar and wind energy on public lands, while also ensuring a fair return to the Federal Government.

Paragraph (a) of section 2804.30 identifies lands available for competitive lease; paragraph (b) of this section explains the variety of competitive procedure options available; and paragraph (c) explains how the BLM identifies parcels for competitive offers. Under this final rule, the BLM may identify a parcel for competitive offer if competition exists or the BLM elects to offer a parcel on its own initiative. The BLM

may include lands in a competitive offer in response to interest from the public or industry, or to facilitate an individual State's renewable energy goals. This is a change from existing regulations, which only allow the BLM to use a competitive process when there are two competing applications; however, the changes made to section 2804.23(c) in this rule give the BLM more flexibility.

Paragraph (d) of this section, "Notice of competitive offer," establishes the content of the materials of a notice of competitive offer that include the date, time, and location (if any) of the competitive offer, bidding procedures, qualifications of potential bidders, and the minimum bid required. The notice also explains that the successful bidder becomes the preferred applicant, which can then apply for a grant under this subpart. This is different from the competitive offers held under subpart 2809, where the successful bidder is offered a lease.

Paragraph (d)(4) of this section requires that the notice identify the minimum bid amount, explain how the authorized officer determined the minimum bid amount, and describe the administrative costs borne by the Federal agencies involved. As indicated in the general discussion section of this preamble, administrative costs are not a component of fair market value, but instead are a cost reimbursement paid to the Federal Government for its expenses. The BLM will publish a notice containing all of the identified elements in the Federal Register, and may also use other notification methods, including newspapers in the affected area or the internet. Consistent with sections 2804.23(c), this section's public notice requirements were revised, establishing notice through a newspaper or internet as an additional optional form of notice. This change in the final rule is discussed further in section 2804.23(c) of this preamble. No comments

were received on sections 2804.30(a) through (d). However, a cross-reference has been updated in section 2804.30(d)(6) to include section 2804.12, due to revisions made to that section based upon comments received.

Under paragraph (e) of this section, the BLM requires that bid submissions include both the minimum bid amount and at least 20 percent of the bonus bid. The minimum bid consists of administrative costs and an amount determined by the authorized officer. Included in the administrative costs are those expenses pertaining to the development of environmental analyses and those costs to the Federal Government associated with holding the competitive offer.

The authorized officer may specifically identify a second component for the minimum bid(s) submitted for each competitive offer. This amount will be based on the known or potential values of the offered parcel. The authorized officer may consider values that include, but are not limited to, the acreage rent, the MW capacity fee, or other known or potential values of the parcel. For example, the BLM may use a percentage of the acreage rent value for the parcel competitively offered. An explanation of the minimum bid amount and how the BLM derived it will be provided in the notice of competitive offer.

Comments: Several comments were received pertaining to bidding under section 2804.30(e). One comment suggested that the BLM: (1) Establish global objectives to evaluate bids based on the constitutional greater good for the "People" to meet many objectives of the renewable energy bidding process; (2) Ensure that successful bidders use energy to meet public objectives; (3) Ensure that appropriate values are received for the right to develop energy; (4) Ensure that evaluations of electrical supply include the

full costs and benefits to the public; (5) Ensure that effects from manmade impacts on global warming shall be based on transient climate sensitivity; and (6) Focus on "We the People" instead of creating processes that incur higher costs for developments.

Response: The comments submitted are suggesting revisions to the final rule that are outside of the BLM's authority to consider. FLPMA directs the BLM to generally receive fair market value for the use of public lands and to utilize and protect public land resources while balancing the use of the public lands for current and future generations. The provisions of this final rule will ensure that the BLM is receiving fair market value for the uses of the public lands that it authorizes.

The second comment suggested that the BLM direct where or how renewable energy that is generated on public lands is deployed. The BLM could place a requirement on the use of the electricity generated, through a term or condition of a right-of-way, but the BLM expects that it would do so only in limited circumstances, if at all, as it is a land management agency charged with managing the public lands under principles of multiple use and sustained yield.

The BLM evaluates proposed projects before issuing a decision to approve, approve with modifications, or deny a project. In general, the BLM will analyze a project using reasonable scientific or other methods, to understand the impacts to the public lands and other lands, uses, resources and other systems outside of its authority to control. These other lands, uses, resources, and other systems outside of the BLM's authority to control could include electrical transmission systems that may be owned or controlled by an Independent System Operator, or the energy needs of a State or local community as identified by the State government offices, or lands administered by a Federal, State, or

private entity. When evaluating prospective projects, the BLM considers their reasonably foreseeable direct, indirect, and cumulative impact on climate change on a local, regional, and national scale, as appropriate.

Comment: Another comment suggested that administrative costs discussed under section 2804.30(e)(2)(i) should not be included as part of the minimum bid. The initial costs of preparing for and holding a competitive offer are completed at the volition of the BLM, not an applicant. The comment suggested that including administrative costs as part of the minimum bid will discourage development inside and outside of DLAs. The comment suggested that a successful bidder should essentially pay for the same administrative and NEPA costs as noncompetitive applicants for right-of-ways outside of DLAs.

Response: Under the final rule, reimbursement for the reasonable administrative and other costs is generally required from any successful bidder. Consistent with Sections 304(b) and 504(g) of FLPMA, the BLM may recover reasonable administrative and other costs incurred in processing an application for a right-of-way. Administrative and other costs associated with the use of a competitive process to identify a preferred applicant can be recovered because this work facilitates, and will generally be essential to, the BLM's review of a right-of-way application. These costs would be paid only by the preferred applicant. Bidders will be given notice of the administrative costs portion of the minimum bid prior to their bidding at a competitive offer. The BLM believes that it is preferable for a prospective bidder to know these costs, which are required to prepare and hold a competitive auction, before submitting a bid in a competitive offer. Prospective applicants would not otherwise be able to submit an application to the BLM

for development of that area without first being the successful bidder. The BLM considers the competitive process described in subpart 2809 for lands inside a DLA to be even more preferable to prospective developers, as a successful bidder would be issued a lease immediately upon paying the full amount of their winning bid.

Comments: Comments stated that the mitigation costs identified in section 2804.30(e)(2)(ii) should not be factored into the minimum bid because the successful bidder should have to pay separately for mitigation if and when construction commences and not at the time of bidding. A successful bidder cannot pay twice for the same mitigation. Several other comments also addressed what should or should not be included as acceptable factors.

Response: The BLM has removed the reference to mitigation costs found in proposed section 2804.30(e)(2)(ii), as this may be misleading and open to interpretation. However, the BLM has maintained the acreage rent and the megawatt capacity fee as considerations when determining a minimum bid amount. These factors which are used only to determine the amount above the administrative costs where bidding will start (see section 2804.30(e)(2)(ii)). Their inclusion as a potential consideration in the development of the minimum bid does not count towards other obligations. For example, if the BLM arrives at a minimum bid amount using the annual acreage rent for a lease area, a successful bidder will still be required to pay the first year's acreage rent, as identified in this rule, before being awarded a grant or lease. No offset or discount toward future acreage rent will be provided.

Comments: A number of comments expressed concern that requiring unsuccessful bidders to pay application filing fees would discourage prospective

developers. They suggested that application filing fees should be refundable if a bidder is not successful.

Response: New section 2804.30(e)(4) has been revised based on these comments to refund application filing fees for unsuccessful bidders, except for the reasonable costs incurred by the United States. This change is consistent with the revisions under section 2804.12(c)(2) and discussed further under that section of this preamble.

Under section 2804.30(f), the successful bidder is determined by their submission of the highest total bid for a parcel at a competitive offer. The successful bidder must fulfill the payment requirements of the successful bid in order to become the preferred right-of-way applicant. The preferred applicant must submit the balance of the bid to the BLM within 15 calendar days after the end of the competitive offer. No comments were received pertaining to section 2804.30(f), and no other changes are made from the proposed rule to the final rule.

Under section 2804.30(g), a preferred applicant is the only party who may submit an application for the parcel that is offered. Unlike the process under subpart 2809, the approval of a grant under this paragraph is not guaranteed to a successful bidder. Approval of a grant is solely at the BLM's discretion. The preferred applicant may also apply for an energy project-area or site-specific testing grant.

Comments: A comment suggested adding a new provision to the rule stating that upon making a winning bid, the preferred applicant also secures site control. Adding such a condition would provide more certainty to the process for prospective developers, further incentivizing the competitive bidding.

Response: The BLM agrees with this comment and has revised paragraph (g) to make it clear that the BLM will not accept applications on lands where a preferred applicant has been identified, unless submitted or allowed by the preferred applicant in order to provide additional certainty with respect to site control. If ancillary facilities for projects or facilities on adjacent parcels, such as roads or transmission lines, need to be constructed on the parcel where a preferred applicant's project would be sited, the companies constructing the ancillary facilities would need to apply to the BLM for a right-of-way, and the BLM would consult with the preferred applicant before processing any such application. This is intended to provide certainty to the preferred applicant when applying for renewable energy developments on the public lands that applications from other entities will not be accepted for the competitively gained application area unless they are allowed by the preferred applicant.

Section 2804.30(h) describes how the BLM will address certain situations that could arise from a competitive offer. Under paragraph (h)(1) of this section, the BLM retains discretion to reject bids, regardless of the amount offered. For example, the BLM may reject a bid if there is evidence of conflicts of interest or collusion among bidders or if there is new information regarding potential environmental conflicts. The BLM will notify the bidder of the reason for the rejection and what refunds are available. If the BLM rejects a bid, the bidder may administratively appeal that decision (see 43 CFR part 4 for details). Under paragraph (h)(2) of this section, the BLM may make the next highest bidder the preferred applicant if the first successful bidder does not satisfy the requirements under section 2804.30(f). This allows the BLM to determine a preferred

applicant without reoffering the land and could save time and money for the BLM and potential applicants.

The BLM may reoffer lands competitively under section 2804.30(h)(3) if the BLM cannot identify a successful bidder. If there is a tie, this re-offer could either be limited to tied bidders or include all bidders. This provides the BLM with flexibility to resolve ties and other issues that could arise during a competitive offer process.

Under section 2804.30(h)(4), if the BLM receives no bids, the BLM may re-offer the lands through the competitive process provided for in section 2804.30. The BLM may also make the lands available through the non-competitive process described in subparts 2803, 2804, and 2805, if doing so is determined to be in the public interest. No other comments were received, and no additional changes were made to final paragraph (h) of this section, except those discussed above.

Section 2804.31 How will the BLM call for site testing for solar or wind energy applications?

This section, which was not in the proposed rule, is added to this final rule to describe how the BLM will call for site testing for solar and wind energy. This section also explains how the BLM may create a new DLA, through the land use planning process described in new section 2802.11, in response to public interest.

Under new paragraph (a) of this section, the BLM may call for site testing in a DLA by publishing a notice in the Federal Register and may also use other notification methods, such as a local newspaper or the Internet. Paragraph (a) also specifies what information will be included in any public notice issued under the section, including the following information: (1) The date, time, and location where site testing applications

may be sent; (2) The date by which applicants will be notified of the BLM's decision on timely submitted site testing applications; (3) The legal land description of the area for which site testing applications are being requested; and (4) Qualification requirements for applicants. The BLM is limiting the testing authorizations that would be offered under a call for site testing applications under this section to site-specific grants identified under section 2801.9(d)(1). This limitation is established to reduce the potential for multiple interested parties having overlapping applications. The BLM does not intend to use a competitive process for the site testing. Rather, the BLM intends to determine whether there is competitive interest for solar and wind energy development for these public lands. Should there be overlapping testing applications, the BLM will notify those applicants of the overlap and may hold a competitive offer for that site testing location to determine a preferred applicant.

Paragraph (b) of this section explains that any interested parties may request that the BLM hold a call for site testing for certain public lands. However, how the BLM responds to those requests is at its sole discretion. The "call for site testing" may be used as a step in the process for lands either inside or outside of DLAs. A subsequent step would be the competitive offer for an application for a development grant under section 2804.30, or for a development lease under subpart 2809, if the area is designated as a leasing area, as described in section 2804.31(c).

Under paragraph (c) of this section, the BLM may determine that areas receiving interest from the public may be appropriate to establish as a DLA. The BLM may turn an area surrounding the site testing into a DLA as described under section 2802.11. Following the designation of an area for competitive leasing, the rules described under

subpart 2809 would be used for any subsequent competitive processes in the area. Establishing such an area would be performed by following the land use planning process described in the revised section 2802.11. This process would be completed during the time that testing is being undertaken, which is typically a 3 year process. Designating such an area would allow interested developers to benefit from the incentives provided by development in a DLA. This approach also provides a mechanism for public interest to drive the establishment of DLAs.

Comments: Some comments suggested that the BLM retain the discretion to structure the DLA leasing process for wind in accordance with a two-phased development approach. The first phase of this approach would be a competitive process for site testing. The winner of this offer would receive exclusive rights to the parcel offered. The BLM would then create a DLA in the area where this competitive offer was held. The second phase would be a competitive offer for a lease in this newly established DLA.

Response: The BLM recognizes that potential developers should have a clear avenue for helping the BLM identify new DLAs. The BLM added the new section 2804.31 to this final rule in direct response to these comments. This new section provides another way for developers to identify and benefit from the competitive process and DLA incentives established in subpart 2809 of this final rule. Providing a mechanism for site testing while DLA designation is ongoing will allow developers to benefit from the specific data they obtain during testing as they evaluate whether a competitive offer or further development of the lands is in their interest.

Section 2804.35 How will the BLM prioritize my solar or wind energy application?

Section 2804.35 explains how the BLM will prioritize review of an application for a solar or wind energy development right-of-way based on the screening criteria for projects outside of DLAs. The BLM will evaluate such applications based on the screening criteria in that section and categorize the application as high, medium, or low priority.

Through existing guidance, the BLM has established screening criteria (see Instruction Memorandum (IM) 2011-061), which identify and prioritize land use for solar and wind energy development rights-of-way. In order to facilitate environmentally responsible development the IM directs BLM to consider resource conflicts, applicable land use plans, and other statutory and regulatory criteria pertinent to the applications and the lands in question. Applications with lesser resource conflicts are anticipated to be less costly and time-consuming for the BLM to process, and the IM directs that these applications be prioritized over those with greater resource conflicts. IM 2011-061 may be found at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

This rule includes criteria similar to those in the IM. The codification of these criteria gives certainty to applicants that such criteria will not change, and therefore provides more certainty as to how an application might be categorized. By specifying these criteria, applications could be tailored to fit them in order to streamline the processing of an application.

Comment: One comment indicated that the BLM should clarify the proposed rule's application prioritization concept. This comment indicated that the proposed rule left several questions unanswered, including: (1) How the BLM's staff time will be allocated within field staff among projects based on priority and time of submission; (2)

Whether BLM staff working on a medium-conflict priority project will shift focus if a high-priority application is submitted; and (3) Whether BLM staff workload will be shifted across different field offices if certain field offices have a disproportionate number of high-priority applications as compared to others, which may have more medium- or low-priority applications.

Response: This final rule provides the criteria that the BLM will use to prioritize applications it receives. This allows potential applicants to understand not only how these applications will be prioritized, but also how they can submit an application that is more likely to become a high priority for the BLM. The BLM's internal management and workload processes are not addressed as that is not appropriate for a rulemaking. The criteria for determining how workload priorities are addressed are more appropriately handled by the policy guidance for implementing this final rule. Such guidance will elaborate on these points. It should be noted that the BLM will continue to process all applications received, but will prioritize staff workload based upon these priority categorizations.

Comments: Comments were received requesting clarity over whether leases awarded under subpart 2809 would be given priority over applications made outside of DLAs.

Response: New language has been added to the introductory paragraph of this section to clarify that the BLM generally prioritizes the processing of leases awarded under subpart 2809 over applications submitted under subpart 2804. There are some instances where the BLM may determine that it is in the public interest to prioritize the

processing of an application over the processing of a lease. However, the BLM generally intends to prioritize the processing of leases first.

Comments: Comments were received requesting that the BLM expand on the criteria used in the rule and better define and describe the resource areas and potential conflicts. Some specific recommendations were made by the commenters. Each comment provided a greater level of specificity or detail than the proposed rule regarding how the BLM should prioritize resource conflicts.

Response: The descriptions of the resource conflicts in the final rule are mostly unchanged, except where noted in this section's discussion. The BLM determined that the level of specificity and detail recommended by commenters is not appropriate for this final rule. Screening applications to prioritize them has only been done by the BLM recently. Based upon the BLM's experience, it is better to establish broader criteria in this final rule that can then be further refined in its internal guidance. National priorities change and BLM continues to learn more about the resource conflicts associated with solar and wind energy projects. Therefore, the BLM believes that the specific internal guidance, rather than regulatory criteria, is more appropriate to provide a greater level of specificity and detail as recommended by commenters. This approach gives the BLM flexibility to make changes as workload or conditions on the ground or in the wind and solar industry change. Guidance may need to be updated as national priorities change and the BLM better understands these resource conflicts with solar and wind energy projects. As part of the rule's implementation, the BLM will issue guidance aimed at better describing the BLM's considerations and prioritization of applications. This guidance is expected to be issued after this final rule is published.

Section 2804.35(a) identifies criteria for high-priority applications, which are given processing priority over medium- and low-priority applications. These criteria include:

1. Lands specifically identified as appropriate for solar or wind energy development outside DLAs;
2. Previously disturbed sites or areas adjacent to previously disturbed or developed sites;
3. Lands currently designated as Visual Resource Management (VRM) Class IV; and
4. Lands identified as suitable for disposal in the BLM's land use plans.

The BLM may have identified lands that are appropriate for solar or wind energy development, but are not inside DLAs. These lands may include areas approved for solar or wind area development for which a right-of-way was never issued or an existing right-of-way was relinquished.

The VRM inventory process is a means to determine visual resource values. The VRM inventory consists of a scenic quality evaluation, sensitivity level analysis, and a delineation of distance zones. Based on these three factors, BLM-administered lands are placed into one of four VRM classes, with Classes I and II being the most valued, Class III representing a moderate value, and Class IV being of least value. The BLM assigns VRM classes through the land use planning process, and these values can range from areas having few scenic qualities to areas with exceptional scenic quality.

Section 2804.35(b) identifies criteria for medium-priority applications, which will be considered before low-priority applications. These criteria include:

1. BLM special management areas that provide for limited development or where a project may adversely affect lands having value for conservation purposes, such as historical, cultural, or other similar values;
2. Areas where a project may adversely affect conservation lands to include lands with wilderness characteristics that have been identified in an updated wilderness characteristics inventory;
3. Right-of-way avoidance areas;
4. Areas where a project may adversely affect resources listed nationally;
5. Sensitive plant or animal habitat areas;
6. Lands designated as VRM Class III;
7. Department of Defense (DOD) operating areas with land use or operational mission conflicts; and
8. Projects with proposed groundwater uses within groundwater basins that have been allocated by State water resource agencies.

Comment: One comment suggested for Criterion 5, that BLM's designated priority sage-grouse areas be a low priority and not a medium priority.

Response: The BLM removed the reference to sage-grouse habitat in this final rule. In September, 2015, the BLM issued the Greater Sage-Grouse Plan Amendments and Revisions (80 FR 57633, 80 FR 57639). Those plans generally excluded priority habitat areas from major right-of-way developments, including wind energy. General sage-grouse habitat management areas generally fall into the medium-priority application category under Criterion 5.

With the removal of priority sage-grouse habitat from this final rule in criterion 5, the BLM also revised the specificity of "important eagle use areas" to read as "important species use areas." This revision makes the criterion more broad and applicable to all important species areas, and does not unintentionally exclude other identified important species areas that are not specifically identified for eagles.

Comments: Several comments were made concerning the above factors. For Criterion 2, a comment recommended revising the description of "conservation lands" and excluding Alaska from this requirement.

Response: The final rule does not revise the section 2804.35(b)(2) as recommended in the comment. This final rule does not define "conservation lands," which include areas of critical environmental concern and lands inventoried and managed for wilderness characteristics. These lands are often identified for their unique characteristics by the BLM to protect scenic, historic, cultural, and other natural values. The status of conservation lands is considered by the BLM when processing solar and wind energy applications. When the BLM considers such lands for wind or solar use, it evaluates the impacts and effects to the resources, including those resources for which conservation lands are designated. Depending on the proposed development, the impacts to the resources for which the lands were designated for conservation purposes may be very small. Applications, such as those submitted for lands in Alaska, will be reviewed on a case-by-case basis.

Comment: Another comment suggested that Criterion 7 be moved to low priority and changed to read "Areas where the Department of Defense has testing, training, or operational mission impacts."

Response: The BLM considered the suggestion, but did not revise the rule as suggested. The BLM kept this requirement largely unchanged because the DOD has overlapping interest in some locations with the BLM lands – e.g., withdrawn lands that are transferred to the DOD or have an aerial easement – where solar and wind energy development does not pose significant adverse impacts to the DOD operations. However, we did revise criterion number 7 to read as follows "Department of Defense operating areas with land use or operational mission conflicts." The BLM will coordinate with the DOD on solar and wind energy applications submitted to the BLM that may affect DOD operations.

Section 2804.35(c) identifies criteria for low priority applications, which may not be feasible to authorize due to a high potential for conflict. Examples of applications that may be assigned low priority would involve:

1. Lands near or adjacent to areas specifically designated by the Congress, the President, or the Secretary for the conservation of resource values;
2. Lands near or adjacent to wild, scenic, and recreational river and river segments determined as suitable for wild or scenic river status, if project development may have significant adverse effects on sensitive viewsheds, resources, and values;
3. Lands designated as critical habitat for federally designated threatened or endangered species under the ESA;
4. Lands currently designated as VRM Class I or II;
5. Right-of-way exclusion areas
6. Lands currently designated as no surface occupancy areas; and

Comment: One comment recommended that applications within lands under Criterion 2 not be considered a low priority. This comment further suggested that an additional criterion be added that would read as "Nothing in this section creates a protective perimeter or buffer zone around the special status conservation lands specified in Sections 2804.35(c)(1) and 2804.35(c)(2). The fact that a proposed activity or use on BLM-administered lands outside such special status conservation lands can be seen or heard within such special status conservation lands shall not accord an application low-priority status even if the use or activity is prohibited within the special status conservation lands."

Response: Nothing in this criterion creates a protective perimeter or buffer zone around the areas described in this section and, therefore, precludes the BLM's approval of an application that is near or adjacent to such areas. In the BLM's experience, solar and wind energy development applications are complex and difficult to analyze. If a proposed right-of-way would affect such areas, the BLM will consider effects when processing the application. Potential impacts to these areas and their resources may prove unacceptable, even after mitigation.

The BLM also revised criterion 3 of this section from the proposed to final rule, from "is likely to" to "may" "…result in the destruction or adverse modification of that critical habitat." This revision is necessary because it is difficult to determine based on an application what impacts are "likely." However, it is the BLM's responsibility to protect critical habitat. Therefore, any application that may destroy or adversely affect critical habitat will be a categorized as low priority under this final rule.

The low priority status of applications meeting these criteria relates only to the BLM's management of its workload in processing applications; it is not a proxy for the BLM's final decision. No other comments were received, nor were any changes made to section 2804.35.

Section 2804.40 Alternative Requirements.

Section 2804.40 is added to this final rule in response to comments received on the proposed rule.

Comments: Several comments expressed concern that the BLM's proposed requirements were too strict and would be difficult to meet, resulting in applications being denied or a holder's authorization being terminated. They supported the BLM's reference to a showing of good cause to support why a developer was unable to meet the BLM's requirement.

Response: The BLM has added this section to the final rule due to the number of comments received discussing the BLM's requirements that had no specific provision allowing a developer to show good cause why an alternative to a regulatory requirement should be approved.

Section 2804.40 expands on the BLM's show of good cause provision that was in the proposed rule with several different new requirements. This new provision replaces the specific provisions originally proposed and now applies to all rights-of-way and to all requirements the BLM has established under this subpart. An applicant may request an alternative requirement from the BLM by following the process outlined in this section. A similar provision is added in section 2805.12(e). That provision is discussed in that section's preamble discussion.

Paragraph (a) of this section notes that the requester must show good cause for its inability to meet a particular requirement. An applicant may request an alternative requirement for any requirement in this subpart. Requirements include surveys or studies to be completed, timeframes in which to provide information, development and reclamation plans, fees, and other appropriate requirements.

Paragraph (b) of this section states that you must suggest an alternative requirement to the BLM and explain why the alternative requirement is appropriate. The BLM will not approve an alternative requirement without an explanation from the right-of-way holder as to why the current requirement is inappropriate. When implementing this final rule, the BLM intends to issue guidance on what constitutes an "appropriate" alternative requirement.

Paragraph (c) of this section states that a request for an alternative requirement must be in writing and be received by the BLM in a timely manner. In order for the request to be timely, the BLM must have received it prior to the deadline originally given for the relevant requirement. As explained in the final rule, any such request is not approved until you receive BLM approval in writing. The BLM may provide written approval through a letter, email or other written means.

Subpart 2805— Terms and Conditions of Grants

Section 2805.10 How will I know whether the BLM has approved or denied my application, or if my bid for a solar or wind energy development grant or lease is successful or unsuccessful?

The heading for section 2805.10 is revised to read as stated above. This section is updated to reflect the new competitive process for lands inside DLAs (see subpart 2809)

by stating that a successful bidder for a solar or wind development lease on such lands will not have to submit a SF-299 application. Instead, in these circumstances, the successful bidder will have the option to sign the lease offered by the BLM.

Paragraph (a) of this section contains the language from the existing regulations explaining how the BLM will notify you about your application. This paragraph is revised to add a new provision requiring that the BLM send the successful bidder a written response, including an unsigned lease for review and signature. The BLM will notify unsuccessful bidders, and any unused funds submitted with their bids will be returned. If an application is rejected, the applicant must pay any processing costs (see section 2804.14).

In paragraph (a) of this section of the final rule, the BLM changed "will send you an unsigned lease" to "may send you an unsigned lease," for consistency with revisions to section 2809.15(a). See the preamble for that section for more discussion.

Paragraphs (b), (b)(1), and (b)(2) of this section parallel paragraphs (a)(1) and (a)(2) of the existing regulations, and describe the unsigned grant or lease that the BLM will send to you for approval and signature.

Paragraph (b)(3) of this section specifies that in accordance with section 2805.15(e), the BLM may make changes to any grant or lease, including to leases issued under subpart 2809, as a result of the periodic review required by this section. This provision is necessary because it makes clear why the BLM would amend a lease issued under subpart 2809. The terms and conditions of a right-of-way grant or lease may be changed in accordance with section 2805.15(e) as a result of changes in legislation or regulation, or as otherwise necessary to protect public health or safety or the

environment. Because any changes to the terms and conditions of a right-of-way grant or lease would occur after the completion of the agency action (the BLM's decision to approve the right-of-way), the BLM generally anticipates making the change through a separate action, generally initiated at the BLM's discretion and requiring its own decision-making process.

Sections 2805.10(c), 2805.10(d), 2805.10(d)(1), 2805.10(d)(2), and 2805.20(d)(3) contain the language from existing sections 2805.10(b), 2805.10(c), 2805.10(c)(1), 2805.10(c)(2), and 2805.20(c)(3). These provisions remain unchanged from existing regulations. No comments were received and no changes were made from the proposed rule to the final rule.

Section 2805.11 What does a grant contain?

Existing section 2805.11(b) explains how the duration of each potential right-of-way is determined. This paragraph is revised to include specific terms for solar and wind energy authorizations, because they are unique and different from other right-of-way authorizations. Where the proposed rule discussed only wind energy testing in some portions, the final rule is changed to include both solar and wind for each type of authorization. This revision is made in connection with changes made under section 2801.9(d), where comments requested that site- and project-area testing authorizations include solar energy, and not be exclusive to wind.

Section 2805.11(b)(2)(i) limits the term for a site-specific grant for testing and monitoring of wind energy potential to 3 years. Under this rule, this type of grant will be issued only for a single meteorological tower or study facility and will include any access necessary to reach the site. This authorization cannot be renewed. If a holder of a grant

wishes to keep its site for additional time, it must reapply. These authorizations are intended for testing, not energy generation, and are limited to an area large enough for only a single tower or study facility. If a developer wishes for a larger study area, it can apply for a project-area testing grant under paragraph (b)(2)(ii) of this section.

Section 2805.11(b)(2)(ii) provides for an initial term of 3 years for project-area energy testing. Such grants may include any number of meteorological towers or study facilities inside the right-of-way. Any renewal application must be submitted before the end of the third year if a proponent wishes to continue the grant. For the BLM to be able to renew such an authorization, the project-area testing grant holder must submit two applications, one for renewal of the project-area testing grant and one for a solar or wind energy development grant, plus a POD for the facility covered by the development application. Renewals for project-area testing grants may be authorized for one additional 3-year term.

Section 2805.11(b)(2)(iii) provides for a short-term grant for all other associated actions, such as geotechnical testing and other temporary land-disturbing activities, with a term of 3 years or less. A renewal of this grant may be issued for an additional 3-year term.

Section 2805.11(b)(2)(iv) provides for an initial grant term of up to 30 years for solar and wind energy grants outside of DLAs, with a possibility of renewal in accordance with section 2805.14(g). A holder must apply for renewal before the end of the authorization term.

Section 2805.11(b)(2)(v) provides for a 30-year term for solar and wind energy development leases issued under subpart 2809. A holder may apply for renewal for this term and any subsequent terms of the lease before the end of the authorization.

Comment: A comment suggested that the standard term be 40 years for both solar and wind energy grants (outside of DLAs) and up to 100 years for leases (inside of DLAs), with a condition of the grant or lease providing for renegotiation every 10 years. Other comments suggested longer terms for grants and leases.

Response: The final rule remains as proposed. The comment did not provide any justification for adding the additional years to the term of the grant or lease or explain why the additional time is necessary. Generally, it takes 1 year to secure a PPA after a project is authorized and an additional 2 to 3 years to construct. Since the term of a PPA is generally 20 to 25 years, the BLM believes that a 30 year period is sufficient to cover the developer's needs for constructing and operating a facility, while protecting the public lands from unnecessary burdens. If a longer term is suitable or desired by a developer, an application to renew the grant or lease may be submitted to the BLM pursuant to the applicable requirements.

For all grants and leases under this section with terms greater than 3 years, the actual term will include the number of full years specified, plus the initial partial year, if any. This provision differs from the grant term for rights-of-way authorized under the MLA (see the discussion of section 2885.11 later in this preamble) as FLPMA rights-of-way may be issued for terms greater than 30 years, while an MLA right-of-way may be issued for a maximum term of 30 years and a partial year would count as the first year of a grant.

Section 2805.11(b)(3) contains the language from section 2805.11(b)(2) of the existing regulations, but further requires that grants and leases with terms greater than 3 years include the number of full years specified, plus the partial year, if any. A grant that is issued for a term of 3 years will expire on its anniversary date, 3 years after it was first issued. This change affects the duration of all FLPMA right-of-way grants that are issued or amended after the final rule becomes effective. This change provides specific direction for consistently calculating the term of a right-of-way grant or lease.

No other comments were received, nor were any changes made to this section.

Section 2805.12 What terms and conditions must I comply with?

Section 2805.12 lists terms and conditions with which all right-of-way holders must comply. This section is reorganized to better present a large amount of information. Paragraph (a) of this section carries forward, without adjustment, most of the requirements from the existing regulations found at section 2805.12. Paragraph (b) of this section refers the reader to new section 2805.20, which explains bonding requirements for right-of-way holders. Paragraph (c) of this section contains specific terms and conditions for solar or wind energy right-of-way authorizations. Paragraph (d) describes specific requirements for energy site or project testing grants. Paragraph (e) is a show of good cause condition that is added to the final rule consistent with the provisions added as new section 2804.40. All requirements of paragraph (a) are part of the existing regulations and are not discussed in this preamble unless we received a substantive comment.

Comments: Two general comments were received concerning this section. One comment stated that terms and conditions for leasing public lands for power generation

should be the same regardless of the power source. The second comment suggested that the free market should drive success, not government policy on the terms and conditions of an authorization.

Response: The BLM processes each development proposal for use of public lands on a project-by-project basis. All of the terms and conditions in section 2805.12 would apply to power generation authorizations, regardless of the technology used. However, based on the BLM's experience with solar and wind energy developments, additional terms and conditions are required for such authorizations on public lands because the different types of technology may have varying impacts on the public lands and the resources they contain. For example, a string of wind turbines or an array of solar panels will have a different footprint, and accordingly will have a different impact on the lands and resources than other energy generation types.

Separately, the free market alone (a market without oversight), cannot determine the use of the public lands, as those lands are managed by the BLM on behalf of the American public. The terms and conditions of each BLM authorization address the protection of the public lands and resources, consistent with the BLM's responsibility to manage the public lands under FLPMA's multiple use and sustained yield mandate. Without regulations that ensure the necessary terms and conditions are put in place, development of the public lands could result in the unacceptable loss of the public lands and the resources they contain.

The BLM regularly engages the public, including private businesses, to seek comments and input on the BLM's administration of the public lands. The BLM will continue to do so through this rulemaking and its other decision- making processes.

Section 2805.12(a)(5) contains language from existing section 2805.12(e) with two small changes. The word "phase" was changed to "stage" to prevent confusion with the use of "phase-in of the MW capacity fee" and similar phrases in this rule.

This paragraph also prohibits discrimination based on sexual orientation. Adding sexual orientation as a protected class in this regulation is consistent with the policy of the Department that no employee or applicant for employment be subjected to discrimination or harassment because of his or her sexual orientation. See 373 Departmental Manual 7 (June 5, 2013). Several comments were received either for or against modifying this paragraph.

Comments: One comment recommended that additional language be added to identify "pregnancy and gender relations" as protected classes, while another recommended deleting "sexual orientation" from the rule.

Response: We did not revise the rule as a result of these comments. This paragraph refers to existing Federal law prohibiting discrimination and does not add or expand upon requirements under existing law.

Comments: Some comments suggested that the BLM include greater connection between the rule and landscape-level mitigation as described in Secretarial Order 3330 and subsequent reports, and be consistent with the BLM's IM 2013-142, interim policy guidance for offsite mitigation.

Response: Developing landscape-level mitigation policy for use of the public lands is an ongoing BLM effort. Examples of landscape mitigation plans are the solar regional mitigation strategies. The BLM is currently developing regional mitigation strategies for many of the SEZs established as part of the Western Solar Plan. For an

example of a complete mitigation plan, see the BLM's Dry Lake regional mitigation strategy known as Technical Note 444, which may be found on the BLM's website at: http://www.blm.gov/style/medialib/blm/wo/blm_library/tech_notes.Par.29872.File.dat/TN_444.pdf. Since more detailed requirements and guidance will be addressed in the BLM's policies, handbooks, and other forms of guidance that are currently under development, the BLM did not make any changes in response to this comment.

Section 2805.12(a)(8)(iv) is added to the final rule based upon comments on the proposed rule to incorporate clear measures that are consistent with landscape-level mitigation and the BLM's IM 2013-142 for offsite mitigation. The added provision clarifies that the BLM can require offsite mitigation to address residual impacts associated with a right-of-way. Any compensatory mitigation requirements would be established through a land use planning decision or implementation decision, possibly relying on a previously developed strategy, such as a solar regional mitigation strategy.

Section 2805.12(a)(8)(vi) requires compliance with project-specific terms, conditions, and stipulations, including proper maintenance and repair of equipment during the operation of a grant. This is an existing policy requirement affecting all rights-of-way and in this rule is expanded to include leases offered under revised subpart 2809. In addition, this provision requires a holder to comply with the terms and conditions in the POD. This may include project-specific conditions to maintain the project in a manner that will not unnecessarily harm the public land by poor maintenance and operational practices. Any holder that does not comply with the POD approved by the BLM would be subject to remedial actions under section 2807.17, which may include the suspension or termination of the grant or lease

Comment: Another comment suggested adding language that the BLM implement a condition to begin early coordination with State fish and wildlife offices.

Response: In the proposed rule, the BLM identified two pre-application meetings under section 2804.10. One meeting was focused on early coordination among the BLM, applicant, and other Federal, State, and tribal authorities. This early coordination requirement has been carried forward in the final rule under section 2804.12 as part of a preliminary application review meeting for proposed solar and wind energy projects and transmission lines with a capacity of 100 kV or more. No other change has been made in the final rule. Early coordination among Federal and State wildlife offices has been carried forward into the final rule.

Paragraph (a)(8)(vii) of this section discusses the use of State standards and requires the right-of-way holder to comply with such standards when they are more stringent than Federal standards.

Comment: A comment suggested that we add the word "environmental" so that the paragraph would now read, "When the State [environmental] standards are more stringent than Federal standards, comply with State standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way."

Response: Under FLPMA, the BLM considers an array of State standards, including those relating to public health and safety. Under the existing regulations, the BLM may apply State standards when those standards do not conflict with Federal law or policy for the administration of the public lands. No revision was made to the text of this paragraph in response to this comment.

Paragraph (a)(8)(viii) of this section requires that a grantee or lessee "Grant the BLM an equivalent authorization for an access road across the applicant's land if the BLM determines that a reciprocal authorization is needed in the public interest and the authorization the BLM issues to you is also for road access."

Comment: One comment was concerned that the BLM was proposing to revise section 2804.25 rule to read, "If your application is for a road, BLM will determine if it is in the public interest to require you to grant the U.S. an equivalent authorization across land you own." The comment raised concern that section 2805.12(a)(8) appeared to be directed at landowners and not utility companies. The comment expressed concern about waiving rental payments and who would be responsible for maintenance and repair of damage caused to the road.

Response: The BLM did not propose to revise section 2804.25 to read as noted. The quoted text from the comment is from regulations that were formerly found at existing section 2804.25(d)(3) and are now identified as section 2804.25(e)(6) of this final rule. The paragraph was redesignated in this final rule after the rest of the section was revised. In section 2805.12, the requirement regarding reciprocal rights-of-way has also been redesignated as 2805.12(a)(8)(viii).

This text in the final rule, which remains unchanged from the text in the existing regulation, is used by the BLM for administration of the public lands. Where there are inter-mixed or adjoining private and public lands, the issuance of reciprocal right-of-way authorizations would allow the BLM to cross your land to inspect and administer the public lands as well as grant you access across the public lands for purposes of ingress and egress to your property. The reciprocal authorization may include use for the public

to access your land, but does not require such an authorization as the intended use is for the BLM to utilize the right-of-way. A reciprocal right-of-way is not intended as a public use access, such as those issued by a State's Department of Transportation or the Federal Highway Administration. Each reciprocal authorization is evaluated on a case-by-case basis, and additional questions may be addressed at that time.

Comment: A comment raised further concerns about the proposed requirements of section 2805.12(a)(3), which read "Build and maintain suitable crossings for existing roads and significant trails that intersect the project," noting that this should only be applicable if the roads or trails are used by the grant holder. The comment also noted that the grant holder should not be responsible for repairing or maintaining these roads or trails if they have not caused or contributed to damages.

Response: The BLM did not propose to revise the terms and conditions found at section 2805.12 to read as noted in the comment. The quoted text is from section 2805.12(c) of the existing regulations, now identified as section 2805.12(a)(3) of this final rule. The paragraph is redesignated in the final rule for readability, and is not amended further.

This condition is retained from the existing regulations as the BLM must allow for multiple-use of the public lands. Should a right-of-way be granted, it does not displace other uses of the public land, including use of existing trails and other crossing that may intersect the project. The BLM will require that such trails and accesses are maintained by the right-of-way grant holder only to the extent that they have impacted it. If there is damage to the trail or access that is not the fault of the grant holder, then they will not be required to repair or fix it.

Comment: A comment raised concerns over the proposed requirements of section 2805.12(a)(4), "Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area." The comment noted that utilities frequently perform fire prevention activities as part of regular maintenance, which are frequently delayed by the BLM. The comment further noted that the grant holder should not be responsible for performing activities outside of the right-of-way, and that the fighting of fires should be the responsibility of the BLM, not the grant holder.

Response: The BLM did not propose to revise the terms and conditions found at section 2805.12 to read as noted by the comment. The quoted text is from regulations that were formerly found at 2805.12(d) and are now identified as section 2805.12(a)(4) of this final rule. The paragraph is redesignated in the final rule for readability. This condition is retained from the existing regulations in this final rule without amendment. The condition requires the holder of an authorization to do everything that is reasonable to prevent or suppress wildfires. This condition is not intended to require a grant holder to perform actions outside of a right-of-way, unless the actions are related to the right-of-way, such as trimming trees as a component of BLM-authorized regular maintenance on an overhead transmission line. Other actions outside of the right-of-way, which are not related to the right-of-way, would not be the holder's responsibility.

Additionally, this condition does not delay actions that are already permitted in the right-of-way grant, which would be completed by a grant holder to prevent or suppress wildfires. However, actions proposed to be taken by a grant holder may be delayed if they are outside the permission granted by the BLM.

Comment: One comment raised concerns over the BLM proposing to revise the terms and conditions to read, "Assume full liability if third parties are injured or damages occur on or near the right-of-way." The comment raised concerns that this appeared to be an unreasonable requirement since a grant-holder does not generally have authority to enforce laws. The comment also said that grant holders could be responsible for damages related to faulty equipment, but should not be responsible for actions outside of lands they are authorized to use, and for actions that are not their own, such as those by vandals or even the BLM.

Response: The BLM did not propose to revise the terms and conditions found at section 2805.12 to read as noted. The quoted text is from regulations that were formerly found at 2805.12(h) and are now identified as section 2804.12(a)(7) of this final rule. The paragraph is redesignated in the final rule for readability.

The condition is retained from existing regulations in this final rule without amendment. The condition does not require that a holder should enforce the laws and regulations on public lands. However, the condition provides notice that, when agreeing to be a right-of-way holder on the public lands, the grant holder assumes responsibility for the permitted use. A holder assumes the responsibility for any injury or damages caused that are associated with their right-of-way. Injury or damages could be those that are directly caused by the grant holder, such as by electrocution or collision with a permitted use, or indirectly, such as those from flood events which can carry objects outside of the permitted right-of-way, but are still the responsibility of the grant holder.

Section 2805.12(a)(15) requires that a grant holder or lessee provide, or make available upon the BLM's direction, any pertinent environmental, technical, and financial

records for inspection and review. Any confidential or proprietary information will be kept confidential to the extent allowed by law. Review of the requested records facilitates the BLM's monitoring and inspection activities related to the development it authorizes. The records will also be used to determine if the holder is complying with the requirements for holding a grant under section 2803.10(b).

Comments: Several comments stated that: (1) The BLM does not have authority to make such requirements; (2) In the case of a PPA or other similar type agreements, the BLM has no need to see such documents; and (3) These documents relate to private party transactions and are subject to confidentiality provisions.

Response: The BLM does not need all of the documents described in this paragraph for every right-of-way. However, in some circumstances the BLM might need these documents when processing an application or where the BLM may need verification that such an agreement has been put in place, such as if a variable offset is to be awarded under the competitive leasing process inside a DLA. Information that is proprietary or confidential that is submitted to the BLM will be treated as such to the extent allowed by law. The BLM will require information under this provision, including PPAs, only if it is necessary for the BLM's administration of an authorization.

Section 2805.12(b) requires that grant holders and lessees comply with the bonding requirements of added section 2805.20. The former bonding requirements were lacking in detail and this new section will help clarify the requirements of a grant or lease. This paragraph is revised in this final rule to state that the BLM will not issue a Notice to Proceed or give written approval until the grant holder complies with the bonding requirements of section 2805.20. This revision clarifies that when required by

the BLM, a bond must be obtained before beginning ground-disturbing activities. No comments were received and no other changes made from the proposed rule to the final rule.

Section 2805.12(c) identifies specific terms and conditions for grants and leases issued for solar or wind energy development, including those issued under subpart 2809. Several comments were received on this paragraph and these are discussed at the end of section 2805.12(c)(6). Minor revisions are made from the proposed to the final rule to improve readability, but any significant changes are discussed in detail in this preamble.

Section 2805.12(c)(1) prohibits ground-disturbing activities until either a notice to proceed is issued under section 2807.10 or the BLM states in writing that all requirements have been met to allow construction to begin. Requirements may include the payment of rents, fees, or monitoring costs, and securing a performance and reclamation bond. The BLM will generally apply this requirement to all solar and wind rights-of-way due to the large scale of most of these projects.

Section 2805.12(c)(2) requires that construction be completed within the timeframes provided in the approved POD. Construction must begin within 24 months of the effective date of the grant authorization or within 12 months, if approved as a staged development. This section is revised from the proposed to final rule to include a "or as otherwise authorized by the BLM." This revision is consistent with other sections of this final rule where the BLM retains discretion to approve or authorize different timeframes or requirements. The BLM may approve a request for an alternative requirement (see section 2805.12(e)), but the BLM may also authorize a different timeframe in the approved POD. The BLM made similar revisions to the requirements described in

sections 2805.12(c)(3)(ii) and 2805.12(c)(3)(iii). Further discussion of a staged development is found under section 2806.50.

Section 2805.12(c)(3) describes the requirements for projects that include staged development in the POD, unless other agreements have been made between the developer and the BLM. Minor revisions are made from the proposed to the final rule to improve readability, but any significant changes are discussed in detail in this preamble.

Under paragraph (c)(3)(i) of this section, a developer must begin construction of the initial phase of development within 12 months after issuance of the Notice to Proceed, but no later than 24 months after the effective date of the right-of-way authorization.

Paragraph (c)(3)(ii) of this section requires that each stage of construction after the first begin within 3 years after construction began for the previous stage of development. Construction must be completed no later than 24 months after the start of construction for that stage of development, unless otherwise authorized by the BLM.

These time periods were selected after evaluating the timing of other completed energy development projects. These timeframes will help ensure that the public land is not unreasonably encumbered by these large authorizations, which are exclusive to other rights during the construction period of the project.

Section 2805.12(c)(3)(iii) limits the number of development stages to three, unless the BLM specifically approves additional stages. The BLM will generally approve up to three stages for solar and wind energy development. An applicant may request approval of additional stages with a showing of good cause under section 2804.40. This request must be accompanied by a supporting discussion showing good

cause for your inability to meet the conditions of the right-of-way. A grant holder may request alternative stipulations, terms, or conditions under section 2805.12(e). The BLM revised paragraph (c)(3)(iii) of this section, from the proposed to final rule by removing "in advance" when referring to the BLM's approval. The requirement in this section is unchanged from the proposed rule but is rephrased for consistency with other sections of the final rule. The addition of 2805.12(e) provides additional information about the requests for alternative requirements.

Paragraphs (c)(4), (c)(5), and (c)(6) of this section contain specific requirements for diligent development and the potential consequences of not complying with these requirements.

Section 2805.12(c)(4) requires the holder to maintain all onsite electrical generation equipment and facilities in accordance with the design standards of the approved POD. This paragraph reiterates the requirement to comply with the POD that must be submitted as scheduled under section 2804.12(c)(1).

Section 2805.12(c)(5) provides requirements for repairing or removing damaged or abandoned equipment and facilities within 30 days of receipt of a notice from the BLM. The BLM will issue a notice of noncompliance under this provision only after identifying damaged or abandoned facilities that present an unnecessary hazard to the public health or safety or the environment for a continuous period of 3 months. Upon receipt of a notice of noncompliance under this provision, an operator must take appropriate remedial action within 30 days, or show good cause for any delays. Failure to comply with these requirements may result in suspension or termination of a grant or lease.

Under section 2805.12(c)(6), the BLM may suspend or terminate a grant if the holder does not comply with the diligent development requirements of the authorization. The citation in this section is revised in the final rule from section 2807.17 to sections 2807.17 through 2807.19. Sections 2807.18 and 2807.19 are existing sections of the regulations, which are not a part of this final rule, that describe the BLM's processes for suspending or terminating rights-of-way. This revision does not represent a change in meaning, but provides more information for the reader.

Comments: Comments disagreed with the proposed rule and suggested that it would require arbitrary and disparate terms and conditions between rights-of-way issued under subpart 2804 and those issued under subpart 2809. The comments stated that the authority granted by FLPMA does not authorize the BLM to penalize developers who submit an application for and obtain BLM approval for rights-of-way on other BLM managed lands (i.e., non-DLAs).

Response: The BLM disagrees. A focus of the proposed and final rule is to encourage solar and wind energy development inside DLAs. Encouraging DLA developments is meant to locate large scale developments in areas with lesser impacts to resources and uses of the public lands. Incentivizing the use of DLAs is achieved by increasing certainty, longevity, and reducing some costs in a DLA relative to other areas. The proposed rule does not increase costs and uncertainty outside of the DLAs. In areas outside of DLAs, the BLM is simply incorporating its processes established by policy for solar and wind energy. The BLM believes that the final rule will reduce costs and increase certainty inside of DLAs and maintain the streamlined application process for lands outside of DLAs.

Comments: Some comments stated that a CFR reference cited in 2805.12(c)(6)(iii) was incorrect.

Response: The comment is correct and this reference is revised to paragraph (c)(7)) of this section. Furthermore, another citation was updated in this paragraph, referring to submitting a written request for an extension for a timeline in a POD. The updated reference now cites paragraph (e) of this section where a right-of-way holder may request an alternative requirement.

Comment: Some comments opposed the requirement in section 2805.12(c)(7) that a bond include Indian cultural resource identification, protection, and mitigation. The comments assert this is in error because there are no distinguishing factors that can justify requiring cultural resource bonding for non-DLA authorizations, but not for DLA authorizations.

Response: Paragraph (c) applies to all solar and wind energy rights-of-way, both leases issued under subpart 2809 and grants issued under subpart 2804. This requirement does not distinguish between requirements for grants and leases.

However, the BLM recognizes that these costs are difficult to determine and revised this section to specifically include "the estimated costs of cultural resource and Indian cultural resource identification, protection, and mitigation for project impacts." This revision helps tie the required costs to the impacts of the project.

Comment: One comment suggested that bonding for cultural, scenic, and wildlife impacts adds unnecessary risk to a project. The comment stated that bonding for such impacts is unnecessary for solar activities, as the majority of mitigation expenses are

incurred during construction, and operation expenses are minimal and easily covered by fixed PPA revenues in excess of low operational costs.

Response: The bond instrument required by the BLM is necessary to protect public lands and their resources. A minimum bond and standard bond amount are provided in sections 2805.20 and 2809.18 of this final rule. Including these amounts in the rule provide the opportunity for a developer to incorporate these costs in their project plan, reducing unexpected and unnecessary risk to a project that may keep it from proceeding.

The bonding requirement for cultural, scenic, and wildlife impacts protects the public land resources when developing the land for various uses. For example, possible damages to the public land that would need to be covered by a bond could include surface disturbing activities, recontouring of soils to alter the flow of water, and the removal of vegetation. Other damages could be those to resources outside the right-of-way that are diminished, such as water supply or biological resources. No revision to this paragraph is made as a result of this comment.

Comment: One comment suggested that the BLM's timeframes are too restrictive and would be a disincentive to the development of solar and wind energy on public lands.

Response: No changes were made to this provision; however, the addition of section 2805.12(e) allows adjustments of the timeframes, provided that a good cause rationale is submitted by the project proponent and the BLM approves the request. No other comments were received or changes made to the paragraphs under section 2805.12(c).

Section 2805.12(d) describes specific requirements for energy site or project testing grants. Because these are short term grants, for three years or less, the BLM believes it is appropriate to require facilities to be installed within 12 months of the effective date of the grant. All equipment must be maintained and failure to comply with any terms may result in termination of the authorization.

No comments were received on this paragraph. However, two revisions have been made as follows. The word "wind" has been removed from the text of the paragraph describing the energy site- and project-area testing grants, to make it clear that these grants are not limited to wind project proponents, but are also available to solar project proponents. This change is consistent with other parts of the final rule where commenters requested that the BLM make the site- and project-area testing grants available for both solar and wind energy. Additionally, the language from the proposed rule that required a showing of good cause for an extension of project timelines has been revised to direct the reader to paragraph (e) of this section in the final rule, which governs reporting requirements for instances of noncompliance and requests for alternative stipulations, terms, or conditions. No other comments were received and no additional changes were made to this section.

Section 2805.12(e) addresses reporting requirements for instances of noncompliance, and requests by project proponents for alternative stipulations, terms, or conditions of the approved right-of-way grant or lease. This provision was added to the final rule based on comments received. This section is similar to section 2804.40 of the final rule, but that section applies to subpart 2804 of the final rule and the application process for a grant, whereas this section applies to grant and lease holders and applies to

the terms, conditions, and stipulations of all approved authorizations. Under this section, a holder must notify the BLM of noncompliance, and may request an alternative requirement during project operation.

Paragraph (e)(1) of this section provides that a holder of a right-of-way must notify the BLM as soon as the holder either anticipates noncompliance or learns of its noncompliance with any stipulation, term, or condition of the approved right-of-way grant or lease. Notification to the BLM must be in writing and show good cause for the noncompliance, including an explanation of the reasons for failure.

Comments: As noted previously in the preamble of this final rule, the BLM participated in stakeholder engagement meetings as part of the BLM's regular course of business. During some such meetings, stakeholders clarified the concerns they had previously raised through written comments on the proposed rule. Specifically, industry representatives expressed concern that the rule did not include provisions giving the BLM flexibility to respond to project-specific or regional circumstances by, for example, adjusting capacity factors based on technical considerations or adjusting county zone assignments using land value assessments, which could be more accurate than NASS land values in a given area.

Industry also provided additional information regarding its concern that the proposed rule's bonding requirements were too rigorous. Commenters suggested that the BLM add provisions to the rule that authorize it to consider other factors when determining a bond amount, instead of only the reclamation cost estimate.

Response: The BLM agrees that it may be reasonable to set alternative terms, conditions, and stipulations, and to consider other factors in setting bond amounts on a

project-specific or regional basis. After considering this comment, the BLM included a new provision in the final rule, paragraph 2805.12(e)(2), under which a grant or lease holder may request an alternative to the terms, conditions, and stipulations of their authorization, including requesting an alternative bonding requirement. The requested alternative requirement could include those identified in a project's POD, the right-of-way's terms and conditions, or other such requirements, such as a request for an extension of time. A request for an alternative payment requirement may include a request for an alternative net capacity factor or per acre zone rate consideration. Requests may be submitted after notification has been provided as required in paragraph (e)(1) of this section or at the holder's request. However, this section specifically notes that any request for an alternative must comply with applicable law in order to be considered.

The BLM recognizes that some requests, such as those related to acreage rent, may be appropriately considered on a larger, regional scale. Under the authority in section 2806.70 of this final rule, therefore, the BLM may adjust the acreage rent schedule or MW capacity fee applicable to a particular project or in a given area, so long as the BLM determines such changes are based on reasonable methods for determining appropriate values for the use of public land resources.

With respect to bonding requirements, the BLM recognizes it may be appropriate to consider other factors in addition to the reclamation cost estimate, such as the salvage value of project components. The BLM amended both section 2805.12(e)(2) and section 2805.20(a)(3) to accommodate that possibility, as discussed further in the section of this preamble that discusses paragraph 2805.20(a)(3). Any proposed alternative to bonding

must provide the United States with adequate financial security for the potential liabilities associated with any particular grant or lease. For example, a request for an alternative bonding requirement may include a holder's request for consideration of project salvage values, but must also include the cost for processing and handling salvage actions.

No alternative requirements request is approved unless and until you receive BLM approval in writing.

Comments: As discussed in section 2804.40, several comments on various rule provisions expressed concern that a developer may not be able to meet BLM requirements. Comments said that failure to meet such requirements may be due to delays or environmental changes outside a developer's control, statutory or policy changes, or other unanticipated situations.

Response: The BLM believes that new paragraph (e) of this section addresses these concerns. The BLM intends to issue policies to address how it will implement these provisions following the issuance of this final rule. Consistent use of the final rule's requirements and clear expectations will be outlined in these policies, to include the provisions of this paragraph and those of section 2804.40.

Section 2805.14 What rights does a grant convey?

The BLM has added two new paragraphs to section 2805.14, both addressing applications for renewal of existing grants or leases. Paragraph (g) states that a holder of a solar or wind energy development grant or lease may apply for renewal under section 2807.22. Paragraph (h) of this section states that a holder of an energy project-area testing grant may apply for a renewal of such a grant for up to an additional 3 years, provided that the renewal application also includes an energy development application.

Paragraph (g) is added to this rule to explain how one may apply for a solar or wind energy development grant or lease renewal. The BLM added paragraph (h) to recognize that project-area testing may be necessary for longer than an initial 3-year term, even after an applicant believes that energy development at a proposed project site is feasible. Revisions in this final rule were made consistent with those made in section 2801.9 for project-area grants.

The proposed rule stated that specific project-area grants were for only wind energy, but based upon comments received, project-area grants have been expanded to include project-area testing grants for solar energy as well. No other comments were received or additional changes made to this section.

Section 2805.15 What rights does the United States retain?

In section 2805.15, the word "facilities" and a reference to section 2805.14(b) are added to the first sentence of paragraph (b) to clarify that the BLM may require common use of right-of-way facilities. The sentence now makes clear that the BLM retains the right to "require common use of your right-of-way, including facilities (see § 2805.14(b)), subsurface, and air space, and authorize use of the right-of-way for compatible uses." The term "facility" is defined in the BLM's existing regulations at section 2801.5 and means an improvement or structure owned and controlled by the grant holder or lessee. Common use of a right-of-way occurs when more than one entity uses the same area for their authorization. This revision facilitates the cooperation and coordination between users of the public lands managed by the BLM so that resources are not unnecessarily impacted. An example of common use of a facility is authorization for a roadway and an adjacent transmission line. In this case, maintenance of the

transmission line would include use of the adjacent roadway. Under existing section 2805.14(b), the BLM may authorize or require common use of a facility as a term of the grant and a grant holder may charge for the use of its facility. Section 2805.15(b) is revised to include a reference to section 2805.14(b).

Comment: Two comments were received on this proposed change. One comment suggested clarifying that the change in section 2805.15(b) is intended to harmonize this paragraph with section 2805.14(b). The comment made special note that they do not protest this amendment to include "facilities," so long as this was the only intent of the requirement.

Response: The BLM agrees with the comment, and believes that the proposed adjustments to this rule would make the regulations consistent and not open to interpretation. The intent of this revision is not to go beyond what is discussed in the preamble for this paragraph. No changes to the proposed rule are necessary in response to this comment.

Comment: The second comment stated that the rule deletes language from the existing section that prohibits charges for the common use of rights-of-way. The comment recommended modifying the section, but not deleting it, suggesting that the modification should prohibit charges except for pro-rata, fair-share cost allocations for the shared construction and/or operation and maintenance of facilities authorized under a grant or lease. The comment expressed concern that if this section is not modified, the first holder could intentionally charge a prohibitively expensive fee for common use.

Response: The proposed rule did not delete this requirement from the existing regulations. Instead, it added the two words "including facilities." Requiring a pro-rata,

fair-share cost allocation agreement between private parties is outside BLM's role of administering the public lands. The BLM believes that two private parties should reach an agreement without the BLM dictating its conditions. The BLM did not make any change in response to this comment since dictating third party contracts is beyond the scope of this rule.

No other comments were received, nor were any additional changes made to this section.

Section 2805.16 If I hold a grant, what monitoring fees must I pay?

The table of monitoring categories in section 2805.16 no longer has the outdated dollar amounts for the category fees. Paragraph (b) explains that the current year's monitoring cost schedule is available from any BLM State, district, or field office, or by writing, and is adjusted annually for inflation using the same methodology as the table in section 2804.14(b). The table now includes only the definition of the monitoring categories in terms of hours worked, instead of providing specific dollar amounts. Also, the word "application" found in each category is changed to "inspecting and monitoring" to clarify that the inspecting and monitoring does not apply to right-of-way applications. This change was made to avoid either adjusting the table each year through a rulemaking or relying on outdated material. The current monitoring fee schedule may be found at http://www.blm.gov.

This paragraph also provides that you may pay directly to another Federal agency their incurred costs in monitoring your grant instead of paying the fee to the BLM. As the regulations will no longer identify the costs by category, the current cost information

is provided in the following table. The monitoring fees and work hours for FY 2015 are as follows:

Monitoring Categories and Fees for FY 2016

Monitoring Category	Federal work hours	Fees for FY 2016
(1) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > 1 ≤ 8	$122
(2) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > > 8 ≤ 24	$428
(3) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > < 24 ≤ 36	$806
(4) Monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > 36 ≤ 50	$1,156
(5) Master Agreements	Varies	As specified in the agreement
(6) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > 50	As specified in the agreement

Consistent with revisions made under monitoring fees table in 2805.16(a), the BLM is adding the words "inspecting and" to section 2805.16(a). This additional language is not a change from current BLM practice or policy and will allow the BLM to inspect and monitor the right-of-way to ensure project compliance with the terms and conditions of an authorization. Under this provision, if a project is out of compliance, the BLM could inspect the project to ensure that the required actions are completed to the satisfaction of the BLM, such as continued maintenance of the required activity or efficacy of the requirement.

The BLM added a new sentence to paragraph (a) of this section that directs the reader to section 2805.17(c), which is an existing section of the regulations that describes category 6 monitoring fees. The two sentences preceding this revision describe when the

other monitoring categories are updated, but there was no reference for category 6 monitoring fees. This revision is made for consistency with how the other monitoring categories are described in this section. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2805.20 Bonding requirements.

Section 2805.20 provides bonding requirements for all grant holders or lessees. These provisions are moved from existing section 2805.12. Under the existing regulations, bonds are required only at the BLM's discretion. This expanded section explains the details of when a bond is required and what the bond must cover. This is not a change from existing practice and is intended to provide clarity to the public. Specific bonding requirements for solar and wind energy development are outlined in paragraphs (b) and (c) of this section. This final rule explains requires are for the performance of the terms and conditions of a grant or lease and reclamation of a right-of-way grant or lease area.

Comments: One comment indicated that solar facilities should not be subject to the same bonding framework as surface mining. The proposed bonding imposes unnecessary costs on the solar industry without providing any additional land protection. Surface mining operations may be abandoned and there is often significant surface disturbance, which is not the case with solar developments. Some comments said that acceptable bonding instruments should include corporate guarantees backed by financial tests. Bonding costs could be expensive, even doubling annual operating costs. The use of letters of credit could significantly reduce the bond amounts. Also, the BLM could

have an initial lower bond amount until decommissioning is near and at that time the bond could be increased.

Response: The framework used by surface mining development was a starting point for the solar and wind energy development process on what to consider when completing a RCE and determining the bond amount. However, this framework has been adapted to address circumstances specific to solar and wind energy development as well as all other right-of-way developments on the public lands. The bond amounts, as determined by an RCE or those using a standard bond, are necessary to ensure the protection of the public lands.

Corporate guarantees are not an acceptable form of bond for the BLM. They are too risky to accept, even when financial tests are used, because they require continual confirmation of the quality of the corporate guarantee. However, irrevocable letters of credit are accepted by the BLM. Furthermore, the BLM cannot accept a lesser bond amount until the decommissioning of a grant or lease, because the BLM cannot be responsible for the financial stability of any company, nor can it bear the risk that a company may default or go bankrupt during the term of a grant, before decommissioning. To secure an increased bond at that time would be difficult if not impossible and having such a regulatory provision would place the public lands at unnecessary risk from the impacts of unreclaimed developments.

Section 2805.20(a) provides that, if required by the BLM, you must obtain or certify that you have obtained a performance and reclamation bond or other acceptable bond instrument to cover any losses, damages, or injury to human health or damages to property or the environment in connection with your use of an authorized right-of-way.

This paragraph also includes the language from existing section 2805.12(g), which details bonding requirements.

Consistent with other revisions made in the final rule for better understanding of the rule, section 2805.20(a) is revised to add "costs associated with" when discussing what a bond will cover when terminating a grant. This added language makes it clear that the bond covers costs associated with terminating a grant.

Comments: Some comments suggested expanding the language of this and subsequent bonding paragraphs to include "certificate of insurance or other acceptable security" in appropriate places.

Response: Adding the language "certificate of insurance or other acceptable security" is unnecessary in the text of the regulation as the definition of acceptable bond instruments includes insurance policies, and therefore a specific form of insurance does not need to be included in the text of the regulation. Furthermore, the list of bond instruments that are acceptable is not an all-inclusive list. There are other forms of bond instruments, but they are not specified in the text of the rule because they are not as common as the ones identified. If the bond instrument list were to be considered as "all inclusive" it could unintentionally exclude acceptable bond instruments. As a result, the recommended addition to the rule text is not incorporated in the final rule.

Section 2805.20(a)(1) requires that bonds list the BLM as an additionally covered party if a State regulatory authority requires a bond to cover some portion of environmental liabilities. If the BLM were not named as an additionally covered party for such bonds, the BLM would not be covered by the instrument. This provision allows

the BLM to accept a State bond to satisfy a portion of the BLM's bonding requirement, thus, limiting double bonding.

Comment: One comment was received pertaining to this paragraph. The comment stated that bond requirements are unnecessary for "regulated entities" and that additional bonding requirements are duplicative and pose additional costs on a public utility's customers.

Response: The BLM disagrees, because regulated utilities present the same risks as unregulated utilities. Under section 2805.20(a), a bond is not required for all authorizations. Requirement of a bond for an authorization is at the discretion of the BLM and is dependent on the scale of the development and potential for risk to the public lands. Also, the BLM may accept a bonding instrument submitted to the State if it meets the criteria identified in subparagraphs (i) through (iii) of section 2805.20(a)(1). The intent of the bonding provisions in section 2805.20(a)(1)(iii) is to mitigate the potential for duplicative costs to right-of-way holders using the public lands.

An additional requirement is added to paragraph (a) in this final rule that requires periodic review of bonds for adequacy. This provision is added to ensure consistency with the provisions added in response to comments on section 2805.20(c). This additional requirement includes bonds held by a State and accepted by the BLM and applies to all bonds held by the BLM, regardless of the size or complexity of an authorized project. The frequency of the bond adequacy reviews will be described in greater detail within BLM guidance issued as part of implementation of this rule. Review frequency, as described in the recently issued instruction memorandum 2015-138, will be

no less than once every 5 years, giving review priority to those that pose a greater risk to the public lands.

Under section 2805.20(a)(1)(i), a State bond must be redeemable by the BLM. If such instrument is provided to the BLM and it is not redeemable, the BLM would be unable to use the bond for its intended purpose(s).

Under section 2805.20(a)(1)(ii), a State bond must be held or approved by a State agency for the same reclamation requirements as the BLM requires.

Under section 2805.20(a)(1)(iii), a State bond must provide the same or greater financial guarantee than the BLM requires for the portion of environmental liabilities covered by the State's bond.

Comment: One comment concerning this paragraph stated that section 2805.20(a)(3) makes clear that a bond will not be required for solar energy projects developed inside DLAs, and bonds will be required for solar projects outside DLAs.

Response: This comment is not correct. Section 2809.18(e) requires a specific performance bond for leases authorized under subpart 2809, identified as a standard bond. Standard bonds are not determined by a RCE, but rather are set as specified in the regulations.

Under section 2805.20(a)(2) a bond must be approved by the BLM's authorized officer. This approval ensures that the bond meets the BLM's standards. Under section 2805.20(a)(3), the bond amount is determined by the BLM based on a RCE, and must also include the BLM's costs for administering a reclamation contract. As defined in section 2801.5, a RCE identifies an appropriate amount for financial guarantees for uses of the public lands. An additional requirement is included in paragraph (a)(3) requiring

periodic review of bonds for adequacy. This requirement was added to ensure consistency with the provisions added to section 2805.20(c). Both paragraphs (c)(3) and (c)(4) of this section contain a stipulation that they do not apply to leases issued under subpart 2809. Bonds issued under subpart 2809 for leases inside DLAs have standard amounts. Bond acceptance and amounts for solar and wind energy facilities outside of DLAs are discussed in paragraphs (b) and (c) of this section.

Paragraph (a)(3) of this section is revised from the proposed to final rule to improve readability. Specifically, the BLM removed the second sentence of the paragraph that stated the BLM may require you to prepare an acceptable RCE. The first sentence of this paragraph is revised to include ", which the BLM may require you to prepare and submit." This revision is intended to improve the reader's understanding of the final rule and its requirements by streamlining the text of the rule.

In addition to the changes made for readability, this paragraph is revised by adding, "The BLM may also consider other factors, such as salvage values, when determining the bond amount." This revision responds to concerns raised in stakeholder engagement meetings and is consistent with section 2805.12(e)(2) of this final rule, which specifies that a developer may request an alternative requirement for bonding.

A request for an alternative bonding requirement may include a holder's request for consideration of project component salvage values. Such a request may reduce the BLM's bond determination amount, even to an amount below the minimum or standard bond amount. However, the request must be fully supported by documentation from the requestor that includes the costs for processing and handling salvage materials, such as information about distribution centers for such materials and other reasonable

considerations. Further, as noted under paragraph 2805.12(e)(2), requests for an alternative bonding requirement must comply with applicable law in order to be considered, and must provide the United States with adequate financial security for potential liabilities.

Regardless of the nature of the request, any such request is not approved until you receive BLM approval in writing.

Section 2805.20(a)(4) requires that a bond be submitted on or before the deadline provided by the BLM. Current regulations have no such provision, and this revision makes it clear what the BLM expects when it requires a bond instrument. The BLM believes this provision will improve the timely collection of bonds. The timely submittal of a bond promotes efficient stewardship of the public lands and ensures that the bond amount provided is acceptable to the BLM and available prior to beginning -ground-disturbing activities.

Section 2805.20(a)(5) outlines the components to be addressed when determining a RCE. They include environmental liabilities, maintenance of equipment and facilities, and reclamation of the right-of-way. This paragraph consolidates and presents what liabilities the bond must cover.

Under section 2805.20(a)(6), a holder of a grant or lease may ask the BLM to accept a replacement bond. The BLM must review and approve the replacement bond before accepting it. If a replacement bond is accepted, the surety company for the old bond is not released from obligations that accrued while the old bond was in effect, unless the new bond covers such obligations to the BLM's satisfaction. This gives the

grant holder flexibility to find a new bond, potentially reducing their costs, while ensuring that the right-of-way is adequately bonded.

Under section 2805.20(a)(7), a holder of a grant or lease is required to notify the BLM that reclamation has occurred. If the BLM determines reclamation is complete, the BLM may release all or part of the bond that covers these liabilities. However, section 2805.20(a)(8) reiterates that a grant holder is still liable in certain circumstances under section 2807.12. Despite the bonding requirements of this section, grant holders are still liable for damage done during the term of the grant or lease even if: the BLM releases all or part of your bond, the bond amount does not cover the cost of reclamation, or no bond remains in place.

Sections 2805.20(b) and 2805.20(c) identify specific bond requirements for solar and wind energy development respectively outside of DLAs. A holder of a solar or wind energy grant outside of a DLA will be required to submit a RCE to help the BLM determine the bond amount. For solar energy development grants outside of DLAs, the bond amount will be no less than $10,000 per acre. For wind energy development grants outside of DLAs, the bond amount will be no less than $10,000 per authorized turbine with a nameplate generating capacity of less than one MW, and no less than $20,000 per authorized turbine with a nameplate generating capacity of one MW or greater.

Section 2805.20(d) is new to the final rule. This paragraph separates site- and project-area testing authorization bond requirements from section 2805.20(c). This change is consistent with other provisions that have been modified to expand the wind energy site- and project-area testing authorizations in the proposed rule to include solar energy. With this adjustment, meteorological and other instrumentation facilities are

required to be bonded at no less than $2,000 per location. These bond amounts are the same as standard bond amounts for leases required under section 2809.18(e)(3).

The BLM recently completed a review of bonded solar and wind energy projects and based the bond amounts provided in this final rule on the information found during the review. When determining these bond amounts, the BLM considered potential liabilities associated with the lands affected by the rights-of-way, such as potential impacts to cultural values, wildlife habitat, and scenic values. The range of costs included in the review represented the cost differences in performing reclamation activities for solar and wind energy developments throughout the various geographic regions the BLM manages. The BLM used the review to determine an appropriate bond amount to cover potential liabilities associated with solar and wind energy projects.

Minimum bond amounts are set for solar development for each acre of authorization because solar energy development encumbers 100 percent of the lands and excludes them from other uses. The recent review of bonds showed a range of bond amounts for solar energy development of approximately $10,000 to $18,000 per acre of the rights-of-way on public lands. Minimum bond amounts for wind energy development are set for each wind turbine authorized on public land, rather than per acre, because the encumbrance is factored at 10 percent and is not exclusive to other uses. The review showed that the bond amounts for recently authorized wind energy development ranged between $22,000 and $60,000 per wind turbine. Recently bonded wind energy projects use wind turbines that are one MW or larger in nameplate capacity, whereas older projects generally use turbines that are less than one MW.

Comment: Some comments suggested that bonds should not be required for solar facilities on the public lands because they pose low environmental risk and that some solar energy generation technologies have less potential impacts than others and, therefore, less risk.

Response: The BLM agrees that generally, solar facilities do not pose the same environmental hazards as other energy development facilities. However, the BLM's requirement for bonding is not only for the potential environmental risks that a development poses on the public lands. Rather, a bond is required to cover direct impacts to the resources and their reclamation to a condition as near as possible to what they were before development occurred.

This comment is specific to solar energy, but raises the question of lesser risk for certain developments, which is an issue that arises with respect to wind energy as well. In the BLM's review of recently bonded solar and wind energy projects, for example, the range of bond amounts identified was for newer wind energy turbines, with a nameplate capacity of one MW or greater. These wind energy turbines are larger, have a greater footprint, and require larger and more equipment and materials to install and remove than wind turbines that have a smaller nameplate capacity. In order to accommodate developments that employ smaller wind turbines that pose lesser risk to resources, the BLM is including in the final rule the existing policy requirement of a $10,000 minimum bond amount for projects utilizing smaller turbines. Turbines with a nameplate capacity of one MW or greater will have a minimum bond amount of $20,000, consistent with the proposed rule. A reclamation cost estimate will still be required for each project on lands outside of designated leasing areas, as described in section 2805.20(a)(3) of this rule.

The BLM's bond amount determination for wind energy projects using turbines with lesser nameplate capacities could exceed the minimum bond amount based upon site-specific risks.

Subpart 2806 – Annual Rents and Payments

Existing subpart 2806, has been retitled to more clearly and consistently identify the content of and revisions to this subpart of the final rule. The content and revisions to this subpart of the final rule include those requiring a payment of an acreage rent and MW capacity fee for rights-of-way. Retitling this subpart makes it clear that the BLM may require payments that are not specifically a rent.

Section 2806.12 When and where do I pay rents?

The heading of section 2806.12 is revised by adding the words "and where." This revision is not a change in the BLM's practice or policy, but is intended to help clarify where rental payments should be made.

Section 2806.12(a) describes the proration of rent for the first year of a grant. Specific dates are used for proration to prevent any confusion to grant holders and promote consistent implementation by the BLM. Rent is prorated for the first partial year of a grant, since the use of public lands in such situations is for only a partial year. Paragraph (a)(2) of this section explains that if you have a short-term grant, you may request that the BLM bill you for the entire duration of the grant in the first payment. Some short term grant holders may wish to pay this amount up front. Consistent with other sections of the final rule, a revision to paragraph (a)(2) has been made to delete the reference to wind energy in connection with site-specific testing.

Paragraph (b) of this section is revised by removing the word "other" from the first sentence. This revision is intended to clarify that all rental payments must be made in accordance with the payment plan described in section 2806.24. This revision is made to improve readability, but does not constitute a change from existing requirements.

Section 2806.12(d) directs right-of-way grant holders to make rental payments as instructed by the BLM or as otherwise provided for by Secretarial Order or legislative authority. This provision acknowledges that either the Secretary or Congress may take action that could affect rents and fees. The BLM will provide payment instructions for grant holders that will include where payments may be made. The word "must" is added into the first sentence of this paragraph to improve readability and for consistency with the phrasing of other requirements in this final rule. This revision does not constitute a change from existing requirements. No comments were received on this section, and no other changes were made from the proposed rule to the final rule.

Section 2806.13 What happens if I do not pay rents and fees or if I pay the rents and fees late?

Section 2806.13 is revised from "What happens if I pay the rent late?" to read "What happens if I do not pay rents and fees or if I pay the rents and fees late?" This change addresses the addition of paragraph (e) to this section, which specifies that the BLM may retroactively bill for uncollected or under-collected rents and fees. The BLM will collect rent retroactively if: (1) A clerical error is identified; (2) A rental schedule adjustment is not applied; or (3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

Paragraph (a) of this section is amended by removing language from the existing rule that stated a fee for a late rental payment may not exceed $500 per authorization. The BLM determined that the current $500 limit is not a sufficient financial incentive to ensure the timely payment of rent. Therefore, under this final rule, late fees will now be proportional to late rental amounts, to provide more incentive for the timely payment of rents to the BLM. The BLM also added the term "fees" so the MW capacity fees for solar and wind energy development grants and leases may be collected consistently with any rent due.

New paragraph (g) of this section allows the BLM to condition any further activities associated with the right-of-way on the payment of outstanding payments. The BLM believes that this consequence imposed for outstanding payments is further incentive to timely pay rents and fees to the BLM.

Comment: A comment suggested that the BLM should be responsible for clerical and other possible errors, and that the holder should not be responsible for payment of rents, fees, or late payments if such an error occurs due to the BLM. Further, the comment suggested a 6 month time limit for enforcing such corrections that would be retroactive, and that a late payment fee would be no more than 5 percent of the total rents and fees.

Response: The BLM considered the 6-month and 5 percent limits suggested by the comment and decided to not include these limits in the final rule. When entering into a right-of-way agreement with the BLM, a holder agrees to the terms and conditions for the use of the public lands. Included as part of these terms and conditions is the requirement that a holder pay, in advance, the appropriate amount for the use of the

public lands. Generally, the BLM sends a bill or other notice to a holder that is a notice of payment due to the BLM, as agreed to in the right-of-way grant. Even if the BLM were to make a clerical or administrative error when transmitting a notice of payment obligations, such an error in a notice would not permanently relieve a right-of-way grant holder from its independent requirement to pay the appropriate amount for the use of the public lands as specified in the grant. No other comments were received for this section, and no changes were made to the final rule.

Section 2806.20 What is the rent for a linear right-of-way grant?

In section 2806.20, the address to obtain a current rent schedule for linear rights-of-way is updated. Also, district offices are added to State and field offices as a location where you may request a rent schedule. These minor corrections are made to provide current information to the public. No comments were received on this provision, and no changes are made from the proposed rule to it in the final rule.

Section 2806.22 When and how does the per acre rent change?

A technical change in section 2806.22 corrects the acronym IPD-GDP, referring to the Implicit Price Deflator for Gross Domestic Product. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2806.23 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

In the existing regulations, paragraph (b) of this section provides for phasing in the initial implementation of the Per Acre Rent Schedule by allowing a one-time reduction of 25 percent of the 2009 acreage rent for grant holders. This paragraph was flagged for removal in the proposed rule and is being removed by this final rule because

the phase-in for the updated rent schedule referenced in that provision ended in 2011 and thus is no longer applicable. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2806.24 How must I make payments for a linear grant?

Section 2806.24(c) explains how the BLM prorates the first year rental amount. The rule adds an option to pay rent for multiple year periods. The new language requires payment for the remaining partial year along with the first year, or multiples thereof, if proration applies. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2806.30 What are the rents for communication site rights-of-way?

Section 2806.30 is amended by removing paragraph (b), which contained the communications site rent schedule table. Paragraph (c) is redesignated as new paragraph (b). Section 2806.30(a) is revised to remove redundant language referring to the BLM communication site rights-of-way rent schedule. Section 2806.30(a)(1) is revised to update the mailing address. Section 2806.30(a)(2) is revised by removing references to the table that has been removed. This paragraph still describes the methodology for updating the schedule, but directs the reader to the BLM's website or BLM offices instead. No comments were received, and no other changes are made inform the proposed rule to the final rule.

Section 2806.34 How will BLM calculate the rent for a grant or lease authorizing a multiple-use communication facility?

Section 2806.34(b)(4) is revised to fix a citation in the existing regulations that was incorrect. No comments were received, and no other changes are made from the proposed rule to the final rule.

Section 2806.43 How does BLM calculate rent for passive reflectors and local exchange networks? and

Section 2806.44 How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses?

Sections 2806.43(a) and 2806.44(a) are each revised by changing the cross-reference from section 2806.50 to section 2806.70. Section 2806.50 is redesignated as section 2806.70, and these citations are updated to reflect this change.

Section 2806.44 is retitled from "How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses subject to the communication use rent schedule and communication uses whose rent BLM determines by other means?" to read as above. This section has been retitled to more clearly identify the content and additions made. The addition is a new introductory paragraph describing that this section applies to grants or leases. Such authorizations may include a mixture of communication uses, some of which are subject to the BLM's communication rent schedule. Such rent determinations will be made under the provisions of this section. No comments were received, and no other changes are made from the proposed rule to the final rule.

Sections 2806.50 through 2806.68 Rents and fees for solar energy rights-of-way and wind energy rights-of-way.

Sections 2806.50 through 2806.58 and sections 2806.60 through 2806.68 provide new rules for the rents and fees for solar and wind energy development, respectively. The rents and fees described in these sections, along with the bidding process, will help the BLM generally receive fair market value for the use of public lands. There are similarities between the provisions governing solar and wind energy grants and leases. For example, each type of project and authorization instrument is subject to acreage rent and MW capacity fee obligations. However, there are differences in the final rule with respect to wind and solar projects (e.g., solar energy projects assume 100% encumbrance within the project footprint, whereas wind energy projects assume 10% encumbrance). There are also differences in the way acreage rent and MW capacity fees are applied to solar energy grants versus leases. These differences are discussed in sections 2806.52 and 2806.54; wind energy grants and leases are discussed in sections 2806.62 and 2806.64, respectively. Section 2806.50 is retitled "Rents and fees for solar energy rights-of-way." The former regulation at section 2806.50 has been redesignated as section 2806.70. Section 2806.51 is added to this final rule in response to comments received regarding potential payment uncertainty.

Revised section 2806.50 requires a holder of a solar energy right-of-way authorization to pay annual rents and fees for right-of-way authorizations issued under subparts 2804 and 2809. Those right-of-way holders with authorizations issued under subpart 2804 will pay rent for a grant and those right-of-way holders with authorizations issued under subpart 2809 will pay rent for a lease. Payment obligations for both types of right-of-way authorizations now consist of an acreage rent and MW capacity fee. The acreage rent must be paid in advance, prior to the issuance of an authorization, and the

MW capacity fee will be phased-in after the start of energy generation. Both the acreage rent and MW capacity fee must be paid in advance annually during the term of the authorization. The initial acreage rent and MW capacity fee are calculated, charged, and prorated consistently with the requirements found in sections 2806.11 and 2806.12. Rent for solar authorizations vary depending on the number of acres, technology of the solar development, and whether the right-of-way authorization is a grant or lease.

The BLM received some comments that generally applied to its rental provisions of the final rule. The BLM also revised sections 2806.50 through 2806.68 to improve the readability of these sections.

Comment: One comment on the rental provisions stated that the proposed rule requires full payment immediately upon the award of an authorization. The comment suggested that payment should begin at the time infrastructure is placed in service instead at the time of award.

Response: The BLM does not require full payment immediately upon award of an authorization. Both an acreage rent and MW capacity fee are charged for solar and wind energy authorizations, but only the acreage rent is paid at the time a right-of-way is authorized. Acreage rent is charged upon the authorization of such developments as the public lands are being encumbered. The MW capacity fee may be phased-in during the term of the right-of-way as approved in the POD. This meets the concerns of the comment because the rules do not require full payment of rents and fees immediately upon authorization of a right-of-way.

Comments: Some comments stated that the BLM does not have authority to levy a MW capacity fee. These comments argued that because the Federal Government lacks

an ownership interest in sunlight or the wind, it cannot sell the rights to use them for profit (unlike the sale of Federal mineral interests at fair market value), charge a royalty against sale proceeds (unlike Federal oil and gas rights), or charge rent for the use of sunlight (unlike Federal land surface occupancy rights). Aside from the ownership issue, these commenters argued that the MW capacity fee is an inappropriate element of fair market value because it is based on the value of electricity generated and sold, rather than the value of the underlying land itself. For example, the comments pointed out, if two facilities occupy the same amount of land, but one has more efficient technology, the more efficient facility would pay more because of the additional electricity generated, not because of land rental values. The comments recommended that, for solar and wind energy generation rights-of-way, the BLM should exclusively charge rent, through a per acre rent schedule informed only by the NASS.

Response: FLPMA generally requires the BLM to obtain fair market value for the use of the public lands, including for rights-of-way. In accordance with the BLM's authority, and similar to valuation practices for solar and wind energy development on private lands, the BLM uses electrical generation capacity as a component of the value it assigns to the use of the lands by the projects. From information the BLM has been provided by industry or has otherwise collected, the BLM determined that private land owners customarily charge a "royalty," typically a percentage of the value of actual production, for the use of private land. As explained above, the BLM has elected in this final rule to charge a fee based on installed MW capacity rather than a royalty. This fee, when added to the applicable acreage rent and any minimum and bonus bids received,

ensures that the BLM will obtain an appropriate value for the use of the public lands by solar and wind energy projects.

The BLM classifies MW capacity payments as "fees" rather than "rent," because they reflect the commercial utilization value of the public's resource, above and beyond the rural or agricultural value of the land in its unimproved state. In the BLM's experience and consistent with generally accepted valuation methods, the value of the public lands for solar or wind energy generation use depends on factors other than the acreage occupied and the underlying land's unimproved value. Other key factors include the solar insolation value or wind speed and density, proximity to demand for electricity, proximity to transmission lines, and the relative absence of resource conflicts that tend to inhibit solar and wind energy development. To account for these elements of land use value that are not intrinsic to the rural value of the lands in their unimproved state, under this final rule, solar and wind right-of-way payments include "MW capacity fees" in addition to the "acreage rent" as a component of fair market value for these authorizations.

The acreage payment remains classified as "rent" under the final rule, as it is directly tied to the area of public lands encumbered by the project and the constraints the project imposes on other uses of the public lands. Electric or telephone facilities that qualify for financing under the Rural Electrification Act may be exempt from paying a "rental fee," which includes the solar or wind energy acreage rents. However, as explained in IM 2016-122, and consistent with the BLM's current practice, any such facilities must pay other costs associated with the fair market value of the land, such as the MW capacity fee, minimum bid, or bonus bid, because these other payments are

independent of the land acreage and value of the unimproved land, and therefore are not appropriately termed "rental fees."

The use of an acreage rent and MW capacity fee is also intended to encourage a developer to more efficiently use the public lands encumbered by a project. In the situation where two parcels with the same MW capacity for projects have differing technologies, the more efficient technology (and therefore the higher approved MW capacity) would be paying more in fees, but less in acreage rent for the same generation capacity as the more efficient technology would allow a developer to pay less in acreage rent to achieve the same approved MW capacity.

The BLM intends to evaluate the adequacy and impact of the provisions of this final rule after it has had an opportunity to observe how the payment requirements and rate adjustment methods put in place affect the BLM's ability to support renewable energy development and simultaneously collect fair market value from the projects it authorizes.

Section 2806.50 Rents and fees for solar energy rights-of-way.

The BLM revised section 2806.50 to include site- and project-area testing. In the proposed rule, rights-of-way for site-specific and project-area testing were allowed only for wind energy. The final rule deletes the word "wind", to make the provision generally applicable to wind or solar energy testing. This change is made in response to a comment, which will be discussed under section 2806.58 of this preamble. No other comments were received, and no other changes made to the final rule.

Section 2806.51 Scheduled Rate Adjustment

Comments: After the comment period of the proposed rule closed, the BLM continued to hold general meetings with stakeholders about the BLM's renewable energy program. In some of those meetings, stakeholders asked questions about the proposed rulemaking and clarified concerns they had raised through their written comments. Industry representatives shared additional information regarding their concerns with the proposed rule's approach to calculating annual payment requirements, including uncertainty about potential future payment requirements over the life of the right-of-way authorization. Specifically, commenters expressed concerns about the potential for NASS values in certain areas to jump significantly between surveys, resulting in unexpected and unsustainable changes in the per acre zone rates for those lands.

The BLM understands that when financing a project, developers must predict project costs, including for the construction, operation, and maintenance phases of the project. Included with these costs are expenses for land use, such as annual payment requirements of a BLM grant or lease. The BLM also understands that in some areas there is the potential for NASS land values to change significantly from one 5-year period to the next in a manner that is unpredictable, and that can result in significant acreage rent increases or decreases. For lands that experience those large changes in NASS land values, the standard rate adjustment method's periodic update to rates may create financial uncertainty. This may, in turn, complicate project financing and require a developer to pay a higher cost of capital.

Response: The BLM agrees with these comments and recognizes that increasing payment certainty over the term of the grant or lease may help facilitate project financing and even reduce financing costs. To respond to these comments and

concerns, the BLM added section 2806.51 to the final rule. This section allows a grant or lease holder to choose one of two rate adjustment methods, the "standard" rate adjustment method, or the scheduled rate adjustment method.

Under the standard rate adjustment method, which was described in the proposed rule and is now named in the final rule, the BLM will periodically reassess the rates it charges for use of the public lands and resources based on the latest NASS survey data and the applicable western hub energy prices, as well as other data discussed in greater detail in connection with section 2806.52 of this final rule.

By contrast, if the grant or lease holder chooses the scheduled rate adjustment method, the BLM will implement scheduled, predictable rate increases over the term of the grant. Under this approach, annual project costs are easily modeled, which increases the certainty as to future costs. By selecting the scheduled adjustment method a proponent would trade the potential upsides of rate adjustments pegged to a fluctuating national indicator (which may only increase slightly in a given period, or may even go down) for greater payment certainty.

Based on historical trends, the BLM expects that in some areas, the rates under the standard rate adjustment method will increase by more than they would under the scheduled rate adjustment method. However, the opposite is also true: in other areas, rates under the standard method may increase by very little, or even decrease, while rates under the scheduled rate adjustment method will increase by a fixed amount at fixed intervals. The BLM determined that it is appropriate to allow developers to choose between these rate adjustment methods, as some grant or lease holders may want to take

advantage of the possibility that NASS values could stay nearly constant or even go down, while other holders may want to increase payment certainty.

The adjustments contemplated under the scheduled rate increase are similar to the terms found in many power purchase agreements, which build in fixed annual increases. The BLM based the scheduled adjustment approach on an evaluation of market trends over the last 10 years. The trend over that period is consistent with a longer term trend showing power pricing has increased generally. The BLM believes that the scheduled rate adjustment method provides certainty for prospective developers while also ensuring that the BLM will obtain fair market value for the use of the public lands.

Paragraph (a) of this section provides that a holder may choose the standard rate adjustments for a right-of-way, which are detailed in sections 2806.52(a)(5) and 2806.52(b)(3) for grants, or 2806.54(a)(4) and 2806.54(c) for leases, or the scheduled rate adjustments for a right-of-way, which are detailed in sections 2806.52(d) for grants, or 2806.54(d) for leases. If a holder selects the standard adjustment method, the BLM will increase or decrease the per acre zone rate and MW rate for the authorization, as dictated by the specified calculation method, at fixed intervals over the term of a grant or lease. If a holder selects the scheduled rate adjustment method, the BLM will increase the per acre zone rate and MW rate by a fixed amount, described in section 2806.52(d) or 2806.54(d), respectively, at those same intervals. The BLM created the scheduled rate adjustment method using percentages and values that reflect current market conditions and trends; if, in the future, the BLM considers it necessary to revise the applicable rates in the scheduled rate adjustment provisions, it will do so via rulemaking.

Once a holder selects a rate adjustment method, the holder will not be able to change the rate adjustment method until the grant or lease is renewed. This rule clearly articulates the differences between these methods. As such, a holder will not be able to change its selection in the future, if one method proves more favorable than another during the term of the authorization. The rates paid by grant or lease holders that chose the standard adjustment approach may, in some cases, diverge from the rates paid by grant or lease holders that chose the scheduled adjustment approach. The BLM believes, however, that over the length of the grant or lease both methods will provide fair market value for the underlying authorization to use the public lands and resources.

Paragraph (b) of this section requires that a holder provide written notice to the BLM, before a grant or lease is issued, if the holder wishes to select the scheduled rate adjustment. In the absence of such a notice, the BLM will continue to use the standard rate adjustment method for the authorization.

The BLM will generally not consider a request for an alternative rate structure or terms from holders that select the scheduled rate adjustment method. The holder knows what their rates will be when selecting the scheduled rate adjustment method and is committing to those rates, understanding that they cannot change this selection. Paragraph (c) of this section explains how the final rule will affect existing grant holders. Like new grant holders, existing grant holders also have the option to choose between standard or scheduled rate adjustments. The holder of a solar or wind energy grant that is in effect prior to the effective date of this final rule may request that the BLM apply the scheduled rate adjustment to their grant, rather than the standard rate adjustment. Any such request must be received by the BLM in writing within 2 years of this rule's

publication in the Federal Register. The BLM determined that 2 years was a reasonable amount of time for grant holders to consider the benefits of the different rate adjustment methods.

For existing grant holders that choose the scheduled rate adjustment method, the BLM will apply the scheduled rate adjustment in section 2806.52(d) to the rates in effect prior to the publication of this final rule.

For existing grant holders that choose the scheduled rate adjustment method, however, the BLM will first adjust the rates in existing grants and leases upward by 20%, to account for the fact that the BLM elected not to undertake the most recent adjustment under its existing guidance because of the pendency of this rulemaking process. The scheduled rate adjustment method will then apply, resulting in fixed rate increases at set intervals thereafter.

The BLM will continue to apply the standard rate adjustments to the rates for existing grant holders unless and until written notice is received requesting the scheduled rate adjustment method. As previously mentioned, the standard rate adjustment is BLM's default method and current practice, as outlined in existing policy.

Section 2806.52 Rents and fees for solar energy development grants.

Section 2806.52 requires a grant holder to make annual payments that include the acreage rent and MW capacity fee.

Comments: Some comments expressed confusion over whether certain costs in the proposed rule were a "rent" or a "fee."

Response: The introductory paragraph for section 2806.52 in the final rule has been revised to clarify what is a "rent" and what is a "fee." "Rent" is now described as

an "acreage rent," and "fee" has been clarified as a "MW capacity fee." Paragraph (a) of this section describes the acreage rent requirements and calculation methodology, and paragraph (b) of this section describes the MW capacity fee requirements and calculation methodology.

Section 2806.52(a), "Acreage rent," describes the acreage rent payment for solar energy grants. "Acreage rent," as defined in section 2801.5, means rents assessed for solar energy development grants and leases that are determined by the number of acres authorized for the grant or lease times the per acre zone rate. Under existing policy, entities that qualify for financing under the Rural Electrification Act may be exempted from paying solar acreage rent (IM 2016-122).

Comments: Several comments were concerned about using the values set for NASS and believed that they would not apply to vacant BLM land. Comments suggested that solar and wind energy development should be appraised or assessed differently than other authorization types, such as linear rights-of-way. To determine the acreage rent for such developments following the same criteria as linear facilities would make development cost prohibitive on the public lands due to unfairly applying a linear acreage rent.

Response: In response to these comments, both sections 2806.52 and 2806.62 are revised to incorporate State-specific reductions from the baseline NASS values in the calculation of acreage rents. The proposed rule used the linear rent schedule as the basis for determining acreage rent values by proposing solar and wind acreage rent as a percentage factor of the linear rent schedule. Using a percentage factor for acreage rent

allows the BLM to adopt the linear rent calculation and effectively change the encumbrance factor to be specific for solar or wind energy.

For the final rule, the BLM has further modified the calculation used to determine acreage rent for solar and wind energy authorizations. The BLM recognizes that the NASS agricultural values may not always be a fair representation of public lands because they include the agricultural improvements (e.g., buildings, ditches, irrigation) to the land. To account for this possibility, the final rule uses the NASS agricultural values as a baseline for the determination of acreage rent, then incorporates a 20 percent or greater State-specific reduction that accounts for the extent to which the NASS values reflect agricultural improvements to land in each State. By applying these State-specific reductions to the baseline NASS values when calculating acreage rent, the BLM more accurately identifies the value of unimproved land for a project site.

The proposed rule based the acreage rent calculation on the linear rent schedule, which uses a nationwide reduction of 20 percent. In the final rule, the State-specific factors will be no less than the 20 percent reduction initially proposed for the rule, but may be greater. A more detailed discussion on how these values are calculated and a table showing the specific values for each State is found under section 2806.52(a)(2) of this preamble.

Paragraph (a)(1) summarizes how the BLM identifies a per acre zone rate using the NASS land values. Paragraph (a)(2) describes how the BLM adjusts the per acre zone rate, by 20 percent or more, to account for agricultural improvements to the lands in each State. A State with a larger calculated reduction than the minimum 20 percent may lower a particular county's acreage rent. In the case of some States, such as Utah, the State-

specific reduction that applies to unimproved agricultural land values is approximately 50 percent. This is discussed in greater detail under section 2806.52(a)(2).

Using this methodology, the BLM is able to establish a method for calculating acreage rents for solar and wind energy developments that are appropriate for the location of the development. New section 2806.52(c) is added to this final rule providing the BLM's implementation of the acreage rent and MW capacity fee for solar energy developments.

Under section 2806.52(a)(1), the acreage rent for solar energy rights-of-way is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate in effect at the time the authorization is issued. Under section 2806.52(a)(1), the initial per acre zone rate for solar energy authorizations is now established by considering four factors; the per acre zone value multiplied by the encumbrance factor multiplied by the rate of return multiplied by the annual adjustment factor. This calculation is reflected in the following formula – $A \times B \times C \times D = E$, where:

"A" is the per acre zone value, as described in the linear rent schedule in section 2806.20(c);

"B" is the encumbrance, equaling 100 percent;

"C" is the rate of return, equaling 5.27 percent;

"D" is the annual adjustment factor, equaling the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS census data becomes available; and

"E" is the annual per acre zone rate.

The BLM will adjust the per acre zone rates each year, based on the average annual change in the IPD-GDP, consistent with section 2806.22(a). Adjusted rates are effective each year on January first.

Under new section 2806.52(a)(2), counties (or other geographical areas) are assigned to a Per Acre Zone Value on the solar energy acreage rent schedule, based on the State-specific percent of the average land and building value published in the NASS Census.

The BLM currently uses an acreage rent schedule for linear rights-of-way to determine annual payments. The rent schedule separates land values into 15 different zones and establishes values for each zone ranging from $0 to $1,000,000 per acre. These values are based on the published agricultural values of the land, as determined by the NASS. Solar and wind energy acreage rents will be determined using the same zone values as linear rights-of-way. However, the BLM will use a state specific reduction when assigning lands to a zone.

The Per Acre Zone Value is a component of calculating the Per Acre Zone Rate under paragraph (a)(1) of this section. The calculation in this paragraph establishes a State-specific percent factor that represents the difference between the improved agricultural land values provided by NASS and the unimproved rangeland values that represent BLM land. This calculation is reflected in the following formula – (A/B) – (C/D) = E, where:

"A" is the NASS Census statewide average per acre value of non-irrigated acres;

"B" is the NASS Census statewide average per acre land and building value;

"C" is the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

"D" is the total statewide acres in farms; and

"E" is the State-specific percent factor or 20 percent, whichever is greater.

The county average per acre land and building values that exceed the 20 percent threshold for solar and wind energy development are as follows for BLM managed lands.

Table of State-Specific Factors and other Data for Applicable States

State	**Existing Regulations and Proposed Rule: Nationwide 20 percent factor**	**Final rule State-by-state calculated factor**	**Final Rule State-specific factor**
Alaska	20%	12%	20%
Arizona	20%	49%	49%
California	20%	51%	51%
Colorado	20%	24%	24%
Idaho	20%	29%	29%
Montana	20%	12%	20%
Nevada	20%	16%	20%
New Mexico	20%	24%	24%
North Dakota	20%	5%	20%
South Dakota	20%	5%	20%
Oregon	20%	2%	20%
Texas	20%	-1%	20%

Utah	20%	54%	54%
Washington	20%	21%	21%
Wyoming	20%	16%	20%
Average	20%	21%	27%

Assignment of counties example: This example uses the zone numbers and values of the acreage rent schedule to assign Clark County, Nevada, to the appropriate zone. Current NASS land values for Clark County are $5,611 per acre. The state-specific factor for Nevada is 16 percent, which is less than the 20 percent minimum established in this rule. Therefore, the BLM applied a 20 percent reduction to the NASS land values, which results in a per acre value of $4,489. Based on this, Clark County is assigned to zone 7 (counties with zone values between $3,394.01 and $4,746 per acre). For the purposes of calculating the acreage rent, the BLM will use the value for zone 7, which is $4,746 per acre.

The following paragraph is an acreage rent example describing the acreage rent for solar energy development.

Acreage rent example: The 2016 acreage rent for a 4,000 acre solar energy development in Clark County Nevada (zone 7) would be $ 1,021,480 (4,000 acres × $255.37 per acre). Please note that the acreage rent calculation rounds the per acre dollar amount for the county to the nearest cent. In this example ($4,746/acre × 100% × 5.27% × 1.021%) is rounded to $255.37 per acre.

As specified in new section 2806.52(a)(3), the initial assignment of counties to the zones on the solar energy acreage rent schedule is based upon the NASS Census data from 2012 and is established for year 2016 through 2020. Subsequent reassignments of

counties will occur every 5 years following the publication of the NASS Census as is described in section 2806.21.

Comment: The BLM received comments expressing concern that the assignment of some counties or regions to zones on the solar acreage rent schedule may not accurately reflect the value of those lands.

Response: The BLM recognizes that it may be necessary to adjust the initial assignment of counties to zones on the solar energy acreage rent schedule. Section 2806.52(a)(3) of the final rule is revised to clarify that the BLM may, on its own initiative or in response to requests, adjust initial NASS survey data-based county assignments on a regional basis if it determines that assignments based solely on NASS data do not accurately reflect the values of the BLM lands in question. A similar clarification was made to section 2806.62(a)(3).

Section 2806.52(a)(4) requires acreage rent payments each year, regardless of the stage of development or status of operations of a grant. Acreage rent must be paid for the public land acreage described in the right-of-way grant prior to issuance of the grant and prior to the start of each subsequent year of the authorized term. There is no phase-in period for acreage rent, which must be paid annually and in full upon issuance of the grant. In the event of undue hardship, a rent payment plan may be requested and approved by a BLM State director, consistent with section 2806.15(c), so long as such a plan is in the public interest.

Section 2806.52(a)(5) states that the BLM will adjust the per acre zone rates each year based on the average annual change in the IPD–GDP as determined under section 2806.22(a). The acreage rent also will adjust each year for solar energy development

grants issued under subpart 2804. The BLM will use the most current per acre zone rates to calculate the acreage rent for each year of the grant term, unless the holder selects the scheduled rate adjustment method under section 2806.52(d). The acreage rent for a solar energy development lease is adjusted under section 2806.54(a)(4).

This paragraph is revised in the final rule by removing "for authorizations outside of designated leasing areas, the BLM…" from the first sentence and replacing it with "We." This edit is consistent with the acreage rent adjustment provision for wind energy (see section 2806.62(b)(5)). It is necessary because the BLM may issue a grant inside a DLA in some situations (see section 2809.19) and the proposed section would have been inaccurate. This paragraph is also revised in the final rule by including the reference to the scheduled rate adjustment option, as described in section 2806.51 of this preamble.

Section 2806.52(a)(6) explains where you may obtain a copy of the current per acre zone rates for solar energy development (solar energy acreage rent schedule) from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M St, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. This paragraph is added so the public is aware of where to obtain a copy of the solar energy acreage rent schedule described under this section. The BLM also posts the solar energy acreage rent schedule online at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

Section 2806.52(b), "MW capacity fee," describes the components used to calculate this fee. Paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) explain the MW rate, MW rate schedule, adjustments to the MW rate, and the phase-in of the MW rate. As explained in IM 2016-122, electric and telephone facilities that qualify for financing

under the Rural Electrification Act must pay the MW capacity fee and other payments required under this rule, except the acreage rent.

Comments: Some comments noted uncertainty regarding the meaning or definition of words in the proposed rule, such as "MW capacity fee" and its component parts of the MW rate, MW hour price, net capacity factor, and rate of return.

Response: The BLM acknowledges that this rule introduces a number of new terms and concepts. The BLM attempted to clearly define these terms in section 2801.5(b). Some of the terminology is similar as some terms relate to the same general subject matter (e.g., MW capacity fee and MW rate). The BLM has revised the regulations and provided additional discussion in the preamble to help facilitate a better understanding of the rule and its requirements. For example, a more specific citation is provided in section 2806.52(b)(1) and other locations in the final rule to help readers better locate and understand the terms of the final rule. These revisions and terms are discussed in greater detail throughout the preamble for sections 2806.50 through 2806.68.

The MW capacity fee, as defined in section 2801.5(b), refers to payment, in addition to the acreage rent, for solar energy development grants and leases based on the approved MW capacity of the solar energy authorization. The MW capacity fee is the total authorized MW capacity approved by the BLM for a project**,** or an approved stage of development, multiplied by the appropriate MW rate. The MW capacity fee is prorated and must be paid for the first partial calendar year in which generation of electricity starts or when identified within an approved POD. This fee captures the increased value of the right-of-way for the particular solar-or wind-project use, above the limited rural or agricultural land value captured by the acreage rent. The MW capacity

fee will vary, depending on the size and type of solar project and technology and whether the solar energy right-of-way authorization is a grant (issued under subpart 2804) or a lease (issued under subpart 2809). The MW capacity fee is paid annually either when electricity generation begins, or as otherwise stated in the approved POD, whichever comes first. If electricity generation does not begin on or before the time approved in the POD, the BLM will begin charging a MW capacity fee at the time identified in the POD.

The POD submitted to the BLM by the right-of-way applicant must identify the stages of development for the solar or wind energy project's energy generation, including the time by which energy generation is projected to begin. The BLM will generally allow up to three development stages for a solar energy project. As the facility becomes operational, the approved MW capacity will increase as described in the POD. These stages are part of the approved POD and allow the BLM to enforce the diligence requirements associated with the grant.

Comments: Other comments suggested that a bid could include an alternative payment structure to the BLM over the life of the project. This alternative payment structure would replace the acreage rent and MW capacity fee described in this final rule. The comments further suggested that the BLM reduce costs to developers by eliminating the MW capacity fee, conducting regional mitigation planning for DLAs, and performing a majority of the work necessary for the NEPA and Section 7 (endangered species) reviews early in the process inside DLAs.

Response: As explained elsewhere in this preamble, the BLM has determined that the rule's multi-component payment structure, involving both an "acreage rent" and "MW capacity fee" constitute the full fair market value for the use of the public lands by

a wind and solar energy project. An alternative payment structure may not provide a fair return for the use of the public lands, and therefore, would be inconsistent with the BLM's obligations under FLPMA. The rule's structure is consistent with existing policy. That said, the final rule does allow the BLM to establish alternate fiscal terms for an individual project or region upon sufficient showing by an applicant that such alternative terms are justified. These alternative terms, if approved by the BLM, would be used in lieu of the default terms established by the rule inside and outside of designated leasing areas.

Under the rule's multi-component structure, the "acreage rent" represents the value of the raw undeveloped land, while the MW capacity fee represents the value for this particular commercial use of the public lands above and beyond the rural or agricultural value of the land in its unimproved state. Both are necessary components of obtaining the fair market value for the use of the public lands for wind and solar energy development. As explained above, this multi-component structure bears similarities to private land leases, which typically involve a land rent and royalty rate.

As suggested by the comments, the BLM does perform a majority of the work up front for the NEPA and Section 7 compliance processes for right-of-way leases inside DLAs. Mitigation work and costs may be identified in some cases before a competitive process occurs, such as in Dry Lake Valley solar energy zone in Nevada. The BLM held a competitive process in 2014 and reached a decision within 10 months of the auction. This was less than half the time it generally takes to process the project applications.

The BLM had great success in the Dry Lake Valley solar auction, at least in part, because there was a regional mitigation strategy in place. However, there may be

instances in the future where a mitigation strategy is not appropriate or necessary. The BLM will not include a requirement for mitigation strategies in this final rule, but will be consistent with its interim policy guidance for offsite mitigation (IM 2013-142).

Comments: Some comments argue that the value of land for purposes of renewable energy development should be determined exclusively by MW capacity fees or by fees based on the number of MWs actually produced and delivered, not by the right-of-way's acreage value.

Response: Under the final rule, the BLM does not calculate annual charges for solar and wind energy development by using only a MW capacity fee, as suggested by the comments. The BLM has determined that requiring an acreage rent and MW capacity fee is the best method, consistent with applicable legal authorities, for determining the appropriate value of a solar or wind energy development right-of-way. The BLM also notes that the MW capacity fee and acreage rent in the final rule have been discounted from comparable costs that are typically charged in the private sector to account for the cost to comply with the terms and conditions of the BLM's authorization (bonding, due diligence, etc.).

Comments: A comment suggested that the BLM treat solar and wind energy technologies the same when setting acreage rents and MW capacity fees. Another comment suggested that the BLM give additional consideration to the use of energy storage technologies when setting acreage rents and MW capacity fees.

Response: In the BLM's examination of the different energy generation technologies it was determined that some technologies, such as CSP, are generally more efficient (i.e., generate more energy using the same amount of sunlight) than other

technology types and often require that the site selected for development include certain specific characteristics, such as limited grade. This is evidenced by the average efficiencies of the various solar technologies as reflected in the capacity factors on the EIA's website. Since the efficiencies of PV and CSP technologies are inherent to the technologies and are, in part, related to the particular conditions of the land to be used, the BLM maintained this distinction in the final rule and did not implement the comment's suggestion on limiting the various solar technology MW capacity fees to a single non-distinct fee.

The BLM did reconsider how it considers storage when charging a MW capacity fee. The BLM will maintain the proposed net capacity factor for CSP with storage capacity of 3 hours or more. CSP is a technology which is generally engineered with storage, which increases the efficiency, but decreases overall net capacity. The BLM is confident, based on its experience, that this is the appropriate net capacity factor for this technology based on the technology currently deployed and available information.

However, the BLM does recognize that storage could have implications for other technology types as well. Based upon the premise that storage increases the efficiency of a project, the BLM requested that the National Renewable Energy Laboratory (NREL) provide a report on the status of energy storage in the United States. The BLM hoped to use this report to establish in the regulations an appropriate methodology for determining the value of storage for solar and wind projects on public lands. However, NREL's report noted that energy storage is an emerging and rapidly growing market, so there is not enough empirical data and commercial experience on storage to support an accurate calculation for valuing storage. Therefore, the BLM determined that it would be

premature to add energy storage values to the regulations at this time beyond the one provided for CSP with 3 hours of storage.

In this final rule, the BLM adds a new sentence under the definition of MW rate to explain that in the future, the BLM may establish a different net capacity factor on a case-by-case basis, such as when a project uses storage, and the BLM determines that the efficiency rating varies from the established net capacity factors in this final rule. For example, if a wind energy project includes storage in its design, the BLM may determine an appropriate net capacity factor for that project.

Section 2806.52(b)(1) identifies the "MW rate" as a formula that is the product of four components: The hours per year, multiplied by the net capacity factor, multiplied by the MWh price, multiplied by the rate of return. This can be represented by the following equation: MW Rate = H (8,760 hrs.) × N (net capacity factor) × MWh (Megawatt Hour price) × R (rate of return). The components of this formula are discussed here at greater length.

Hours per year. This component of the MW rate formula is the fixed number of hours in a year (8,760). The BLM uses this number of hours per year for both standard and leap years.

Net capacity factor. The net capacity factor is the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. A net capacity factor is used to identify the efficiency at which a project operates. The net capacity factor is influenced by several common factors such as geographic location and topography and the technology employed. Other factors can influence a project's net capacity factor. For

example, placement of a solar panel in the direction that captures the most sun may increase the efficiency at which a project operates. These other factors tend to be specifically related to a project and its design and layout. An increase in the net capacity factor is most readily seen when a developer sites a project geographically for the energy source they are seeking and utilizes the best technology for harnessing the power. An example of this is placing wind turbines in a steady wind speed location using a wind turbine designed for optimal performance at those wind speeds.

The efficiency rates may vary by location for each specific project, but the BLM will use the national average for each technology. Efficiency rates for solar and wind energy technology can be found in the market reports provided by the Department of Energy through its Lawrence Berkeley National Laboratory. For solar energy see "Utility-Scale Solar 2012" at http://emp.lbl.gov/sites/all/files/lbnl-6408e_0.pdf and for wind energy, please see "2012 Wind Technologies Market Report" at http://emp.lbl.gov/sites/all/files/lbnl-6356e.pdf. This rule establishes the net capacity factor for each technology as follows:

Technology Type	Net Capacity Factor
Photovoltaic (PV)	20 percent
Concentrated Photovoltaic (CPV) or Concentrated Solar Power (CSP)	25 percent
CSP w/Storage Capacity of 3 Hours or More	30 percent
Wind Energy	35 percent

As previously discussed in this preamble, the BLM has revised the proposed description of net capacity factor in this final rule. This final rule maintains the proposed net capacity factor for CSP with storage capacity of 3 hours or more at 30 percent. The

BLM adds in this final rule a description of the net capacity factor in the definition recognizing that as technology evolves, the BLM may determine a net capacity factor for a specific project on a case-by-case basis in the future, as appropriate. This will better allow the BLM to receive fair market value payment for use of the public lands in the rapidly changing storage market.

The BLM intends to periodically review the efficiency factors for the various solar and wind technologies.

In the proposed rule, the BLM considered basing the net capacity factors for these technologies on an average of the annual capacity factors listed by the EIA. The EIA posts an average of the capacity factors on its Web site at http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_6_07_b. However, the BLM decided not to go forward with this provision and removed it from the final rule because those annual capacity factors are not reviewed or confirmed by technical experts, such as those at the National Laboratories, and therefore, they are not a sufficiently reliable source of information on which to base the net capacity factor. Further, EIA may not continue to maintain and update this information in the future, and therefore, it may not be a viable source of information in the future.

MWh price. This component of the MW rate formula is the full 5 calendar-year average of the annual weighted average wholesale prices of electricity per MWh for the major trading hubs serving the 11 Western States of the continental United States. This wholesale price of the trading hubs is the price paid for energy on the open market between power purchasers and is an indication of current pricing for the purchase of power. Several comments were submitted concerning the MWh price.

Comment: One comment suggested that this component not be rounded to the nearest half cent.

Response: The BLM proposed to round the MWh price to the nearest 5-dollar increment. In other portions of the regulations the BLM rounds to the nearest cent. The proposed rule was explicit that the MWh price would be rounded to the nearest 5-dollar increment, but the final rule has been adjusted to round the MWh price to the nearest dollar increment. Rounding to the nearest dollar increment is consistent with current BLM practices for calculating annual payments. The BLM declined, however, to adopt the commenter's suggestion and round to the nearest half cent, because the MWh price is an estimated 5-year average of wholesale prices. Providing a more specific calculated MWh price could give a false precision to the actual rates provided by the BLM.

Comment: Another comment stated that we should not rely on the ICE trading hub as our source for data. Relying on a single vendor for determining the MWh price may lead to inaccurate fees if the vendor's data is inaccurate. There are other vendors that have current data available for the major trading hubs in the West as well.

Response: The proposed rule identified the ICE as the source of data to be used in calculating the MWh price. However, the final rule is revised to remove ICE as the only source of the major trading hub data in section 2806.52(b)(3)(i). Removing the specific source of data from the final rule is consistent with the proposed rule, in that the BLM has indicated that other sources may be used in the future should ICE stop providing such data. Furthermore, since publication of the proposed rule, the BLM became aware that the ICE no longer provides such market data for free to the public, but now offers these data under a paid subscription. Future updates to the MWh price may

use ICE or other similar purveyors of market data to determine the major trading hubs and the wholesale market prices of electricity. Under this final rule, the BLM is using market data from SNL Financial to calculate the 5-year average of the annual weighted average wholesale price per MWh.

Comments: Several comments requested an update of the MWh price and stated that any update being made should include language to identify the most recent full calendar year data and to remove the uncertainty of how the BLM will determine the most recent 5-year data with future updates. Commenters further indicated that the data used in calculating the MWh price were skewed to numbers higher than the true recent market average since market pricing for the year 2008 were much higher than the years preceding or following it.

Response: The BLM understands the concern regarding the intent to establish the MWh price using current market data. In the proposed rule, market data from calendar years 2008 through 2012 were used to determine the MWh price. In the final rule section 2806.52(b)(3)(i), the BLM updated the MWh price to reflect the most recent full 5 calendar-year data (that is, data from 2010-2014) from the major trading hubs located in the West.

In addition, the BLM adjusted provisions governing revisions to the MWh price to account for the fact that under section 2806.50, the BLM bills customers in advance for the following year. Specifically, the BLM revised the final rule so that the next update to the MWh price will occur for 2021, not 2020. This will allow the BLM to set the new price during 2020 using the most current market data for the previous five full years (2015-2019) without using the 2014 data twice. Market data for 2019 are not

expected to be available until early 2020. Once data are available, the BLM will calculate the new, 2021-2025 MW capacity fee using the full five calendar-year average of the market data for 2015-2019, and notify existing right-of-way holders of the new fee.

In addition to using years 2010 through 2014 in calculating the MWh price, and adjusting the provisions governing revisions to that price, the BLM also revised the final rule to require that the MWh price be rounded to the nearest dollar increment, as opposed to the proposed rule's approach of rounding up to the nearest five-dollar increment. The BLM made this change to avoid imposing a surcharge due solely to rounding. The BLM found that at the current MWh price, rounding to the nearest five-dollar increment could impose a surcharge of up to 5 percent, or $158 per MW of project capacity. Rounding to the nearest dollar increment will limit the surcharge without implying false precision.

Note that the current MW rate is $38 per MWh as calculated using wholesale market data from SNL Financial for the major trading hubs in the west. The calculation for the MWh price is described in more detail in following paragraphs with a table provided showing the averages for the trading hubs used in the calculation.

When calculating the MWh price, the BLM used the yearly average value for each of the major trading hubs that cover the BLM public lands in the West. The BLM then calculated the overall annual average yearly hub value for each of the years 2010-2014, and then averaged these five annual values to establish the MWh price. The average of the five annual average values for 2010 through 2014 is $38.07, so the BLM set the MWh price at $38.00.

Year	Mid-Columbia Hub	Palo-verde Hub	Four Corners Hub	Mead Hub	SP15-EZ CA Hub*	NP15 Hub	CA-OR Border Hub	West US	Avg.
2010	$35.86	$38.79	$40.13	$40.07	$39.86	$39.81	$38.80	$39.05	$39.05
2011	$29.48	$36.43	$36.66	$37.02	$36.78	$36.00	$32.93	$35.04	$35.04
2012	$22.90	$29.68	$30.59	$30.87	$34.86	$32.03	$27.09	$29.72	$29.72
2013	$37.59	$37.66	-	$39.84	$48.34	$43.97	$40.19	$41.27	$41.27
2014	$38.67	$42.42	-	$44.84	$51.13	$51.06	$43.48	$45.27	$45.27
2010-2015 Avg.									**$38.07**

Rate of return. The rate of return component used in the MW rate schedule reflects the relationship of income (to the property owner) to revenue generated from authorized solar or wind energy development facilities on the encumbered property. A rate of return for the developed land can range from 2 to 12 percent, but is typically around 5 percent, as identified in the appraisal consultation report completed by the Office of Valuation Services. These rates take into account certain risk considerations, i.e., the possibility of not receiving or losing future income benefits, and do not normally include an allowance for inflation.

An applicant seeking a right-of-way from the BLM must show that it is financially able to construct and operate the facility. In addition, the BLM may require surety or performance bonds from the holder to facilitate compliance with the terms and conditions of the authorization, including any payment obligations. This reduces the BLM's risk and should allow the BLM to use a "safe rate" of return, i.e., the prevailing rate on guaranteed government securities that includes an allowance for inflation. The BLM has established a rate of return that adjusts every 5 years to reflect the preceding

10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-tenth percent, with a minimum rate of 4 percent. Applying this criterion, the initial rate of return is 4 and 3 tenths percent (the 10-year average of the 20-year U.S. Treasury bond yield (4.32 percent), rounded to the nearest one-tenth percent).

This final rule is revised to round the rate of return to the nearest one-tenth percent to address a commenter's concern that BLM's usual rounding convention (rounding to the nearest one half percent) could result in rate jumps due only to rounding; rounding to the nearest one-tenth percent will limit the change in BLM's rates without giving a false impression of precision.

As provided under paragraph (b)(2) of this section, the MW rate schedule is made available to the public in the MW rate schedule for Solar and Wind Energy Development. The current MW rate schedule is available to the public at any BLM office, via mail by request, or at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

MW Rate Schedule for Solar and Wind Energy Development (2016-2020)

Type of Energy Technology	Hours per Year	Net Capacity Factor	MWh Price	Rate of Return	MW Rate 2016 - 2020
Solar - Photovoltaic (PV)	8,760	0.20	$38	0.043	$2,863
Solar - Concentrated photovoltaic (CPV) and concentrated solar power (CSP)	8,760	0.25	$38	0.043	$3,578
CSP with storage capacity of 3 hours or more	8,760	0.30	$38	0.043	$4,294
Wind – All technologies	8,760	0.35	$38	0.043	$5,010

For lease holders that choose the standard rate adjustment method, the periodic adjustments in the MW rate are discussed in connection with section 2806.52(b)(3).

Under that section, adjustments to the MW rate will occur every 5 years, beginning with the 2021 rate, by recalculating the MWh price and rate of return, as provided in paragraphs 2806.52(b)(3)(i) and (ii), respectively

Section 2806.52(b)(3)(i) requires that the MW rate be adjusted using the full 5 calendar-year average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States. The next update for the MW rate will use years 2015 through 2019, rounded to the nearest dollar increment. Following this methodology, the resulting MWh price will be used to determine the MW rate for each subsequent 5-year interval. The availability of data to establish the MWh price is described in this preamble in the discussion of the definition of MWh price, a component of the MW rate in section 2801.5(b).

As noted above, section 2806.52(b)(3)(ii) provides that when adjusting the rate of return, the BLM will use the 10-year average of the 20-year U.S. Treasury bond yield for the full 10 calendar-year period preceding the rate of return adjustment. The rate of return is rounded to the nearest one-tenth percent, and must be no less than 4 percent. In the final rule, the rate of return was calculated using years 2003 through 2012 of the 20-year U.S. Treasury bond yield (4.32 percent), rounded to the nearest one-tenth percent (4.3 percent). The rate of 4.3 percent will be used for calendar years 2016 through 2020. The rate of return will be recalculated every 5 years beginning in 2020, by determining the 10-year average of the 20-year U.S. Treasury bond yield for the previous ten calendar years (2010 through 2019, for 2020) rounded to the nearest one-tenth percent. The resulting rate of return, if not less than 4 percent, will be used to determine the MW rate for calendar years 2020 through 2024, and so forth. The 20-year U.S. Treasury bond

yields are tracked daily and are accessible at http://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=longtermrateAll.

To allow for a reasonable and diligent testing and operational period, under section 2806.52(b)(4)(i), the BLM will provide for a 3-year phase-in of the MW capacity fee for solar energy development grants issued under subpart 2804 of 25 percent for the first year, 50 percent the second year, and 100 percent the third and subsequent years of operations. The first year is the first partial calendar year of operations and the second year is the first full year. For example, if a facility begins producing electricity in June 2016, 25 percent of the capacity fee would be assessed for July through December of 2016 and 50 percent of the capacity fee would be assessed for January through December of 2017. One hundred percent would be assessed thereafter.

This BLM will apply the phase-in after electricity generation begins, or is scheduled to begin in the approved POD, whichever comes first. The proposed rule stated that the BLM would apply the phase-in "…after the generation of electricity starts." The BLM revised section 2806.52(b)(4)(i), from the proposed to final rule, for consistency with other sections, including 2806.52(b). The BLM made a corresponding revision to section 2806.62(b)(4)(i).

Under section 2806.52(b)(4)(ii), this rule explains the staged development of a right-of-way. Such staged development, consistent with the rule in section 2805.12(c)(3)(iii), can have no more than three development stages, unless the BLM approves in advance additional development stages. The 3-year phase-in of the MW rate applies individually to each stage of the solar development. The MW capacity fee is calculated using the authorized MW capacity approved for that stage multiplied by the

MW rate for that year of the phase-in, plus any previously approved stages multiplied by the MW rate.

Section 2806.52(b)(5) is added to this final rule to explain that the general payment provisions of subpart 2806, except for section 2804.14(a)(4), apply to the MW capacity fee. For example, section 2806.12 explains when and where a grant holder must pay rent. These requirements would also apply to the MW capacity fee. Although the MW capacity fee is charged to reflect the commercial utilization value of the public's resource, it is an annual payment required to the BLM and these general payment provisions will apply.

The final rule specifies that section 2804.14(a)(4) does not apply to the MW capacity fee. As explained in IM 2016-122, the MW capacity fee is not a rental fee, and therefore must be paid by electric and telephone facilities that qualify for financing under the Rural Electrification Act. A new section (see section 2806.62(b)(4)) that parallels this requirement is added into the wind energy provisions for consistency.

Section 2806.52(c) is included in the final rule in support of revisions the BLM has made to charge fairly for the use of solar and wind energy authorizations. See the comment discussion under section 2806.52(a) for further information.

Section 2806.52(c) describes how the BLM will reduce the acreage rent and the MW capacity fee. The BLM will compare the total annual payment of the acreage rent and MW capacity fee for 2017 to the base rent and MW capacity fee currently established by policy for the 2016 billing year. Any net increase in costs to a right-of-way holder will be reduced by 50 percent for the 2017 billing year. This one-year reduction is intended to ease the transition for grant holders from the current policies to this final rule.

If 2017 is the first year for which you make an annual payment, the phase-in described under section 2806.52(b)(4) will apply without the BLM implementation reduction of 50 percent. The rates established by policy will remain in effect until 2017 for rights-of-way that are not issued under subpart 2809 of this final rule in order to provide notice of the adjusted rent and fees to existing holders.

Section 2806.52(d) is added to this final rule to establish the method by which the BLM will perform scheduled rate adjustments for solar and wind energy grants. In order for scheduled rate adjustments to be applied to a grant, a grant holder must have selected the scheduled rate adjustment method and notified the BLM, as provided in section 2806.51 of the final rule.

Paragraph 2806.52(d)(1) specifies which rates will be used initially for the scheduled rate adjustments. For new grants, the BLM will use the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) in place when your grant is issued. For existing grants that are in place prior to the publication of this final rule, the BLM will use the per acre zone rate and MW rate in place prior to this rule's publication, as adjusted in paragraph (d)(6) of this section and discussed further in corresponding section 2806.52(d)(6) of this preamble.

Paragraph 2806.52(d)(2) specifies that the per acre zone rate will be adjusted in two ways: annually, the rate will adjust upward by the current average change in the IPD-GDP, as described in § 2806.22(b); and every five years, the rate will adjust upward by an additional 20 percent. In other words, under the scheduled rate adjustment method, per acre zone rates will be adjusted in years 1 through 5 by the IPD-GDP; in year 6, the BLM will apply a 20 percent increase to the year-5 rate. The same two-part adjustment

process will then repeat itself in years 6-10 (IPD-GDP) and year 11 (20%); years 11-15 (IPD-GDP) and year 16 (20%); years 16-20 (IPD-GDP) and year 21 (20%); years 21-25 (IPD-GDP) and year 26 (20%); and finally, years 26-30 (IPD-GDP). If the grant is renewed, the rates in place at the time of renewal, as identified in section 2806.52(d)(1), will be used to establish the initial rates for the term of the renewed right-of-way.

As explained previously in connection with section 2806.51, the BLM developed the scheduled rate adjustment method in response to concerns that NASS values in certain areas have the potential to jump significantly. To address this concern while ensuring the BLM obtains fair market value for these uses of the public lands, the BLM reviewed changes in national per acre land values in NASS and determined that making fixed rate adjustments of 20 percent every 5 years would reflect historical trends.

The BLM reached this conclusion as follows. The NASS values are released every 5 years, reflecting the increases and decreases in land values. Over a period of 10 years, land values could change drastically in some counties, but the national and western state average changes in land values over the 10-year period from 2003 and ending 2012 were an 80 percent and a 65 percent increase, respectively. For the BLM lands in the west, the range in land value changes were increases of 33 to 253 percent. The BLM determined from these findings that the scheduled rate adjustment method, including both the annual IPD-GDP adjustment and the every-five-year scheduled adjustment, should target an upwards adjustment of about 60 percent for every 10 year period.

To achieve this outcome, over the term of a grant, the BLM will make five 20-percent adjustments to the per acre zone rates, in years 6, 11, 16, 21, and 26. Compounded, these five 20-percent adjustments will result in a 150 percent increase in

the per acre zone rate over the 30-year life of the grant (on top of whatever increases are dictated by the annual change in IPD-GDP). This adjustment is within the identified historic range of changes in land values from NASS, which reflect a change between 99 and 759 percent over a 30-year period, and is also in line with industry's recommended rate increase of 4 percent per year (which amounts to 324 percent over a 30 year period, if compounded annually).

Paragraph 2806.52(d)(3) specifies that the MW rate will also increase by 20 percent every 5 years. The BLM reviewed national changes in power pricing since 1960 and determined that adjusting the MW rate by 20 percent every 5 years is appropriate. Since 1960, power pricing has increased by over 450 percent, but over the last 30 years, it has increased approximately 90 percent. Pricing trends show that power pricing seldom drops on an annual basis. The BLM will make 5 20-percent adjustments to the MW rate, which amounts to a 150 percent increase when compounded over the 30-year life of the grant. This 150 percent adjustment is in line with the 4 percent annual rate increase indicated by industry representatives. It is also in line with historical changes in power prices.

Paragraph 2806.52(d)(4) makes it clear that the scheduled rate adjustment option will enter into effect in year 1 of the rule, for both the acreage rent and MW capacity fee. The phase-in (see section 2806.52(b)(4)) and initial implementation (see section 2806.52(c)) sections apply only for grants to which the standard rate adjustment applies. Grant holders that select the scheduled rate adjustment method choose a defined payment stream over the variable rates that may be applied with the standard rate adjustment method. As such, phase-ins are not included with the scheduled rate adjustment method.

Paragraph 2806.52(d)(5) explains that if the approved POD provides for staged development of the project, the BLM will calculate the MW capacity fee in each year using the MW capacity approved for that stage.

Paragraph 2806.52(d)(6) specifies that the existing rates for grant holders that select the scheduled rate adjustment method will be adjusted for year 1. The adjustment reflects the fact that, due to this rulemaking process, the BLM did not make the rate adjustments called for under existing policy in either 2008 (for wind energy) or 2010 (for solar energy). If the BLM does not update the rates for existing grant holders as specified in this section, it could be as long as 12 years between rate updates. Accordingly, in year 1 of this rule, the BLM will increase the per acre zone rate for these grant holders by 20 percent plus the annual change in the IPD-GDP, as described in § 2806.22(b), and increase the MW rate by 20 percent. The scheduled rate adjustments will then be based off of these adjusted, year-1 rates.

No additional comments were received, nor were other changes made to this section of the final rule, except for minor changes to improve readability.

Section 2806.54 Rents and fees for solar energy development leases.

The title of this section is revised by removing "inside designated leasing areas." In conjunction with a previous comment, the BLM has made various edits to the final rule to improve readability. The difference between grants and leases is explained earlier in this preamble, so this language is unnecessary and potentially confusing.

The introductory paragraph to section 2806.54 requires a holder of a solar energy lease obtained through the competitive process under subpart 2809 to pay an annual acreage rent and MW capacity fee. The first-year of acreage rent must be paid in

advance, prior to BLM's issuance of a lease, and the MW capacity fee will be phased-in and calculated based on the total authorized MW capacity of the solar energy development. Rents or fees for solar authorizations will vary depending on the number of acres, technology employed by the solar development, and whether the right-of-way authorization is a grant or lease.

There are many similarities in the rent and MW capacity fee for leases and grants for solar development. This section references the rent and MW capacity fee of grants under subpart 2804, as appropriate, and provides further discussion on how the rent MW capacity fee for a lease differs from that of a grant. Unlike grants, leases issued under subpart 2809 will be charged the full amount of the acreage rent and MW capacity fee schedules once this final rule is effective as there are no existing solar energy development leases. Although the BLM held a competitive offer relating to solar energy development in the Dry Lake SEZ, the successful bidders submitted applications and received right-of-way grants.

Paragraph (a) of this section identifies the acreage rent for a solar lease, which will be calculated in the same way as acreage rent for solar grants outside a DLA (see section 2806.52(a)). The acreage rent for the first year of a lease must be calculated and paid prior to BLM's issuance of a lease. Zone rates and payment of the acreage rent are the same for leases as they are for grants. For the per acre zone rates, see section 2806.52(a)(1). For the assignment of counties, see sections 2806.52(a)(2) and 2806.52(a)(3). For the acreage rent payment, see section 2806.52(a)(4).

Consistent with other revisions in this final rule, the BLM added "This acreage rent will be based on the following:" at the end of paragraph 2806.54(a). This revision

makes it clear that the following paragraphs will be the basis for BLM's acreage rent for leases in DLAs.

Section 2806.54(a)(4) describes the adjustments to the acreage rent that may be made for a lease. Once an acreage rent is determined for a lease under paragraph (a) of this section, any adjustments in the annual acreage rent will be made at 10-year intervals thereafter – the first adjustment would be made in year 11 of the lease term and the next in year 21. During the 10-year periods, the acreage rent for a lease will remain constant and not be adjusted.

The BLM will, however, adjust the per acre zone rates of the acreage rent schedule each year based on the average annual change in the IPD–GDP, as described in section 2806.22(a). This annual adjustment will not be applied to the acreage rent payments for a lease until the next 10-year interval, where the payment will be recalculated using the current acreage rent schedule. The BLM will use the most current per acre zone rates to calculate the acreage rent when first determining a new lease's acreage rent or when recalculating the acreage rent for the next 10-year period of a lease, unless the holder selected the scheduled rate adjustment method under section 2806.54(d).

Section 2806.54(b) identifies the MW capacity fee for solar development leases, which will be calculated in the same way as the MW capacity fee for solar grants outside of a DLA. The phase-in of the MW capacity fee is different from grants. For an explanation of when the BLM requires payment of the MW capacity fee, see section 2806.52(b). For the MW rate, see section 2806.52(b)(1). For the MW rate schedule, see

section 2806.52(b)(2). For periodic adjustments in the MW rate, see section 2806.52(b)(3).

Reference to section 2806.52(b) has been added to the final rule. In conjunction with a previous comment, the BLM has made various edits to the final rule to improve readability. The BLM has explained when and how it will require payment and adding this specific citation will make this section more understandable.

Section 2806.54(c) describes the MW rate phase-in for solar energy development leases. Unless the holder selected the scheduled rate adjustment method under section 2806.54(d), the MW rate in effect at the time the lease is issued will be used for the first 20 years of the lease. The MW rate in effect in year 21 of the lease will be used for years 21–30 of the lease.

In order to improve readability in this section, the BLM provided a more specific citation to section 2806.52(b)(2). This should help direct the reader to the appropriate section of this final rule.

Section 2806.54(c)(1) provides for a 10-year phase-in of the MW capacity fee, plus the initial partial year, if any. For the first ten years of a lease, the MW capacity fee is calculated by multiplying the authorized MW capacity by 50 percent of the MW rate for the applicable type of solar technology employed by the project. The MW rate schedule is provided for under section 2806.52(b)(2). The phase-in applies to the MW rate for either solar or wind energy leases (see section 2806.64(c)).

Section 2806.54(c)(2) applies to the MW rate phase-in for years 11 through 20 of a lease. The MW capacity fee for years 11 through 20 will be calculated by multiplying the MW capacity by 100 percent of the MW rate.

Section 2806.54(c)(3) applies to the MW rate for years 21 through 30 of a lease. The MW capacity fee for years 21 through 30 will be calculated by multiplying the MW capacity by 100 percent of the MW rate. If the POD requires that electricity generation will begin after year 10 of the lease, the MW capacity fee will be calculated using section 2806.54(c)(2) or 2806.54(c)(3), as appropriate.

Comments: Some comments suggested establishing a low cost payment structure, which is different from that proposed. The suggested payment structure would include a phase-in during the first half of a project's life and then raise fees to regular (full) rates for all solar and wind leases. The payment structure could require an upfront cost payment, and then full costs only when financial costs are being incurred by the developer. An example would be to reduce payments to 10 percent of the gross lease rate for the first 15 years for a lease within a designated solar energy development leasing area.

Response: The BLM did not change the payment structure as suggested by the commenter. FLPMA requires that the BLM generally receive fair market value for the use of the public lands. The suggested low cost payment structure may not provide fair market value.

Comments: Some comments suggested removing the distinction between solar or wind technologies and their respective base rent or fees (i.e., wind is 30 percent and solar is 25 percent without differentiation between technologies). The comment also suggested that the BLM incentivize storage for solar facilities, to promote grid stability, by offering a reduced rate.

Response: The BLM's methodology for collecting fair market value through rents and fees is similar to market comparable practices from non-Federal lands. Use of a technology-specific net capacity factor is appropriate for determining the MW rate for solar and wind energy development. Further, the BLM is not responsible for directing a technology's costs or its success in the energy market. Intentionally setting rates below market values or without market support, such as by establishing a net capacity factor, is not appropriate for this final rule. These suggestions have not been incorporated into the final rule, and the language in the proposed rule is carried forward to the final rule, with some revision as noted in the discussion of section 2806.52(b).

Comment: Another comment recommends that if a MW capacity fee is adopted in the final rule for leases (issued under subpart 2809), the MW rate should be phased-in at 50 percent for the life of the lease; for grants (issued under subpart 2804), the MW rate should be phased-in over a 5- year period. The comment also recommends using the MW rate in effect when the lease or grant is issued without adjustment. PPAs are generally fixed for a term, usually 20 years. A developer places a higher premium on certainty and stability of the MW capacity fee over the potential for reduced rates in the future in case of a long-term downward trend in prices.

Response: The BLM is aware that certainty and stability are factors to consider when developing and establishing its rules. However, based on the BLM's experience, most solar and wind energy developments break even with the costs of constructing and operating a facility within 15 to 20 years after the start of generation of electricity. The BLM has taken this into account as part of its formulation of the MW rate updates and phase-in.

The MW rate is set when a lease is issued, and not updated until year 21 of the lease. The MW rate is phased-in for the first 10 years at 50 percent of the full rate, after which the MW rate is no longer phased-in. Any updates to the MW rate schedule will not result in an adjustment to leases during the 10-year phase-in or the first 20 years of the lease. Only at year 21 and each following 10-year interval will the MW rate adjust, using the currently established MW rate schedule.

A grant's MW rate, however, is set each year, beginning when a project starts generating electricity. The MW rate is phased-in for the first 3 years at 25/50/100 percent of the MW rate, respectively. The BLM will recalculate the MW rate schedule once every 5 years, at which time the next year's payment by a developer will adjust consistent with the updated MW rate schedule.

Section 2806.54(c)(4) describes the MW capacity fee of the lease if it were to be renewed. The MW capacity fee is calculated using the then-current MW rates at the beginning of the new lease period and remain at that rate through the initial 10-year period of the renewal term. The MW capacity fee will be adjusted using the then-current MW rate at the beginning of each subsequent 10-year period of the renewed lease term.

Under section 2806.54(c)(5), the rule provides for the staged development of leases. Such staged development, consistent with section 2805.12(c)(3)(iii), will have no more than three development stages, unless the BLM approved more development stages in advance. The MW capacity fee is calculated using the authorized MW capacity approved for that stage multiplied by the MW rate for that year of the phase-in, plus any previously approved stages multiplied by the MW rate as described in section 2806.54(c).

Section 2806.54(d) is added to this final rule to establish the method by which the BLM will perform scheduled rate adjustments for leases, similar to the scheduled rate adjustments for grants in section 2806.52(d). In order for scheduled rate adjustments to be applied to a lease, a lease holder must have selected the scheduled rate adjustment method, as required in section 2806.51.

Paragraph 2806.54(d)(1) specifies which rates will be used initially for the scheduled rate adjustments. The BLM will use the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) that are in place when your lease is issued.

Paragraph 2806.54(d)(2) specifies that the per acre zone rate will be increased every 10 years by the change in the IPD-GDP for the preceding 10-year period. (In contrast, the per acre zone rate for grants is adjusted every 5 years.) The 10-year average IPD-GDP change used for this increase is the same that is used to adjust the per acre rent schedule annually for linear rights-of-way under section 2806.22(b), except that it will be adjusted once cumulatively every ten years, rather than annually. For example, the current annual change in IPD-GDP is 2.1 percent, which would result in a roughly 21 percent change in year ten. In addition to the IPD-GDP change, a 40 percent increase every 10 years will be applied as part of the scheduled rate adjustment (in contrast to a 20 percent increase every 5 years for grants). The BLM will continue to apply this adjustment every 10 years (that is, in years 11 and 21 for the 30-year lease).

Similar to the approach taken for grants, the BLM reviewed changes in national per acre land values in NASS when establishing the 40 percent adjustment. Over the term of a lease, the BLM would make two adjustments to the per acre zone rates. These

two adjustments would compound on each other, for a cumulative increase of 96% over the 30-year life of the lease. This adjustment is within the identified change in land values from NASS and is also in line with industry's recommendation of an annual change in rates limited to no more than 4 percent. (A 4 percent annual increase, compounded annually over 30 years, amounts to a 324 percent increase over the life of the lease.) For further discussion on this, see the preamble discussion of section 2806.52(d)(2).

Paragraph 2806.52(d)(3) specifies that likewise, the MW rate will increase by 40 percent every 10 years. The BLM reviewed national changes in power pricing since 1960 and determined that 40 percent adjustments to the MW rate every 10 years are appropriate. Over the term of the lease, the BLM would make 2 adjustments to the MW rate (in years 11 and 21). These 2 adjustments would compound on each other for a cumulative increase of 96% over the 30-year life of the lease. This adjustment is within the identified range of power pricing changes and is also in line with industry's recommendation of an annual change in rates limited to no more than 4 percent. (A 4 percent annual increase, compounded annually over 30 years, amounts to a 324 percent increase over the life of the lease.) For further discussion on this, see the preamble discussion of section 2806.52(d)(3).

Paragraph 2806.54(d)(4) specifies that the phase in of the MW rate for standard rate adjustments in section 2806.54(c) does not apply to authorizations that are using the scheduled rate adjustments. Instead, for years 1 through 5 of a lease, plus any initial partial year, the MW capacity fee is 50 percent of the otherwise applicable solar rate.

This reduction is applied only to new leases and only during the initial term; the phase-in will not be applied to leases when renewed.

Like the phase-in period under the standard rate adjustment method, the initial MW capacity is also subject to a phase-in; however, it is shorter (a 5-year period instead of a 10-year period). Again, the purpose of the phase-in period is to provide a financial incentive to developers to use the public lands within their grant earlier (since the clock on the phase-in starts running at lease issuance, even though the obligation to pay the MW capacity fee does not attach until power generation commences). The BLM selected a 5-year phase-in under the scheduled rate adjustment method instead of the 10-year phase-in from section 2806.54(c) because of the difference in rate structures. Under the standard rate adjustment, the MW capacity fee will not adjust for the first 20 years of a lease term, and that initial rate is phased-in for the first half of that period (10 years). Under the scheduled rate adjustments, the rate adjusts every 10 years and the phase-in is provided for half of the initial rate period (5 years). Both the 10-year and 5-year phase-in are consistent with market practices.

Paragraph 2806.54(d)(5) explains that if the approved POD provides for staged development of the project, the BLM will calculate the MW capacity fee using the MW capacity approved for that stage. Only development stages in operation during the first 5 years of a lease will be phased-in.

MW capacity fee-example 1: The MW capacity fee for a 400-MW photovoltaic solar energy right-of-way grant would be $1,145,200 per year (400 MWs × $2,863 per MW), implemented over a 3-year period after the start of electricity generation. In the first partial year after start of generation in July for a solar energy right-of-way, the MW

capacity fee would be $143,150 (400 MWs × $2,863 per MW × 25 percent × 0.5 year); in the second year after the start of electricity generation, the MW capacity fee would be $572,600 (400 MWs × $2,863 per MW × 50 percent × 1 year); and in the third year after the start of electricity generation, and each year thereafter, the MW capacity fee would be $1,145,200 per year (400 MWs × $2,863 per MW × 1 year).

MW capacity fee-example 2: The MW capacity fee for a 400 MW concentrated PV or concentrated solar power right-of-way grant would be $1,431,200 per year (400 MWs × $3,578 per MW), implemented over a 3-year period after the start of electricity generation. In the first partial year assuming the start of electricity generation in January for a solar energy right-of-way, the MW capacity fee would be $357,800 (400 MWs × $3,578 per MW × 25 percent × 1 year); in the second year after the start of electricity generation, the MW capacity fee would be $715,600 (400 MWs × $3,578 per MW × 50 percent × 1 year); and in the third year after start of generation and each year thereafter, the MW capacity fee would be $1,431,200 per year (400 MWs × $3,578 per MW × 1 year).

MW capacity fee-example 3: The MW capacity fee for a 400 MW solar power right-of-way grant with a storage capacity of 3 hours or more would be $1,717,600 per year (400 MWs × $4,294 per MW), implemented over a 3-year period after the start of electricity generation. Assuming generation began in January, in the first partial year after the start of electricity generation, the MW capacity fee would be $429,400 for a solar energy right-of-way (400 MWs × $4,294 per MW × 25 percent × 1 year); in the second year after the start of electricity generation, the MW capacity fee would be $858,800 (400 MW × $4,294 per MWs × 50 percent × 1 year); and in the third year after

the start of electricity generation, and each year thereafter, the MW capacity fee would be $1,717,600 per year (400 MW × $4,294 per MWs × 1 year).

Acreage rent and MW capacity fee example for a solar energy development grant: The annual acreage rent and MW capacity fee for 2016 for a 400 MW photovoltaic solar energy development grant located on 4,000 acres in Clark County, NV after the phase-in period would be approximately $2,231,480. (The acreage rent of $1,021,480 (4,000 acres × $255.37 per acre) plus the MW capacity fee of $1,261,600 (400 MWs × $3,154 per MW) equals $2,283,080).

No comments were received and no changes are made from the proposed rule to the final rule.

Section 2806.56 Rent for support facilities authorized under separate grant(s).

Under this section, support facilities for solar development will be authorized under a grant. Support facilities may include administration buildings, groundwater wells, and construction laydown and staging areas. Rent for support facilities authorized under separate grants is determined using the Per Acre Rent Schedule for linear facilities under existing section 2806.20(c). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2806.58 Rent for energy development testing grant(s).

Comments: Several comments suggested that site- and project-area testing should be allowed for both solar and wind energy.

Response: The final rule now includes site- and project-area testing authorizations for both solar energy and wind energy. New section 2806.58 has been added in this final rule to incorporate this change. Changes in this section are consistent

with section 2806.68, which did not receive any comments, but was modified to remove the word "wind" from the naming of the type of grants to remain consistent with the types of authorizations that the BLM will issue.

Section 2806.58(a) describes the rent for any energy site-specific testing grant. A minimum rent is established as $100 per year for each grant issued. Under this paragraph rent is set by incorporating into the final rule the site-specific rent amount found in the BLM's IM No. 2009-043, as follows: Site-specific grants are authorized only for one site and do not allow multiple sites to be authorized under a single grant; however, a single entity may hold more than one site-area testing grant. If a BLM office has an approved small site rental schedule, that office may use the rents, so long as the rent exceeds the $100 minimum. Small site rental schedules are provided to the BLM from the Department's Office of Valuation Services and reflect accurate determination of market value. In lieu of annual payments for a site-specific testing grant, a grant holder may pay for the entire 3-year term of the grant. See sections 2801.9(d)(1) and 2805.11(b)(2)(i) of this preamble for further discussion of site-specific energy testing grants.

Section 2806.58(b) describes the rent for any energy project-area testing grant. A per-year minimum rent is established at $2,000 per authorization or $2 per acre for the lands authorized by the grant, whichever is greater. The appraisal consultation report by the Office of Valuation Services supports the rent established in this final rule. Project-area grants may authorize multiple meteorological or instrumentation testing sites. There is no additional charge or rent for an increased number of sites authorized under such grants. See sections 2801.9(d)(2) and 2805.11(b)(2)(ii) of this preamble for further discussion of project-area energy testing grants.

Section 2806.60 Rents and fees for wind energy rights-of-way.

Section 2806.60 requires a holder of a wind energy right-of-way authorization to pay annual rent and MW capacity fees for right-of-way grants issued under subpart 2804 and leases issued under subpart 2809.

As noted earlier in this preamble, there are similarities between rents and MW capacity fees for solar and wind energy, as well as between rents and MW capacity fees for authorizations issued under subparts 2804 and 2809. The BLM intentionally designed the rents and fees for solar and wind energy development projects to match as closely as possible in order to reduce the potential for confusion and misunderstanding of the requirements. The methodology for calculating rents, fees, phase-ins, adjustments, and rate proration is the same for wind as for solar. Many of the terms and conditions of a lease issued under this subpart will also be the same. No comments were received on this section, and no changes were made between the proposed and final versions of this section, other than those discussed in connection with section 2806.50 of this preamble.

Section 2806.61 Scheduled Rate Adjustment

Section 2806.61 is added to the final rule, consistent with section 2806.51 of this final rule. This section parallels 2806.51 with no substantive differences, except that this section applies to wind energy grants and leases instead of solar energy grants and leases. See section 2806.51 of this preamble for further discussion. Parallel changes are also made in sections 2806.62(d) and 2806.64(d) of this preamble. See sections 2806.52(d) and 2806.54(d) of this preamble for further discussion of those sections.

Section 2806.62 Rents and fees for wind energy development grants.

Section 2806.62 parallels section 2806.52, which discusses rents and MW capacity fees for solar energy development grants. The discussion on all components of the wind energy development grants duplicates the provisions for solar rents and fees, except for paragraph (a)(1) of this section which discusses the per acre zone rates and paragraphs (a)(6), (a)(7), and (b)(4)(iii) of this section, which discuss the BLM implementation of the new acreage rent and MW capacity fee. Revisions have been made to the requirements of this section consistent with comments on the proposed rule. See comments discussed under section 2806.52 for further information and details regarding the revisions made to the final rule.

Section 2806.62(a) addresses the acreage rent for wind energy development. See section 2806.52(a) for a discussion of acreage rent. The acreage rent is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate in effect at the time the authorization is issued. The annual zone rate is derived from the wind energy acreage rent schedule in effect at the time the authorization is issued.

Section 2806.62(a)(1) addresses per acre zone rates for wind energy development grants. The methodology for calculating the acreage rent is the same for wind as it is for solar, but wind and solar energy have different encumbrance factors. Solar energy projects encumber approximately 100 percent of the land, while wind energy projects encumber approximately 10 percent of the land. Therefore, for wind, the per acre zone rate is calculated using a 10 percent encumbrance factor instead of 100 percent encumbrance factor.

Under section 2806.62(a)(1), the initial per acre zone rate for wind energy projects is now established by considering four factors: the per acre zone value multiplied by the encumbrance factor multiplied by the rate of return multiplied by the annual adjustment factor. This calculation is reflected in the following formula – A x B x C x D = E, where:

"A" is the per acre zone value are the same per acre zone values described in the linear rent schedule in section 2806.20(c);

"B" is the encumbrance equaling 10 percent;

"C" is the rate of return equaling 5.27 percent;

"D" is the annual adjustment factor equaling the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS census data becomes available; and

"E" is the annual per acre zone rate. The BLM will adjust the per acre zone rates each year, based on the average annual change in the IPD-GDP, as described in section 2806.22(a). Adjusted rates are effective each year on January first.

Under section 2806.62(a)(2), counties (or other geographical areas) are assigned a Per Acre Zone Value on the wind energy acreage rent schedule, based on the State-specific percent of the average land and building value published in the NASS Census. The Per Acre Zone Value is a component of calculating the Per Acre Zone Rate under paragraph (a)(1) of this section. As specified in new section 2806.62(a)(3), the initial assignment of counties to the zones on the wind energy acreage rent schedule will be based upon the NASS Census data from 2012 and be established for calendar years 2016 through 2020. Subsequent reassignments of counties will occur every 5 years following

the publication of the NASS Census, as described in section 2806.21. State-specific percentage factors will be recalculated once every 10 years at the same time the linear rent schedule is updated, as described in section 2806.22(b).

Section 2806.62(a)(2) provides the calculation to establish a State-specific percent factor that represents the difference between the improved agricultural land values provided by NASS and the unimproved rangeland values that represent BLM land. The calculation for determining the State-specific percent factor is (A/B) – (C/D) = E, where:

"A" is the NASS Census statewide average per acre value of non-irrigated acres;

"B" is the NASS Census statewide average per acre land and building value;

"C" is the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

"D" is the total statewide acres in farms; and

"E" is the State-specific percent factor or 20 percent, whichever is greater.

The county average per acre land and building values that exceed the 20 percent threshold for solar and wind energy development are as follows for the BLM managed lands:

Table of State-Specific Factors and other Data for Applicable States

State	**Existing Regulations and Proposed Rule: nationwide 20 percent factors**	**Final rule State-by-State calculated factors**	**Final Rule State-specific factors**
Alaska	20%	12%	20%

Arizona	20%	49%	49%
California	20%	51%	51%
Colorado	20%	24%	24%
Idaho	20%	29%	29%
Montana	20%	12%	20%
Nevada	20%	16%	20%
New Mexico	20%	24%	24%
North Dakota	20%	5%	20%
South Dakota	20%	5%	20%
Oregon	20%	2%	20%
Texas	20%	-1%	20%
Utah	20%	54%	54%
Washington	20%	21%	21%
Wyoming	20%	16%	20%
Average	20%	21%	27%

The following table lists the paragraphs where the wind energy grant provision parallels the solar energy provision for the same topic. The discussion for each relevant wind energy provision is found in this preamble under the associated solar energy provision.

Topic	**Wind**	**Solar**
Acreage Rent	43 CFR 2806.62(a)	43 CFR 2806.52(a)
Per acre Zone Rate	43 CFR 2806.62(a)(1)	43 CFR 2806.52(a)(1)
Assignment of Counties	43 CFR 2806.62(a)(2)	43 CFR 2806.52(a)(2)

Initial Assignment of Counties	43 CFR 2806.62(a)(3)	43 CFR 2806.52(a)(3)
Acreage Rent Payment	43 CFR 2806.62(a)(4)	43 CFR 2806.52(a)(4)
Acreage Rent Adjustments	43 CFR 2806.62(a)(5)	43 CFR 2806.52(a)(5)
Obtain a Copy of Rent Schedule	43 CFR 2806.62(a)(7)	43 CFR 2806.52(a)(6)
MW Capacity Fee	43 CFR 2806.62(b)	43 CFR 2806.52(b)
MW Rate	43 CFR 2806.62(b)(1)	43 CFR 2806.52(b)(1)
MW Rate Schedule	43 CFR 2806.62(b)(2)	43 CFR 2806.52(b)(2)
MW Rate Adjustments	43 CFR 2806.62(b)(3)	43 CFR 2806.52(b)(3)
MW Rate Formula	43 CFR 2806.62(b)(3)(i)	43 CFR 2806.52(b)(3)(i)
Rate of Return	43 CFR 2806.62(b(3)(ii)	43 CFR 2806.52(b)(3)(ii)
MW Rate Phase-in	43 CFR 2806.62(b)(4)	43 CFR 2806.52(b)(4)
Scheduled Rate Adjustment	43 CFR 2806.62(d)	43 CFR 2806.52(d)
Initial Rates Used	43 CFR 2806.62(d)(1)	43 CFR 2806.52(d)(1)
Acreage Rate Adjustment	43 CFR 2806.62(d)(2)	43 CFR 2806.52(d)(2)
MW Rate Adjustment	43 CFR 2806.62(d)(3)	43 CFR 2806.52(d)(3)
MW Rate Phase-in	43 CFR 2806.62(d)(4)	43 CFR 2806.52(d)(4)
Stage of Development	43 CFR 2806.62(d)(5)	43 CFR 2806.52(d)(5)
Existing Grants	43 CFR 2806.62(d)(6)	43 CFR 2806.52(d)(6)

Section 2806.62(a)(6) is added to this final rule to explain that holders of wind energy development grants must pay acreage rent as described in section 2806.62(a), except that for holders of wind energy development grants, the acreage rent will be phased in as described in section 2806.62(c).

Section 2806.62(b)(4)(i) addresses the term of the MW rate phase-in. Paragraphs (b)(4)(i)(A), (B), and (C) of this section address the percentages of the phase-in. See section 2806.52(b)(4)(i) for a discussion of the term of the MW rate phase-in and paragraphs (b)(4)(i)(A), (B), and (C) for the percentages of the phase-in. No change is made to the final rule, other than the change made for consistency with section 2806.52(b)(4)(i).

New section 2806.62(b)(4)(ii) addresses the MW rate phase-in for a staged development. Paragraph (b)(4)(ii)(A) of this section addresses the percentages of the phase-in and paragraph (b)(4)(ii)(B) addresses the calculation of the rent for the phase-in of a staged development. See section 2806.52(b)(4)(ii) for a discussion of the MW rate phase-in for a staged development, paragraph (A) for the percentages of the phase-in, and paragraph (B) for the calculation of the rent for the phase-in of a staged development.

New section 2806.62(b)(4)(iii) states that the MW rate will be implemented as described in section 2806.62(c).

Comment: A comment noted that the BLM has not yet designated any wind energy zones or other preferred wind energy development areas that would become a DLA. Without any such areas designated for wind energy, the BLM's rule would put wind energy at a disadvantage in comparison to solar energy since wind energy would not be able to benefit from the incentives available for development in such areas.

Response: The BLM agrees that there are currently no wind energy development areas and that wind energy developers cannot yet benefit from the incentives provide for DLAs in subpart 2809 of this final rule. The BLM intends to establish wind energy DLAs in the future. However, this would be done through amending or revising a land

use plan, which can take several years. Therefore, the BLM has added section 2806.62(c) to this final rule to explain how the BLM will implement the acreage rent and MW capacity fee for wind energy grants.

Developers that submitted an application prior to the publication of the proposed rule would not have known the potential incentives for developing inside a DLA. This final rule provides a payment reduction to developers that had committed to a project on the public lands before this rule was proposed. However, developers that submitted applications after the publication of the proposed rule were aware of the BLM's proposed rule and incentives and knew that they did not qualify for these incentives.

Section 2806.62(c) implements this payment reduction. Specifically, section 2806.62(c) applies to all wind energy development grants that have made a payment for billing year 2016, or for which an application to the BLM was filed before September 30, 2014. This is explained in the following paragraphs.

Under paragraph 2806.62(c)(1) of this section, the BLM will reduce the acreage rent and the MW capacity fee. The BLM will compare the total annual payment of the acreage rent and MW capacity fee for 2017 to the total annual payment currently required by policy for the 2016 billing year. Any net increase in costs to a right-of-way holder will be reduced by 50 percent for 2017 billing year. This one-year reduction is intended to ease the transition for grant holders from the current policies to this final rule. If 2017 is the first year for which you make an annual payment, the phase-in described under section 2806.52(b)(4) will apply without an implementation reduction of 50 percent. The rates established by policy will remain in effect until 2017 for rights-of-way that are not

issued under subpart 2809 of this final rule in order to provide notice to existing holders of the adjusted rent and fees.

Section 2806.62(c)(2) explains how the BLM will implement the acreage rent and MW capacity fee for wind energy grants for which an application to the BLM was filed before September 30, 2014. In addition to the timely filing requirement, a grant holder must also have an accepted POD and cost recovery agreement established before September 30, 2014.

The BLM intends for this section to apply to applications that were filed before the BLM issued the proposed rule on September 30, 2014. Anyone who submitted an application before this date would not have known about the proposed requirements of the final rule, including updates to the payment requirements and the incentives for developing inside a DLA.

Under paragraph (c)(2)(i) of this section, the BLM will reduce the acreage rent of the grant for the first year by 50 percent. This reduction applies only to the first year's annual payment, even if it is for a partial year. If the BLM requires an upfront payment for the first partial year and next full calendar year, only the partial year will be reduced by 50 percent. The BLM may require such payment for the year in advance for rights-of-way authorized consistent with section 2806.12 of this final rule. No reduction will be applied to the acreage rent for the subsequent years of the grant.

Under paragraph (c)(2)(ii) of this section when the project has reached a point where the BLM requires a MW capacity fee payment, the MW capacity fee will be reduced by 75 percent for the first and second year and 50 percent for the third and fourth year of the grant. The first year is the initial partial year, if any, after electricity

generation begins. The fifth and subsequent years will be charged at 100 percent of the MW capacity fee. This reduction applies to each approved stage of development.

No further comments were received and no other changes were made to this section, beyond those that were already discussed in this preamble in connection with section 2806.52.

Section 2806.64 Rents and fees for wind energy development leases.

The title of this section was revised by adding "and fees" and removing "inside designated leasing areas." This was done to be consistent with the title of section 2806.54.

See section 2806.54 for a discussion of all components of rent for a wind energy development lease, except for section 2806.54(a)(1), which discusses the per acre zone rates. Section 2806.54(a)(1) does not apply to wind energy development grants and leases because solar and wind energy acreage rents are calculated using different encumbrance factors. Section 2806.64(a)(1) addresses the per acre zone rate for wind energy leases. See section 2806.54(a)(1) for a discussion of acreage rent.

Section 2806.64(a)(1) addresses per acre zone rates for wind energy leases. See section 2806.62(a)(1) for a discussion of acreage rent, which differs from solar energy development. The per acre rents are calculated using the methodology discussed in section 2806.62(a)(1), which reflects the 10 percent encumbrance factor for wind energy development.

The following chart lists the paragraphs where the wind energy lease provisions parallel the solar energy provisions for the same topic. The discussions for each relevant

wind energy provision are found in the preamble under the associated solar energy provision.

Topic	Wind	Solar
Acreage Rent	43 CFR 2806.64(a)	43 CFR 2806.54(a)
Per acre Zone Rate	43 CFR 2806.64(a)(1)	43 CFR 2806.54(a)(1)
Assignment of Counties	43 CFR 2806.64(a)(2)	43 CFR 2806.54(a)(2)
Acreage Rent Payments	43 CFR 2806.64(a)(3)	43 CFR 2806.54(a)(3)
Acreage Rent Adjustments	43 CFR 2806.64(a)(4)	43 CFR 2806.54(a)(4)
MW Capacity Fee	43 CFR 2806.64(b)	43 CFR 2806.54(b)
MW Rate	43 CFR 2806.64(b)(1)	43 CFR 2806.54(b)(1)
MW Rate Schedule	43 CFR 2806.64(b)(2)	43 CFR 2806.54(b)(2)
MW Rate Adjustments	43 CFR 2806.64(b)(3)	43 CFR 2806.54(b)(3)
MW Rate Phase-in	43 CFR 2806.64(c)	43 CFR 2806.54(c)
Years 1-10	43 CFR 2806.64(c)(1)	43 CFR 2806.54(c)(1)
Years 11-20	43 CFR 2806.64(c)(2)	43 CFR 2806.54(c)(2)
Years 21-30	43 CFR 2806.64(c)(3)	43 CFR 2806.54(c)(3)
MW Capacity Fee if Renewed	43 CFR 2806.64(c)(4)	43 CFR 2806.54(c)(4)
Scheduled Rate Adjustment	43 CFR 2806.64(d)	43 CFR 2806.54(d)
Initial Rates Used	43 CFR 2806.64(d)(1)	43 CFR 2806.54(d)(1)
Acreage Rate Adjustment	43 CFR 2806.64(d)(2)	43 CFR 2806.54(d)(2)
MW Rate Adjustment	43 CFR 2806.64(d)(3)	43 CFR 2806.54(d)(3)
MW Rate Phase-in	43 CFR 2806.64(d)(4)	43 CFR 2806.54(d)(4)
Stage of Development	43 CFR 2806.64d)(5)	43 CFR 2806.54(d)(5)

MW Capacity for a Staged Development	43 CFR 2806.64(c)(5)	43 CFR 2806.54(c)(5)
Rent for Support Facilities	43 CFR 2806.66	43 CFR 2806.56

No comments were received on this section, and no changes were made from the proposed to the final version of this section, beyond those discussed in connection with section 2806.54.

Section 2806.66 Rent for support facilities authorized under separate grants.

This section states that if a wind energy development project includes separate right-of-way authorizations for support facilities such as wells, control structures, staging areas, or linear rights-of-way (e.g., roads, pipelines, transmission lines, etc.), then the rent schedule will be determined using the Per Acre Rent Schedule for linear facilities found at section 2806.20(c). No comments were received on this section, and no changes were made from the proposed to the final version of this section, beyond those discussed in connection with section 2806.56.

Section 2806.68 Rent for energy development testing grant(s).

Section 2806.68(a) describes the rent for any energy site-specific testing grant. A minimum rent is established as $100 per year for each grant issued. Under this section, rent is set by incorporating in this final rule the site-specific rent amount from IM 2009-043, Wind Energy Development Policy. Site-specific grants are authorized only for one site and do not allow multiple sites to be authorized under a single grant; however, a single entity may hold more than one grant. If a BLM office has an approved small site rental schedule, that office may use the rent amount established in the small site rental

schedule, so long as the rent schedule charges more than the $100 minimum rent per year found in the regulations. Since small site rental schedules are provided to the BLM by the Department's Office of Valuation Services, they represent a third party determination of market value. In lieu of annual payments for a site-specific testing grant, a grant holder may pay for the entire 3-year term of the grant. See sections 2801.9(d)(1) and 2805.11(b)(2)(i) of this preamble for further discussion of site-specific energy testing grants.

Consistent with comments received and discussed under section 2801.9 of this preamble, the title of this section is changed from the proposed rule to read as shown above. A similar change was made for the title of paragraphs (a) and (b) of this section. These changes are made in order to ensure the headings of the rule are consistent with revisions to the final rule that will allow site-specific and project-area testing to be available for both solar and wind energy testing.

Section 2806.68(b) describes the rent for a wind energy project-area testing grant. A per-year minimum rent is established at $2,000 per authorization or $2 per acre for the lands authorized by the grant, whichever is greater. The appraisal consultation report by the Office of Valuation Services supports the rent amounts established in this final rule. Project-area grants may authorize multiple meteorological or instrumentation testing sites. There is no additional charge or rent for an increased number of sites authorized under such grants. See sections 2801.9(d)(2) and 2805.11(b)(2)(ii) of this preamble for further discussion of project-area energy testing grants.

No further comments were received on this section and no additional changes were made in the final rule.

Section 2806.70 How will the BLM determine the payment for a grant or lease when the linear, communication use, solar energy, or wind energy payment schedules do not apply?

Section 2806.70 is redesignated from existing section 2806.50 and is retitled as shown above. This section provides guidance on how the BLM determines the payment for a grant or lease when the linear rent schedule, the communication use rent schedule, the solar acreage rent and MW capacity fee provisions, or the wind acreage rent and MW capacity fee provisions are not applicable.

The title of this section is amended by replacing "rent" with "payment" in two places. This final rule introduces the concept of MW capacity fees, which are a payment to the BLM for the commercial utilization value of the public lands, above the rural land values. The term "payment" includes both rents and fees, which is why it was selected. No other change is intended by this revision.

The only other change to this redesignated section is that solar and wind energy rights-of-way are now included in the listed rent schedules. No comments were received and no other changes are made from the proposed rule to the final rule.

Subpart 2807— Grant Administration and Operation

Section 2807.11 When must I contact BLM during operations?

This section is revised to make it clear that you must notify the BLM when your use requires a substantial deviation from the issued grant. Under the changes made to section 2807.11(b), "substantial deviations" from the right-of-way grant now require an amendment to the grant. "Substantial deviations" include changing the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in

use for the right-of-way. Substantial deviations to a grant may require adjustment to a grant or lease rent and fees under subpart 2806, or bonding requirements under subparts 2805 and 2809.

Consistent with other revisions to the final rule intended to improve readability, the BLM revised paragraph (b) of this section to read as "the BLM's" instead of "our." This revision is intended to improve understanding of who the BLM is referring to in the final rule.

Comment: One comment asked the BLM to narrow the circumstances under which a right-of-way holder must notify the BLM, suggesting that these reporting requirements be limited to changes that necessitate an assignment under the standards identified in section 2807.21(h).

Response: The requirement to report changes in partners, financial conditions, or business or corporate status is a requirement of the existing regulations found under section 2807.11(c). Section 2807.11(c) was not proposed for revision and is not revised or redesignated by this final rule. In addition, the BLM must have accurate and up-to-date information about right-of-way holders in order to facilitate its management of the public lands.

Paragraph (d) of this section requires you to contact the BLM when site-specific circumstances or conditions result in the need for you to propose changes to an approved right-of-way grant, POD, site plan, or other procedures that are not substantial deviations in location or use. Examples of proposed "minor deviations" include changes in location of improvements in the POD or design of facilities that are all within the existing boundaries of an approved right-of-way. Other such proposed non-substantial deviations

might include the modification of mitigation measures or project materials. For purposes of this provision, project materials include the POD, site plan, and other documents that are created or provided by a grant holder. These project materials are a basis for the BLM's inspection and monitoring activities and are often appended to a right-of-way grant, which is why the BLM needs to understand any changes to those materials. The requested changes may be considered as grant or lease modification requests. Proposals for non-substantial deviations will require review and approval by the authorized officer or other appropriate personnel. The preliminary application review meetings found under section 2804.12 and public meetings found under section 2804.25 are not required for an assignment.

Paragraph (e) requires that right-of-way holders contact the BLM to correct discrepancies or inconsistencies.

Section 2807.17 Under what conditions may the BLM suspend or terminate my grant?

Section 2807.17(d) contains the provisions formerly located at section 2809.10. This section was redesignated in order to make room for the renewable energy right-of-way leasing provisions. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2807.21 May I assign or make other changes to my grant or lease?

Some revisions were made to this section in response to comments, which are discussed in the following paragraphs. A summary of other revisions to this section is included after these comments and responses.

Comments: Some comments noted confusion over the BLM's requirements for name changes and assignments, specifically, what constitutes a name change or assignment. Additionally, comments noted that mergers and acquisitions are not assignments and that a name change or assignment should not be the basis for or occasion on which the BLM redrafts the terms and conditions of right-of-way agreements.

Response: Section 2807.21 is revised to provide clarity on the BLM's requirements for assignments and name changes. Sections 2807.21(b) and (c) of the proposed rule have been combined into section 2807.21(b) in this final rule. As a result of these changes, several paragraphs are also redesignated in the final rule. The BLM agrees with commenters that name changes should not necessitate the rewriting of the terms and conditions of a right-of-way agreement.

The BLM disagrees with the commenter equating mergers and acquisitions with name changes. A merger or acquisition is different in character as they can result in material changes to the corporate structure under which a right-of-way grantee or leaseholder operators. Such changes can affect financial positions or the technical capability of a parent company. As a result, the BLM determined that it was appropriate to expand the definition of assignment in both the final and proposed rules to include changes in ownership and other related change in control transactions, including "mergers or acquisitions." However, recognizing that there are changes in corporate structure within the same corporate family that may technically constitute change in control transactions, but that do not implicate BLM's concern about technical and financial capability of a grant- or lease- holder's parent, the BLM has revised sections 2807.21(a)(2) and (b)(2) to clarify that change in control transaction within the scope of

that provision do not include transactions or restructurings within the same corporate family.

When a right or interest in a right-of-way grant or lease is assigned from one party to another, the involved parties are identified as the assignor and assignee. The BLM generally evaluates the assignee, the party that is intended to receive the right or interest, as if they were a new applicant. The BLM may determine that additional terms and conditions are required when assigning the right or interest and would include them as a term or condition of the grant at the time of assignment. New terms and conditions could include the requirement to bond the authorized facility, such as in the case when a potential assignee of a grant has a poor history of meeting the terms and conditions of a BLM grant, that may have not applied to the assignor. The evaluation and determination of whether new terms and conditions should be applied would occur when the BLM considers the proposed conveyance of a right-of-way.

Other revisions to the terms and conditions that may occur with assignments are those which the BLM retains authority to revise, such as rents, fees, bonding, and other revisions identified under section 2805.15(e). Section 2805.15(e) allows the BLM to amend the terms and conditions of a right-of-way grant or lease as a result of changes in legislation, regulation, or as otherwise necessary to protect public health or safety or the environment. Because any changes to the terms and conditions of a right-of-way grant or lease would occur after the completion of the agency action (the BLM's decision to approve the right-of-way), the BLM anticipates doing so through a separate action, generally initiated at the BLM's discretion and requiring its own decision-making process.

Updating corporate or individual filings within a State where only a name is changed, but the filing does not transfer a right or interest to another party, qualifies as a name change. Name changes for a right-of-way grantee or lessee do not require a NEPA analysis and the right-of-way would not be subject to revision. When changing a name, the BLM does not issue a new right-of-way grant or lease, but would re-issue the same right-of-way grant or lease with the new name on it. This is because the BLM would be dealing with the same entity to which it had originally authorized the right-of-way. Name changes are an administrative action taken by the BLM to update its records showing the proper name of the entity it has authorized. In the case of a name change, there is no assignment, in whole or part, of any right or interest in a grant or lease.

A name change would occur if an entity had filed paperwork with a State for a name change. Re-issuing a grant or lease with the new name would only provide the BLM an opportunity to notify the right-of-way holder of updated rent, bonding, or other such revised provisions made under section 2805.15(e).

Section 2807.21 is amended by revising the section heading and existing paragraphs (a), (d), and (f); adding paragraphs (b), (g), and (h); and making other appropriate redesignations of the remaining paragraphs. We are further revising this section with a few changes made in the final rule in response to comments, which will be explained in greater detail in the discussion of each specific paragraph. The heading for this section is changed from "May I assign my grant?" to read as "May I assign or make other changes to my grant or lease?" The existing regulations do not cover all instances where an assignment is necessary and the section is revised to address situations where assignments may not be required. The changes are necessary to: (1) Add and describe

additional changes to a grant other than assignments; (2) Clarify what changes require an assignment; and (3) Specify that right-of-way leases issued under part 2809 are subject to the regulations in this section.

Without the BLM's approval of a right-of-way assignment, a private party's business transaction would not be recognized by the BLM and this lack of recognition could hinder a new holder's management and administration of the right-of-way. This rule also clarifies the responsibilities of a grant holder should such private party transactions occur.

Paragraph (a) of this section is revised to describe two events that may necessitate an assignment: (1) A transfer by the holder of any right or interest in the right-of-way grant or lease to a third party (e.g., a change in ownership); and (2) A change in control involving the right-of-way grant or lease holder such as a corporate merger or acquisition.

Paragraph (a)(1) in this final rule is revised by removing the word "voluntary" when describing a transfer. There are some situations, such as bankruptcy, when a transfer may be involuntary. The BLM did not intend to exclude those circumstances from this section.

Paragraph (a)(2) is revised to remove reference to changes in status as a "wholly owned subsidiary." That provision created confusion and was removed. No additional comments were received and no further changes were made to this paragraph.

New paragraph (b) of this section is revised to clarify and remove ambiguities in this section of the rule that explains the circumstances that do not constitute an assignment, but may necessitate filing new or revised information. A change in the holder's name only does not require an assignment nor do changes in a holder's articles

of incorporation. However, sometimes a change in a holder's name or articles of incorporation may indicate that an assignment occurred. The BLM will review the documentation filed with it in order to determine if a transfer in part or whole of the right-of-way has occurred or a change in control transaction of the grant-holder or lease holder has occurred.

This section is revised from the proposed to the final rule to help further explain these situations more clearly to the public. The introductory text of paragraph (b) of this section is revised to clarify that even though an assignment may not be necessary, some circumstances may necessitate filing new or revised information. Paragraphs (b)(1), (b)(2) and (b)(3) of this section provide examples for when this filing may be necessary. Paragraph (b)(1) of this section is added to this final rule to explain that transactions within the same corporate family do not constitute an assignment. Paragraphs (b)(2) and (b)(3) of this section contain the provisions of proposed paragraphs (b) and (c) of this section with some minor revisions.

Existing paragraph (b) of this section is revised and redesignated as paragraph (c). As revised, this paragraph requires the payment of application filing fees in addition to processing fees. This revision promotes consistency between applications for assignments and other applications for rights-of-way. For example, the rule (at section 2804.12(c)(2)) now requires an application filing fee for solar and wind energy applications. As revised, new paragraph (c) also provides that the BLM will not approve any assignment until the assignor makes any outstanding payments that are due. This paragraph is revised from the proposed to final rule by adding a provision stating that preliminary application review meetings are not required for an assignment.

Comments: Some comments stated that the pre-application requirements for would be burdensome for an assignments, name changes or even renewals and suggested excluding those requirements for assignments, name changes and renewals.

Response: Sections 2807.21 (c) and 2807.21(h)(1) are revised to make clear that the pre-application (now known as preliminary application review) meetings are not required for assignments and name changes. No other revisions have been made to these paragraphs in response to this comment.

Existing paragraph (c) of this section is redesignated, unchanged, as paragraph (d) and is included in the final rule. Existing paragraph (d) of this section is revised and redesignated as paragraph (e). As revised, new paragraph (e) will except leases issued under revised 43 CFR subpart 2809 (i.e., right-of-way authorizations inside a DLA) from the BLM's authority to modify terms and conditions when it recognizes an assignment. This provision provides incentives for potential right-of-way lessee to develop lands inside DLAs.

The BLM revised the first sentence in paragraph (e) of this section from the proposed to final rule to clarify how an assignment is recognized. The BLM will approve an assignment in writing.

Comment: A comment requested clarification of the BLM's right to modify terms of a lease issued under subpart 2809. As written, the proposed rule would have prohibited the BLM from modifying a lease issued under subpart 2809 when approving an assignment. In addition, the comment requested clarification of the relationship between section 2805.15(e) and sections 2807.21 and 2887.11.

Response: The BLM agrees with this suggestion and in the final rule further clarification has been provided to show the relationship between section 2805.15(e) and this provision for leases issued under subpart 2809. Revised section 2807.21(e) now includes an additional statement to make clear that a lease will not be modified to include additional terms and conditions when approving an assignment, unless a modification is required under section 2805.15(e).

The BLM may, however, "require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable bond instrument" (see section 2805.20(a)) when approving an assignment. A bond is required for a right-of-way at the BLM's discretion and is always required for a solar or wind energy grant or lease. If a bond is required, the BLM must be certain that a bond is in place to ensure the protection of the public lands before approving an assignment.

In addition, section 2809.18(f) has been modified to be consistent with this provision. The statement that a lease will not be modified to include additional terms and conditions is specific to when the BLM completes an assignment. Under a separate action which may occur at the same time an assignment is completed, the terms and conditions may be modified if requested by a lessee pursuant to section 2805.12(e).

No revision has been made under 2887.11 on this matter since leases issued under subpart 2809 cannot be assigned under section 2887.11.

Redesignated section 2807.21(f) provides that the BLM will process assignment applications according to the same time and conditions as in section 2804.25(d). This provision was formerly identified in the regulations as paragraph (e) of this same section. This provision applies the BLM's customer service standard to processing assignment

applications. This paragraph has been revised to update the referenced citation, consistent with the revisions made to the final rule under section 2804.25.

Section 2807.21(g) explains that only interests in right-of-way grants or leases are assignable. A pending right-of-way application cannot be assigned. A revision is made to the second sentence of this paragraph, to be consistent with changes made under section 2804.30(g), that clarifies that competitively gained applications held by a preferred applicant do provide a right and interest in the public lands. This revision is made here to be consistent with similar changes made under section 2804.30(g).

Section 2807.21(h) addresses how a holder informs the BLM of a name change when the name change is not the result of an underlying change in control of a grant. These procedures are necessary to ensure that the BLM can send rent bills or other correspondence to the appropriate party. This new provision addresses several specific circumstances. For example, it requires any corporation requesting a name change to supply: (1) A copy of the corporate resolution(s) proposing and approving the name change; (2) A copy of the acceptance of the change in name by the State or Territory in which it is incorporated; and (3) A copy of the appropriate resolution(s), order(s), or other documentation that shows the name change. Under this provision, the BLM could also modify a grant, or add bonding and other requirements, including additional terms and conditions when recognizing such changes. However, the only way that the BLM may modify a lease issued under subpart 2809 would be in accordance with section 2805.15(e), or as otherwise described in the regulations. Such modifications under section 2805.15(e) would be a result of changes in legislation, regulation, or to protect

public health, safety, or the environment. Any such name change would be recognized in writing by the BLM.

Section 2807.21(h)(1) was modified from the proposed to final rule to improve readability. The first and second sentences were combined and "preliminary application review and public meetings" were added to the list of exempted requirements during a name change only. This change was made to remain consistent with revisions made under section 2807.21(b), which excludes applications for assignments from preliminary application review meetings and public meetings for solar or wind energy development projects and transmission lines with a capacity of 100 kV or more.

The BLM revised paragraph (h)(2) of this section from the proposed to final rule in order to clarify the differences in how a grant and lease may be modified during a name change. The BLM added new paragraphs (h)(2)(i) and (h)(2)(ii) in order to more clearly separate these situations. Paragraph (h)(2)(i) of this section explains that the BLM may modify a grant to add bonding and other requirements when processing a name change only. However, under paragraph (h)(2)(ii) of this section, the BLM may modify a lease issued under subpart 2809 in accordance with section 2805.15(e). This is not a change from the requirements proposed rule, but it may not have been clear from the way it was phrased. The final rule is intended to prevent any possible confusion.

Generally, the BLM intends to make changes to a grant or lease during a name change only to reflect relevant changes consistent with section 2805.15 (e). This existing section explains the BLM's right to "[c]hange the terms and conditions of your grant as a result of changes in legislation, regulation, or as otherwise necessary to protect public

health or safety or the environment." The BLM will not make any other changes to lease issued under subpart 2809 as part of a name change only.

However, the BLM may take this opportunity to update other aspects of a grant, as appropriate. For example, under section 2805.20(a), "[t]he BLM will periodically review your bond for adequacy and may require a new bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or lease." The BLM may determine that additional actions are necessary, such as updates to the bond (see section 2805.20(a)) or the 10-year updates to the payment provisions (see sections 2806.54 or 2806.64. If the BLM determines that these actions are necessary, they will be taken separate from the name change only as appropriate.

Paragraph (h)(3) of this section is revised in this final rule to read: "Your name change is not recognized until the BLM approves it in writing." As proposed, the rule was not clear whether a name change would be recognized if submitted in writing to the BLM, or if approved in writing by the BLM. This revision makes it clear to readers of the final rule that it must be the BLM's approval in writing to recognize a name change.

Comments: Some comments recommend that the financial information of the original owner or its subsidiary may be used to meet financial qualification requirements of the grantee when assigning or changing the name on a grant or lease.

Response: The BLM will only accept the financial or technical information of the holder of the authorization. The holder is the legally responsible party for the right-of-way and will be held as such under the regulations and any subsequent authorization. However, substitution of one entity's financial and technical capabilities may be acceptable, provided that documentation showing the two entities are linked, such as in

the case of a subsidiary company where the parent company asserts the technical or financial responsibilities of the subsidiary. No revision to the rule was made in response to this comment. No other comments were received or changes made to the final rule.

Section 2807.22 How do I renew my grant or lease?

The title for section 2807.22 is revised by adding "or lease" to the end of the sentence so that leases issued under subpart 2809 are covered by this section. Likewise, paragraphs (a), (b), and (d) of this section are revised to include leases. Paragraphs (c) and (e) remain unchanged. A new paragraph (f) is also added to this section.

Paragraph (f) of this section explains how the BLM would ensure continued operations of a right-of-way during the renewal process. If a holder makes a timely and sufficient application for renewal, the grant or lease does not expire until the BLM acts upon the application for renewal.

The second part of this paragraph describes the circumstances in which the BLM would "reissue" a grant or lease instead of "renew" it. Most of the authorizations managed by the BLM are issued under FLPMA's authority, but some remaining authorizations were issued before FLPMA was enacted. In this situation, the BLM would reissue the grant under FLPMA's authority. Minor revisions are made to paragraph (f) to improve readability of this new paragraph.

This paragraph protects the interests of holders of rights-of-way who have timely and sufficiently made an application for the continued use of an authorization (see 5 U.S.C. 558(c)(1)), and is consistent with policy. In this situation, the authorized activity will not expire until the BLM evaluates the application and issues a decision. No comments were received and no other changes are made to the final rule.

Subpart 2809 Competitive process for leasing public lands for solar and wind energy development inside designated leasing areas.

Existing subpart 2809, which formerly consisted of a single regulation (section 2809.10) pertaining to Federal agency right-of-way grants, is revised and redesignated as new paragraph (d) of section 2807.17. Existing section 2809.10(b) explains that Federal agencies are generally not required to pay rent for a grant. This paragraph is removed, not redesignated, since existing section 2806.14(a)(2) already addresses rental exemptions for Federal agencies and, therefore, 2809.10(b) is no longer necessary.

Revised subpart 2809 is now dedicated to the competitive process for leasing public lands for solar and wind energy development.

Comment: Several comments raised concerns that the priority for handling solar or wind energy leases was unclear when compared to solar and wind grant applications under Part 2804.

Response: Application prioritization is discussed under section 2804.35 of this rule, which specifically states that leases issued under this subpart having priority over grant applications. A new section 2809.10(d) is added to the final rule, consistent with comments received and revisions made in section 2804.35, that clearly identifies the handling of leases issued under subpart 2809 have the highest priority with respect to solar and wind energy on the public lands.

Comment: Several comments suggest that regional mitigation strategies should be used for every designated leasing area and should be part of the land use planning process.

Response: BLM development of a regional mitigation strategy is not necessary prior to holding a competitive auction inside a DLA or otherwise authorizing solar or wind energy development. However, regional mitigation strategies further increase certainty to developers and stakeholders when considering a solar or wind energy development. The BLM believes that the regional mitigation strategies are a good tool to use when making decisions that would affect resources in certain areas, such as a DLA. Regional mitigations strategies provide a durable basis to evaluate mitigation for the impacted lands and the BLM may use such strategies when making land use planning decisions. The BLM is in the process of developing regional mitigation strategies for many SEZs, which qualify as DLAs under this final rule.

The BLM is currently in the process of establishing its mitigation policies and guidance, which include guidance for regional mitigation strategies. Consistent with this guidance, the BLM generally intends to prepare regional mitigation strategies, with opportunities for public review and engagement, before authorizing wind or solar energy development in DLAs, potentially including when the BLM designates DLAs in the future through land use planning.

Comment: One comment suggested that the BLM incorporate the FWS's Wind Energy Guidelines (WEG), which can be found on the Internet at http://www.fws.gov/ecological-services/es-library/pdfs/WEG_final.pdf, into the rule for pre-construction due diligence.

Response: The BLM did not revise the rule as a result of this comment. The BLM has a different scope of authority and responsibility in administering the public lands than the FWS and must take into account biological resources, cultural resources,

and land uses consistent with FLPMA's mandate that public lands be used for multiple use and sustained yield for current and future generations. This is different than the FWS's authority and objectives which do not have a multiple use mandate and generally require limited review for cultural resources. However, the BLM uses processes similar to the WEGs in the review and analysis of resources on the public lands. For wind energy site testing actions similar to steps 2 and 3 of the WEGs are completed prior to a BLM decision. Actions similar to steps 1 through 3 are incorporated into the BLM's processing of a development grant, as well as monitoring protocols that address similar issues as those in the steps of the WEGs.

Comments: Some comments suggest that all final granted right-of-way instrument terms and conditions, regardless of location, should be substantially the same, unless sufficiently justified.

Response: The BLM believes that it has adequate reason for differences in terms and conditions of the energy development projects issued as leases under subpart 2809, as compared to those issued as grants under subpart 2804. There are limited differences in leases and grants, which have been explained in great detail in this preamble. These differences are intended to incentivize development in DLAs, which the BLM has identified as preferred areas for solar or wind energy development, based on a high potential for energy development and lesser resource impacts. Consistent with SO 3285, which describes the need for strategic planning and a balanced approach to domestic resource development, the BLM believes that focusing solar and wind energy development in preferred areas would provide a benefit to the public by reducing potential resource conflicts.

The BLM identifies DLAs through its land use planning process, which requires the BLM to consider the effects of solar or wind energy developments in the area. Due to this prior planning process, the BLM is able to issue a lease almost immediately after holding an auction, because that type of use has already been approved for the area. Subsequent tiered NEPA analysis will generally be necessary for the BLM to evaluate the lease-holder's POD to ensure that it fits within the BLM's decisions before allowing development of the land.

Additionally, the rent and fee payment for leases issued under subpart 2809 are phased in over a longer period of time or updated less frequently than those issued under subpart 2804. The rent and fee payment structure is explained in more detail in sections 2806.50 through 2806.68 of this preamble. This difference in payment of the rent and fee allows the BLM to collect the determined fair market value of the public lands while incentivizing solar and wind energy development in DLAs over other public lands.

No other comments were received or changes made to the final rule for this section.

Section 2809.10 General.

Under section 2809.10, only lands inside DLAs will be available for solar and wind competitive leasing using the procedures under this subpart. Lands outside of DLAs may be offered competitively using the procedures under section 2804.35 of this rule. Under section 2809.10, the BLM may either include lands in a competitive offer on its own initiative or solicit nominations through a call for nominations (see section 2809.11).

A new paragraph (d) is added to this section in the final rule in response to comments on the proposed rule. Paragraph (d) states that the processing of leases awarded under this part will generally be prioritized ahead of grant applications, consistent with revisions made to section 2804.35, clarifying that leases generally have priority over grant applications. This revision is to show how the BLM will prioritize its handling of solar and wind energy development on the public lands. The BLM will generally prioritize leases because they are issued inside DLAs, which are the BLM's preferred areas for solar and wind energy development. The BLM recognizes that only a few wind energy DLAs have been identified to date, and therefore there are only limited opportunities for project proponents to obtain wind energy leases as opposed to grants. The BLM intends to consider this when prioritizing wind energy applications during this transition period, as the BLM develops additional wind energy DLAs. No other changes are made to the final rule for this section and no other comments were received.

Section 2809.11 How will BLM solicit nominations?

This section explains the process by which the BLM will request nominations for parcels of lands inside DLAs to be offered competitively for solar or wind energy development.

Under paragraph (a) of this section, "Call for nominations," the BLM requests expressions of interest and nominations for parcels of land located in a DLA. The BLM will publish a notice in the Federal Register for solar and wind energy development and may use other notification methods, such as a newspaper of general circulation in the area affected by a potential offer or the Internet. This final rule is revised to make notice in a newspaper an optional form of public notice. This section's public notice requirements

are consistent with revisions to other sections of this final rule and are described more fully in section 2804.23(c) of this preamble.

Paragraph (b) of this section, "Nomination submission," outlines the requirements for nominating a parcel of land for a competitive offer.

Paragraph (b)(1) of this section requires a payment of $5 per acre for the parcel(s) nominated. This payment is nonrefundable, except when submitted by an individual or company that does not meet the qualifications identified in section 2809.11(d). The average area of solar and wind grant or lease ranges between 4,000 and 6,000 acres. The $5 per acre fee is derived from an appraisal consultation report prepared by the Department's Office of Valuation Services and will be adjusted for inflation once every 10 years, using the change in the IPD-GDP for the preceding 10-year period. The appraisal consultation report provided a range of $10 - $27 per acre per year with the nominal range being $15 - $17 per acre as the fair market value for these uses of the public lands. The BLM is establishing the nomination fee below the indicated range in the analysis since the submission of a nomination does not ensure that the nominator would be the successful bidder.

The average annual change in the IPD-GDP from 2004-2013 is about 2.1 percent, which will be applied through 2025. The fee will be required only with a nomination and not on a yearly basis and this is noted under section 2809.11(b)(1). The nomination fee is lower than an application filing fee for grants issued under subpart 2804 in order to increase interest and encourage nominators to propose efficient use of the public lands inside DLAs. Payment of fair market value will be received through a combination of the bids (not including Federal administrative costs) received during a competitive process

and the rents and MW capacity fees described in sections 2806.50 through 2806.68 of this final rule.

Nomination fees are collected under Sections 304(b) and 504(g) of FLPMA as cost recovery fees. The nomination fees will reimburse the BLM for the expense of preparing and holding the competitive process for lands inside a DLA. Furthermore, the nomination allows the BLM to see specifically what parcel of land is of interest to a developer and would inform the BLM of parcel configurations for a competitive process. A variable offset may be offered for qualified bidders who submitted nominations. Variable offsets are discussed further in section 2809.16.

The BLM revised paragraph (b) of this section from the proposed to final rule to prevent confusion over how the BLM uses the IPD-GDP to adjust the nomination fees. This revision is consistent with the revision to section 2804.12(c)(2), which describes application filing fees. Both application filing fees and nomination fees may be adjusted once every 10 years. See the preamble discussion for section 2804.12(c)(2) for more information on this revision.

Paragraph (b)(2) of this section requires the nomination to include the nominator's name and address of record. This information is necessary for the BLM to communicate with the nominator about future leasing issues.

Paragraph (b)(3) of this section requires that a nomination be accompanied by a legal land description and map of the parcel of land in a DLA. This information will help the BLM in identifying parcels in the competitive offer.

Under paragraph (c) of this section, the BLM may consider informal expressions of interest. An expression of interest is an informal submission to the BLM, suggesting

that a parcel inside a designated leasing area be considered for a competitive offer. An expression of interest only provides a tentative bidder's interest in a parcel(s) of land located inside a DLA. If the expression of interest identifies a specific parcel, it must be submitted in writing, include the legal land description of the parcel, and a rationale for its inclusion in a competitive offer. There is no fee required to make an expression of interest, but submission does not qualify a potential bidder for a variable offset, as would formal nominations.

Under paragraph (d) of this section, you must qualify to hold a grant or lease under section 2803.10 in order to submit a nomination.

Under paragraph (e) of this section, a nomination cannot be withdrawn, except by the BLM for cause, in which case nomination monies would be refunded. This clause parallels language in the BLM's other competitive process regulations and encourages serious nominations for parcels on public lands.

Comments: Some comments stated that nomination fees, as discussed under section 2809.11(b)(1), should reflect the cost for the BLM to plan and conduct a competitive lease process. In addition, one comment recommended that the nomination fee be set at $5 per acre and be adjusted downward to a minimum of $2 per acre for large parcels. In the event the entity that nominates the parcel is not the successful bidder, then the nomination should be refunded to that party and assessed to the successful bidder.

Response: The BLM will maintain a flat rate fee for nominations. A tiered or sliding scale approach to such fees would create an unnecessarily complicated system. A flat fee ensures that such costs are consistent for each action and the expectation to meet the requirements are clear. In addition, nomination fees are kept as a non-refundable fee

because they are a cost recovery payment to the BLM for expenses the agency incurs. These fees would be used by the BLM to prepare and hold a competitive offer. Submission of a nomination demonstrates a developer's seriousness for use of an area. No other comments were received and nor changes are made from the proposed rule to the final rule.

Section 2809.12 How will BLM select and prepare parcels?

This section provides that the BLM will identify parcels suitable for leasing based on either nominations, expressions of interest, or its own initiative. Before offering the selected lands competitively, the BLM and as appropriate, other Federal or State entities, will conduct studies, comply with NEPA and other applicable laws, and complete other necessary site preparation work. This work is necessary to ensure that the parcels are ready for competitive leasing, to provide appropriate terms and conditions for any issued lease, to appropriately protect valuable resources, and to be consistent with the BLM's plan(s) for the area.

Paragraph (b) of this section is revised from the proposed to final rule by adding "as applicable" after "other Federal agencies." This revision clarifies that other Federal agencies will be involved, as applicable, but may not be involved on all projects. It may not always be necessary to include other Federal agencies and those agencies may not want to participate.

Comments: Some comments recommended that the BLM should include a procedural requirement in the regulation that a regional mitigation strategy must be completed before the initiation of a competitive leasing process. It is also suggested that this approach would benefit the project proponents with enhanced certainty regarding

compensatory mitigation costs. One comment specifically recommended the addition of the following text, "b) work, including applicable environmental reviews and public meetings and publish the availability of a final regional mitigation strategy, before . . . ."

Response: The BLM considered including a requirement to complete a regional mitigation strategy; however, the BLM did not revise the rule as a result of the comment because each competitive offer will vary based upon resource concerns, public, tribal, and developer issues, and government interests. The BLM is currently in the process of establishing its mitigation policies and guidance, which include guidance for regional mitigation strategies. Consistent with this guidance, the BLM intends to prepare regional mitigation strategies, with opportunities for public review and engagement, before authorizing wind or solar energy development in DLAs, potentially including when the BLM designates DLAs in the future through land use planning.

Section 2809.13 How will the BLM conduct competitive offers?

Under this section, the BLM may use any type of competitive process or procedure to conduct its competitive offer. Several options, such as oral auctions, sealed bidding, a combination of oral and sealed bidding, and others are identified in section 2809.13(a). Oral auctions are planned events where bidders are asked to orally bid for a lease at a predetermined time and location. Sealed bidding would occur when bidders are asked to submit bids in writing by a certain date and time. Combination bidding is when sealed bids are first opened and then afterward an oral auction would occur, with oral bids having to exceed the highest sealed bid.

Under paragraph (b) of this section, the BLM would publish a notice of competitive offer at least 30 days before bidding takes place in the Federal Register and

through other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the Internet. This section of the final rule is revised, consistent with revisions to other sections of this final rule, to make notice in a newspaper an optional method for public notice. See section 2804.23(c) of this preamble for further discussion of these revisions. Minor revisions are also made from the proposed to the final rule to paragraph (b)(5) of this section to improve readability. The word "factor" is added throughout paragraph (b)(6) of this section for the final rule. This is intended to help the reader understand that an offset factor is part of the variable offset that may be presented in the notice of competitive offer. A notice of competitive offer must include:

1. The date, time, and location (if any) of the competitive offer;
2. The legal land description of the parcel to be offered;
3. The bidding methodology and procedures that will be used in conducting the competitive offer, including any of the applicable competitive procedures identified in section 2809.13(a);
4. The required minimum bid (see section 2809.14(a));
5. The qualification requirements for potential bidders (see section 2809.11(d));
6. If applicable, the variable offset (see section 2809.16), including:

i. The percent of each offset factor;

ii. How bidders may pre-qualify for each offset factor; and

iii. The documentation required to pre-qualify for each offset factor; and

7. The terms and conditions to be contained in the lease, including requirements for the successful bidder to submit a POD for the lands involved in the competitive offer (see section 2809.18) and the lease mitigation requirements.

Section 2809.13(b)(7) is revised in the final rule to include in the terms and conditions of a notice of competitive offer any mitigation requirements, including those for compensatory mitigation to address residual impacts associated with the right-of-way. This revision is made to clarify where the BLM will incorporate mitigation in its administrative processes. Including mitigation requirements in this final rule is discussed in greater detail in the general comment and responses portion of this preamble.

Under paragraph (c) of this section, the BLM will notify you of its decision to conduct a competitive offer at least 30 days in advance of the bidding if you nominated lands and paid the nomination fees required by section 2809.11(b)(1). No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2809.14 What types of bids are acceptable?

Section 2809.14 explains the requirements for bids submitted under the competitive process outlined in this subpart.

Paragraph (a) of this section provides that your bid submission will be accepted by the BLM only if it included the minimum bid established in the competitive offer, plus at least 20 percent of your bonus bid, and you are able to demonstrate that you are qualified to hold a right-of-way by meeting the requirements in section 2803.10. Consistent with comments received and revisions made to the final rule, the words, "or lease" are added to this paragraph of the final rule to help improve its clarity. As proposed, the rule only referenced a grant, which is defined in these regulations to

include the term lease. For the final rule, language was added to make it clear that the qualifications to hold a lease are the same as to hold a grant.

Paragraph (b) of this section provides that a minimum bid will consist of three components. The first component is the amount required for reimbursement of administrative costs incurred by the BLM and other Federal agencies in preparing and conducting the competitive offer. Administrative costs include all costs required for the BLM to comply with NEPA plus any other associated costs, including costs identified by other Federal agencies. As mentioned in the general discussion section of this preamble, administrative costs are not a component of fair market value, but are used to reimburse the Federal Government for its work in processing a competitive offer and performing other necessary work.

The second component of the minimum bid is an amount determined by the authorized officer for each competitive offer. The BLM will consider known values of the parcel when determining this amount, which include, but are not limited to, the acreage rent and a megawatt capacity fee. The authorized officer will identify these factors and explain how they were used to determine this amount. The third component is a bonus bid submitted by the bidder as part of a bid package. This amount will be determined by the bidder.

Consistent with section 2804.30(e)(2)(ii) for notice of competitive offers outside of DLAs, the BLM has removed the reference to mitigation costs from section 2809.14(b)(2). Please see section 2804.30 of this preamble for further discussion on this topic.

In other BLM programs, the minimum bid is often a statutory requirement or is based on fair market value of the resource, but there are no statutory requirements for a minimum bid for the right-of-way renewable energy program. The acreage rent is based on the value of the land and the MW capacity fee is based on the value of the commercial use of the land. The BLM plans to base this minimum bid on factors such as these that are known values of the parcel. The minimum bid amount, how it was determined, and the factors used in this determination will be clearly articulated in the notice of competitive offer for each parcel.

A minimum bid is not a determination of fair market value, but a point at which bidding may start. Fair market value will be received through a combination of rent, MW capacity fees, and competitive bidding and this process will determine what the market is willing and able to pay for the parcel. Payment of cost recovery fees is also required, but is not considered a part of the minimum bid. The minimum bid is paid only by the successful bidder and is not prorated among all of the bidders.

As described in paragraph (c) of this section, a bonus bid consists of any dollar amount that a bidder wishes to bid, beyond the minimum bid. The total bid equals the minimum bid plus any additional bonus bid amount offered. If you are not the successful bidder, as defined in section 2809.15(a), your bid will be refunded.

Comments: Two comments were received pertaining to this section. The first comment states that the proposed rule does not provide an effective mechanism for incentivizing solar development in SEZs by eliminating or significantly reducing developer costs associated with NEPA compliance.

Response: There are significant incentives to developers for leases issued under subpart 2809, including the up-front land use planning and other environmental work that the BLM will complete and the certainty that after winning a competitive auction inside a DLA, a successful bidder would be awarded a lease. In addition, the BLM offers variable offsets, longer phase-ins for MW capacity fees, and greater time between acreage rent and MW capacity fees rate updates for leases issued under subpart 2809 that are not available for grants issued under subpart 2804.

Comment: The second comment stated that the BLM should not include the potential for lands to be developed for solar energy generation when determining the minimum bid for a competitive offer.

Response: Section 2809.14(b)(2) describes how the BLM will consider known and potential land values. While other competitive processes, such as the BLM's coal program, include a statutory requirement for the minimum bid, the BLM has no such requirement for the solar or wind energy programs. Therefore, the BLM determined that it would be appropriate to tie the minimum bid to the known values of the parcel being auctioned. These known values, such as the acreage rent, would reflect the potential for lands to be developed for solar energy. This minimum bid component will be explained in each notice of competitive offer.

Section 2809.15 How will the BLM select the successful bidder?

This section explains how the successful bidder is determined and what requirements they must meet in order to be offered a lease. The bidder with the highest total bid, prior to any variable offset, will be declared the successful bidder and may be offered a lease in accordance with section 2805.10. In paragraph (a) of this section,

"will" is changed to "may." The BLM will not offer a lease if the successful bidder does not meet the requirements described in paragraph (d) of this section. As written, paragraphs (a) and (d) of this section were inconsistent with each other and this revision is intended to resolve this inconsistency.

The BLM will determine the appropriate variable offset percentage by applying the appropriate factors identified in section 2809.16, before issuing final payment terms. The specific factors will be identified in the competitive offer. If you are the successful bidder, your payment must be submitted to the BLM by the close of official business hours on the day of the offer or at such other time as the BLM may have specified in the offer notice. Your payment must be made by personal check, cashier's check, certified check, bank draft, or money order, or by any other means the BLM deemed acceptable. Your remittance must be payable to the "Department of the Interior—Bureau of Land Management." Your payment must include at least 20 percent of the bonus bid prior to application of the variable offset described in section 2809.16, and the total amount of the minimum bid specified in section 2809.14(b). Within 15 calendar days after the day of the offer, you must submit to the BLM the balance of the bonus bid less the variable offset (see section 2809.16) and the acreage rent for the first full year of the solar or wind energy lease as provided for in sections 2806.54(a) or 2806.64(a), respectively. Submit these payments to the BLM office conducting the offer or as otherwise directed by the BLM in the offer notice.

In section 2809.15(d) of this final rule, the BLM revised "will approve your right-of-way lease" to "will offer you a right-of-way-lease." This change is for consistency in terminology with paragraphs (a) and (e) of this section, which refer to the offering of a

lease and not its approval. Under paragraph (e) of this section, the BLM will not offer a lease if the requirements of section (d) are not met. The BLM does not intend for this revision to change how it offers a lease to successful bidders.

Under section 2809.15(e), the BLM will not offer the successful bidder a lease, and will keep all money submitted, if the requirements of section 2809.15(d) are not met. In this circumstance, the BLM may offer the lease to the next highest bidder under section 2809.17(b) or re-offer the lands under section 2809.17(d). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2809.16 When do variable offsets apply?

Section 2809.16 provides that a successful bidder inside a DLA may be eligible for a variable offset of the bonus bid (in essence, a bidding credit), based on the factors identified in the notice of competitive offer. Variable offsets are not available outside of DLAs.

In providing for these offsets, the BLM intends to promote thoughtful and reasonable development based upon known environmental factors and impacts of different technologies. The BLM believes providing these offsets will increase the likelihood that a project is developed, expedite the development of that project, and encourage development that will result in lesser resource impacts from the right-of-way. Overall, the BLM believes the structure of these offsets will help encourage the production of clean renewable energy on public lands, which is a benefit to the general public.

Pre-qualified bidders may be eligible for offsets limited to no more than 20 percent of the high bid. Factors for a bidder to pre-qualify may vary from one

competitive lease offer to another and may include offsets for bidders with an approved PPA or Interconnect Agreement, among other factors.

For example, the BLM may apply a 5 percent offset factor to a bidder that has a PPA. This offset factor could encourage a bidder to secure an agreement before the offer, which could increase the likelihood of a project being developed and expedite the completion of such development. In the BLM's experience with solar and wind energy developments, a project is not always developed after a right-of-way is issued. Based on this experience, the BLM believes that it is appropriate to award an offset to a bidder with an agreement in place to sell power, because that bidder will be more likely to develop a project on the right-of-way. This could prevent the unnecessary encumbrance of a right-of-way being issued to a holder who never develops the intended project.

The BLM may also identify as an offset factor the submission of a plan showing a reasonable development scenario. For example, the BLM may apply a 5 percent offset factor to a bidder that would use a particular technology. The BLM may identify a preferred technology type that would reduce impacts to identified environmental or cultural resources on the proposed parcel.

The BLM anticipates selected factors for the offsets to be in increments of 5 percent. These will be reviewed at the BLM Washington Office for consistency and relevance prior to each competitive offer made in the first several years after publication of the final rule. The BLM intends to provide additional guidance on the use of these individual factors to ensure consistency between individual notices of competitive offer.

The BLM may offer a different percentage for each offset factor based on how qualified the bidder is for a specific offset factor. For example, the BLM may offer a 3

percent offset for an interim step in the PPA process or a 5 percent offset for a signed PPA. The BLM acknowledges that in some circumstances qualifying for these offsets may be difficult. For this reason, the BLM may offer incremental offset percentages to bidders that are working toward such qualifications. These offset factors (and their various increments) will be identified in the notice of competitive offer (see section 2809.13(b)(6)).

The notice of competitive offer will identify each factor for which BLM may grant a variable offset, and the corresponding maximum percentage offset that would be applied to a qualified bidder's bonus bid. The notice will also identify the documentation a bidder must submit to pre-qualify for the offset. The authorized officer will determine the total offset for each competitive offer, based on the parcel(s) to be offered and any associated environmental concerns or technological limitations.

As identified under paragraph (c) of this section, the factors for which the BLM may grant a variable offset in a particular lease sale include:

1. Power purchase agreement. This could be a signed agreement between the potential lessee and an entity that agrees to purchase the power generated from the solar or wind energy facility;
2. Large generator interconnect agreement. This would consist of a signed agreement from the holder of an electrical transmission facility and the potential lessee that power would be accepted on the grid controlled by the holder to be transported to a power receiving source;

3. Preferred solar or wind energy technologies. This would be an incentive to use technologies for generating or storing solar or wind energy that would efficiently use public lands or reduce impacts to identified resources such as water;
4. Prior site testing and monitoring inside the DLA. This would consist of evidence that the potential lessee or others associated with the lessee had previously performed appropriate testing or monitoring to determine the suitability and capability of the site for establishment of a successful solar or wind energy generating facility;
5. Pending applications inside the DLA. This would be a situation where the potential lessee had previously filed for authorization to construct facilities inside the DLA;
6. Submission of nomination fees. These are required when submitting a formal nomination (see section 2809.11(b));
7. Submission of biological opinions, strategies, or plans. This could include biological opinions, bird and bat conservation strategies, and habitat conservation plans;
8. Environmental benefits. This factor would include any positive environmental considerations such as identifying and salvaging archaeological or historical artifacts, additional protection for protected plant or animal species, or similar factors;
9. Holding a solar or wind energy grant or lease on adjacent or mixed land ownership. This could show the bidder's vested interest in developing the right-of-way;
10. Public benefits. These could include documented commitments or agreements to provide jobs or other support for local communities or supporting local public purposes projects; or

11. Other similar factors. These could include support for other Federal Government programs or national security by providing power for defense purposes or meeting government purchase contracts.

The only changes made in the listed variable offset factors between the proposed and final rule is for Factor Number 7, and those made for clarity and consistency in the final rule, are described in greater detail in the response to comments.

Comment: One comment requested that the BLM not use the variable offset concept, as it is unworkable and would result in appeals by rejected bidders.

Response: Throughout the preambles to the proposed and final rules, the BLM has explained DLAs and the various aspects of the competitive process for solar and wind energy in these areas. By creating incentives for prospective developers and encouraging various conditions that would lead to environmental and other public benefits, the use of a variable offset is an integral aspect of this process.

The BLM manages the public land under the principles of multiple use and sustained yield, but does not expect all interested stakeholders to agree with all of the BLM's decisions. This is, in part, the reason for the BLM's appeal process, allowing the public to seek an administrative remedy for the BLM's decisions by which they have been adversely affected. The BLM expects that there will be appeals or protests on decisions that are made regarding management of the public lands.

For each notice of competitive offer, the BLM will include the factor(s) of a variable offset, as well as the requirements a bidder must meet to qualify for each incremental percentage. Bidders, as well as the public, will have this information made available to them through the notice of competitive offer and be able to act according to

their interests or concerns over the proposed actions. The variable offset is carried forward in the final rule.

Comment: A comment expressed confusion over how the BLM would implement the proposed factor Number 7 (Timeliness of project development, financing and economic factors), and if the potential for meeting project timelines was even possible as a variable offset factor since the reduction in bid money would precede the demonstration of meeting agreed-upon time frames. Acts of God and other such influences that are outside the bidder's control were noted as possible reasons a bidder that received such a factor offset may not be able to meet it.

Response: Proposed factor number 7 for timeliness is removed from the final rule. The BLM agrees with the comment that implementing a timeliness factor would be difficult. There are many reasons outside of a winning bidder's control that may cause a delay to the development of a project. The proposed criteria for timeliness offset factor is a desired objective for an incentive, but was determined too difficult to enforce.

Comment: Another comment stated that the BLM must not shortchange taxpayers or other landowners through a discount that unjustly encourages development of public lands rather than comparable private lands. The BLM must ensure fair market value for the use of public lands.

Response: The variable offset is not a discount to a developer for the use of public lands. It is an incentive provided to a developer of the public lands, that accounts for certain steps a developer has already taken in a particular designated leasing area. Factors of the variable offset may also address the reduction of resource impacts, such as when a less water intensive technology is used. The variable offsets recognize these

early developer steps that could increase the certainty of the successful development of a lease area and assist the BLM in its management of the public lands under the multiple use and sustained yield principles. This increased certainty benefits the public by not having public lands unnecessarily encumbered by a lease that may not be developed and increases the likelihood that solar or wind power generation would occur on public lands.

Comment: A third comment believes that incentives for DLAs should be reached exclusively by reducing rents rather than a complicated structure of variable offsets, time limits, bonding provisions, authorization terms, and MW capacity fees, and that the BLM proposed incentives should be removed from the final rule. This comment specifically addressed some of the proposed factors as follows:

Comment (1): Factors 1 (Power purchase agreement) and 2 (Large generator interconnect agreement) cannot be attained without demonstrated site control.

Response (1): Although securing a PPA or large generator interconnect agreement (LGIA) may not be attainable without site control, the notice may identify interim steps toward meeting the requirements of the offset factor. The final rule allows for interim steps in each of these identified offset factors. The text of the rule cites that the "variable offset may be based on any of the following factors." The notice of competitive offer would include the specific criteria required to qualify for a factor of the variable offset under paragraphs (c)(1) and (c)(2) of this section, including any interim steps toward those factors.

Comment (2): Factor 3 (Preferred solar or wind energy technologies) for preferred technologies should be removed as it could discriminate against certain technologies

without having the expertise of an energy regulatory body (outside of the BLM's authority and expertise).

Response (2): The BLM has expertise in many areas, including the impacts that a certain a technology type may have on the public lands and its resources. This may include technologies with fewer impacts to wildlife or visual resources, or technologies that consume less water. The BLM may choose to provide a variable offset factor for a preferred technology that reduces impacts to the public lands and resources. However, in some cases, the BLM may choose to consult with one of the national laboratories or State authorities for their expertise for some technologies which may be outside of the BLM's expertise to determine as a preferred technology.

Comment (3): The comment asserts that under section 2809.19(a)(1), applications that are filed prior to the publication of the draft land use plan amendment that establishes a DLA should not make a bidder eligible for factors (4) (prior site testing in a DLA) and (5) (pending applications in a DLA). This would only encourage the strategic filing of speculative applications after publication of the draft land use plan amendment in order to qualify for factors (4) and (5).

Response (3): Applications that are filed on public lands before the publication of a notice of intent or other form of public notice by the BLM for a land use plan amendment that are later designated as a DLA will continue to be processed by the BLM and not subject to the competitive offer process of subpart 2809. The filing of speculative applications will not prevent the BLM from holding competitive offers in a particular area.

If the BLM elects to hold a competitive offer for the DLA, the applicant may qualify for offset factors (4) or (5) if they chose to participate. The BLM believes that submitting an application after a notice of intent or other public notice, paying the application filing fee, and waiting for the BLM to hold a competitive offer, should qualify an applicant for variable offset factor 4 or 5.

Comment (4): Factor 6 (submission of nomination fees) is not an incentive if a bidder can submit an expression of interest, which requires no fee, and increase their bonus bid by the amount of the nomination fee that they would have paid, thereby increasing their chances of being the winning bidder.

Response (4): Neither submitting an expression of interest nor submitting a nomination will guarantee that the BLM selects that parcel for a competitive offer. However, if a developer has a particular parcel in mind, the payment of a nomination fee may be preferable so that they may qualify for a variable offset factor. In addition, 5 percent of the bonus bid may result in greater savings to the bidder than the amount submitted for the nomination fees.

Comment (5): Factors 8 (environmental benefits) and 10 (public benefits) are open to distortion and variability across field offices.

Response (5): The BLM intends that in each notice of competitive offer it will identify each applicable variable offset factor offered and specify how a bidder may qualify for each factor. The criteria listed in the final rule are intended to be broad and varied so that they can be adapted for each competitive offer.

Factor 9 is revised from the proposed to the final rule to include grants. As proposed, the factor could appear to only apply for adjacent leases. In this final rule, the

BLM may authorize a grant under subpart 2804 inside a DLA, which may be adjacent to a parcel which is bid on. The parcel may also be adjacent to a grant that is outside the DLA. This revision clarifies that the BLM would consider the site control of adjacent lands, regardless of the instrument.

Comment: One comment suggests the following variable offsets be added: (1) A bird and bat conservation strategy for the project site; (2) A commitment to a specific right-of-way lease condition to obtain a bald and golden eagle protection act permit; (3) A plan to employ best available operation minimization strategies; and (4) agreement to: (a) Conduct monitoring and research with land-based WEG and Eagle Conservation Plan Guidance; (b) Provide this monitoring data to the public to facilitate a greater understanding to the wildlife impacts; and (c) implement avoidance measures to avoid impacts.

Response: A variable offset factor has been added in the final rule to account for biological opinions, strategies and plans. This factor has been added in the place of offset factor 7 which, as noted in an earlier response to comment, has been removed from this rule. New variable offset factor 7 reads as "Submission of biological opinions, strategies, or plans." This will encourage the early and thoughtful development of the public lands. To have such a plan or opinion completed at this point could lead to fewer biological resource impacts and quicker NEPA review of the project POD. The BLM does not expect many projects to complete a biological opinion at this point in the process, but interim steps toward such a plan would demonstrate the developer's commitment to protecting resources on public lands. Such interim steps could qualify a developer for

this factor of a variable offset, which would be described in the notice of competitive offer.

No other comments were received and no other changes are made to this section.

Section 2809.17 Will the BLM ever reject bids or re-conduct a competitive offer?

This section identifies situations where the BLM may reject a bid, offer a lease to another bidder, re-offer a parcel, and take other appropriate actions when no bids are received. Under section 2809.17(a), the BLM could reject bids regardless of the amount offered. Bid rejection could be for various reasons, such as discovery of resource values that cannot adequately be mitigated through stipulations (e.g., the only known site of a rare or endangered plant or for security purposes). If this occurs, the bidder will be notified and the notice will explain the reason(s) for the rejection and whether you are entitled to any refunds. If the BLM rejects a bid, the bidder may appeal that decision under section 2801.10. Minor revisions are made from the proposed to the final rule to improve readability of this section's title by adding the word "the" before BLM.

The BLM could offer the lease to the next highest qualified bidder if the first successful bidder is later disqualified or does not sign and accept the offered lease (see section 2809.17(b)).

Under paragraph (c) of this section, the BLM could re-offer a parcel if it cannot determine a successful bidder. This may happen in the case of a tie or if a successful bidder is later determined to be unqualified to hold a lease.

Under paragraph (d) of this section, if public lands offered competitively under this subpart receive no bids, the BLM could either reoffer the parcels through the competitive process under section 2809.13 or make the lands available through the non-

competitive process found in subparts 2803, 2804, and 2805. If the lands are offered on a noncompetitive basis, the successful applicant would receive a right-of-way grant issued under subpart 2804, rather than a lease issued under subpart 2809, and the offsets described in section 2809.16 would not apply.

Comment: A comment stated that the right to appeal a rejected bid must be qualified (i.e., not be a spurious appeal). The comment goes on to say that this may be remedied by the BLM: (1) prohibiting the issuance of a stay against a lease award while there is a pending appeal filed under section 2801.10; and (2) Specifying that a successful appeal would not rescind a lease award, but instead result in an automatic 20 percent offset for the next DLA competitive process in which the successful appellant participates.

Response: The BLM agrees that appeals should not be spurious or intended to disrupt the BLM's administration of the public lands. However, the BLM does not agree that it should prohibit the issuance of a stay in its regulations. The right to appeal a BLM decision, including the issuance of a stay, is an important part of the BLM's orderly administration of the public lands.

Should an appeal be successful in the IBLA, the BLM would not award a 20 percent variable offset to the appellant. A successful appeal may be grounds for a re-offer of the parcels or other similar action that would be consistent with the administrative status of the BLM decision that was appealed. Also, should a variable offset be awarded to successful appellants, it would likely incite further appeals from other unsuccessful bidders in the hopes to secure such a future credit. Therefore, the BLM will not provide for such variable offset awards in the rule for successful

appellants. No other comments were received or changes made to the final rule for this section.

Section 2809.18 What terms and conditions apply to leases?

Section 2809.18 lists the terms and conditions of solar and wind energy leases issued inside DLAs.

Under paragraph (a) of this section, the term of a lease issued under subpart 2809 will be 30 years and the lessee may apply for renewal under section 2805.14(g). While the BLM will issue grants under subpart 2804 for a term up to 30 years (see section 2805.11), leases issued under subpart 2809 are guaranteed a lease term of 30 years.

Under paragraph (b) of this section, a lessee must pay rent and MW capacity fees as specified in section 2806.54, if the lease is for solar energy development or as specified in section 2806.64, if the lease is for wind energy development. Rent and MW capacity fees are discussed in greater detail in sections 2806.50 through 2806.68 of the section-by-section analysis. Minor revisions are made from the proposed to the final rule to improve readability, but any significant changes are discussed in detail in this preamble.

Under paragraph (c) of this section, a lessee must submit, within 2 years of the lease issuance date, a POD that: (1) Is consistent with the development schedule and other requirements in the POD template posted on the BLM's website http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html; and (2) Addresses all pre-development and development activities. A POD is often required for rights-of-way under section 2804.25(c) of this final rule and is currently required for all renewable energy projects through policy. Due to their complexity, solar and wind energy

development projects will always require a POD. The POD must provide site-specific information that will be reviewed by the BLM and other Federal agencies in accordance with NEPA and other relevant laws.

Under paragraph (d) of this section, a lessee must pay the reasonable costs for the BLM or other Federal agencies to review and process the POD and to monitor the lease. The authority for collecting costs is derived from Sections 304(b) and 504(g) of FLPMA that authorize reimbursement to the United States of all reasonable and administrative costs associated with processing right-of-way applications and other documents relating to the public lands, and in the inspection and monitoring of construction, operation, and termination of right-of-way facilities. Such costs may be determined based on consideration of actual costs. A lessee may choose to pay full actual costs for the review of the POD and the monitoring activities of the lease. Through the BLM's experience, a lessee is more likely to choose payment of full actual costs as this expedites the BLM's review and monitoring actions by removing administrative steps in cost estimations and verifying estimated account balances.

Under paragraph (e) of this section, a lessee must provide a performance and reclamation bond for a solar or wind energy project. Bond amounts for leases issued under subpart 2809 will be set at a standard dollar amount (per acre for solar, or per turbine for wind) for either solar or wind energy development. See section 2805.20 of this preamble for additional information on the determination of these bond amounts. As explained in the general discussion section of this preamble, the BLM does not intend to change the amount of a standard bond after the lease is issued unless there is a change in

use. As previously discussed, these bond amounts were determined based on a review of recently bonded solar and wind energy projects.

Comments: Several comments were received on paragraph (e) of this section. One comment suggested that the BLM should require bonds that are tied to the actual cost of reclamation and mitigation of the project, rather than an arbitrary per acre or per project figure.

Response: It is the intent that these standard bond amounts would incentivize solar and wind energy development in DLAs. Reclamation of the lands in these DLAs is anticipated to be less than other locations outside of DLAs as the resource impacts are not expected to be as great, and the land could, in turn, be used for solar or wind development again if a developer failed to complete their lease obligation in developing the land. Additionally, consistent with its interim policy guidance for offsite mitigation (IM 2013-142)consistent with the recently issued mitigation manual and handbook guidance, the BLM intends to prepare regional mitigation strategies before authorizing wind or solar energy development in DLAs. These plans may identify additional costs for mitigating residual impacts of the right-of-way.

As noted in the preamble for section 2805.20, the minimum and standard bond amounts are the same. The BLM recently completed a review of existing bonded solar and wind energy projects and based the standard bond amounts provided in this final rule on the information found during this review. When determining these bond amounts, the BLM considered potential liabilities associated with the lands affected by the rights-of-way, such as cultural values, wildlife habitat, and scenic values, and the mitigation and reclamation of the project site. The BLM used this review to determine an appropriate

standard bond amount to cover the potential liabilities associated with solar and wind energy projects.

Comment: Another comment stated that both DLA and non-DLA bonding requirements should be the same. The BLM should use differences in rent to encourage development of DLAs.

Response: Bonding requirements for both grants issued under subpart 2804 and leases issued under subpart 2809 are established to protect the public lands. The requirements for leases are established using the same methodology as those minimum amounts established outside of a DLA. However, the standard bond amount recognizes that the impacts to resources and uses are likely to be less inside of a DLA than outside of a DLA, due to the BLM's effort to establish DLAs in areas where resource conflicts are expected to be lower. Furthermore, standard bond amounts increase the certainty for developers of costs when planning for and developing their project.

Comment: A comment recommended that the BLM reevaluate the standard bond amounts and identify a range commensurate with actual costs of decommissioning. The comment noted that the preamble to the proposed rule stated the range of solar bonding costs of $10,000 to $20,000 and wind bonding costs of $22,000 to $60,000. This comment asked if the minimum and standard bond amounts chosen at the bottom or below the stated ranges were adequate.

Response: The BLM has considered the recommendation to identify a range of standard bond amounts, but intends to keep these amounts as proposed. In order to accommodate the wind turbines that pose lesser risk to resources, and consistent with revisions made in section 2805.20, the BLM is including in the final rule a $10,000

standard bond amount for projects utilizing smaller turbines. Turbines with a nameplate capacity of one MW or greater will have a standard bond amount of $20,000, consistent with the proposed rule. This is because these amounts represent bond figures that are representative of the impacts to the resources of the public lands and the intended management decisions of DLAs for solar or wind energy development. Should a developer default or fail to fulfill the lease terms, the BLM may pursue a competitive offer to lease those lands again. The full amount of the bond may not be used in this situation. The balance will be returned to the previous leaseholder upon the completion of reclamation activities. See section 2805.20(d) comment responses of this preamble for further discussion on the added $10,000 bond amount.

BLM has determined that establishing the proposed standard bond amounts as proposed is appropriate. Using the proposed bond amounts reduces the potential for the BLM to secure bonds in amounts beyond what is necessary for the project. If a higher bond amount were selected, the BLM might over-bond the project, especially considering that the BLM has already identified these areas as having lower potential for resource impacts. Grant holders are still liable for damage done during the term of the grant or lease even if the bond amount does not cover the cost of reclamation.

The bonds collected for a project issued under subpart 2809 consider hazardous material liabilities, reclamation, and project site restoration. In addition to the required bond, BLM may require a mitigation fee to address adverse impacts resulting from the right-of-way authorization. Between securing the bond and collection of mitigation fees, the BLM believes that the impacts to the public lands are adequately protected.

A new provision (section 2809.18(e)(3)) has been added to this final rule to explain that lease holders for the testing sites that will be authorized under a lease in a DLA will provide a standard bond amount of $2,000 per site. This addition to the final rule is to make this section consistent with revisions to section 2801.9(d), which open up the site-specific and project-area testing authorizations to solar and wind energy. The standard bond amount for a lease issued under subpart 2809 is the same as a minimum bond amount in the proposed rule. Grants issued in a DLA for testing purposes will have a minimum bond amount as determined under section 2805.20. Testing and monitoring facilities include meteorological towers and instrumentation facilities.

For a solar energy development project, a lessee must provide a bond in the amount of $10,000 per acre at the time the BLM approves the POD. See the discussion at section 2805.20(b) for additional information. For a wind energy development project, a lessee must provide a bond in the amount of $10,000 or $20,000 per authorized turbine before the BLM issues a Notice to Proceed or otherwise gives permission to begin construction on of the development. See sections 2805.20(c) and 2805.20(d) of this preamble for additional information.

The BLM will adjust the solar or wind energy development bond amounts for inflation every 10 years by the average annual change in the IPD-GDP for the preceding 10-year period, and round the bond amount to the nearest $100. This adjustment would be made at the same time that the Per Acre Rent Schedule for linear rights-of-way is adjusted under section 2806.22.

The BLM revised paragraph (e)(4) of this section from the proposed to final rule for consistency with other sections of this final rule where the BLM uses the IPD-GDP to

adjust an amount every 10 years. See the preamble discussion of section 2804.12(c)(2) for further information about this revision

Under paragraph (f) of this section, a lessee may assign a lease under section 2807.21, and if an assignment is approved, the BLM would not make any changes to the lease terms or conditions, as provided in section 2807.21(e). See section 2807.21(e) of this preamble for further discussion of this topic, in response to a comment asking that we clarify the BLM's right to modify the terms of a lease issued under subpart 2809. We added language in paragraph (e) of this section to be consistent with section 2807.21(e) to state that changes made to a lease issued under this subpart will be made only when there is a danger to the public health and safety, environment, or a change to the statutory authority and other responsibilities of the BLM. These changes would only be made in coordination with the lessee.

Under paragraph (g) of this section, a lessee must start construction of a project within 5 years and begin generating electricity no later than 7 years from the date of lease issuance, as specified in the approved POD. The approved POD will outline the specific development requirements for the project, but all PODs require a lessee to start generating electricity within 7 years. The 5 years to start construction and 7 years to begin generating electricity contained in the rule should allow leaseholders time to construct and start generation of electricity and give a leaseholder time to address any concerns that are outside of the BLM's authority. Such concerns include PPAs or private land permitting or site control transactions. A request for an extension may be granted for up to 3 years with a show of good cause and BLM approval. If a leaseholder is unable to meet this timeframe, and does not obtain an extension, the BLM may terminate

the lease. No other comments were received or changes made to the final rule for this section.

Section 2809.19 Applications in DLAs or on lands that later become DLAs.

Section 2809.19 explains how the BLM processes applications for lands located inside DLAs or on lands that later become DLAs. Under the rule, lands inside DLAs will be offered through the competitive bidding process described in this subpart, and applications may not be filed inside these areas after the lands have been offered for competitive bid.

Section 2809.19 is revised from proposed to the final rule by adding a paragraph (a)(3) and redesignating proposed paragraphs (b) and (c) as paragraphs (c) and (d), respectively. The BLM also moved some provisions of proposed paragraph (a)(2) to a new paragraph (b). These changes are made to clarify how the BLM handles applications in areas that later become designated leasing areas. There is no change from the proposed requirements in the final rule.

Paragraph (a) of this section explains how the BLM will process applications filed for solar or wind energy development on lands outside of DLAs that subsequently become DLAs.

Under paragraph (a)(1) of this section, if an application is filed before the BLM publishes a notice of intent or other public announcement of intent for a land use plan amendment that considers designating an area for solar or wind energy, the BLM would continue to process the application, which would not be subject to the competitive leasing offer process found in this subpart. After publication of this notice, the public will have been notified of the BLM's intent to create a DLA.

Under paragraph (a)(2) of this section, if an application is filed after the notice of the proposed land use plan amendment, the application will remain in a pending status, unless it is withdrawn by the applicant or the BLM denies it or issues a grant. The BLM made a minor revision to this section from the proposed rule by adding "or issues a grant." This revision gives the BLM the option to approve a grant in pending status, if it chooses. This revision is made because the proposed rule inadvertently omitted the possibility that a pending application could be approved, instead of only being withdrawn or denied.

New paragraph (a)(3) of this section is added in this final rule to explain that applications may resume being processed by the BLM if lands in a DLA later become available for application. Under paragraph 2809.17(d)(2), the BLM may make the lands in a DLA available for application in some circumstances. For example, the BLM may hold a competitive offer and receive no bids. In this situation, the BLM may make these lands available for application and would resume processing any applications that are pending on these lands. This is consistent with the proposed rule but is added to the final rule to clarify how the BLM will handle such applications in these circumstances.

Some provisions of proposed paragraph (a)(2) of this section are moved into new paragraph (b) in this final rule. These provisions remain mostly unchanged and are discussed as follows.

Under new paragraph (b) of this section, if the subject lands become available for leasing under this subpart, an applicant could submit a bid for the lands. Under new paragraph (b)(1) of this section, any entity with an application pending on a parcel that

submits a bid on such parcel may qualify for a variable offset as provided for under section 2809.16.

Under paragraph (b)(2) of this section, the applicant may receive a refund for any unused application fees or processing costs if the lands described in the application are later leased to another entity under section 2809.15. This provision is revised consistent with changes made for application filing fees in this final rule, which are now a cost recovery payment. The BLM may use some of these fees in processing an application and will refund any unused fees to the applicant.

Proposed paragraph (b) of this section is redesignated as paragraph (c) in this final rule. Under paragraph (c) of this section, the BLM will not accept a new application for solar or wind energy development inside DLAs after the effective date of this rule (see sections 2804.12(b)(1) and 2804.23(e), except as provided for by section 2809.17(d)(2).

Proposed paragraph (c) of this section is redesignated as paragraph (d) in this final rule. Under paragraph (d) of this section, the BLM can authorize short term (3-year) grants for testing and monitoring purposes inside DLAs. These would be processed in accordance with sections 2805.11(b)(2)(i) or 2805.11(b)(2)(ii). These testing grants may qualify an entity for a variable offset under section 2809.16(b)(4).

Comment: One comment was received pertaining to paragraph (a)(1) of this section. The comment stated that the pending application exception in the paragraph requires clarification. A pending project exemption should be tied to a notice of intent rather than a notice of availability (NOA) to avoid a number of filings made immediately after publication of a notice of intent. Also, a pending project exemption should apply to

the potential competitive leasing of non-DLA lands under section 2804.30. In addition, the BLM should clarify that the rule would not apply to applications accepted and serialized or a grant issued before the rule takes effect.

Response: The BLM agrees in part with these suggestions. In this final rule, this section has been modified so that a notice of intent or other public notice will be the point at which the BLM determines that your application qualifies as a pending application. The notice of intent is specific to land use plan amendments that use an EIS for the analysis. Because a plan amendment may also be using an environmental assessment, which does not require a notice of intent, the BLM added the language, "other public announcement" into this section. The BLM believes that it is appropriate to continue processing applications that were submitted before the BLM provided public notice (e.g., through a notice of intent).

The final rule will apply to applications that are accepted and serialized as well as grants that are issued before this rule is effective. There may be exceptions to whether the rule will fully apply to an application or right-of-way grant. For example, application filing fees and preliminary application review meetings may not be required for some pending applications. Applications do not confer land use rights to an applicant, and other provisions of the rule such as rent and fees may be determined at the time a right-of-way is authorized, not at the time an application is submitted. Therefore, under the provisions of new section 2804.40 and 2805.12(e), you may request alternative requirements, stipulations, terms, and conditions from the BLM with a showing of good cause, and an explanation or reason for an alternative requirements, stipulations, terms, and conditions.

V. Section-by-Section Analysis for Part 2880

In addition to the revisions to its regulations governing rights-of-way for solar and wind energy development, the BLM is also revising several subparts of part 2880. These revisions are necessary to make rights-of-way administered under part 2880 consistent, where possible, with the policies, processes, and procedures for those administered under part 2800. Specific areas where we are making consistency changes include: bonding requirements; determination of initial rental payment periods; and when you must contact the BLM, including grant, lease, and temporary use permit (TUP) modification requests, assignments, and renewal requests. The BLM has removed the provision found in the proposed rule regarding pre application requirements and fees for any pipeline 10 inches or more in diameter from this final rule. This is because, based on further analysis and comments received, the use of a 10-inch diameter pipeline was found not to be an appropriate measure that could readily provide a basis for additional requirements.

This final rule adds Section 310 of FLPMA to the authority citation for this part to clarify that FLPMA authority may be used in processing a pipeline right-of-way. The MLA authorizes the Secretary to approve MLA pipeline rights-of-way that cross Federal lands when those pipeline rights-of-way are administered by the Secretary or by two or more Federal agencies. Where the Secretary authorizes a pipeline right-of-way across lands managed by the Secretary, including any bureaus or offices of the Department, other authorities applicable to the management of those lands would generally apply to the authorization. We have cited FLPMA specifically because that authority, governing

the management of the public lands generally, is the authority most commonly relied upon in such authorizations.

Subpart 2884—Applying for MLA Grants or TUPs

Section 2884.10 What should I do before I file my application?

In the proposed rule, this section included requirements for pre-application meetings when applying for a right-of-way for an oil or gas pipeline having a diameter exceeding 10 inches. Many comments were received concerning this proposal, including many comments stating that it was not a reasonable criterion to use in determining the need for pre-application meetings. After considering these comments and upon further evaluation of the proposal the BLM decided to not require these pre-application meetings. As a result, the proposed changes were not made to the regulations in this section.

Section 2884.11 What information must I submit with my application?

Section 2884.11 includes requirements for submitting applications. This section has been retitled from "What information must I submit in my application?" to read as shown above. This revision is consistent with the title revision of section of 2804.12. Proposed requirements for pipelines with a diameter of 10 inches or more have been removed from this section in the final rule.

Section 2884.11(c)(5) is amended by adding a second sentence that further explains that your POD must be consistent with the development schedule and other requirements that are noted on the POD template for oil or gas pipelines at http://www.blm.gov.

Comment: One comment suggested that paragraph (c)(5) of this section be revised to read as follows: "The estimated schedule for constructing, operating, maintaining, and terminating the project (a POD). Your POD must address the elements specified on the POD template for oil and gas pipelines at http://www.blm.gov." This suggestion would remove the requirement for the POD to be consistent with the development schedule in the POD template.

Response: The BLM did not make the suggested changes. The suggested revision to the rule would require that the applicant address each element of a POD, but would not require consistency with the POD template. This could allow a developer to acknowledge the development timeline, but not provide it to the BLM. It is important that applicants provide the necessary information to the BLM for the orderly administration of public lands, including the development schedule for the POD. No other comments were received and no changes are made from the proposed to the final rule.

Section 2884.12 What is the processing fee for a grant or TUP application?

Section 2884.12 explains the fees associated with an application, including those that involve Federal agencies other than the BLM. The applicant may either pay the BLM for work done by those Federal agencies or pay those Federal agencies directly for their work. This authority was recently delegated to the BLM by the Secretary by Secretarial Order 3327.

Paragraph (b) of this section revises the processing fee schedule to remove the 2005 category fees. Paragraph (c) of this section provides instructions on where you may obtain a copy of the current processing fee schedule. These changes parallel those made

to section 2804.14, which describe processing fees for grant applications. A further analysis of these changes can be found in that part of the section-by-section analysis. No comments were received and no, changes are made from the proposed rule to the final rule.

Section 2884.16 What provisions do Master Agreements contain and what are their limitations?

Section 2884.16 is revised to require that Master Agreements describe existing agreements with other Federal agencies for cost reimbursement associated with the application. This change parallels changes made in section 2804.18, which describes Master Agreements for all other rights-of-way. With the authority recently delegated by Secretarial Order 3327 to collect costs for other Federal agencies, it is important for the applicant, the BLM, and other Federal agencies to coordinate and be consistent regarding cost reimbursement. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2884.17 How will BLM process my Processing Category 6 Application?

Section 2884.17 explains how the BLM processes Category 6 applications and these changes parallel changes in section 2804.19. Under paragraph (e) of this section, the BLM may collect reimbursement for the United States for actual costs with respect to right-of-way applications and other document processing relating to Federal lands. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2884.18 What if there are two or more competing applications for the same pipeline?

Section 2884.18 parallels section 2804.23. Under paragraph (a)(1) of this section, the requirement to reimburse the BLM is expanded to allow for cost reimbursement from all Federal agencies for the processing of these right-of-way authorizations.

Under paragraph (c) of this section, the BLM may offer lands through a competitive process on its own initiative. Language is added to this paragraph to include "other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the Internet." This revision is consistent with other public notice sections of this rule. See section 2804.23(c) of this preamble for further discussion. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2884.20 What are the public notification requirements for my application?

Under section 2884.20, the phrase "and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet" is added to paragraphs (a) and (d) to provide for additional methods to notify the public of a pending application or to announce any public hearings or meetings. This final rule is revised, consistent with changes made to other notification language throughout this rule, to make notice in a newspaper an optional method of notice. See section 2804.23(c) of this preamble for further discussion. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2884.21 How will BLM process my application?

Under section 2884.21, the BLM will not process your application if you have any trespass action pending for any activity on BLM administered lands (see section 2888.11) or have any unpaid debts owed to the Federal Government. The only

application the BLM will process to resolve the trespass is for a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after all outstanding debts are paid. This provision is added to provide incentives for the applicant to resolve outstanding debts or other infractions involving the Federal Government and parallels section 2804.25.

New language is added to paragraph (b) of this section stating that outstanding debts are those currently unpaid debts owed to the Federal Government after all administrative collection actions have occurred, including administrative appeal proceedings under applicable Federal regulations and review under the APA. This language is added to be consistent with section 2804.25(d). No comments were received for section 2884.21, but comments were received and addressed under section 2804.25. The notification language contained in paragraph (d)(4) of this section is amended by adding the phrase "and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet." This section is revised, consistent with changes made to other notification language throughout this rule, to make notice in a newspaper an optional method of notice. See section 2804.23(c) of this preamble for further discussion.

Section 2884.22 Can BLM ask me for additional information?

Section 2884.22 describes what information the BLM may require in processing an application. This section was revised by changing the reference found in paragraph (a) from section 2804.25(b) to 2804.25(c). This change was not proposed, but is made to be consistent with other changes made in this final rule. No other changes were made to this section.

Section 2884.23 Under what circumstances may BLM deny my application?

Section 2884.23 describes the circumstances when the BLM may deny an application. In the proposed rule, section 2884.23(a)(6), stated that the BLM may deny an application if the required POD fails to meet the development schedule and other requirements for oil and gas pipelines.

Comment: Several comments suggested that the BLM remove the 10-inch pipeline threshold requirement in the proposed rule.

Response: As noted previously in the preamble, the BLM removed the proposed requirements for pipelines "10 inch or larger in diameter" from the final rule. This includes requirements such as the pre-application meetings, the POD timeline, and other such requirements that are specific to pipelines 10 inches in diameter or larger. The timeliness requirement, among others associated with the large-scale pipeline projects description has been removed from the final rule.

Comment: One comment stated that the BLM should account for instances when a developer does not meet the timeframe due to reasons outside of their control.

Response: The final rule adds a new section 2884.30 that parallels section 2804.40, both of which address situations in which a developer misses a timeframe or is unable to meet a requirement because of circumstances beyond its control. The preamble for section 2804.40 explains in greater detail the circumstances when an applicant may be unable to meet a requirement.

No other comments were received and no other changes made from the proposed rule to the final rule.

Section 2884.24 What fees do I owe if BLM denies my application or if I withdraw my application?

In the proposed rule, this section was consistent with section 2804.27. The proposed section would have required an applicant to pay any pre-application costs submitted under section 2884.10(b)(4). The BLM removed the "10 inches or larger in diameter" criteria used for determining large-scale pipeline projects from the final rule and as a result, requirements that are specific to large-scale pipeline projects are not carried forward in the final rule. This includes requirements such as the pre-application meetings, application submission, POD and other such requirements.

Section 2884.30 Showing of good cause.

This section was not in the proposed rule. It is added here to clarify that if you cannot meet one or more of the right-of-way process requirements for a MLA application, then you may: (a) Show good cause as to why you cannot meet a requirement; and (b) Suggest an alternative requirement and explain why that requirement is appropriate. This request must be in writing and received by the BLM before your deadline to meet a requirement(s) has passed. This section is added to respond to comments requesting a way to meet the intent of the regulation if an applicant believes that a requirement(s) cannot be met. Additional discussion can be found in section 2804.40 of this preamble.

Subpart 2885—Terms and Conditions of MLA Grants and TUPs

Section 2885.11 What terms and conditions must I comply with?

Section 2885.11 explains the terms and conditions of a grant. Paragraph (a) of this section is revised by adding the phrase "with the initial year of the grant considered

to be the first year of the term." This revision clarifies what BLM considers to be the first year of a grant. For example, a 30-year grant issued on September 1, 2015, will expire on December 31, 2044, and have an effective term of 29 years and 4 months. This is consistent with law, policy, and procedures. For all grants issued under parts 2800 and 2880 with terms greater than 3 years, the actual term will include the number of full years, including any partial year. The term for a MLA grant differs from the term for rights-of-way authorized under FLPMA, as FLPMA rights-of-way may be issued for periods greater than 30 years, while a MLA right-of-way may be issued for a maximum period of 30 years. If a 30 year FLPMA grant is issued on a date other than the first of a calendar year, that partial year will count as additional time of the grant (see discussion of section 2805.11 earlier in this preamble section).

A new sentence is added to the end of section 2885.11(b)(7) referencing new section 2805.20 that explains the bonding requirements for all rights-of-way. The introduction of this paragraph is revised consistent with the introduction made to paragraph 2805.20(a) that has the similar provision by which the BLM may require a bond. The introduction of this paragraph now reads: "The BLM may require that you obtain," instead of "If we require it…." This revision is for consistency within the final rule and its regulations.

Comments: Several concerns were raised about bonding requirements. One comment suggested that bonding should focus only on large scale operations (e.g., use a 60 acre or greater criterion), that right-of-way holders should be able to use liability insurance to satisfy bonding requirements, and asked that the rule make it clear that the new requirements would not affect existing operations.

Response: This final rule does not require bonding for any rights-of-way, except for solar and wind energy developments. As previously noted, the BLM has removed the criteria for large scale projects from this final rule. The BLM will continue to determine whether a bond is necessary and what the bond amount will be on a case-by-case basis.

In this final rule, the BLM accepts many bond instruments, including insurance policies. Insurance policies would include those that are issued for general liabilities of a company, individual, or organization.

The bonding provisions in the final rule apply to the grants that were issued before the effective date of this rule. The existing regulations require that a holder obtain or certify that they have obtained a bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property incurred in connection with the use and occupancy of the right-of-way or TUP area. The current regulations allow the BLM to adjust the bond requirements for any right-of-way grant or lease when a situation warrants it. These requirements in the existing rule are incorporated in this final rule and will continue to apply to existing and future grant holders.

Comments: Another comment suggested copying the bonding requirements from part 2800 into part 2880, instead of referring to the relevant requirements.

Response: The BLM intends to maintain the continuity of the regulations, as they currently exist. Section 2885.11(b)(7) refers to the terms and conditions in section 2805.12. This creates a consistent use of the regulations for the public as well as the BLM in its administration of the public lands. It is not necessary to duplicate the subpart

2805 regulations in part 2880. No other comments were received and no other changes made from the proposed rule to the final rule.

Section 2885.15 How will BLM charge me rent?

Section 2885.15 discusses how the BLM will prorate and charge rent for rights-of-way. Revisions to section 2885.15 clarify that there are no reductions of rents for grants or TUPs, except as provided under section 2885.20(b). Section 2885.20(b) is an existing provision under which a grant holder can qualify for phased-in rent. This section is revised to clarify existing requirements and add a cross-reference to another section of these regulations. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.16 When do I pay rent?

Revisions to section 2885.16 clarify that the BLM prorates the initial rental amount based on the number of full months left in the calendar year after the effective date of the grant or TUP. If your grant qualifies for annual payments, the initial rent bill consists of the beginning partial year plus the next full year. For example, the initial rent payment required for a 10-year grant issued on September 1 would be for 1 year and 3 months if the grant qualifies for annual billing. The initial rental bill for the same grant would be for 9 years and 3months if the grant does not qualify for annual billing. This is a new provision that parallels section 2806.24(c) and creates consistency in how all rights-of-way are prorated. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.17 What happens if I do not pay rents and fees or if I pay the rents or fees late?

Section 2885.17(e) parallels section 2806.13(e), which identifies when the BLM would retroactively bill for uncollected or under-collected rent, late payments, and administrative fees. The BLM will collect such rents if: (1) A clerical error is identified; (2) A rental schedule adjustment is not applied; or (3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

Comment: One comment pointed out that the titles of sections 2806.13(e) and 2885.17(e) were not consistent and also questioned the location of the new subject matter within these paragraphs.

Response: The BLM agrees with the comment that the titles of the two paragraphs identified are not consistent, therefore we revised the section heading to read as above. However, we did not revise the placement of the subject matter within the final regulations. After revisions to this section heading, the provisions for retroactive billing and unpaid or under collected rents are appropriately placed in this section. No other comments were received and no other changes made from the proposed rule to the final rule.

Section 2885.19 What is the rent for a linear right-of-way grant?

Section 2885.19 is revised by updating the addresses in paragraph (b). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.20 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

Section 2885.20is amended by removing paragraph (b)(1) that discussed the phase-in of the Per Acre Rent Schedule and the 2009 per acre rent, because this provision

is no longer applicable. Paragraph (b) now consists of the language formerly found at paragraph (b)(2). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.24 If I hold a grant or TUP what monitoring fees must I pay?

The changes in section 2885.24 parallel the changes made to other sections of this rule that contained tables with outdated numbers. Specific numbers are removed from the table. However, the monitoring fee amounts are available to the public either from BLM offices or on the BLM website. The rule adds the methodology for adjusting these fees on an annual basis to paragraph (a) of this section. Since this methodology has been added to paragraph (a), a description of how the BLM updates the schedule has been removed from paragraph (b) of this section.

Consistent with revisions made under 2805.16, the BLM is adding the words "inspecting and" to section 2885.24. This additional language codifies current practice or policy. It will allow the BLM to inspect and monitor the right-of-way to ensure a project's compliance with the terms and conditions of an authorization. Under this provision, if a project is out of compliance, the BLM could inspect the project to ensure that the required actions are completed to the satisfaction of the BLM, such as continued maintenance of the required activity. No comments were received and no other changes are made from the proposed rule to the final rule.

Subpart 2886—Operations on MLA Grants and TUPs

Section 2886.12 When must I contact BLM during operations?

Section 2886.12 describes when a right-of-way grant holder must contact the BLM during operations. The changes in this section parallel the changes made to section

2807.11. A grant holder is required to contact the BLM when site-specific circumstances require changes to an approved right-of-way grant, POD, site plan, or other procedures, even when the changes are not substantial deviations in location or use. These types of changes are considered to be grant or TUP modification requests. Paragraph (e) is added to conform to similar provisions found at section 2807.11(e), which requires you to contact the BLM if your authorization requires submission of a certificate of construction. See section 2807.11 for further discussion of these topics.

Comment: One comment stated that requiring grant holders to contact the BLM prior to making non-substantial deviations in location or use, including operational changes, project materials, and mitigation measures, is overly burdensome.

Response: Unless a grant provides for non-substantial deviations, a grant holder must contact the BLM and request approval of non-substantial deviations for an authorization. Should a holder not receive approval from the BLM, they could be found to be in noncompliance with the terms and conditions of the grant. The requirements of this section are required in order for the BLM to review and approve a non-substantial deviation and to ensure that the BLM is meeting its responsibilities under the MLA and any other applicable authorities, including FLPMA. It is the BLM's responsibility to determine if a deviation is substantial, not a grant holder's. No other comments were received and nor changes are made from the proposed rule to the final rule.

Subpart 2887—Amending, Assigning, or Renewing MLA Grants and TUPs

Section 2887.11 May I assign or make other changes to my grant or TUP?

The final rule revises section 2887.11 to parallel the revisions made to section 2807.21, which describes assigning or making other changes to a FLPMA grant or lease.

We received comments to sections 2807.21 and 2887.11 that apply to both sections. Sections 2807.21 and 2887.11 are consistent with each other in formatting and content, except where cross-references are made to their respective regulatory provisions.

The section heading for section 2887.11 is changed to be consistent with the section heading for section 2807.21 and the text in the final section. The existing regulations do not cover all instances when an assignment is necessary and also do not address situations when assignments are not required. The revisions to this section are necessary to: (1) Add and describe additional changes to a grant other than assignments; (2) Clarify what changes require an assignment; and (3) Make right-of-way grants or TUPs subject to the regulations in this section.

Paragraph (a) is revised to include two events that may require the filing of an assignment: (1) The transfer by the holder of any right or interest in the right-of-way grant to a third party, e.g., a change in ownership; and (2) A change in control transactions involving the right-of-way grantee. See section 2807.21 of this preamble for further discussion.

Revised paragraph (b) clarifies that a change in the holder's name only does not require an assignment. It also clarifies that changes in a holder's articles of incorporation do not trigger an assignment.

Revised paragraph (c) pertains to payments for assignments and adds a requirement to pay application fees in addition to processing fees. Also, the BLM may now condition a grant assignment on payment of outstanding cost recovery fees to the BLM.

Added paragraph (g) clarifies that only interests in right-of-way grants or TUPs are assignable. A pending right-of-way application is not a property right or other interest that can be assigned. No comments were received and no other changes made from the proposed rule to the final rule.

Section 2887.12 How do I renew my grant?

Section 2887.12 adds paragraph (d), to be consistent with the revisions made to section 2807.22, explaining that if a holder makes a timely and sufficient application for renewal, the existing grant or lease does not expire until BLM issues a decision on the application for renewal. This provision is derived from the APA (5 U.S.C. 558(c)(1)), and it protects the interests of existing right-of-way holders who have timely and sufficiently made an application for the continued use of an existing authorization. In this situation, the authorized activity does not expire until the application for continued use has been evaluated and a decision on the extension is made by the agency. This reiterates and clarifies existing policy and procedures.

Under section 2887.12(e), you may appeal the BLM's decision to deny your application under section 2881.10. This paragraph parallels the language under proposed section 2807.22(f), which is redesignated as section 2807.22(g). No comments were received and no changes are made from the proposed rule to the final rule.

VI. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is significant because it could raise novel legal or policy issues.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. This Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

This rule includes provisions intended to facilitate responsible solar and wind energy development and to receive fair market value for such development. These provisions are designed to:

1. Promote the use of preferred areas for solar and wind energy development (i.e., DLAs); and
2. Establish competitive processes, terms, and conditions (including rental and bonding requirements) for solar and wind energy development rights-of-way both inside and outside of DLAs.

These provisions also will assist the BLM in: (a) Meeting goals established in Section 211 of the EPAct of 2005, Secretarial Order 3285A1, and the President's Climate Action Plan; and (b) Implementing recommendations from the GAO and OIG regarding renewable energy development.

In addition to provisions that would affect renewable energy specifically, this rule also includes some provisions that affect all rights-of-way, and some that affect only transmission lines with a capacity of 100 kV or more. These provisions clarify existing regulations and codify existing policies.

Economic Impacts

The rule does not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The BLM anticipates this rule will reduce total costs to all applicants, lessees, and operators by up to approximately 17.9 million per year. The change in rents and fees from those currently set by policy primarily reflect changing market conditions. Increases in the minimum bond amounts also reflect increases in estimated reclamation costs. These impacts are discussed in detail in the Economic and Threshold Analysis for the rule.

Other Agencies

This rule does not create a serious inconsistency or otherwise interfere with another agency's actions or plans. The BLM is the only agency that may promulgate regulations for rights-of-way on public lands.

Budgetary Impacts

This rule does not materially alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights or obligations of their recipients.

Novel Legal or Policy Issues

This rule may raise novel legal or policy issues. It codifies existing BLM policies and provides additional detail about submitting applications for solar or wind energy development grants, and for transmission lines with a capacity of 100 kV or more. In addition, the rule provides for a competitive process for those entities seeking solar and wind energy development leases inside of DLAs.

National Environmental Policy Act (NEPA)

These regulatory amendments are of an administrative or procedural nature and thus are eligible to be categorically excluded from the requirement to prepare an environmental assessment (EA) or EIS. See 43 CFR 46.205 and 46.210(i). They do not present any of the extraordinary circumstances listed at 43 CFR 46.215.

Nonetheless, the BLM prepared an EA and Finding of No Significant Impact (FONSI) analyzing the final rule to inform agency decision-makers and the public. The EA/FONSI incorporates by reference the Final Solar Energy Development Programmatic Environmental Impact Statement (July 2012) and the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States (June 2005). The EA concludes that this rule does not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)). A detailed statement under NEPA is not required. To obtain single copies of the Programmatic EISs or the EA/FONSI, you may contact the person listed under the section of this rule titled, "**FOR FURTHER INFORMATION CONTACT**." You may also view the EA/FONSI and Programmatic Environmental Impact Statements at, respectively, http://windeis.anl.gov/,

http://solareis.anl.gov/, and

http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. For the purposes of this analysis, the BLM assumes that all entities (all grant holders, lessees, and applicants for rights-of-way for solar or wind energy projects, pipelines, or transmission lines with a capacity of 100 kV or more) that may be affected by this rule are small entities, even though that is not actually the case.

This rule does not have a significant economic effect on a substantial number of small entities under the RFA.

The rule does affect new applicants or bidders for authorizations of solar or wind energy development and transmission lines with a capacity of 100 kV or more. The BLM reviewed current holders of such authorizations to determine whether they are small businesses as defined by the SBA. The BLM was unable to find financial reports or other information for all potentially affected entities, so this analysis assumes that the rule could potentially affect a substantial number of small entities.

To determine the extent to which this rule will impact these small entities, we took two approaches. First, we attempted to measure the direct costs of the rule as a portion of the net incomes of affected small entities. However, we were unable to obtain

the financial records for a representative sample. Next, we estimated the direct costs of the rule as a portion of the total costs of a project.

The analysis showed that a range of potential impacts on the total cost of a project varied from a savings of 0.08 percent to a cost of 1.45 percent of the total project cost. The BLM determined that this was an insignificant impact in the context of developing a project and, therefore, not a significant economic impact on a substantial number of small businesses. For a more detailed discussion, please see the economic analysis.

Small Business Regulatory Enforcement Fairness Act

For the same reasons as discussed under the Executive Order 12866, Regulatory Planning and Review section of this preamble, this rule is not a "major rule" as defined at 5 U.S.C. 804(2). That is, it would not have an annual effect on the economy of $100 million or more; it would not result in major cost or price increases for consumers, industries, government agencies, or regions; and it would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector of $100 million or more per year; nor would it have a significant or unique effect on State, local, or tribal governments. This rule amends portions of the regulations found at 43 CFR parts 2800 and 2880, redesignates existing 43 CFR part 2809 in its entirety to a new paragraph found at 2801.6(a)(2), adds new 43 CFR part 2809, and modifies the MLA pipeline regulations in 43 CFR part 2880, but does not result in any unfunded mandates. Therefore, the BLM does not need to prepare a

statement containing the information required by Sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531 et seq. The rule is also not subject to the requirements of Section 203 of UMRA because it contains no regulatory requirements that might uniquely affect small governments, nor does it contain requirements that either apply to such governments or impose obligations upon them.

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

This rule is not a government action that interferes with constitutionally protected property rights. This rule sets out competitive processes for solar and wind energy development and revises some requirements for pipelines and electric transmission facilities on BLM-managed public lands. It establishes rent and fee schedules for various components of the development of such facilities inside DLAs that are conducive to competitive right-of-way leasing and clarifies a process that would rely on the BLM's existing land use planning system to allow for these types of uses. Because any land use authorizations and resulting development of facilities under this rule are subject to valid existing rights, it does not interfere with constitutionally protected property rights. Therefore, the Department determined that this rule does not have significant takings implications and does not require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The BLM determined that this rule does not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. It

does not apply to State or local governments or State or local government entities. Therefore, in accordance with Executive Order 13132, the BLM determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Department determined that this rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Department's Office of the Solicitor has reviewed this rule to eliminate drafting errors and ambiguity. It has been written to minimize litigation, provide clear legal standards for affected conduct rather than general standards, promote simplification, and avoid unnecessary burdens.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM found that this rule does not have significant tribal implications. Additionally, because the rulemaking itself is administrative in nature and does not establish any DLAs or approve any specific projects, the BLM has determined that it does not require tribal consultation.

Moreover, in the future when additional DLAs are established or projects are approved, the rule calls for further tribal consultation by the BLM and right-of-way applicants. Specifically, DLAs will be identified through the BLM's land use planning process. Tribal consultation is an important component of that process and will be undertaken when DLAs are identified. In addition to the preliminary review covered in the planning process, existing BLM regulations require site-specific analysis for specific

projects. As part of that site-specific analysis, right-of-way applicants must consult with affected tribes to discuss the proposed action and other aspects of the proposed project. For example, site-specific requirements for applications for a grant issued under subpart 2804 include application review, public meetings, and tribal consultation. The BLM would be able to deny an application after these meetings based on a variety of criteria, including tribal concerns.

Data Quality Act

In promulgating this rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Section 515 of Public Law 106-554). In accordance with the Data Quality Act, the Department has issued guidance regarding the quality of information that it relies upon for regulatory decisions. This guidance is available at the Department's website at: http://www.doi.gov/archive/ocio/iq.html.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action'' is defined as any action by an agency that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; (2) Is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) Is designated by the Administrator of OIRA as a significant energy action.

This rule could raise novel legal or policy issues within the meaning of Executive Order 12866 or any successor order. However, the BLM believes this rule is unlikely to

have a significant adverse effect on the supply, distribution, or use of energy, and may in fact have a positive impact on energy supply, distribution, or use. In fact, its intent is to facilitate such development. The rule codifies BLM policies and provides additional detail about the process for submitting applications for solar or wind energy development grants issued under subpart 2804, or for solar or wind energy development leases issued under subpart 2809.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM determined that this rule will not impede the facilitation of cooperative conservation. The rule takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodates local participation in the Federal decision-making process; and provides that the programs, projects, and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501-3521) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. Collections of information include requests and requirements that an individual, partnership, or corporation obtain information, and report it to a Federal agency. See 44 U.S.C. 3502(3); 5 CFR 1320.3(c) and (k).

This rule contains information collection activities that require approval by the OMB under the Paperwork Reduction Act. The BLM included an information collection

request in the proposed rule. OMB has approved the information collection for the final rule under control number 1004-0206.

Some of the information collection activities in the final rule require the use of Standard Form 299 (SF-299), Application for Transportation and Utility Systems and Facilities on Federal Lands. SF-299 is approved for use by the BLM and other Federal agencies under control number 0596-0082. The U.S. Forest Service administers control number 0596-0082. The OMB has approved the information collection activities in this final rule under control number 1004-0206.

The information collection activities in this rule are described below along with estimates of the annual burdens. Included in the burden estimates are the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each component of the proposed information collection.

The following features of the final rule pertain to more than one information collection activity.

Designated leasing areas: As defined in an amendment to 43 CFR 2801.5, a designated leasing area is a parcel of land identified in a BLM land use plan as a preferred location for solar or wind energy development. Regulations at 43 CFR subpart 2809 provide for the issuance of solar or wind right-of-way development "leases" inside a designated leasing area. Regulations at subpart 2804 provide for right-of-way development "grants" for solar or wind energy projects outside of any designated leasing area. Regulations at subpart 2804 also provide for testing grants for solar or wind energy inside or outside designated leasing areas.

Competitive process for solar or wind energy outside any designated leasing area: Section 2804.30 provides that the BLM may invite bids for land outside any designated leasing area for solar or wind energy testing and development. Section 2804.30(g) allows only one applicant (i.e., a "preferred applicant") to apply for a right-of-way grant for solar or wind energy testing or development outside any designated leasing area. The preferred applicant is the successful bidder in the competitive process outlined in subpart 2804.

Competitive process for solar or wind energy inside a designated leasing area: Subpart 2809 outlines a competitive process for land inside a designated leasing area, which provides for a parcel nomination and competitive offer instead of an application process.

Application filing fees: Section 2804.12(c)(2) requires an "application filing fee" as follows:

(1) $15 per acre for applications for solar or wind energy development outside any designated leasing area; and

(2) $2 per acre for applications for energy project-area testing inside or outside designated leasing areas.

As defined in an amendment to section 2801.5, an application filing fee is specific to solar and wind energy right-of-way applications. Section 2804.30(e)(4) provides that the BLM will refund the fee, except for the reasonable costs incurred on behalf of the applicant, if the applicant is not a successful bidder under subpart 2804 or subpart 2809. The proposed rule would have required an application filing fee for energy site-specific testing grants. On consideration of comments questioning whether site-specific testing

should be subject to an application filing fee, the BLM has removed that requirement from the final rule. The $2 per acre filing fee applies to applications for energy project-area testing, but not to energy site-specific testing.

Applications: Section 2804.12(b) refers to applications in the context of large-scale projects. In the BLM's experience, most applications and plans of development for large-scale projects evolve from several iterations of the first application that is submitted. Some requirements in the final rule (for example, application filing fees) apply to the first time an application is submitted but not to subsequent submissions of an application for the same project.

The information collection activities in the final rule are discussed below.

Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area (43 CFR 2804.12 and 2804.30(g)); and

Application for an Electric Transmission Line with a Capacity of 100 kV or More (43 CFR 2804.12)

New requirements at 2804.12(b) apply to the following types of applications:

- Solar and wind energy development grants outside any designated leasing area; and
- Electric transmission lines with a capacity of 100 kV or more.

In addition to these categories of applications, the proposed rule would have made these new requirements applicable to applications for pipelines 10 inches or greater. The rationale was that these applications, as well as the other 2 types of applications, were for large-scale operations that warrant their own procedures. Some comments questioned the

BLM's description of pipelines 10 inches or greater in diameter as a measure for large-scale pipeline projects, and suggested that the scale of pipeline projects is better measured by acreage than pipeline diameter. The BLM agrees. Rights-of-way for pipelines 10 inches or greater in diameter are not subject to section 2804.12 of the final rule.

Section 2804.12(b) includes the following requirements for applications for a solar or wind energy development project outside a designated leasing area, and to applications for a transmission line project with a capacity of 100 kV or more:

- A discussion of all known potential resource conflicts with sensitive resources and values, including special designations or protections; and
- Applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts, if any.

Section 2804.12(b) also requires applicants to initiate early discussions with any grazing permittees that may be affected by the proposed project. This requirement stems from FLPMA Section 402(g) (43 U.S.C. 1752(g)) and a BLM grazing regulation (43 CFR 4110.4-2(b)) that require 2 years' prior notice to grazing permittees and lessees before cancellation of their grazing privileges.

In addition to the information listed at 43 CFR 2804.12(b), an application for a solar or wind project, or for a transmission line of at least 100 kV, must include the information listed at 43 CFR 2804.12(a)(1) through (a)(7). These provisions are not amended in the final rule. The requirements at section 2804.12(e) (formerly section 2804.12(b)) apply to applicants that are business entities. These requirements are not amended substantively in the final rule. The burdens for all of these regulations are

already included in the burdens associated with the BLM for SF-299 and control number 0596-0082, and therefore are not included in the burdens for the final rule.

Applications for solar or wind energy development outside any designated leasing area, but not applications for large-scale transmission lines, are subject to a requirement (at 43 CFR 2804.12(c)(2)) to submit an "application filing fee" of $15 per acre. As defined in an amendment to section 2801.5, an application filing fee is specific to solar and wind energy right-of-way applications. Section 2804.30(e)(4) provides that the BLM will refund the fee, except for the reasonable costs incurred on behalf of the applicant, if the applicant is not a successful bidder in the competitive process outlined in subpart 2804.

General Description of a Proposed Project and Schedule for Submittal of a POD (2804.12(b)(1) and (b)(2))

Paragraph 2804.12(b)(1) and (b)(2) require applicants for a solar or wind development project outside a designated leasing area to submit the following information, using Form SF-299:

- A general description of the proposed project and a schedule for the submission of a POD conforming to the POD template at http://www.blm.gov;
- A discussion of all known potential resource conflicts with sensitive resources and values, including special designations or protections; and
- Proposals to avoid, minimize, and compensate for such resource conflicts, if any.

Preliminary Application Review Meetings for a Large-Scale Right-of-Way (43 CFR 2804.12 (b)(4))

The proposed rule would have required pre-application meetings for each large-scale project (defined in the proposed rule as an application for a solar or wind energy development project outside a designated leasing area, a transmission line project with a capacity of 100 kV or more, or a pipeline 10 inches or more in diameter). Several comments suggested that the BLM lacks authority to impose requirements on a developer before submission of an application without an application being submitted to the BLM.

The BLM agrees with these comments and has revised the proposed rule. Instead of pre-application meetings, the final rule requires "preliminary application review meetings" that will be held after an application for a large-scale right-of-way has been filed with the BLM. As discussed above, the BLM also has decided to remove 10-inch pipelines from the final rule, in response to comments questioning the characterization of pipelines 10 inches or greater in diameter as large-scale projects.

Within 6 months from the time the BLM receives the cost recovery fee for an application for a large-scale project (i.e., for solar or wind energy development outside a designated leasing area or for a transmission line with a capacity of 100 kV or more), the applicant must schedule and hold at least two preliminary application review meetings.

In the first meeting, the BLM will collect information from the applicant to supplement the application on subjects such as the general project proposal. The BLM will also discuss with the applicant subjects such as the status of BLM land use planning for the lands involved, potential siting issues or concerns, potential environmental issues or concerns, potential alternative site locations, and the right-of-way application process.

In the second meeting, the applicant and the BLM will meet with appropriate Federal and State agencies and tribal and local governments to facilitate coordination of potential environmental and siting issues and concerns.

The applicant and the BLM may agree to hold additional preliminary application review meetings.

Application for an Energy Site-Specific Testing Grant (43 CFR 2804.30, 2805.11(b)(2)(i), and 2809.19(c));

Application for an Energy Project-Area Testing Grant (43 CFR 2804.30, 2805.11(b)(2)(ii), and 2809.19(c)); and

Application for a Short-Term Grant (43 CFR 2805.11(b)(2)(iii))

Section 2804.30(g) authorizes only one applicant (i.e., a "preferred applicant") to apply for an energy project-area testing grant or an energy site-specific testing grant for land outside any designated leasing area. Section 2809.19(c) authorizes only one applicant (i.e., the successful bidder in the competitive process outlined at 43 CFR subpart 2809) to apply for an energy project-area testing grant or an energy site-specific testing grant for land inside a designated leasing area. Section 2805.11(b) authorizes applications for short-term grants for other purposes (such as geotechnical testing and temporary land-disturbing activities) either inside or outside a designated leasing area.

Each of these grants is for 3 years or less. All of these applications must be submitted on an SF-299. Applications for project-area grants (but not site-specific grants) are subject to a $2 per-acre application filing fee in accordance with section 2804.12(c)(2). Applicants for short-term grants for other purposes (such as geotechnical

testing and temporary land-disturbing activities) are subject to a processing fee in accordance with section 2804.14.

The proposed rule would have limited testing grants to wind energy. Some comments suggested that these authorizations should be made available for solar energy. The BLM has adopted this suggestion in the final rule.

Showing of Good Cause (43 CFR 2805.12(c)(6))

Any authorization for a solar and wind energy right-of-way requires due diligence in development. In accordance with section 2805.12(c)(6), the BLM will notify the holder before suspending or terminating a right-of-way for lack of due diligence. This notice will provide the holder with a reasonable opportunity to correct any noncompliance or to start or resume use of the right-of-way. A showing of good cause will be required in response. That showing must include:

- Reasonable justification for any delays in construction (for example, delays in equipment delivery, legal challenges, and acts of God);
- The anticipated date for the completion of construction and evidence of progress toward the start or resumption of construction; and
- A request for extension of the timelines in the approved POD.

The BLM will use the information to determine whether or not to suspend or terminate the right-of-way for failure to comply with due diligence requirements.

Reclamation Cost Estimate for Lands Outside Any Designated Leasing Area (43 CFR 2805.20(a)(3) and (a)(5))

New section 2805.20(a)(3) provides that the bond amount for projects other than a solar or wind energy lease under subpart 2809 (i.e., inside a designated leasing area) will be determined based on the preparation of a reclamation cost estimate that includes the cost to the BLM to administer a reclamation contract and review it periodically for adequacy.

New section 2805.20(a)(5) provides that reclamation cost estimate must include at minimum:

- Remediation of environmental liabilities such as use of hazardous materials waste and hazardous substances, herbicide use, the use of petroleum-based fluids, and dust control or soil stabilization materials;
- The decommissioning, removal, and proper disposal, as appropriate, of any improvements and facilities; and
- Interim and final reclamation, re-vegetation, recontouring, and soil stabilization. This component must address the potential for flood events and downstream sedimentation from the site that may result in offsite impacts.

Request to Assign a Solar or Wind Energy Development Right-of-Way (43 CFR 2807.21)

Section 2807.21, as amended, provides for assignment, in whole or in part, of any right or interest in a grant or lease for a solar or wind development right-of-way. Actions that may require an assignment include the transfer by the holder (assignor) of any right or interest in the grant or lease to a third party (assignee) or any change in control

transaction involving the grant holder or lease holder, including corporate mergers or acquisitions.

The proposed assignee must file an assignment application, using SF-299, and pay application and processing fees. No preliminary application review meetings and or public meetings are required.

The assignment application must include:

- Documentation that the assignor agrees to the assignment; and
- A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations.

Application for Renewal of an Energy Project-Area Testing Grant or Short-Term Grant (43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22)

Section 2805.11(b)(2), as amended, provides that holders of some types of grants may seek renewal of those grants. For an energy site-specific testing grant, the term is 3 years or less, without the option of renewal. However, for an energy project-area testing grant, the initial term is 3 years or less, with the option to renew for one additional 3-year period when the renewal application is also accompanied by a solar or wind energy development application and a POD. For short-term grants, such as for geotechnical testing and temporary land-disturbing activities, the term is 3 years or less with an option for renewal.

Applications for renewal of testing grants (except site-specific testing grants) may be filed, using SF-299, under section 2805.14(h) and 2807.22. Processing fees in accordance with section 2804.14, as amended, apply to these renewal applications.

Section 2807.22 provides that an application for renewal of any right-of-way grant or lease must be submitted at least 120 calendar days before the grant or lease expires. The application must show that the grantee or lessee is in compliance with the renewal terms and conditions (if any), with the other terms, conditions, and stipulations of the grant or lease, and with other applicable laws and regulations. The application also must explain why a renewal of the grant or lease is necessary.

Environmental, Technical, and Financial Records, Reports, and Other Information (43 CFR 2805.12(a)(15))

Section 2805.12(a)(15) authorizes the BLM to require a holder of any type of right-of-way to provide, or give the BLM access to, any pertinent environmental, technical, and financial records, reports, and other information. The use of SF-299 is required. The BLM will use the information for monitoring and inspection activities.

Application for Renewal of a Solar or Wind Energy Development Grant or Lease (43 CFR 2805.14(g) and 2807.22)

Amendments to sections 2805.14 and 2807.22 authorize holders of leases and grants to apply for renewal of their rights-of-way. A renewal requires submission of the same information, on SF-299, that is necessary for a new application. Processing fees, in accordance with 43 CFR 2804.14, as amended, will apply to these renewal applications. The BLM will use the information submitted by the applicant to decide whether or not to renew the right-of-way.

Request for an Amendment or Name Change, Amendment, or Assignment (FLPMA) (43 CFR 2807.11(b) and (d)) and 2807.21)

New section 2807.11(b) requires a holder of any type of right-of-way grant to contact the BLM, seek an amendment to the grant under section 2807.20 (a regulation that is not amended in this final rule), and obtain the BLM's approval before beginning any activity that is a "substantial deviation" from what is authorized.

New section 2807.11(d) requires contact with the BLM, a request for an amendment to the pertinent right-of-way grant or lease, and prior approval whenever site-specific circumstances or conditions result in the need for changes to an approved right-of-way grant or lease, plan of development, site plan, mitigation measures, or construction, operation, or termination procedures that are not "substantial deviations."

New section 2807.21 authorizes assignment of a grant or leased with the BLM's approval. It also authorizes the BLM to require a grant or lease holder to file new or revised information in circumstances that include, but are not limited to:

- Transactions within the same corporate family;
- Changes in the holder's name only; and
- Changes in the holder's articles of incorporation.

A request for an amendment of a right-of-way, using SF-299, is required in cases of a substantial deviation (for example, a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, must be submitted

to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay application and processing fees. In order to request a name change, the holder will be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee is required. The following documents are also required in the case of a name change:

- A copy of the court order or legal document effectuating the name change of an individual; or
- If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change.

In all these cases, the BLM will use the information to monitor and inspect rights-of-way, and to maintain current data.

Nomination of a Parcel of Land Inside a Designated Leasing Area (43 CFR 2809.10 and 2809.11)

Sections 2809.10 and 2809.11 authorize the BLM to offer land competitively inside a designated leasing area for solar or wind energy development on its own initiative. These regulations also authorize the BLM to solicit nominations for such development. In order to nominate a parcel under this process, the nominator must be qualified to hold a right-of-way under 43 CFR 2803.10. After publication of a notice by

the BLM, anyone meeting the qualifications may submit a nomination for a specific parcel of land to be developed for solar or wind energy. There is a fee of $5 per acre for each nomination. The following information is required:

- The nominator's name and personal or business address;
- The legal land description; and
- A map of the nominated lands.

The BLM will use the information to communicate with the nominator and to determine whether or not to proceed with a competitive offer.

Expression of Interest in Parcel of Land Inside a Designated Leasing Area (43 CFR 2809.11(c))

Section 2809.11(c) authorizes the BLM to consider informal expressions of interest suggesting specific lands inside a designated leasing area to be included in a competitive offer. The expression of interest must include a description of the suggested lands and a rationale for their inclusion in a competitive offer. The information will assist the BLM in determining whether or not to proceed with a competitive offer.

Plan of Development for a Solar or Wind Energy Development Lease Inside a Designated Leasing Area (43 CFR 2809.18)

Section 2809.l8(c) requires the holder of a solar or wind energy development lease for land inside a designated leasing area to submit a plan of development, using SF-299, within 2 years of the lease issuance date. The plan must address all pre-development and development activities. This collection activity is necessary to ensure diligent development.

This new provision will be a new use of Item # 7 of SF-299, which calls for the following information:

> Project description (describe in detail): (a) Type of system or facility (e.g., canal, pipeline, road); (b) related structures and facilities; (c) physical specifications (length, width, grading, etc.); (d) term of years needed; (e) time of year of use or operation; (f) volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction.

This collection has been justified and authorized under control number 0596-0082. In addition, section 2809.18(c) provides that the minimum requirements for either a "Wind Energy Plan of Development" or "Solar Energy Plan of Development" can be found at a link to a template at www.blm.gov. To some extent, that template duplicates the information required by Item # 7 of SF-299. The following requirements do not duplicate the elements listed in SF-299:

- Financial Operations and maintenance. This information will assist the BLM in verifying the right-of-way holder's compliance with terms and conditions regarding all aspects of operations and maintenance, including road maintenance and workplace safety;
- Environmental considerations. This information will assist the BLM in monitoring compliance with terms and conditions regarding mitigation measures and site-specific issues such as protection of sensitive species and avoidance of conflicts with recreation uses of nearby lands;

- Maps and drawings. This information will assist the BLM in monitoring compliance with all terms and conditions; and
- Supplementary information. This information, which will be required after submission of the holder's initial POD, will assist the BLM in reviewing possible alternative designs and mitigation measures for a final POD.

Section 2809.18(d) requires the holder of a solar or wind energy development lease for land inside a designated leasing area to pay reasonable costs for the BLM or other Federal agencies to review and approve the plan of development and to monitor the lease. To expedite review and monitoring, the holder may notify BLM in writing of an intention to pay the full actual costs incurred by the BLM.

Request for an Amendment, Assignment, or Name Change (MLA) (43 CFR 2886.12(b) and (d) and 2887.11)

Sections 2886.12 and 2887.11 pertain to holders of rights-of-way and temporary use permits authorized under the Mineral Leasing Act (MLA). A temporary use permit authorizes a holder of a MLA right-of-way to use land temporarily in order to construct, operate, maintain, or terminate a pipeline, or for purposes of environmental protection or public safety. See 43 CFR 2881.12. The regulations require these holders to contact the BLM:

- Before engaging in any activity that is a "substantial deviation" from what is authorized;
- Whenever site-specific circumstances or conditions arise that result in the need for changes that are not substantial deviations;

- When the holder submits a certification of construction;
- Before assigning, in whole or in part, any right or interest in a grant or lease;
- Before any change in control transaction involving the grant- or lease- holder; and
- Before changing the name of a holder (i.e., when the name change is not the result of an underlying change in control of the right-of-way).

A request for an amendment of a right-of-way or temporary use permit is required in cases of a substantial deviation (e.g., a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, are required to be submitted to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay processing fees. In order to request a name change, the holder will be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee is required. The following documents are also required in the case of a name change:

- A copy of the court order or legal document effectuating the name change of an individual; or
- If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing

acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change. The use of SF-299 is required. In all these cases, the BLM will use the information for monitoring and inspection purposes, and to maintain current data on rights-of-way.

Certification of Construction (43 CFR 2886.12(f))

A certification of construction is a document a holder of an MLA right-of-way must submit, using SF-299, to the BLM after finishing construction of a facility, but before operations begin. The BLM will use the information to verify that the holder has constructed and tested the facility to ensure that it complies with the terms of the right-of-way and is in accordance with applicable Federal and State laws and regulations.

Estimated Hour Burdens

The estimated hour burdens of the proposed supplemental collection requirements are shown in the following table.

Information Collection Requirements: Estimated Annual Hour Burdens

A. Type of Response	**B. Number of Responses**	**C. Hours Per Response**	**D. Total Hours (Column B x Column C)**
Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area 43 CFR 2804.12 and 2804.30(g) Form SF-299	10	8	80
Application for an Electric Transmission Line with a Capacity of 100 kV or More 43 CFR 2804.12 Form SF-299	10	8	80

General Description of a Proposed Project and Schedule for Submittal of a Plan of Development 43 CFR 2804.12(b)(1) and (b)(2) Form SF-299	20	2	40
Preliminary Application Review Meetings for a Large-Scale Right-of-Way 43 CFR 2804.12 (b)(4)	20	2	40
Application for an Energy Site-Specific Testing Grant 43 CFR 2804.30, 2805.11(b)(2)(i), and 2809.19(c) Form SF-299	20	8	160
Application for an Energy Project-Area Testing Grant 43 CFR 2804.30, 2805.11(b)(2)(ii), and 2809.19(c) Form SF-299	20	8	160
Application for a Short-Term Grant 43 CFR 2805.11(b)(2)(iii) Form SF-299	1	8	8
Showing of good cause 43 CFR 2805.12(c)(6)	1	2	2
Reclamation Cost Estimate for Lands Outside Any Designated Leasing Area 43 CFR 2805.20(a)(3) and (a)(5)	1	10	10
Request to Assign a Solar or Wind Energy Development Right-of-Way 43 CFR 2807.21 Form SF-299	11	8	88
Application for Renewal of an Energy Project-Area Testing Grant or Short-Term Grant 43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22 Form SF-299	6	6	36
Environmental, Technical, and Financial Records, Reports, and Other Information 43 CFR 2805.12(a)(15) Form SF-299	20	4	80
Application for Renewal of a Solar or Wind Energy Development Grant or Lease 43 CFR 2805.14(g) and 2807.22 Form SF-299	1	12	12

Request for an Amendment or Name Change (FLPMA) 43 CFR 2807.11(b) and (d) and 2807.21 Form SF-299	30	16	480
Nomination of a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.10 and 2809.11	1	4	4
Expression of Interest in a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.11(c)	1	4	4
Plan of Development for a Solar or Wind Energy Development Lease Inside a Designated Leasing Area 43 CFR 2809.18(c) Form SF-299	2	8	16
Request for an Amendment, Assignment, or Name Change (MLA) 43 CFR 2886.12(b) and (d) and 2887.11 Form SF-299	2,862	16	45,792
Certification of Construction 43 CFR 2886.12(f) Form SF-299	5	4	20
Totals	3,042	130	47,112

Estimated Non-Hour Burdens

The non-hour burdens of this final rule consist of fees authorized by Sections 304 and 504(g) of FLPMA (43 U.S.C.1734 and 1764(g)). Section 1734 authorizes the Secretary of the Interior to establish reasonable filing and service fees and reasonable charges with respect to applications and other documents relating to the public lands. Section 504(g) authorizes the Secretary to promulgate regulations that require, as a condition of a right-of-way, that an applicant for or holder of a right-of-way reimburse the United States for all reasonable administrative and other costs incurred with respect to right-of-way applications and with respect to inspection and monitoring of construction, operation, and termination of a facility pursuant to such right-of-way.

The fees (i.e., non-hour burdens) are itemized in the following table.

Information Collection Requirements: Estimated Annual Non-Hour Burdens

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area 43 CFR 2804.12 and 2804.30(g) Form SF-299	43 CFR 2804.12(c)(2)	10	$15 per acre x average of 6,000 acres per application = $90,000	$900,000
Application for an Electric Transmission Line with a Capacity of 100 kV or More 43 CFR 2804.12 Form SF-299	43 CFR 2804.14	10	$1,156[1]	$11,560

[1] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Application for an Energy Project-Area Testing Grant 43 CFR 2804.30, 2805.11(b)(2)(ii), and 2809.19(c) Form SF-299	43 CFR 2804.12(c)(2)	20	$2 per acre x average of 6,000 acres per application = $12,000	$240,000
Application for a Short-Term Grant 43 CFR 2805.11(b)(2)(iii) Form SF-299	43 CFR 2804.14	1	$1,156[2]	$1,156
Request to Assign a Solar or Wind Energy Development Right-of-Way 43 CFR 2807.21 Form SF-299	43 CFR 2804.14	11	$15 per acre x average of 6,000 acres per application = $90,000	$990,000

[2] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Application for Renewal of an Energy Project-Area Testing Grant or Short-Term Grant 43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22 Form SF-299	43 CFR 2804.14	6	$1,156[3]	$6,936
Application for Renewal of a Solar or Wind Energy Development Grant or Lease 43 CFR 2805.14(g) and 2807.22 Form SF-299	43 CFR 2804.14	1	$1,156[4]	$1,156

[3] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").
[4] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Nomination of a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.10 and 2809.11	43 CFR 2809.11(b)(1)	1	$5 per acre x average of 6,000 acres per nomination = $30,000	$30,000
Total				$2,180,808

Authors

The principal author of this rule is Jayme Lopez, Program Lead, National Renewable Energy Coordination Office Washington Office, Bureau of Land Management, Department of the Interior, assisted by Charles Yudson, Jean Sonneman and Ian Senio, Office of Regulatory Affairs, BLM Washington Office; Michael Ford, Economist, BLM Washington Office; Michael Hildner, Planning and Environmental Analyst; Dylan Fuge, Counselor to the Director, BLM Washington Office; and Gregory Russell, Attorney Advisor, Office of the Solicitor, Department of the Interior.

List of Subjects

43 CFR Part 2800

Communications, Electric power, Highways and roads, Penalties, Public lands and rights-of-way, Reporting and recordkeeping requirements.

43 CFR Part 2880

Administrative practice and procedures, Common carriers, Pipelines, Federal lands and rights-of-way, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, the BLM amends 43 CFR parts 2800 and 2880 as set forth below:

PART 2800–RIGHTS-OF-WAY UNDER THE FEDERAL LAND POLICY AND MANAGEMENT ACT

1. Revise the heading of part 2800 to read as set forth above.

2. The authority citation for part 2800 continues to read as follows:

AUTHORITY: 43 U.S.C. 1733, 1740, 1763, and 1764.

Subpart 2801—General Information

3. Amend § 2801.5(b) by:

a. Adding, in alphabetical order, definitions of "Acreage rent," "Application filing fee," "Assignment," "Designated leasing area," "Megawatt (MW) capacity fee," "Megawatt rate," "Performance and reclamation bond," "Reclamation cost estimate (RCE)," "Screening criteria for solar and wind energy development," and "Short-term right-of-way grant;" and

b. Revising the definitions of "Designated right-of-way corridor," "Management overhead costs," and "Right-of-way."

The additions and revisions read as follows:

§ 2801.5 What acronyms and terms are used in the regulations in this part?

*****

Acreage rent means rent assessed for solar and wind energy development grants and leases that is determined by the number of acres authorized for the grant or lease.

*****

Application filing fee means a filing fee specific to solar and wind energy applications. This fee is an initial payment for the reasonable costs for processing, inspecting, and monitoring a right-of-way.

Assignment means the transfer, in whole or in part, of any right or interest in a right-of-way grant or lease from the holder (assignor) to a subsequent party (assignee) with the BLM's written approval. A change in ownership of the grant or lease, or other related change-in-control transaction involving the holder, including a merger or acquisition, also constitutes an assignment for purposes of these regulations requiring the BLM's written approval, unless applicable statutory authority provides otherwise.

*****

Designated leasing area means a parcel of land with specific boundaries identified by the BLM land use planning process as being a preferred location for solar or wind energy development that may be offered competitively.

Designated right-of-way corridor means a parcel of land with specific boundaries identified by law, Secretarial order, the land use planning process, or other management decision, as being a preferred location for existing and future linear rights-of-way and facilities. The corridor may be suitable to accommodate more than one right-of-way use or facility, provided that they are compatible with one another and the corridor designation.

*****

Management overhead costs means Federal expenditures associated with a particular Federal agency's directorate. The BLM's directorate includes all State Directors and the

entire Washington Office staff, except where a State Director or Washington Office staff member is required to perform work on a specific right-of-way case.

Megawatt (MW) capacity fee means the fee paid in addition to the acreage rent for solar and wind energy development grants and leases. The MW capacity fee is the approved MW capacity of the solar or wind energy grant or lease multiplied by the appropriate MW rate. A grant or lease may provide for stages of development, and the grantee or lessee will be charged a fee for each stage by multiplying the MW rate by the approved MW capacity for the stage of the project.

Megawatt rate means the price of each MW of capacity for various solar and wind energy technologies as determined by the MW rate formula. Current MW rates are found on the BLM's MW rate schedule, which can be obtained at any BLM office or at http://www.blm.gov. The MW rate is calculated by multiplying the total hours per year by the net capacity factor, by the MW hour (MWh) price, and by the rate of return, where:

(1) Net capacity factor means the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. The BLM establishes net capacity factors for different technology types but may determine another net capacity factor to be more appropriate, on a case-by-case or regional basis, to reflect changes in technology, such as a solar or wind project that employs energy storage technologies, or if a grant or lease holder or applicant is able to demonstrate that another net capacity factor is appropriate for a particular project or region. The net capacity factor for each technology type is:

(i) Photovoltaic (PV) – 20 percent;

(ii) Concentrated photovoltaic (CPV) and concentrated solar power (CSP) – 25 percent;

(iii) CSP with storage capacity of 3 hours or more – 30 percent; and

(iv) Wind energy – 35 percent;

(2) Megawatt hour (MWh) price means the 5 calendar-year average of the annual weighted average wholesale prices per MWh for the major trading hubs serving the 11 western States of the continental United States (U.S.);

(3) Rate of return means the relationship of income (to the property owner) to revenue generated from authorized solar and wind energy development facilities based on the 10-year average of the 20-year U.S. Treasury bond yield rounded to the nearest one-tenth percent; and

(4) Hours per year means the total number of hours in a year, which, for purposes of this part, means 8,760 hours.

*****

Performance and reclamation bond means the document provided by the holder of a right-of-way grant or lease that provides the appropriate financial guarantees, including cash, to cover potential liabilities or specific requirements identified by the BLM for the construction, operation, decommissioning, and reclamation of an authorized right-of-way on public lands.

(1) Acceptable bond instruments include cash, cashier's or certified check, certificate or book entry deposits, negotiable U.S. Treasury securities, and surety bonds from the approved list of sureties (U.S. Treasury Circular 570) payable to the BLM. Irrevocable

letters of credit payable to the BLM and issued by banks or financial institutions organized or authorized to transact business in the United States are also acceptable bond instruments. An insurance policy can also qualify as an acceptable bond instrument, provided that the BLM is a named beneficiary of the policy, and the BLM determines that the insurance policy will guarantee performance of financial obligations and was issued by an insurance carrier that has the authority to issue policies in the applicable jurisdiction and whose insurance operations are organized or authorized to transact business in the United States.

(2) Unacceptable bond instruments. The BLM will not accept a corporate guarantee as an acceptable form of bond instrument.

*****

Reclamation cost estimate (RCE) means the estimate of costs to restore the land to a condition that will support pre-disturbance land uses. This includes the cost to remove all improvements made under the right-of-way authorization, return the land to approximate original contour, and establish a sustainable vegetative community, as required by the BLM. The RCE will be used to establish the appropriate amount for financial guarantees of land uses on the public lands, including those uses authorized by right-of-way grants or leases issued under this part.

*****

Right-of-way means the public lands that the BLM authorizes a holder to use or occupy under a particular grant or lease.

*****

Screening criteria for solar and wind energy development refers to the policies and procedures that the BLM uses to prioritize how it processes solar and wind energy development right-of-way applications to facilitate the environmentally responsible development of such facilities through the consideration of resource conflicts, land use plans, and applicable statutory and regulatory requirements. Applications for projects with lesser resource conflicts are anticipated to be less costly and time-consuming for the BLM to process and will be prioritized over those with greater resource conflicts.

Short-term right-of-way grant means any grant issued for a term of 3 years or less for such uses as storage sites, construction areas, and site testing and monitoring activities, including site characterization studies and environmental monitoring.

*****

4. In § 2801.6, revise paragraph (a)(2) to read as follows:

§ 2801.6 Scope.

(a) ***

(2) Grants to Federal departments or agencies for all systems and facilities identified in § 2801.9(a), including grants for transporting by pipeline and related facilities, commodities such as oil, natural gas, synthetic liquid or gaseous fuels, and any refined products produced from them; and

*****

5. Amend § 2801.9 by revising paragraphs (a)(4) and (a)(7), and by adding paragraph (d) to read as follows:

§ 2801.9 When do I need a grant?

(a) ***

(4) Systems for generating, transmitting, and distributing electricity, including solar and wind energy development facilities and associated short-term actions, such as site and geotechnical testing for solar and wind energy projects;

*****

(7) Such other necessary transportation or other systems or facilities, including any temporary or short-term surface disturbing activities associated with approved systems or facilities, which are in the public interest and which require rights-of-way.

*****

(d) All systems, facilities, and related activities for solar and wind energy projects are specifically authorized as follows:

(1) Energy site-specific testing activities, including those with individual meteorological towers and instrumentation facilities, are authorized with a short-term right-of-way grant issued for 3 years or less;

(2) Energy project-area testing activities are authorized with a short-term right-of-way grant for an initial term of 3 years or less with the option to renew for one additional 3-year period under § 2805.14(h) when the renewal application is accompanied by an energy development application;

(3) Solar and wind energy development facilities located outside designated leasing areas, and those facilities located inside designated leasing areas under § 2809.17(d)(2), are authorized with a right-of-way grant issued for up to 30 years (plus the initial partial year of issuance). An application for renewal of the grant may be submitted under § 2805.14(g);

(4) Solar and wind energy development facilities located inside designated leasing areas are authorized with a solar or wind energy development lease when issued competitively under subpart 2809. The term is fixed for 30 years (plus the initial partial year of issuance). An application for renewal of the lease may be submitted under § 2805.14(g); and

(5) Other associated actions not specifically included in § 2801.9(d)(1) through (4), such as geotechnical testing and other temporary land disturbing activities, are authorized with a short-term right-of-way grant issued for 3 years or less.

Subpart 2802—Lands Available for FLPMA Grants

6. In § 2802.11, revise the section heading and paragraph (a), revise the introductory language of paragraph (b), and revise paragraphs (b)(3), (b)(4), (b)(6), (b)(7), and (d) to read as follows:

§ 2802.11 How does the BLM designate right-of-way corridors and designated leasing areas?

(a) The BLM may determine the locations and boundaries of right-of-way corridors or designated leasing areas during the land use planning process described in part 1600 of this chapter. During this process, the BLM coordinates with other Federal agencies, State, local, and tribal governments, and the public to identify resource-related issues, concerns, and needs. The process results in a resource management plan or plan amendment, which addresses the extent to which you may use public lands and resources for specific purposes.

(b) When determining which lands may be suitable for right-of-way corridors or designated leasing areas, the factors the BLM considers include, but are not limited to, the following:

*****

(3) Physical effects and constraints on corridor placement or leasing areas due to geology, hydrology, meteorology, soil, or land forms;

(4) Costs of construction, operation, and maintenance and costs of modifying or relocating existing facilities in a proposed right-of-way corridor or designated leasing area (i.e., the economic efficiency of placing a right-of-way within a proposed corridor or providing a lease inside a designated leasing area);

*****

(6) Potential health and safety hazards imposed on the public by facilities or activities located within the proposed right-of-way corridor or designated leasing area;

(7) Social and economic impacts of the right-of-way corridor or designated leasing area on public land users, adjacent landowners, and other groups or individuals;

*****

(d) The resource management plan or plan amendment may also identify areas where the BLM will not allow right-of-way corridors or designated leasing areas for environmental, safety, or other reasons.

Subpart 2804—Applying for FLPMA Grants

7. Amend § 2804.10 by revising paragraph (a)(2) to read as follows:

§ 2804.10 What should I do before I file my application?

(a)*****

(2) Determine whether the lands are located inside a designated or existing right-of-way corridor or a designated leasing area;

*****

8. Revise § 2804.12 to read as follows:

§ 2804.12 What must I do when submitting my application?

(a) File your application on Standard Form 299, available from any BLM office or at http://www.blm.gov, and fill in the required information as completely as possible. Your completed application must include the following:

(1) A description of the project and the scope of the facilities;

(2) The estimated schedule for constructing, operating, maintaining, and terminating the project;

(3) The estimated life of the project and the proposed construction and reclamation techniques;

(4) A map of the project, showing its proposed location and existing facilities adjacent to the proposal;

(5) A statement of your financial and technical capability to construct, operate, maintain, and terminate the project;

(6) Any plans, contracts, agreements, or other information concerning your use of the right-of-way and its effect on competition;

(7) A statement certifying that you are of legal age and authorized to do business in the State(s) where the right-of-way would be located and that you have submitted correct information to the best of your knowledge; and

(8) A schedule for the submission of a plan of development (POD) conforming to the POD template at http://www.blm.gov, should the BLM require you to submit a POD under § 2804.25(c).

(b) When submitting an application for a solar or wind energy development project or for a transmission line project with a capacity of 100 kV or more, in addition to the information required in subparagraph (a), you must:(1) Include a general description of the proposed project and a schedule for the submission of a POD conforming to the POD template at http://www.blm.gov;

(2) Address all known potential resource conflicts with sensitive resources and values, including special designations or protections, and include applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts, if any;

(3) Initiate early discussions with any grazing permittees that may be affected by the proposed project in accordance with 43 CFR 4110.4-2(b); and

(4) Within 6 months from the time the BLM receives the cost recovery fee under § 2804.14, schedule and hold two preliminary application review meetings as follows:

(i) The first meeting will be with the BLM to discuss the general project proposal, the status of BLM land use planning for the lands involved, potential siting issues or concerns, potential environmental issues or concerns, potential alternative site locations and the right-of-way application process;

(ii) The second meeting will be with appropriate Federal and State agencies and tribal and local governments to facilitate coordination of potential environmental and siting issues and concerns; and

(iii) You and the BLM may agree to hold additional preliminary application review meetings.

(c) When submitting an application for a solar or wind energy project under this subpart rather than subpart 2809, you must:

(1) Propose a project sited on lands outside a designated leasing area, except as provided for by § 2809.19; and

(2) Pay an application filing fee of $15 per acre for solar or wind energy development applications and $2 per acre for energy project-area testing applications. The BLM will refund your fee, except for the reasonable costs incurred on your behalf, if you are the unsuccessful bidder in a competitive offer held under § 2804.30 or subpart 2809. The BLM will adjust the application filing fee at least once every 10 years using the change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP) for the preceding 10-year period and round it to the nearest one-half dollar. This 10-year average will be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under § 2806.22.

(d) If you are unable to meet a requirement of the application outlined in this section, you may submit a request for an alternative requirement under § 2804.40.

(e) If you are a business entity, you must also submit the following information:

(1) Copies of the formal documents creating the entity, such as articles of incorporation, and including the corporate bylaws;

(2) Evidence that the party signing the application has the authority to bind the applicant;

(3) The name and address of each participant in the business;

(4) The name and address of each shareholder owning 3 percent or more of the shares and the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote;

(5) The name and address of each affiliate of the business;

(6) The number of shares and the percentage of any class of voting stock owned by the business, directly or indirectly, in any affiliate controlled by the business;

(7) The number of shares and the percentage of any class of voting stock owned by an affiliate, directly or indirectly, in the business controlled by the affiliate; and

(8) If you have already provided the information in paragraphs (b)(1) through (7) of this section to the BLM and the information remains accurate, you need only reference the BLM serial number under which you previously filed it.

(f) The BLM may require you to submit additional information at any time while processing your application. See §2884.11(c) of this chapter for the type of information we may require.

(g) If you are a Federal oil and gas lessee or operator and you need a right-of-way for access to your production facilities or oil and gas lease, you may include your right-of-way requirements with your Application for Permit to Drill or Sundry Notice required under parts 3160 through 3190 of this chapter.

(h) If you are filing with another Federal agency for a license, certificate of public convenience and necessity, or other authorization for a project involving a right-of-way on public lands, simultaneously file an application with the BLM for a grant. Include a

copy of the materials, or reference all the information, you filed with the other Federal agency.

(i) Inter-agency Coordination: You may request, in writing, an exemption from the requirements of this section if you can demonstrate to the BLM that you have satisfied similar requirements by participating in an inter-agency coordination process with another Federal, State, local, or Tribal authority. No exemption is approved until you receive BLM approval in writing.

9. In § 2804.14, revise paragraphs (a), (b), and (c) to read as follows:

§ 2804.14 What is the processing fee for a grant application?

(a) Unless you are exempt under § 2804.16, you must pay a fee to the BLM for the reasonable costs of processing your application. Subject to applicable laws and regulations, if processing your application involves Federal agencies other than the BLM, your fee may also include the reasonable costs estimated to be incurred by those Federal agencies. Instead of paying the BLM a fee for the reasonable costs incurred by other Federal agencies in processing your application, you may pay other Federal agencies directly for such costs. Reasonable costs are those costs as defined in Section 304(b) of FLPMA (43 U.S.C. 1734(b)). The fees for Processing Categories 1 through 4 (see paragraph (b) of this section) are one-time fees and are not refundable. The fees are categorized based on an estimate of the amount of time that the Federal Government will expend to process your application and issue a decision granting or denying the application.

(b) There is no processing fee if the Federal Government's work is estimated to take 1 hour or less. Processing fees are based on categories. The BLM will update the

processing fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD-GDP, as measured second quarter to second quarter, rounded to the nearest dollar. The BLM will update Category 5 processing fees as specified in the Master Agreement. These categories and the estimated range of Federal work hours for each category are:

Processing Categories

Processing category	Federal work hours involved
(1) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are >1 ≤ 8
(2) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 8 ≤ 24
(3) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 24 ≤ 36
(4) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 36 ≤ 50
(5) Master agreements	Varies
(6) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 50

(c) You may obtain a copy of the current year's processing fee schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current processing fee schedule at http://www.blm.gov.

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10. Amend § 2804.18 by redesignating paragraphs (a)(6) through (a)(8) as paragraphs (a)(7) through (a)(9) and adding new paragraph (a)(6). The addition reads as follows:

§ 2804.18 What provisions do Master Agreements contain and what are their limitations?

(a) ***

(6) Describes existing agreements between the BLM and other Federal agencies for cost reimbursement;

*****

11. Amend § 2804.19 by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 2804.19 How will BLM process my Processing Category 6 application?

(a) For Processing Category 6 applications, you and the BLM must enter into a written agreement that describes how the BLM will process your application. The final agreement consists of a work plan, a financial plan, and a description of any existing agreements you have with other Federal agencies for cost reimbursement associated with your application.

*****

(e) We may collect reimbursement for reasonable costs to the United States for processing applications and other documents under this part relating to the public lands.

12. Amend § 2804.20 by revising paragraphs (a)(1) and (a)(5), redesignating paragraph (a)(6) as paragraph (a)(7), and adding new paragraphs (a)(6). The revisions and additions read as follows:

§ 2804.20 How does BLM determine reasonable costs for Processing Category 6 or Monitoring Category 6 applications?

*****

(a) ***

(1) Actual costs to the Federal Government (exclusive of management overhead costs) of processing your application and of monitoring construction, operation, maintenance, and termination of a facility authorized by the right-of-way grant;

*****

(5) Any tangible improvements, such as roads, trails, and recreation facilities, which provide significant public service and are expected in connection with constructing and operating the facility; and

(6) Existing agreements between the BLM and other Federal agencies for cost reimbursement associated with such application.

*****

13. Amend § 2804.23 by revising the section heading and paragraphs (a)(1) and (c) and adding new paragraphs (d) and (e) to read as follows:

§ 2804.23 When will the BLM use a competitive process?

(a) ***

(1) Processing Category 1 through 4. You must reimburse the Federal Government for processing costs as if the other application or applications had not been filed.

*****

(c) If we determine that competition exists, we will describe the procedures for a competitive bid through a bid announcement in the Federal Register. We may also provide notice by other methods, such as a newspaper of general circulation in the area affected by the potential right-of-way, or the Internet. We may offer lands through a competitive process on our own initiative. The BLM will not competitively offer lands

for which the BLM has accepted an application and received a plan of development and cost recovery agreement.

(d) Competitive process for solar and wind energy development outside designated leasing areas. Lands outside designated leasing areas may be made available for solar and wind energy applications through a competitive application process established by the BLM under § 2804.30.

(e) Competitive process for solar and wind energy development inside designated leasing areas. Lands inside designated leasing areas may be offered competitively under subpart 2809.

14. Amend § 2804.24 by revising paragraph (a), redesignating paragraph (b) as paragraph (c), and adding new paragraph (b) to read as follows:

§ 2804.24 Do I always have to submit an application for a grant using Standard Form 299?

*****

(a) The BLM offers lands competitively under § 2804.23(c) and you have already submitted an application for the facility or system;

(b) The BLM offers lands for competitive lease under subpart 2809 of this part; or

*****

15. Revise § 2804.25 to read as follows:

§ 2804.25 How will BLM process my application?

(a) The BLM will notify you in writing when it receives your application. This notification will also:

(1) Identify your processing fee described at §2804.14 of this subpart; and

(2) Inform you of any other grant applications which involve all or part of the lands for which you applied.

(b) The BLM will not process your application if you have any:

(1) Outstanding unpaid debts owed to the Federal Government. Outstanding debts are those currently unpaid debts owed to the Federal Government after all administrative collection actions have occurred, including any appeal proceedings under applicable Federal regulations and the Administrative Procedure Act; or

(2) Trespass action pending against you for any activity on BLM-administered lands (see § 2808.12), except those to resolve the trespass with a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after outstanding unpaid debts are paid.

(c) The BLM may require you to submit additional information necessary to process the application. This information may include a detailed construction, operation, rehabilitation, and environmental protection plan (i.e., a POD), and any needed cultural resource surveys or inventories for threatened or endangered species. If the BLM needs more information, the BLM will identify this information in a written deficiency notice asking you to provide the additional information within a specified period of time.

(1) For solar or wind energy development projects, and transmission lines with a capacity of 100 kV or more, you must commence any required resource surveys or inventories within one year of the request date, unless otherwise specified by the BLM; or

(2) If you are unable to meet any of the requirements of this section, you must show good cause and submit a request for an alternative under § 2804.40.

(d) Customer service standard. The BLM will process your completed application as follows:

Processing category	Processing time	Conditions
1-4	60 calendar days	If processing your application will take longer than 60 calendar days, the BLM will notify you in writing of this fact prior to the 30th calendar day and inform you of when you can expect a final decision on your application.
5	As specified in the Master Agreement	The BLM will process applications as specified in the Agreement.
6	Over 60 calendar days	The BLM will notify you in writing within the initial 60-day processing period of the estimated processing time.

(e) In processing an application, the BLM will:

(1) Hold public meetings if sufficient public interest exists to warrant their time and expense. The BLM will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved in the area affected by the potential right-of-way or the Internet, to announce in advance any public hearings or meetings;

(2) If your application is for solar or wind energy development:

(i) Hold a public meeting in the area affected by the potential right-of-way;

(ii) Apply screening criteria to prioritize processing applications with lesser resource conflicts over applications with greater resource conflicts and categorize screened applications according to the criteria listed in § 2804.35; and

(iii) Evaluate the application based on the information provided by the applicant and input from other parties, such as Federal, State, and local government agencies, and

tribes, as well as comments received in preliminary application review meetings held under § 2804.12(b)(4) and the public meeting held under paragraph (e)(2)(i) of this section. The BLM will also evaluate your application based on whether you propose to site the development appropriately (e.g. outside of a designated leasing area or exclusion area) and whether you address known resource values discussed in the preliminary application review meetings. Based on these evaluations, the BLM will either deny your application or continue processing it.

(3) Determine whether a POD schedule submitted with your application meets the development schedule or other requirements described by the BLM, such as in § 2804.12(b);

(4) Complete appropriate National Environmental Policy Act (NEPA) compliance for the application, as required by 43 CFR part 46 and 40 CFR parts 1500 through 1508;

(5) Determine whether your proposed use complies with applicable Federal and State laws;

(6) If your application is for a road, determine whether it is in the public interest to require you to grant the United States an equivalent authorization across lands that you own;

(7) Consult, as necessary, on a government-to-government basis with tribes and other governmental entities; and

(8) Take any other action necessary to fully evaluate and decide whether to approve or deny your application.

(f)(1) The BLM may segregate, if it finds it necessary for the orderly administration of the public lands, lands included in a right-of-way application under 43 CFR subpart 2804

for the generation of electrical energy from wind or solar sources. In addition, the BLM may also segregate lands that it identifies for potential rights-of-way for electricity generation from wind or solar sources when initiating a competitive process for solar or wind development on particular lands. Upon segregation, such lands would not be subject to appropriation under the public land laws, including location under the Mining Law of 1872 (30 U.S.C. 22 et seq.), but would remain open under the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.) or the Materials Act of 1947 (30 U.S.C. 601 et seq.). The BLM would effect a segregation by publishing a Federal Register notice that includes a description of the lands being segregated. The BLM may effect segregation in this way for both pending and new right-of-way applications.

(2) The effective date of segregation is the date of publication of the notice in the Federal Register. Consistent with 43 CFR 2091-3.2, the segregation terminates and the lands automatically open on the date that is the earliest of the following:

(i) When the BLM issues a decision granting, granting with modifications, or denying the application for a right-of-way;

(ii) Automatically at the end of the segregation period stated in the Federal Register notice initiating the segregation; or

(iii) Upon publication of a Federal Register notice terminating the segregation and opening the lands.

(3) The segregation period may not exceed 2 years from the date of publication in the Federal Register of the notice initiating the segregation, unless the State Director determines and documents in writing, prior to the expiration of the segregation period, that an extension is necessary for the orderly administration of the public lands. If the

State Director determines an extension is necessary, the BLM will extend the segregation for up to 2 years by publishing a notice in the Federal Register, prior to the expiration of the initial segregation period. Segregations under this part may only be extended once and the total segregation period may not exceed 4 years.

16. Amend § 2804.26 by revising paragraph (a)(5), redesignating paragraph (a)(6) as paragraph (a)(8), and adding new paragraphs (a)(6), (a)(7), and (c). The revisions read as follows:

§ 2804.26 Under what circumstances may BLM deny my application?

(a) ***

(5) You do not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities within the right-of-way.

(i) Applicants must have or be able to demonstrate technical and financial capability to construct, operate, maintain, and terminate a project throughout the application process and authorization period. You can demonstrate your financial and technical capability to construct, operate, maintain, and terminate a project by:

(A) Documenting any previous successful experience in construction, operation, and maintenance of similar facilities on either public or non-public lands;

(B) Providing information on the availability of sufficient capitalization to carry out development, including the preliminary study stage of the project and the environmental review and clearance process; or

(C) Providing written copies of conditional commitments of Federal and other loan guarantees; confirmed power purchase agreements; engineering, procurement, and

construction contracts; and supply contracts with credible third-party vendors for the manufacture or supply of key components for the project facilities.

(ii) Failure to demonstrate and sustain technical and financial capability is grounds for denying an application or terminating an authorization;

(6) The PODs required by §§ 2804.25(e)(3), 2804.12,(a)(8), and 2804.12(c)(1) do not meet the development schedule or other requirements in the POD template and the applicant is unable to demonstrate why the POD should be approved;

(7) Failure to commence necessary surveys and studies, or plans for permit processing as required by § 2804.25(c); or

(8) The BLM's evaluation of your solar or wind application made under § 2804.25(e)(2)(iii) provides a basis for a denial.

(b)***

(c) If you are unable to meet any of the requirements in this section you may request an alternative from the BLM (see § 2804.40).

*****

17. In § 2804.27, revise the section heading and introductory text to read as follows:

§ 2804.27 What fees must I pay if BLM denies my application or if I withdraw my application?

If the BLM denies your application or you withdraw it, you must still pay any application filing fees under § 2804.12(b)(2), and any processing fee set forth at § 2804.14, unless you have a Processing Category 5 or 6 application. Then, the following conditions apply:

*****

18. Add § 2804.30 to subpart 2804 to read as follows:

§ 2804.30 What is the competitive process for solar or wind energy development for lands outside of designated leasing areas?

(a) Available land. The BLM may offer through a competitive process any land not inside a designated leasing area and open to right-of-way applications under § 2802.10.

(b) Variety of competitive procedures available. The BLM may use any type of competitive process or procedure to conduct its competitive offer and any method, including the use of the Internet, to conduct the actual auction or competitive bid procedure. Possible bid procedures could include, but are not limited to: Sealed bidding, oral auctions, modified competitive bidding, electronic bidding, and any combination thereof.

(c) Competitive offer. The BLM may identify a parcel for competitive offer if competition exists or may include land in a competitive offer on its own initiative.

(d) Notice of competitive offer. The BLM will publish a notice in the Federal Register at least 30 days prior to the competitive offer and may use other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the Internet. The notice would explain that the successful bidder would become the preferred applicant (see paragraph (g) of this section) and may then apply for a grant. The Federal Register and other notices must also include:

(1) The date, time, and location, if any, of the competitive offer;

(2) The legal land description of the parcel to be offered;

(3) The bidding methodology and procedures to be used in conducting the competitive offer, which may include any of the competitive procedures identified in § 2804.30(b);

(4) The minimum bid required (see § 2804.30(e)(2));

(5) The qualification requirements for potential bidders (see § 2803.10); and

(6) The requirements for the successful bidder to submit a schedule for the submission of a POD for the lands involved in the competitive offer (see § 2804.12(c)(1)).

(e) Bidding.

(1) Bid submissions. The BLM will accept your bid only if it includes payment for the minimum bid and at least 20 percent of the bonus bid.

(2) Minimum bid. The minimum bid is not prorated among all bidders, but paid entirely by the successful bidder. The minimum bid consists of:

(i) The administrative costs incurred by the BLM and other Federal agencies in preparing for and conducting the competitive offer, including required environmental reviews; and

(ii) An amount determined by the authorizing officer and disclosed in the notice of competitive offer. This amount will be based on known or potential values of the parcel. In setting this amount, the BLM will consider factors that include, but are not limited to, the acreage rent and megawatt capacity fee.

(3) Bonus bid. The bonus bid consists of any dollar amount that a bidder wishes to bid in addition to the minimum bid.

(4) If you are not the successful bidder, as defined in paragraph (f) of this section, the BLM will refund your bid and any application filing fees, less the reasonable costs incurred by the United States in connection with your application, under § 2804.12(c)(2).

(f) Successful bidder. The successful bidder is determined by the highest total bid. If you are the successful bidder, you become the preferred applicant only if, within 15 calendar days after the day of the offer, you submit the balance of the bonus bid to the BLM office conducting the competitive offer. You must make payments by personal

check, cashier's check, certified check, bank draft, money order, or by other means deemed acceptable by the BLM, payable to the "Department of the Interior—Bureau of Land Management."

(g) Preferred applicant. The preferred applicant may apply for an energy project-area testing grant, an energy site-specific testing grant, or a solar or wind energy development grant for the parcel identified in the offer. Grant approval is not guaranteed by winning the subject bid and is solely at the BLM's discretion. The BLM will not accept applications on lands where a preferred applicant has been identified, unless allowed by the preferred applicant.

(h) Reservations.

(1) The BLM may reject bids regardless of the amount offered. If the BLM rejects your bid under this provision, you will be notified in writing and such notice will include the reasons for the rejection and any refunds to which you are entitled.

(2) The BLM may make the next highest bidder the preferred applicant if the first successful bidder fails to satisfy the requirements under paragraph (f) of this section.

(3) If the BLM is unable to determine the successful bidder, such as in the case of a tie, the BLM may re-offer the lands competitively to the tied bidders, or to all bidders.

(4) If lands offered under this section receive no bids the BLM may:

(i) Re-offer the lands through the competitive process under this section; or

(ii) Make the lands available through the non-competitive application process found in subparts 2803, 2804, and 2805 of this part, if the BLM determines that doing so is in the public interest.

19. Add § 2804.31 to subpart 2804 to read as follows:

§ 2804.31 How will the BLM call for site testing for solar and wind energy?

(a) Call for site testing. The BLM may, at its own discretion, initiate a call for site testing. The BLM will publish this call for site testing in the Federal Register and may also use other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way, or the Internet. The Federal Register and any other notices will include:

(1) The date, time, and location that site testing applications identified under §2801.9(d)(1) of this part may be submitted;

(2) The date by which applicants will be notified of the BLM's decision on timely submitted site testing applications;

(3) The legal land description of the area for which site testing applications are being requested; and

(4) The qualification requirements for applicants (see § 2803.10).

(b) You may request that the BLM hold a call for site testing for certain public lands. The BLM may proceed with a call for site testing at its own discretion.

(c) The BLM may identify lands surrounding the site testing as designated leasing areas under § 2802.11. If a designated leasing area is established, a competitive offer for a development lease under subpart 2809 may be held at the discretion of the BLM.

20. Add § 2804.35 to subpart 2804 to read as follows:

§ 2804.35 How will the BLM prioritize my solar or wind energy application?

The BLM will prioritize your application by placing it into one of three categories and may re-categorize your application based on new information received through surveys, public meetings, or other data collection, or after any changes to the application. The

BLM will generally prioritize the processing of leases awarded under subpart 2809 before applications submitted under subpart 2804. For applications submitted under subpart 2804, the BLM will categorize your application based on the following screening criteria.

(a) High-priority applications are given processing priority over medium- and low-priority applications and may include lands that meet the following criteria:

(1) Lands specifically identified as appropriate for solar or wind energy development, other than designated leasing areas;

(2) Previously disturbed sites or areas adjacent to previously disturbed or developed sites;

(3) Lands currently designated as Visual Resource Management Class IV; or

(4) Lands identified as suitable for disposal in BLM land use plans.

(b) Medium-priority applications are given priority over low-priority applications and may include lands that meet the following criteria:

(1) BLM special management areas that provide for limited development, including recreation sites and facilities;

(2) Areas where a project may adversely affect conservation lands, including lands with wilderness characteristics that have been identified in an updated wilderness characteristics inventory;

(3) Right-of-way avoidance areas;

(4) Areas where project development may adversely affect resources and properties listed nationally such as the National Register of Historic Places, National Natural Landmarks, or National Historic Landmarks;

(5) Sensitive habitat areas, including important species use areas, riparian areas, or areas of importance for Federal or State sensitive species;

(6) Lands currently designated as Visual Resource Management Class III;

(7) Department of Defense operating areas with land use or operational mission conflicts; or

(8) Projects with proposed groundwater uses within groundwater basins that have been allocated by State water resource agencies.

(c) Low-priority applications may not be feasible to authorize. These applications may include lands that meet the following criteria:

(1) Lands near or adjacent to lands designated by Congress, the President, or the Secretary for the protection of sensitive viewsheds, resources, and values (e.g., units of the National Park System, Fish and Wildlife Service Refuge System, some National Forest System units, and the BLM National Landscape Conservation System), which may be adversely affected by development;

(2) Lands near or adjacent to Wild, Scenic, and Recreational Rivers and river segments determined suitable for Wild or Scenic River status, if project development may have significant adverse effects on sensitive viewsheds, resources, and values;

(3) Designated critical habitat for federally threatened or endangered species, if project development may result in the destruction or adverse modification of that critical habitat;

(4) Lands currently designated as Visual Resource Management Class I or Class II;

(5) Right-of-way exclusion areas; or

(6) Lands currently designated as no surface occupancy for oil and gas development in BLM land use plans.

21. Add § 2804.40 to subpart 2804 to read as follows:

§ 2804.40 Alternative Requirements.

If you are unable to meet any of the requirements in this subpart you may request approval for an alternative requirement from the BLM. Any such request is not approved until you receive BLM approval in writing. Your request to the BLM must:

(a) Show good cause for your inability to meet a requirement;

(b) Suggest an alternative requirement and explain why that requirement is appropriate; and

(c) Be received in writing by the BLM in a timely manner, before the deadline to meet a particular requirement has passed.

Subpart 2805—Terms and Conditions of Grants

22. Amend § 2805.10 as follows:

a. Revise the section heading;

b. Revise paragraph (a);

c. Redesignate paragraph (b) and (c) as paragraphs (c) and (d), respectively; and

d. Add new paragraph (b).

The revisions and additions read as follows:

§ 2805.10 How will I know whether the BLM has approved or denied my application or if my bid for a solar or wind energy development grant or lease is successful or unsuccessful?

(a) The BLM will send you a written response when it has made a decision on your application or if you are the successful bidder for a solar or wind energy development grant or lease. If we approve your application, we will send you an unsigned grant for your review and signature. If you are the successful bidder for a solar or wind energy lease inside a designated leasing area under § 2809.15, we may send you an unsigned

lease for your review and signature. If your bid is unsuccessful, it will be refunded under §§ 2804.30(e)(4) or 2809.14(d) and you will receive written notice from us.

(b) Your unsigned grant or lease document:

(1) Will include any terms, conditions, and stipulations that we determine to be in the public interest, such as modifying your proposed use or changing the route or location of the facilities;

(2) May include terms that prevent your use of the right-of-way until you have an approved Plan of Development (POD) and BLM has issued a Notice to Proceed; and

(3) Will impose a specific term for the grant or lease. Each grant or lease that we issue for 20 or more years will contain a provision requiring periodic review at the end of the twentieth year and subsequently at 10-year intervals. We may change the terms and conditions of the grant or lease, including leases issued under subpart 2809, as a result of these reviews in accordance with § 2805.15(e).

*****

23. Amend § 2805.11 by redesignating paragraph (b)(2) as paragraph (b)(3), adding new paragraph (b)(2), and revising newly redesignated paragraph (b)(3) to read as follows:

§ 2805.11 What does a grant contain?

*****

(b) ***

(2) Specific terms for solar and wind energy grants and leases are as follows:

(i) For an energy site-specific testing grant, the term is 3 years or less, without the option of renewal;

(ii) For an energy project-area testing grant, the initial term is 3 years or less, with the option to renew for one additional 3-year period when the renewal application is also accompanied by a solar or wind energy development application and a POD as required by § 2804.25(e)(3);

(iii) For a short-term grant for all other associated actions not specifically included in paragraphs (b)(2)(i) and (ii) of this section, such as geotechnical testing and other temporary land disturbing activities, the term is 3 years or less;

(iv) For solar and wind energy development grants, the term is up to 30 years (plus the initial partial year of issuance) with adjustable terms and conditions. The grantee may submit an application for renewal under § 2805.14(g); and

(v) For solar and wind energy development leases located inside designated leasing areas, the term is fixed for 30 years (plus the initial partial year of issuance). The lessee may submit an application for renewal under § 2805.14(g).

(3) All grants and leases, except those issued for a term of 3 years or less and those issued in perpetuity, will expire on December 31 of the final year of the grant or lease. For grants and leases with terms greater than 3 years, the actual term includes the number of full years specified, plus the initial partial year, if any.

*****

24. Revise § 2805.12 to read as follows:

§ 2805.12 What terms and conditions must I comply with?

(a) By accepting a grant or lease, you agree to comply with and be bound by the following terms and conditions. During construction, operation, maintenance, and termination of the project you must:

(1) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and State laws and regulations applicable to the authorized use;

(2) Rebuild and repair roads, fences, and established trails destroyed or damaged by the project;

(3) Build and maintain suitable crossings for existing roads and significant trails that intersect the project;

(4) Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area;

(5) Not discriminate against any employee or applicant for employment during any stage of the project because of race, creed, color, sex, sexual orientation, or national origin. You must also require subcontractors to not discriminate;

(6) Pay monitoring fees and rent described in § 2805.16 and subpart 2806;

(7) Assume full liability if third parties are injured or damages occur to property on or near the right-of-way (see § 2807.12);

(8) Comply with project-specific terms, conditions, and stipulations, including requirements to:

(i) Restore, revegetate, and curtail erosion or conduct any other rehabilitation measure the BLM determines necessary;

(ii) Ensure that activities in connection with the grant comply with air and water quality standards or related facility siting standards contained in applicable Federal or State law or regulations;

(iii) Control or prevent damage to:

(A) Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat;

(B) Public and private property; and

(C) Public health and safety;

(iv) Provide for compensatory mitigation for residual impacts associated with the right-of-way.

(v) Protect the interests of individuals living in the general area who rely on the area for subsistence uses as that term is used in Title VIII of Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111 et seq.);

(vi) Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant or lease, including the approved POD, if one was required;

(vii) When the State standards are more stringent than Federal standards, comply with State standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way; and

(viii) Grant the BLM an equivalent authorization for an access road across your land if the BLM determines that a reciprocal authorization is needed in the public interest and the authorization the BLM issues to you is also for road access;

(9) Immediately notify all Federal, State, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify the BLM at the same time and send the BLM a copy of any written notification you prepared;

(10) Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant;

(11) Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, (42 U.S.C. 11001 et seq.), when you receive, assign, renew, amend, or terminate your grant;

(12) Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to the BLM's satisfaction and to the satisfaction of any other Federal, State, tribal, or local agency having jurisdiction over the land, resource, or hazardous material;

(13) Comply with all liability and indemnification provisions and stipulations in the grant;

(14) As the BLM directs, provide diagrams or maps showing the location of any constructed facility;

(15) As the BLM directs, provide, or give access to, any pertinent environmental, technical, and financial records, reports, and other information, such as Power Purchase and Interconnection Agreements or the production and sale data for electricity generated from the approved facilities on public lands. Failure to comply with such requirements may, at the discretion of the BLM, result in suspension or termination of the right-of-way authorization. The BLM may use this and similar information for the purpose of monitoring your authorization and for periodic evaluation of financial obligations under the authorization, as appropriate. Any records the BLM obtains will be made available to

the public subject to all applicable legal requirements and limitations for inspection and duplication under the Freedom of Information Act. Any information marked confidential or proprietary will be kept confidential to the extent allowed by law; and

(16) Comply with all other stipulations that the BLM may require.

(b) You must comply with the bonding requirements under § 2805.20. The BLM will not issue a Notice to Proceed or give written approval to proceed with ground disturbing activities until you comply with this requirement.

(c) By accepting a grant or lease for solar or wind energy development, you also agree to comply with and be bound by the following terms and conditions. You must:

(1) Not begin any ground disturbing activities until the BLM issues a Notice to Proceed (see § 2807.10) or written approval to proceed with ground disturbing activities;

(2) Complete construction within the timeframes in the approved POD, but no later than 24 months after the start of construction, unless the project has been approved for staged development, or as otherwise authorized by the BLM;

(3) If an approved POD provides for staged development, unless otherwise approved by the BLM:

(i) Begin construction of the initial phase of development within 12 months after issuance of the Notice to Proceed, but no later than 24 months after the effective date of the right-of-way authorization;

(ii) Begin construction of each stage of development (following the first) within 3 years of the start of construction of the previous stage of development, and complete construction of that stage no later than 24 months after the start of construction of that stage, unless otherwise authorized by the BLM; and

(iii) Have no more than 3 development stages, unless otherwise authorized by the BLM.

(4) Maintain all onsite electrical generation equipment and facilities in accordance with the design standards in the approved POD;

(5) Repair and place into service, or remove from the site, damaged or abandoned facilities that have been inoperative for any continuous period of 3 months and that present an unnecessary hazard to the public lands. You must take appropriate remedial action within 30 days after receipt of a written noncompliance notice, unless you have been provided an extension of time by the BLM. Alternatively, you must show good cause for any delays in repairs, use, or removal; estimate when corrective action will be completed; provide evidence of diligent operation of the facilities; and submit a written request for an extension of the 30-day deadline. If you do not comply with this provision, the BLM may suspend or terminate the authorization under §§ 2807.17 through 2807.19; and

(6) Comply with the diligent development provisions of the authorization or the BLM may suspend or terminate your grant or lease under §§ 2807.17 through 2807.19. Before suspending or terminating the authorization, the BLM will send you a notice that gives you a reasonable opportunity to correct any noncompliance or to start or resume use of the right-of-way (see § 2807.18). In response to this notice, you must:

(i) Provide reasonable justification for any delays in construction (for example, delays in equipment delivery, legal challenges, and acts of God);

(ii) Provide the anticipated date of completion of construction and evidence of progress toward the start or resumption of construction; and

(iii) Submit a written request under paragraph (e) of this section for extension of the timelines in the approved POD. If you do not comply with the requirements of paragraph (c)(7) of this section, the BLM may deny your request for an extension of the timelines in the approved POD.

(7) In addition to the RCE requirements of § 2805.20(a)(5) for a grant, the bond secured for a grant or lease must cover the estimated costs of cultural resource and Indian cultural resource identification, protection, and mitigation for project impacts.

(d) For energy site or project testing grants:

(1) You must install all monitoring facilities within 12 months after the effective date of the grant or other authorization. If monitoring facilities under a site testing and monitoring right-of-way authorization have not been installed within 12 months after the effective date of the authorization or consistent with the timeframe of the approved POD, you must request an extension pursuant to paragraph (e) of this section;

(2) You must maintain all onsite equipment and facilities in accordance with the approved design standards;

(3) You must repair and place into service, or remove from the site, damaged or abandoned facilities that have been inoperative for any continuous period of 3 months and that present an unnecessary hazard to the public lands; and

(4) If you do not comply with the diligent development provisions of either the site testing and monitoring authorization or the project testing and monitoring authorization, the BLM may terminate your authorization under § 2807.17.

(e) <u>Notification of Noncompliance and Request for Alternative Requirements</u>.

(1) As soon as you anticipate that you will not meet any stipulation, term, or condition of the approved right-of-way grant or lease, or in the event of your noncompliance with any such stipulation, term, or condition, you must notify the BLM in writing and show good cause for the noncompliance, including an explanation of the reasons for the failure.

(2) You may also request that the BLM consider alternative stipulations, terms, or conditions. Any request for an alternative stipulation, term, or condition must comply with applicable law in order to be considered. Any proposed alternative to applicable bonding requirements must provide the United States with adequate financial assurance for potential liabilities associated with your right-of-way grant or lease. Any such request is not approved until you receive BLM approval in writing.

25. Amend § 2805.14 by removing "and" from the end of paragraph (e), removing the period from the end of paragraph (f) and adding "; and" in its place, and adding paragraphs (g) and (h) to read as follows:

§ 2805.14 What rights does a grant convey?

*****

(g) Apply to renew your solar or wind energy development grant or lease, under § 2807.22; and

(h) Apply to renew your energy project-area testing grant for one additional term of 3 years or less when the renewal application also includes an energy development application under § 2801.9(d)(2).

26. In § 2805.15, revise the first sentence of paragraph (b) to read as follows:

§ 2805.15 What rights does the United States retain?

*****

(b) Require common use of your right-of-way, including facilities (see § 2805.14(b)), subsurface, and air space, and authorize use of the right-of-way for compatible uses. ***
*****

27. Revise § 2805.16 to read as follows:

§ 2805.16 If I hold a grant, what monitoring fees must I pay?

(a) You must pay a fee to the BLM for the reasonable costs the Federal Government incurs in inspecting and monitoring the construction, operation, maintenance, and termination of the project and protection and rehabilitation of the public lands your grant covers. Instead of paying the BLM a fee for the reasonable costs incurred by other Federal agencies in monitoring your grant, you may pay the other Federal agencies directly for such costs. The BLM will annually adjust the Category 1 through 4 monitoring fees in the manner described at § 2804.14(b). The BLM will update Category 5 monitoring fees as specified in the Master Agreement. Category 6 monitoring fees are addressed at § 2805.17(c). The BLM categorizes the monitoring fees based on the estimated number of work hours necessary to monitor your grant. Category 1 through 4 monitoring fees are one-time fees and are not refundable. The monitoring categories and work hours are as follows:

Monitoring Categories

Monitoring category	Federal work hours involved
(1) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are $> 1 \leq 8$

(2) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 8 ≤ 24
(3) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 24 ≤ 36
(4) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 36 ≤ 50
(5) Master Agreements	Varies
(6) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 50

(b) The monitoring cost schedule is available from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at http://www.blm.gov.

28. Add § 2805.20 to subpart 2805 to read as follows:

§ 2805.20 Bonding requirements.

If you hold a grant or lease under this part, you must comply with the following bonding requirements:

(a) The BLM may require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable bond instrument to cover any losses, damages, or injury to human health, the environment, or property in connection with your use and occupancy of the right-of-way, including costs associated with

terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. The BLM will periodically review your bond for adequacy and may require a new bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or lease.

(1) The BLM must be listed as an additionally named insured on the bond instrument if a State regulatory authority requires a bond to cover some portion of environmental liabilities, such as hazardous material damages or releases, reclamation, or other requirements for the project. The bond must:

(i) Be redeemable by the BLM;

(ii) Be held or approved by a State agency for the same reclamation requirements as specified by our right-of-way authorization; and

(iii) Provide the same or greater financial guarantee that we require for the portion of environmental liabilities covered by the State's bond.

(2) Bond acceptance. The BLM authorized officer must review and approve all bonds, including any State bonds, prior to acceptance, and at the time of any right-of-way assignment, amendment, or renewal.

(3) Bond amount. Unless you hold a solar or wind energy lease under subpart 2809, the bond amount will be determined based on the preparation of a RCE, which the BLM may require you to prepare and submit. The estimate must include our cost to administer a

reclamation contract and will be reviewed periodically for adequacy. The BLM may also consider other factors, such as salvage value, when determining the bond amount.

(4) You must post a bond on or before the deadline that we give you.

(5) Bond components that must be addressed when determining the RCE amount include, but are not limited to:

(i) Environmental liabilities such as use of hazardous materials waste and hazardous substances, herbicide use, the use of petroleum-based fluids, and dust control or soil stabilization materials;

(ii) The decommissioning, removal, and proper disposal, as appropriate, of any improvements and facilities; and

(iii) Interim and final reclamation, re-vegetation, recontouring, and soil stabilization. This component must address the potential for flood events and downstream sedimentation from the site that may result in offsite impacts.

(6) You may ask us to accept a replacement performance and reclamation bond at any time after the approval of the initial bond. We will review the replacement bond for adequacy. A surety company is not released from obligations that accrued while the surety bond was in effect unless the replacement bond covers those obligations to our satisfaction.

(7) You must notify us that reclamation has occurred and you may request that the BLM reevaluate your bond. If we determine that you have completed reclamation, we may release all or part of your bond.

(8) If you hold a grant, you are still liable under § 2807.12 if:

(i) We release all or part of your bond;

(ii) The bond amount does not cover the cost of reclamation; or

(iii) There is no bond in place;

(b) If you hold a grant for solar energy development outside of designated leasing areas, you must provide a performance and reclamation bond (see paragraph (a) of this section) prior to the BLM issuing a Notice to Proceed (see § 2805.12(c)(1)). We will determine the bond amount based on the RCE (see paragraph (a)(3) of this section) and it must be no less than $10,000 per acre that will be disturbed;

(c) If you hold a grant for wind energy development outside of designated leasing areas, you must provide a performance and reclamation bond (see paragraph (a) of this section) prior to the BLM issuing a Notice to Proceed (see § 2805.12(c)(1)). We will determine the bond amount based on the RCE (see paragraph (a)(3) of this section) and it must be no less than $10,000 per authorized turbine less than 1 MW in nameplate capacity or $20,000 per authorized turbine equal to or greater than 1 MW in nameplate capacity; and

(d) For short-term right-of-way grants for energy site or project-area testing, the bond amount must be no less than $2,000 per authorized meteorological tower or instrumentation facility location and must be provided before the written approval to proceed with ground disturbing activities (see § 2805.12(c)(1)).

29. Revise the heading for subpart 2806 to read as follows:

Subpart 2806—Annual Rents and Payments

30. Amend § 2806.12 by revising the section heading and paragraphs (a) and (b) and adding paragraph (d) to read as follows:

§ 2806.12 When and where do I pay rent?

(a) You must pay rent for the initial rental period before the BLM issues you a grant or lease.

(1) If your non-linear grant or lease is effective on:

(i) January 1 through September 30 and qualifies for annual payments, your initial rent bill is pro-rated to include only the remaining full months in the initial year; or

(ii) October 1 through December 31 and qualifies for annual payments, your initial rent bill is pro-rated to include the remaining full months in the initial year plus the next full year.

(2) If your non-linear grant allows for multi-year payments, such as a short term grant issued for energy site-specific testing, you may request that your initial rent bill be for the full term of the grant instead of the initial rent bill periods provided under paragraphs (a)(1)(i) or (ii) of this section.

(b) You must make all rental payments for linear rights-of-way according to the payment plan described in § 2806.24.

*****

(d) You must make all rental payments as instructed by us or as provided for by Secretarial order or legislative authority.

31. Amend § 2806.13 by:

a. Revising the section heading and paragraph (a);

b. Redesignating paragraph (e) as paragraph (f); and

c. Adding new paragraphs (e) and (g).

The revisions and additions read as follows:

§ 2806.13 What happens if I do not pay rents and fees or if I pay the rents or fees late?

(a) If the BLM does not receive the rent or fee payment required in subpart 2806 within 15 calendar days after the payment was due under § 2806.12, we will charge you a late payment fee of $25 or 10 percent of the amount you owe, whichever is greater, per authorization.

*****

(e) Subject to applicable laws and regulations, we will retroactively bill for uncollected or under-collected rent, fees, and late payments, if:

(1) A clerical error is identified;

(2) An adjustment to rental schedules is not applied; or

(3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

*****

(g) We will not approve any further activities associated with your right-of-way until we receive any outstanding payments that are due.

32. In § 2806.20, revise paragraph (c) to read as follows:

§ 2806.20 What is the rent for a linear right-of-way grant?

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(c) You may obtain a copy of the current Per Acre Rent Schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE, Room 2134LM, Washington, DC 20003. We also post the current rent schedule at http://www.blm.gov.

33. In § 2806.22, revise the second sentence of paragraph (a) to read as follows:

§ 2806.22 When and how does the Per Acre Rent Schedule change?

(a) ***For example, the average annual change in the IPD–GDP from 1994 to 2003 (the 10-year period immediately preceding the year (2004) that the 2002 National Agricultural Statistics Service Census data became available) was 1.9 percent.***

*****

34. Amend § 2806.23 by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

35. In § 2806.24, revise paragraph (c) to read as follows:

§ 2806.24 How must I make rental payments for a linear grant?

*****

(c) Proration of payments. The BLM prorates the first year rental amount based on the number of months left in the calendar year after the effective date of the grant. If your grant requires, or you chose a 10-year payment term, or multiples thereof, the initial rent bill consists of the remaining partial year plus the next 10 years, or multiple thereof.

36. Amend § 2806.30 by:

a. Revising paragraphs (a)(1) and (a)(2);

b. Removing paragraph (b); and

c. Redesignating paragraph (c) as paragraph (b).

The revisions read as follows:

§ 2806.30 What are the rents for communication site rights-of-way?

(a) Rent schedule. (1) The BLM uses a rent schedule to calculate the rent for communication site rights-of-way. The schedule is based on nine population strata (the

population served), as depicted in the most recent version of the Ranally Metro Area (RMA) Population Ranking, and the type of communication use or uses for which we normally grant communication site rights-of-way. These uses are listed as part of the definition of "communication use rent schedule," set out at § 2801.5(b). You may obtain a copy of the current schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. We also post the current communication use rent schedule at http://www.blm.gov.

(2) We update the schedule annually based on two sources: The U.S. Department of Labor Consumer Price Index for All Urban Consumers, U.S. City Average (CPI-U), as of July of each year (difference in CPI-U from July of one year to July of the following year), and the RMA population rankings.

*****

37. In § 2806.34, revise the second sentence of paragraph (b)(4) to read as follows:

§ 2806.34 How will BLM calculate the rent for a grant or lease authorizing a multiple-use communication facility?

*****

(4) *** This paragraph does not apply to facilities exempt from rent under § 2806.14(a)(4) except when the facility also includes ineligible facilities.

38. In § 2806.43, revise the third sentence of paragraph (a) to read as follows:

§ 2806.43 How does BLM calculate rent for passive reflectors and local exchange networks?

(a) *** For passive reflectors and local exchange networks not covered by a Forest Service regional schedule, we use the provisions in § 2806.70 to determine rent. *** *****

39. Amend § 2806.44 by adding introductory text and revising paragraph (a) to read as follows:

§ 2806.44 How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses?

This section applies to a grant or lease that authorizes a mixture of communication uses, some of which are subject to the communication use rent schedule and some of which are not. We will determine rent for these leases under the provisions of this section.

(a) The BLM establishes the rent for each of the uses in the facility that are not covered by the communication use rent schedule using § 2806.70.

*****

40. Remove the undesignated centered heading preceding § 2806.50.

41. Redesignate § 2806.50 as § 2806.70.

42. Add an undesignated centered heading and new § 2806.50, 2806.51, 2806.52, 2806.54, 2806.56, and 2806.58, to read as follows:

Solar Energy Rights-of-Way

§ 2806.50 Rents and fees for solar energy rights-of-way.

If you hold a right-of-way authorizing solar energy site-specific or project-area testing, or solar energy development, you must pay an annual rent and fee in accordance with this section and subpart. Your solar energy right-of-way authorization will either be a grant (if issued under subpart 2804) or a lease (if issued under subpart 2809). Rents and fees

for either type of authorization consist of an acreage rent that must be paid prior to issuance of the authorization and a phased-in MW capacity fee. Both the acreage rent and the phased-in MW capacity fee are charged and calculated consistent with § 2806.11 and prorated consistent with § 2806.12(a). The MW capacity fee will vary depending on the size and technology of the solar energy development project.

§ 2806.51 Scheduled Rate Adjustment.

(a) The BLM will adjust your acreage rent and MW capacity fee over the course of your authorization as described in these regulations. For new grants or leases, you may choose either the standard rate adjustment method (see §§ 2806.52(a)(5) and 2806.52(b)(3) for grants; see §§ 2806.54(a)(4) or 2806.54(c) for leases) or the scheduled rate adjustment method (see § 2806.52(d) for grants; see § 2806.54(d) for leases). Once you select a rate adjustment method, that method will be fixed until you renew your grant or lease (see § 2807.22).

(b) For new grants or leases, if you select the scheduled rate adjustment method you must notify the BLM of your decision in writing. Your decision must be received by the BLM before your grant or lease is issued. If you do not select the scheduled rate adjustment method, the standard rate adjustment method will apply.

(c) If you hold a grant that is in effect prior to [INSERT EFFECTIVE DATE OF THIS FINAL RULE], you may either accept the standard rate adjustment method or request in writing that the BLM apply the scheduled rate adjustment method, as set forth in § 2806.52(d), to your grant. To take advantage of the scheduled rate adjustment option, your request must be received by the BLM before [INSERT DATE TWO YEARS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The BLM will continue to

apply the standard rate adjustment method to adjust your rates unless and until it receives your request to use the scheduled rate adjustment method.

§ 2806.52 Rents and fees for solar energy development grants.

You must pay an annual acreage rent and MW capacity fee for your solar energy development grant as follows:

(a) Acreage rent. The BLM will calculate the acreage rent by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the annual per acre zone rate from the solar energy acreage rent schedule in effect at the time the authorization is issued;

(1) Per acre zone rate. The annual per acre zone rate from the solar energy acreage rent schedule is calculated using the per acre zone value (as assigned under paragraph (a)(2) of this section), encumbrance factor, rate of return, and the annual adjustment factor. The calculation for determining the annual per acre zone rate is A × B × C × D = E where:

(i) A is the per acre zone value = the same per acre zone values described in the linear rent schedule in § 2806.20(c);

(ii) B is the encumbrance factor = 100 percent;

(iii) C is the rate of return = 5.27 percent;

(iv) D is the annual adjustment factor = the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS Census data becomes available (see § 2806.22(a)). The BLM will adjust the per acre zone rates each year based on the average annual change in the IPD–GDP as determined under § 2806.22(a). Adjusted rates are effective each year on January 1; and

(v) E is the annual per acre zone rate.

(2) Assignment of counties: The BLM will calculate the per acre zone rate in paragraph (a)(1) of this section by using a State-specific factor to assign a county to a zone in the solar energy acreage rent schedule. The BLM will calculate a State-specific factor and apply it to the NASS data (county average per acre land and building value) to determine the per acre value and assign a county (or other geographical area) to a zone. The State-specific factor represents the percent difference between improved agricultural land and unimproved rangeland values, using NASS data. The calculation for determining the State-specific factor is (A/B) – (C/D) = E where:

(i) A = the NASS Census statewide average per acre value of non-irrigated acres;

(ii) B = the NASS Census statewide average per acre land and building value;

(iii) C = the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

(iv) D = the total statewide acres in farms; and

(v) E = the State-specific percent factor or 20 percent, whichever is greater.

(3) The initial assignment of counties to the zones on the solar energy acreage rent schedule will be based upon the most recent NASS Census data (2012) for years 2016 through 2020. The BLM may on its own or in response to requests consider making regional adjustments to those initial assignments, based on evidence that the NASS Census values do not accurately reflect the value of the BLM-managed lands in a given area. The BLM will update this rent schedule once every 5 years by re-assigning counties to reflect the updated NASS Census values as described in § 2806.21 and recalculate the State-specific percent factor once every 10 years as described in § 2806.22(b).

(4) Acreage rent payment. You must pay the acreage rent regardless of the stage of development or operations on the entire public land acreage described in the right-of-way authorization. The BLM State Director may approve a rental payment plan consistent with § 2806.15(c);

(5) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.51). The BLM will adjust the acreage rent annually to reflect the change in the per acre zone rates as specified in paragraph (a)(1) of this section. The BLM will use the most current per acre zone rates to calculate the acreage rent for each year of the grant term; and

(6) You may obtain a copy of the current per acre zone rates for solar energy development (solar energy acreage rent schedule) from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current solar energy acreage rent schedule for solar energy development at http://www.blm.gov;

(b) MW capacity fee. The MW capacity fee is calculated by multiplying the approved MW capacity by the MW rate (for the applicable type of technology employed by the project) from the MW rate schedule (see paragraph (b)(2) of this section). You must pay the MW capacity fee annually when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first:

(1) MW rate. The MW rate is calculated by multiplying the total hours per year, by the net capacity factor, by the MWh price, by the rate of return. For an explanation of each of these terms, see the definition of MW rate in § 2801.5(b).

(2) MW rate schedule. You may obtain a copy of the current MW rate schedule for solar energy development from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current MW rate schedule for solar energy development at http://www.blm.gov;

(3) Periodic adjustments in the MW rate. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.51). The BLM will adjust the MW rate applicable to your grant every 5 years, beginning in 2021, by recalculating the following two components of the MW rate formula:

(i) The adjusted MWh price is the average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States for the full 5 calendar-year period preceding the adjustment, rounded to the nearest dollar increment; and

(ii) The adjusted rate of return is the 10-year average of the 20-year U.S. Treasury bond yield for the full 10 calendar-year period preceding the adjustment, rounded to the nearest one-tenth percent, with a minimum rate of return of 4 percent.

(4) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.51). If you hold a solar energy development grant, the MW rate will be phased in as follows:

(i) There is a 3-year phase-in of the MW rate when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first, at the rates of:

(A) 25 percent for the first year. This rate applies for the first partial calendar year of operations, from the date electricity generation begins until Dec. 31 of that year;

(B) 50 percent for the second year; and

(C) 100 percent for the third and subsequent years of operations.

(ii) After generation of electricity starts and an approved POD provides for staged development:

(A) The 3-year phase-in of the MW rate applies to each stage of development; and

(B) The MW capacity fee is calculated using the authorized MW capacity approved for that stage plus any previously approved stages, multiplied by the MW rate.

(5) The general payment provisions for rents described in this subpart, except for § 2806.14(a)(4), also apply to the MW capacity fee.

(c) Initial implementation of the acreage rent and MW capacity fee. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.51). If you hold a solar energy grant and made payments for billing year 2016, the BLM will reduce by 50 percent the net increase in annual costs between billing year 2017 and billing year 2016. The net increase will be calculated based on a full calendar year.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment method (see § 2806.51), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) in place when your grant is issued, or for existing grants, the per acre zone rate and MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], as adjusted under paragraph (d)(6) of this section;

(2) The per acre zone rate will increase:

(i) Annually, beginning after the first full calendar year plus any initial partial year following issuance of your grant, by the average annual change in the IPD-GDP as described in § 2806.22(b); and

(ii) Every 5 years, beginning after the first 5 calendar years, plus any initial partial year, following issuance of your grant, by 20 percent;

(3) The MW rate will increase by 20 percent every 5 years, beginning after the first 5 years, plus the initial partial year, if any, your grant is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.52(b)(4) or the reduction under § 2806.52(c);

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for the current stage plus any previously approved stages, multiplied by the MW rate, as described under this section.

(6) For grants in place prior to [INSERT EFFECTIVE DATE OF FINAL RULE] that select the scheduled rate adjustment method offered under § 2806.51(c), the per acre zone rate and the MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be adjusted for the first year's payment using the scheduled rate adjustment method as follows:

(i) The per acre zone rate will increase by the average annual change in the IPD-GDP as described in § 2806.22(b) plus 20 percent;

(ii) The MW rate will increase by 20 percent; and

(iii) Subsequent increases will be performed as set forth in paragraphs (d)(2) and (d)(3) of this section from the date of the initial adjustment under this paragraph.

§ 2806.54 Rents and fees for solar energy development leases.

If you hold a solar energy development lease obtained through competitive bidding under subpart 2809 of this part, you must make annual payments in accordance with this section and subpart, in addition to the one-time, upfront bonus bid you paid to obtain the lease. The annual payment includes an acreage rent for the number of acres included within the solar energy lease and an additional MW capacity fee based on the total authorized MW capacity for the approved solar energy project on the public lands.

(a) Acreage rent. The BLM will calculate and bill you an acreage rent that must be paid prior to issuance of your lease as described in § 2806.52(a). This acreage rent will be based on the following:

(1) Per acre zone rate. See § 2806.52(a)(1).

(2) Assignment of counties. See §§ 2806.52(a)(2) and 2806.52(a)(3)

(3) Acreage rent payment. See § 2806.52(a)(4).

(4) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.51). Once the acreage rent is determined under § 2806.52(a), no further adjustments in the annual acreage rent will be made until year 11 of the lease term and each subsequent 10-year period thereafter. The BLM will use the per acre zone rates in effect when it adjusts the annual acreage rent at those 10-year intervals,

(b) MW capacity fee. See §§ 2806.52 (b), (b)(1), (2), and (3).

(c) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.51). If you hold a solar energy development lease, the MW capacity fee will be phased in, starting when electricity begins to be generated. The MW capacity fee for years 1-20 will be calculated using the MW rate in effect when the lease is issued. The MW capacity fee for years 21-30 will be calculated using the MW rate in effect in year 21 of the lease. These rates will be phased-in as follows:

(1) For years 1 through 10 of the lease, plus any initial partial year, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2);

(2) For years 11 through 20 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2).

(3) For years 21 through 30 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2).

(4) If the lease is renewed, the MW capacity fee is calculated using the MW rates at the beginning of the renewed lease period and will remain at that rate through the initial 10-year period of the renewal term. The MW capacity fee will be adjusted using the MW rate at the beginning of each subsequent 10-year period of the renewed lease term.

(5) If an approved POD provides for staged development, the MW capacity fee is calculated using the MW capacity approved for that stage plus any previously approved stages, multiplied by the MW rate as described under this section.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment (see § 2806.51), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) in place when your lease is issued;

(2) The per acre zone rate will increase every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect, by the average annual change in the IPD-GDP for the preceding 10-year period as described in § 2806.22(b) plus 40 percent;

(3) The MW rate will increase by 40 percent every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.52(c). Instead, for years 1 through 5, plus any initial partial year, the BLM will calculate the MW capacity fee by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate. This phase-in will not be applied to renewed leases; and

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for the current stage plus any previously approved stages, multiplied by the MW rate, as described under this section.

§ 2806.56 Rent for support facilities authorized under separate grant(s).

If a solar energy development project includes separate right-of-way authorizations issued for support facilities only (administration building, groundwater wells, construction lay down and staging areas, surface water management and control

structures, etc.) or linear right-of-way facilities (pipelines, roads, power lines, etc.), rent is determined using the Per Acre Rent Schedule for linear facilities (see § 2806.20(c)).

§ 2806.58 Rent for energy development testing grants.

(a) Grants for energy site-specific testing. You must pay $100 per year for each meteorological tower or instrumentation facility location. BLM offices with approved small site rental schedules may use those fee structures if the fees in those schedules charge more than $100 per meteorological tower per year. In lieu of annual payments, you may instead pay for the entire term of the grant (3 years or less).

(b) Grants for energy project-area testing. You must pay $2,000 per year or $2 per acre per year for the lands authorized by the grant, whichever is greater. There is no additional rent for the installation of each meteorological tower or instrumentation facility located within the site testing and monitoring project-area.

43. Add an undesignated centered heading and new §§ 2806.60, 2806.61, 2806.62, 2806.64, 2806.66, and 2806.68, to read as follows:

Wind Energy Rights-of-Way

§ 2806.60 Rents and fees for wind energy rights-of-way.

If you hold a right-of-way authorizing wind energy site-specific testing or project-area testing or wind energy development, you must pay an annual rent and fee in accordance with this section and subpart. Your wind energy development right-of-way authorization will either be a grant (if issued under subpart 2804) or a lease (if issued under subpart 2809). Rents and fees for either type of authorization consist of an acreage rent that must be paid prior to issuance of the authorization and a phased-in MW capacity fee. Both the acreage rent and the phased-in MW capacity fee are charged and calculated consistent

with § 2806.11 and prorated consistent with § 2806.12(a). The MW capacity fee will vary depending on the size of the wind energy development project.

§ 2806.61 Scheduled Rate Adjustment.

(a) The BLM will adjust your acreage rent and MW capacity fee over the course of your authorization as described in these regulations. For new grants or leases, you may choose either the standard rate adjustment method (see §§ 2806.52(a)(5) and 2806.52(b)(3) for grants; see §§ 2806.54(a)(4) or 2806.54(c) for leases) or the scheduled rate adjustment method (see § 2806.52(d) for grants; see § 2806.54(d) for leases). Once you select a rate adjustment method, that method will be fixed until you renew your grant or lease (see § 2807.22).

(b) For new grants or leases, if you select the scheduled rate adjustment method you must notify the BLM of your decision in writing. Your decision must be received by the BLM before your grant or lease is issued. If you do not select the scheduled rate adjustment method, the standard rate adjustment method will apply.

(c) If you hold a grant that is in effect prior to [INSERT EFFECTIVE DATE OF THIS FINAL RULE], you may either accept the standard rate adjustment method or request in writing that the BLM apply the scheduled rate adjustment method, as set forth in § 2806.52(d), to your grant. To take advantage of the scheduled rate adjustment option, your request must be received by the BLM before [INSERT DATE TWO YEARS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The BLM will continue to apply the standard rate adjustment method to adjust your rates unless and until it receives your request to use the scheduled rate adjustment method.

§ 2806.62 Rents and fees for wind energy development grants.

You must pay an annual acreage rent and MW capacity fee for your wind energy development grant as follows:

(a) Acreage rent. The BLM will calculate the acreage rent by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate from the wind energy acreage rent schedule in effect at the time the authorization is issued;

(1) Per acre zone rate. The annual per acre zone rate from the wind energy acreage rent schedule is calculated using the per acre zone value (as assigned in accordance with paragraph (a)(2) of this section), encumbrance factor, rate of return, and the annual adjustment factor. The calculation for determining the annual per acre zone rate is A × B × C × D = E where:

(i) A is the per acre zone value = the same per- acre zone values described in the linear rent schedule in § 2806.20(c);

(ii) B is the encumbrance factor = 10 percent;

(iii) C is the rate of return = 5.27 percent;

(iv) D is the annual adjustment factor = the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS Census data becomes available (see § 2806.22(a)). The BLM will adjust the per acre rates each year based on the average annual change in the IPD–GDP as determined under § 2806.22(a). Adjusted rates are effective each year on January 1; and

(v) E is the annual per acre zone rate.

(2) Assignment of counties: The BLM will calculate the per acre zone rate in paragraph (a)(1) of this section by using a State-specific factor to assign a county to a zone in the

wind energy acreage rent schedule. The BLM will calculate a State-specific factor and apply it to the NASS data (county average per acre land and building value) to determine the per acre value and assign a county (or other geographical area) to a zone. The State-specific factor represents the percent difference between improved agricultural land and unimproved rangeland values, using NASS data. The calculation per acre for determining the State-specific factor is (A/B) – (C/D) = E where:

(i) A = the NASS Census statewide average per acre value of non-irrigated acres;

(ii) B = the NASS Census statewide average per acre land and building value;

(iii) C = the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

(iv) D = the total statewide acres in farms; and

(v) E = the State-specific percent factor or 20 percent, whichever is greater.

(3) The initial assignment of counties to the zones on the wind energy acreage rent schedule will be based upon the most recent NASS Census data (2012) for years 2016 through 2020. The BLM may on its own or in response to requests consider making regional adjustments to those initial assignments, based on evidence that the NASS Census values do not accurately reflect those of the BLM-managed lands. The BLM will update this rent schedule once every 5 years by re-assigning counties to reflect the updated NASS Census values as described in § 2806.21 and recalculate the State-specific percent factor once every 10 years as described in § 2806.22(b).

(4) Acreage rent payment. You must pay the acreage rent regardless of the stage of development or operations on the entire public land acreage described in the right-of-way

authorization. The BLM State Director may approve a rental payment plan consistent with § 2806.15(c); and

(5) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.61). The BLM will adjust the acreage rent annually to reflect the change in the per acre zone rates as specified in paragraph (a)(1) of this section. The BLM will use the most current per acre zone rates to calculate the acreage rent for each year of the grant term; and(6) The acreage rent must be paid as described in § 2806.62(a) except for the initial implementation of the wind energy acreage rent schedule of section §2806.62(c).

(7) You may obtain a copy of the current per acre zone rates for wind energy development (wind energy acreage rent schedule) from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current wind energy acreage rent schedule for wind energy development at http://www.blm.gov.

(b) MW capacity fee. The MW capacity fee is calculated by multiplying the approved MW capacity by the MW rate. You must pay the MW capacity fee annually when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first.

(1) MW rate. The MW rate is calculated by multiplying the total hours per year by the net capacity factor, by the MWh price, by the rate of return. For an explanation of each of these terms, see the definition of MW rate in § 2801.5(b).

(2) MW rate schedule. You may obtain a copy of the current MW rate schedule for wind energy development from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current MW rate schedule for wind energy development at http://www.blm.gov;

(3) Periodic adjustments in the MW rate. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.61). We will adjust the MW rate every 5 years, beginning in 2021, by recalculating the following two components of the MW rate formula:

(i) The adjusted MWh price is the average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States for the full 5 calendar-year period preceding the adjustment, rounded to the nearest dollar increment; and

(ii) The adjusted rate of return is the 10-year average of the 20-year U.S. Treasury bond yield for the full 10 calendar-year period preceding the adjustment, rounded to the nearest one-tenth percent, with a minimum rate of return of 4 percent.

(4) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61). If you hold a wind energy development grant, the MW rate will be phased in as follows:

(i) There is a 3-year phase-in of the MW rate when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first, at the rates of:

(A) 25 percent for the first year. This rate applies for the first partial calendar year of operations;

(B) 50 percent for the second year; and

(C) 100 percent for the third and subsequent years of operations.

(ii) After generation of electricity starts and an approved POD provides for staged development:

(A) The 3-year phase-in of the MW rate applies to each stage of development; and

(B) The MW capacity fee is calculated using the authorized MW capacity approved for that stage, plus any previously approved stages, multiplied by the MW rate.

(iii) The MW rate may be phased in further, as described in paragraph (c) of this section.

(5) The general payment provisions for rents described in this subpart, except for § 2806.14(a)(4), also apply to the MW capacity fee.

(c) Initial implementation of the acreage rent and MW capacity fee. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61).

(1) If you hold a wind energy grant and made payments for billing year 2016, the BLM will reduce by 50 percent the net increase in annual costs between billing year 2017 and billing year 2016. The net increase will be calculated based on a full calendar year.

(2) If the BLM accepted your application for a wind energy development grant, including a plan of development and cost recovery agreement, prior to September 30, 2014, the BLM will phase in your payment of the acreage rent and MW capacity fee by reducing the:

(i) Acreage rent of the grant by 50 percent for the initial partial year of the grant; and

(ii) MW capacity fee by 75 percent for the first (initial partial) and second years and by 50 percent for the third and fourth years for which the BLM requires payment of the MW capacity fee. This reduction to the MW capacity fee applies to each stage of development.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment (see § 2806.61), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.62(a)(1)) and MW rate (see § 2806.62(b)(1)) in place when your grant is issued, or for existing grants, the per acre zone rate and MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], as adjusted under paragraph (d)(6) of this section;

(2) The per acre zone rate will increase:

(i) Annually, beginning after the first full year plus the initial partial year, if any, your grant is in effect by the average annual change in the IPD-GDP as described in § 2806.22(b); and

(ii) Every 5 years, beginning after the first 5 years, plus the initial partial year, if any, your grant is in effect, by 20 percent;

(3) The MW rate will increase by 20 percent every 5 years, beginning after the first 5 years, plus the initial partial year, if any, your grant is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.62(b)(4) or the reduction under § 2806.62(c);

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for that stage in question

plus any previously approved stages, multiplied by the MW rate as described under this section.

(6) For grants in place prior to [INSERT EFFECTIVE DATE OF FINAL RULE] that select the scheduled rate adjustment method offered under § 2806.61(c), the per acre zone rate and the MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be adjusted for the first year's payment using the scheduled rate adjustment method as follows:

(i) The per acre zone rate will increase by the average annual change in the IPD-GDP as described in § 2806.22(b) plus 20 percent;

(ii) The MW rate will increase by 20 percent; and

(iii) Subsequent increases will be performed as set forth in paragraphs (d)(2) and (d)(3) of this section from the date of the initial adjustment under paragraph (d)(6) of this section.

§ 2806.64 Rents and fees for wind energy development leases.

If you hold a wind energy development lease obtained through competitive bidding under subpart 2809 of this part, you must make annual payments in accordance with this section and subpart, in addition to the one-time, up front bonus bid you paid to obtain the lease. The annual payment includes an acreage rent for the number of acres included within the wind energy lease and an additional MW capacity fee based on the total authorized MW capacity for the approved wind energy project on the public lands.

(a) Acreage rent. The BLM will calculate and bill you an acreage rent that must be paid prior to issuance of your lease as described in § 2806.62(a). This acreage rent will be based on the following:

(1) Per acre zone rate. See § 2806.62(a)(1).

(2) Assignment of counties. See §§ 2806.62(a)(2) and 2806.62(a)(3).

(3) Acreage rent payment. See § 2806.62(a)(4).

(4) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61). Once the acreage rent is determined under § 2806.62(a), no further adjustments in the annual acreage rent will be made until year 11 of the lease term and each subsequent 10-year period thereafter. We will use the per acre zone rates in effect at the time the acreage rent is due (at the beginning of each 10-year period) to calculate the annual acreage rent for each of the subsequent 10-year periods.

(b) MW capacity fee. See §§ 2806.62 (b), (b)(1), (2), and (3).

(c) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61). If you hold a wind energy development lease, the MW capacity fee will be phased in, starting when electricity begins to be generated. The MW capacity fee for years 1-20 will be calculated using the MW rate in effect when the lease is issued. The MW capacity fee for years 21-30 will be calculated using the MW rate in effect in year 21 of the lease. These rates will be phased-in as follows:

(1) For years 1 through 10 of the lease, plus any initial partial year, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 50 percent of the wind energy technology MW rate, as described in § 2806.62(b)(2);

(2) For years 11 through 20 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the wind energy technology MW rate described in § 2806.62(b)(2);

(3) For years 21 through 30 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the wind energy technology MW rate as described in § 2806.62(b)(2);

(4) If the lease is renewed, the MW capacity fee is calculated using the MW rates at the beginning of the renewed lease period and will remain at that rate through the initial 10 year period of the renewal term. The MW capacity fee will continue to adjust at the beginning of each subsequent 10 year period of the renewed lease term to reflect the then currently applicable MW rates; and

(5) If an approved POD provides for staged development, the MW capacity fee is calculated using the MW capacity approved for that stage plus any previously approved stage, multiplied by the MW rate, as described in this section.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment (see § 2806.61), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.62(a)(1)) and MW rate (see § 2806.62(b)(1)) in place when your lease is issued;

(2) The per acre zone rate will increase every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect, by the average annual change in the IPD-GDP for the preceding 10-year period as described in § 2806.22(b) plus 40 percent;

(3) The MW rate will increase by 40 percent every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.62(c). Instead, for years 1 through 5, plus any initial partial year, the BLM will calculate the MW

capacity fee by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate. This phase-in will not be applied to renewed leases; and

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for that stage in question plus any previously approved stages, multiplied by the MW rate as described under this section.

§ 2806.66 Rent for support facilities authorized under separate grant(s).

If a wind energy development project includes separate right-of-way authorizations issued for support facilities only (administration building, groundwater wells, construction lay down and staging areas, surface water management, and control structures, etc.) or linear right-of-way facilities (pipelines, roads, power lines, etc.), rent is determined using the Per Acre Rent Schedule for linear facilities (see § 2806.20(c)).

§ 2806.68 Rent for energy development testing grants.

(a) Grant for energy site-specific testing. You must pay $100 per year for each meteorological tower or instrumentation facility location. BLM offices with approved small site rental schedules may use those fee structures if the fees in those schedules charge more than $100 per meteorological tower per year. In lieu of annual payments, you may instead pay for the entire term of the grant (3 years or less).

(b) Grant for energy project-area testing. You must pay $2,000 per year or $2 per acre per year for the lands authorized by the grant, whichever is greater. There is no additional rent for the installation of each meteorological tower or instrumentation facility located within the site testing and monitoring project area.

44. Add an undesignated centered heading between §§ 2806.68 and 2806.70 to read as follows:

Other Rights-of-Way

45. Revise newly redesignated § 2806.70 to read as follows:

§ 2806.70 How will the BLM determine the payment for a grant or lease when the linear, communication use, solar energy, or wind energy payment schedules do not apply?

When we determine that the linear, communication use, solar, or wind energy payment schedules do not apply, we may determine your payment through a process based on comparable commercial practices, appraisals, competitive bids, or other reasonable methods. We will notify you in writing of the payment determination. If you disagree with the payment determination, you may appeal our final determination under § 2801.10.

Subpart 2807—Grant Administration and Operation

46. Amend § 2807.11 by:

a. Revising paragraph (b);

b. Redesignating paragraphs (d) and (e) as paragraphs (f) and (g); and

c. Adding new paragraphs (d) and (e).

The revisions and additions read as follows:

§ 2807.11 When must I contact BLM during operations?

*****

(b) When your use requires a substantial deviation from the grant. You must seek an amendment to your grant under § 2807.20 and obtain the BLM's approval before you begin any activity that is a substantial deviation;

*****

(d) Whenever site-specific circumstances or conditions result in the need for changes to an approved right-of-way grant or lease, POD, site plan, mitigation measures, or construction, operation, or termination procedures that are not substantial deviations in location or use authorized by a right-of-way grant or lease. Changes for authorized actions, project materials, or adopted mitigation measures within the existing, approved right-of-way area must be submitted to us for review and approval.

(e) To identify and correct discrepancies or inconsistencies.

*****

47. Amend § 2807.17 by redesignating existing paragraph (d) as paragraph (e) and adding new paragraph (d) to read as follows:

§ 2807.17 Under what conditions may the BLM suspend or terminate my grant?

*****

(d) The BLM may suspend or terminate another Federal agency's grant only if:

(1) The terms and conditions of the Federal agency's grant allow it; or

(2) The agency head holding the grant consents to it.

*****

48. Revise § 2807.21 to read as follows:

§ 2807.21 May I assign or make other changes to my grant or lease?

(a) With the BLM's approval, you may assign, in whole or in part, any right or interest in a grant or lease. Assignment actions that may require BLM approval include, but are not limited to, the following:

(1) The transfer by the holder (assignor) of any right or interest in the grant or lease to a third party (assignee); and

(2) Changes in ownership or other related change in control transactions involving the BLM right-of-way holder and another business entity (assignee), including corporate mergers or acquisitions, but not transactions within the same corporate family.

(b) The BLM may require a grant or lease holder to file new or revised information in some circumstances that do not constitute an assignment (see subpart 2803 and §§ 2804.12(e) and 2807.11). Circumstances that would not constitute an assignment but may necessitate this filing include, but are not limited to:

(1) Transactions within the same corporate family;

(2) Changes in the holder's name only (see paragraph (i) of this section); and

(3) Changes in the holder's articles of incorporation.

(c) In order to assign a grant or lease, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, including paying application and processing fees, and the grant must be in compliance with the terms and conditions of § 2805.12. The preliminary application review meetings and public meeting under §§ 2804.12 and 2804.25 are not required for an assignment. We will not approve any assignment until the assignor makes any outstanding payments that are due (see § 2806.13(g)).

(d) The assignment application must also include:

(1) Documentation that the assignor agrees to the assignment; and

(2) A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations.

(e) Your assignment is not recognized until the BLM approves it in writing. We will approve the assignment if doing so is in the public interest. Except for leases issued under subpart 2809 of this part, we may modify the grant or lease or add bonding and other requirements, including additional terms and conditions, to the grant or lease when approving the assignment, unless a modification to a lease issued under subpart 2809 of this part is required under § 2805.15(e). We may decrease rents if the new holder qualifies for an exemption (see § 2806.14) or waiver or reduction (see § 2806.15) and the previous holder did not. Similarly, we may increase rents if the previous holder qualified for an exemption or waiver or reduction and the new holder does not. If we approve the assignment, the benefits and liabilities of the grant or lease apply to the new grant or lease holder.

(f) The processing time and conditions described at § 2804.25(d) of this part apply to assignment applications.

(g) Only interests in issued right-of-way grants and leases are assignable. Except for applications submitted by a preferred applicant under § 2804.30(g), pending right-of-way applications do not create any property rights or other interest and may not be assigned from one entity to another, except that an entity with a pending application may continue to pursue that application even if that entity becomes a wholly owned subsidiary of a new third party.

(h) To complete a change in name only, (i.e., when the name change in question is not the result of an underlying change in control of the right-of-way grant), the following requirements must be met:

(1) The holder must file an application requesting a name change and follow the same procedures as for a new grant, including paying processing fees. However, the application fees (see subpart 2804 of this part) and the preliminary application review and public meetings (see §§ 2804.12 and 2804.25) are not required. The name change request must include:

(i) If the name change is for an individual, a copy of the court order or other legal document effectuating the name change; or

(ii) If the name change is for a corporation, a copy of the corporate resolution(s) proposing and approving the name change, a copy of the acceptance of the change in name by the State or Territory in which it is incorporated, and a copy of the appropriate resolution, order or other documentation showing the name change.

(2) When reviewing a proposed name change only, we may determine it is necessary to:

(i) Modify a grant issued under subpart 2804 to add bonding and other requirements, including additional terms and conditions to the grant; or

(ii) Modify a lease issued under subpart 2809 in accordance with § 2805.15(e).

(3) Your name change is not recognized until the BLM approves it in writing.

49. Amend § 2807.22 by:

a. Revising the section heading and paragraphs (a), (b), and (d);

b. Redesignating paragraph (f) as paragraph (g); and

c. Adding new paragraph (f).

The revisions and additions read as follows:

§ 2807.22 How do I renew my grant or lease?

(a) If your grant or lease specifies the terms and conditions for its renewal, and you choose to renew it, you must request a renewal from the BLM at least 120 calendar days before your grant or lease expires consistent with the renewal terms and conditions specified in your grant or lease. We will renew the grant or lease if you are in compliance with the renewal terms and conditions; the other terms, conditions, and stipulations of the grant or lease; and other applicable laws and regulations.

(b) If your grant or lease does not specify the terms and conditions for its renewal, you may apply to us to renew the grant or lease. You must send us your application at least 120 calendar days before your grant or lease expires. In your application you must show that you are in compliance with the terms, conditions, and stipulations of the grant or lease and other applicable laws and regulations, and explain why a renewal of your grant or lease is necessary. We may approve or deny your application to renew your grant or lease.

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(d) We will review your application and determine the applicable terms and conditions of any renewed grant or lease.

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(f) If you make a timely and sufficient application for a renewal of your existing grant or lease, or for a new grant or lease, in accordance with this section, the existing grant does not expire until we have issued a decision to approve or deny the application.

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50. Revise subpart 2809 to read as follows:

Subpart 2809—Competitive Process for Leasing Public Lands for Solar and Wind Energy Development Inside Designated Leasing Areas

Sec.

2809.10 General.

2809.11 How will the BLM solicit nominations?

2809.12 How will the BLM select and prepare parcels?

2809.13 How will the BLM conduct competitive offers?

2809.14 What types of bids are acceptable?

2809.15 How will the BLM select the successful bidder?

2809.16 When do variable offsets apply?

2809.17 Will the BLM ever reject bids or re-conduct a competitive offer?

2809.18 What terms and conditions apply to leases?

2809.19 Applications in designated leasing areas or on lands that later become designated leasing areas.

Subpart 2809—Competitive Process for Leasing Public Lands for Solar and Wind Energy Development Inside Designated Leasing Areas

§ **2809.10 General.**

(a) Lands inside designated leasing areas may be made available for solar and wind energy development through a competitive leasing offer process established by the BLM under this subpart.

(b) The BLM may include lands in a competitive offer on its own initiative.

(c) The BLM may solicit nominations by publishing a call for nominations under § 2809.11(a).

(d) The BLM will generally prioritize the processing of "leases" awarded under this subpart over the processing of non-competitive "grant" applications under subpart 2804, including those that are "high priority" under § 2804.35.

§ **2809.11 How will the BLM solicit nominations?**

(a) Call for nominations. The BLM will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the area affected by the potential offer of public land for solar and wind energy development or the Internet; to solicit nominations and expressions of interest for parcels of land inside designated leasing areas for solar or wind energy development.

(b) Nomination submission. A nomination must be in writing and must include the following:

(1) Nomination fee. If you nominate a specific parcel of land under paragraph (a) of this section, you must also include a non-refundable nomination fee of $5 per acre. We will adjust the nomination fee once every 10 years using the change in the IPD-GDP for the preceding 10-year period and round it to the nearest half dollar. This 10 year average will be adjusted at the same time as the per acre rent schedule for linear rights-of-way under § 2806.22;

(2) Nominator's name and personal or business address. The name of only one citizen, association, partnership, corporation, or municipality may appear as the nominator. All communications relating to leasing will be sent to that name and address, which constitutes the nominator's name and address of record; and

(3) The legal land description and a map of the nominated lands.

(c) We may consider informal expressions of interest suggesting lands to be included in a competitive offer. If you submit a written expression of interest, you must provide a description of the suggested lands and rationale for their inclusion in a competitive offer.

(d) In order to submit a nomination, you must be qualified to hold a grant or lease under § 2803.10.

(e) Nomination withdrawals. A nomination cannot be withdrawn, except by the BLM for cause, in which case all nomination monies will be refunded to the nominator.

§ 2809.12 How will the BLM select and prepare parcels?

(a) The BLM will identify parcels for competitive offer based on nominations and expressions of interest or on its own initiative.

(b) The BLM and other Federal agencies, as applicable, will conduct necessary studies and site evaluation work, including applicable environmental reviews and public meetings, before offering lands competitively.

§ 2809.13 How will the BLM conduct competitive offers?

(a) Variety of competitive procedures available. The BLM may use any type of competitive process or procedure to conduct its competitive offer, and any method, including the use of the Internet, to conduct the actual auction or competitive bid procedure. Possible bid procedures could include, but are not limited to: Sealed bidding, oral auctions, modified competitive bidding, electronic bidding, and any combination thereof.

(b) Notice of competitive offer. We will publish a notice in the Federal Register at least 30 days prior to the competitive offer and may use other notification methods, such as a

newspaper of general circulation in the area affected by the potential right-of-way or the Internet. The Federal Register and other notices will include:

(1) The date, time, and location, if any, of the competitive offer;

(2) The legal land description of the parcel to be offered;

(3) The bidding methodology and procedures to be used in conducting the competitive offer, which may include any of the competitive procedures identified in paragraph (a) of this section;

(4) The minimum bid required (see § 2809.14(a)), including an explanation of how we determined this amount;

(5) The qualification requirements for potential bidders (see § 2803.10);

(6) If a variable offset (see § 2809.16) is offered:

(i) The percent of each offset factor;

(ii) How bidders may pre-qualify for each offset factor; and

(iii) The documentation required to pre-qualify for each offset factor; and

(7) The terms and conditions of the lease, including the requirements for the successful bidder to submit a POD for the lands involved in the competitive offer (see § 2809.18) and any lease mitigation requirements, including compensatory mitigation for residual impacts associated with the right-of-way.

(c) We will notify you in writing of our decision to conduct a competitive offer at least 30 days prior to the competitive offer if you nominated lands and paid the nomination fees required by § 2809.11(b)(1).

§ 2809.14 What types of bids are acceptable?

(a) Bid submissions. The BLM will accept your bid only if:

(1) It includes the minimum bid and at least 20 percent of the bonus bid; and

(2) The BLM determines that you are qualified to hold a grant or lease under § 2803.10. You must include documentation of your qualifications with your bid, unless we have previously approved your qualifications under §§ 2809.10(d) or 2809.11(d).

(b) Minimum bid. The minimum bid is not prorated among all bidders, but must be paid entirely by the successful bidder. The minimum bid consists of:

(1) The administrative costs incurred by the BLM and other Federal agencies in preparing for and conducting the competitive offer, including required environmental reviews; and

(2) An amount determined by the authorized officer and disclosed in the notice of competitive offer. This amount will be based on known or potential values of the parcel. In setting this amount, the BLM will consider factors that include, but are not limited to, the acreage rent and megawatt capacity fee.

(c) Bonus bid. The bonus bid consists of any dollar amount that a bidder wishes to bid in addition to the minimum bid.

(d) If you are not the successful bidder, as defined in § 2809.15(a), the BLM will refund your bid.

§ 2809.15 How will the BLM select the successful bidder?

(a) The bidder with the highest total bid, prior to any variable offset, is the successful bidder and may be offered a lease in accordance with § 2805.10.

(b) The BLM will determine the variable offsets for the successful bidder in accordance with § 2809.16 before issuing final payment terms.

(c) Payment terms. If you are the successful bidder, you must:

(1) Make payments by personal check, cashier's check, certified check, bank draft, or money order, or by other means deemed acceptable by the BLM, payable to the Department of the Interior—Bureau of Land Management; and

(2) By the close of official business hours on the day of the offer or such other time as the BLM may have specified in the offer notices, submit for each parcel:

(i) Twenty percent of the bonus bid (before the offsets are applied under paragraph (b) of this section); and

(ii) The total amount of the minimum bid specified in § 2809.14(b);

(3) Within 15 calendar days after the day of the offer, submit the balance of the bonus bid (after the variable offsets are applied under paragraph (b) of this section) to the BLM office conducting the offer; and

(4) Within 15 calendar days after the day of the offer, submit the acreage rent for the first full year of the solar or wind energy development lease as provided in §§ 2806.54(a) or 2806.64(a), respectively. This amount will be applied toward the first 12 months acreage rent, if the successful bidder becomes the lessee.

(d) The BLM will offer you a right-of-way lease if you are the successful bidder and:

(1) Satisfy the qualifications in § 2803.10;

(2) Make the payments required under paragraph (c) of this section; and

(3) Do not have any trespass action pending against you for any activity on BLM-administered lands (see § 2808.12) or have any unpaid debts owed to the Federal Government.

(e) The BLM will not offer a lease to the successful bidder and will keep all money that has been submitted, if the successful bidder does not satisfy the requirements of

paragraph (d) of this section. In this case, the BLM may offer the lease to the next highest bidder under § 2809.17(b) or re-offer the lands under § 2809.17(d).

§ **2809.16 When do variable offsets apply?**

(a) The successful bidder may be eligible for an offset of up to 20 percent of the bonus bid based on the factors identified in the notice of competitive offer.

(b) The BLM may apply a variable offset to the bonus bid of the successful bidder. The notice of competitive offer will identify each factor of the variable offset, the specific percentage for each factor that would be applied to the bonus bid, and the documentation required to be provided to the BLM prior to the day of the offer to qualify for the offset. The total variable offset cannot be greater than 20 percent of the bonus bid.

(c) The variable offset may be based on any of the following factors:

(1) Power purchase agreement;

(2) Large generator interconnect agreement;

(3) Preferred solar or wind energy technologies;

(4) Prior site testing and monitoring inside the designated leasing area;

(5) Pending applications inside the designated leasing area;

(6) Submission of nomination fees;

(7) Submission of biological opinions, strategies, or plans;

(8) Environmental benefits;

(9) Holding a solar or wind energy grant or lease on adjacent or mixed land ownership;

(10) Public benefits; and

(11) Other similar factors.

(d) The BLM will determine your variable offset prior to the competitive offer.

§ **2809.17 Will the BLM ever reject bids or re-conduct a competitive offer?**

(a) The BLM may reject bids regardless of the amount offered. If the BLM rejects your bid under this provision, you will be notified in writing and such notice will include the reason(s) for the rejection and what refunds to which you are entitled. If the BLM rejects a bid, the bidder may appeal that decision under § 2801.10.

(b) We may offer the lease to the next highest qualified bidder if the successful bidder does not execute the lease or is for any reason disqualified from holding the lease.

(c) If we are unable to determine the successful bidder, such as in the case of a tie, we may re-offer the lands competitively (under § 2809.13) to the tied bidders or to all prospective bidders.

(d) If lands offered under § 2809.13 receive no bids, we may:

(1) Re-offer the lands through the competitive process under § 2809.13; or

(2) Make the lands available through the non-competitive application process found in subparts 2803, 2804, and 2805 of this part, if we determine that doing so is in the public interest.

§ **2809.18 What terms and conditions apply to leases?**

The lease will be issued subject to the following terms and conditions:

(a) Lease term. The term of your lease includes the initial partial year in which it is issued, plus 30 additional full years. The lease will terminate on December 31 of the final year of the lease term. You may submit an application for renewal under § 2805.14(g).

(b) Rent. You must pay rent as specified in:

(1) Section 2806.54, if your lease is for solar energy development; or

(2) Section 2806.64, if your lease is for wind energy development.

(c) POD. You must submit, within 2 years of the lease issuance date, a POD that:

(1) Is consistent with the development schedule and other requirements in the POD template posted at http://www.blm.gov; and

(2) Addresses all pre-development and development activities.

(d) Cost recovery. You must pay the reasonable costs for the BLM or other Federal agencies to review and approve your POD and to monitor your lease. To expedite review of your POD and monitoring of your lease, you may notify BLM in writing that you are waiving paying reasonable costs and are electing to pay the full actual costs incurred by the BLM.

(e) Performance and reclamation bond. (1) For Solar Energy Development, you must provide a bond in the amount of $10,000 per acre prior to written approval to proceed with ground disturbing activities.

(2) For Wind Energy Development, you must provide a bond in the amount of $10,000 per authorized turbine less than 1 MW in nameplate capacity or $20,000 per authorized turbine equal or greater than 1 MW in nameplate capacity prior to written approval to proceed with ground disturbing activities.

(3) For testing and monitoring sites authorized under a development lease, you must provide a bond in the amount of $2,000 per site prior to receiving written approval to proceed with ground disturbing activities.

(4) The BLM will adjust the solar and wind energy development bond amounts every 10 years using the change in the IPD-GDP for the preceding 10-year period rounded to the

nearest $100. This 10-year average will be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under § 2806.22.

(f) Assignments. You may assign your lease under § 2807.21, and if an assignment is approved, the BLM will not make any changes to the lease terms or conditions, as provided for by § 2807.21(e) except for modifications required under § 2805.15(e).

(g) Due diligence of operations. You must start construction within 5 years and begin generation of electricity no later than 7 years from the date of lease issuance, as specified in your approved POD. A request for an extension may be granted for up to 3 years with a show of good cause and approval by the BLM.

§ **2809.19 Applications in designated leasing areas or on lands that later become designated leasing areas.**

(a) Applications for solar or wind energy development filed on lands outside of designated leasing areas, which subsequently become designated leasing areas will:

(1) Continue to be processed by the BLM and are not subject to the competitive leasing offer process of this subpart, if such applications are filed prior to the publication of the notice of intent or other public announcement from the BLM of the proposed land use plan amendment to designate the solar or wind leasing area; or

(2) Remain in pending status unless withdrawn by the applicant, denied, or issued a grant by the BLM, or the subject lands become available for application or leasing under this part, if such applications are filed on or after the date of publication of the notice of intent or other public announcement from the BLM of the proposed land use plan amendment to designate the solar or wind leasing area.

(3) Resume being processed by the BLM if your application is pending under paragraph (a)(2) of this section and the lands become available for application under 2809.17(d)(2).

(b) An applicant that submits a bid on a parcel of land for which an application is pending under paragraph (a)(2) of this section may:

(1) Qualify for a variable offset under § 2809.16; and

(2) Receive a refund for any unused application fees or processing costs if the lands identified in the application are subsequently leased to another entity under § 2809.13.

(c) After the effective date of this regulation, the BLM will not accept a new application for solar or wind energy development inside designated leasing areas (see §§ 2804.12(b)(1) and 2804.23(e)), except as provided by § 2809.17(d)(2).

(d) You may file a new application under part 2804 for testing and monitoring purposes inside designated leasing areas. If the BLM approves your application, you will receive a short term grant in accordance with §§ 2805.11(b)(2)(i) or (ii), which may qualify you for an offset under § 2809.16.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

51. Revise the authority citation for part 2880 to read as follows:

AUTHORITY: 30 U.S.C. 185 and 189, and 43 U.S.C. 1732(b), 1733, and 1740.

Subpart 2884—Applying for MLA Grants or TUPs

52. In § 2884.11, revise paragraph (c)(5) to read as follows:

§ 2884.11 What information must I submit in my application?

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(c) ***

(5) The estimated schedule for constructing, operating, maintaining, and terminating the project (a POD). Your POD must be consistent with the development schedule and other requirements as noted on the POD template for oil and gas pipelines at http://www.blm.gov;

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53. In § 2884.12, revise paragraphs (a), (b), and (c) to read as follows:

§ 2884.12 What is the processing fee for a grant or TUP application?

(a) You must pay a processing fee with the application to cover the costs to the Federal Government of processing your application before the Federal Government incurs them. Subject to applicable laws and regulations, if processing your application will involve Federal agencies other than the BLM, your fee may also include the reasonable costs estimated to be incurred by those Federal agencies. Instead of paying the BLM a fee for the estimated work of other Federal agencies in processing your application, you may pay other Federal agencies directly for the costs estimated to be incurred by them in processing your application. The fees for Processing Categories 1 through 4 are one-time fees and are not refundable. The fees are categorized based on an estimate of the amount of time that the Federal Government will expend to process your application and issue a decision granting or denying the application.

(b) There is no processing fee if work is estimated to take 1 hour or less. Processing fees are based on categories. We update the processing fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD-GDP, as measured second quarter to second quarter. We will round these changes to the nearest dollar. We will update Category 5 processing fees as specified in the Master Agreement.

These processing categories and the estimated range of Federal work hours for each category are:

Processing Categories

Processing category	Federal work hours involved
(1) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >1 ≤8
(2) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >8 ≤24
(3) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >24 ≤36
(4) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >36 ≤50
(5) Master Agreements	Varies
(6) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >50

(c) You may obtain a copy of the current schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at http://www.blm.gov.

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54. Amend § 2884.16 by redesignating paragraphs (a)(6), (a)(7), and (a)(8) as paragraphs (a)(7), (a)(8), and (a)(9), and adding new paragraph (a)(6). The addition reads as follows:

§ 2884.16 What provisions do Master Agreements contain and what are their limitations?

(a) ***

(6) Describes existing agreements between the BLM and other Federal agencies for cost reimbursement;

*****

55. Amend § 2884.17 by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 2884.17 How will BLM process my Processing Category 6 application?

(a) For Processing Category 6 applications, you and the BLM must enter into a written agreement that describes how we will process your application. The final agreement consists of a work plan, a financial plan, and a description of any existing agreements you have with other Federal agencies for cost reimbursement associated with such application.

*****

(e) We may collect funds to reimburse the Federal Government for reasonable costs for processing applications and other documents under this part relating to the Federal lands.

56. In § 2884.18, revise paragraphs (a)(1) and (c) to read as follows:

§ 2884.18 What if there are two or more competing applications for the same pipeline?

(a) ***

(1) Processing Categories 1 through 4. You must reimburse the Federal Government for processing costs as if the other application or applications had not been filed.

*****

(c) If we determine that competition exists, we will describe the procedures for a competitive bid through a bid announcement in the Federal Register and may use other notification methods, such as a newspaper of general circulation or the Internet. We may offer lands through a competitive process on our own initiative.

57. Amend § 2884.20 by revising the introductory text of paragraph (a) and revising paragraph (d) to read as follows:

§ 2884.20 What are the public notification requirements for my application?

(a) When the BLM receives your application, it will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet. If we determine the pipeline(s) will have only minor environmental impacts, we are not required to publish this notice. The notice will, at a minimum, contain:

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(d) We may hold public hearings or meetings on your application if we determine that there is sufficient interest to warrant the time and expense of such hearings or meetings. We will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet, to announce in advance any public hearings or meetings.

58. Amend § 2884.21 by:

a. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d);

b. Adding new paragraph (b); and

c. Revising redesignated paragraph (d)(4).

The revisions and additions read as follows:

§ 2884.21 How will BLM process my application?

*****

(b) The BLM will not process your application if you have any trespass action pending against you for any activity on BLM-administered lands (see § 2888.11) or have any unpaid debts owed to the Federal Government. The only applications the BLM would process are those to resolve the trespass with a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after outstanding debts are paid. Outstanding debts are those currently unpaid debts owed to the Federal Government after all administrative collection actions have occurred, including any appeal proceedings under applicable Federal regulations and the Administrative Procedure Act.

*****

(d) ***

(4) Hold public meetings, if sufficient public interest exists to warrant their time and expense. The BLM will publish a notice in the Federal Register and may use other methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet, to announce in advance any public hearings or meetings; and

*****

59. Amend § 2884.22 by revising paragraph (a) to read as follows:

§ 2884.22 Can BLM ask me for additional information?

(a) If we ask for additional information, we will follow the procedures in § 2804.25(c) of this chapter.

*****

60. Amend § 2884.23 by revising paragraph (a)(6), redesignating paragraph (b) as paragraph (c), and adding new paragraph (b), to read as follows:

§ 2884.23 Under what circumstances may BLM deny my application?

(a) ***

(6) You do not adequately comply with a deficiency notice (see § 2804.25(c) of this chapter) or with any requests from the BLM for additional information needed to process the application.

(b) If you are unable to meet any of the requirements in this section you may request an alternative from the BLM (see § 2884.30).

(c)***

*****

61. Add new § 2884.30 to read as follows:

§2884.30 Showing of good cause.

If you are unable to meet any of the processing requirements in this subpart, you may request approval for an alternative requirement from the BLM. Any such request is not approved until you receive BLM approval in writing. Your request to the BLM must:

(a) Show good cause for your inability to meet a requirement;

(b) Suggest an alternative requirement and explain why that requirement is appropriate; and

(c) Be received in writing by the BLM in a timely manner, before the deadline to meet a particular requirement has passed.

Subpart 2885—Terms and Conditions of MLA Grants and TUPs

62. Amend § 2885.11 by revising the introductory text of paragraph (a) and revising paragraph (b)(7) to read as follows:

§ 2885.11 What terms and conditions must I comply with?

(a) Duration. All grants, except those issued for a term of 3 years or less, will expire on December 31 of the final year of the grant. The term of a grant may not exceed 30 years, with the initial partial year of the grant considered to be the first year of the term. The term of a TUP may not exceed 3 years. The BLM will consider the following factors in establishing a reasonable term:

*****

(b) ***

(7) The BLM may require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property incurred in connection with your use and occupancy of the right-of-way or TUP area, including terminating the grant or TUP, and to secure all obligations imposed by the grant or TUP and applicable laws and regulations. Your bond must cover liability for damages or injuries resulting from releases or discharges of hazardous materials. We may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or TUP. This bond is in addition to any individual lease, statewide, or nationwide oil and gas bonds you may have. All other provisions in§ 2805.12(b) of this chapter regarding bond requirements for grants and leases issued under FLPMA also apply to grants or TUPs for oil and gas pipelines issued under this part;

*****

63. Amend § 2885.15 by revising paragraph (b) to read as follows:

§ 2885.15 How will BLM charge me rent?

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(b) There are no reductions or waivers of rent for grants or TUPs, except as provided under § 2885.20(b).

*****

64. Amend § 2885.16 by revising paragraph (a) to read as follows:

§ 2885.16 When do I pay rent?

(a) You must pay rent for the initial rental period before we issue you a grant or TUP. We prorate the initial rental amount based on the number of full months left in the calendar year after the effective date of the grant or TUP. If your grant qualifies for annual payments, the initial rent consists of the remaining partial year plus the next full year. If your grant or TUP allows for multi-year payments, your initial rent payment may be for the full term of the grant or TUP. See § 2885.21 for additional information on payment of rent.

*****

65. Amend § 2885.17 by revising the section heading, redesignating paragraph (e) as paragraph (f), and by adding new paragraph (e) to read as follows:

§ 2885.17 What happens if I do not pay rents and fees or if I pay the rents or fees late?

*****

(e) We will retroactively bill for uncollected or under-collected rent, including late payment and administrative fees, upon discovery if:

(1) A clerical error is identified;

(2) An adjustment to rental schedules is not applied; or

(3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

*****

66. In § 2885.19, revise paragraph (b) to read as follows:

§ 2885.19 What is the rent for a linear right-of-way grant?

*****

(b) You may obtain a copy of the current Per Acre Rent Schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current rent schedule at http://www.blm.gov.

67. In § 2885.20, revise paragraph (b) to read as follows:

§ 2885.20 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

(a) ***

(b) Phase-in provisions: If, as the result of any revisions made to the Per Acre Rent Schedule under § 2885.19(a)(2), the payment of your new annual rental amount would cause you undue hardship, you may qualify for a 2-year phase-in period if you are a small business entity as that term is defined in Small Business Administration regulations and if it is in the public interest. We will require you to submit information to support your

claim. If approved by the BLM State Director, payment of the amount in excess of the previous year's rent may be phased-in by equal increments over a 2-year period. In addition, the BLM will adjust the total calculated rent for year 2 of the phase-in period by the annual index provided by § 2885.19(a)(1).

*****

68. Revise § 2885.24 to read as follows:

§ 2885.24 If I hold a grant or TUP, what monitoring fees must I pay?

(a) Monitoring fees. Subject to § 2886.11, you must pay a fee to the BLM for any costs the Federal Government incurs in inspecting and monitoring the construction, operation, maintenance, and termination of the pipeline and protection and rehabilitation of the affected public lands your grant or TUP covers. We update the monitoring fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD-GDP, as measured second quarter to second quarter. We will round these changes to the nearest dollar. We will update Category 5 monitoring fees as specified in the Master Agreement. We categorize the monitoring fees based on the estimated number of work hours necessary to monitor your grant or TUP. Monitoring fees for Categories 1 through 4 are one-time fees and are not refundable. These monitoring categories and the estimated range of Federal work hours for each category are:

Monitoring Categories

Monitoring category	Federal work hours involved
(1) Inspecting and monitoring of new grants and TUPs,	Estimated Federal work

assignments, renewals, and amendments to existing grants and TUPs	hours are >1 ≤8
(2) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs	Estimated Federal work hours are >8 ≤24
(3) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs	Estimated Federal work hours are >24 ≤36
(4) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPS	Estimated Federal work hours are >36 ≤50
(5) Master Agreements	Varies
(6) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs	Estimated Federal work hours >50.

(b) The current monitoring cost schedule is available from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at http://www.blm.gov.

69. Amend § 2886.12 by:

a. Revising paragraph (b);

b. Redesignating paragraph (d) as paragraph (g); and

c. Adding new paragraphs (d), (e), and (f).

The revisions and additions read as follows:

§ 2886.12 When must I contact BLM during operations?

*****

(b) When your use requires a substantial deviation from the grant or TUP. You must seek an amendment to your grant or TUP under § 2887.10 and obtain our approval before you begin any activity that is a substantial deviation;

*****

(d) Whenever site-specific circumstances or conditions arise that result in the need for changes to an approved right-of-way grant or TUP, POD, site plan, mitigation measures, or construction, operation, or termination procedures that are not substantial deviations in location or use authorized by a right-of-way grant or TUP. Changes for authorized actions, project materials, or adopted mitigation measures within the existing, approved right-of-way or TUP area must be submitted to the BLM for review and approval;

(e) To identify and correct discrepancies or inconsistencies;

(f) When you submit a certification of construction, if the terms of your grant require it. A certification of construction is a document you submit to the BLM after you have finished constructing a facility, but before you begin operating it, verifying that you have constructed and tested the facility to ensure that it complies with the terms of the grant and with applicable Federal and State laws and regulations; and

*****

Subpart 2887—Amending, Assigning, or Renewing MLA Grants and TUPs

70. Revise § 2887.11 to read as follows:

§ 2887.11 May I assign or make other changes to my grant or TUP?

(a) With the BLM's approval, you may assign, in whole or in part, any right or interest in a grant or TUP. Assignment actions that may require BLM approval include, but are not limited to, the following:

(1) The transfer by the holder (assignor) of any right or interest in the grant or TUP to a third party (assignee); and

(2) Changes in ownership or other related change in control transactions involving the BLM right-of-way grant holder or TUP holder and another business entity (assignee), including corporate mergers or acquisitions, but not transactions within the same corporate family.

(b) The BLM may require a grant or lease holder to file new or revised information in some circumstances that do not constitute an assignment (see subpart 2883 and §§ 2884.11(c) and 2886.12). Circumstances that would not constitute an assignment but may necessitate this filing include, but are not limited to:

(1) Transactions within the same corporate family;

(2) Changes in the holder's name only (see paragraph (h) of this section); and

(3) Changes in the holder's articles of incorporation.

(c) In order to assign a grant or TUP, the proposed assignee, subject to § 2886.11, must file an application and follow the same procedures and standards as for a new grant or TUP, including paying processing fees (see § 2884.12).

(d) The assignment application must also include:

(1) Documentation that the assignor agrees to the assignment; and

(2) A signed statement that the proposed assignee agrees to comply with and to be bound by the terms and conditions of the grant or TUP that is being assigned and all applicable laws and regulations.

(e) Your assignment is not recognized until the BLM approves it in writing. We will approve the assignment if doing so is in the public interest. The BLM may modify the

grant or TUP or add bonding and other requirements, including terms and conditions, to the grant or TUP when approving the assignment. If we approve the assignment, the benefits and liabilities of the grant or TUP apply to the new grant or TUP holder.

(f) The processing time and conditions described at § 2884.21 apply to assignment applications.

(g) Only interests in issued right-of-way grants and TUPs are assignable. Pending right-of-way and TUP applications do not create any property rights or other interest and may not be assigned from one entity to another, except that an entity with a pending application may continue to pursue that application even if that entity becomes a wholly owned subsidiary of a new third party.

(h) Change in name only of holder. Name-only changes are made by individuals, partnerships, corporations, and other right-of-way and TUP holders for a variety of business or legal reasons. To complete a change in name only, (i.e., when the name change in question is not the result of an underlying change in control of the right-of-way grant or TUP), the following requirements must be met:

(1) The holder must file an application requesting a name change and follow the same procedures as for a new grant or TUP, including paying processing fees (see subpart 2884 of this part). The name change request must include:

(i) If the name change is for an individual, a copy of the court order or other legal document effectuating the name change; or

(ii) If the name change is for a corporation, a copy of the corporate resolution(s) proposing and approving the name change, a copy of the filing/acceptance of the change

in name by the State or territory in which it is incorporated, and a copy of the appropriate resolution(s), order(s), or other documentation showing the name change.

(2) In connection with processing of a name change only, the BLM retains the authority under § 2885.13(e) to modify the grant or TUP, or add bonding and other requirements, including additional terms and conditions, to the grant or TUP.

(3) Your name change is not recognized until the BLM approves it in writing.

71. In § 2887.12, add new paragraphs (d) and (e) to read as follows:

§ 2887.12 How do I renew my grant?

*****

(d) If you make a timely and sufficient application for a renewal of your existing grant or for a new grant in accordance with this section, the existing grant does not expire until we have issued a decision to approve or deny the application.

(e) If we deny your application, you may appeal the decision under § 2881.10.

_____ _____

Amanda C. Leiter
Acting Assistant Secretary for Land and Minerals Management
Department of the Interior

Date

The Impact of the Department of the Interior's Final Rule Regarding Competitive Leasing on the Cho□echerr□ and Sierra Madre Wind Energ□ Pro□ect being developed b□The Anschut□Corporation

Under the final rule, the holder of a right-of-way (ROW) grant from the Bureau of Land Management (BLM) for wind development pays two types of fees: (1) an acreage rental fee; and (2) a Megawatt (MW) capacity fee based upon the nameplate capacity approved in the ROW grant. The holder of the ROW grant must then choose either a Standard Rate Adjustment or a Scheduled Rate Adjustment. In sum, the Standard Rate Adjustment is less predictable because it is based upon factors discussed below, such as the market price of power. The Scheduled Rate of Adjustment provides certainty, but increases the fees at an unacceptable rate.

I. Standard Rate Ad□ustment

A. Acreage Rent

The per acre rent is calculated using the following formula:
(Per Acre Zone Rate) x (Encumbrance Rate of 10□) x (Rate of Return 5.27□) x (1.021 Current IPD-GPD Rate) □Per acre rental rate. Then, the total acreage rent is calculated by multiplying the (per acre rent) x (total acreage).

The current Per Acre Zone Rate for Carbon County, Wyoming (Zone 2) is $579 per acre. Thus, the current per acre acreage rent is $3.12. The per acre rental rate is adjusted in two different ways. First, it is adjusted on an annual basis by the IPD-GPD. Second, in years, 6, 11, 16, 21 and 26, the per acre zone rate is reviewed and adjusted as appropriate. Finally, there is a 50□ reduction in the rate for the first year.

Based upon a 2.1□ annual IPD-GPD and no change in the current Per Acre Zone Rate, the acreage rental for the CCSM Project over the 30 year period of the ROW Grant is $10,093,523. *See Attachment A, Acreage Rent Standard Rate.*

B. MW Capacity Fee

The MW Capacity Fee is calculated as follows:
(Hours 8760) x (Net Capacity of 35□) x (MWh Price) x (Rate of Return) □MW Capacity Fee
Then, the total MW Capacity Fee is calculated by multiplying the approved nameplate capacity of the project by the MW Capacity Fee.

The current MW Capacity Fee is calculated as follows:
(Hours 8760) x (Net Capacity Factor of 35□) x (MWh Price of $38.07) x (Rate of Return of 4.3□) □$5,010.

The MW Capacity Fee is adjusted every five years starting in 2021 by calculating a new MWh Price based upon the full 5 calendar-year average of the annual weighted average wholesale prices of electricity per MWh for the major trading hubs serving the 11 Western States. The Rate of Return will also be reviewed every five years to reflect the preceding 10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-tenth percent, with a minimum rate of 4 percent.

In addition, there is a "phase-in" of the MW Capacity Fee as follows: Year 1 - 25□; Year 2 - 50□ and Year 3 - 100□.

Based upon the current MW Capacity Fee of $5,010 and no change, that is, no adjustment either upwards or downwards, over the 30 year period of the ROW Grant, the total MW Capacity Fees paid is $226,143,046. *See Attachment B, MW Capacity Fee, Standard Rate, No Escalation.*

Based upon an estimate of the forward power curve through 2025, the total MW Capacity Fees paid is $275,426,774. *See Attachment C, MW Capacity Fee, Standard Rate, Forward Power Curve Increases.*

SUMMARY TABLE	Acreage Rent	MW Capacity Fee	Total	Additional Cost
Current	0	$179,184,375	$179,184,375 ($/MWh $1.01)	
Final Rule Standard Rate No Escalation in MW Capacity Fee	$10,093,523	$216,049,523	$226,143,046 ($/MWh $1.27)	$46,958,671
Final Rule Standard Rate with Forward Pricing Curve Estimate for MW Capacity Fee	$10,093,523	$275,426,774	$285,520,298 ($/MWh $1.61)	$106,335,923

II. Scheduled Rate Adjustment

A. Acreage Rent

Under the Scheduled Rate Adjustment, the per acre rental rate is adjusted in two different ways. First, it is adjusted on an annual basis by the IPD-GPD. Second, in years, 6, 11, 16, 21 and 26, the per acre zone rate is adjusted 20%. Finally, there is a 50% reduction in the rate for the first year.

Based upon a 2.1% annual IPD-GPD and the scheduled 20% increase in the Per Acre Zone Rate in years 6, 11, 16, 21 and 26, the acreage rental for the CCSM Project over the 30 year period of the ROW Grant is $16,533,658. *See Attachment D, Acreage Rent Scheduled Rate.*

B. MW Capacity Fee

Under the Scheduled Rate Adjustment, the MW Capacity Fee is adjusted 20% every five years beginning in 2021. Based upon a 20% increase every 5 years beginning in 2021 and considering the phase-in over the first three years, the MW Capacity Fee over the 30 year period of the ROW Grant is estimated at $422,657,012. *See Attachment E, Megawatt Capacity Fee, Scheduled Rate.*

SUMMARY TABLE	Acreage Rent	MW Capacity Fee	Total	Additional Cost
Current	0	$179,184,375	$179,184,375 ($/MWh $1.01)	
Final Rule Scheduled Rate	$16,533,658	$422,657,012	$432,750,536 ($/MWh $2.44)	$253,566,16

Based on the additional cost estimates discussed above, choosing the Scheduled Rate is not recommended. While the Standard Rate is more uncertain, there appears to be little chance that the Acreage Rent and MW Capacity Fee will be increased to the levels set out in the Scheduled Rate.

ATTACHMENT A

Final Rule Acreage Rent - Standard Rate		
Acreage Subject to Rent	79,585	
County Per Acre Zone Value (Zone 2)	$579	
Encumbrance for Wind	10.0%	
Rate of Return	5.27%	
IDP-GDP	2.1%	
	ROW - Current	ROW - Final
Total Acreage Rent	**0**	**10,093,523**

MW Capacity Fee Schedule				
	ROW - Current	ROW - Final		
Operating Year		IDP-DGP	ROW Acreage Rate	ROW - Proposed
1	0	2.10%	$3.12	123,970
2	0	2.10%	$3.18	253,146
3	0	2.10%	$3.25	258,463
4	0	2.10%	$3.32	263,890
5	0	2.10%	$3.39	269,432
6	0	2.10%	$3.46	275,090
7	0	2.10%	$3.53	280,867
8	0	2.10%	$3.60	286,765
9	0	2.10%	$3.68	292,787
10	0	2.10%	$3.76	298,936
11	0	2.10%	$3.84	305,213
12	0	2.10%	$3.92	311,623
13	0	2.10%	$4.00	318,167
14	0	2.10%	$4.08	324,848
15	0	2.10%	$4.17	331,670
16	0	2.10%	$4.26	338,635
17	0	2.10%	$4.34	345,747
18	0	2.10%	$4.44	353,007
19	0	2.10%	$4.53	360,421
20	0	2.10%	$4.62	367,989
21	0	2.10%	$4.72	375,717
22	0	2.10%	$4.82	383,607
23	0	2.10%	$4.92	391,663
24	0	2.10%	$5.02	399,888
25	0	2.10%	$5.13	408,285
26	0	2.10%	$5.24	416,859
27	0	2.10%	$5.35	425,614
28	0	2.10%	$5.46	434,551
29	0	2.10%	$5.57	443,677
30	0	2.10%	$5.69	452,994
Total	**0**			**10,093,523**

ATTACHMENT B

Megawatt Capacity Fee - No Adjustment							
Nominal Project Size (MW)		1,500					
Net Capacity Factor (BLM)		35.0%					
ROW - Current			ROW - Final Rule				
MW Capacity Fee ($/MW)		$4,155					$5,010
Total MW Capacity Fee (30 yrs)		179,184,375					216,049,523
Increase							**36,865,148**
% Increase							**20.6%**
MW Capacity Fee Schedule							
Calendar Year	Year	ROW - Current	Rate of Return	MWh Price[1]	MW Rate	Escalation	ROW - Final
2020	1	1,558,125	4.3%	$38.00	5,010	0.0%	1,878,692
2021	2	3,116,250	4.3%	$38.00	5,010	0.0%	3,757,383
2022	3	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2023	4	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2024	5	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2025	6	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2026	7	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2027	8	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2028	9	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2029	10	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2030	11	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2031	12	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2032	13	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2033	14	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2034	15	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2035	16	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2036	17	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2037	18	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2038	19	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2039	20	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2040	21	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2041	22	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2042	23	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2043	24	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2044	25	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2045	26	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2046	27	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2047	28	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2048	29	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2049	30	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
Total MW Capacity Fees		**179,184,375**					**216,049,523**
Acreage Rent Fees		0					10,093,523
Total Fees		**179,184,375**					**226,143,046**
ROW ($/MWh)		**$1.01**					**$1.27**

Notes: 1) BLM will use $38.00/MWh for 2020 MWh price. 2021-2025 price will be based on the 5 year average (2015-2019 of annual average on-peak price in WECC.

ATTACHMENT C

Megawatt Capacity Fee - Standard Rate Adjustment							
Nominal Project Size (MW)		1,500					
Net Capacity Factor (BLM)		35.0%					
ROW - Current			ROW - Final Rule				
MW Capacity Fee ($/MW)		$4,155					$5,010
Total MW Capacity Fee (30 yrs)		179,184,375					275,426,774
Increase							**96,242,399**
% Increase							**53.7%**
MW Capacity Fee Schedule							
Calendar Year	Year	ROW - Current	Rate of Return	MWh Price[1]	MW Rate	Escalation	ROW - Final
2020	1	1,558,125	4.3%	$38.00	5,010	0.0%	1,878,692
2021	2	3,116,250	4.3%	$30.50	4,021	(19.7%)	3,015,873
2022	3	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2023	4	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2024	5	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2025	6	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2026	7	6,232,500	4.3%	$38.00	5,010	24.6%	7,514,766
2027	8	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2028	9	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2029	10	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2030	11	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2031	12	6,232,500	4.3%	$44.00	5,801	15.8%	8,701,308
2032	13	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2033	14	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2034	15	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2035	16	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2036	17	6,232,500	4.3%	$52.00	6,856	18.2%	10,283,364
2037	18	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2038	19	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2039	20	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2040	21	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2041	22	6,232,500	4.3%	$60.00	7,910	15.4%	11,865,420
2042	23	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2043	24	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2044	25	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2045	26	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2046	27	6,232,500	4.3%	$69.00	9,097	15.0%	13,645,233
2047	28	6,232,500	4.3%	$69.00	9,097	0.0%	13,645,233
2048	29	6,232,500	4.3%	$69.00	9,097	0.0%	13,645,233
2049	30	6,232,500	4.3%	$69.00	9,097	0.0%	13,645,233
Total MW Capacity Fees		**179,184,375**					**275,426,774**
Acreage Rent Fees		0					10,093,523
Total Fees		**179,184,375**					**285,520,298**
ROW ($/MWh)		**$1.01**					**$1.61**

Notes: 1) BLM will use $38.00/MWh for 2020 MWh price. 2021-2025 price will be based on the 5 year average (2015-2019 of annual average on-peak price in WECC. SNL Forward curves used through 2025, then escalated at 3%

ATTACHMENT D

Final Rule Acreage Rent - Scheduled Rate		
Acreage Subject to Rent	79,585	
County Per Acre Zone Value (Zone 2)	$579	
Encumbrance for Wind	10.0%	
Rate of Return	5.27%	
	2.1%	
	ROW - Current	ROW - Final
Total Acreage Rent	**0**	**16,533,658**

MW Capacity Fee Schedule				
	ROW - Current	ROW - Final		
Operating Year		IDP-DGP	ROW Acreage Rate	ROW - Proposed
1	0	2.10%	$3.12	123,970
2	0	2.10%	$3.18	253,146
3	0	2.10%	$3.25	258,463
4	0	2.10%	$3.32	263,890
5	0	2.10%	$3.39	269,432
6	0	20.00%	$4.06	323,318
7	0	2.10%	$4.15	330,108
8	0	2.10%	$4.23	337,040
9	0	2.10%	$4.32	344,118
10	0	2.10%	$4.41	351,345
11	0	20.00%	$5.30	421,614
12	0	2.10%	$5.41	430,467
13	0	2.10%	$5.52	439,507
14	0	2.10%	$5.64	448,737
15	0	2.10%	$5.76	458,160
16	0	20.00%	$6.91	549,792
17	0	2.10%	$7.05	561,338
18	0	2.10%	$7.20	573,126
19	0	2.10%	$7.35	585,162
20	0	2.10%	$7.51	597,450
21	0	20.00%	$9.01	716,940
22	0	2.10%	$9.20	731,996
23	0	2.10%	$9.39	747,368
24	0	2.10%	$9.59	763,063
25	0	2.10%	$9.79	779,087
26	0	20.00%	$11.75	934,904
27	0	2.10%	$11.99	954,537
28	0	2.10%	$12.25	974,583
29	0	2.10%	$12.50	995,049
30	0	2.10%	$12.77	1,015,945
Total	**0**			**16,533,658**

ATTACHMENT E

Megawatt Capacity Fee - Scheduled Rate Adjustment							
Nominal Project Size (MW)	1,500						
Net Capacity Factor (BLM)	35.0%						
ROW - Current		ROW - Final Rule					
MW Capacity Fee ($/MW)	$4,155						$5,010
Total MW Capacity Fee (30 yrs)	179,184,375						422,657,012
Increase							**243,472,637**
% Increase							**135.9%**
MW Capacity Fee Schedule							
Calendar Year	Year	ROW - Current	Rate of Return	MWh Price[1]	MW Rate	Escalation	ROW - Final
2020	1	1,558,125	4.3%	$38.00	5,010	0.0%	1,878,692
2021	2	3,116,250	4.3%	$45.60	6,012	20.0%	4,508,860
2022	3	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2023	4	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2024	5	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2025	6	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2026	7	6,232,500	4.3%	$54.72	7,214	20.0%	10,821,263
2027	8	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2028	9	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2029	10	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2030	11	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2031	12	6,232,500	4.3%	$65.66	8,657	20.0%	12,985,516
2032	13	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2033	14	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2034	15	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2035	16	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2036	17	6,232,500	4.3%	$78.80	10,388	20.0%	15,582,619
2037	18	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2038	19	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2039	20	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2040	21	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2041	22	6,232,500	4.3%	$94.56	12,466	20.0%	18,699,143
2042	23	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2043	24	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2044	25	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2045	26	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2046	27	6,232,500	4.3%	$113.47	14,959	20.0%	22,438,971
2047	28	6,232,500	4.3%	$113.47	14,959	0.0%	22,438,971
2048	29	6,232,500	4.3%	$113.47	14,959	0.0%	22,438,971
2049	30	6,232,500	4.3%	$113.47	14,959	0.0%	22,438,971
Total MW Capacity Fees		**179,184,375**					**422,657,012**
Acreage Rent Fees		0					10,093,523
Total Fees		**179,184,375**					**432,750,536**
ROW ($/MWh)		**$1.01**					**$2.44**

Notes: 1) BLM will use $38.00/MWh for 2020 MWh price. The Scheduled Rate adjustment increases MWh Price by 20% every five years.

From:	Marohl, Chris
To:	katharine_macgregor@ios.doi.gov
Subject:	Slawson Torpedo Project
Date:	Wednesday, February 22, 2017 6:28:25 PM
Attachments:	image001.png image002.png image003.png image004.png image005.png Summary of Torpedo Project 2.1.17.pdf

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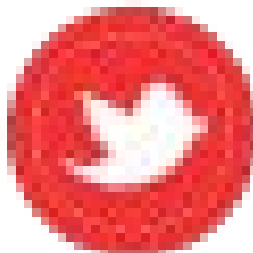
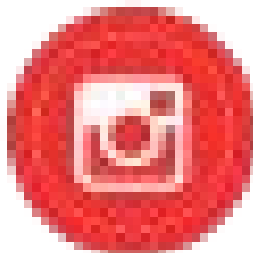
Hey Kate, I'm wondering if you can help me or point me to someone to discuss an oil production project in North Dakota which was approved by state regulators in 2012, but is still waiting on the BLM for approval. A summary prepared by the company (Slawson) is attached. Thanks. Chris

Chris Marohl
Senior Policy Advisor
Rep. Kevin Cramer **|** North Dakota
1717 Longworth HOB | M: 202-510-2575

Email Website vCard





Slawson continues to incur considerable expenses and intends to proceed with the actual drilling of the wells as soon as reasonably practicable. But, without the Federal Permits, Slawson cannot begin drilling. The Torpedo EA, FONSI, and Decision Record were on the desk of Loren Wickstrom, BLM Field Manager on August 30, 2016 for signature. It us our understanding that the State office of the BLM is in favor of approving the Torpedo Project. The BLM Headquarters has already reviewed the EA, but has now requested a briefing of the Decision Record (DR) – which is highly unusual for this type of project. As set forth below, the administrative record for approval of the Torpedo Project and issuing the Federal Permits is quite strong. There is no reason we can see for delaying approval.

The following sections briefly outline the "**Torpedo Project**" (or "**Project**") and summarize some of Slawson's activities.

1. The Torpedo Project. Slawson has been working on the Torpedo Project for four years. Slawson has acquired fee, state and federal leases in a 5 section area five straight-line miles southeast of New Town, North Dakota, and adjacent to the Van Hook Fishing Village. The Project is within the external boundaries of the Fort Berthold Indian Reservation, but does not include any Indian minerals or surface. The majority of the 5 sections are under Lake Sakakawea. Because of the proximity to Lake Sakakawea, Slawson proposed to drill 11 wells from a single pad at a cost of over $100 million. The Federal Leases owned by Slawson have no surface occupancy stipulations attached. Slawson paid the BLM $_____ in lease bonuses for the Federal Leases.

2. The Torpedo Spacing Unit. In the spring of 2012, Slawson applied for and received approval from the NDIC in the form of a "**Pooling Order**," Case No. 17266, Order No. 19535, dated May 25, 2012. The Pooling Order pooled all oil and gas interests located in a spacing unit comprised of the following lands: All of Sec. 36, T152N, R92W, Sec. 31, T152N, R91W, Sec. 1, T151N, R92W, Secs. 6 & 7, T151N, R91W, Van Hook-Bakken Pool, Mountrail County North Dakota (the "**Torpedo Spacing Unit**"). The Torpedo Spacing Unit covers 3,106 acres.

3. The Wells.

- Slawson has received approved Applications for Permits to Drill ("**APDs**") for the following 11 Horizontal Wells from the NDIC.

Torpedo Federal 1H	Torpedo Federal 7H
Torpedo Federal 2H	Torpedo Federal 8H
Torpedo Federal 3H	Torpedo Federal 9H
Torpedo Federal 4H	Torpedo Federal 10H
Torpedo Federal 5H	Rebel Federal 4-32-5TFH
Torpedo Federal 6H	

- Slawson has submitted the Federal APDs for the same 11 Horizontal Wells to the BLM for approval. The Torpedo EA, FONSI, and Decision Record were on the desk of Loren Wickstrom, BLM Field Manager on August 30, 2016 for signature. It us our understanding that the State office of the BLM is in favor of approving the Torpedo Project and issuing Slawson the

Federal Permits. Neil Kornze, BLM Director in the DC office, has requested a briefing of the DR. This is highly unusual for a project level NEPA document. The briefing was originally scheduled for December 15, 2016 and was rescheduled to January 4, 2017 for unknown reasons. There has been so many schedule delays that we are skeptical a decision will be made by that date.

4. Environmental Assessment/Scoping Process. An Environmental Assessment was required per federal regulations. Although scoping was not required for an EA, a scoping process was employed for this NEPA review. The following paragraphs set forth the actions that were taken and the agencies consulted.

a. Scoping process.

- 70 individuals, groups, and agencies were sent notice of the scoping.
- Public scoping was conducted for an initial 30 days, November 9 through December 9, 2015. In response to the Friends of Lake Sakakawea's request, the BLM extended the scoping period by an additional 30 days to January 9, 2016. The Friends of Lake Sakakawea requested that the BLM hold three public information meetings. BLM determined not to hold public meetings on the Project.
- No issues have been identified by surface owners.

b. Location and Re-Location of the Pad. During the scoping process, BLM staff and the U.S. Fish & Wildlife Service's North Dakota Ecological Services office (USFWS) expressed concerns over potential adverse effects from the originally-proposed project location close to Lake Sakakawea. The originally proposed location would have been within line-of-sight to designated critical habitat of the federally-listed threatened piping plover, and is in close proximity to habitat of the endangered interior least tern and pallid sturgeon, as well as for other T&E species and habitat provided by the Lake and its environs to numerous other species of fish and wildlife.

In response,

- Slawson redesigned well pad and split the well pad into two distinct pads, the pad for the wells ("**Well Pad**"), and a pad for the production facilities ("**Production Pad**").
    i. The Well Pad was relocated approximately 250 meters farther from the Lake.
    ii. The Production Pad was located approximately .8 miles from the Lake to minimize the footprint, environmental impacts, visual impacts and truck traffic near the Lake and the Van Hook Fishing Village. On June 9, 2015, Slawson received a sundry from the BLM approving the Production Pad (off lease production pad). We have been working building the Production Pad and to date have spent approximately $475,000.
- Slawson decreased the number of wells to be drilled from 13 to 11.
- Slawson changed the drilling method which will reduce the visual and noise impacts to federally-protected species, and decrease response time in case of a release of product or produced water from the pad.

c. BLM/USFWS Determination. BLM determined that redesigned Project "may affect, but is not likely to adversely affect" the piping plover and its designated critical habitat, pallid sturgeon, interior least tern, northern long-eared bat, and rufa red knot. The BLM determined there will be "no effect" to the endangered gray wolf and threatened Dakota skipper. USFWS concurred by letter dated June 3, 2016 with the BLM's assessment.

d. Surface Owners Agreement. Slawson has provided certification of possessing a surface owner's agreement, which was received by the BLM on November 9, 2015. No issues were identified by the surface owners.

e. US Army Corps of Engineers. In a letter dated December 14, 2015, the USACE North Dakota Regulatory Office stated that following review of the submitted permit application, it has been determined this project will affect neither the course, condition, nor capacity of navigable waters of the United States, nor result in the discharge of fill into waters of the United States. Therefore, a Section 10/404 permit would not be required for this project.

f. North Dakota Department of Health. The ND DoH, Environmental Health Section, in a letter dated December 8, 2015, stated they believe that environmental impacts from the proposed construction would be minor and could be controlled by proper construction methods.

g. U.S. Department of Agriculture. The U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) submitted a letter dated December 8, 2015, in which they stated the Farmland Protection Policy Act (FPPA) does not apply to the project.

h. Contacts with Tribal Representatives. The following contacts were made with MHA Tribal representatives:

Date	Representative(s)	Purpose of Contact
January 14, 2013	Fort Berthold Minerals Division represented by Mr. Carson Hood and Mr. Herbert Denks	On-site meeting to gather input on any foreseeable impacts and mitigation measures.
February 9, 2016	Tribal Historic Preservation Office	Consultation letter to solicit input on any foreseeable impacts and mitigation measures.
April 26, 2016	Tribal Historic Preservation Office	Consultation letter to solicit input on any foreseeable impacts and mitigation measures.
September 20, 2016	Chairman Fox, TAT Tribal Business Council	Meeting with TBC to brief them on project and BLM's decision

i. Conclusion of the Scoping Process/EA on August 30, 2016. The Torpedo EA, FONSI, and Decision Record were on the desk of Loren Wickstrom, BLM Field Manager on August 30, 2016 for signature. After being told numerous times that signing the FONSI and issuing the Federal Permits was imminent, the BLM headquarters wanted to review the Torpedo Project Materials and the current decision is being made on January 4, 2017.

Slawson has taken all appropriate actions, complied with all Federal and State rules and regulations and accordingly, the Project should be approved and the Federal Drilling Permits issued.

From:	Lane, Michelle (Energy)
To:	Kaster, Amanda
Cc:	Micah Chambers
Subject:	RE: BLM Law Enforcement
Date:	Thursday, February 23, 2017 10:06:07 AM

Amanda,

Thanks so much—this is perfect!

Michelle

Michelle Lane | Professional Staff
U.S. Senate Committee on Energy and Natural Resources
Phone: (202) 224-3782
304 Dirksen Senate Office Building
michelle_lane@energy.senate.gov

From: Kaster, Amanda [mailto:amanda_kaster@ios.doi.gov]
Sent: Wednesday, February 22, 2017 5:19 PM
To: Lane, Michelle (Energy)
Cc: Micah Chambers
Subject: BLM Law Enforcement

Hi Michelle,

I met with some of our BLM Law Enforcement team this afternoon, and they walked me through their authorities under FLPMA Sec. 303(c). Their authority is completely proprietary across all the land it manages, meaning that states and counties have the authority to enforce state laws on federal lands. BLM does have a number of MOUs with local law enforcement to offer additional patrols on federal lands in instances requiring supplemental coverage, such as special events or paleontological research. While there is some existing authority for BLM law enforcement to use their authorities on non-federal land, there is no appetite to actually use that authority due to liability concerns.

Let me know if you have any other questions about this.

Thanks,
Amanda

--
Amanda Kaster-Averill
Special Assistant
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov

From: Congressman Don Beyer
To: gregory_obaugh@ios.doi.gov
Subject: Just the Facts
Date: Thursday, February 23, 2017 3:45:12 PM

Just the Facts | February 23. 2017 Click here if you have trouble viewing this email

House Republicans and President Trump are using an obscure and rarely used procedural gambit to jettison President Obama's environmental legacy. The Congressional Review Act (CRA) has only been used once in over twenty years, is poorly understood even by the best legal minds, and is prone to misinterpretation.

The CRA skirts normal Congressional procedure, bypassing the committee process and filibuster provision, handcuffs future policy makers by blocking any further similar regulations, even in the face of new science, and undermines the work of federal environmental, climate, and scientific experts in favor of partisan ideology.

Once intended to provide Congress a simple tool to roll back overzealous executive branch agencies, House Republicans weaponized the CRA this year. They've already conducted the first wave of the attack, largely focused on undermining environmental protections; the House has voted to gut the Stream Protection Rule, the Bureau of Land Management's (BLM) methane waste rule, the Security and Exchange Commission's (SEC) resource extraction rule, BLM's Planning 2.0 Rule, and the Alaska Wildlife Protection Rule.

I have helped lead the opposition on the House Floor to prevent the elimination of these crucial environmental protections. You can see my Floor speech on the Stream Protection Rule, BLM Planning 2.0, and the Alaska Wildlife Protection Rule. Unfortunately, two of the CRAs, overruling the Stream Protection Rule and the SEC resource extraction rule, have already reached President Trump's pen.

In total, over 60 Obama-era protections are at risk through Republican use of the CRA mechanism. Not all play obvious roles in protecting our air, land, and water, but it is disheartening to see such valuable, well-crafted environmental regulations destroyed so soon in the name of corporate interests and political gain, especially when nothing is offered to take their place.

****If you wish to stop receiving Just the Facts on climate change, but continue receiving my newsletter on other topics, please click here, enter your email, and we will remove you from the list.****

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From:	Ward, Jimmy
To:	Benedetto, Kathleen
Cc:	Micah Chambers
Subject:	RE: FW: Meeting follow-up Competitive Leasing Rule
Date:	Thursday, February 23, 2017 6:25:28 PM
Attachments:	2017-02-21_DOI_Final_Competitive_Leasing_Rule_Attachments.pdf Energyandminerals_Renewable_Wind_solar_finalrule.pdf

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I'm glad you two familiar faces are over in DOI!

Just to clarify – I'm not advocating one position or another on the regulation. Do you have any indication on where the new leadership will be on competitive leasing on BLM wind energy development? I hope to get an idea of the playing field we're dealing with before trying to take action. I saw WWP is challenging the ROD on Gateway West Transmission line today… the fun never stops.

Thanks,

Jimmy

From: Benedetto, Kathleen [mailto:kathleen_benedetto@ios.doi.gov]
Sent: Wednesday, February 22, 2017 6:35 PM
To: Macgregor, Katharine <katharine_macgregor@ios.doi.gov>
Cc: Ward, Jimmy <Jimmy.Ward@mail.house.gov>; Micah Chambers <micah_chambers@ios.doi.gov>
Subject: Re: FW: Meeting follow-up Competitive Leasing Rule

Thanks Kate

On Wed, Feb 22, 2017 at 6:20 PM, Macgregor, Katharine <katharine_macgregor@ios.doi.gov> wrote:

> Hey Jimmy - Let me loop you in with Kathy Benedetto who is currently on the BLM hallway as well as Micah Chambers who is handling Congressional Affairs. both are CC'd. Hope all is well.
> -K
>
> On Wed, Feb 22, 2017 at 5:02 PM, Ward, Jimmy <Jimmy.Ward@mail.house.gov> wrote:
>
> > Hi Kate,
> >
> > I hope you're settling in over there nicely!
> >
> > Do you have the email of the staffer I could ask about the Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development regulation? (43 CFR Parts 2800 and 2880)
> >
> > Thanks,
> >
> > Jimmy Ward
> > Senior Legislative Assistant

Rep. Liz Cheney (WY – AL)

From: Roxane Perruso [mailto:Roxane.Perruso@tac-denver.com]
Sent: Tuesday, February 21, 2017 1:23 PM
To: Ward, Jimmy <Jimmy.Ward@mail.house.gov>
Cc: Bill Miller <Bill.Miller@aec-denver.com>
Subject: Meeting follow-up Competitive Leasing Rule

Hi Jimmy,

I hope you had a good holiday weekend. I wanted to follow-up with the materials I mentioned last week on the Department of Interior's final Competitive Leasing Rule. I've attached the Final Rule and our Memorandum regarding the significant financial impact the Final Rule will have on our wind energy project located in Wyoming. Under the Final Rule, we will pay $216 to $275 million over a thirty-year right-of-way grant. The resulting increase in costs is between $47 and $106 million dollars depending on the ultimate power pricing curve.

This Final Rule was issued at the very end of a 10-year permitting process. We believe that as a matter of fundamental fairness, the DOI shouldn't change the rules applicable to projects like ours that have gone through the regular permitting process and thought they had the certainty of the fee structure as it existed prior to this rule being promulgated. We would love to see a solution to this issue inserted into S. 282/H.R. 825 (PLREDA). We are happy to discuss this further. Please call with any questions or if you need more information.

Thanks again for taking the time to meet with us.

Roxane

Roxane Perruso
Vice President and Senior Counsel
The Anschutz Corporation
555 Seventeenth St., Ste. 2400
Denver, CO 80202

direct: 303.299.1342
fax: 303.299.1356
roxane.perruso@tac-denver.com

Room 6625
Washington DC 20240

202-208-3671 (Direct)

The Impact of the Department of the Interior's Final Rule Regarding Competitive Leasing on the Cho□echerr□ and Sierra Madre Wind Energ□ Pro□ect being developed b□The Anschut□Corporation

Under the final rule, the holder of a right-of-way (ROW) grant from the Bureau of Land Management (BLM) for wind development pays two types of fees: (1) an acreage rental fee; and (2) a Megawatt (MW) capacity fee based upon the nameplate capacity approved in the ROW grant. The holder of the ROW grant must then choose either a Standard Rate Adjustment or a Scheduled Rate Adjustment. In sum, the Standard Rate Adjustment is less predictable because it is based upon factors discussed below, such as the market price of power. The Scheduled Rate of Adjustment provides certainty, but increases the fees at an unacceptable rate.

I. Standard Rate Ad□ustment

A. Acreage Rent

The per acre rent is calculated using the following formula:
(Per Acre Zone Rate) x (Encumbrance Rate of 10□) x (Rate of Return 5.27□) x (1.021 Current IPD-GPD Rate) □Per acre rental rate. Then, the total acreage rent is calculated by multiplying the (per acre rent) x (total acreage).

The current Per Acre Zone Rate for Carbon County, Wyoming (Zone 2) is $579 per acre. Thus, the current per acre acreage rent is $3.12. The per acre rental rate is adjusted in two different ways. First, it is adjusted on an annual basis by the IPD-GPD. Second, in years, 6, 11, 16, 21 and 26, the per acre zone rate is reviewed and adjusted as appropriate. Finally, there is a 50□ reduction in the rate for the first year.

Based upon a 2.1□ annual IPD-GPD and no change in the current Per Acre Zone Rate, the acreage rental for the CCSM Project over the 30 year period of the ROW Grant is $10,093,523. *See Attachment A, Acreage Rent Standard Rate.*

B. MW Capacity Fee

The MW Capacity Fee is calculated as follows:
(Hours 8760) x (Net Capacity of 35□) x (MWh Price) x (Rate of Return) □MW Capacity Fee
Then, the total MW Capacity Fee is calculated by multiplying the approved nameplate capacity of the project by the MW Capacity Fee.

The current MW Capacity Fee is calculated as follows:
(Hours 8760) x (Net Capacity Factor of 35□) x (MWh Price of $38.07) x (Rate of Return of 4.3□) □$5,010.

The MW Capacity Fee is adjusted every five years starting in 2021 by calculating a new MWh Price based upon the full 5 calendar-year average of the annual weighted average wholesale prices of electricity per MWh for the major trading hubs serving the 11 Western States. The Rate of Return will also be reviewed every five years to reflect the preceding 10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-tenth percent, with a minimum rate of 4 percent.

In addition, there is a "phase-in" of the MW Capacity Fee as follows: Year 1 - 25□; Year 2 - 50□ and Year 3 - 100□.

Based upon the current MW Capacity Fee of $5,010 and no change, that is, no adjustment either upwards or downwards, over the 30 year period of the ROW Grant, the total MW Capacity Fees paid is $226,143,046. *See Attachment B, MW Capacity Fee, Standard Rate, No Escalation.*

Based upon an estimate of the forward power curve through 2025, the total MW Capacity Fees paid is $275,426,774. *See Attachment C, MW Capacity Fee, Standard Rate, Forward Power Curve Increases.*

SUMMARY TABLE	Acreage Rent	MW Capacity Fee	Total	Additional Cost
Current	0	$179,184,375	$179,184,375 ($/MWh $1.01)	
Final Rule Standard Rate No Escalation in MW Capacity Fee	$10,093,523	$216,049,523	$226,143,046 ($/MWh $1.27)	$46,958,671
Final Rule Standard Rate with Forward Pricing Curve Estimate for MW Capacity Fee	$10,093,523	$275,426,774	$285,520,298 ($/MWh $1.61)	$106,335,923

II. Scheduled Rate Adjustment

A. Acreage Rent

Under the Scheduled Rate Adjustment, the per acre rental rate is adjusted in two different ways. First, it is adjusted on an annual basis by the IPD-GPD. Second, in years, 6, 11, 16, 21 and 26, the per acre zone rate is adjusted 20%. Finally, there is a 50% reduction in the rate for the first year.

Based upon a 2.1% annual IPD-GPD and the scheduled 20% increase in the Per Acre Zone Rate in years 6, 11, 16, 21 and 26, the acreage rental for the CCSM Project over the 30 year period of the ROW Grant is $16,533,658. *See Attachment D, Acreage Rent Scheduled Rate.*

B. MW Capacity Fee

Under the Scheduled Rate Adjustment, the MW Capacity Fee is adjusted 20% every five years beginning in 2021. Based upon a 20% increase every 5 years beginning in 2021 and considering the phase-in over the first three years, the MW Capacity Fee over the 30 year period of the ROW Grant is estimated at $422,657,012. *See Attachment E, Megawatt Capacity Fee, Scheduled Rate.*

SUMMARY TABLE	Acreage Rent	MW Capacity Fee	Total	Additional Cost
Current	0	$179,184,375	$179,184,375 ($/MWh $1.01)	
Final Rule Scheduled Rate	$16,533,658	$422,657,012	$432,750,536 ($/MWh $2.44)	$253,566,16

Based on the additional cost estimates discussed above, choosing the Scheduled Rate is not recommended. While the Standard Rate is more uncertain, there appears to be little chance that the Acreage Rent and MW Capacity Fee will be increased to the levels set out in the Scheduled Rate.

ATTACHMENT A

Final Rule Acreage Rent - Standard Rate		
Acreage Subject to Rent	79,585	
County Per Acre Zone Value (Zone 2)	$579	
Encumbrance for Wind	10.0%	
Rate of Return	5.27%	
IDP-GDP	2.1%	
	ROW - Current	ROW - Final
Total Acreage Rent	**0**	**10,093,523**

MW Capacity Fee Schedule				
	ROW - Current	ROW - Final		
Operating Year		IDP-DGP	ROW Acreage Rate	ROW - Proposed
1	0	2.10%	$3.12	123,970
2	0	2.10%	$3.18	253,146
3	0	2.10%	$3.25	258,463
4	0	2.10%	$3.32	263,890
5	0	2.10%	$3.39	269,432
6	0	2.10%	$3.46	275,090
7	0	2.10%	$3.53	280,867
8	0	2.10%	$3.60	286,765
9	0	2.10%	$3.68	292,787
10	0	2.10%	$3.76	298,936
11	0	2.10%	$3.84	305,213
12	0	2.10%	$3.92	311,623
13	0	2.10%	$4.00	318,167
14	0	2.10%	$4.08	324,848
15	0	2.10%	$4.17	331,670
16	0	2.10%	$4.26	338,635
17	0	2.10%	$4.34	345,747
18	0	2.10%	$4.44	353,007
19	0	2.10%	$4.53	360,421
20	0	2.10%	$4.62	367,989
21	0	2.10%	$4.72	375,717
22	0	2.10%	$4.82	383,607
23	0	2.10%	$4.92	391,663
24	0	2.10%	$5.02	399,888
25	0	2.10%	$5.13	408,285
26	0	2.10%	$5.24	416,859
27	0	2.10%	$5.35	425,614
28	0	2.10%	$5.46	434,551
29	0	2.10%	$5.57	443,677
30	0	2.10%	$5.69	452,994
Total	**0**			**10,093,523**

ATTACHMENT B

Megawatt Capacity Fee - No Adjustment							
Nominal Project Size (MW)		1,500					
Net Capacity Factor (BLM)		35.0%					
ROW - Current			ROW - Final Rule				
MW Capacity Fee ($/MW)		$4,155					$5,010
Total MW Capacity Fee (30 yrs)		179,184,375					216,049,523
Increase							**36,865,148**
% Increase							**20.6%**
MW Capacity Fee Schedule							
Calendar Year	Year	ROW - Current	Rate of Return	MWh Price[1]	MW Rate	Escalation	ROW - Final
2020	1	1,558,125	4.3%	$38.00	5,010	0.0%	1,878,692
2021	2	3,116,250	4.3%	$38.00	5,010	0.0%	3,757,383
2022	3	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2023	4	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2024	5	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2025	6	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2026	7	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2027	8	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2028	9	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2029	10	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2030	11	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2031	12	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2032	13	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2033	14	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2034	15	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2035	16	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2036	17	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2037	18	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2038	19	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2039	20	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2040	21	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2041	22	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2042	23	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2043	24	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2044	25	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2045	26	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2046	27	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2047	28	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2048	29	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2049	30	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
Total MW Capacity Fees		**179,184,375**					**216,049,523**
Acreage Rent Fees		0					10,093,523
Total Fees		**179,184,375**					**226,143,046**
ROW ($/MWh)		**$1.01**					**$1.27**

Notes: 1) BLM will use $38.00/MWh for 2020 MWh price. 2021-2025 price will be based on the 5 year average (2015-2019 of annual average on-peak price in WECC.

ATTACHMENT C

Megawatt Capacity Fee - Standard Rate Adjustment							
Nominal Project Size (MW)		1,500					
Net Capacity Factor (BLM)		35.0%					
ROW - Current			ROW - Final Rule				
MW Capacity Fee ($/MW)		$4,155					$5,010
Total MW Capacity Fee (30 yrs)		179,184,375					275,426,774
Increase							**96,242,399**
% Increase							**53.7%**
MW Capacity Fee Schedule							
Calendar Year	Year	ROW - Current	Rate of Return	MWh Price[1]	MW Rate	Escalation	ROW - Final
2020	1	1,558,125	4.3%	$38.00	5,010	0.0%	1,878,692
2021	2	3,116,250	4.3%	$30.50	4,021	(19.7%)	3,015,873
2022	3	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2023	4	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2024	5	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2025	6	6,232,500	4.3%	$30.50	4,021	0.0%	6,031,747
2026	7	6,232,500	4.3%	$38.00	5,010	24.6%	7,514,766
2027	8	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2028	9	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2029	10	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2030	11	6,232,500	4.3%	$38.00	5,010	0.0%	7,514,766
2031	12	6,232,500	4.3%	$44.00	5,801	15.8%	8,701,308
2032	13	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2033	14	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2034	15	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2035	16	6,232,500	4.3%	$44.00	5,801	0.0%	8,701,308
2036	17	6,232,500	4.3%	$52.00	6,856	18.2%	10,283,364
2037	18	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2038	19	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2039	20	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2040	21	6,232,500	4.3%	$52.00	6,856	0.0%	10,283,364
2041	22	6,232,500	4.3%	$60.00	7,910	15.4%	11,865,420
2042	23	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2043	24	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2044	25	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2045	26	6,232,500	4.3%	$60.00	7,910	0.0%	11,865,420
2046	27	6,232,500	4.3%	$69.00	9,097	15.0%	13,645,233
2047	28	6,232,500	4.3%	$69.00	9,097	0.0%	13,645,233
2048	29	6,232,500	4.3%	$69.00	9,097	0.0%	13,645,233
2049	30	6,232,500	4.3%	$69.00	9,097	0.0%	13,645,233
Total MW Capacity Fees		**179,184,375**					**275,426,774**
Acreage Rent Fees		0					10,093,523
Total Fees		**179,184,375**					**285,520,298**
ROW ($/MWh)		**$1.01**					**$1.61**

Notes: 1) BLM will use $38.00/MWh for 2020 MWh price. 2021-2025 price will be based on the 5 year average (2015-2019 of annual average on-peak price in WECC. SNL Forward curves used through 2025, then escalated at 3%

ATTACHMENT D

Final Rule Acreage Rent - Scheduled Rate		
Acreage Subject to Rent	79,585	
County Per Acre Zone Value (Zone 2)	$579	
Encumbrance for Wind	10.0%	
Rate of Return	5.27%	
	2.1%	
	ROW - Current	ROW - Final
Total Acreage Rent	**0**	**16,533,658**

MW Capacity Fee Schedule				
	ROW - Current	ROW - Final		
Operating Year		IDP-DGP	ROW Acreage Rate	ROW - Proposed
1	0	2.10%	$3.12	123,970
2	0	2.10%	$3.18	253,146
3	0	2.10%	$3.25	258,463
4	0	2.10%	$3.32	263,890
5	0	2.10%	$3.39	269,432
6	0	20.00%	$4.06	323,318
7	0	2.10%	$4.15	330,108
8	0	2.10%	$4.23	337,040
9	0	2.10%	$4.32	344,118
10	0	2.10%	$4.41	351,345
11	0	20.00%	$5.30	421,614
12	0	2.10%	$5.41	430,467
13	0	2.10%	$5.52	439,507
14	0	2.10%	$5.64	448,737
15	0	2.10%	$5.76	458,160
16	0	20.00%	$6.91	549,792
17	0	2.10%	$7.05	561,338
18	0	2.10%	$7.20	573,126
19	0	2.10%	$7.35	585,162
20	0	2.10%	$7.51	597,450
21	0	20.00%	$9.01	716,940
22	0	2.10%	$9.20	731,996
23	0	2.10%	$9.39	747,368
24	0	2.10%	$9.59	763,063
25	0	2.10%	$9.79	779,087
26	0	20.00%	$11.75	934,904
27	0	2.10%	$11.99	954,537
28	0	2.10%	$12.25	974,583
29	0	2.10%	$12.50	995,049
30	0	2.10%	$12.77	1,015,945
Total	**0**			**16,533,658**

ATTACHMENT E

Megawatt Capacity Fee - Scheduled Rate Adjustment							
Nominal Project Size (MW)	1,500						
Net Capacity Factor (BLM)	35.0%						
ROW - Current		ROW - Final Rule					
MW Capacity Fee ($/MW)	$4,155						$5,010
Total MW Capacity Fee (30 yrs)	179,184,375						422,657,012
Increase							**243,472,637**
% Increase							**135.9%**
MW Capacity Fee Schedule							
Calendar Year	Year	ROW - Current	Rate of Return	MWh Price[1]	MW Rate	Escalation	ROW - Final
2020	1	1,558,125	4.3%	$38.00	5,010	0.0%	1,878,692
2021	2	3,116,250	4.3%	$45.60	6,012	20.0%	4,508,860
2022	3	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2023	4	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2024	5	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2025	6	6,232,500	4.3%	$45.60	6,012	0.0%	9,017,719
2026	7	6,232,500	4.3%	$54.72	7,214	20.0%	10,821,263
2027	8	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2028	9	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2029	10	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2030	11	6,232,500	4.3%	$54.72	7,214	0.0%	10,821,263
2031	12	6,232,500	4.3%	$65.66	8,657	20.0%	12,985,516
2032	13	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2033	14	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2034	15	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2035	16	6,232,500	4.3%	$65.66	8,657	0.0%	12,985,516
2036	17	6,232,500	4.3%	$78.80	10,388	20.0%	15,582,619
2037	18	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2038	19	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2039	20	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2040	21	6,232,500	4.3%	$78.80	10,388	0.0%	15,582,619
2041	22	6,232,500	4.3%	$94.56	12,466	20.0%	18,699,143
2042	23	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2043	24	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2044	25	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2045	26	6,232,500	4.3%	$94.56	12,466	0.0%	18,699,143
2046	27	6,232,500	4.3%	$113.47	14,959	20.0%	22,438,971
2047	28	6,232,500	4.3%	$113.47	14,959	0.0%	22,438,971
2048	29	6,232,500	4.3%	$113.47	14,959	0.0%	22,438,971
2049	30	6,232,500	4.3%	$113.47	14,959	0.0%	22,438,971
Total MW Capacity Fees		**179,184,375**					**422,657,012**
Acreage Rent Fees		0					10,093,523
Total Fees		**179,184,375**					**432,750,536**
ROW ($/MWh)		**$1.01**					**$2.44**

Notes: 1) BLM will use $38.00/MWh for 2020 MWh price. The Scheduled Rate adjustment increases MWh Price by 20% every five years.

DEPARTMENT OF THE INTERIOR **4310-84P**

Bureau of Land Management

43 CFR Parts 2800 and 2880

[LLWO301000.L13400000]

RIN 1004-AE24

Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections for 43 CFR Parts 2800 and 2880

AGENCY: Bureau of Land Management.

ACTION: Final rule.

SUMMARY: Through this final rule the Bureau of Land Management (BLM) is amending its regulations governing rights-of-way issued under the Federal Land Policy and Management Act (FLPMA) and the Mineral Leasing Act (MLA). The principal purposes of these amendments are to facilitate responsible solar and wind energy development on BLM-managed public lands and to ensure that the American taxpayer receives fair market value for such development. This final rule includes provisions to promote the use of preferred areas for solar and wind energy development, called "designated leasing areas" (DLAs). It builds upon existing regulations and policies to expand BLM's ability to utilize competitive processes to offer authorizations for development inside or outside of DLAs. It also addresses the appropriate terms and conditions (including payment and bonding requirements) for solar and wind energy development rights-of-way issued under subparts 2804 and 2809. Finally, the rule makes technical changes, corrections, and clarifications to the existing rights-of-way regulations.

Some of these changes affect all rights-of-way, while some provisions affect only specific rights-of-way, such as those for transmission lines with a capacity of 100 kilovolts (kV) or more.

DATES: Effective Date: This final rule is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: John Kalish, Bureau of Land Management, at 202-912-7312, for information relating to the BLM's solar and wind renewable energy programs, or the substance of the final rule. For information pertaining to the changes made for any transmission line with a capacity of 100 kV or more you may contact Stephen Fusilier at 202-912-7426. For information on procedural matters or the rulemaking process you may contact Charles Yudson at 202-912-7437. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, to contact the above individuals.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

II. Background

III. Final Rule as Adopted and Responses to Comments

IV. Section-by-Section Analysis for Part 2800

V. Section-by-Section Analysis for Part 2880

VI. Procedural Matters

I. Executive Summary

The BLM initiated this rulemaking in 2011 through publication of an Advance Notice of Proposed Rulemaking (ANPR) seeking public comment on a potential

regulatory framework for competitive solar and wind energy rights-of-way. A proposed rule was published in the Federal Register on September 30, 2014, summarizing and discussing the comments that the BLM received on the ANPR. The proposed rule set forth a framework for the competitive leasing of solar and wind energy rights-of-way both inside and outside of designated leasing areas. It also proposed codifying existing solar and wind energy policies in 43 CFR part 2800, establishing a new acreage rent for wind energy projects, and updating the methods used to set acreage rents and megawatt (MW) capacity fees for existing and future solar and wind energy projects. In addition to the changes related to solar and wind energy development, the rule also proposed related updates to other provisions of the rights-of-way regulations, including those applicable to transmission lines with a capacity of 100 kV or more and pipelines 10 inches or more in diameter. Based on comments on the proposed rule and consideration of other factors, the BLM prepared this final rule.

Statutory and Regulatory Authority

Facilities for the generation, transmission, and distribution of electric energy are authorized under Title V of the FLPMA (43 U.S.C. 1761 – 1771) and its implementing regulations at 43 CFR part 2800. Section 504(g) requires that the BLM generally receive fair market value for a right-of-way. Under Title V, the BLM can issue easements, leases, licenses, and permits to occupy, use or traverse public lands for particular purposes. The BLM generally refers to all such rights-of-way as "grants." The final rule continues to refer to solar and wind energy development rights-of-way issued noncompetitively or outside a DLA as "grants," but designates solar and wind energy development rights-of-way issued competitively and within a DLA under revised subpart

2809 as "leases," to which specific requirements and benefits are attached, as explained below.

Rights-of-way for oil and gas pipelines are authorized under Section 28 of the MLA (30 U.S.C. 185), Sections 302, 303, and 310 of FLPMA (43 U.S.C. 1732, 1733, and 1740), and the applicable implementing regulations at 43 CFR part 2880. The BLM processes applications for these categories of rights-of-way in accordance with section 2884.11.

Policies

The BLM released a Draft Solar Energy Programmatic Environmental Impact Statement (EIS) on December 17, 2010 and released a Supplement to the Draft EIS on October 28, 2011. The Supplement to the Draft EIS contemplated a process to identify and offer public lands in solar energy zones (SEZs) through a competitive leasing process. The Supplement to the Draft EIS described how the BLM intended to pursue a rulemaking process to implement a competitive leasing program within SEZs. The BLM released the Final Solar EIS on July 27, 2012, and the Secretary of the Interior (Secretary) signed the Record of Decision (ROD) on October 12, 2012. The Solar Programmatic EIS ROD, or Western Solar Plan, likewise described the BLM's intent to establish a competitive leasing program within the SEZs.

The Western Solar Plan provides the foundation for a Bureau-initiated competitive process for offering lands for solar energy development within the SEZs. Similar comprehensive or regional land use planning efforts could be initiated by the BLM in the future to designate additional renewable energy development areas, such as for wind development. For example, the recently completed Desert Renewable Energy

Conservation Plan (DRECP) identified Development Focus Areas (DFAs) in Southern California that were designed to support wind, solar, and geothermal development. As explained elsewhere in this preamble, in the Western Solar Plan and in the DRECP Record of Decision (ROD), SEZs and DFAs, like all DLAs, represent areas that have been prescreened by the BLM and identified as having high energy generation potential, access to transmission (either existing or proposed), and low potential for conflicts with other resources. The rule supports the establishment of these areas through procedures to inform their identification and establishment.

Competitive Leasing Process

Existing regulations authorize the BLM to determine whether competition exists among right-of-way applications filed for the same facility or system; however, they do not allow the BLM to offer such lands competitively absent such a finding. The existing regulations allow the BLM to resolve any such competition using competitive bidding procedures. All such grants are issued subject to valid existing rights in accordance with 43 CFR 2805.14.

Building on recommendations and analysis in the Western Solar Plan, this final rule expands the existing regulations to allow the BLM to offer lands competitively on its own initiative, both inside and outside DLAs, even in the absence of identified competition. Within DLAs, the rule will require competitive leasing procedures except in certain circumstances, when applications could be considered outside the competitive process. Outside DLAs, the BLM will have discretion whether to utilize competitive leasing procedures. This rule identifies what constitutes a DLA, and outlines the competitive process for solar and wind energy leasing inside DLAs, including the

nomination process for areas inside DLAs, the process for reviewing nominations, the competitive bidding procedures to be deployed, and the rules governing administration of solar or wind energy leases issued through the competitive process.

Incentives

This rule includes various provisions to incentivize development inside rather than outside of DLAs. For example, the rule establishes a new $15 per acre application filing fee for right-of-way applications outside of DLAs to discourage speculative applications and encourage development in DLAs. In addition, a winning bidder outside a DLA will be deemed the "preferred applicant" and eligible to apply for a grant, while a winning bidder within a DLA will be offered a lease. A primary reason for this distinction is that the prescreening done by the BLM as part of the identification of DLAs enables it to issue a lease prior to the conclusion of the project-specific reviews (such project-specific reviews would, however, have to be completed prior to the commencement of construction).

Further, this final rule establishes a mechanism whereby bidders inside DLAs may qualify for variable offsets (a form of bidding credit) that will give them a financial advantage in the competitive bidding process. Specifically, a bidder that meets the qualifications set forth in the Notice of Competitive Offer for a particular offset will have an opportunity to pre-qualify for a reduction to their bid amount, up to 20 percent of the bid. Suppose, for example, a bidder pre-qualified for a 20 percent offset and then won the auction with a high bid of $100. The bidder would only be obligated to pay the BLM $80 for the lease. These reductions would be sale-specific and would be based on factors identified in the initial sale notice. The final rule gives the BLM the flexibility to vary

the factors that could enable a bidder to obtain a variable offset from one competitive offer to another, but possible factors include having an approved Power Purchase Agreement (PPA) or Interconnect Agreement, or employing a less water-intensive technology. Each of the factors will be identified in the Notice of Competitive Offer, which will also specify the pre-determined reduction (e.g., 5 percent) associated with any individual factor. The total aggregate reduction across all factors cannot exceed 20 percent.

Additional provisions that incentivize development within DLAs include a reduced nomination fee of $5 per acre, which is electively paid by a potential bidder, compared to $15 per acre non-elective application filing fee for competitive parcels outside of DLAs; a 10-year phase-in of the MW capacity fee inside a DLA as opposed to a 3-year phase-in of the fee outside of a DLA; and more favorable bonding requirements inside DLAs. Specifically, outside DLAs, bonding must be determined based on reclamation cost estimates, whereas inside DLAs, the final rule requires a standard bond in the amount of $10,000 per acre for solar energy development and either $10,000 or $20,000 per wind energy turbine for wind energy development, depending on the nameplate capacity of the turbine.

Finally, successful competitive processes within DLAs will result in the issuance of a 30-year fixed-term lease, whereas a successful competitive process outside of a DLA will result in a preferred applicant status for the winner. The 30-year fixed term lease issued to the high bidder for a parcel offered competitively within a DLA will increase the certainty for developers and, in turn, make it easier to secure financing or reach terms on other agreements. Specifically, the lease will provide developers with evidence of site

control, and they will obtain it much earlier in the review process than they would under existing regulations (notably, before project-specific NEPA reviews have been concluded).

Rents and Fees

The rule updates the payments currently established by BLM policies to ensure that the BLM obtains fair market value for the use of the public lands. Specifically, it updates and codifies the acreage rent for both solar and wind energy authorizations. The acreage rent will be based on the acreage of the authorization, using a 10 percent encumbrance value for wind energy authorizations and a 100 percent encumbrance value for solar energy authorizations. This compares to the 50 percent encumbrance value that is used for determining rent for linear rights-of-way on the public lands.

The acreage rent for linear rights-of-way and solar and wind energy rights-of-way will vary by individual counties and is based on agricultural land values determined from data published by the National Agricultural Statistics Service (NASS). The BLM may also determine on a project-specific or regional basis that a different rate should be utilized. The "acreage rent" component captures the value of unimproved rural land encumbered by a project.

In addition to acreage rent, the rule also updates and codifies the MW capacity fee that the BLM already charges under existing policies. As under existing policy, that fee is designed to capture the difference between a particular project area's unimproved land value and the higher value associated with the area's solar or wind energy development potential. The BLM uses a MW capacity fee as a proxy for the area's electrical generation development potential. That fee is calculated using a formula that includes the

nameplate capacity of the approved project, a capacity factor or efficiency factor that varies based on the average potential electric generation of different solar and wind technologies, the average wholesale prices of electricity, and a Federal rate of return based on a 20-year Treasury bond. In this final rule, the capacity factors used for calculating the MW capacity fee are 20 percent for solar photovoltaic (PV), 25 percent for concentrated solar power (CSP), 30 percent for CSP with storage capacity of 3 hours or more, and 35 percent for wind. Additionally, the final rule allows the BLM to determine, on a project-specific or regional basis, that a different net capacity factor is more appropriate, such as if a project takes advantage of a new technology (e.g., energy storage) or project design considerations (e.g., solar array layout).

The final rule increases the MW capacity fee currently established by BLM policy from $4,155 per MW to $5,010 per MW for wind energy authorizations, and reduces the MW capacity fee from $5,256 to $2,863 per MW for PV solar, from $6,570 to $3,578 per MW for concentrated photovoltaic (CPV) or CSP solar, and from $7,884 to $4,294 per MW for CSP with storage capacity of 3 hours or more. The rule provides for a three-year phase-in of the MW capacity fee for right-of-way grants outside DLAs (25 percent in year one, 50 percent in year two, and 100 percent for subsequent years) and for a longer, ten-year phase-in for right-of-way leases inside DLAs (50 percent for the first 10 years and 100 percent for subsequent years).

As explained elsewhere in this preamble, both the acreage rent and MW capacity fees adjust periodically based on identified factors, including changes in NASS survey values and wholesale power prices. In addition, based on comments received on the proposed rule, this final rule includes provisions that allow grant or lease holders the

option to select fixed, scheduled rate adjustments to the applicable per acre zone rate (or rent) and MW rate over the term of the right-of-way grant or lease. This scheduled rate adjustment method would be used in lieu of the rule's standard rate adjustment method, under which those rates could increase or decrease by irregular amounts depending on changes to NASS survey values or wholesale power prices.

The rule includes requirements to hold preliminary application review meetings after the submission of an application for a solar or wind energy project, including authorizing the BLM to collect cost recovery fees for those meetings. Through this final rule the BLM is also extending the preliminary application review meeting requirement to any transmission line having a capacity of 100 kV or more. This change is appropriate because both solar or wind energy projects and transmission lines with a capacity greater than 100 kV are generally large-scale facilities with greater potential for impacts and resource conflicts. Based on experience with existing solar and wind energy projects, the BLM has found that those preliminary application meetings provide both the applicant and the BLM with an opportunity to identify and discuss resource conflicts early on in the process. In addition, the rule provides for additional cost reimbursement measures, consistent with Sections 304(b) and 504(g) of FLPMA.

Changes to 43 CFR Part 2880

In addition to the changes to 43 CFR Part 2800, this final rule also revises several subparts of part 2880. These revisions are necessary to ensure consistency of policies, processes, and procedures, where possible, between rights-of-way applied for and administered under part 2800 and rights-of-way applied for and administered under part 2880. These changes are discussed in more detail in Section II of this preamble.

However, a proposal to require preliminary application review meetings for right-of-way applications for pipelines exceeding 10 inches in diameter was dropped from this final rule in response to comments.

II. Background

A. Rule Overview

The BLM published the proposed rule in the Federal Register on September 30, 2014 (79 FR 59022) for a 60-day comment period ending on December 1, 2014. In response to public requests for extensions of the public comment period the BLM extended the period for an additional 15 days on November 29, 2014, through December 16, 2014. We received 36 comment letters on the proposed rule. We also received similar feedback through stakeholder engagement meetings held as part of BLM's regular course of business. This final rule addresses the comments received during the comment period and during stakeholder engagement meetings in the section-by-section discussion in section III. of this preamble.

As explained above, the primary purpose of this rule is to facilitate the responsible development of solar and wind energy development on the public lands, with a specific focus on incentivizing development on lands identified as DLAs. To that end, this rule, in an amendment of section 2801.5, defines the term "designated leasing area" as a parcel of land with specific boundaries identified by the BLM land use planning process as being a preferred location for solar or wind energy that can be leased competitively for energy development. In this rule, the BLM amends its regulations implementing FLPMA to provide for two competitive processes for solar and wind energy rights-of-way on

public lands. One of the processes is for lands inside DLAs. The other process is for lands outside of DLAs.

For lands outside DLAs, the BLM amends section 2804.23 to provide for a competitive bidding process designed specifically for solar or wind energy development. Prior to this final rule, section 2804.23 authorized a competitive process to resolve competing right-of-way applications for the same facility or system. Under amended section 2804.23, the BLM can now competitively offer lands on its own initiative. The competitive process for solar and wind energy development on lands outside of DLAs is outlined in new section 2804.30.

The competitive process for lands inside DLAs is outlined in revised 43 CFR subpart 2809, which provides for a parcel nomination and competitive offer, instead of an application process.

This rule includes not only these competitive processes, but also a number of amendments to other provisions of the right-of-way regulations found at 43 CFR parts 2800 and 2880. The BLM determined that it is necessary to first articulate the general requirements for rights-of-way in order to set the solar and wind requirements apart.

For example, the final rule has mandatory bonding requirements for solar and wind energy, including a minimum bond amount. The BLM determined that bonding is necessary for all solar and wind energy rights-of-way because of the intensity and duration of the impacts of such authorizations. For other right-of-way authorizations, the BLM will continue to require bonding at its discretion under this final rule.

Other amendments to the regulations include changes in right-of-way application submission and processing requirements, rents and fees, and alternative requirement

requests. In addition, this final rule makes several technical corrections as explained in the section-by-section analysis below.

B. Statutory and Regulatory Background

FLPMA provides comprehensive authority for the administration and protection of the public lands and their resources and directs that the public lands be managed "on the basis of multiple use and sustained yield" (43 U.S.C. 1701(a)(7) and 1732(a)). As defined by FLPMA, the term "right-of-way" includes an easement, lease, permit, or license to occupy, use, or traverse public lands (43 U.S.C. 1702(f)). Title V of FLPMA (43 U.S.C. 1761 – 1771) authorizes the BLM to issue rights-of-way on the public lands for electric generation systems, including solar and wind energy generation systems. FLPMA also mandates that "the United States receive fair market value for the use of the public lands and their resources unless otherwise provided for by statute" (43 U.S.C. 1701(a)(9) and 1764(g)). Section 28 of the MLA (30 U.S.C. 185) and FLPMA provide similar authority for authorizing rights-of-way for oil and gas pipelines. The BLM has authority to issue regulations under both FLPMA (43 U.S.C. 1732, 1733, and 1740) and the MLA (30 U.S.C. 185 and 189).

The Energy Policy Act of 2005 (codified at 42 U.S.C. 15801 et seq.) (EPAct) includes provisions authorizing and encouraging the Federal Government to develop energy producing facilities. Title II of the EPAct includes a provision encouraging the Secretary to approve non-hydropower renewable energy projects (solar, wind, and geothermal) on public lands with a total combined generation capacity of at least 10,000 MWs of electricity by 2015. See Section 211, Public Law 109-58, 119 Stat. 660 (2005).

Since passage of the EPAct, the Secretary has issued several orders that emphasize the importance of renewable energy development on public lands and the Department of the Interior's (Department's) efforts to achieve the goal that Congress established in Section 211 of the EPAct. Secretarial Order No. 3283, "Enhancing Renewable Energy Development on the Public Lands," signed by Secretary Kempthorne on January 16, 2009, facilitates the Department's efforts to achieve the goal established by Congress in Section 211 of the EPAct. On March 11, 2009, Secretary Salazar signed Secretarial Order No. 3285, "Renewable Energy Development by the Department of the Interior," which describes the need for strategic planning and a balanced approach to domestic resource development. This order was amended by Secretarial Order 3285A1 in February 2010. Amended Order 3285A1 establishes the development of renewable energy on public lands as one of the Department's highest priorities.

While the BLM has already met the goal established by Congress by approving over 12,000 MWs of renewable energy by the end of 2012, the development of renewable energy resources on the public lands remains a national priority. To advance that goal, President Obama included in the administration's Climate Action Plan to reduce carbon pollution, released on June 25, 2013, a new goal for the Department to approve at least 20,000 MWs of new renewable energy capacity on federal lands by 2020. As of the end of fiscal year 2015, the BLM has reviewed and approved 60 projects capable of generating over 15,000 MWs of power.

The BLM has issued several instruction memoranda (IMs) that identify policies and procedures related to processing solar and wind energy right-of-way applications. The BLM is incorporating some of these existing policies and procedures into its right-

of-way regulations. The IMs can be found at: http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

Briefly, the IMs are as follows:

1. IM 2009-043, Wind Energy Development Policy. This IM provides guidance on processing right-of-way applications for wind energy projects on public lands;
2. IM 2011-003, Solar Energy Development Policy. This IM provides guidance on the processing of right-of-way applications and the administration of authorized solar energy projects on public lands;
3. IM 2011-059, National Environmental Policy Act (NEPA) Compliance for Utility-Scale Renewable Energy Right-of-Way Authorizations. This IM clarifies NEPA policy for evaluating solar and wind energy project right-of-way applications;
4. IM 2011-060, Solar and Wind Energy Applications – Due Diligence. This IM provides guidance on the due diligence requirements for solar and wind energy development right-of-way applications; and
5. IM 2011-061, Solar and Wind Energy Applications – Pre-Application and Screening. This IM provides guidance on the review of right-of-way applications for solar and wind energy development projects on public lands; and
6. IM 2016-122, Policy Guidance for Federal Land Policy and Management Act Right-of-Way Rent Exemptions for Electric or Telephone Facilities Financed or Eligible for Financing under the Rural Electrification Act of 1936, as amended (IM 2016-122). This IM provides guidance for processing requests for FLPMA right-of-way rent exemptions for electric and telephone facilities financed or

eligible for financing by the United States Department of Agriculture, Rural Utilities Service (RUS) under the Rural Electrification Act of 1936, as amended (Rural Electrification Act), 7 U.S.C.901 et seq. In particular, this IM makes clear that wind and solar entities that qualify under the Rural Electrification Act pay the MW capacity fees but not acreage rent.

In addition, in 2005 and 2012 the BLM issued landscape-level land use plan amendment decisions supported by programmatic EISs to facilitate wind and solar energy development. These land use plan amendments guide future BLM management actions by identifying desired outcomes and allowable uses on public lands.

On June 24, 2005, the BLM published the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States (Wind Programmatic EIS) (70 FR 36651), which analyzed the environmental impact of the development of wind energy projects on public lands in the West and identified approximately 20.6 million acres of public lands with wind energy development potential (http://windeis.anl.gov). Following the publication of the Wind Programmatic EIS, the BLM issued the ROD for Implementation of a Wind Energy Development Program and Associated Land Use Plan Amendments (Wind Programmatic EIS ROD) (71 FR 1768), which amended 48 BLM land use plans. The Wind Programmatic EIS ROD did not identify specific wind energy development leasing areas, but rather identified areas that have potential for the development of wind energy production facilities, along with areas excluded from consideration for wind energy facility development because of other resource values that are incompatible with that use.

On July 27, 2012, the BLM and the Department of Energy published the Notice of Availability of the Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Solar Programmatic EIS) (77 FR 44267). The Solar Programmatic EIS assessed the environmental, social, and economic impacts associated with utility-scale solar energy development on public lands in Arizona, California, Colorado, Nevada, New Mexico, and Utah (http://solareis.anl.gov). On October 12, 2012, the Department and the BLM issued the Western Solar Plan, which amended 89 BLM land use plans to identify 17 solar energy zones (SEZs) and identify mandatory design features applicable to utility-scale solar development on BLM managed lands. The Western Solar Plan also described the BLM's intent to use a competitive offer process to facilitate solar energy development projects in SEZs. SEZs, including those identified in the Western Solar plan, will be considered DLAs under this final rule.

This final rule is one of the steps being taken by the Department and the BLM to promote renewable energy development on the public lands. It implements one of the Western Solar Plan's key recommendations, namely that the BLM institute a process whereby it can competitively offer lands within DLAs. In addition to addressing recommendations in the Western Solar Plan, the final rule also implements suggestions for improving the renewable energy program made by the Department of the Interior's Office of Inspector General for the Department, initially in a draft report and carried over to the final report (Report No. CR-EV-BLM-0004-2010), and by the Government Accountability Office (GAO) (Audit No. 361373), both of which address the use of competitive leasing for solar and wind development authorizations. The Inspector

General (OIG) reviewed the BLM's renewable energy activities to assess the effectiveness of the BLM's development and management of its renewable energy program. The IG also made recommendations on other aspects of the BLM's right-of-way program.

The OIG report discusses only wind energy projects, as the solar energy program was not at a stage where it had been fully implemented. However, based on experience gained from its authorization of solar projects, the BLM believes that recommendations made for the wind energy program would also benefit the solar energy program. Other OIG recommendations pertained to the amounts and collection procedures for bonds for wind energy projects. These recommendations included:

1. Requiring a bond for all wind energy projects and reassessing the minimum bond requirements;
2. Tracking and managing bond information;
3. Developing and implementing procedures to ensure that when a project is transferred from one entity to another, the BLM would return the first bond to the company that obtained it and request a new bond from the newly assigned company; and
4. Developing and implementing Bureau-wide guidance for using competitive bidding on wind and solar energy rights-of-way.

The BLM concurred with all of the OIG's recommendations. The last recommendation is one of the principal reasons for developing this rule. The other recommendations form the basis for other changes being made as part of the BLM's operating procedures that are also addressed through this rulemaking.

Through this rulemaking, the BLM amends regulations in 43 CFR parts 2800 and 2880, and in particular:

1. Section 2804.12, to establish preliminary application review requirements for solar and wind energy development, and for development of any transmission line with a capacity of 100 kV or more;
2. Section 2804.25, to establish application processing and evaluation requirements for solar and wind energy development;
3. Section 2804.30, to establish a competitive process for public lands outside of DLAs for solar and wind energy development;
4. Section 2804.31, to establish a two-step process for solar or wind energy testing and conversion of testing areas to DLAs;
5. Section 2804.35, to establish screening criteria to prioritize applications for solar or wind energy development;
6. Section 2804.40, to establish a requirement to propose alternative requirements with a showing of good cause;
7. Section 2805.11(b), to establish a term for granting rights-of-way for solar or wind energy development;
8. Section 2805.12(c), to establish terms and conditions for a solar or wind energy development grant or lease;
9. Section 2805.20, to provide more detail on bonding requirements;
10. Sections 2806.50, 2806.52, 2806.54, 2806.56, and 2806.58, to provide information on rents for solar energy development rights-of-way;

11. Sections 2806.60, 2806.62, 2806.64, 2806.66, and 2806.68, to provide information on rents for wind energy development rights-of-way;

12. Subpart 2809, to establish a competitive process for leasing public lands inside DLAs for solar and wind energy development; and

13. Provisions in 43 CFR part 2800 pertaining to transmission lines with a capacity of 100 kV or more.

In addition to these amendments, this rule also makes several technical changes, corrections, and clarifications to the regulations at 43 CFR parts 2800 and 2880. The following table provides a summary of the principal changes made in this final rulemaking. The table shows: a description and CFR reference to the existing rule, a description of the changes in the proposed rule, and a description of the changes made in this final rule. The BLM made minor revisions throughout the final rule to improve its readability, which are not noted in this table but are discussed in the section- by- section analysis of this preamble.

Table 1 - Abbreviated Descriptions of the Major Changes Made to **43 CFR Parts 2800 and 2880 by this Rule**

43 CFR Reference and Description	**Changes between Proposed Rule and Existing Regulations**	**Changes between Final Rule and Proposed Rule**	**Additional Comments**
2801.5(b) – Acronyms and terms	Adds definitions for 10 items and revises definitions for 3 items, mostly pertaining to solar and wind energy development.	This final rule adopts the definitions in the proposed rule, except that under the final rule the definitions allow the BLM to determine a more appropriate Net Capacity Factor for rights-of-way with storage on a case-by-	Changes made in this section were based on comments received from the public to account for the application filing fee, energy storage, and MW rate.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		case basis. No other substantive changes were made from the proposed to the final rule.	
2801.6 – Scope	Clarifies that the regulations in this part apply to all systems and facilities identified under section 2801.9(a)	No changes were made from the proposed to the final rule for this section.	
2801.9 – When do I need a grant?	Revises language in paragraph (a)(7) to include solar and wind development facilities. Adds paragraph (d) that references solar and wind energy projects.	The testing provisions at new paragraphs (d)(1) and (d)(2) are revised to include both solar and wind facilities, as opposed to just wind.	Changes made in this section were based on comments received from the public requesting that the testing provisions account for solar facilities as well as wind facilities.
2802.11 – Designation of right-of-way corridors and leasing areas	Adds a process for designating leasing areas for solar and wind energy projects.	No changes were made from the proposed to the final rule.	
2804.10 – Actions to be taken before filing a right-of-way application	Discusses pre-application requirements and specifically addresses solar and wind filing requirements.	Removes all discussion or requirements for pre-application meetings. Now the only change from the existing regulation is to include designated leasing areas in paragraph (a)(2).	Requirements of this section are also applicable to transmission lines with a capacity of 100 kV or more. Based on comments received, the final rule removes the provision in the proposed rule that would have applied certain application

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
			requirements to pipelines greater than 10 inches in diameter.
2804.12 – Right-of-way application requirements	Discusses additional filing fees required for solar and wind energy applications.	This section has been retitled to improve clarity. This section also removes requirements for pre-application meetings and substitutes preliminary application review meetings that will occur after rather than before an application is filed. This section is also revised to clarify how the BLM will use the IPD-GDP to update fees.	Changes made in this section were based on comments received from the public. The paragraphs formerly located in section 2804.10 (b) and (c) are now found in sections 2804.12(b) and (c).
2804.14 – Processing fees for grant applications	Gives the BLM discretion to collect the estimated reasonable costs incurred by other Federal agencies.	No changes were made from the proposed to the final rule for this section.	
2804.18 and 2804.19 – Master agreements and major projects	Adds information on cost reimbursement requirements for work performed by other Federal agencies.	No changes were made from the proposed to the final rule.	
2804.20 – Determining reasonable costs for work on major (Category 6) rights-of-ways	Section title revised for clarity. Adds discussions on right-of-way work performed by other Federal agencies and pre-application requirements for major rights-of-way.	Any reference to "pre-application" requirements was removed to be consistent with other changes made to this final rule to reference preliminary application meetings.	Changes made in this section were based on comments received from the public in regards to collecting cost recovery with the submission of an application.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
2804.23 – Competitive process for applications	Adds provisions for competition for solar and wind energy rights-of-way, both inside and outside of designated leasing areas.	Minor changes were made from the proposed to the final rule. The latter clarifies that the BLM will not competitively offer lands where a plan of development (POD) has been accepted and cost recovery established. The requirement to publish in a newspaper is now optional instead of required.	Changes made in this section were based on comments received from the public requesting that the BLM provide assurance that it will not competitively offer lands if a developer has committed considerable time and resources to a project, as evidenced by the existence of a complete POD and executed cost recovery agreement.
2804.24 – Use of Standard Form 299 for submitting a right-of-way application	Updates the circumstances when an application is not required to account for competitive offers under both sections 2804.23(c) and subpart 2809.	No changes were made from the proposed to the final rule for this section.	
2804.25 – BLM actions in processing a right-of-way application	Describes POD requirements and adds additional other requirements for solar and wind energy applications. Covers instances where a right-of-way is authorized to resolve a trespass.	Changes were made from the proposed to the final rule to reflect the shift from "pre-application meetings" to "preliminary application review meetings" as described in section 2804.12. The requirement to publish in a newspaper is now optional instead of	Changes were made in the final rule for clarity, especially a description of what constitutes "unpaid debts." Other changes were made to accommodate new requirements for solar and wind rights-of-way and to clarify when the

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		required.	time clock begins for a due diligence request.
2804.26 – Circumstances when the BLM may deny your application	Adds additional situations where the BLM may deny your application, including specific examples for solar and wind energy applications.	Adds language to correspond to the due diligence requirements found in sections 2804.12 and 2804.25. Additional language added to provide consideration when the BLM may deny an application when circumstances are outside of an applicant's control.	This change was made to be consistent with other changes in this final rule.
2804.27 – What fees are owed if an application is not completed?	Revises this section to include any pre-application costs that must be paid if an application is withdrawn or rejected.	Removes the term pre-application costs and substitutes preliminary application review costs.	This change was made to be consistent with other changes in this final rule with respect to the pre-application meeting identified in the proposed rule.
2804.30 – Description of the competitive process for solar or wind energy development	Adds section 2804.30, which describes the competitive process for solar or wind energy development outside of DLAs.	Several minor changes were made from the proposed to the final rule, including removing a reference to mitigation costs, a statement that filing fees will be refunded to unsuccessful bidders, and that a successful bidder will have site control over applications from other developers (by virtue of being identified as the	The final rule changes were made principally for clarification. The change in notification requirements is consistent with other changes in this final rule.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		preferred applicant following completion of the sale process). Additionally, the requirement to publish in a newspaper is now optional instead of required.	
2804.31 – Site testing for solar and wind energy	No section 2804.31 in proposed rule.	Adds section 2804.31.This new section describes how the BLM will inform the public that site-testing applications will be accepted for lands within a DLA.	This new section is a result of public comments on the proposed rule requesting clarification on site testing procedures. This new section does not make any changes to existing policies or procedures.
2804.35 – Prioritizing solar and wind energy applications	Adds section 2804.35 which describes a process for prioritizing solar and wind energy applications.	The rule clarifies that the BLM will generally prioritize the processing of solar and wind energy leases issued under subpart 2809 over applications for solar and wind energy grants issued under subpart 2804. Other minor revisions were made in response to comments and discussed further in the section-by-section analysis.	The changes were made to clarify how the BLM will prioritize leases and applications.
2804.40 – Alternative requirements	No section 2804.40 in proposed rule.	Adds a provision that allows an applicant to submit an alternate requirement if it is	This section was added in response to comments about the BLM need for a

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		believed that the original requirements cannot be met.	process for applicants to demonstrate, based on a showing of good cause, the reasons for its failure to meet the rule requirements and demonstrate why alternative requirements should be put in place in their stead.
2805.10 – Approving or denying a grant	Includes right-of-way leases in addition to grants, and adds specific items to be included within a solar or wind energy grant or lease.	No changes were made from the proposed to the final rule.	
2805.11– What does a grant contain?	Adds specific terms for solar and wind energy grants and leases.	Removed specific references to "wind" so that section would apply to project testing for either solar or wind.	This change was made to be consistent with other changes in this final rule.
2805.12 – Terms and conditions in a right-of-way authorization	Revises this section in its entirety and adds specific terms and conditions for solar and wind energy grants and leases.	Adds new section 2805.12(e) stating that good cause must be shown for extension of time requests. This section now includes solar in addition to wind energy development processes. Other revisions in this section are discussed in the section-by-section analysis.	Changes made in this section were based on comments received from the public, concerning a holder's inability to meet BLM requirements in some circumstances.
2805.14 – Rights	Adds section	Removed specific	This change was

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
conveyed by a right-of-way grant	2805.14(g) allowing for renewal applications for wind projects and section 2805.14 (h) allowing renewal for site testing grants	references to "wind" so that section would apply to project testing for either solar or wind.	made to be consistent with other changes in this final rule.
2805.15 – Rights retained by the United States	Adds a provision requiring common use of your right-of-way for compatible uses.	No changes were made from the proposed to the final rule.	
2805.16 – Payment of monitoring fees	Adds a provision to allow the BLM to collect monitoring fees for expenses incurred by other Federal agencies.	Adds the word "inspecting" in addition to the existing word "monitoring."	This change was made to be consistent with other changes in this final rule.
2805.20 – Bonding requirements	Adds new section 2805.20 describing bonding requirements.	The final rule adds a requirement to have periodic reviews of project bonds for adequacy. Also, the bond amounts for wind turbines are changed to be based on the nameplate capacity. The final rule also explains that the BLM may consider factors in addition to the reclamation cost estimate (RCE), such as the salvage value of project components, when determining bond amounts.	Changes made in this section were based on comments received from the public.
2806.12 – Payment of rents	Adds provisions for the payment of rents for non-linear rights-of-way, including	No changes were made from the proposed to the final rule for this section.	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
	solar and wind grants and leases.		
2806.13 – Late payment of rents	Adds penalties for non-payment of rents and removes the $500 limit for late payment fees.	No changes were made from the proposed to the final rule.	
2806.20 – Rents for linear right-of-way grants	Describes where you may obtain a copy of the current rent schedule.	No changes were made from the proposed to the final rule.	
2806.22 – Changes in the Per Acre Rent Schedule	Corrects a reference to the IPD-GDP.	No changes were made from the proposed to the final rule.	
2806.24 – Making payment for a linear grant	Requires making a payment for the initial partial year, along with the first year's rent. Also, provides for multiple year payments.	No changes were made from the proposed to the final rule.	
2806.30 – Communication site rents	The communication site rent schedule is removed. Several other minor changes made for clarification.	No changes were made from the proposed to the final rule.	
2806.34 – Calculation of rent for a multiple-use communication facility	Corrects an existing citation to read section 2806.14(a)(4).	No changes were made from the proposed to the final rule.	
2806.43 – Calculation of rents for passive reflectors and local exchange networks	Changes a former reference to new section 2806.70.	No changes were made from the proposed to the final rule.	
2806.44 – Calculation of rents for a facility	Changes a former reference to new section 2806.70.	No changes were made from the proposed to the final	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
owners that authorizes communication uses		rule.	
2806.50 – Rents and fees for solar energy rights-of-way.	Existing section 2806.50 (provisions for determining rents where the linear right-of-way schedule or the communication rent schedule do not apply) is redesignated as section 2806.70. New section 2806.50 introduces rents and fees for solar energy rights-of-way.	No substantive changes were made to the final rule.	
2806.51 – Scheduled Rate Adjustment	Not in the proposed rule; added to the final rule in response to comments received.	This section gives solar project proponents the option of selecting scheduled rate adjustments to the per acre zone rate and MW rate for an individual grant or lease, instead of following the process in the rule for periodic adjustments in response to changes in NASS values and wholesale market prices. Parallel revisions were made to 2806.52 for grants and 2806.54 for leases.	These changes were made in response to comments received from the public and were designed to provide project proponents with the option to choose greater payment certainty over the life of a right-of-way grant or lease.
2806.52 through 2806.58 Provide data for rents and	Sections 2806.50, 2806.52, 2806.54, 2806.56, and 2806.58	The rule now allows for solar energy site testing. The	The methodology of determining rents and fees for

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
fees for solar energy projects	describe rents and fees for solar energy authorizations.	calculation of the acreage rent has been expanded to explain the process more thoroughly. Acreage rent reductions are now adjusted to show greater rent reductions in certain States for solar energy rights-of-way.	wind is the same as solar, except where noted in the preamble. Changes made in this section were based on comments received from the public and to be consistent with other changes in this final rule.
2806.60 through 2806.68 Provide data for rents and fees for wind energy projects	Sections 2806.60, 2806.62, 2806.64, 2806.66 and 2806.68 describe rents and fees for wind energy authorizations.	The changes to these sections parallel the changes in sections 2806.50 through 2806.58.	Changes made in this section were made to be consistent with other changes in this final rule.
2806.61 – Scheduled Rate Adjustment	Not in the proposed rule; added to the final rule in response to comments received.	Similar to the provisions of 2806.51. This section gives wind project proponents the option of selecting scheduled rate adjustments to the per acre zone rate and MW rate for an individual grant or lease, instead of following the process in the rule for periodic adjustments in response to changes in NASS values and wholesale market prices. Parallel revisions were made to 2806.62 for grants and 2806.64 for leases.	These changes were made in response to comments received from the public and were designed to provide project proponents with an option to choose greater payment certainty over the life of a right-of-way grant or lease.

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
2806.70 –Rent determinations for other rights-of-way	Adds redesignated section 2806.70, which contains the text formerly found at section 2806.50, with minor modifications.	No changes were made from the proposed to the final rule.	This section is applicable to all rights-of-way that are not subject to rent schedules.
2807.11 – Contacting the BLM during operations	Specifies requirements when a change in a right-of-way grant is warranted.	No changes were made from the proposed to the final rule.	
2807.17 – Grant suspensions or terminations	This provision contains the regulation formerly located at section 2809.10.	No changes were made from the proposed to the final rule.	
2807.21 – Assigning a grant or lease	Revises the title to include leases and clarifies when an assignment is or is not required.	Adds two events that may require an assignment. Clarifies that changing only a holder's name does not constitute an assignment and explains how the BLM will process a change only to a holder's name for a grant or lease. It also clarifies that ownership changes within the same corporate family do not constitute an assignment.	Changes made in this section were based on comments received from the public requesting clarity on assignments and name changes.
2807.22 – Renewing a grant	Revises the title to include leases and clarifies that if you apply for a renewal before it expires, your grant will not expire until a decision has been made on your renewal request.	No changes were made from the proposed to the final rule.	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
Subpart 2809 – Grants for Federal agencies	Existing language in this subpart redesignated as new paragraph (d) of section 2807.17. The title is changed to reflect that it now pertains to competitive leasing for solar or wind energy rights-of-way. This subpart is divided into several added sections as described below.	No changes were made from the proposed to the final rule.	
2809.10 Competitive process for leasing public lands for solar and wind energy projects	Section 2809.10 provides for solar and wind energy leasing inside designated leasing areas.	Clarifies that leases under this section generally have processing priority over grant applications to the extent they require the same BLM resources. No other changes were made from the proposed to the final rule.	Changes made in this section were made to be consistent with other changes in this final rule.
2809.11 – Solicitation of nominations	Section 2809.11 describes how the BLM will solicit nominations for solar or wind energy development.	The requirement to publish in a newspaper is now optional instead of required.	This change is consistent with other notification requirements in the final rule.
2809.12 – Parcel selection	Section 2809.12 describes how the BLM will select and prepare parcels.	No changes were made from the proposed to the final rule.	
2809.13 – Competitive offers for solar and wind energy development	Section 2809.13 describes how the BLM will conduct a competitive offer for solar or wind energy development.	A reference to lease mitigation requirements is added. The requirement to publish in a newspaper is now	The reference to mitigation was added in response to comments received from the public. The

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		optional instead of required.	notification change is consistent with other notification requirements in the final rule.
2809.14 – Acceptable bids	Section 2809.14 describes the types of bids that the BLM will accept.	The words "and mitigation costs" were removed to be consistent with section 2804.30.	Changes made in this section were made to be consistent with other changes in this final rule.
2809.15 – How will BLM select the successful bidder?	Section 2809.15 describes how the BLM will select a successful bidder.	No changes were made from the proposed to the final rule.	
2809.16 – Variable offsets	Section 2809.16 identifies when variable offsets will be applied.	Added a new offset factor for preparing draft biological strategies and plans.	Changes made in this section were based on comments received from the public on variable offset factors.
2809.17 – Rejection of bids	Section 2809.17 describes conditions when the BLM may reject bids or re-conduct a competitive offer.	No changes were made from the proposed to the final rule.	
2809.18 – Lease terms and conditions	Section 2809.18 identifies terms and conditions that will apply to leases.	Paragraph (e)(2) of this section is changed so bond amounts for wind turbines reflect their nameplate capacity. Paragraph (e)(3) is added to this section to account for testing.	These changes are consistent with changes to section 2805.20.
2809.19 – Applications made inside designated leasing areas	Section 2809.19 describes situations when an application may be accepted inside a DLA.	This section is revised to clarify how the BLM will handle applications submitted inside DLAs.	The changes made in the final rule were made in response to comments and are

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
			intended to clarify the final rule.
2884.10 – What needs to be done before filing an application for an oil or gas pipeline right-of-way?	Adds a provision to this section that describes several additional steps, including pre-application meetings, to be taken if an application is for a pipeline 10 inches or more in diameter.	The reference to pre-application meetings and additional requirements for pipelines greater than 10 inches were removed, resulting in no changes being made from the existing regulation.	See the discussion in section 2804.10 of this preamble for additional information on changes made in response to comment.
2884.11 – Information submitted with application	Adds provision to be consistent with POD template development schedule and other requirements.	No changes were made from the proposed to the final rule.	
2884.12 – Processing fees for an application or permit	Adds information on cost reimbursement requirements for work performed by other Federal agencies.	No changes were made from the proposed to the final rule.	
2884.16 – Master Agreements	Adds information on cost reimbursement requirements for work performed by other Federal agencies.	No changes were made from the proposed to the final rule.	
2884.17 – Processing Category 6 right-of-way applications	Adds discussions on right-of-way costs for work performed by other Federal agencies to this section.	No changes were made from the proposed to the final rule.	
2884.18 – Competing applications for the same pipeline	Adds discussions on right-of-way costs for work performed by other Federal agencies to this section.	The requirement to publish in a newspaper is now optional instead of required.	This change is consistent with other notification requirements of this final rule.
2884.20 – Public notification requirements for an application	Adds a provision to this section that we may put a notice on the Internet or use	The requirements to publish in a newspaper are now optional instead of	This change is consistent with other notification requirements of this

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
	other forms of notification as deemed appropriate.	required.	final rule.
2884.21 – Application processing by the BLM	The BLM will not process your application if you are in trespass. Several other minor changes were made to be consistent with other changes made in these regulations.	Changes are made to section 2884.21 consistent with those made to section 2807.21.	Changes made in this section were made to be consistent with other changes in this final rule.
2884.22 – Additional information requirements	No change was proposed for this section.	This section was revised by changing the reference found in paragraph (a) from section 2804.25(b) to 2804.25(c).	This change was not proposed, but is made to be consistent with other changes in this final rule. No other changes were made to this section.
2884.23 – When can my application be denied?	To be consistent with section 2804.27, section 2884.23 was changed to state that the BLM may deny an application if the required POD fails to meet the development schedule and other requirements for oil and gas pipelines.	No changes were made from the proposed to the final rule.	
2884.24 – Fees owed if application is withdrawn or denied.	Changes made to be consistent with section 2804.27, would require an applicant to pay any pre-application costs submitted under section 2884.10(b)(4).	Since pre-application meetings are no longer required in this final rule and additional requirements for pipelines greater than 10 inches were removed, the final rule	The revisions to this section suggested by the proposed rule are not included in the final rule based on comments received from the public on

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
		does not make any changes to this existing provision.	BLM's criteria for large-scale pipeline projects.
2884.30 – Showing of good cause	There was no section 2884.30 in proposed rule.	This section was added to be consistent with section 2804. 40.	This section was added to be consistent with other changes in this final rule.
2885.11 – Terms and conditions	This section makes reference to section 2805.12(b) (bond requirements for FLPMA authorizations) and makes those bonding requirements applicable to MLA rights-of-way. Also, the regulation will be clarified by providing guidance on terms of MLA grants.	No changes were made from the proposed to the final rule.	
2885.15 – Rental charges	Clarifies that there is no reduction in rents for grants or TUPs, except as provided in section 2885.20(b).	No changes were made from the proposed to the final rule.	
2885.16 – When is rent paid?	Requires making a payment for the initial partial year, along with the first years rent. Also, provides for multiple year payments.	No changes were made from the proposed to the final rule.	
2885.17 – Consequences for not paying or paying rent late	New paragraph (e) explains the circumstances under which the BLM would retroactively collect rents or fees.	No changes were made from the proposed to the final rule.	
2885.19 – Rents	Provides information	No changes were	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
for linear right-of-way grants	about where you may obtain a copy of the current rental schedule.	made from the proposed to the final rule.	
2885.20 – Per Acre Rent Schedule calculations	Would remove an obsolete provision (existing paragraph (b)(1)) that provided for a 25 percent reduction in rent for calendar year 2009.	No changes were made from the proposed to the final rule.	
2885.24 – Monitoring fees	Provides an updated table describing monitoring categories, but without the cost schedule. Paragraph (b) provides information about where to obtain a copy of the current monitoring cost schedule.	Minor revisions were made consistent with changes to section 2805.16.	Changes made in this section were made to be consistent with other changes in this final rule.
2886.12 – When you must contact the BLM during operations	Adds to this section, contact requirements for when there is a need for changes to a right-of-way grant and to correct discrepancies.	No changes were made from the proposed to the final rule.	
2887.11 – Assigning a right-of-way grant or TUP	Clarifies this section to show when an assignment is or is not required.	Adds two events that may require an assignment. Clarifies that a change in a holder's name only does not constitute an assignment.	These changes are made to be consistent with section 2807.21.
2887.12 – Renewing a grant	Clarifies that if you apply for a renewal before it expires, your grant will not expire until a decision has	No changes were made from the proposed to the final rule.	

43 CFR Reference and Description	Changes between Proposed Rule and Existing Regulations	Changes between Final Rule and Proposed Rule	Additional Comments
	been made on your renewal request.		

III. Final Rule as Adopted and Responses to Comments

General Comments by Topic

Competitive Process Comments

A number of comments agreed with the BLM's proposals to create a competitive process for solar and wind development.

One comment stated that the proposed rule, if made final, would be a positive first step in improving the existing processes for solar and wind energy development by incentivizing development in appropriate areas, helping developers estimate costs, and providing a fair return to the taxpayer for the use of public lands. The BLM did not make any changes in response to this comment.

Another comment, on the other hand, recommended that the BLM maintain its current pre-application and application processes rather than adding untested or unproven administrative processes to promote competition inside and outside of DLAs. The BLM notes that it has already successfully used competitive processes when authorizing renewable energy development and it continues to gain experience with competitive auctions. The BLM also intends to continue improving its solar and wind energy policies, including by building upon the provisions codified in this final rule, to reduce administrative timeframes and costs in order to support reasonable and responsible

project development, such as those policies designed to further streamline application review and processing.

Several comments provided statements on the use of a competitive process for issuing grants.

One comment stated that we should clarify that the competitive bid process applies only to renewable energy authorizations. The BLM only agrees with this comment in part. In this final rule, the BLM has codified competitive processes inside of DLAs that relate only to solar and wind energy rights-of-way. However, the final rule modifies existing regulations so that those same competitive processes may also be used outside of DLAs and for other types of rights-of-way in the future, such as when they are necessary to resolve other situations where there are competing right-of-way and other land use authorization requests or when the BLM otherwise determines it is appropriate to initiate a competitive process for a particular use in a given area. Specifically, the final rule expands the BLM's ability to initiate a competitive process for other rights-of-way relative to existing regulations. Should the BLM hold a competitive offer for another type of right-of-way, it would be appropriate for the BLM to use processes similar to those developed for this rule because those policies were developed based on sound competitive principles. Therefore, utilizing them as a model in other areas would promote consistency across the agency.

One comment stated that competitive leasing would both lengthen and complicate project siting, using the recent Dry Lake competitive offering in Nevada as an example, noting that the preparations for competition took years. The BLM believes that much of the work required for competitive leasing has already been completed for solar energy in

the SEZs identified in the Western Solar Plan and other DLAs established by other planning efforts. The upfront work done when identifying these areas provides a basis for them to be offered under the most favorable competitive process provisions of this rule. That analysis also increases the certainty that the BLM will approve a project in those areas, which ultimately reduces the overall project review timeframes. The work done in establishing a DLA through the land use planning process, including completion of a NEPA analysis, provides a framework from which future project-specific analyses can tier, which should save time and money for both the BLM and project developers. Additionally, by expanding the circumstances under which the BLM can utilize competitive procedures the final rules provides a more direct path than was available to the BLM when setting up the Dry Lake SEZ sale in Nevada.

To further support development in these areas, the BLM is also developing regional mitigation strategies for many of the identified SEZs. While the existence of a regional mitigation strategy is not a prerequisite for holding a competitive sale, the BLM believes that such strategies further clarify development requirements in a given area allowing auction participants to more carefully evaluate potential costs and requirements when formulating a project or a bid in advance of competitive sale.

Collectively, these efforts and the provisions of this rule are consistent with existing policies to encourage the timely and responsible development of renewable energy while protecting the public land and its resources.

One comment suggested that competition should be used only where there are multiple applications for use of the same land. While the BLM intends to use competition in those circumstances, it does not believe that is the only circumstances

where such processes are appropriate. The existence of competition is not only indicated by competing application; in some situations competition would be determined where other evidence of competitive interests becomes known through emails, letters, and other contact with the public. As a result, the BLM does not believe it is appropriate to limit the use of competitive leasing regulations to just instances of competing applications. Instead, the provisions of this rule have been designed to provide more flexibility. The BLM is able to hold competitive offers inside DLAs, outside DLA, in response to competing applications, and on its own initiative, in order to encourage development in areas where it determines those processes to be appropriate, such as when it determines that fewer resource conflicts are present. In total, the BLM believes that the competitive processes established by this final rule will enable the BLM to encourage solar and wind energy development on public lands, while also protecting the sensitive resources found on those lands..

Summary of Key Changes Between the Proposed and Final Rule

One comment suggested that we use a table to identify technical changes, corrections, and clarifications being made to the right-of-way regulations by this rule, similar to the table we included in the preamble of the proposed rule. We agree and have included a similar table in this preamble.

Pipeline and Transmission Line Comments

Some comments questioned the BLM's description of pipelines 10 inches or greater in diameter as a measure for large-scale pipeline projects and recommended the removal of additional processes such as mandatory pre-application meetings to facilitate

Federal and State reviews of the project. Alternatives for the description of a large-scale project were suggested, such as using a total acreage of disturbance.

In light of these comments, the BLM has decided to remove the description of large-scale pipelines and additional processes required for such projects from the final rule. While some comments included recommendations for alternative ways of determining a threshold for large-scale pipelines, the BLM decided that it must further analyze how it will identify large-scale pipelines before including requirements for such projects in its regulations. If the BLM were to take such action in the future it would coordinate with other Federal agencies, as appropriate, to identify an appropriate threshold for large-scale pipeline projects and establish consistent, non-duplicative requirements. The removal of the pipeline threshold from the final rule requires deletion of the requirements in the proposed rule that were specifically applicable to large-scale pipeline projects. A more detailed discussion of these revisions can be found in the relevant portions of the section-by-section analysis in this preamble (see sections 2804.10, 2884.10, and 2885.11 of this preamble).

Some comments also questioned the BLM's description of transmission lines with capacities of 100 kV or more as constituting large-scale transmission projects. Those commenters recommended the removal of that threshold and the associated requirements. Some comments suggested that there are no readily identifiable 100 kV transmission projects by which to determine if the proposed threshold is a fair representation of a large-scale project. The BLM does not agree with these comments and believes that the description is appropriate since there is a clear separation between lower voltage transmission lines, generally 69 kV or less, and high voltage transmission lines,

beginning at 115 kV of capacity or more. For example, the North American Electric Reliability Corporation established the 100 kV threshold as a bright line criterion to determine which transmission lines are included in the Bulk Electric System, a system that is used by the Regional Reliability Organization for electric system reliability. The BLM is maintaining the description of transmission lines with capacity of 100 kV or the rule as a suitable description to determine large-scale transmission projects.

Megawatt Capacity Fee Comments

Some comments argued that the BLM lacks authority to collect a MW capacity fee because the Federal Government does not own the sunlight or the wind, which are inexhaustible resources. While the BLM agrees that sunlight and wind are renewable resources present on the public lands, it does not agree that it lacks the authority to collect a fee for the use of such resources.

Under FLPMA, the BLM is generally required to obtain fair market value for the use of the public lands and its resources, including for rights-of-way. In accordance with the BLM's FLPMA authority and existing policies, the BLM has determined that the most appropriate way to obtain fair market value is through the collection of multi-component fee that comprises an acreage rent, a MW capacity fee, and, where applicable, a minimum and a bonus bid for lands offered competitively. The BLM determined that the collection of this multi-component fee will ensure that the BLM obtains fair market value for the BLM-authorized uses of the public lands, including for solar and wind energy generation.

The BLM notes that the MW capacity payments are best characterized as "fees" rather than "rent" because they reflect the commercial utilization value of the public's

resource, above and beyond the rural or agricultural value of the land in its unimproved state. In the BLM's experience, and in accordance with generally accepted appraisal and valuation standards, the value of the public lands for solar or wind energy generation use depends on factors other than the acreage of the occupied land and that land's unimproved value. Other key elements that add value include the solar insolation level, wind speed and density, proximity to demand for electricity, proximity to transmission lines, and the relative degree of resource conflicts that could inhibit solar or wind energy development. To account for these elements of land use value that are not intrinsic to the rural value of the lands in their unimproved state, the solar and wind right-of-way payments in this final rule incorporate "MW capacity fees" in addition to "acreage rent."

The use of a multi-component fee that comprises both an acreage rent and a MW capacity fee, and in some cases also a minimum and a bonus bid, achieves four important BLM objectives. First, the approach allows BLM to ensure that it is capturing the full fair market value of the land being encumbered by these projects. Second, the approach is consistent with the approach employed by the BLM for other uses of the public land (i.e., it ensures that our approach to acreage rent is consistent across various categories of public land uses, while mirroring the multi-component payments received from activities like oil and gas development where both rent and royalties are charged), ensuring consistency across users. Third, the approach encourages the efficient use of the public lands by reducing relative costs for comparable projects that take up less acreage. That is, for a project with a given MW capacity, the overall payments to the BLM will be lower if the project employs a more efficient technology that produces more MW per acre and thus encumbers fewer acres. Fourth, the approach is consistent with existing policies

governing the BLM's renewable energy program, which have been in place since 2008. As explained in the section-by-section analysis in Section IV of this preamble, this final rule refines the calculation of the fee components (e.g., the MW capacity fee for solar is reduced relative to existing policies) but does not alter the basic multi-component fee structure for solar and wind projects on the public lands.

The BLM's multi-component fee structure also bears similarities to one of the more common structures for solar and wind energy development on private lands, where projects pay a rent for the use of an area of land at the outset and, and then a royalty on the power produced once generation commences. (The BLM recognizes that private-land projects use a variety of fee structures. For example, some projects rely solely on an acreage rent – but in those cases, the BLM believes that the increased value of the land due to project development is captured in other ways, such as by charging a higher base rent that reflects more than the land's unimproved value.)

The acreage rent charged by the BLM is analogous to the rent charged in most private land leases. With respect to the MW capacity fee, the BLM uses the approved electrical generation capacity as a component of the value of the use of the public lands for renewable energy development instead of relying on a royalty like private landowners do. On private lands, such royalties are typically assessed after-the-fact, as a percentage of the value of power actually produced, and the rate can range from 2 to 12 percent. The BLM has determined instead to charge a fee based on the installed nameplate MW capacity of an authorized wind or solar project. This approach is consistent with the BLM's legal authority, including the direction in FLPMA that right-of-way holders "pay in advance" the fair market value for the use of the lands. The BLM considered charging

a royalty, assessed as a percentage of power generated, but the FLPMA directive that right-of-way holders must "pay in advance" would require the BLM to collect any such royalty payments in advance of the corresponding power generation and then "true up" at the end of each calendar year. The BLM determined that the MW capacity fee approach in the final rule presents fewer administrative burdens and costs for both the BLM and right-of-way holders than an approach based on in-advance royalty payments followed by annual "true-ups." The BLM worked with the Office of Valuation Services to compare its combined acreage rent and MW capacity fee against the total stream of payments from a similarly situated private land project to ensure the total payments collected by the BLM are comparable to those collected on private land. Finally, the BLM notes that in retaining the multi-component payment structure for solar or wind developments as separate "rent" and "fee" components as established under existing policy, the BLM is retaining its existing interpretation of how that multi-component structure interfaces with the Rural Electrification Act (IM 2016-122). Under the final rule, consistent with existing policy, the acreage payment remains classified as "rent," as it is directly tied to the area of public lands encumbered by the project and the constraints that the project imposes on other uses of the public lands. As noted, however, the MW capacity fee is more properly characterized as a "fee" because it reflects the commercial utilization value of the public's resource, independent of the acreage encumbered. As specified under FLPMA, facilities that qualify for financing under the Rural Electrification Act may be exempt from paying "rental fees." As explained in IM 2016-122, however, the BLM has determined that such facilities are *not* exempt from paying other components of the fair market value of the land, such as the MW capacity fee, minimum bid, bonus bid, or other

administrative costs, as none of those costs are related to the rental value of the unimproved land.

Designated Leasing Areas Comments

Several comments requested clarification about the differences between the competitive processes for lands inside and outside of a DLA. Other comments expressed confusion over whether certain requirements of the proposed rule would apply to both "grants" (authorizations issued under subpart 2804 for solar and wind energy development) and "leases" (authorizations issued under subpart 2809). The BLM has expanded multiple provisions in the final rule to clarify the requirements for solar and wind energy development grants and leases, including those relating to competitive processes, rents and fees, bonding, and due diligence.

Comments Beyond the Scope of the Proposed Rule

In addition to the general comments discussed above and the more specific ones discussed in the section-by-section portion of this preamble below, the BLM received many other comments that suggested revisions to the BLMs right-of-way regulations that were beyond the scope of the proposed rule and/or that are better suited for supplemental policy guidance of the type found in BLM manuals, handbooks, or IMs. The BLM did not make any changes to the proposed rule in light of these comments. However, they are discussed in the relevant portions of the section-by-section analysis of this preamble

Additional Comments on the Rule

During the preparation of this final rule, the BLM received additional comments from various stakeholders and other interested parties following the close of the comment period and participated in additional stakeholder engagement meetings as part of the

BLM's regular course of business. During those meetings and in those comments, stakeholders provided additional information clarifying the concerns, comments, and questions they had previously raised through written comments on the proposed rule. The BLM considered this additional information during the drafting of this final rule. This additional information is addressed in the relevant section-by-section discussion of this preamble.

For example, industry stakeholders provided additional information that was previously unavailable regarding their uncertainty, under the proposed rule, about how both acreage rent and MW capacity fee payments would increase over the life of a lease or grant, and particularly their concern that such rents and fees could increase in an unpredictable manner. These comments and the BLM's responses are discussed further in sections 2806.51 and 2806.61 of this preamble.

Industry stakeholders also raised concern over the factors that the BLM considers when determining a bond amount. This comment and the BLM's response are discussed further under sections 2805.12(e)(1) and 2805.20(a)(3).

Environmental stakeholders also provided additional substantive discussion of their comments. Specifically, they requested additional detail in the final rule explaining the evaluation criteria that the BLM uses when establishing DLAs going forward. The environmental stakeholders' comment and the BLM's response are discussed further in section 2802.11 of this preamble.

IV. Section-by-Section Analysis for Part 2800

This rule makes the following changes in part 2800. The language found at section 2809.10 of the existing regulations is revised and redesignated as section

2807.17(d), while revised subpart 2809 is now devoted to solar and wind energy development in DLAs. This rule also amends parts 2800 and 2880 to clarify the BLM's administrative procedures used to process right-of-way grants and leases. These clarifications ensure uniform application of the BLM's procedures and requirements. A more in-depth discussion of the comments and changes made is provided below.

Subpart 2801— General Information

Section 2801.5 What acronyms and terms are used in these regulations?

This section contains the acronyms and defines the terms that are used in these regulations. Several comments suggested changes to the proposed rule. These suggestions and comments are analyzed under the applicable definition contained in the final rule.

The following terms are added to the definitions in section 2801.5:

"Acreage rent" is a new term that means rent assessed for solar and wind energy development grants and leases that is determined by the number of acres authorized by the grant or lease. The acreage rent is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate in effect at the time the authorization is issued. Provisions addressing adjustments in the acreage rent are found in sections 2806.52, 2806.54, 2806.62, and 2806.64. An example of how to calculate acreage rent is discussed in this preamble in the section-by-section analysis of section 2806.52(a). No comments pertaining to this definition were received and no changes are made from the proposed to the final rule.

"Application filing fee" is a new term that means a filing fee specific to solar and wind energy right-of-way applications for the initial reasonable costs for processing,

inspecting, and monitoring a right-of-way. The fee is $15 per acre for solar and wind energy development applications and $2 per acre for energy project-area testing applications. The BLM will adjust the application filing fee once every 10 years to account for inflation. Further discussion of application filing fees can be found in section 2804.12. This definition is revised for consistency with comments received on sections 2804.12 and 2804.30 on application filing fees. See those respective sections of this preamble for further discussion. No other comments were received and no other change is made from the proposed rule to the final rule concerning this definition.

"Assignment" means the transfer, in whole or in part, of any right or interest in a right-of-way grant or lease from the holder (assignor) to a subsequent party (assignee) with the BLM's written approval. The rule adds this definition to section 2801.5 to help clarify regulations. A more detailed explanation of assignments and the changes made is found under section 2807.21. Although some comments were received pertaining to assignments, as discussed later in this preamble, none of them pertain to the definition. No change is made from the proposed to the final rule concerning this definition.

"Designated leasing area" (DLA) is a new term that means a parcel of land with specific boundaries identified by the BLM's land use planning process as being a preferred location for the leasing of public lands for solar or wind energy development via a competitive offer. Examples of DLAs for solar energy include SEZs designated through the Western Solar Plan; Renewable Energy Development Areas (REDAs) designated through the BLM Arizona Restoration Design Energy Project (REDP) planning process; and Development Focus Areas (DFAs) designated through BLM's California's Desert Renewable Energy Conservation Plan (DRECP) planning process.

The competitive offer process is discussed in subpart 2809 of this preamble. Further discussion of DLAs can be found under section 2802.11 of this preamble.

Comments: Some comments recommended that the definition of DLA should indicate criteria that must be met to designate a DLA, in particular, wind energy-specific DLAs. The comment also suggested the final rule include criteria to identify right-of-way exclusion and avoidance areas. Other comments stated a similar concern, and indicated that land use planning varies by BLM State or field office, so DLA standards should be developed.

Response: The BLM considered establishing standard criteria for DLAs as well as for exclusion and avoidance areas, but this approach is not carried forward in the final rule. Doing so could unintentionally limit the BLM's management of such lands when considering the varied landscapes and resources that the BLM manages. However, the BLM intends to establish guidance, as part of the implementation of this rule, to assist the BLM in establishing DLAs, such as wind energy sites, through its land use planning processes. Further discussion on this issue is found under section 2804.31 of this preamble.

Comments: Some comments stated that identifying new DLAs through land use planning was too time consuming, and therefore DLA designation should be a separate process.

Response: Many land use planning efforts take several years to complete and consider many resources and uses in addition to solar or wind energy development. These types of land use planning efforts would not consider a specific project, but instead the effect of such developments in the planning area, and inform the BLM if the lands

should be an exclusion or avoidance area, or identified as a DLA for solar or wind energy development. Although the BLM's land use planning process may be time consuming, it is necessary for the BLM in its orderly administration of the public lands to use this process to properly protect and manage the public lands. When amending a resource management plan, the BLM must be consistent with its planning regulations (see 43 CFR part 1600). Absent a larger planning effort underway for the same planning area, the BLM could use a targeted land use plan amendment to identify a designated leasing area. In such cases, the land use planning process may be less time consuming than suggested by commenters. For further discussion, please see section 2804.31 of this preamble. No specific changes were made in response to this comment.

In addition to the amendments to section 2804.31, the BLM has begun its Planning 2.0 initiative, which is aimed at improving the BLM's planning process. This initiative includes targeted revisions to the planning regulations (see 43 CFR part 1600) and land use planning handbook, in order to improve the BLM's use of Resource Management Plans, which guide the BLM's administration of the public lands. The Planning 2.0 initiative will help the BLM to conduct effective planning across landscapes at multiple scales, create more dynamic and efficient planning processes that are responsive to change, and provide new and enhanced opportunities for collaboration with the public and partners. You can find further information on the BLM's Planning 2.0 initiative at the following website http://www.blm.gov/wo/st/en/prog/planning/planning_overview/planning_2_0.html.

Comment: A comment recommended that the BLM use one consistent definition to ensure that DLAs represent areas of fewer resource conflicts for solar and wind energy development.

Response: Because of the many variables that the BLM must consider when designating a DLA, the definition provided is intentionally broad and identifies a DLA as a preferred location for development that may be offered competitively. This definition allows the BLM to identify such areas in land use planning processes using plan-specific criteria to best identify the area. However, we are modifying the definition by removing the example of solar energy zones that was cited in the proposed rule in order to eliminate potential confusion about the future identification of additional DLAs, which may not be identified in the same manner as the solar energy zones. No other comments were received concerning this definition.

"Designated right-of-way corridor" is a term that is defined in existing regulations. The word "linear" has been added to this definition in the final rule to distinguish between these corridors and DLAs. No comments were received concerning this definition change and no changes are made from the proposed rule to the final rule.

"Management overhead costs" is defined in existing regulations as Federal expenditures associated with the BLM. This definition has been expanded in the final rule to include other Federal agencies. This revision is consistent with Secretarial Order 3327 and will help to promote effective cost reimbursement. Under Sections 304(b) and 504(g) of FLPMA, the Secretary may require payments intended to reimburse the United States for its reasonable costs with respect to applications and other documents relating to public lands. Secretarial Order 3327 delegated the Secretary's authority under FLPMA

to receive reimbursable payments to the bureaus and offices of the Department. No comments were received pertaining to this definition change, and no revisions were made from the proposed rule to the final rule.

"Megawatt capacity fee" is a new term meaning the fee paid in addition to the acreage rent for solar and wind development grants and leases based on the approved MW capacity of the solar or wind authorization. The MW capacity fee is calculated based on the MW capacity for an approved solar or wind energy project authorized by the BLM. Examples of how MW capacity fees are calculated may be found after the discussion of section 2806.56. While the acreage rent reflects the value of the land itself in its unimproved state, the MW capacity fee reflects the value of the industrial use of the property to generate electricity. Specifically, it captures the additional value of public land used for solar and wind energy generation that are not reflected in the NASS land values.

The BLM revised the definition of MW capacity fee from the proposed to final rule to clarify that the MW capacity fee is calculated for staged developments by multiplying the MW rate by the approved MW capacity for each stage of development. The proposed rule stated that the MW rate would be multiplied to the approved stage of development, but did not specify that it was the approved MW capacity for the stage of development. The BLM made this revision to help improve the public's understanding of the MW capacity fee calculation for staged developments.

Comment: One comment acknowledged that fair market value can be determined by using a competitive process and agreed with the proposed rule's approach of using a competitive process to authorize solar and wind energy development on public lands.

The comment went on to express a preference for a system that includes the payment of a royalty fee for the use of commercial power facilities on public lands.

Response: As explained above, the BLM has established through existing policy, and now by this rule, a multi-component structure for obtaining fair market value from renewable energy development. Since FLPMA directs right-of-way holders "to pay *in advance* the fair market value" for the use of the public lands, subject to certain exceptions (43 U.S.C. 1764(g)), the BLM's existing regulations governing the use of public lands, under Title V of FLPMA, generally require the prepayment of annual rent and fees in amounts determined by the BLM. This requirement is carried forward in existing guidance governing acreage rent and MW capacity fees for wind and solar energy projects and was selected in lieu of other means of obtaining fair market value. Consistent with the BLM's authority under FLPMA, its existing policies, and the proposed rule, the BLM has determined that it will continue to charge in advance both an acreage rent and a MW capacity fee for solar and wind energy projects, as a means of obtaining fair market value for those projects. Given that FLPMA requires payment in advance, the BLM has determined it is appropriate to base that the MW capacity fee on rated MW capacity as opposed to actual generation. In instances where competitive processes are utilized, any minimum and bonus bids represent an additional component of fair market value on top of the annual acreage rent and MW capacity. No other comments were received on the proposed definition of MW capacity fee, and no changes to the definition were made in this final rule.

"Megawatt rate" is a new term that means the price of each MW for various solar and wind energy technologies as determined by the MW rate schedule. The MW rate

equals the (1) the net capacity factor multiplied by (2) the MW per hour (MWh) price multiplied by (3) the rate of return multiplied by (4) the total number of hours per year where:

1. The "net capacity factor" means the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. This rule establishes net capacity factors for different technology types, but the BLM may determine a different net capacity factor to be more appropriate, on a case-by-case or regional basis, to reflect changes in technology, such as a solar or wind project that employs energy storage technologies, or if a grant or lease holder or applicant is able to demonstrate that a different net capacity factor is more appropriate for a particular project design, layout, or location.

The default net capacity factor for each technology type is:

a. Photovoltaic (PV) = 20 percent;

b. Concentrated photovoltaic (CVP) and concentrated solar power (CSP) = 25 percent;

c. CSP with storage capacity of 3 hours or more = 30 percent; and

d. Wind energy = 35 percent.

Comments: Several comments were received concerning the definition and description of net capacity factor. One comment stated that the net capacity factors should not be specified in the proposed rule for CSP projects, as they will undoubtedly increase over time with technology improvements and be updated on a regular basis, in a similar manner as rents. CSP can be designed to operate from a range of 10 to 50 percent efficiency depending on the intended use of the facility (e.g., base load or peaker plant).

Another comment recommended using an estimate of the capacity factor identified in the POD and the plant's design as the basis for this calculation.

Response: The BLM recognizes that there may be technology improvements over time, and that there are variables which may affect a specific project's net capacity factor. For example, a CSP project may be designed to operate at lower or higher efficiency rate depending on its intended use. The BLM took this into account in determining the net capacity factor of the technologies for the final rule. Future rulemaking would be required to change the established net capacity factors for each technology. The BLM will not incorporate the recommendation to use the project owner's estimate of the capacity factor in the POD to calculate its MW capacity fee. The estimated net capacity factor in a POD would be specific to a particular project, but would be a subjective value that could be inaccurate or misleading. Incorporating the methodology suggested by the comment could raise questions as to whether the BLM was truly collecting a reasonable return for use of the public lands.

However, the BLM has revised the final rule, consistent with this comment and those comments submitted regarding storage technologies, to allow the BLM to determine another net capacity factor to be more appropriate on a case-by-case basis. The BLM could determine another net capacity factor to be more appropriate when there is a change in technology, such as when a project employs energy storage technologies. Determining another net capacity factor may also be appropriate if a project uses a more current version of a technology.

Comment: Another comment agreed with the BLM's proposal to use an average net capacity factor for wind energy projects. However, the comment recommended using

a net capacity factor of 26 percent as identified in the wind capacity factor for Western States (see the Department of Energy's 2013 Wind Technologies Report) instead of the national average wind capacity factor of 35 percent.

Response: While the BLM acknowledges that most solar and wind projects on public lands will be located in the western United States, it nevertheless elected to use the national averages in calculating the net capacity factors for both solar and wind projects, because the BLM believes those values are more representative of the technology that will be deployed on projects developed in the future. The net capacity factor for a given project is greatly influenced by project design, layout, and location. The national average reflects a larger set of projects than the regional average, and is therefore more representative of the full range of older and newer technologies currently sited on public lands.

With respect to the wind capacity factor in particular, the BLM reviewed data from the Department of Energy's 2014 and 2015 Wind Technology Reports (https://emp.lbl.gov/sites/all/files/lbnl-188167.pdf and https://emp.lbl.gov/sites/all/files/2015-windtechreport.final.pdf, respectively). Based on its review of that data, the BLM determined that its selection of a 35 percent capacity factor for wind was appropriate for several reasons.

First, the geographic scope of the lands included in the "West Region" of the Department of Energy's reports does not adequately capture the full extent of BLM lands. Using the geographic distribution classifications set by the Department of Energy, BLM lands are located in both the "West" and "Interior" regions, with 7 states in the West and 4 states in the Interior (Colorado, Montana, New Mexico, and Wyoming). It should also

be noted that the four BLM states in the Interior region possess significant wind energy development potential. Accordingly, the BLM believes it is reasonable to select a wind capacity factor between the values for the West and Interior. In the Interior Region the Department of Energy reported capacity factors of 41.2 percent and 42.7 percent in 2014 and 2015, respectively. Data from the 2014 report shows that while the average capacity factor in the West was 27 percent, there was considerable spread in the factors by project, from just below 20 percent to over 37 percent. In the Interior, the spread in capacity factors was from 26 percent to 52 percent. Thirty-five percent represents a reasonable average of these very disparate, project-specific capacity factors.

In addition to looking at capacity factors regionally, the Department of Energy's analysis also controlled for wind quality. Notably, the Department of Energy determined that even in low wind quality areas, which predominate in the West, new projects achieve 35 percent capacity factors. As explained in the reports, this analysis was based on wind turbine specific power, which is the ratio of a turbine's nameplate capacity rating to its rotor-swept area. All else being equal, a decline in specific power leads to an increase in capacity factor according to the analysis presented in the report. In general, since the wind industry is shifting towards deploying lower specific power wind turbines at new wind energy projects across the United States, the BLM believes it is reasonable to select 35 percent as the default capacity factor for a wind project in the final rule.

It should also be noted that the BLM considered basing the net capacity factors for these technologies on an average of the annual capacity factors posted by the Energy Information Administration (EIA) on its Web site at:

http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_6_07_b.

However, the BLM is not carrying this approach forward in the final rule because, as discussed earlier in the preamble regarding net capacity factors, we believe that the 35 percent capacity factor better represents the technologies that will be deployed on projects developed in the future. For this reason, the BLM determined that the EIA annual capacity factors are not appropriate for use in this rule.

Finally, the BLM notes that if an applicant or a grant or lease holder believes that the BLM's net capacity factor is set too high for a particular project, the project proponent can request that the BLM use an alternative net capacity factor when setting the MW capacity rate for the project. Such a request would be made as described under sections 2804.40 for applicants or 2805.12(e) for grant or lease holders. See the section-by-section portion of this preamble for further discussion of requests for alternative requirements.

No other comments were received, and the definition of "net capacity factor" was not changed from the proposed to the final rule as result of this comment.

2. The "MWh price" equals the 5 calendar-year average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States (see sections 2806.52(b) and 2806.62(b)).

Comment: One comment believed that rent and fee calculations may be inaccurate based on inaccurate determinations of the capacity factor and the wholesale price of electricity used in the formula. In the proposed rule, the BLM specified the Intercontinental Exchange (ICE) as the source of data for the wholesale price data.

Response: As discussed under section 2806.52 for MW capacity fee, ICE was removed as the only vendor for the wholesale data. We revised this definition to account

for appropriate wholesale data without limiting it by source. This will allow the BLM to use the best information available, should a company that tracks trading hubs fail to maintain accurate or reliable trade information. No other comments were received concerning this definition.

3. The "rate of return" is the relationship of income to the property owner (or, in this case, the United States) to the revenue generated from authorized solar and wind energy development facilities, based on the 10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-tenth percent.

Comment: One comment believed that the BLM should use a 5-year average, not a 10-year average, eliminate the 4 percent minimum, and consider rounding down or not at all.

Response: The BLM disagrees with the suggestion to use a 5-year average. A 10-year average of the 20-year Treasury bond rate provides a more stable rate of return and will benefit the holder when interest rates rise. Under the same concept, this would benefit the BLM when interest rates decline, as is the case in the current cycle.

The BLM also disagrees that it should eliminate a 4 percent minimum rate of return, considering the risk of energy development projects and the fluctuation of energy commodity prices. It is not uncommon for private parties to insist on a minimum return. The 4 percent minimum rate of return recognizes a grant or lease holder's risk of projects that have other financial safeguards in place, such as performance bonds. The minimum is at the lower end of similar rates in the private sector.

The 4 percent minimum rate of return is established for solar energy in section 2806.52(b)(3)(ii) and for wind energy in section 2806.62(b)(3)(ii). The minimum is not

included in the definitions section of this final rule because setting the minimum is a substantive regulatory provision. This is not a change from the proposed rule. No changes are made in this final rule from the proposed rule regarding the rate of return in the definitions section (section 2801.5) or in the specific solar (section 2806.52(b)(3)(ii)) or wind (section 2806.62(b)(3)(ii)) provisions.

With respect to rounding, the BLM did agree that it should revisit the proposed rule's approach. While it does not agree with the commenter's suggestion that it should always round down, the BLM did determine upon further review that it should round bond yields to the nearest tenth of a percent to avoid a rounding-based surcharge.

4. The number of hours per year is a fixed number (i.e., 8,760 hours, the total number of hours in a 365-day year). No comments were received on the definition of this term and no changes are made to this definition from the proposed rule to the final rule.

"Performance and reclamation bond" is a new term that means the document provided by the holder of a right-of-way grant or lease that provides the appropriate financial guarantees, including cash, to cover potential liabilities or specific requirements identified by the BLM. This term is defined here to clarify the expectations of what a bond accomplishes. The definition also explains which instruments are or are not acceptable. Acceptable bond instruments include cash, cashiers or certified checks, certificate or book entry deposits, negotiable U.S. Treasury securities, surety bonds from the approved list of sureties, and irrevocable letters of credit. The BLM will not accept a corporate guarantee. These provisions codify the BLM's existing procedures and practices.

Comment: A comment suggested adding the words "certificate of insurance or other acceptable security" to each of these paragraphs in appropriate places.

Response: The BLM believes that adding the comment's suggestion to the text of the rule is unnecessary, as the definition of acceptable bond instruments includes insurance policies and does not need to be expanded to include a specific form of insurance. Furthermore, the list of bond instruments that are acceptable is not an all-inclusive list. There may be other forms of bond instruments, but they are not specified in the rule as they are not as common a form of bond as those identified. If we had intended the bond list to be an all-inclusive list we may have unintentionally excluded an acceptable bond instrument. No other comments were received and no changes to this definition were made from the proposed rule to the final rule.

"Reclamation cost estimate (RCE)" is a new term that means the report used by the BLM to estimate the costs to restore the intensive land uses on the right-of-way to a condition that would support pre-disturbance land uses.

The BLM revised this definition from the proposed to final rule to clarify that the reclamation work described must meet the BLM's requirements. This change is important because the BLM is required to protect the public lands and must determine if the reclamation work done by the holder is acceptable.

No comments were received on the definition of this term and no other changes are made from the proposed to the final rule.

"Right-of-way" is defined in existing regulations as the public lands the BLM authorizes a holder to use or occupy under a grant. The revised definition describes the authorizing instrument for use of the public lands as "a particular grant or lease." No

comments were received on the definition of this term and no changes are made from the proposed to the final rule.

"Screening criteria for solar and wind energy development" is a term referring to the policies and procedures that the BLM uses to prioritize how it processes solar and wind energy development right-of-way applications outside of DLAs. Some examples of screening criteria are:

1. Applications filed for areas specifically identified for solar or wind energy development, other than DLAs;
2. Previously disturbed areas or areas located adjacent to previously disturbed areas;
3. Lands currently designated as Visual Resource Management (VRM) Class IV; and
4. Lands identified for disposal in a BLM land use plan.

Screening criteria for solar and wind energy development were previously established by policy through IM 2011-61, and are further discussed in section 2804.25(d)(2) and section 2804.35 of this rule. The IM may be found at: http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html. No changes were made from the proposed rule to the final rule, nor were any comments received pertaining to this definition. However, there are several comments made on the specific screening criteria proposed that are addressed later in the section-by-section analysis of these criteria.

"Short term right-of-way grant" is a new term meaning any grant issued for a term of 3 years or less for such uses as storage sites, construction sites, and short-term site testing and monitoring activities. The holder may find the area unsuitable for development or the BLM may determine that a resource conflict exists in the area. No

comments were received and no changes are made from the proposed rule to the final rule.

Section 2801.6 Scope.

The scope in 43 CFR part 2800 clarifies that the regulations in this part apply to all systems and facilities identified under section 2801.9(a). No comments were received and no changes are made from the proposed rule to the final rule on this provision.

Section 2801.9 When do I need a grant?

Section 2801.9 explains when a grant or lease is required for systems or facilities located on public lands. In section 2801.9(a)(4), the term "systems for generation, transmission, and distribution of electricity" is expanded to include solar and wind energy development facilities and associated short-term authorizations. Language is also added to section 2801.9(a)(7) to allow any temporary or short-term surface-disturbing activities associated with any of the systems described in this section. A new paragraph (d) is added to specifically describe the types of authorizations required for various components of solar and wind energy development projects. These are:

1. Short term authorizations (term to not exceed 3 years);
2. Long term right-of-way grants (up to 30 years); and
3. Solar and wind energy development leases (30 years).

This paragraph also identifies the type of authorizations issued for solar and wind projects depending on whether they are located inside or outside of DLAs. Authorizations for solar or wind energy development outside a DLA, or authorizations issued non-competitively within a DLA, will be issued under subpart 2804 as right-of-

way grants for a term of up to 30 years. Authorizations within a DLA will be issued under subpart 2809 as right-of-way leases for a term of 30 years.

Comments: Some comments were received requesting that the site-specific and project-area testing authorizations be made available for solar energy. A comment further suggested that section 2801.9 be revised so that the authorization types would be listed in the order in which actions are taken to develop a project.

Response: The BLM revised this section, in response to the comment, by removing the specific references to "wind." As a result, the testing provisions apply to both solar and wind energy. The BLM also revised this section to reflect the order in which actions are taken to develop a project. The "other appropriate actions" listed under paragraph (d)(3) of this section in the proposed rule are moved to paragraph (d)(5) of this section in the final rule. Paragraphs (d)(4) and (d)(5) of this section in the proposed rule are now paragraphs (d)(3) and (d)(4) of this section, respectively.

Subpart 2802— Lands Available For FLPMA Grants

Section 2802.11 How does the BLM designate right-of-way corridors and designated leasing areas?

Section 2802.11, which explains how the BLM designates right-of-way corridors, is revised to include DLAs. Under this rule, the BLM will identify DLAs as preferred areas for solar or wind energy development, based on a high potential for energy development and lesser resource impacts. This section provides the factors the BLM considers when determining which lands may be suitable for right-of-way corridors or DLAs. These factors are unchanged from the existing regulations. This final rule

amends paragraphs (a), (b), (b)(3), (b)(4), (b)(6), (b)(7) and (d) of section 2802.11 to include references to DLAs.

Comment: One recommendation was made suggesting that the BLM make it clear that we will not accept applications in areas that are closed to development by means of land use plans or other mechanisms.

Response: The comment's recommendation is addressed in the existing rule at section 2802.10(a). This section clarifies that some lands are not available for a right-of-way grant, which includes those lands that the BLM identifies through the land use planning process as inappropriate for rights-of-way, as well as public land orders, statutes, and regulations that exclude rights-of-way, and lands segregated from application.

Comment: One comment stated that DLAs are created through the BLM's resource management planning process, but that such plans are changed only every 15 to 20 years. Also, many plans are undergoing or have recently undergone such changes, especially in areas having sage-grouse habitat, but those plans do not designate any DLAs.

Response: Due to the timing of the comment submission and the BLM's response, the plans noted in this comment have been finalized and the BLM decisions are issued. The Greater Sage-Grouse Plan Amendments and Revisions did not designate any DLAs. These plans are focused on conservation of the Greater Sage-Grouse and its habitat. The decisions issued in these plans safeguard primary and general habitat from the impacts of development, including solar and wind energy.

However, the BLM may have an opportunity to designate some areas for wind energy development using recent analyses or information that identifies areas suitable for energy development on public lands. Examples of such areas may be those identified as not having significant resource and use siting concerns, as identified in the BLM's wind mapper. The wind mapper is a BLM web-based geographic data viewer, found at http://wwmp.anl.gov, that has up-to-date geographic information representing the BLM's land use planning decisions for administering public lands and other pertinent regulatory information, specific to wind energy resources. Using information on the wind mapper, a targeted land use plan amendment may be completed more expeditiously than the 15 to 20 years discussed in this comment.

Comment: Another comment suggested that we consider developing a generic EIS process suitable to all prospective solar and wind leases, coupled with a specific discussion of variations between areas. Also, the comment suggested that we should automate the EIS process to leverage existing GIS and satellite data whenever possible.

Response: Although worth considering, this concept is outside the scope of this rule, which is focused on the administrative process of solar and wind energy rights-of-way and competitive processes. However, the BLM plans to evaluate its NEPA process and promote automation of the process where possible. Until that time, the BLM will designate such areas through its existing land use planning process.

Comment: Another comment states that the designation of DLAs will waste taxpayers' money and impede development. The cost to the public for the BLM to designate a DLA will not be fully recaptured and the DLA will not provide any additional value to the public through the competitive process.

Response: Costs for the preparation of DLAs will be recaptured at the competitive bidding stage as the administrative costs will be paid by the successful bidder. As demonstrated by the BLM's recent competitive actions for solar energy, there is a monetary return to the public for auctions of parcels within renewable energy development areas.

Comment: During stakeholder engagement meetings, environmental stakeholders expanded on their comment on the definition of "designated leasing area." The stakeholders suggested that the BLM should not only revise the definition of DLA to include additional specific criteria, but also make changes to section 2802.11 to specify that the BLM consider those criteria when designating DLAs. The stakeholders also recommended that the BLM consider sensitive environmental resources when evaluating potential DLAs.

Response: The BLM considered adding additional criteria to section 2802.11 that would be considered when the BLM evaluates an area for inclusion in a DLA, but it ultimately made no changes in the final rule. The existing regulations in section 2802.11(b) already explain in great detail what the BLM considers when making a DLA designation. Adding an undefined term, "sensitive environmental resources," could unintentionally limit the BLM's management of public lands when considering the varied landscapes and resources that are found there. Furthermore, consideration of sensitive resources is already addressed in section 2802.11(b)(2), which requires the BLM to consider "environmental impacts on cultural resources and natural resources, including air, water, soil, fish, wildlife, and vegetation."

While the BLM did not make any changes to the final rule in response to this comment, it should be noted that the BLM intends to establish guidance, as part of the implementation of this rule, to assist the BLM in establishing DLAs through its land use planning processes. The implementing guidance will allow the BLM to be more specific for these areas without unintentionally limiting itself, and maintain the BLM's flexibility to make any necessary adjustments to the process for evaluating potential DLAs across the varied landscapes that it manages.

Subpart 2804— Applying For FLPMA Grants

Section 2804.10 What should I do before I file my application?

Existing section 2804.10 encourages prospective applicants for a right-of-way grant to schedule and hold a pre-application meeting. Under this final rule, section 2804.10 continues to encourage such meetings regarding some right-of-way grants, and under paragraph (a)(2), would now identify DLAs along with right-of-way corridors as a point of discussion for these meetings if held.

Under existing section 2804.10(a)(2), the BLM determines if your application is on BLM land within a right-of-way corridor. This revised paragraph now includes "or a designated leasing area." The BLM generally will not accept applications for grants on lands inside DLAs . The BLM will offer lands inside DLAs competitively through the process described in subpart 2809, which does not involve submitting an application. The BLM will only accept applications on lands inside DLAs in limited circumstances (see sections 2809.19(c) and 2809.19(d)).

The BLM proposed amending paragraphs (a), (a)(2), and (a)(4), and also adding two new paragraphs that would apply to any solar or wind energy project, transmission

line with a capacity of 100 kV or more, or pipeline 10 inches or more in diameter. For these types of projects, the BLM proposed mandatory pre-application meetings. Proposed amendments for paragraph (a) and (a)(4) are not included in the final rule, since pre-application meetings will not be required and specific requirements associated with them are no longer necessary. Paragraph (b) of the existing regulations will not be redesignated and there will be no new paragraphs (b) and (c) in this final rule. The only changes to section 2804.10 in the final rule are found in paragraph (a)(2).

Under this final rule, pre-application meetings will not be required for solar and wind energy developments, or any transmission line with a capacity of 100 kV or more. Instead, the BLM will require what we term "preliminary application review meetings" that will be held after an application for a right-of-way has been filed with the BLM. These meetings will fall under the BLM's cost recovery authority for processing applications and are discussed in greater detail under section 2804.12. Based on comments received, no requirements for pipelines 10 inches or more in diameter are carried forward into the final rule.

Section 2804.12 What must I do when submitting my application?

In this final rule, Section 2804.12 has been retitled from "What information must I submit in my application?" to "What must I do when submitting my application?". Relocation of the early coordination meeting requirements to this section has resulted in revisions to this section that would make the previous title misleading. As revised, section 2804.12 requires that an applicant must provide specific information, and in the case of solar or wind energy development projects and transmission line projects with a

capacity of 100 kV or more, must also complete certain actions when initially submitting an application.

The last sentence in section 2804.12(a) is revised to show that a completed application must include all of the items identified in sections 2804.12(a)(1) through (a)(8). The text of paragraphs (a)(1) through (a)(7) are republished without amendment, and new paragraph (a)(8) is added.

Comments: Several comments were submitted regarding the BLM's proposed pre-application requirements for solar and wind energy development and transmission lines with a capacity of 100 kV or more. Comments suggested that the BLM could not place requirements on a developer prior to an application being submitted to the BLM. This general comment was focused on two aspects of the BLM's proposed requirement for pre-application meetings. The first aspect was that the BLM was requiring that two pre-application meetings be completed prior to a developer submitting an application for a solar or wind energy development project or transmission line with a capacity of 100 kV or more. The second aspect of concern was that the BLM would require the developer to pay cost recovery for the required pre-application meetings. Under the proposed rule, the BLM would have required both of these prior to submission of an application for use of the public lands.

Response: The intent of the pre-meeting requirements is to ensure early coordination with the developer and other Federal, State, and tribal governments to gather information to better inform the developer of different considerations to be made if pursuing their project on BLM-administered lands. Considerations would include existing uses, environmental resources, and cultural or tribal values in the area of the

proposed project. Pre-application meetings are currently required by the BLM's policy. Discussing a proposed project with a developer early on has demonstrated an improvement in project siting and design, avoiding and minimizing impacts the project would have to the public land, and reducing the BLM's processing timeframes. This final rule has been revised and now requires early coordination, not through pre-application meetings, but through preliminary application review meetings, which are to be held after an application is submitted to the BLM. These requirements for early coordination with developer and other Federal, State, and tribal governments are found under section 2804.12(b). Additional discussion of the preliminary application review meetings is found under section 2804.12(b) of this preamble.

Section 2804.12(a)(8) states that if the BLM requires you to submit a POD, you must include a schedule for its submittal in your application. This requirement was in the proposed rule's section 2804.10(c)(4), but is now moved to section 2804.12(a)(8) in the final rule. This provision was proposed in section 2804.10 because the early coordination with BLM was done under pre-application meetings. It is moved to section 2804.12 of this final rule to coincide with the timing of the preliminary application review meetings.

Section 2804.12(b) explains requirements for submitting an application for solar or wind energy development (outside of DLAs), or any transmission line with a capacity of 100 kV or more. Requirements under section 2804.12(b) were found at section 2804.10(b) in the proposed rule, but have been moved to this section instead as application processing requirements. This includes the BLM's requirement for preliminary application review meetings. This provision provides clear instructions to

the public about what they should expect when filing an application for such developments.

The BLM commonly refers to the first filing of an application as an "initial" application due to the BLM's experience with such projects. In most cases, a project POD goes through several iterations during the BLM's application review process and may require additional submissions or revisions of the application to accompany the revised plans. Additional applications are not always necessary when revising a project POD, but could be required.

Section 2804.12(b) also contains provisions from sections 2804.10(b) and 2804.10(c) of the proposed rule. These provisions are moved in the final rule in response to comments. An additional provision is added to paragraph (b) of this section to reiterate that the requirements for submitting a solar or wind application are in addition to those described in paragraph (a) of this section for all rights-of-way.

Comments: Several comments questioned the requirement to hold pre-application meetings, as well as the BLM's authority to require conditions for project processing, prior to the submission of an application to the BLM and collecting cost recovery fees for that time period.

Response: The early coordination that resulted from the pre-application meetings required by existing BLM policy has been essential to the timely review and approval of solar and wind energy projects on the public lands. However, this final rule moves these meetings and requirements so that they occur after the submission of an application in response to comments received. The changes retain BLM's intent to ensure earlier

coordination on such applications with other Federal, State, local, and tribal governments. Under the final rule, such meetings would be subject to cost recovery requirements.

Section 2804.12(b) also states that your application for a solar or wind energy project, or a transmission line project with a capacity of 100 kV or more, must include a general description of the proposed project and a schedule for submittal of a POD, address all known resource conflicts, and initiate early discussions with any grazing permittees that may be affected by the proposed project. Further, section 2804.12(b) requires that you hold two preliminary application review meetings, within 6 months from the date on which the BLM receives the cost recovery fee payment required under section 2804.14.

Section 2804.12(b)(4), as previously described, is relocated from section 2804.10(c) of the proposed rule. Under this paragraph, the BLM will process an application only if the application addresses the following items: 1) Known potential resource conflicts with sensitive resources; 2) Values that are the basis for special designations or protections; and 3) Applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts. For example, some applicant-proposed measures could utilize a landscape-level approach as conceptualized by Secretarial Order 3330 and subsequent reports, and be consistent with the BLM's IM 2013-142, interim policy guidance. Due to the intense use of the land from the projects covered in this section, the BLM will require applicants to identify potential conflicts and how they may be avoided, minimized, or mitigated. The BLM will work with applicants throughout the application process to ensure the most efficient use of public land and to minimize possible resource conflicts. This provision will require an applicant to consider these concerns before

submitting an application and, therefore, provide the BLM with potential plans to minimize and mitigate conflicts.

Comments: Some comments stated that the BLM should ensure that meetings are structured so that participants are provided all the project information necessary so they can meaningfully assist the BLM to make an appropriate determination about the proposed project.

Response: The BLM agrees with these comments and has modified the regulation to have meetings occur after an application is filed, rather than hold the meetings beforehand. The intent of these meetings will be to bring all Federal, State, local, and tribal governments together and provide them with the best available information to have an informed discussion on the right-of-way application. Authorizations for solar and wind energy projects, and transmission lines with a capacity of 100 kV or more, are generally larger and more complex than the average right-of-way authorization, and this extra step will help protect the public lands and make application processing more efficient.

Furthermore, the BLM will not proceed with an application until all appropriate meetings are held and the BLM has notified appropriate grazing permittees (see 43 CFR 4110.4-2(b)). Applicants must pay reasonable or actual costs associated with the requirements identified in section 2804.12(b). Payment for reasonable costs associated with an application must be received by the BLM after the initial filing of the application and prior to the first meeting, consistent with section 2804.14.

After enactment of the Energy Policy Act of 2005, the BLM received an influx of solar and wind energy development applications. Many of these applications were

unlikely to be approved due to issues such as siting, environmental impacts, and lack of involvement with other interested parties. As the BLM gained more experience with these applications, it developed policies and procedures to process applications more efficiently. These policies and procedures required pre-application meetings and use of application screening criteria (see section 2804.35 of this preamble) in order to help BLM and the proponent address siting concerns early on in the process.

Pre-application meetings have helped both the BLM and prospective applicants to identify necessary resource studies, and other interests and concerns associated with a project. Further, the meetings have provided an opportunity to direct development away from lands with high conflict or sensitive resource values. As a result of these meetings, the applications submitted were more appropriately sited and had fewer resource issues than those submitted where no pre-application meetings were held. Holding these meetings early in the application process made the applications more likely to be approved by the BLM. This saved the applicant the time and money spent on doing resource studies and developing projects that may not have been accepted or approved by the BLM.

Some prospective applicants chose not to pursue development after these meetings, once they had a better understanding of the potential issues and resource conflicts with the project as proposed. The BLM found that applicants who participated in these meetings saved money that would have been spent planning a project that the BLM would not have approved. This also saved the BLM time by reducing the number of applications it would need to process and the time spent reviewing resource studies and project plans.

A January 2013 Government Accountability Office report (GAO-13-189) found that the average BLM permitting timeframes have decreased since implementation of BLM's solar and wind energy policies, which include the early inter-agency coordination meeting requirements in this rule. The GAO concluded that applications submitted in 2006 averaged about 4 years to process, while applications submitted in 2009 and later averaged about 1.5 years to process. At the time of the GAO review, these meetings were pre-application meetings. In the final rule, the timing of these early meetings has been changed until after the submission of an application to the BLM. Based on its experience, the BLM believes that holding inter-agency and government coordination meetings early in the review of a proposed large-scale development will continue to save both the BLM and applicant time and money during the BLM's review and processing of the application.

Based on a review of its records, the BLM identified a range of costs and time estimated associated with the processing of each type of application for a use of the public lands. These cost and time estimates varied between the solar and wind energy and transmission line projects. For solar and wind energy rights-of-way a range of costs was identified between $40,000 and $4 million, including up to approximately 40,000 BLM staff labor hours and other non-labor costs per project. For transmission lines 100 kV or larger a range of costs was identified between $260,000 and $2.1 million, including up to approximately 21,000 BLM staff labor hours and other non-labor costs per project. Based on this review, the BLM observed that projects with early coordination generally had lower costs relative to similarly situated projects.

Based on the BLM's experience, two meetings are usually sufficient to address all known potential concerns with a project, which is why the final rule calls for two meetings. However, the BLM understands that additional meetings may be beneficial to a project before an application is submitted. The BLM does not want to limit its ability to hold additional meetings should a project be particularly complex and, therefore, the final rule allows for additional preliminary application review meetings to be held when mutually agreed upon. For example, a project that crosses State lines could require additional coordination with local governments and other interested parties.

Comments: Some comments noted concern over the BLM's existing and proposed pre-application process and its open-ended timeframe. Comments were concerned that this would be a deterrent for pursuing development on the public land, even if the project itself was well sited and designed. A developer would need assurances that a project would proceed expeditiously. Suggested timeframes included 30 days between meetings and application submittal.

Response: New paragraph (b)(4) specifies that within 6 months from the time the BLM receives the cost recovery fee, you must hold at least two preliminary application review meetings. The first meeting will be held with the BLM to discuss the proposal, the right-of-way application process, the status of BLM land use planning for the lands involved, potential siting and environmental issues, and alternative site locations. The second meeting will be held with appropriate Federal and State agencies and tribal and local governments to discuss concerns as identified above. If you do not believe you need to schedule the first or second meeting described above, you can ask the BLM for

an exemption. The process of requesting an exemption is discussed further in section 2804.12(i), under the newly added paragraph labeled "Inter-agency Coordination."

Section 2804.12(c) contains requirements for submitting an application for solar and wind energy development. These requirements, located in sections 2804.10(a)(8) and 2804.10(c)(2) in the proposed rule, have been relocated to sections 2804.12(c)(1) and 2804.12(c)(2) in this final rule. Under section 2804.12(c)(1), the BLM specifies that an application for solar or wind energy development must be submitted for lands outside of DLAs, except as provided for by section 2809.19. Lands inside DLAs will be offered competitively under subpart 2809. See section 2809.19 of this preamble for further discussion. No comments were received and the only changes made to this paragraph are those identified for relocating the requirement to this section and putting it in the context of a requirement for submitting an application.

Section 2804.12(c)(2) requires that an applicant submit an application filing fee with any initial solar or wind energy right-of-way application. Section 304 of FLPMA authorizes the BLM to establish filing and service fees. A per acre application filing fee may discourage applicants from applying for more land than is necessary for a proposed project. Under this final rule, application filing fees will be retained by the BLM as a cost recovery fee, instead of being sent to the General Fund of the Treasury as collected revenue as proposed. A similarly structured nomination fee is established following the same criteria and is described in section 2809.11(b)(1).

Paragraph (c)(2) of this section is revised to replace "by the average annual change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP)" to read as "using the change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP)".

As proposed, this provision may have been interpreted as limiting how the BLM would use the IPD-GDP when updating this fee. It is appropriate for adjustments that occur annually, such as acreage rent, to refer to the average annual change in the IPD-GDP. However, the application filing fee may be adjusted once every ten years and this adjustment would be based on the cumulative change to the IPD-GDP over the 10-year period.

The application filing fee is the initial fee paid to the BLM for the reasonable costs of processing, inspecting, and monitoring a right-of-way. The BLM will use these funds towards processing your application. The balance of these funds, if any, will be allocated towards a cost reimbursement agreement that is later established between the BLM and the applicant or refunded if the application is denied or otherwise terminated. A cost reimbursement agreement is established under the authority of FLPMA section 304(b) and 504(g). This change is made in conformance with those changes made under section 2804.30(e)(4) in response to comments.

The application filing fee is based on the appraisal consultation report performed by the Department's Office of Valuation Services. The appraisal consultation report compared similar costs on private lands, and provided a range between $10 and $25 per acre per year. The nominal range or median was reported as between $15 and $17 per acre per year. The appraisal consultation report is available for review by contacting individuals listed under the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The BLM is adopting a single filing fee at the time of filing an application, as opposed to a yearly payment. Based on the appraisal consultation report, fees are $15 per

acre for solar and wind energy applications and $2 per acre for wind energy project-area and site-specific testing applications.

Comments: Several comments were made concerning the fees identified in the description of requirements for section 2804.12(c)(2). One comment suggested that the $15 per acre filing fee should be made a part of a cost recovery fee and used to reimburse the BLM for its expenses. In addition, the comment suggested that the fee should be refundable if the lands are later made subject to competition.

Response: The BLM has revised this rule, including this section, to make application filing fees part of cost reimbursement paid to the BLM. Payment of cost reimbursement to the BLM is under Sections 304(b) and 504(g) of FLPMA. Application filing fees and other costs associated with the BLM's processing of applications can be recovered because the BLM's application review and other work facilitates, and will generally be essential for, the BLM's processing, inspecting, and monitoring of a right-of-way. Consistent with FLPMA, application filing fees are retained by the BLM as cost reimbursement and will not be sent to the General Fund of the U.S. Treasury as originally proposed. If lands are later subject to a competitive offer for the use for which application filing fees were provided, (e.g., competition for a site development when development application filing fees are paid), then these fees would be refunded to the unsuccessful bidders who had already paid them, except for the reasonable costs incurred.

Comment: One comment opposes the proposed $15 per acre filing fee for wind energy applications and $2 per acre fee for wind energy site-specific testing applications as this would increase processing costs. The comment suggested that fees should be as low as possible to encourage wind energy development on public lands.

Response: The BLM has removed the application filing fee from site-specific testing applications to address concerns of increasing costs for development on the public lands. Site-specific testing generally takes up less than an acre, so it would not be necessary to encourage a smaller area of use. Project area testing and developments can each encompass thousands of acres and a per acre filing fee is appropriate. This final rule retains a $2 per acre filing fee for project area testing applications and a $15 per acre filing fee for development applications to encourage thoughtful development on public lands. Fees for solar and wind energy development applications will be adjusted for inflation once every 10 years, using the Implicit Price Deflator for Gross Domestic Product (IPD-GDP).

Section 2804.12(d) references an applicant's option to request an alternative requirement if the applicant is unable to meet one of the requirements outlined for submitting an application. Requests for an alternative requirement are submitted under section 2804.40. This provision applies to all right-of-way applications submitted to the BLM and is added to the final rule in response to comments submitted on the proposed rule. Further discussion on requesting an alternative requirement is found under section 2804.40.

Comments: Some comments stated that the mandatory pre-application meetings included in the proposed rule would discourage a developer from pursuing public lands for development, since the process and costs associated with development on BLM lands are greater than those on private lands. These comments expressed concern that these requirements are overly burdensome and duplicative of the NEPA process.

Response: Although costs to develop a project may end up being higher on public lands, the BLM has a different scope of authority and responsibility than agencies and offices that administer developments that occur on private land. The BLM is charged with managing the public lands under principles of multiple use and sustained yield. The BLM must take into account resources and use of the public land, and balance those with each additional proposed use and its impacts to resources for current and future generations.

Based on the BLM's experience, these early coordination meetings help reduce the overall time and costs associated with the BLM's application process. The pre-application meetings described in the proposed rule, which are existing policy, are changed in this final rule to "preliminary application review meetings," which take place after an application is submitted. The BLM believes these meetings will facilitate a more efficient application process and will not discourage development on public lands.

The BLM is required, under NEPA, to consider the environmental impacts of a significant action on the public lands. These early coordination meetings help the BLM and proponent determine the best possible approach for developing a proposed project that would avoid, minimize, reduce or otherwise compensate for its environmental impacts. Based on the BLM's experience, these meetings have reduced the overall time of the NEPA analysis necessary for projects on the public lands. The GAO's report (GAO-13-189) found that the average BLM permitting timeframes have decreased since implementation of BLM's solar and wind energy policies, which include the early inter-agency coordination meeting requirements in this rule.

The BLM added section 2804.12(i), "Inter-agency Coordination," in response to these comments. This paragraph provides that an applicant may request an exemption from some of the requirements of this section, should they participate in an inter-agency coordination process with another Federal, State, local, or tribal authority. This final rule allows a developer to formally request an exemption to the requirements under section 2804.12, pertaining to application filings and other requirements that may be duplicative of other activities that a developer is completing. In order for a developer to qualify for an exemption from these requirements, the other activities must meet the same criteria as required by the BLM. An example of such a situation would be if a developer had already met with the Department of Energy for purposes similar to what is required under the BLM's first preliminary application review meeting.

No other comments were received and no additional changes made to this section.

Sections 2804.12(e) through (h) are redesignated in the final rule from paragraphs (b) through (e) of the existing regulations and no other changes were made to these paragraphs.

Section 2804.14 What is the processing fee for a grant application?

Under section 2804.14, applicants must pay for reasonable costs for processing an application as defined by FLPMA. Under section 2804.14(a), the BLM may collect the estimated reasonable costs incurred by other Federal agencies. Applicants may pay those costs to other affected agencies directly instead of paying them to the BLM.

Section 2804.14(b) includes a table of the application processing categories. The specific outdated values for cost recovery categories 1 through 4 have been removed from this table, while the explanations of the categories and the methodology of

calculating the costs remain. These numbers are available in writing upon request or may be found on the BLM's website at http://www.blm.gov/. These cost figures were removed from the regulations because they are outdated after the first year, since the BLM updates these costs annually and has done so since this section of the regulations was originally published. The revision allows the BLM to update these numbers without modifying the CFR and prevents confusion to potential applicants who would see incorrect information. The explanation of how these costs are calculated, formerly found in section 2804.14(c), is moved up to paragraph (b) to provide better context for the amended table. Redundant language is removed from the Category 1 processing fee.

Comments: Some comments were received stating that the BLM does not have authority to collect cost recovery on behalf of other Federal, State, and non-regulatory offices, such as tribal governments and interested public stakeholders. These comments stated that the authority delegated by the Secretarial Order was by the Secretary, and, therefore, delegation of the authority could not apply to any agency or office outside of the Department.

Response: Secretarial Order 3327 delegating cost recovery authority applies only to agencies and offices of the Department of the Interior. Sections 304(b) and 504(g) of FLPMA, however, give the Secretary authority to collect payments intended to reimburse the United States, not just the Department of the Interior. Under Section 304(b) of FLPMA, the Secretary may charge for reasonable costs of the United States concerning "applications and other documents relating to [the public] lands." Section 504(g) of FLPMA provides that the Secretary may charge for "all reasonable administrative and

other costs incurred in processing" a right-of-way application and costs associated with the inspection and monitoring of right-of-way facilities.

The revision under section 2804.14 and other cost recovery provisions of this rule clarify that the BLM's cost recovery authority is consistent with FLPMA, in that it seeks reimbursement to the United States—i.e., it can seek reimbursement of its own costs as well as those of other Federal agencies. This does not include reimbursement of costs for State and non-regulatory offices. The BLM intends that collecting such reasonable costs for other Federal agencies would primarily arise in situations where the BLM's decision to approve or deny a right-of-way application depends on another Federal agency's issuance of a decision or other determination before or in conjunction with the BLM's right-of-way decision. An example of this can been seen in the BLM's May 2013 Memorandum of Understanding with the Fish and Wildlife Service (FWS), where the BLM and FWS have established a protocol for the BLM to collect and then provide cost recovery funds to the FWS for Endangered Species Act and other work that the BLM determines is necessary for it to process right-of-way applications. A copy of the Secretarial Order and Memorandum of Understanding can be found at the following website: http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_information/2013/IB_2013-074.html. No other comments were received, and no changes were made to this section of the final rule.

Section 2804.18 What provisions do Master Agreements contain and what are their limitations?

As defined in section 2804.18, a Master Agreement is a written agreement covering processing and monitoring fees negotiated between the BLM and a right-of-way applicant that involves multiple BLM rights-of-way for projects within a defined geographic area. New section 2804.18(a)(6) requires that a Master Agreement also describe existing agreements between the BLM and other Federal agencies for cost reimbursement. With the recent authority delegated by Secretarial Order 3327 to collect costs for other Federal agencies, it is important for the applicant, the BLM, and other Federal agencies to coordinate and maintain consistency for cost reimbursement. No additional comments were received, except for those discussed under section 2804.14, and no changes were made to this section in the final rule.

Section 2804.19 How will BLM process my Processing Category 6 Application?

Under section 2804.19(a), an applicant for a Category 6 application must enter into a written agreement with the BLM identifying how such applications will be processed. Under this final rule, the final agreement includes a description of any existing agreements the applicant has with other Federal agencies for cost reimbursement associated with the application. No comments were received for this section, and no changes were made from the proposed rule to this section of the final rule.

Under section 2804.19(e), the BLM may collect reimbursement to the United States for its reasonable costs for processing applications and preparation of other documents under this part relating to the public lands. Adding this language to these regulations clarifies the BLM's authority when collecting for other agencies. No additional comments were received, except for those discussed under 2804.14 and no changes were made to this section of the final rule.

Section 2804.20 How does BLM determine reasonable costs for processing Category 6 or monitoring Category 6 applications?

Section 2804.20 is revised to clarify the scope of the BLM's cost recovery and how the BLM will determine reasonable costs of the United States when processing and monitoring Category 6 applications. In paragraph (a)(1) of this section, "BLM" is changed to "the Federal Government," to make it clear that the BLM may collect cost recovery for other Federal agencies as well. Processing costs include reasonable costs for processing a right-of-way application, while monitoring costs include reasonable costs for those actions the Federal Government performs to ensure compliance with the terms, conditions, and stipulations of the right-of-way grant. As pre-application requirements are not included in this final rule, section 2804.20(a)(7) was deleted. No additional comments were received, except for those discussed under 2804.14, and no other changes were made to this section of the final rule.

Section 2804.23 When will the BLM use a competitive process?

Section 2804.23 was previously titled "What if there are two or more competing applications for the same facility or system?" but is revised to read, "When will the BLM use a competitive process?" This change is necessary because, under the final rule, the BLM may use a competitive process even when there are not two competing applications.

Paragraph (a)(1) of this section now requires applicants to reimburse the Federal Government, as opposed to just the BLM, for processing costs, consistent with the cost recovery authority in Sections 304(b) and 504(g) of FLPMA. This means that the BLM could require applicants to reimburse the BLM for the costs incurred by other agencies, such as the U.S. Fish and Wildlife Service, in processing the application.

A new sentence in section 2804.23(c) gives the BLM authority to offer lands through a competitive process on its own initiative. Under the existing regulations, the BLM can use a competitive process only when there were two or more competing applications for a single right-of-way system. This change gives the BLM more flexibility to offer lands competitively, and applies to all potential rights-of-way, not just solar and wind energy development projects.

Throughout the proposed rule, the BLM required publication of a notice in the Federal Register as well as in a newspaper in general circulation in the area affected by the potential right-of-way. Publication in a newspaper is included in the final rule as one of the "other methods" of public notification that the BLM may use, but is no longer a requirement. The potential area affected by a proposed BLM action may not be covered by a single newspaper. As the BLM considers issues at a broader scale, such as multi-state transmission lines, several communities may be affected by a single BLM action. The Federal Register is a national publication that is available to all interested parties. In addition, the BLM will make available a copy of all Federal Register notices on its website at www.blm.gov. The BLM may use a newspaper to notify the public on a case-by-case basis, as appropriate. The public notification methods throughout this final rule are revised consistent with this section.

Comments: Some comments expressed concern that the BLM may determine to hold a competitive offer after an applicant has substantially progressed in the processing of their non-competitive application for a right-of-way grant. These comments argued

that this possibility would discourage developers from submitting a solar or wind energy right-of-way application.

Response: Proposed paragraph (c) of this section has been revised to state that a competitive process will not be held for public lands where a right-of-way application for solar or wind development has been accepted, including the POD and cost recovery agreement. Adding this criterion provides assurances to prospective applicants that the BLM will not competitively offer lands after considerable time and resources have been committed to processing a particular application.

Under section 2804.23(d), lands outside of DLAs are made available for solar or wind energy applications through the competitive process outlined in section 2804.30. This provision directs the reader to new section 2804.30, which explains the competitive process for solar and wind energy development outside of DLAs. This paragraph is necessary to differentiate between development inside and development outside of a DLA. No comments were received on this paragraph, and no changes are made from the proposed rule to the final rule.

Under section 2804.23(e), lands inside a DLA will now be offered competitively through the process described in subpart 2809. This new paragraph directs the reader to revised subpart 2809, which explains the competitive process for solar and wind energy development inside of DLAs. This paragraph is necessary to differentiate between development inside and outside of a DLA. No additional comments were received for this section, except for those discussed under paragraph (c), and no other changes were made from the proposed to the final rule.

Section 2804.24 Do I always have to submit an application for a grant using Standard Form 299?

Section 2804.24, which is unchanged from the proposed rule, explains when you do not have to use Standard Form 299 (SF-299) to apply for a right-of-way. Under the existing rule, you do not have to use SF-299 if the BLM determines competition exists under section 2804.23(c). The BLM only determines competition exists when there are two or more competing applications for the same right-of-way facility or system.

Due to the changes made to section 2804.23, section 2804.24 specifies when an SF-299 is required. Under both the existing regulations and this final rule, the BLM will implement a competitive process if there are two or more competing applications. Under section 2804.24(a), you do not have to submit a SF-299 if the BLM offers lands competitively and you have already submitted an application for that facility or system.

Under paragraph (a) of this section, if you have not submitted an application for that facility or system, you must submit an SF-299, as specified by the BLM. Under the competitive process for solar or wind energy in section 2804.30, for example, the successful bidder becomes the preferred applicant, and may apply for a grant. The preferred applicant will be required to submit an SF-299, but unsuccessful bidders will not.

Paragraph (b) explains that an applicant does not have to use an SF-299 when the BLM is offering lands competitively under subpart 2809. Under subpart 2809, the BLM will offer lands competitively for solar and wind energy development inside DLAs. The successful bidder will be offered a lease if the requirements described in section 2809.15(d) are met. The successful bidder will not have to submit an application using

SF-299. The following chart explains when the filing of an SF-299 is or is not required under this final rule:

When a SF-299 is required

Type of Solar or Wind right-of-way	Would have to submit a SF 299?
Have two or more competing applications for the same area, outside of DLAs	Yes
Lands are offered competitively outside of a DLA and you have already submitted an application for the parcel before the Notice of Competitive Offer	No
Lands are being offered competitively outside of a DLA and you have not submitted an application	Yes
You are the successful bidder in a competitive offer outside of a DLA and have been declared the preferred applicant and may apply for a grant	Yes
Lands are being offered competitively within a DLA under subpart 2809	No

No comments were received and, no were other changes are made to this section of the final rule.

Section 2804.25 How will BLM process my application?

This section of the final rule has been modified from the proposed rule to reflect the shift of early BLM coordination from pre-application meetings, under section 2804.10, to preliminary application review meetings, under section 2804.12. These preliminary application review meetings are now required after the initial filing of a right-of-way application for solar or wind projects, or for electric transmission lines with a capacity of 100 kV or more.

Section 2804.25(a) of this final rule has been modified from the proposed rule to include a provision from current section 2804.25(b) that states the BLM will inform you of any other grant applications that involve any of the lands for which you have applied. This new provision has been added as paragraph (a)(2). Paragraph (a) has been reformatted providing an introductory statement and putting the existing requirement for identifying the processing fee as paragraph (a)(1). This is an existing provision of the regulations and is only added to this paragraph as part of formatting revisions that are made in response to comments submitted concerning confusion with existing requirements of section 2804.25(b).

Comments: Some comments were received noting confusion over the proposed section 2804.25(b) and its requirements.

Response: This paragraph has been reformatted into two new separate paragraphs, 2804.25(b) and 2804.25(c).

New section 2804.25(b) contains existing regulatory requirements that were part of proposed section 2804.25(b). This paragraph helps explain the existing requirements found in section 2808.12 of the regulations. In paragraph (b), the BLM will not process your application if you have any trespass action pending for any activity on BLM-administered lands or have any unpaid debts owed to the Federal Government. If you have an outstanding trespass action, the BLM will only process your application, under part 2800 or part 2920, if it will resolve the underlying trespass. Similarly, if you have any debts outstanding, the BLM will only process your application after those outstanding debts are paid. The requirement in section 2808.12 is often overlooked by potential right-of-way applicants and this addition to the regulations would insert the

requirement into the application process and improve applicant understanding of the BLM's process under subpart 2804.

Comments: Some comments expressed concern with the clarity of this proposed section and were also unsure whether using an application for a right-of-way to resolve trespass was appropriate. Further, concern was raised over what constituted an unpaid debt to the Federal Government.

Response: In response to the comment about clarity, the BLM revised the language in paragraph (b) of this section, by adding paragraphs (b)(1) and (b)(2), discussing when the BLM will not process an application.

Section 2804.25(b)(1) clarifies that the BLM will not process your application if you have an outstanding debt to the Federal Government and then describes what constitutes an outstanding debt to the government. An additional sentence was added to paragraph (b)(1) of this section, explaining that unpaid debts are what are owed to the Federal Government after all administrative collection actions have occurred, including administrative appeal proceedings under applicable Federal regulations and review under the Administrative Procedure Act (APA). Adding this provision to the regulations makes it clear to right-of-way holders and trespassers that the BLM will evaluate applications in this manner.

Paragraph (b)(2) of this section clarifies that if you are in trespass, the BLM will only process an application that would resolve that particular trespass. Reformatting this paragraph in this manner separates the concepts of unpaid debts and existing trespass situations as they pertain to new applications. Under this final rule, the BLM will not always issue a right-of-way to resolve a trespass. The BLM will consider the situation on

a case-by-case basis and will evaluate whether the trespass was knowing and willful. The BLM will also consider whether issuing a right-of-way to resolve the trespass is appropriate. If a right-of-way is not an appropriate way to resolve a trespass, the BLM will consider other options for resolving a trespass, such as requiring its removal from public lands.

Section 2804.25(c) contains the requirements from section 2804.25(b) of the existing regulations, under which the BLM may require the submittal of a POD. The POD or other plans must be submitted to the BLM within the period specified by the BLM.

Under paragraph (c)(1) of this section, the BLM requires an applicant to commence resource surveys or studies within 1 year of receiving a request from the BLM. This requirement was identified in the preamble of the proposed rule and carried forward in this final rule. The requirement to begin the surveys or studies within 1 year of the request establishes a default period, which will apply if the BLM does not specify a different time period within which the survey or study must begin. The BLM may identify a different time period through written correspondence with applicants, or by other means, as appropriate. Generally, these surveys or studies will not require a permit from the BLM or any other agency. Proponents need only coordinate the work with the applicable agencies as appropriate. However, for some surveys or studies, there may be a permit that is necessary, such as when performing pedestrian archaeological surveys. In those instances, the BLM will work with applicants to ensure that the applicable permitting requirements are understood by all parties.

Under paragraph (c)(2) of this section, an applicant could request an alternative requirement to one of the requirements of this section, such as the period of time described in paragraph (c)(1) of this section. However, the applicant must show good cause why it is unable to meet the requirement. This new paragraph directs the reader to new section 2804.40, consistent with revisions made from comments received as discussed under section 2804.40, if the applicant is unable to meet the requirements of this section. Failure to meet the 1 year requirement for application due diligence may result in denial of the application, unless an alternative compliance period has been requested and agreed to by the BLM. Paragraph (c)(2) of this section gives applicants the ability to address circumstances outside of their control with respect to time periods.

Comments: Some comments were received regarding due diligence requirements for applicants to begin resource studies or provide other such survey work to the BLM. Comments recommended varying timeframes for application due diligence ranging from 1 to 3 years after the BLM's approval of survey protocols or other identified study requirements. Comments generally agreed with implementing such requirements for applications.

Response: In consideration of the comments received on application due diligence requirements, the BLM determined that a longer timeframe would not be appropriate. Under this final rule, an applicant would be required to begin surveys or inventories within a year of the BLM's request date, unless otherwise specified by the BLM. The BLM determined that a one year default timeframe was adequate to commence surveys and inventories. This rule does, however, leave the BLM with the discretion to establish a different timeframe where appropriate.

Section 2804.25(c) of the existing regulations is redesignated as paragraph (d) of this section. It remains unchanged and is relocated to make room for the reformatting of this section in response to comments submitted on the proposed rule.

The introductory text of section 2804.25(e), which is redesignated from existing paragraph (d), is revised by replacing the words "before issuing a grant" with "in processing an application." This change is made to account for the situation where the BLM would issue a grant without accepting applications. For example, lands leased inside DLAs will be offered through a competitive bidding process under subpart 2809 in situations where no applications for those lands are received. The provisions in section 2804.25 do not apply to the leases issued under subpart 2809. However, they will apply to all other rights-of-way, including solar and wind energy development grants outside of DLAs. The process for issuing leases inside DLAs is discussed in subpart 2809. This revision clarifies that the requirements of this section apply to applications.

Section 2804.25(e) is further revised to incorporate new provisions for all rights-of-way as well as specific provisions for solar and wind energy development. Existing section 2804.25(d)(5), which provides the requirement to hold a public meeting if there is sufficient public interest, is moved to section 2804.25(e)(1). Revisions are made in this final rule, consistent with those made in section 2804.23(c). Language is added specifying that a public notice may also be provided by other methods, such as publication in a newspaper in the area affected by the potential right-of-way or the Internet.

Section 2804.25(e)(2) contains three separate requirements for solar and wind energy development applications. Under section 2804.25(e)(2)(i), the BLM will hold a

public meeting in the vicinity of the lands affected by the potential right-of-way for all solar or wind energy development applications. Based on the BLM's experience, most solar and wind energy development projects are large-scale projects that draw a high level of public interest. This requirement is added to provide an opportunity for public involvement early in the process. Under paragraph (e)(2)(ii), the BLM will apply screening criteria when processing an application outside of DLAs. These screening criteria are explained further in section 2804.35. The BLM removed the word "priority" from this requirement to improve reader understanding that the screening criteria are used to determine the priority of applications, not "resource priorities."

Under section 2804.25(e)(2)(iii), the BLM will evaluate an application, based on the input it has received from other government and tribal entities, as well as information received in the application, public meetings, and preliminary application review meetings. The BLM may consider information it has received outside of these meetings when evaluating an application. This paragraph is revised in the final rule to remove reference to pre-application meetings and add preliminary application review meeting requirements, consistent with other changes in this final rule. The BLM has also added more detail to this paragraph explaining why it may deny an application at this point in the process. For example, the BLM may deny an application if you fail to address known resource values raised during preliminary application review (see section 2804.12(c)(4)), or during public meetings (see section 2804.25(e)(2)(i)), or if you improperly site the project. The BLM made this revision to help improve the public's understanding of this process.

Based on its evaluation of an application, the BLM will either deny or continue processing it. The BLM's denial of an application will be in writing and is an appealable decision under section 2801.10. The denial or approval of all grant applications is at the BLM's discretion.

As noted previously under section 2804.12, you must submit an application for a solar or wind energy development. Requirements for submitting this application are noted in sections 2804.25(b) and 2804.25(c), and these must be fulfilled before an application is ready to be evaluated by the BLM. Section 2804.25(e)(2)(iii) has been revised to explain what criteria must be met in order for the BLM to continue processing your application. These criteria are: whether the development application is appropriately sited on the public lands (e.g. outside of DLAs – where leasing must proceed under Section 2809 rather than 2804 – and outside of exclusion areas), and whether you address known resource values that were discussed in the preliminary application review meetings. Known resource values must also be addressed in general project descriptions and in further detail in a project's POD.

Under section 2804.25(e)(3), the BLM will determine whether the POD schedule submitted with an application meets the applicable development schedule and other requirements or whether an applicant must provide additional information. This is a necessary step that allows the BLM to evaluate the application requirements under section 2804.12. Those requirements can be found in sections 2804.12(b) and 2804.12(c). The BLM determines if the development schedule and other requirements of the POD templates have been met. The POD templates can be found at http://www.blm.gov.

Under the proposed rule, paragraph (e)(3) of this section applied to applications for solar and wind energy development, transmission lines with a capacity of 100 kV or more, and pipelines 10 inches or greater in diameter. Under this final rule, this paragraph would apply to all applications for which a POD is required. Although a POD is mandatory for some types of projects, the BLM may require an applicant to submit a POD with any type of right-of-way application under section 2804.25(c) of this final rule (section 2804.25(b) of the existing regulations). Should the BLM require an applicant to submit a POD, the application would be evaluated under this paragraph based on the POD schedule submitted with the application.

Section 2804.25(e)(4) of this final rule is revised from the proposed rule to include a cross-reference to the Department's NEPA implementation regulations at 43 CFR part 46. The Departmental regulations reinforce the CEQ's regulations and the requirements to comply with NEPA. This cross-reference is made to increase the public's awareness of these requirements and where they may be found, but does not impose any additional requirements on the public.

Redesignated paragraphs (e)(5), (e)(6), (e)(7), and (e)(8) of this section are existing provisions that were formerly found in paragraph (d) of this section. Former paragraph (e) is redesignated as new paragraph (f). No other comments were received or other changes made to the final rule, except that references to the "U.S." were changed to read "United States."

Section 2804.26 Under what circumstances may BLM deny my application?

Section 2804.26 explains the circumstances in which the BLM may deny an application. The BLM considers the criteria outlined in this section during its decision-

making process, which for right-of-way authorizations ends with the issuance of a decision—either a ROD or a Decision Record (DR), or in the absence of a ROD or DR, the perfection of a right-of-way instrument or the issuance of a written decision denying the right-of-way application. Once the BLM issues a ROD or DR to approve a right-of-way, any subsequent BLM determination that is inconsistent with that ROD or DR, including any decision to suspend or terminate the right-of-way, is a separate action that requires the BLM to complete a separate decision-making process.

Section 2804.26(a)(5) explains one such circumstance. This provision of the existing regulations is revised to include "or operation of facilities" and now reads, "when an applicant does not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities in the proposed right-of-way." The rule adds text to clarify this requirement, which applies to all rights-of-way. The added paragraphs explain how an applicant could provide evidence of the financial and technical capability to be able to construct, operate, maintain, and decommission a solar or wind energy development project. The applicant may provide documented evidence showing prior successful experience in developing similar projects, provide information of sufficient capitalization to carry out development, or provide documentation of loan guarantees, a confirmed PPA, or contracts for the manufacture and/or supply of key components for solar or wind energy project facilities.

Paragraphs (a)(6), (a)(7), and (a)(8) are added to section 2804.26 to reiterate the new requirements of the final rule and explain that the BLM may deny an application should an applicant not comply with these provisions.

Under section 2804.26(a)(6), the BLM may deny your application if you do not meet the POD submittal requirements under sections 2804.12(a)(8), 2804.12(c)(1), and 2804.25(e)(3). The final rule is updated to ensure that the citations match the reformatted rule, after changes were made based upon comments received.

Section 2804.26(a)(7) is a new paragraph added to the final rule that corresponds to the provisions by which the BLM will require surveys under section 2804.25(c). Under section 2804.26(a)(7), the BLM may deny your application if you fail to meet its requirements to commence surveys and studies, or provide plans for permit processing as required by section 2804.25(c). This paragraph is new in the final rule and is added to be consistent with the new requirements in section 2804.25(c), which are added based upon public comment.

Section 2804.26(a)(8) references the possible application denial based on the screening criteria established in section 2804.25(e)(2)(iii).

Comments: Some comments expressed concern regarding the BLM exercising its authority to deny an application without accounting for the fact that some circumstances may be outside an applicant's control.

Response: In response to this generalized concern, the BLM added section 2804.40 to this final rule. Under this new section, an applicant may request an alternative requirement in place of a requirement that they are unable to meet. References are made to this new section in specific parts of the application processing requirements found under subpart 2804.

No other changes were made to this section and no other comments were received.

Section 2804.27 What fees must I pay if BLM denies my application or if I withdraw my application?

The heading of section 2804.27, "What fees do I owe if BLM denies my application or if I withdraw my application?" is revised to read, "What fees must I pay if BLM denies my application or if I withdraw my application?". With the addition of application filing fees, the revised title more clearly describes the requirements of the final rule. A new provision in this paragraph provides that if the BLM denies your application, or if you withdraw it, you must still pay any application filing fees submitted or due under section 2804.12(c)(2), and the processing fee set forth at section 2804.14. Sections 304(b) and 504(g) of FLPMA provide for the deposit of payments to reimburse the United States for reasonable costs with respect to right-of-way applications and other documents relating to the public lands. In the case of preliminary application review meetings, the expense could be considerable, depending on the complexity of the project. The BLM will refund any part of the application filing fees received that is not used for processing the application. This paragraph is revised by removing references to pre-application meetings that were originally proposed for the rule, but not carried forward in the final rule. These revisions are consistent with other changes made in the final rule under section 2804.12 regarding the change from pre-application to preliminary application review meetings. No other comments were received on this section, and no other changes were made to the final rule.

Section 2804.30 What is the competitive process for solar or wind development for lands outside of designated leasing areas?

Section 2804.30 explains the process for the BLM to competitively offer lands outside of DLAs. This bidding process is similar to that established in subpart 2809 (competitive offers inside DLAs), except that the end result of the bidding is different. Under paragraph (f) of this section, the successful bidder will become the preferred right-of-way applicant. Under this section, the high bidder is not guaranteed a grant, but is identified as the "preferred applicant." As explained under paragraph (g) of this section, the preferred applicant is the only party that may submit an application for the parcel identified by the BLM, but the BLM must still review and accept the application. This is different from subpart 2809, which provides that the successful bidder for a lease inside a DLA may be offered a lease upon successfully meeting all requirements of sections 2809.15.

Comments: Three general comments were received on this section. The first comment requested that language be added to encourage additional consultation with members of the public, such as developers, non-governmental organizations, and stakeholders, during the competitive process outside of DLAs.

Response: Many opportunities for public engagement are provided throughout the competitive process for right-of-way applications filed on public lands outside of DLAs. As part of the competitive processes outside of DLAs, the BLM may engage the public through a notice seeking competitive interest in a particular area, which would provide the public and interested stakeholders with an opportunity to comment on the potential development of a particular parcel. If the BLM decides to move forward with a competitive offer for a parcel, a Notice will be published in the Federal Register and may also be announced through other means. Upon the completion of the competitive

process, the BLM will process an application for the solar or wind energy development, following the requirements of this final rule, which include a mandatory public meeting before the BLM determines whether to deny the application or continue processing it. If the BLM continues to review an application, there may be additional opportunities for public involvement through the NEPA process, including during the notice and comment period. As a result of these measures, the BLM believes that there is adequate opportunity for the public to be fully engaged throughout the competitive process, application review, and NEPA processes for projects outside of DLAs.

Comments: The second comment on this section stated that only developers are capable of making a determination of whether development in a particular area will be economically sound and, therefore, a worthwhile pursuit for public land use. The comment contended that developers will not expend the effort necessary to determine the economic suitability for projects before a competitive process is held (either inside or outside areas such as DLAs).

Response: While the BLM agrees that only a developer can determine whether a particular project in a particular area makes sense for them, that determination does not necessarily apply to all developers, nor is it the only consideration relevant to the BLM. Each developer may follow a different business model and may consider different funding, financing, and procurement opportunities when assessing a potential project site. In identifying DLAs, the BLM has to consider the environmental and other resource impacts of a potential development, in addition to the known solar or wind potential for the area. For these reasons, the BLM does not make an economic evaluation when identifying an area for a competitive process. The BLM will rely on developer interest,

among other indications of competitive interest in an area, to determine whether utilization of a competitive process is appropriate. Recognizing that determining economic viability for a particular area may involve site-specific testing information, the final rule contains provisions allowing for such activities. For wind or solar energy projects outside of a DLA, interested developers can apply for testing authorizations as described in section 2804.31 of this rule, or apply for a testing authorization inside DLAs prior to a competitive action as described in section 2809.19(d) of this rule.

Comments: The third comment on this section suggested that the leasing process should be restructured from a local "electric-centric" focus to a macro-level objective to provide the greatest benefit to "We the People." This comment suggests that the BLM should explicitly recognize that the available solar and wind resources could be used to provide most of, and potentially all of, the United States' fuel, electricity, transportation, and natural resource needs.

Response: FLPMA directs the BLM to generally receive fair market value for the use of public lands and to utilize and protect public land resources while balancing the use of the public lands for current and future generations. The BLM intends for this rule to promote the development of solar and wind energy on public lands, while also ensuring a fair return to the Federal Government.

Paragraph (a) of section 2804.30 identifies lands available for competitive lease; paragraph (b) of this section explains the variety of competitive procedure options available; and paragraph (c) explains how the BLM identifies parcels for competitive offers. Under this final rule, the BLM may identify a parcel for competitive offer if competition exists or the BLM elects to offer a parcel on its own initiative. The BLM

may include lands in a competitive offer in response to interest from the public or industry, or to facilitate an individual State's renewable energy goals. This is a change from existing regulations, which only allow the BLM to use a competitive process when there are two competing applications; however, the changes made to section 2804.23(c) in this rule give the BLM more flexibility.

Paragraph (d) of this section, "Notice of competitive offer," establishes the content of the materials of a notice of competitive offer that include the date, time, and location (if any) of the competitive offer, bidding procedures, qualifications of potential bidders, and the minimum bid required. The notice also explains that the successful bidder becomes the preferred applicant, which can then apply for a grant under this subpart. This is different from the competitive offers held under subpart 2809, where the successful bidder is offered a lease.

Paragraph (d)(4) of this section requires that the notice identify the minimum bid amount, explain how the authorized officer determined the minimum bid amount, and describe the administrative costs borne by the Federal agencies involved. As indicated in the general discussion section of this preamble, administrative costs are not a component of fair market value, but instead are a cost reimbursement paid to the Federal Government for its expenses. The BLM will publish a notice containing all of the identified elements in the Federal Register, and may also use other notification methods, including newspapers in the affected area or the internet. Consistent with sections 2804.23(c), this section's public notice requirements were revised, establishing notice through a newspaper or internet as an additional optional form of notice. This change in the final rule is discussed further in section 2804.23(c) of this preamble. No comments

were received on sections 2804.30(a) through (d). However, a cross-reference has been updated in section 2804.30(d)(6) to include section 2804.12, due to revisions made to that section based upon comments received.

Under paragraph (e) of this section, the BLM requires that bid submissions include both the minimum bid amount and at least 20 percent of the bonus bid. The minimum bid consists of administrative costs and an amount determined by the authorized officer. Included in the administrative costs are those expenses pertaining to the development of environmental analyses and those costs to the Federal Government associated with holding the competitive offer.

The authorized officer may specifically identify a second component for the minimum bid(s) submitted for each competitive offer. This amount will be based on the known or potential values of the offered parcel. The authorized officer may consider values that include, but are not limited to, the acreage rent, the MW capacity fee, or other known or potential values of the parcel. For example, the BLM may use a percentage of the acreage rent value for the parcel competitively offered. An explanation of the minimum bid amount and how the BLM derived it will be provided in the notice of competitive offer.

Comments: Several comments were received pertaining to bidding under section 2804.30(e). One comment suggested that the BLM: (1) Establish global objectives to evaluate bids based on the constitutional greater good for the "People" to meet many objectives of the renewable energy bidding process; (2) Ensure that successful bidders use energy to meet public objectives; (3) Ensure that appropriate values are received for the right to develop energy; (4) Ensure that evaluations of electrical supply include the

full costs and benefits to the public; (5) Ensure that effects from manmade impacts on global warming shall be based on transient climate sensitivity; and (6) Focus on "We the People" instead of creating processes that incur higher costs for developments.

Response: The comments submitted are suggesting revisions to the final rule that are outside of the BLM's authority to consider. FLPMA directs the BLM to generally receive fair market value for the use of public lands and to utilize and protect public land resources while balancing the use of the public lands for current and future generations. The provisions of this final rule will ensure that the BLM is receiving fair market value for the uses of the public lands that it authorizes.

The second comment suggested that the BLM direct where or how renewable energy that is generated on public lands is deployed. The BLM could place a requirement on the use of the electricity generated, through a term or condition of a right-of-way, but the BLM expects that it would do so only in limited circumstances, if at all, as it is a land management agency charged with managing the public lands under principles of multiple use and sustained yield.

The BLM evaluates proposed projects before issuing a decision to approve, approve with modifications, or deny a project. In general, the BLM will analyze a project using reasonable scientific or other methods, to understand the impacts to the public lands and other lands, uses, resources and other systems outside of its authority to control. These other lands, uses, resources, and other systems outside of the BLM's authority to control could include electrical transmission systems that may be owned or controlled by an Independent System Operator, or the energy needs of a State or local community as identified by the State government offices, or lands administered by a Federal, State, or

private entity. When evaluating prospective projects, the BLM considers their reasonably foreseeable direct, indirect, and cumulative impact on climate change on a local, regional, and national scale, as appropriate.

Comment: Another comment suggested that administrative costs discussed under section 2804.30(e)(2)(i) should not be included as part of the minimum bid. The initial costs of preparing for and holding a competitive offer are completed at the volition of the BLM, not an applicant. The comment suggested that including administrative costs as part of the minimum bid will discourage development inside and outside of DLAs. The comment suggested that a successful bidder should essentially pay for the same administrative and NEPA costs as noncompetitive applicants for right-of-ways outside of DLAs.

Response: Under the final rule, reimbursement for the reasonable administrative and other costs is generally required from any successful bidder. Consistent with Sections 304(b) and 504(g) of FLPMA, the BLM may recover reasonable administrative and other costs incurred in processing an application for a right-of-way. Administrative and other costs associated with the use of a competitive process to identify a preferred applicant can be recovered because this work facilitates, and will generally be essential to, the BLM's review of a right-of-way application. These costs would be paid only by the preferred applicant. Bidders will be given notice of the administrative costs portion of the minimum bid prior to their bidding at a competitive offer. The BLM believes that it is preferable for a prospective bidder to know these costs, which are required to prepare and hold a competitive auction, before submitting a bid in a competitive offer. Prospective applicants would not otherwise be able to submit an application to the BLM

for development of that area without first being the successful bidder. The BLM considers the competitive process described in subpart 2809 for lands inside a DLA to be even more preferable to prospective developers, as a successful bidder would be issued a lease immediately upon paying the full amount of their winning bid.

Comments: Comments stated that the mitigation costs identified in section 2804.30(e)(2)(ii) should not be factored into the minimum bid because the successful bidder should have to pay separately for mitigation if and when construction commences and not at the time of bidding. A successful bidder cannot pay twice for the same mitigation. Several other comments also addressed what should or should not be included as acceptable factors.

Response: The BLM has removed the reference to mitigation costs found in proposed section 2804.30(e)(2)(ii), as this may be misleading and open to interpretation. However, the BLM has maintained the acreage rent and the megawatt capacity fee as considerations when determining a minimum bid amount. These factors which are used only to determine the amount above the administrative costs where bidding will start (see section 2804.30(e)(2)(ii)). Their inclusion as a potential consideration in the development of the minimum bid does not count towards other obligations. For example, if the BLM arrives at a minimum bid amount using the annual acreage rent for a lease area, a successful bidder will still be required to pay the first year's acreage rent, as identified in this rule, before being awarded a grant or lease. No offset or discount toward future acreage rent will be provided.

Comments: A number of comments expressed concern that requiring unsuccessful bidders to pay application filing fees would discourage prospective

developers. They suggested that application filing fees should be refundable if a bidder is not successful.

Response: New section 2804.30(e)(4) has been revised based on these comments to refund application filing fees for unsuccessful bidders, except for the reasonable costs incurred by the United States. This change is consistent with the revisions under section 2804.12(c)(2) and discussed further under that section of this preamble.

Under section 2804.30(f), the successful bidder is determined by their submission of the highest total bid for a parcel at a competitive offer. The successful bidder must fulfill the payment requirements of the successful bid in order to become the preferred right-of-way applicant. The preferred applicant must submit the balance of the bid to the BLM within 15 calendar days after the end of the competitive offer. No comments were received pertaining to section 2804.30(f), and no other changes are made from the proposed rule to the final rule.

Under section 2804.30(g), a preferred applicant is the only party who may submit an application for the parcel that is offered. Unlike the process under subpart 2809, the approval of a grant under this paragraph is not guaranteed to a successful bidder. Approval of a grant is solely at the BLM's discretion. The preferred applicant may also apply for an energy project-area or site-specific testing grant.

Comments: A comment suggested adding a new provision to the rule stating that upon making a winning bid, the preferred applicant also secures site control. Adding such a condition would provide more certainty to the process for prospective developers, further incentivizing the competitive bidding.

Response: The BLM agrees with this comment and has revised paragraph (g) to make it clear that the BLM will not accept applications on lands where a preferred applicant has been identified, unless submitted or allowed by the preferred applicant in order to provide additional certainty with respect to site control. If ancillary facilities for projects or facilities on adjacent parcels, such as roads or transmission lines, need to be constructed on the parcel where a preferred applicant's project would be sited, the companies constructing the ancillary facilities would need to apply to the BLM for a right-of-way, and the BLM would consult with the preferred applicant before processing any such application. This is intended to provide certainty to the preferred applicant when applying for renewable energy developments on the public lands that applications from other entities will not be accepted for the competitively gained application area unless they are allowed by the preferred applicant.

Section 2804.30(h) describes how the BLM will address certain situations that could arise from a competitive offer. Under paragraph (h)(1) of this section, the BLM retains discretion to reject bids, regardless of the amount offered. For example, the BLM may reject a bid if there is evidence of conflicts of interest or collusion among bidders or if there is new information regarding potential environmental conflicts. The BLM will notify the bidder of the reason for the rejection and what refunds are available. If the BLM rejects a bid, the bidder may administratively appeal that decision (see 43 CFR part 4 for details). Under paragraph (h)(2) of this section, the BLM may make the next highest bidder the preferred applicant if the first successful bidder does not satisfy the requirements under section 2804.30(f). This allows the BLM to determine a preferred

applicant without reoffering the land and could save time and money for the BLM and potential applicants.

The BLM may reoffer lands competitively under section 2804.30(h)(3) if the BLM cannot identify a successful bidder. If there is a tie, this re-offer could either be limited to tied bidders or include all bidders. This provides the BLM with flexibility to resolve ties and other issues that could arise during a competitive offer process.

Under section 2804.30(h)(4), if the BLM receives no bids, the BLM may re-offer the lands through the competitive process provided for in section 2804.30. The BLM may also make the lands available through the non-competitive process described in subparts 2803, 2804, and 2805, if doing so is determined to be in the public interest. No other comments were received, and no additional changes were made to final paragraph (h) of this section, except those discussed above.

Section 2804.31 How will the BLM call for site testing for solar or wind energy applications?

This section, which was not in the proposed rule, is added to this final rule to describe how the BLM will call for site testing for solar and wind energy. This section also explains how the BLM may create a new DLA, through the land use planning process described in new section 2802.11, in response to public interest.

Under new paragraph (a) of this section, the BLM may call for site testing in a DLA by publishing a notice in the Federal Register and may also use other notification methods, such as a local newspaper or the Internet. Paragraph (a) also specifies what information will be included in any public notice issued under the section, including the following information: (1) The date, time, and location where site testing applications

may be sent; (2) The date by which applicants will be notified of the BLM's decision on timely submitted site testing applications; (3) The legal land description of the area for which site testing applications are being requested; and (4) Qualification requirements for applicants. The BLM is limiting the testing authorizations that would be offered under a call for site testing applications under this section to site-specific grants identified under section 2801.9(d)(1). This limitation is established to reduce the potential for multiple interested parties having overlapping applications. The BLM does not intend to use a competitive process for the site testing. Rather, the BLM intends to determine whether there is competitive interest for solar and wind energy development for these public lands. Should there be overlapping testing applications, the BLM will notify those applicants of the overlap and may hold a competitive offer for that site testing location to determine a preferred applicant.

Paragraph (b) of this section explains that any interested parties may request that the BLM hold a call for site testing for certain public lands. However, how the BLM responds to those requests is at its sole discretion. The "call for site testing" may be used as a step in the process for lands either inside or outside of DLAs. A subsequent step would be the competitive offer for an application for a development grant under section 2804.30, or for a development lease under subpart 2809, if the area is designated as a leasing area, as described in section 2804.31(c).

Under paragraph (c) of this section, the BLM may determine that areas receiving interest from the public may be appropriate to establish as a DLA. The BLM may turn an area surrounding the site testing into a DLA as described under section 2802.11. Following the designation of an area for competitive leasing, the rules described under

subpart 2809 would be used for any subsequent competitive processes in the area. Establishing such an area would be performed by following the land use planning process described in the revised section 2802.11. This process would be completed during the time that testing is being undertaken, which is typically a 3 year process. Designating such an area would allow interested developers to benefit from the incentives provided by development in a DLA. This approach also provides a mechanism for public interest to drive the establishment of DLAs.

Comments: Some comments suggested that the BLM retain the discretion to structure the DLA leasing process for wind in accordance with a two-phased development approach. The first phase of this approach would be a competitive process for site testing. The winner of this offer would receive exclusive rights to the parcel offered. The BLM would then create a DLA in the area where this competitive offer was held. The second phase would be a competitive offer for a lease in this newly established DLA.

Response: The BLM recognizes that potential developers should have a clear avenue for helping the BLM identify new DLAs. The BLM added the new section 2804.31 to this final rule in direct response to these comments. This new section provides another way for developers to identify and benefit from the competitive process and DLA incentives established in subpart 2809 of this final rule. Providing a mechanism for site testing while DLA designation is ongoing will allow developers to benefit from the specific data they obtain during testing as they evaluate whether a competitive offer or further development of the lands is in their interest.

Section 2804.35 How will the BLM prioritize my solar or wind energy application?

Section 2804.35 explains how the BLM will prioritize review of an application for a solar or wind energy development right-of-way based on the screening criteria for projects outside of DLAs. The BLM will evaluate such applications based on the screening criteria in that section and categorize the application as high, medium, or low priority.

Through existing guidance, the BLM has established screening criteria (see Instruction Memorandum (IM) 2011-061), which identify and prioritize land use for solar and wind energy development rights-of-way. In order to facilitate environmentally responsible development the IM directs BLM to consider resource conflicts, applicable land use plans, and other statutory and regulatory criteria pertinent to the applications and the lands in question. Applications with lesser resource conflicts are anticipated to be less costly and time-consuming for the BLM to process, and the IM directs that these applications be prioritized over those with greater resource conflicts. IM 2011-061 may be found at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

This rule includes criteria similar to those in the IM. The codification of these criteria gives certainty to applicants that such criteria will not change, and therefore provides more certainty as to how an application might be categorized. By specifying these criteria, applications could be tailored to fit them in order to streamline the processing of an application.

Comment: One comment indicated that the BLM should clarify the proposed rule's application prioritization concept. This comment indicated that the proposed rule left several questions unanswered, including: (1) How the BLM's staff time will be allocated within field staff among projects based on priority and time of submission; (2)

Whether BLM staff working on a medium-conflict priority project will shift focus if a high-priority application is submitted; and (3) Whether BLM staff workload will be shifted across different field offices if certain field offices have a disproportionate number of high-priority applications as compared to others, which may have more medium- or low-priority applications.

Response: This final rule provides the criteria that the BLM will use to prioritize applications it receives. This allows potential applicants to understand not only how these applications will be prioritized, but also how they can submit an application that is more likely to become a high priority for the BLM. The BLM's internal management and workload processes are not addressed as that is not appropriate for a rulemaking. The criteria for determining how workload priorities are addressed are more appropriately handled by the policy guidance for implementing this final rule. Such guidance will elaborate on these points. It should be noted that the BLM will continue to process all applications received, but will prioritize staff workload based upon these priority categorizations.

Comments: Comments were received requesting clarity over whether leases awarded under subpart 2809 would be given priority over applications made outside of DLAs.

Response: New language has been added to the introductory paragraph of this section to clarify that the BLM generally prioritizes the processing of leases awarded under subpart 2809 over applications submitted under subpart 2804. There are some instances where the BLM may determine that it is in the public interest to prioritize the

processing of an application over the processing of a lease. However, the BLM generally intends to prioritize the processing of leases first.

Comments: Comments were received requesting that the BLM expand on the criteria used in the rule and better define and describe the resource areas and potential conflicts. Some specific recommendations were made by the commenters. Each comment provided a greater level of specificity or detail than the proposed rule regarding how the BLM should prioritize resource conflicts.

Response: The descriptions of the resource conflicts in the final rule are mostly unchanged, except where noted in this section's discussion. The BLM determined that the level of specificity and detail recommended by commenters is not appropriate for this final rule. Screening applications to prioritize them has only been done by the BLM recently. Based upon the BLM's experience, it is better to establish broader criteria in this final rule that can then be further refined in its internal guidance. National priorities change and BLM continues to learn more about the resource conflicts associated with solar and wind energy projects. Therefore, the BLM believes that the specific internal guidance, rather than regulatory criteria, is more appropriate to provide a greater level of specificity and detail as recommended by commenters. This approach gives the BLM flexibility to make changes as workload or conditions on the ground or in the wind and solar industry change. Guidance may need to be updated as national priorities change and the BLM better understands these resource conflicts with solar and wind energy projects. As part of the rule's implementation, the BLM will issue guidance aimed at better describing the BLM's considerations and prioritization of applications. This guidance is expected to be issued after this final rule is published.

Section 2804.35(a) identifies criteria for high-priority applications, which are given processing priority over medium- and low-priority applications. These criteria include:

1. Lands specifically identified as appropriate for solar or wind energy development outside DLAs;
2. Previously disturbed sites or areas adjacent to previously disturbed or developed sites;
3. Lands currently designated as Visual Resource Management (VRM) Class IV; and
4. Lands identified as suitable for disposal in the BLM's land use plans.

The BLM may have identified lands that are appropriate for solar or wind energy development, but are not inside DLAs. These lands may include areas approved for solar or wind area development for which a right-of-way was never issued or an existing right-of-way was relinquished.

The VRM inventory process is a means to determine visual resource values. The VRM inventory consists of a scenic quality evaluation, sensitivity level analysis, and a delineation of distance zones. Based on these three factors, BLM-administered lands are placed into one of four VRM classes, with Classes I and II being the most valued, Class III representing a moderate value, and Class IV being of least value. The BLM assigns VRM classes through the land use planning process, and these values can range from areas having few scenic qualities to areas with exceptional scenic quality.

Section 2804.35(b) identifies criteria for medium-priority applications, which will be considered before low-priority applications. These criteria include:

1. BLM special management areas that provide for limited development or where a project may adversely affect lands having value for conservation purposes, such as historical, cultural, or other similar values;
2. Areas where a project may adversely affect conservation lands to include lands with wilderness characteristics that have been identified in an updated wilderness characteristics inventory;
3. Right-of-way avoidance areas;
4. Areas where a project may adversely affect resources listed nationally;
5. Sensitive plant or animal habitat areas;
6. Lands designated as VRM Class III;
7. Department of Defense (DOD) operating areas with land use or operational mission conflicts; and
8. Projects with proposed groundwater uses within groundwater basins that have been allocated by State water resource agencies.

Comment: One comment suggested for Criterion 5, that BLM's designated priority sage-grouse areas be a low priority and not a medium priority.

Response: The BLM removed the reference to sage-grouse habitat in this final rule. In September, 2015, the BLM issued the Greater Sage-Grouse Plan Amendments and Revisions (80 FR 57633, 80 FR 57639). Those plans generally excluded priority habitat areas from major right-of-way developments, including wind energy. General sage-grouse habitat management areas generally fall into the medium-priority application category under Criterion 5.

With the removal of priority sage-grouse habitat from this final rule in criterion 5, the BLM also revised the specificity of "important eagle use areas" to read as "important species use areas." This revision makes the criterion more broad and applicable to all important species areas, and does not unintentionally exclude other identified important species areas that are not specifically identified for eagles.

Comments: Several comments were made concerning the above factors. For Criterion 2, a comment recommended revising the description of "conservation lands" and excluding Alaska from this requirement.

Response: The final rule does not revise the section 2804.35(b)(2) as recommended in the comment. This final rule does not define "conservation lands," which include areas of critical environmental concern and lands inventoried and managed for wilderness characteristics. These lands are often identified for their unique characteristics by the BLM to protect scenic, historic, cultural, and other natural values. The status of conservation lands is considered by the BLM when processing solar and wind energy applications. When the BLM considers such lands for wind or solar use, it evaluates the impacts and effects to the resources, including those resources for which conservation lands are designated. Depending on the proposed development, the impacts to the resources for which the lands were designated for conservation purposes may be very small. Applications, such as those submitted for lands in Alaska, will be reviewed on a case-by-case basis.

Comment: Another comment suggested that Criterion 7 be moved to low priority and changed to read "Areas where the Department of Defense has testing, training, or operational mission impacts."

Response: The BLM considered the suggestion, but did not revise the rule as suggested. The BLM kept this requirement largely unchanged because the DOD has overlapping interest in some locations with the BLM lands – e.g., withdrawn lands that are transferred to the DOD or have an aerial easement – where solar and wind energy development does not pose significant adverse impacts to the DOD operations. However, we did revise criterion number 7 to read as follows "Department of Defense operating areas with land use or operational mission conflicts." The BLM will coordinate with the DOD on solar and wind energy applications submitted to the BLM that may affect DOD operations.

Section 2804.35(c) identifies criteria for low priority applications, which may not be feasible to authorize due to a high potential for conflict. Examples of applications that may be assigned low priority would involve:

1. Lands near or adjacent to areas specifically designated by the Congress, the President, or the Secretary for the conservation of resource values;
2. Lands near or adjacent to wild, scenic, and recreational river and river segments determined as suitable for wild or scenic river status, if project development may have significant adverse effects on sensitive viewsheds, resources, and values;
3. Lands designated as critical habitat for federally designated threatened or endangered species under the ESA;
4. Lands currently designated as VRM Class I or II;
5. Right-of-way exclusion areas
6. Lands currently designated as no surface occupancy areas; and

Comment: One comment recommended that applications within lands under Criterion 2 not be considered a low priority. This comment further suggested that an additional criterion be added that would read as "Nothing in this section creates a protective perimeter or buffer zone around the special status conservation lands specified in Sections 2804.35(c)(1) and 2804.35(c)(2). The fact that a proposed activity or use on BLM-administered lands outside such special status conservation lands can be seen or heard within such special status conservation lands shall not accord an application low-priority status even if the use or activity is prohibited within the special status conservation lands."

Response: Nothing in this criterion creates a protective perimeter or buffer zone around the areas described in this section and, therefore, precludes the BLM's approval of an application that is near or adjacent to such areas. In the BLM's experience, solar and wind energy development applications are complex and difficult to analyze. If a proposed right-of-way would affect such areas, the BLM will consider effects when processing the application. Potential impacts to these areas and their resources may prove unacceptable, even after mitigation.

The BLM also revised criterion 3 of this section from the proposed to final rule, from "is likely to" to "may" "…result in the destruction or adverse modification of that critical habitat." This revision is necessary because it is difficult to determine based on an application what impacts are "likely." However, it is the BLM's responsibility to protect critical habitat. Therefore, any application that may destroy or adversely affect critical habitat will be a categorized as low priority under this final rule.

The low priority status of applications meeting these criteria relates only to the BLM's management of its workload in processing applications; it is not a proxy for the BLM's final decision. No other comments were received, nor were any changes made to section 2804.35.

Section 2804.40 Alternative Requirements.

Section 2804.40 is added to this final rule in response to comments received on the proposed rule.

Comments: Several comments expressed concern that the BLM's proposed requirements were too strict and would be difficult to meet, resulting in applications being denied or a holder's authorization being terminated. They supported the BLM's reference to a showing of good cause to support why a developer was unable to meet the BLM's requirement.

Response: The BLM has added this section to the final rule due to the number of comments received discussing the BLM's requirements that had no specific provision allowing a developer to show good cause why an alternative to a regulatory requirement should be approved.

Section 2804.40 expands on the BLM's show of good cause provision that was in the proposed rule with several different new requirements. This new provision replaces the specific provisions originally proposed and now applies to all rights-of-way and to all requirements the BLM has established under this subpart. An applicant may request an alternative requirement from the BLM by following the process outlined in this section. A similar provision is added in section 2805.12(e). That provision is discussed in that section's preamble discussion.

Paragraph (a) of this section notes that the requester must show good cause for its inability to meet a particular requirement. An applicant may request an alternative requirement for any requirement in this subpart. Requirements include surveys or studies to be completed, timeframes in which to provide information, development and reclamation plans, fees, and other appropriate requirements.

Paragraph (b) of this section states that you must suggest an alternative requirement to the BLM and explain why the alternative requirement is appropriate. The BLM will not approve an alternative requirement without an explanation from the right-of-way holder as to why the current requirement is inappropriate. When implementing this final rule, the BLM intends to issue guidance on what constitutes an "appropriate" alternative requirement.

Paragraph (c) of this section states that a request for an alternative requirement must be in writing and be received by the BLM in a timely manner. In order for the request to be timely, the BLM must have received it prior to the deadline originally given for the relevant requirement. As explained in the final rule, any such request is not approved until you receive BLM approval in writing. The BLM may provide written approval through a letter, email or other written means.

Subpart 2805— Terms and Conditions of Grants

Section 2805.10 How will I know whether the BLM has approved or denied my application, or if my bid for a solar or wind energy development grant or lease is successful or unsuccessful?

The heading for section 2805.10 is revised to read as stated above. This section is updated to reflect the new competitive process for lands inside DLAs (see subpart 2809)

by stating that a successful bidder for a solar or wind development lease on such lands will not have to submit a SF-299 application. Instead, in these circumstances, the successful bidder will have the option to sign the lease offered by the BLM.

Paragraph (a) of this section contains the language from the existing regulations explaining how the BLM will notify you about your application. This paragraph is revised to add a new provision requiring that the BLM send the successful bidder a written response, including an unsigned lease for review and signature. The BLM will notify unsuccessful bidders, and any unused funds submitted with their bids will be returned. If an application is rejected, the applicant must pay any processing costs (see section 2804.14).

In paragraph (a) of this section of the final rule, the BLM changed "will send you an unsigned lease" to "may send you an unsigned lease," for consistency with revisions to section 2809.15(a). See the preamble for that section for more discussion.

Paragraphs (b), (b)(1), and (b)(2) of this section parallel paragraphs (a)(1) and (a)(2) of the existing regulations, and describe the unsigned grant or lease that the BLM will send to you for approval and signature.

Paragraph (b)(3) of this section specifies that in accordance with section 2805.15(e), the BLM may make changes to any grant or lease, including to leases issued under subpart 2809, as a result of the periodic review required by this section. This provision is necessary because it makes clear why the BLM would amend a lease issued under subpart 2809. The terms and conditions of a right-of-way grant or lease may be changed in accordance with section 2805.15(e) as a result of changes in legislation or regulation, or as otherwise necessary to protect public health or safety or the

environment. Because any changes to the terms and conditions of a right-of-way grant or lease would occur after the completion of the agency action (the BLM's decision to approve the right-of-way), the BLM generally anticipates making the change through a separate action, generally initiated at the BLM's discretion and requiring its own decision-making process.

Sections 2805.10(c), 2805.10(d), 2805.10(d)(1), 2805.10(d)(2), and 2805.20(d)(3) contain the language from existing sections 2805.10(b), 2805.10(c), 2805.10(c)(1), 2805.10(c)(2), and 2805.20(c)(3). These provisions remain unchanged from existing regulations. No comments were received and no changes were made from the proposed rule to the final rule.

Section 2805.11 What does a grant contain?

Existing section 2805.11(b) explains how the duration of each potential right-of-way is determined. This paragraph is revised to include specific terms for solar and wind energy authorizations, because they are unique and different from other right-of-way authorizations. Where the proposed rule discussed only wind energy testing in some portions, the final rule is changed to include both solar and wind for each type of authorization. This revision is made in connection with changes made under section 2801.9(d), where comments requested that site- and project-area testing authorizations include solar energy, and not be exclusive to wind.

Section 2805.11(b)(2)(i) limits the term for a site-specific grant for testing and monitoring of wind energy potential to 3 years. Under this rule, this type of grant will be issued only for a single meteorological tower or study facility and will include any access necessary to reach the site. This authorization cannot be renewed. If a holder of a grant

wishes to keep its site for additional time, it must reapply. These authorizations are intended for testing, not energy generation, and are limited to an area large enough for only a single tower or study facility. If a developer wishes for a larger study area, it can apply for a project-area testing grant under paragraph (b)(2)(ii) of this section.

Section 2805.11(b)(2)(ii) provides for an initial term of 3 years for project-area energy testing. Such grants may include any number of meteorological towers or study facilities inside the right-of-way. Any renewal application must be submitted before the end of the third year if a proponent wishes to continue the grant. For the BLM to be able to renew such an authorization, the project-area testing grant holder must submit two applications, one for renewal of the project-area testing grant and one for a solar or wind energy development grant, plus a POD for the facility covered by the development application. Renewals for project-area testing grants may be authorized for one additional 3-year term.

Section 2805.11(b)(2)(iii) provides for a short-term grant for all other associated actions, such as geotechnical testing and other temporary land-disturbing activities, with a term of 3 years or less. A renewal of this grant may be issued for an additional 3-year term.

Section 2805.11(b)(2)(iv) provides for an initial grant term of up to 30 years for solar and wind energy grants outside of DLAs, with a possibility of renewal in accordance with section 2805.14(g). A holder must apply for renewal before the end of the authorization term.

Section 2805.11(b)(2)(v) provides for a 30-year term for solar and wind energy development leases issued under subpart 2809. A holder may apply for renewal for this term and any subsequent terms of the lease before the end of the authorization.

Comment: A comment suggested that the standard term be 40 years for both solar and wind energy grants (outside of DLAs) and up to 100 years for leases (inside of DLAs), with a condition of the grant or lease providing for renegotiation every 10 years. Other comments suggested longer terms for grants and leases.

Response: The final rule remains as proposed. The comment did not provide any justification for adding the additional years to the term of the grant or lease or explain why the additional time is necessary. Generally, it takes 1 year to secure a PPA after a project is authorized and an additional 2 to 3 years to construct. Since the term of a PPA is generally 20 to 25 years, the BLM believes that a 30 year period is sufficient to cover the developer's needs for constructing and operating a facility, while protecting the public lands from unnecessary burdens. If a longer term is suitable or desired by a developer, an application to renew the grant or lease may be submitted to the BLM pursuant to the applicable requirements.

For all grants and leases under this section with terms greater than 3 years, the actual term will include the number of full years specified, plus the initial partial year, if any. This provision differs from the grant term for rights-of-way authorized under the MLA (see the discussion of section 2885.11 later in this preamble) as FLPMA rights-of-way may be issued for terms greater than 30 years, while an MLA right-of-way may be issued for a maximum term of 30 years and a partial year would count as the first year of a grant.

Section 2805.11(b)(3) contains the language from section 2805.11(b)(2) of the existing regulations, but further requires that grants and leases with terms greater than 3 years include the number of full years specified, plus the partial year, if any. A grant that is issued for a term of 3 years will expire on its anniversary date, 3 years after it was first issued. This change affects the duration of all FLPMA right-of-way grants that are issued or amended after the final rule becomes effective. This change provides specific direction for consistently calculating the term of a right-of-way grant or lease.

No other comments were received, nor were any changes made to this section.

Section 2805.12 What terms and conditions must I comply with?

Section 2805.12 lists terms and conditions with which all right-of-way holders must comply. This section is reorganized to better present a large amount of information. Paragraph (a) of this section carries forward, without adjustment, most of the requirements from the existing regulations found at section 2805.12. Paragraph (b) of this section refers the reader to new section 2805.20, which explains bonding requirements for right-of-way holders. Paragraph (c) of this section contains specific terms and conditions for solar or wind energy right-of-way authorizations. Paragraph (d) describes specific requirements for energy site or project testing grants. Paragraph (e) is a show of good cause condition that is added to the final rule consistent with the provisions added as new section 2804.40. All requirements of paragraph (a) are part of the existing regulations and are not discussed in this preamble unless we received a substantive comment.

Comments: Two general comments were received concerning this section. One comment stated that terms and conditions for leasing public lands for power generation

should be the same regardless of the power source. The second comment suggested that the free market should drive success, not government policy on the terms and conditions of an authorization.

Response: The BLM processes each development proposal for use of public lands on a project-by-project basis. All of the terms and conditions in section 2805.12 would apply to power generation authorizations, regardless of the technology used. However, based on the BLM's experience with solar and wind energy developments, additional terms and conditions are required for such authorizations on public lands because the different types of technology may have varying impacts on the public lands and the resources they contain. For example, a string of wind turbines or an array of solar panels will have a different footprint, and accordingly will have a different impact on the lands and resources than other energy generation types.

Separately, the free market alone (a market without oversight), cannot determine the use of the public lands, as those lands are managed by the BLM on behalf of the American public. The terms and conditions of each BLM authorization address the protection of the public lands and resources, consistent with the BLM's responsibility to manage the public lands under FLPMA's multiple use and sustained yield mandate. Without regulations that ensure the necessary terms and conditions are put in place, development of the public lands could result in the unacceptable loss of the public lands and the resources they contain.

The BLM regularly engages the public, including private businesses, to seek comments and input on the BLM's administration of the public lands. The BLM will continue to do so through this rulemaking and its other decision- making processes.

Section 2805.12(a)(5) contains language from existing section 2805.12(e) with two small changes. The word "phase" was changed to "stage" to prevent confusion with the use of "phase-in of the MW capacity fee" and similar phrases in this rule.

This paragraph also prohibits discrimination based on sexual orientation. Adding sexual orientation as a protected class in this regulation is consistent with the policy of the Department that no employee or applicant for employment be subjected to discrimination or harassment because of his or her sexual orientation. See 373 Departmental Manual 7 (June 5, 2013). Several comments were received either for or against modifying this paragraph.

Comments: One comment recommended that additional language be added to identify "pregnancy and gender relations" as protected classes, while another recommended deleting "sexual orientation" from the rule.

Response: We did not revise the rule as a result of these comments. This paragraph refers to existing Federal law prohibiting discrimination and does not add or expand upon requirements under existing law.

Comments: Some comments suggested that the BLM include greater connection between the rule and landscape-level mitigation as described in Secretarial Order 3330 and subsequent reports, and be consistent with the BLM's IM 2013-142, interim policy guidance for offsite mitigation.

Response: Developing landscape-level mitigation policy for use of the public lands is an ongoing BLM effort. Examples of landscape mitigation plans are the solar regional mitigation strategies. The BLM is currently developing regional mitigation strategies for many of the SEZs established as part of the Western Solar Plan. For an

example of a complete mitigation plan, see the BLM's Dry Lake regional mitigation strategy known as Technical Note 444, which may be found on the BLM's website at: http://www.blm.gov/style/medialib/blm/wo/blm_library/tech_notes.Par.29872.File.dat/TN_444.pdf. Since more detailed requirements and guidance will be addressed in the BLM's policies, handbooks, and other forms of guidance that are currently under development, the BLM did not make any changes in response to this comment.

Section 2805.12(a)(8)(iv) is added to the final rule based upon comments on the proposed rule to incorporate clear measures that are consistent with landscape-level mitigation and the BLM's IM 2013-142 for offsite mitigation. The added provision clarifies that the BLM can require offsite mitigation to address residual impacts associated with a right-of-way. Any compensatory mitigation requirements would be established through a land use planning decision or implementation decision, possibly relying on a previously developed strategy, such as a solar regional mitigation strategy.

Section 2805.12(a)(8)(vi) requires compliance with project-specific terms, conditions, and stipulations, including proper maintenance and repair of equipment during the operation of a grant. This is an existing policy requirement affecting all rights-of-way and in this rule is expanded to include leases offered under revised subpart 2809. In addition, this provision requires a holder to comply with the terms and conditions in the POD. This may include project-specific conditions to maintain the project in a manner that will not unnecessarily harm the public land by poor maintenance and operational practices. Any holder that does not comply with the POD approved by the BLM would be subject to remedial actions under section 2807.17, which may include the suspension or termination of the grant or lease

Comment: Another comment suggested adding language that the BLM implement a condition to begin early coordination with State fish and wildlife offices.

Response: In the proposed rule, the BLM identified two pre-application meetings under section 2804.10. One meeting was focused on early coordination among the BLM, applicant, and other Federal, State, and tribal authorities. This early coordination requirement has been carried forward in the final rule under section 2804.12 as part of a preliminary application review meeting for proposed solar and wind energy projects and transmission lines with a capacity of 100 kV or more. No other change has been made in the final rule. Early coordination among Federal and State wildlife offices has been carried forward into the final rule.

Paragraph (a)(8)(vii) of this section discusses the use of State standards and requires the right-of-way holder to comply with such standards when they are more stringent than Federal standards.

Comment: A comment suggested that we add the word "environmental" so that the paragraph would now read, "When the State [environmental] standards are more stringent than Federal standards, comply with State standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way."

Response: Under FLPMA, the BLM considers an array of State standards, including those relating to public health and safety. Under the existing regulations, the BLM may apply State standards when those standards do not conflict with Federal law or policy for the administration of the public lands. No revision was made to the text of this paragraph in response to this comment.

Paragraph (a)(8)(viii) of this section requires that a grantee or lessee "Grant the BLM an equivalent authorization for an access road across the applicant's land if the BLM determines that a reciprocal authorization is needed in the public interest and the authorization the BLM issues to you is also for road access."

Comment: One comment was concerned that the BLM was proposing to revise section 2804.25 rule to read, "If your application is for a road, BLM will determine if it is in the public interest to require you to grant the U.S. an equivalent authorization across land you own." The comment raised concern that section 2805.12(a)(8) appeared to be directed at landowners and not utility companies. The comment expressed concern about waiving rental payments and who would be responsible for maintenance and repair of damage caused to the road.

Response: The BLM did not propose to revise section 2804.25 to read as noted. The quoted text from the comment is from regulations that were formerly found at existing section 2804.25(d)(3) and are now identified as section 2804.25(e)(6) of this final rule. The paragraph was redesignated in this final rule after the rest of the section was revised. In section 2805.12, the requirement regarding reciprocal rights-of-way has also been redesignated as 2805.12(a)(8)(viii).

This text in the final rule, which remains unchanged from the text in the existing regulation, is used by the BLM for administration of the public lands. Where there are inter-mixed or adjoining private and public lands, the issuance of reciprocal right-of-way authorizations would allow the BLM to cross your land to inspect and administer the public lands as well as grant you access across the public lands for purposes of ingress and egress to your property. The reciprocal authorization may include use for the public

to access your land, but does not require such an authorization as the intended use is for the BLM to utilize the right-of-way. A reciprocal right-of-way is not intended as a public use access, such as those issued by a State's Department of Transportation or the Federal Highway Administration. Each reciprocal authorization is evaluated on a case-by-case basis, and additional questions may be addressed at that time.

Comment: A comment raised further concerns about the proposed requirements of section 2805.12(a)(3), which read "Build and maintain suitable crossings for existing roads and significant trails that intersect the project," noting that this should only be applicable if the roads or trails are used by the grant holder. The comment also noted that the grant holder should not be responsible for repairing or maintaining these roads or trails if they have not caused or contributed to damages.

Response: The BLM did not propose to revise the terms and conditions found at section 2805.12 to read as noted in the comment. The quoted text is from section 2805.12(c) of the existing regulations, now identified as section 2805.12(a)(3) of this final rule. The paragraph is redesignated in the final rule for readability, and is not amended further.

This condition is retained from the existing regulations as the BLM must allow for multiple-use of the public lands. Should a right-of-way be granted, it does not displace other uses of the public land, including use of existing trails and other crossing that may intersect the project. The BLM will require that such trails and accesses are maintained by the right-of-way grant holder only to the extent that they have impacted it. If there is damage to the trail or access that is not the fault of the grant holder, then they will not be required to repair or fix it.

Comment: A comment raised concerns over the proposed requirements of section 2805.12(a)(4), "Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area." The comment noted that utilities frequently perform fire prevention activities as part of regular maintenance, which are frequently delayed by the BLM. The comment further noted that the grant holder should not be responsible for performing activities outside of the right-of-way, and that the fighting of fires should be the responsibility of the BLM, not the grant holder.

Response: The BLM did not propose to revise the terms and conditions found at section 2805.12 to read as noted by the comment. The quoted text is from regulations that were formerly found at 2805.12(d) and are now identified as section 2805.12(a)(4) of this final rule. The paragraph is redesignated in the final rule for readability. This condition is retained from the existing regulations in this final rule without amendment. The condition requires the holder of an authorization to do everything that is reasonable to prevent or suppress wildfires. This condition is not intended to require a grant holder to perform actions outside of a right-of-way, unless the actions are related to the right-of-way, such as trimming trees as a component of BLM-authorized regular maintenance on an overhead transmission line. Other actions outside of the right-of-way, which are not related to the right-of-way, would not be the holder's responsibility.

Additionally, this condition does not delay actions that are already permitted in the right-of-way grant, which would be completed by a grant holder to prevent or suppress wildfires. However, actions proposed to be taken by a grant holder may be delayed if they are outside the permission granted by the BLM.

Comment: One comment raised concerns over the BLM proposing to revise the terms and conditions to read, "Assume full liability if third parties are injured or damages occur on or near the right-of-way." The comment raised concerns that this appeared to be an unreasonable requirement since a grant-holder does not generally have authority to enforce laws. The comment also said that grant holders could be responsible for damages related to faulty equipment, but should not be responsible for actions outside of lands they are authorized to use, and for actions that are not their own, such as those by vandals or even the BLM.

Response: The BLM did not propose to revise the terms and conditions found at section 2805.12 to read as noted. The quoted text is from regulations that were formerly found at 2805.12(h) and are now identified as section 2804.12(a)(7) of this final rule. The paragraph is redesignated in the final rule for readability.

The condition is retained from existing regulations in this final rule without amendment. The condition does not require that a holder should enforce the laws and regulations on public lands. However, the condition provides notice that, when agreeing to be a right-of-way holder on the public lands, the grant holder assumes responsibility for the permitted use. A holder assumes the responsibility for any injury or damages caused that are associated with their right-of-way. Injury or damages could be those that are directly caused by the grant holder, such as by electrocution or collision with a permitted use, or indirectly, such as those from flood events which can carry objects outside of the permitted right-of-way, but are still the responsibility of the grant holder.

Section 2805.12(a)(15) requires that a grant holder or lessee provide, or make available upon the BLM's direction, any pertinent environmental, technical, and financial

records for inspection and review. Any confidential or proprietary information will be kept confidential to the extent allowed by law. Review of the requested records facilitates the BLM's monitoring and inspection activities related to the development it authorizes. The records will also be used to determine if the holder is complying with the requirements for holding a grant under section 2803.10(b).

Comments: Several comments stated that: (1) The BLM does not have authority to make such requirements; (2) In the case of a PPA or other similar type agreements, the BLM has no need to see such documents; and (3) These documents relate to private party transactions and are subject to confidentiality provisions.

Response: The BLM does not need all of the documents described in this paragraph for every right-of-way. However, in some circumstances the BLM might need these documents when processing an application or where the BLM may need verification that such an agreement has been put in place, such as if a variable offset is to be awarded under the competitive leasing process inside a DLA. Information that is proprietary or confidential that is submitted to the BLM will be treated as such to the extent allowed by law. The BLM will require information under this provision, including PPAs, only if it is necessary for the BLM's administration of an authorization.

Section 2805.12(b) requires that grant holders and lessees comply with the bonding requirements of added section 2805.20. The former bonding requirements were lacking in detail and this new section will help clarify the requirements of a grant or lease. This paragraph is revised in this final rule to state that the BLM will not issue a Notice to Proceed or give written approval until the grant holder complies with the bonding requirements of section 2805.20. This revision clarifies that when required by

the BLM, a bond must be obtained before beginning ground-disturbing activities. No comments were received and no other changes made from the proposed rule to the final rule.

Section 2805.12(c) identifies specific terms and conditions for grants and leases issued for solar or wind energy development, including those issued under subpart 2809. Several comments were received on this paragraph and these are discussed at the end of section 2805.12(c)(6). Minor revisions are made from the proposed to the final rule to improve readability, but any significant changes are discussed in detail in this preamble.

Section 2805.12(c)(1) prohibits ground-disturbing activities until either a notice to proceed is issued under section 2807.10 or the BLM states in writing that all requirements have been met to allow construction to begin. Requirements may include the payment of rents, fees, or monitoring costs, and securing a performance and reclamation bond. The BLM will generally apply this requirement to all solar and wind rights-of-way due to the large scale of most of these projects.

Section 2805.12(c)(2) requires that construction be completed within the timeframes provided in the approved POD. Construction must begin within 24 months of the effective date of the grant authorization or within 12 months, if approved as a staged development. This section is revised from the proposed to final rule to include a "or as otherwise authorized by the BLM." This revision is consistent with other sections of this final rule where the BLM retains discretion to approve or authorize different timeframes or requirements. The BLM may approve a request for an alternative requirement (see section 2805.12(e)), but the BLM may also authorize a different timeframe in the approved POD. The BLM made similar revisions to the requirements described in

sections 2805.12(c)(3)(ii) and 2805.12(c)(3)(iii). Further discussion of a staged development is found under section 2806.50.

Section 2805.12(c)(3) describes the requirements for projects that include staged development in the POD, unless other agreements have been made between the developer and the BLM. Minor revisions are made from the proposed to the final rule to improve readability, but any significant changes are discussed in detail in this preamble.

Under paragraph (c)(3)(i) of this section, a developer must begin construction of the initial phase of development within 12 months after issuance of the Notice to Proceed, but no later than 24 months after the effective date of the right-of-way authorization.

Paragraph (c)(3)(ii) of this section requires that each stage of construction after the first begin within 3 years after construction began for the previous stage of development. Construction must be completed no later than 24 months after the start of construction for that stage of development, unless otherwise authorized by the BLM.

These time periods were selected after evaluating the timing of other completed energy development projects. These timeframes will help ensure that the public land is not unreasonably encumbered by these large authorizations, which are exclusive to other rights during the construction period of the project.

Section 2805.12(c)(3)(iii) limits the number of development stages to three, unless the BLM specifically approves additional stages. The BLM will generally approve up to three stages for solar and wind energy development. An applicant may request approval of additional stages with a showing of good cause under section 2804.40. This request must be accompanied by a supporting discussion showing good

cause for your inability to meet the conditions of the right-of-way. A grant holder may request alternative stipulations, terms, or conditions under section 2805.12(e). The BLM revised paragraph (c)(3)(iii) of this section, from the proposed to final rule by removing "in advance" when referring to the BLM's approval. The requirement in this section is unchanged from the proposed rule but is rephrased for consistency with other sections of the final rule. The addition of 2805.12(e) provides additional information about the requests for alternative requirements.

Paragraphs (c)(4), (c)(5), and (c)(6) of this section contain specific requirements for diligent development and the potential consequences of not complying with these requirements.

Section 2805.12(c)(4) requires the holder to maintain all onsite electrical generation equipment and facilities in accordance with the design standards of the approved POD. This paragraph reiterates the requirement to comply with the POD that must be submitted as scheduled under section 2804.12(c)(1).

Section 2805.12(c)(5) provides requirements for repairing or removing damaged or abandoned equipment and facilities within 30 days of receipt of a notice from the BLM. The BLM will issue a notice of noncompliance under this provision only after identifying damaged or abandoned facilities that present an unnecessary hazard to the public health or safety or the environment for a continuous period of 3 months. Upon receipt of a notice of noncompliance under this provision, an operator must take appropriate remedial action within 30 days, or show good cause for any delays. Failure to comply with these requirements may result in suspension or termination of a grant or lease.

Under section 2805.12(c)(6), the BLM may suspend or terminate a grant if the holder does not comply with the diligent development requirements of the authorization. The citation in this section is revised in the final rule from section 2807.17 to sections 2807.17 through 2807.19. Sections 2807.18 and 2807.19 are existing sections of the regulations, which are not a part of this final rule, that describe the BLM's processes for suspending or terminating rights-of-way. This revision does not represent a change in meaning, but provides more information for the reader.

Comments: Comments disagreed with the proposed rule and suggested that it would require arbitrary and disparate terms and conditions between rights-of-way issued under subpart 2804 and those issued under subpart 2809. The comments stated that the authority granted by FLPMA does not authorize the BLM to penalize developers who submit an application for and obtain BLM approval for rights-of-way on other BLM managed lands (i.e., non-DLAs).

Response: The BLM disagrees. A focus of the proposed and final rule is to encourage solar and wind energy development inside DLAs. Encouraging DLA developments is meant to locate large scale developments in areas with lesser impacts to resources and uses of the public lands. Incentivizing the use of DLAs is achieved by increasing certainty, longevity, and reducing some costs in a DLA relative to other areas. The proposed rule does not increase costs and uncertainty outside of the DLAs. In areas outside of DLAs, the BLM is simply incorporating its processes established by policy for solar and wind energy. The BLM believes that the final rule will reduce costs and increase certainty inside of DLAs and maintain the streamlined application process for lands outside of DLAs.

Comments: Some comments stated that a CFR reference cited in 2805.12(c)(6)(iii) was incorrect.

Response: The comment is correct and this reference is revised to paragraph (c)(7)) of this section. Furthermore, another citation was updated in this paragraph, referring to submitting a written request for an extension for a timeline in a POD. The updated reference now cites paragraph (e) of this section where a right-of-way holder may request an alternative requirement.

Comment: Some comments opposed the requirement in section 2805.12(c)(7) that a bond include Indian cultural resource identification, protection, and mitigation. The comments assert this is in error because there are no distinguishing factors that can justify requiring cultural resource bonding for non-DLA authorizations, but not for DLA authorizations.

Response: Paragraph (c) applies to all solar and wind energy rights-of-way, both leases issued under subpart 2809 and grants issued under subpart 2804. This requirement does not distinguish between requirements for grants and leases.

However, the BLM recognizes that these costs are difficult to determine and revised this section to specifically include "the estimated costs of cultural resource and Indian cultural resource identification, protection, and mitigation for project impacts." This revision helps tie the required costs to the impacts of the project.

Comment: One comment suggested that bonding for cultural, scenic, and wildlife impacts adds unnecessary risk to a project. The comment stated that bonding for such impacts is unnecessary for solar activities, as the majority of mitigation expenses are

incurred during construction, and operation expenses are minimal and easily covered by fixed PPA revenues in excess of low operational costs.

Response: The bond instrument required by the BLM is necessary to protect public lands and their resources. A minimum bond and standard bond amount are provided in sections 2805.20 and 2809.18 of this final rule. Including these amounts in the rule provide the opportunity for a developer to incorporate these costs in their project plan, reducing unexpected and unnecessary risk to a project that may keep it from proceeding.

The bonding requirement for cultural, scenic, and wildlife impacts protects the public land resources when developing the land for various uses. For example, possible damages to the public land that would need to be covered by a bond could include surface disturbing activities, recontouring of soils to alter the flow of water, and the removal of vegetation. Other damages could be those to resources outside the right-of-way that are diminished, such as water supply or biological resources. No revision to this paragraph is made as a result of this comment.

Comment: One comment suggested that the BLM's timeframes are too restrictive and would be a disincentive to the development of solar and wind energy on public lands.

Response: No changes were made to this provision; however, the addition of section 2805.12(e) allows adjustments of the timeframes, provided that a good cause rationale is submitted by the project proponent and the BLM approves the request. No other comments were received or changes made to the paragraphs under section 2805.12(c).

Section 2805.12(d) describes specific requirements for energy site or project testing grants. Because these are short term grants, for three years or less, the BLM believes it is appropriate to require facilities to be installed within 12 months of the effective date of the grant. All equipment must be maintained and failure to comply with any terms may result in termination of the authorization.

No comments were received on this paragraph. However, two revisions have been made as follows. The word "wind" has been removed from the text of the paragraph describing the energy site- and project-area testing grants, to make it clear that these grants are not limited to wind project proponents, but are also available to solar project proponents. This change is consistent with other parts of the final rule where commenters requested that the BLM make the site- and project-area testing grants available for both solar and wind energy. Additionally, the language from the proposed rule that required a showing of good cause for an extension of project timelines has been revised to direct the reader to paragraph (e) of this section in the final rule, which governs reporting requirements for instances of noncompliance and requests for alternative stipulations, terms, or conditions. No other comments were received and no additional changes were made to this section.

Section 2805.12(e) addresses reporting requirements for instances of noncompliance, and requests by project proponents for alternative stipulations, terms, or conditions of the approved right-of-way grant or lease. This provision was added to the final rule based on comments received. This section is similar to section 2804.40 of the final rule, but that section applies to subpart 2804 of the final rule and the application process for a grant, whereas this section applies to grant and lease holders and applies to

the terms, conditions, and stipulations of all approved authorizations. Under this section, a holder must notify the BLM of noncompliance, and may request an alternative requirement during project operation.

Paragraph (e)(1) of this section provides that a holder of a right-of-way must notify the BLM as soon as the holder either anticipates noncompliance or learns of its noncompliance with any stipulation, term, or condition of the approved right-of-way grant or lease. Notification to the BLM must be in writing and show good cause for the noncompliance, including an explanation of the reasons for failure.

Comments: As noted previously in the preamble of this final rule, the BLM participated in stakeholder engagement meetings as part of the BLM's regular course of business. During some such meetings, stakeholders clarified the concerns they had previously raised through written comments on the proposed rule. Specifically, industry representatives expressed concern that the rule did not include provisions giving the BLM flexibility to respond to project-specific or regional circumstances by, for example, adjusting capacity factors based on technical considerations or adjusting county zone assignments using land value assessments, which could be more accurate than NASS land values in a given area.

Industry also provided additional information regarding its concern that the proposed rule's bonding requirements were too rigorous. Commenters suggested that the BLM add provisions to the rule that authorize it to consider other factors when determining a bond amount, instead of only the reclamation cost estimate.

Response: The BLM agrees that it may be reasonable to set alternative terms, conditions, and stipulations, and to consider other factors in setting bond amounts on a

project-specific or regional basis. After considering this comment, the BLM included a new provision in the final rule, paragraph 2805.12(e)(2), under which a grant or lease holder may request an alternative to the terms, conditions, and stipulations of their authorization, including requesting an alternative bonding requirement. The requested alternative requirement could include those identified in a project's POD, the right-of-way's terms and conditions, or other such requirements, such as a request for an extension of time. A request for an alternative payment requirement may include a request for an alternative net capacity factor or per acre zone rate consideration. Requests may be submitted after notification has been provided as required in paragraph (e)(1) of this section or at the holder's request. However, this section specifically notes that any request for an alternative must comply with applicable law in order to be considered.

The BLM recognizes that some requests, such as those related to acreage rent, may be appropriately considered on a larger, regional scale. Under the authority in section 2806.70 of this final rule, therefore, the BLM may adjust the acreage rent schedule or MW capacity fee applicable to a particular project or in a given area, so long as the BLM determines such changes are based on reasonable methods for determining appropriate values for the use of public land resources.

With respect to bonding requirements, the BLM recognizes it may be appropriate to consider other factors in addition to the reclamation cost estimate, such as the salvage value of project components. The BLM amended both section 2805.12(e)(2) and section 2805.20(a)(3) to accommodate that possibility, as discussed further in the section of this preamble that discusses paragraph 2805.20(a)(3). Any proposed alternative to bonding

must provide the United States with adequate financial security for the potential liabilities associated with any particular grant or lease. For example, a request for an alternative bonding requirement may include a holder's request for consideration of project salvage values, but must also include the cost for processing and handling salvage actions.

No alternative requirements request is approved unless and until you receive BLM approval in writing.

Comments: As discussed in section 2804.40, several comments on various rule provisions expressed concern that a developer may not be able to meet BLM requirements. Comments said that failure to meet such requirements may be due to delays or environmental changes outside a developer's control, statutory or policy changes, or other unanticipated situations.

Response: The BLM believes that new paragraph (e) of this section addresses these concerns. The BLM intends to issue policies to address how it will implement these provisions following the issuance of this final rule. Consistent use of the final rule's requirements and clear expectations will be outlined in these policies, to include the provisions of this paragraph and those of section 2804.40.

Section 2805.14 What rights does a grant convey?

The BLM has added two new paragraphs to section 2805.14, both addressing applications for renewal of existing grants or leases. Paragraph (g) states that a holder of a solar or wind energy development grant or lease may apply for renewal under section 2807.22. Paragraph (h) of this section states that a holder of an energy project-area testing grant may apply for a renewal of such a grant for up to an additional 3 years, provided that the renewal application also includes an energy development application.

Paragraph (g) is added to this rule to explain how one may apply for a solar or wind energy development grant or lease renewal. The BLM added paragraph (h) to recognize that project-area testing may be necessary for longer than an initial 3-year term, even after an applicant believes that energy development at a proposed project site is feasible. Revisions in this final rule were made consistent with those made in section 2801.9 for project-area grants.

The proposed rule stated that specific project-area grants were for only wind energy, but based upon comments received, project-area grants have been expanded to include project-area testing grants for solar energy as well. No other comments were received or additional changes made to this section.

Section 2805.15 What rights does the United States retain?

In section 2805.15, the word "facilities" and a reference to section 2805.14(b) are added to the first sentence of paragraph (b) to clarify that the BLM may require common use of right-of-way facilities. The sentence now makes clear that the BLM retains the right to "require common use of your right-of-way, including facilities (see § 2805.14(b)), subsurface, and air space, and authorize use of the right-of-way for compatible uses." The term "facility" is defined in the BLM's existing regulations at section 2801.5 and means an improvement or structure owned and controlled by the grant holder or lessee. Common use of a right-of-way occurs when more than one entity uses the same area for their authorization. This revision facilitates the cooperation and coordination between users of the public lands managed by the BLM so that resources are not unnecessarily impacted. An example of common use of a facility is authorization for a roadway and an adjacent transmission line. In this case, maintenance of the

transmission line would include use of the adjacent roadway. Under existing section 2805.14(b), the BLM may authorize or require common use of a facility as a term of the grant and a grant holder may charge for the use of its facility. Section 2805.15(b) is revised to include a reference to section 2805.14(b).

Comment: Two comments were received on this proposed change. One comment suggested clarifying that the change in section 2805.15(b) is intended to harmonize this paragraph with section 2805.14(b). The comment made special note that they do not protest this amendment to include "facilities," so long as this was the only intent of the requirement.

Response: The BLM agrees with the comment, and believes that the proposed adjustments to this rule would make the regulations consistent and not open to interpretation. The intent of this revision is not to go beyond what is discussed in the preamble for this paragraph. No changes to the proposed rule are necessary in response to this comment.

Comment: The second comment stated that the rule deletes language from the existing section that prohibits charges for the common use of rights-of-way. The comment recommended modifying the section, but not deleting it, suggesting that the modification should prohibit charges except for pro-rata, fair-share cost allocations for the shared construction and/or operation and maintenance of facilities authorized under a grant or lease. The comment expressed concern that if this section is not modified, the first holder could intentionally charge a prohibitively expensive fee for common use.

Response: The proposed rule did not delete this requirement from the existing regulations. Instead, it added the two words "including facilities." Requiring a pro-rata,

fair-share cost allocation agreement between private parties is outside BLM's role of administering the public lands. The BLM believes that two private parties should reach an agreement without the BLM dictating its conditions. The BLM did not make any change in response to this comment since dictating third party contracts is beyond the scope of this rule.

No other comments were received, nor were any additional changes made to this section.

Section 2805.16 If I hold a grant, what monitoring fees must I pay?

The table of monitoring categories in section 2805.16 no longer has the outdated dollar amounts for the category fees. Paragraph (b) explains that the current year's monitoring cost schedule is available from any BLM State, district, or field office, or by writing, and is adjusted annually for inflation using the same methodology as the table in section 2804.14(b). The table now includes only the definition of the monitoring categories in terms of hours worked, instead of providing specific dollar amounts. Also, the word "application" found in each category is changed to "inspecting and monitoring" to clarify that the inspecting and monitoring does not apply to right-of-way applications. This change was made to avoid either adjusting the table each year through a rulemaking or relying on outdated material. The current monitoring fee schedule may be found at http://www.blm.gov.

This paragraph also provides that you may pay directly to another Federal agency their incurred costs in monitoring your grant instead of paying the fee to the BLM. As the regulations will no longer identify the costs by category, the current cost information

is provided in the following table. The monitoring fees and work hours for FY 2015 are as follows:

Monitoring Categories and Fees for FY 2016

Monitoring Category	Federal work hours	Fees for FY 2016
(1) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > 1 ≤ 8	$122
(2) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > > 8 ≤ 24	$428
(3) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > < 24 ≤ 36	$806
(4) Monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > 36 ≤ 50	$1,156
(5) Master Agreements	Varies	As specified in the agreement
(6) Inspecting and monitoring of new grants, renewals, and amendments to existing grants	Estimated Federal Work are > 50	As specified in the agreement

Consistent with revisions made under monitoring fees table in 2805.16(a), the BLM is adding the words "inspecting and" to section 2805.16(a). This additional language is not a change from current BLM practice or policy and will allow the BLM to inspect and monitor the right-of-way to ensure project compliance with the terms and conditions of an authorization. Under this provision, if a project is out of compliance, the BLM could inspect the project to ensure that the required actions are completed to the satisfaction of the BLM, such as continued maintenance of the required activity or efficacy of the requirement.

The BLM added a new sentence to paragraph (a) of this section that directs the reader to section 2805.17(c), which is an existing section of the regulations that describes category 6 monitoring fees. The two sentences preceding this revision describe when the

other monitoring categories are updated, but there was no reference for category 6 monitoring fees. This revision is made for consistency with how the other monitoring categories are described in this section. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2805.20 Bonding requirements.

Section 2805.20 provides bonding requirements for all grant holders or lessees. These provisions are moved from existing section 2805.12. Under the existing regulations, bonds are required only at the BLM's discretion. This expanded section explains the details of when a bond is required and what the bond must cover. This is not a change from existing practice and is intended to provide clarity to the public. Specific bonding requirements for solar and wind energy development are outlined in paragraphs (b) and (c) of this section. This final rule explains requires are for the performance of the terms and conditions of a grant or lease and reclamation of a right-of-way grant or lease area.

Comments: One comment indicated that solar facilities should not be subject to the same bonding framework as surface mining. The proposed bonding imposes unnecessary costs on the solar industry without providing any additional land protection. Surface mining operations may be abandoned and there is often significant surface disturbance, which is not the case with solar developments. Some comments said that acceptable bonding instruments should include corporate guarantees backed by financial tests. Bonding costs could be expensive, even doubling annual operating costs. The use of letters of credit could significantly reduce the bond amounts. Also, the BLM could

have an initial lower bond amount until decommissioning is near and at that time the bond could be increased.

Response: The framework used by surface mining development was a starting point for the solar and wind energy development process on what to consider when completing a RCE and determining the bond amount. However, this framework has been adapted to address circumstances specific to solar and wind energy development as well as all other right-of-way developments on the public lands. The bond amounts, as determined by an RCE or those using a standard bond, are necessary to ensure the protection of the public lands.

Corporate guarantees are not an acceptable form of bond for the BLM. They are too risky to accept, even when financial tests are used, because they require continual confirmation of the quality of the corporate guarantee. However, irrevocable letters of credit are accepted by the BLM. Furthermore, the BLM cannot accept a lesser bond amount until the decommissioning of a grant or lease, because the BLM cannot be responsible for the financial stability of any company, nor can it bear the risk that a company may default or go bankrupt during the term of a grant, before decommissioning. To secure an increased bond at that time would be difficult if not impossible and having such a regulatory provision would place the public lands at unnecessary risk from the impacts of unreclaimed developments.

Section 2805.20(a) provides that, if required by the BLM, you must obtain or certify that you have obtained a performance and reclamation bond or other acceptable bond instrument to cover any losses, damages, or injury to human health or damages to property or the environment in connection with your use of an authorized right-of-way.

This paragraph also includes the language from existing section 2805.12(g), which details bonding requirements.

Consistent with other revisions made in the final rule for better understanding of the rule, section 2805.20(a) is revised to add "costs associated with" when discussing what a bond will cover when terminating a grant. This added language makes it clear that the bond covers costs associated with terminating a grant.

Comments: Some comments suggested expanding the language of this and subsequent bonding paragraphs to include "certificate of insurance or other acceptable security" in appropriate places.

Response: Adding the language "certificate of insurance or other acceptable security" is unnecessary in the text of the regulation as the definition of acceptable bond instruments includes insurance policies, and therefore a specific form of insurance does not need to be included in the text of the regulation. Furthermore, the list of bond instruments that are acceptable is not an all-inclusive list. There are other forms of bond instruments, but they are not specified in the text of the rule because they are not as common as the ones identified. If the bond instrument list were to be considered as "all inclusive" it could unintentionally exclude acceptable bond instruments. As a result, the recommended addition to the rule text is not incorporated in the final rule.

Section 2805.20(a)(1) requires that bonds list the BLM as an additionally covered party if a State regulatory authority requires a bond to cover some portion of environmental liabilities. If the BLM were not named as an additionally covered party for such bonds, the BLM would not be covered by the instrument. This provision allows

the BLM to accept a State bond to satisfy a portion of the BLM's bonding requirement, thus, limiting double bonding.

Comment: One comment was received pertaining to this paragraph. The comment stated that bond requirements are unnecessary for "regulated entities" and that additional bonding requirements are duplicative and pose additional costs on a public utility's customers.

Response: The BLM disagrees, because regulated utilities present the same risks as unregulated utilities. Under section 2805.20(a), a bond is not required for all authorizations. Requirement of a bond for an authorization is at the discretion of the BLM and is dependent on the scale of the development and potential for risk to the public lands. Also, the BLM may accept a bonding instrument submitted to the State if it meets the criteria identified in subparagraphs (i) through (iii) of section 2805.20(a)(1). The intent of the bonding provisions in section 2805.20(a)(1)(iii) is to mitigate the potential for duplicative costs to right-of-way holders using the public lands.

An additional requirement is added to paragraph (a) in this final rule that requires periodic review of bonds for adequacy. This provision is added to ensure consistency with the provisions added in response to comments on section 2805.20(c). This additional requirement includes bonds held by a State and accepted by the BLM and applies to all bonds held by the BLM, regardless of the size or complexity of an authorized project. The frequency of the bond adequacy reviews will be described in greater detail within BLM guidance issued as part of implementation of this rule. Review frequency, as described in the recently issued instruction memorandum 2015-138, will be

no less than once every 5 years, giving review priority to those that pose a greater risk to the public lands.

Under section 2805.20(a)(1)(i), a State bond must be redeemable by the BLM. If such instrument is provided to the BLM and it is not redeemable, the BLM would be unable to use the bond for its intended purpose(s).

Under section 2805.20(a)(1)(ii), a State bond must be held or approved by a State agency for the same reclamation requirements as the BLM requires.

Under section 2805.20(a)(1)(iii), a State bond must provide the same or greater financial guarantee than the BLM requires for the portion of environmental liabilities covered by the State's bond.

Comment: One comment concerning this paragraph stated that section 2805.20(a)(3) makes clear that a bond will not be required for solar energy projects developed inside DLAs, and bonds will be required for solar projects outside DLAs.

Response: This comment is not correct. Section 2809.18(e) requires a specific performance bond for leases authorized under subpart 2809, identified as a standard bond. Standard bonds are not determined by a RCE, but rather are set as specified in the regulations.

Under section 2805.20(a)(2) a bond must be approved by the BLM's authorized officer. This approval ensures that the bond meets the BLM's standards. Under section 2805.20(a)(3), the bond amount is determined by the BLM based on a RCE, and must also include the BLM's costs for administering a reclamation contract. As defined in section 2801.5, a RCE identifies an appropriate amount for financial guarantees for uses of the public lands. An additional requirement is included in paragraph (a)(3) requiring

periodic review of bonds for adequacy. This requirement was added to ensure consistency with the provisions added to section 2805.20(c). Both paragraphs (c)(3) and (c)(4) of this section contain a stipulation that they do not apply to leases issued under subpart 2809. Bonds issued under subpart 2809 for leases inside DLAs have standard amounts. Bond acceptance and amounts for solar and wind energy facilities outside of DLAs are discussed in paragraphs (b) and (c) of this section.

Paragraph (a)(3) of this section is revised from the proposed to final rule to improve readability. Specifically, the BLM removed the second sentence of the paragraph that stated the BLM may require you to prepare an acceptable RCE. The first sentence of this paragraph is revised to include ", which the BLM may require you to prepare and submit." This revision is intended to improve the reader's understanding of the final rule and its requirements by streamlining the text of the rule.

In addition to the changes made for readability, this paragraph is revised by adding, "The BLM may also consider other factors, such as salvage values, when determining the bond amount." This revision responds to concerns raised in stakeholder engagement meetings and is consistent with section 2805.12(e)(2) of this final rule, which specifies that a developer may request an alternative requirement for bonding.

A request for an alternative bonding requirement may include a holder's request for consideration of project component salvage values. Such a request may reduce the BLM's bond determination amount, even to an amount below the minimum or standard bond amount. However, the request must be fully supported by documentation from the requestor that includes the costs for processing and handling salvage materials, such as information about distribution centers for such materials and other reasonable

considerations. Further, as noted under paragraph 2805.12(e)(2), requests for an alternative bonding requirement must comply with applicable law in order to be considered, and must provide the United States with adequate financial security for potential liabilities.

Regardless of the nature of the request, any such request is not approved until you receive BLM approval in writing.

Section 2805.20(a)(4) requires that a bond be submitted on or before the deadline provided by the BLM. Current regulations have no such provision, and this revision makes it clear what the BLM expects when it requires a bond instrument. The BLM believes this provision will improve the timely collection of bonds. The timely submittal of a bond promotes efficient stewardship of the public lands and ensures that the bond amount provided is acceptable to the BLM and available prior to beginning -ground-disturbing activities.

Section 2805.20(a)(5) outlines the components to be addressed when determining a RCE. They include environmental liabilities, maintenance of equipment and facilities, and reclamation of the right-of-way. This paragraph consolidates and presents what liabilities the bond must cover.

Under section 2805.20(a)(6), a holder of a grant or lease may ask the BLM to accept a replacement bond. The BLM must review and approve the replacement bond before accepting it. If a replacement bond is accepted, the surety company for the old bond is not released from obligations that accrued while the old bond was in effect, unless the new bond covers such obligations to the BLM's satisfaction. This gives the

grant holder flexibility to find a new bond, potentially reducing their costs, while ensuring that the right-of-way is adequately bonded.

Under section 2805.20(a)(7), a holder of a grant or lease is required to notify the BLM that reclamation has occurred. If the BLM determines reclamation is complete, the BLM may release all or part of the bond that covers these liabilities. However, section 2805.20(a)(8) reiterates that a grant holder is still liable in certain circumstances under section 2807.12. Despite the bonding requirements of this section, grant holders are still liable for damage done during the term of the grant or lease even if: the BLM releases all or part of your bond, the bond amount does not cover the cost of reclamation, or no bond remains in place.

Sections 2805.20(b) and 2805.20(c) identify specific bond requirements for solar and wind energy development respectively outside of DLAs. A holder of a solar or wind energy grant outside of a DLA will be required to submit a RCE to help the BLM determine the bond amount. For solar energy development grants outside of DLAs, the bond amount will be no less than $10,000 per acre. For wind energy development grants outside of DLAs, the bond amount will be no less than $10,000 per authorized turbine with a nameplate generating capacity of less than one MW, and no less than $20,000 per authorized turbine with a nameplate generating capacity of one MW or greater.

Section 2805.20(d) is new to the final rule. This paragraph separates site- and project-area testing authorization bond requirements from section 2805.20(c). This change is consistent with other provisions that have been modified to expand the wind energy site- and project-area testing authorizations in the proposed rule to include solar energy. With this adjustment, meteorological and other instrumentation facilities are

required to be bonded at no less than $2,000 per location. These bond amounts are the same as standard bond amounts for leases required under section 2809.18(e)(3).

The BLM recently completed a review of bonded solar and wind energy projects and based the bond amounts provided in this final rule on the information found during the review. When determining these bond amounts, the BLM considered potential liabilities associated with the lands affected by the rights-of-way, such as potential impacts to cultural values, wildlife habitat, and scenic values. The range of costs included in the review represented the cost differences in performing reclamation activities for solar and wind energy developments throughout the various geographic regions the BLM manages. The BLM used the review to determine an appropriate bond amount to cover potential liabilities associated with solar and wind energy projects.

Minimum bond amounts are set for solar development for each acre of authorization because solar energy development encumbers 100 percent of the lands and excludes them from other uses. The recent review of bonds showed a range of bond amounts for solar energy development of approximately $10,000 to $18,000 per acre of the rights-of-way on public lands. Minimum bond amounts for wind energy development are set for each wind turbine authorized on public land, rather than per acre, because the encumbrance is factored at 10 percent and is not exclusive to other uses. The review showed that the bond amounts for recently authorized wind energy development ranged between $22,000 and $60,000 per wind turbine. Recently bonded wind energy projects use wind turbines that are one MW or larger in nameplate capacity, whereas older projects generally use turbines that are less than one MW.

Comment: Some comments suggested that bonds should not be required for solar facilities on the public lands because they pose low environmental risk and that some solar energy generation technologies have less potential impacts than others and, therefore, less risk.

Response: The BLM agrees that generally, solar facilities do not pose the same environmental hazards as other energy development facilities. However, the BLM's requirement for bonding is not only for the potential environmental risks that a development poses on the public lands. Rather, a bond is required to cover direct impacts to the resources and their reclamation to a condition as near as possible to what they were before development occurred.

This comment is specific to solar energy, but raises the question of lesser risk for certain developments, which is an issue that arises with respect to wind energy as well. In the BLM's review of recently bonded solar and wind energy projects, for example, the range of bond amounts identified was for newer wind energy turbines, with a nameplate capacity of one MW or greater. These wind energy turbines are larger, have a greater footprint, and require larger and more equipment and materials to install and remove than wind turbines that have a smaller nameplate capacity. In order to accommodate developments that employ smaller wind turbines that pose lesser risk to resources, the BLM is including in the final rule the existing policy requirement of a $10,000 minimum bond amount for projects utilizing smaller turbines. Turbines with a nameplate capacity of one MW or greater will have a minimum bond amount of $20,000, consistent with the proposed rule. A reclamation cost estimate will still be required for each project on lands outside of designated leasing areas, as described in section 2805.20(a)(3) of this rule.

The BLM's bond amount determination for wind energy projects using turbines with lesser nameplate capacities could exceed the minimum bond amount based upon site-specific risks.

Subpart 2806 – Annual Rents and Payments

Existing subpart 2806, has been retitled to more clearly and consistently identify the content of and revisions to this subpart of the final rule. The content and revisions to this subpart of the final rule include those requiring a payment of an acreage rent and MW capacity fee for rights-of-way. Retitling this subpart makes it clear that the BLM may require payments that are not specifically a rent.

Section 2806.12 When and where do I pay rents?

The heading of section 2806.12 is revised by adding the words "and where." This revision is not a change in the BLM's practice or policy, but is intended to help clarify where rental payments should be made.

Section 2806.12(a) describes the proration of rent for the first year of a grant. Specific dates are used for proration to prevent any confusion to grant holders and promote consistent implementation by the BLM. Rent is prorated for the first partial year of a grant, since the use of public lands in such situations is for only a partial year. Paragraph (a)(2) of this section explains that if you have a short-term grant, you may request that the BLM bill you for the entire duration of the grant in the first payment. Some short term grant holders may wish to pay this amount up front. Consistent with other sections of the final rule, a revision to paragraph (a)(2) has been made to delete the reference to wind energy in connection with site-specific testing.

Paragraph (b) of this section is revised by removing the word "other" from the first sentence. This revision is intended to clarify that all rental payments must be made in accordance with the payment plan described in section 2806.24. This revision is made to improve readability, but does not constitute a change from existing requirements.

Section 2806.12(d) directs right-of-way grant holders to make rental payments as instructed by the BLM or as otherwise provided for by Secretarial Order or legislative authority. This provision acknowledges that either the Secretary or Congress may take action that could affect rents and fees. The BLM will provide payment instructions for grant holders that will include where payments may be made. The word "must" is added into the first sentence of this paragraph to improve readability and for consistency with the phrasing of other requirements in this final rule. This revision does not constitute a change from existing requirements. No comments were received on this section, and no other changes were made from the proposed rule to the final rule.

Section 2806.13 What happens if I do not pay rents and fees or if I pay the rents and fees late?

Section 2806.13 is revised from "What happens if I pay the rent late?" to read "What happens if I do not pay rents and fees or if I pay the rents and fees late?" This change addresses the addition of paragraph (e) to this section, which specifies that the BLM may retroactively bill for uncollected or under-collected rents and fees. The BLM will collect rent retroactively if: (1) A clerical error is identified; (2) A rental schedule adjustment is not applied; or (3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

Paragraph (a) of this section is amended by removing language from the existing rule that stated a fee for a late rental payment may not exceed $500 per authorization. The BLM determined that the current $500 limit is not a sufficient financial incentive to ensure the timely payment of rent. Therefore, under this final rule, late fees will now be proportional to late rental amounts, to provide more incentive for the timely payment of rents to the BLM. The BLM also added the term "fees" so the MW capacity fees for solar and wind energy development grants and leases may be collected consistently with any rent due.

New paragraph (g) of this section allows the BLM to condition any further activities associated with the right-of-way on the payment of outstanding payments. The BLM believes that this consequence imposed for outstanding payments is further incentive to timely pay rents and fees to the BLM.

Comment: A comment suggested that the BLM should be responsible for clerical and other possible errors, and that the holder should not be responsible for payment of rents, fees, or late payments if such an error occurs due to the BLM. Further, the comment suggested a 6 month time limit for enforcing such corrections that would be retroactive, and that a late payment fee would be no more than 5 percent of the total rents and fees.

Response: The BLM considered the 6-month and 5 percent limits suggested by the comment and decided to not include these limits in the final rule. When entering into a right-of-way agreement with the BLM, a holder agrees to the terms and conditions for the use of the public lands. Included as part of these terms and conditions is the requirement that a holder pay, in advance, the appropriate amount for the use of the

public lands. Generally, the BLM sends a bill or other notice to a holder that is a notice of payment due to the BLM, as agreed to in the right-of-way grant. Even if the BLM were to make a clerical or administrative error when transmitting a notice of payment obligations, such an error in a notice would not permanently relieve a right-of-way grant holder from its independent requirement to pay the appropriate amount for the use of the public lands as specified in the grant. No other comments were received for this section, and no changes were made to the final rule.

Section 2806.20 What is the rent for a linear right-of-way grant?

In section 2806.20, the address to obtain a current rent schedule for linear rights-of-way is updated. Also, district offices are added to State and field offices as a location where you may request a rent schedule. These minor corrections are made to provide current information to the public. No comments were received on this provision, and no changes are made from the proposed rule to it in the final rule.

Section 2806.22 When and how does the per acre rent change?

A technical change in section 2806.22 corrects the acronym IPD-GDP, referring to the Implicit Price Deflator for Gross Domestic Product. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2806.23 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

In the existing regulations, paragraph (b) of this section provides for phasing in the initial implementation of the Per Acre Rent Schedule by allowing a one-time reduction of 25 percent of the 2009 acreage rent for grant holders. This paragraph was flagged for removal in the proposed rule and is being removed by this final rule because

the phase-in for the updated rent schedule referenced in that provision ended in 2011 and thus is no longer applicable. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2806.24 How must I make payments for a linear grant?

Section 2806.24(c) explains how the BLM prorates the first year rental amount. The rule adds an option to pay rent for multiple year periods. The new language requires payment for the remaining partial year along with the first year, or multiples thereof, if proration applies. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2806.30 What are the rents for communication site rights-of-way?

Section 2806.30 is amended by removing paragraph (b), which contained the communications site rent schedule table. Paragraph (c) is redesignated as new paragraph (b). Section 2806.30(a) is revised to remove redundant language referring to the BLM communication site rights-of-way rent schedule. Section 2806.30(a)(1) is revised to update the mailing address. Section 2806.30(a)(2) is revised by removing references to the table that has been removed. This paragraph still describes the methodology for updating the schedule, but directs the reader to the BLM's website or BLM offices instead. No comments were received, and no other changes are made inform the proposed rule to the final rule.

Section 2806.34 How will BLM calculate the rent for a grant or lease authorizing a multiple-use communication facility?

Section 2806.34(b)(4) is revised to fix a citation in the existing regulations that was incorrect. No comments were received, and no other changes are made from the proposed rule to the final rule.

Section 2806.43 How does BLM calculate rent for passive reflectors and local exchange networks? and

Section 2806.44 How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses?

Sections 2806.43(a) and 2806.44(a) are each revised by changing the cross-reference from section 2806.50 to section 2806.70. Section 2806.50 is redesignated as section 2806.70, and these citations are updated to reflect this change.

Section 2806.44 is retitled from "How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses subject to the communication use rent schedule and communication uses whose rent BLM determines by other means?" to read as above. This section has been retitled to more clearly identify the content and additions made. The addition is a new introductory paragraph describing that this section applies to grants or leases. Such authorizations may include a mixture of communication uses, some of which are subject to the BLM's communication rent schedule. Such rent determinations will be made under the provisions of this section. No comments were received, and no other changes are made from the proposed rule to the final rule.

Sections 2806.50 through 2806.68 Rents and fees for solar energy rights-of-way and wind energy rights-of-way.

Sections 2806.50 through 2806.58 and sections 2806.60 through 2806.68 provide new rules for the rents and fees for solar and wind energy development, respectively. The rents and fees described in these sections, along with the bidding process, will help the BLM generally receive fair market value for the use of public lands. There are similarities between the provisions governing solar and wind energy grants and leases. For example, each type of project and authorization instrument is subject to acreage rent and MW capacity fee obligations. However, there are differences in the final rule with respect to wind and solar projects (e.g., solar energy projects assume 100% encumbrance within the project footprint, whereas wind energy projects assume 10% encumbrance). There are also differences in the way acreage rent and MW capacity fees are applied to solar energy grants versus leases. These differences are discussed in sections 2806.52 and 2806.54; wind energy grants and leases are discussed in sections 2806.62 and 2806.64, respectively. Section 2806.50 is retitled "Rents and fees for solar energy rights-of-way." The former regulation at section 2806.50 has been redesignated as section 2806.70. Section 2806.51 is added to this final rule in response to comments received regarding potential payment uncertainty.

Revised section 2806.50 requires a holder of a solar energy right-of-way authorization to pay annual rents and fees for right-of-way authorizations issued under subparts 2804 and 2809. Those right-of-way holders with authorizations issued under subpart 2804 will pay rent for a grant and those right-of-way holders with authorizations issued under subpart 2809 will pay rent for a lease. Payment obligations for both types of right-of-way authorizations now consist of an acreage rent and MW capacity fee. The acreage rent must be paid in advance, prior to the issuance of an authorization, and the

MW capacity fee will be phased-in after the start of energy generation. Both the acreage rent and MW capacity fee must be paid in advance annually during the term of the authorization. The initial acreage rent and MW capacity fee are calculated, charged, and prorated consistently with the requirements found in sections 2806.11 and 2806.12. Rent for solar authorizations vary depending on the number of acres, technology of the solar development, and whether the right-of-way authorization is a grant or lease.

The BLM received some comments that generally applied to its rental provisions of the final rule. The BLM also revised sections 2806.50 through 2806.68 to improve the readability of these sections.

Comment: One comment on the rental provisions stated that the proposed rule requires full payment immediately upon the award of an authorization. The comment suggested that payment should begin at the time infrastructure is placed in service instead at the time of award.

Response: The BLM does not require full payment immediately upon award of an authorization. Both an acreage rent and MW capacity fee are charged for solar and wind energy authorizations, but only the acreage rent is paid at the time a right-of-way is authorized. Acreage rent is charged upon the authorization of such developments as the public lands are being encumbered. The MW capacity fee may be phased-in during the term of the right-of-way as approved in the POD. This meets the concerns of the comment because the rules do not require full payment of rents and fees immediately upon authorization of a right-of-way.

Comments: Some comments stated that the BLM does not have authority to levy a MW capacity fee. These comments argued that because the Federal Government lacks

an ownership interest in sunlight or the wind, it cannot sell the rights to use them for profit (unlike the sale of Federal mineral interests at fair market value), charge a royalty against sale proceeds (unlike Federal oil and gas rights), or charge rent for the use of sunlight (unlike Federal land surface occupancy rights). Aside from the ownership issue, these commenters argued that the MW capacity fee is an inappropriate element of fair market value because it is based on the value of electricity generated and sold, rather than the value of the underlying land itself. For example, the comments pointed out, if two facilities occupy the same amount of land, but one has more efficient technology, the more efficient facility would pay more because of the additional electricity generated, not because of land rental values. The comments recommended that, for solar and wind energy generation rights-of-way, the BLM should exclusively charge rent, through a per acre rent schedule informed only by the NASS.

Response: FLPMA generally requires the BLM to obtain fair market value for the use of the public lands, including for rights-of-way. In accordance with the BLM's authority, and similar to valuation practices for solar and wind energy development on private lands, the BLM uses electrical generation capacity as a component of the value it assigns to the use of the lands by the projects. From information the BLM has been provided by industry or has otherwise collected, the BLM determined that private land owners customarily charge a "royalty," typically a percentage of the value of actual production, for the use of private land. As explained above, the BLM has elected in this final rule to charge a fee based on installed MW capacity rather than a royalty. This fee, when added to the applicable acreage rent and any minimum and bonus bids received,

ensures that the BLM will obtain an appropriate value for the use of the public lands by solar and wind energy projects.

The BLM classifies MW capacity payments as "fees" rather than "rent," because they reflect the commercial utilization value of the public's resource, above and beyond the rural or agricultural value of the land in its unimproved state. In the BLM's experience and consistent with generally accepted valuation methods, the value of the public lands for solar or wind energy generation use depends on factors other than the acreage occupied and the underlying land's unimproved value. Other key factors include the solar insolation value or wind speed and density, proximity to demand for electricity, proximity to transmission lines, and the relative absence of resource conflicts that tend to inhibit solar and wind energy development. To account for these elements of land use value that are not intrinsic to the rural value of the lands in their unimproved state, under this final rule, solar and wind right-of-way payments include "MW capacity fees" in addition to the "acreage rent" as a component of fair market value for these authorizations.

The acreage payment remains classified as "rent" under the final rule, as it is directly tied to the area of public lands encumbered by the project and the constraints the project imposes on other uses of the public lands. Electric or telephone facilities that qualify for financing under the Rural Electrification Act may be exempt from paying a "rental fee," which includes the solar or wind energy acreage rents. However, as explained in IM 2016-122, and consistent with the BLM's current practice, any such facilities must pay other costs associated with the fair market value of the land, such as the MW capacity fee, minimum bid, or bonus bid, because these other payments are

independent of the land acreage and value of the unimproved land, and therefore are not appropriately termed "rental fees."

The use of an acreage rent and MW capacity fee is also intended to encourage a developer to more efficiently use the public lands encumbered by a project. In the situation where two parcels with the same MW capacity for projects have differing technologies, the more efficient technology (and therefore the higher approved MW capacity) would be paying more in fees, but less in acreage rent for the same generation capacity as the more efficient technology would allow a developer to pay less in acreage rent to achieve the same approved MW capacity.

The BLM intends to evaluate the adequacy and impact of the provisions of this final rule after it has had an opportunity to observe how the payment requirements and rate adjustment methods put in place affect the BLM's ability to support renewable energy development and simultaneously collect fair market value from the projects it authorizes.

Section 2806.50 Rents and fees for solar energy rights-of-way.

The BLM revised section 2806.50 to include site- and project-area testing. In the proposed rule, rights-of-way for site-specific and project-area testing were allowed only for wind energy. The final rule deletes the word "wind", to make the provision generally applicable to wind or solar energy testing. This change is made in response to a comment, which will be discussed under section 2806.58 of this preamble. No other comments were received, and no other changes made to the final rule.

Section 2806.51 Scheduled Rate Adjustment

Comments: After the comment period of the proposed rule closed, the BLM continued to hold general meetings with stakeholders about the BLM's renewable energy program. In some of those meetings, stakeholders asked questions about the proposed rulemaking and clarified concerns they had raised through their written comments. Industry representatives shared additional information regarding their concerns with the proposed rule's approach to calculating annual payment requirements, including uncertainty about potential future payment requirements over the life of the right-of-way authorization. Specifically, commenters expressed concerns about the potential for NASS values in certain areas to jump significantly between surveys, resulting in unexpected and unsustainable changes in the per acre zone rates for those lands.

The BLM understands that when financing a project, developers must predict project costs, including for the construction, operation, and maintenance phases of the project. Included with these costs are expenses for land use, such as annual payment requirements of a BLM grant or lease. The BLM also understands that in some areas there is the potential for NASS land values to change significantly from one 5-year period to the next in a manner that is unpredictable, and that can result in significant acreage rent increases or decreases. For lands that experience those large changes in NASS land values, the standard rate adjustment method's periodic update to rates may create financial uncertainty. This may, in turn, complicate project financing and require a developer to pay a higher cost of capital.

Response: The BLM agrees with these comments and recognizes that increasing payment certainty over the term of the grant or lease may help facilitate project financing and even reduce financing costs. To respond to these comments and

concerns, the BLM added section 2806.51 to the final rule. This section allows a grant or lease holder to choose one of two rate adjustment methods, the "standard" rate adjustment method, or the scheduled rate adjustment method.

Under the standard rate adjustment method, which was described in the proposed rule and is now named in the final rule, the BLM will periodically reassess the rates it charges for use of the public lands and resources based on the latest NASS survey data and the applicable western hub energy prices, as well as other data discussed in greater detail in connection with section 2806.52 of this final rule.

By contrast, if the grant or lease holder chooses the scheduled rate adjustment method, the BLM will implement scheduled, predictable rate increases over the term of the grant. Under this approach, annual project costs are easily modeled, which increases the certainty as to future costs. By selecting the scheduled adjustment method a proponent would trade the potential upsides of rate adjustments pegged to a fluctuating national indicator (which may only increase slightly in a given period, or may even go down) for greater payment certainty.

Based on historical trends, the BLM expects that in some areas, the rates under the standard rate adjustment method will increase by more than they would under the scheduled rate adjustment method. However, the opposite is also true: in other areas, rates under the standard method may increase by very little, or even decrease, while rates under the scheduled rate adjustment method will increase by a fixed amount at fixed intervals. The BLM determined that it is appropriate to allow developers to choose between these rate adjustment methods, as some grant or lease holders may want to take

advantage of the possibility that NASS values could stay nearly constant or even go down, while other holders may want to increase payment certainty.

The adjustments contemplated under the scheduled rate increase are similar to the terms found in many power purchase agreements, which build in fixed annual increases. The BLM based the scheduled adjustment approach on an evaluation of market trends over the last 10 years. The trend over that period is consistent with a longer term trend showing power pricing has increased generally. The BLM believes that the scheduled rate adjustment method provides certainty for prospective developers while also ensuring that the BLM will obtain fair market value for the use of the public lands.

Paragraph (a) of this section provides that a holder may choose the standard rate adjustments for a right-of-way, which are detailed in sections 2806.52(a)(5) and 2806.52(b)(3) for grants, or 2806.54(a)(4) and 2806.54(c) for leases, or the scheduled rate adjustments for a right-of-way, which are detailed in sections 2806.52(d) for grants, or 2806.54(d) for leases. If a holder selects the standard adjustment method, the BLM will increase or decrease the per acre zone rate and MW rate for the authorization, as dictated by the specified calculation method, at fixed intervals over the term of a grant or lease. If a holder selects the scheduled rate adjustment method, the BLM will increase the per acre zone rate and MW rate by a fixed amount, described in section 2806.52(d) or 2806.54(d), respectively, at those same intervals. The BLM created the scheduled rate adjustment method using percentages and values that reflect current market conditions and trends; if, in the future, the BLM considers it necessary to revise the applicable rates in the scheduled rate adjustment provisions, it will do so via rulemaking.

Once a holder selects a rate adjustment method, the holder will not be able to change the rate adjustment method until the grant or lease is renewed. This rule clearly articulates the differences between these methods. As such, a holder will not be able to change its selection in the future, if one method proves more favorable than another during the term of the authorization. The rates paid by grant or lease holders that chose the standard adjustment approach may, in some cases, diverge from the rates paid by grant or lease holders that chose the scheduled adjustment approach. The BLM believes, however, that over the length of the grant or lease both methods will provide fair market value for the underlying authorization to use the public lands and resources.

Paragraph (b) of this section requires that a holder provide written notice to the BLM, before a grant or lease is issued, if the holder wishes to select the scheduled rate adjustment. In the absence of such a notice, the BLM will continue to use the standard rate adjustment method for the authorization.

The BLM will generally not consider a request for an alternative rate structure or terms from holders that select the scheduled rate adjustment method. The holder knows what their rates will be when selecting the scheduled rate adjustment method and is committing to those rates, understanding that they cannot change this selection. Paragraph (c) of this section explains how the final rule will affect existing grant holders. Like new grant holders, existing grant holders also have the option to choose between standard or scheduled rate adjustments. The holder of a solar or wind energy grant that is in effect prior to the effective date of this final rule may request that the BLM apply the scheduled rate adjustment to their grant, rather than the standard rate adjustment. Any such request must be received by the BLM in writing within 2 years of this rule's

publication in the Federal Register. The BLM determined that 2 years was a reasonable amount of time for grant holders to consider the benefits of the different rate adjustment methods.

For existing grant holders that choose the scheduled rate adjustment method, the BLM will apply the scheduled rate adjustment in section 2806.52(d) to the rates in effect prior to the publication of this final rule.

For existing grant holders that choose the scheduled rate adjustment method, however, the BLM will first adjust the rates in existing grants and leases upward by 20%, to account for the fact that the BLM elected not to undertake the most recent adjustment under its existing guidance because of the pendency of this rulemaking process. The scheduled rate adjustment method will then apply, resulting in fixed rate increases at set intervals thereafter.

The BLM will continue to apply the standard rate adjustments to the rates for existing grant holders unless and until written notice is received requesting the scheduled rate adjustment method. As previously mentioned, the standard rate adjustment is BLM's default method and current practice, as outlined in existing policy.

Section 2806.52 Rents and fees for solar energy development grants.

Section 2806.52 requires a grant holder to make annual payments that include the acreage rent and MW capacity fee.

Comments: Some comments expressed confusion over whether certain costs in the proposed rule were a "rent" or a "fee."

Response: The introductory paragraph for section 2806.52 in the final rule has been revised to clarify what is a "rent" and what is a "fee." "Rent" is now described as

an "acreage rent," and "fee" has been clarified as a "MW capacity fee." Paragraph (a) of this section describes the acreage rent requirements and calculation methodology, and paragraph (b) of this section describes the MW capacity fee requirements and calculation methodology.

Section 2806.52(a), "Acreage rent," describes the acreage rent payment for solar energy grants. "Acreage rent," as defined in section 2801.5, means rents assessed for solar energy development grants and leases that are determined by the number of acres authorized for the grant or lease times the per acre zone rate. Under existing policy, entities that qualify for financing under the Rural Electrification Act may be exempted from paying solar acreage rent (IM 2016-122).

Comments: Several comments were concerned about using the values set for NASS and believed that they would not apply to vacant BLM land. Comments suggested that solar and wind energy development should be appraised or assessed differently than other authorization types, such as linear rights-of-way. To determine the acreage rent for such developments following the same criteria as linear facilities would make development cost prohibitive on the public lands due to unfairly applying a linear acreage rent.

Response: In response to these comments, both sections 2806.52 and 2806.62 are revised to incorporate State-specific reductions from the baseline NASS values in the calculation of acreage rents. The proposed rule used the linear rent schedule as the basis for determining acreage rent values by proposing solar and wind acreage rent as a percentage factor of the linear rent schedule. Using a percentage factor for acreage rent

allows the BLM to adopt the linear rent calculation and effectively change the encumbrance factor to be specific for solar or wind energy.

For the final rule, the BLM has further modified the calculation used to determine acreage rent for solar and wind energy authorizations. The BLM recognizes that the NASS agricultural values may not always be a fair representation of public lands because they include the agricultural improvements (e.g., buildings, ditches, irrigation) to the land. To account for this possibility, the final rule uses the NASS agricultural values as a baseline for the determination of acreage rent, then incorporates a 20 percent or greater State-specific reduction that accounts for the extent to which the NASS values reflect agricultural improvements to land in each State. By applying these State-specific reductions to the baseline NASS values when calculating acreage rent, the BLM more accurately identifies the value of unimproved land for a project site.

The proposed rule based the acreage rent calculation on the linear rent schedule, which uses a nationwide reduction of 20 percent. In the final rule, the State-specific factors will be no less than the 20 percent reduction initially proposed for the rule, but may be greater. A more detailed discussion on how these values are calculated and a table showing the specific values for each State is found under section 2806.52(a)(2) of this preamble.

Paragraph (a)(1) summarizes how the BLM identifies a per acre zone rate using the NASS land values. Paragraph (a)(2) describes how the BLM adjusts the per acre zone rate, by 20 percent or more, to account for agricultural improvements to the lands in each State. A State with a larger calculated reduction than the minimum 20 percent may lower a particular county's acreage rent. In the case of some States, such as Utah, the State-

specific reduction that applies to unimproved agricultural land values is approximately 50 percent. This is discussed in greater detail under section 2806.52(a)(2).

Using this methodology, the BLM is able to establish a method for calculating acreage rents for solar and wind energy developments that are appropriate for the location of the development. New section 2806.52(c) is added to this final rule providing the BLM's implementation of the acreage rent and MW capacity fee for solar energy developments.

Under section 2806.52(a)(1), the acreage rent for solar energy rights-of-way is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate in effect at the time the authorization is issued. Under section 2806.52(a)(1), the initial per acre zone rate for solar energy authorizations is now established by considering four factors; the per acre zone value multiplied by the encumbrance factor multiplied by the rate of return multiplied by the annual adjustment factor. This calculation is reflected in the following formula – $A \times B \times C \times D = E$, where:

"A" is the per acre zone value, as described in the linear rent schedule in section 2806.20(c);

"B" is the encumbrance, equaling 100 percent;

"C" is the rate of return, equaling 5.27 percent;

"D" is the annual adjustment factor, equaling the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS census data becomes available; and

"E" is the annual per acre zone rate.

The BLM will adjust the per acre zone rates each year, based on the average annual change in the IPD-GDP, consistent with section 2806.22(a). Adjusted rates are effective each year on January first.

Under new section 2806.52(a)(2), counties (or other geographical areas) are assigned to a Per Acre Zone Value on the solar energy acreage rent schedule, based on the State-specific percent of the average land and building value published in the NASS Census.

The BLM currently uses an acreage rent schedule for linear rights-of-way to determine annual payments. The rent schedule separates land values into 15 different zones and establishes values for each zone ranging from $0 to $1,000,000 per acre. These values are based on the published agricultural values of the land, as determined by the NASS. Solar and wind energy acreage rents will be determined using the same zone values as linear rights-of-way. However, the BLM will use a state specific reduction when assigning lands to a zone.

The Per Acre Zone Value is a component of calculating the Per Acre Zone Rate under paragraph (a)(1) of this section. The calculation in this paragraph establishes a State-specific percent factor that represents the difference between the improved agricultural land values provided by NASS and the unimproved rangeland values that represent BLM land. This calculation is reflected in the following formula – (A/B) – (C/D) = E, where:

"A" is the NASS Census statewide average per acre value of non-irrigated acres;

"B" is the NASS Census statewide average per acre land and building value;

"C" is the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

"D" is the total statewide acres in farms; and

"E" is the State-specific percent factor or 20 percent, whichever is greater.

The county average per acre land and building values that exceed the 20 percent threshold for solar and wind energy development are as follows for BLM managed lands.

Table of State-Specific Factors and other Data for Applicable States

State	**Existing Regulations and Proposed Rule: Nationwide 20 percent factor**	**Final rule State-by-state calculated factor**	**Final Rule State-specific factor**
Alaska	20%	12%	20%
Arizona	20%	49%	49%
California	20%	51%	51%
Colorado	20%	24%	24%
Idaho	20%	29%	29%
Montana	20%	12%	20%
Nevada	20%	16%	20%
New Mexico	20%	24%	24%
North Dakota	20%	5%	20%
South Dakota	20%	5%	20%
Oregon	20%	2%	20%
Texas	20%	-1%	20%

Utah	20%	54%	54%
Washington	20%	21%	21%
Wyoming	20%	16%	20%
Average	20%	21%	27%

Assignment of counties example: This example uses the zone numbers and values of the acreage rent schedule to assign Clark County, Nevada, to the appropriate zone. Current NASS land values for Clark County are $5,611 per acre. The state-specific factor for Nevada is 16 percent, which is less than the 20 percent minimum established in this rule. Therefore, the BLM applied a 20 percent reduction to the NASS land values, which results in a per acre value of $4,489. Based on this, Clark County is assigned to zone 7 (counties with zone values between $3,394.01 and $4,746 per acre). For the purposes of calculating the acreage rent, the BLM will use the value for zone 7, which is $4,746 per acre.

The following paragraph is an acreage rent example describing the acreage rent for solar energy development.

Acreage rent example: The 2016 acreage rent for a 4,000 acre solar energy development in Clark County Nevada (zone 7) would be $ 1,021,480 (4,000 acres × $255.37 per acre). Please note that the acreage rent calculation rounds the per acre dollar amount for the county to the nearest cent. In this example ($4,746/acre × 100% × 5.27% × 1.021%) is rounded to $255.37 per acre.

As specified in new section 2806.52(a)(3), the initial assignment of counties to the zones on the solar energy acreage rent schedule is based upon the NASS Census data from 2012 and is established for year 2016 through 2020. Subsequent reassignments of

counties will occur every 5 years following the publication of the NASS Census as is described in section 2806.21.

Comment: The BLM received comments expressing concern that the assignment of some counties or regions to zones on the solar acreage rent schedule may not accurately reflect the value of those lands.

Response: The BLM recognizes that it may be necessary to adjust the initial assignment of counties to zones on the solar energy acreage rent schedule. Section 2806.52(a)(3) of the final rule is revised to clarify that the BLM may, on its own initiative or in response to requests, adjust initial NASS survey data-based county assignments on a regional basis if it determines that assignments based solely on NASS data do not accurately reflect the values of the BLM lands in question. A similar clarification was made to section 2806.62(a)(3).

Section 2806.52(a)(4) requires acreage rent payments each year, regardless of the stage of development or status of operations of a grant. Acreage rent must be paid for the public land acreage described in the right-of-way grant prior to issuance of the grant and prior to the start of each subsequent year of the authorized term. There is no phase-in period for acreage rent, which must be paid annually and in full upon issuance of the grant. In the event of undue hardship, a rent payment plan may be requested and approved by a BLM State director, consistent with section 2806.15(c), so long as such a plan is in the public interest.

Section 2806.52(a)(5) states that the BLM will adjust the per acre zone rates each year based on the average annual change in the IPD–GDP as determined under section 2806.22(a). The acreage rent also will adjust each year for solar energy development

grants issued under subpart 2804. The BLM will use the most current per acre zone rates to calculate the acreage rent for each year of the grant term, unless the holder selects the scheduled rate adjustment method under section 2806.52(d). The acreage rent for a solar energy development lease is adjusted under section 2806.54(a)(4).

This paragraph is revised in the final rule by removing "for authorizations outside of designated leasing areas, the BLM…" from the first sentence and replacing it with "We." This edit is consistent with the acreage rent adjustment provision for wind energy (see section 2806.62(b)(5)). It is necessary because the BLM may issue a grant inside a DLA in some situations (see section 2809.19) and the proposed section would have been inaccurate. This paragraph is also revised in the final rule by including the reference to the scheduled rate adjustment option, as described in section 2806.51 of this preamble.

Section 2806.52(a)(6) explains where you may obtain a copy of the current per acre zone rates for solar energy development (solar energy acreage rent schedule) from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M St, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. This paragraph is added so the public is aware of where to obtain a copy of the solar energy acreage rent schedule described under this section. The BLM also posts the solar energy acreage rent schedule online at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

Section 2806.52(b), "MW capacity fee," describes the components used to calculate this fee. Paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) explain the MW rate, MW rate schedule, adjustments to the MW rate, and the phase-in of the MW rate. As explained in IM 2016-122, electric and telephone facilities that qualify for financing

under the Rural Electrification Act must pay the MW capacity fee and other payments required under this rule, except the acreage rent.

Comments: Some comments noted uncertainty regarding the meaning or definition of words in the proposed rule, such as "MW capacity fee" and its component parts of the MW rate, MW hour price, net capacity factor, and rate of return.

Response: The BLM acknowledges that this rule introduces a number of new terms and concepts. The BLM attempted to clearly define these terms in section 2801.5(b). Some of the terminology is similar as some terms relate to the same general subject matter (e.g., MW capacity fee and MW rate). The BLM has revised the regulations and provided additional discussion in the preamble to help facilitate a better understanding of the rule and its requirements. For example, a more specific citation is provided in section 2806.52(b)(1) and other locations in the final rule to help readers better locate and understand the terms of the final rule. These revisions and terms are discussed in greater detail throughout the preamble for sections 2806.50 through 2806.68.

The MW capacity fee, as defined in section 2801.5(b), refers to payment, in addition to the acreage rent, for solar energy development grants and leases based on the approved MW capacity of the solar energy authorization. The MW capacity fee is the total authorized MW capacity approved by the BLM for a project**,** or an approved stage of development, multiplied by the appropriate MW rate. The MW capacity fee is prorated and must be paid for the first partial calendar year in which generation of electricity starts or when identified within an approved POD. This fee captures the increased value of the right-of-way for the particular solar-or wind-project use, above the limited rural or agricultural land value captured by the acreage rent. The MW capacity

fee will vary, depending on the size and type of solar project and technology and whether the solar energy right-of-way authorization is a grant (issued under subpart 2804) or a lease (issued under subpart 2809). The MW capacity fee is paid annually either when electricity generation begins, or as otherwise stated in the approved POD, whichever comes first. If electricity generation does not begin on or before the time approved in the POD, the BLM will begin charging a MW capacity fee at the time identified in the POD.

The POD submitted to the BLM by the right-of-way applicant must identify the stages of development for the solar or wind energy project's energy generation, including the time by which energy generation is projected to begin. The BLM will generally allow up to three development stages for a solar energy project. As the facility becomes operational, the approved MW capacity will increase as described in the POD. These stages are part of the approved POD and allow the BLM to enforce the diligence requirements associated with the grant.

Comments: Other comments suggested that a bid could include an alternative payment structure to the BLM over the life of the project. This alternative payment structure would replace the acreage rent and MW capacity fee described in this final rule. The comments further suggested that the BLM reduce costs to developers by eliminating the MW capacity fee, conducting regional mitigation planning for DLAs, and performing a majority of the work necessary for the NEPA and Section 7 (endangered species) reviews early in the process inside DLAs.

Response: As explained elsewhere in this preamble, the BLM has determined that the rule's multi-component payment structure, involving both an "acreage rent" and "MW capacity fee" constitute the full fair market value for the use of the public lands by

a wind and solar energy project. An alternative payment structure may not provide a fair return for the use of the public lands, and therefore, would be inconsistent with the BLM's obligations under FLPMA. The rule's structure is consistent with existing policy. That said, the final rule does allow the BLM to establish alternate fiscal terms for an individual project or region upon sufficient showing by an applicant that such alternative terms are justified. These alternative terms, if approved by the BLM, would be used in lieu of the default terms established by the rule inside and outside of designated leasing areas.

Under the rule's multi-component structure, the "acreage rent" represents the value of the raw undeveloped land, while the MW capacity fee represents the value for this particular commercial use of the public lands above and beyond the rural or agricultural value of the land in its unimproved state. Both are necessary components of obtaining the fair market value for the use of the public lands for wind and solar energy development. As explained above, this multi-component structure bears similarities to private land leases, which typically involve a land rent and royalty rate.

As suggested by the comments, the BLM does perform a majority of the work up front for the NEPA and Section 7 compliance processes for right-of-way leases inside DLAs. Mitigation work and costs may be identified in some cases before a competitive process occurs, such as in Dry Lake Valley solar energy zone in Nevada. The BLM held a competitive process in 2014 and reached a decision within 10 months of the auction. This was less than half the time it generally takes to process the project applications.

The BLM had great success in the Dry Lake Valley solar auction, at least in part, because there was a regional mitigation strategy in place. However, there may be

instances in the future where a mitigation strategy is not appropriate or necessary. The BLM will not include a requirement for mitigation strategies in this final rule, but will be consistent with its interim policy guidance for offsite mitigation (IM 2013-142).

Comments: Some comments argue that the value of land for purposes of renewable energy development should be determined exclusively by MW capacity fees or by fees based on the number of MWs actually produced and delivered, not by the right-of-way's acreage value.

Response: Under the final rule, the BLM does not calculate annual charges for solar and wind energy development by using only a MW capacity fee, as suggested by the comments. The BLM has determined that requiring an acreage rent and MW capacity fee is the best method, consistent with applicable legal authorities, for determining the appropriate value of a solar or wind energy development right-of-way. The BLM also notes that the MW capacity fee and acreage rent in the final rule have been discounted from comparable costs that are typically charged in the private sector to account for the cost to comply with the terms and conditions of the BLM's authorization (bonding, due diligence, etc.).

Comments: A comment suggested that the BLM treat solar and wind energy technologies the same when setting acreage rents and MW capacity fees. Another comment suggested that the BLM give additional consideration to the use of energy storage technologies when setting acreage rents and MW capacity fees.

Response: In the BLM's examination of the different energy generation technologies it was determined that some technologies, such as CSP, are generally more efficient (i.e., generate more energy using the same amount of sunlight) than other

technology types and often require that the site selected for development include certain specific characteristics, such as limited grade. This is evidenced by the average efficiencies of the various solar technologies as reflected in the capacity factors on the EIA's website. Since the efficiencies of PV and CSP technologies are inherent to the technologies and are, in part, related to the particular conditions of the land to be used, the BLM maintained this distinction in the final rule and did not implement the comment's suggestion on limiting the various solar technology MW capacity fees to a single non-distinct fee.

The BLM did reconsider how it considers storage when charging a MW capacity fee. The BLM will maintain the proposed net capacity factor for CSP with storage capacity of 3 hours or more. CSP is a technology which is generally engineered with storage, which increases the efficiency, but decreases overall net capacity. The BLM is confident, based on its experience, that this is the appropriate net capacity factor for this technology based on the technology currently deployed and available information.

However, the BLM does recognize that storage could have implications for other technology types as well. Based upon the premise that storage increases the efficiency of a project, the BLM requested that the National Renewable Energy Laboratory (NREL) provide a report on the status of energy storage in the United States. The BLM hoped to use this report to establish in the regulations an appropriate methodology for determining the value of storage for solar and wind projects on public lands. However, NREL's report noted that energy storage is an emerging and rapidly growing market, so there is not enough empirical data and commercial experience on storage to support an accurate calculation for valuing storage. Therefore, the BLM determined that it would be

premature to add energy storage values to the regulations at this time beyond the one provided for CSP with 3 hours of storage.

In this final rule, the BLM adds a new sentence under the definition of MW rate to explain that in the future, the BLM may establish a different net capacity factor on a case-by-case basis, such as when a project uses storage, and the BLM determines that the efficiency rating varies from the established net capacity factors in this final rule. For example, if a wind energy project includes storage in its design, the BLM may determine an appropriate net capacity factor for that project.

Section 2806.52(b)(1) identifies the "MW rate" as a formula that is the product of four components: The hours per year, multiplied by the net capacity factor, multiplied by the MWh price, multiplied by the rate of return. This can be represented by the following equation: MW Rate = H (8,760 hrs.) × N (net capacity factor) × MWh (Megawatt Hour price) × R (rate of return). The components of this formula are discussed here at greater length.

Hours per year. This component of the MW rate formula is the fixed number of hours in a year (8,760). The BLM uses this number of hours per year for both standard and leap years.

Net capacity factor. The net capacity factor is the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. A net capacity factor is used to identify the efficiency at which a project operates. The net capacity factor is influenced by several common factors such as geographic location and topography and the technology employed. Other factors can influence a project's net capacity factor. For

example, placement of a solar panel in the direction that captures the most sun may increase the efficiency at which a project operates. These other factors tend to be specifically related to a project and its design and layout. An increase in the net capacity factor is most readily seen when a developer sites a project geographically for the energy source they are seeking and utilizes the best technology for harnessing the power. An example of this is placing wind turbines in a steady wind speed location using a wind turbine designed for optimal performance at those wind speeds.

The efficiency rates may vary by location for each specific project, but the BLM will use the national average for each technology. Efficiency rates for solar and wind energy technology can be found in the market reports provided by the Department of Energy through its Lawrence Berkeley National Laboratory. For solar energy see "Utility-Scale Solar 2012" at http://emp.lbl.gov/sites/all/files/lbnl-6408e_0.pdf and for wind energy, please see "2012 Wind Technologies Market Report" at http://emp.lbl.gov/sites/all/files/lbnl-6356e.pdf. This rule establishes the net capacity factor for each technology as follows:

Technology Type	Net Capacity Factor
Photovoltaic (PV)	20 percent
Concentrated Photovoltaic (CPV) or Concentrated Solar Power (CSP)	25 percent
CSP w/Storage Capacity of 3 Hours or More	30 percent
Wind Energy	35 percent

As previously discussed in this preamble, the BLM has revised the proposed description of net capacity factor in this final rule. This final rule maintains the proposed net capacity factor for CSP with storage capacity of 3 hours or more at 30 percent. The

BLM adds in this final rule a description of the net capacity factor in the definition recognizing that as technology evolves, the BLM may determine a net capacity factor for a specific project on a case-by-case basis in the future, as appropriate. This will better allow the BLM to receive fair market value payment for use of the public lands in the rapidly changing storage market.

The BLM intends to periodically review the efficiency factors for the various solar and wind technologies.

In the proposed rule, the BLM considered basing the net capacity factors for these technologies on an average of the annual capacity factors listed by the EIA. The EIA posts an average of the capacity factors on its Web site at http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_6_07_b. However, the BLM decided not to go forward with this provision and removed it from the final rule because those annual capacity factors are not reviewed or confirmed by technical experts, such as those at the National Laboratories, and therefore, they are not a sufficiently reliable source of information on which to base the net capacity factor. Further, EIA may not continue to maintain and update this information in the future, and therefore, it may not be a viable source of information in the future.

MWh price. This component of the MW rate formula is the full 5 calendar-year average of the annual weighted average wholesale prices of electricity per MWh for the major trading hubs serving the 11 Western States of the continental United States. This wholesale price of the trading hubs is the price paid for energy on the open market between power purchasers and is an indication of current pricing for the purchase of power. Several comments were submitted concerning the MWh price.

Comment: One comment suggested that this component not be rounded to the nearest half cent.

Response: The BLM proposed to round the MWh price to the nearest 5-dollar increment. In other portions of the regulations the BLM rounds to the nearest cent. The proposed rule was explicit that the MWh price would be rounded to the nearest 5-dollar increment, but the final rule has been adjusted to round the MWh price to the nearest dollar increment. Rounding to the nearest dollar increment is consistent with current BLM practices for calculating annual payments. The BLM declined, however, to adopt the commenter's suggestion and round to the nearest half cent, because the MWh price is an estimated 5-year average of wholesale prices. Providing a more specific calculated MWh price could give a false precision to the actual rates provided by the BLM.

Comment: Another comment stated that we should not rely on the ICE trading hub as our source for data. Relying on a single vendor for determining the MWh price may lead to inaccurate fees if the vendor's data is inaccurate. There are other vendors that have current data available for the major trading hubs in the West as well.

Response: The proposed rule identified the ICE as the source of data to be used in calculating the MWh price. However, the final rule is revised to remove ICE as the only source of the major trading hub data in section 2806.52(b)(3)(i). Removing the specific source of data from the final rule is consistent with the proposed rule, in that the BLM has indicated that other sources may be used in the future should ICE stop providing such data. Furthermore, since publication of the proposed rule, the BLM became aware that the ICE no longer provides such market data for free to the public, but now offers these data under a paid subscription. Future updates to the MWh price may

use ICE or other similar purveyors of market data to determine the major trading hubs and the wholesale market prices of electricity. Under this final rule, the BLM is using market data from SNL Financial to calculate the 5-year average of the annual weighted average wholesale price per MWh.

Comments: Several comments requested an update of the MWh price and stated that any update being made should include language to identify the most recent full calendar year data and to remove the uncertainty of how the BLM will determine the most recent 5-year data with future updates. Commenters further indicated that the data used in calculating the MWh price were skewed to numbers higher than the true recent market average since market pricing for the year 2008 were much higher than the years preceding or following it.

Response: The BLM understands the concern regarding the intent to establish the MWh price using current market data. In the proposed rule, market data from calendar years 2008 through 2012 were used to determine the MWh price. In the final rule section 2806.52(b)(3)(i), the BLM updated the MWh price to reflect the most recent full 5 calendar-year data (that is, data from 2010-2014) from the major trading hubs located in the West.

In addition, the BLM adjusted provisions governing revisions to the MWh price to account for the fact that under section 2806.50, the BLM bills customers in advance for the following year. Specifically, the BLM revised the final rule so that the next update to the MWh price will occur for 2021, not 2020. This will allow the BLM to set the new price during 2020 using the most current market data for the previous five full years (2015-2019) without using the 2014 data twice. Market data for 2019 are not

expected to be available until early 2020. Once data are available, the BLM will calculate the new, 2021-2025 MW capacity fee using the full five calendar-year average of the market data for 2015-2019, and notify existing right-of-way holders of the new fee.

In addition to using years 2010 through 2014 in calculating the MWh price, and adjusting the provisions governing revisions to that price, the BLM also revised the final rule to require that the MWh price be rounded to the nearest dollar increment, as opposed to the proposed rule's approach of rounding up to the nearest five-dollar increment. The BLM made this change to avoid imposing a surcharge due solely to rounding. The BLM found that at the current MWh price, rounding to the nearest five-dollar increment could impose a surcharge of up to 5 percent, or $158 per MW of project capacity. Rounding to the nearest dollar increment will limit the surcharge without implying false precision.

Note that the current MW rate is $38 per MWh as calculated using wholesale market data from SNL Financial for the major trading hubs in the west. The calculation for the MWh price is described in more detail in following paragraphs with a table provided showing the averages for the trading hubs used in the calculation.

When calculating the MWh price, the BLM used the yearly average value for each of the major trading hubs that cover the BLM public lands in the West. The BLM then calculated the overall annual average yearly hub value for each of the years 2010-2014, and then averaged these five annual values to establish the MWh price. The average of the five annual average values for 2010 through 2014 is $38.07, so the BLM set the MWh price at $38.00.

Year	Mid-Columbia Hub	Palo-verde Hub	Four Corners Hub	Mead Hub	SP15-EZ CA Hub*	NP15 Hub	CA-OR Border Hub	West US	Avg.
2010	$35.86	$38.79	$40.13	$40.07	$39.86	$39.81	$38.80	$39.05	$39.05
2011	$29.48	$36.43	$36.66	$37.02	$36.78	$36.00	$32.93	$35.04	$35.04
2012	$22.90	$29.68	$30.59	$30.87	$34.86	$32.03	$27.09	$29.72	$29.72
2013	$37.59	$37.66	-	$39.84	$48.34	$43.97	$40.19	$41.27	$41.27
2014	$38.67	$42.42	-	$44.84	$51.13	$51.06	$43.48	$45.27	$45.27
2010-2015 Avg.									**$38.07**

Rate of return. The rate of return component used in the MW rate schedule reflects the relationship of income (to the property owner) to revenue generated from authorized solar or wind energy development facilities on the encumbered property. A rate of return for the developed land can range from 2 to 12 percent, but is typically around 5 percent, as identified in the appraisal consultation report completed by the Office of Valuation Services. These rates take into account certain risk considerations, i.e., the possibility of not receiving or losing future income benefits, and do not normally include an allowance for inflation.

An applicant seeking a right-of-way from the BLM must show that it is financially able to construct and operate the facility. In addition, the BLM may require surety or performance bonds from the holder to facilitate compliance with the terms and conditions of the authorization, including any payment obligations. This reduces the BLM's risk and should allow the BLM to use a "safe rate" of return, i.e., the prevailing rate on guaranteed government securities that includes an allowance for inflation. The BLM has established a rate of return that adjusts every 5 years to reflect the preceding

10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-tenth percent, with a minimum rate of 4 percent. Applying this criterion, the initial rate of return is 4 and 3 tenths percent (the 10-year average of the 20-year U.S. Treasury bond yield (4.32 percent), rounded to the nearest one-tenth percent).

This final rule is revised to round the rate of return to the nearest one-tenth percent to address a commenter's concern that BLM's usual rounding convention (rounding to the nearest one half percent) could result in rate jumps due only to rounding; rounding to the nearest one-tenth percent will limit the change in BLM's rates without giving a false impression of precision.

As provided under paragraph (b)(2) of this section, the MW rate schedule is made available to the public in the MW rate schedule for Solar and Wind Energy Development. The current MW rate schedule is available to the public at any BLM office, via mail by request, or at http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

MW Rate Schedule for Solar and Wind Energy Development (2016-2020)

Type of Energy Technology	Hours per Year	Net Capacity Factor	MWh Price	Rate of Return	MW Rate 2016 - 2020
Solar - Photovoltaic (PV)	8,760	0.20	$38	0.043	$2,863
Solar - Concentrated photovoltaic (CPV) and concentrated solar power (CSP)	8,760	0.25	$38	0.043	$3,578
CSP with storage capacity of 3 hours or more	8,760	0.30	$38	0.043	$4,294
Wind – All technologies	8,760	0.35	$38	0.043	$5,010

For lease holders that choose the standard rate adjustment method, the periodic adjustments in the MW rate are discussed in connection with section 2806.52(b)(3).

Under that section, adjustments to the MW rate will occur every 5 years, beginning with the 2021 rate, by recalculating the MWh price and rate of return, as provided in paragraphs 2806.52(b)(3)(i) and (ii), respectively

Section 2806.52(b)(3)(i) requires that the MW rate be adjusted using the full 5 calendar-year average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States. The next update for the MW rate will use years 2015 through 2019, rounded to the nearest dollar increment. Following this methodology, the resulting MWh price will be used to determine the MW rate for each subsequent 5-year interval. The availability of data to establish the MWh price is described in this preamble in the discussion of the definition of MWh price, a component of the MW rate in section 2801.5(b).

As noted above, section 2806.52(b)(3)(ii) provides that when adjusting the rate of return, the BLM will use the 10-year average of the 20-year U.S. Treasury bond yield for the full 10 calendar-year period preceding the rate of return adjustment. The rate of return is rounded to the nearest one-tenth percent, and must be no less than 4 percent. In the final rule, the rate of return was calculated using years 2003 through 2012 of the 20-year U.S. Treasury bond yield (4.32 percent), rounded to the nearest one-tenth percent (4.3 percent). The rate of 4.3 percent will be used for calendar years 2016 through 2020. The rate of return will be recalculated every 5 years beginning in 2020, by determining the 10-year average of the 20-year U.S. Treasury bond yield for the previous ten calendar years (2010 through 2019, for 2020) rounded to the nearest one-tenth percent. The resulting rate of return, if not less than 4 percent, will be used to determine the MW rate for calendar years 2020 through 2024, and so forth. The 20-year U.S. Treasury bond

yields are tracked daily and are accessible at http://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=longtermrateAll.

To allow for a reasonable and diligent testing and operational period, under section 2806.52(b)(4)(i), the BLM will provide for a 3-year phase-in of the MW capacity fee for solar energy development grants issued under subpart 2804 of 25 percent for the first year, 50 percent the second year, and 100 percent the third and subsequent years of operations. The first year is the first partial calendar year of operations and the second year is the first full year. For example, if a facility begins producing electricity in June 2016, 25 percent of the capacity fee would be assessed for July through December of 2016 and 50 percent of the capacity fee would be assessed for January through December of 2017. One hundred percent would be assessed thereafter.

This BLM will apply the phase-in after electricity generation begins, or is scheduled to begin in the approved POD, whichever comes first. The proposed rule stated that the BLM would apply the phase-in "…after the generation of electricity starts." The BLM revised section 2806.52(b)(4)(i), from the proposed to final rule, for consistency with other sections, including 2806.52(b). The BLM made a corresponding revision to section 2806.62(b)(4)(i).

Under section 2806.52(b)(4)(ii), this rule explains the staged development of a right-of-way. Such staged development, consistent with the rule in section 2805.12(c)(3)(iii), can have no more than three development stages, unless the BLM approves in advance additional development stages. The 3-year phase-in of the MW rate applies individually to each stage of the solar development. The MW capacity fee is calculated using the authorized MW capacity approved for that stage multiplied by the

MW rate for that year of the phase-in, plus any previously approved stages multiplied by the MW rate.

Section 2806.52(b)(5) is added to this final rule to explain that the general payment provisions of subpart 2806, except for section 2804.14(a)(4), apply to the MW capacity fee. For example, section 2806.12 explains when and where a grant holder must pay rent. These requirements would also apply to the MW capacity fee. Although the MW capacity fee is charged to reflect the commercial utilization value of the public's resource, it is an annual payment required to the BLM and these general payment provisions will apply.

The final rule specifies that section 2804.14(a)(4) does not apply to the MW capacity fee. As explained in IM 2016-122, the MW capacity fee is not a rental fee, and therefore must be paid by electric and telephone facilities that qualify for financing under the Rural Electrification Act. A new section (see section 2806.62(b)(4)) that parallels this requirement is added into the wind energy provisions for consistency.

Section 2806.52(c) is included in the final rule in support of revisions the BLM has made to charge fairly for the use of solar and wind energy authorizations. See the comment discussion under section 2806.52(a) for further information.

Section 2806.52(c) describes how the BLM will reduce the acreage rent and the MW capacity fee. The BLM will compare the total annual payment of the acreage rent and MW capacity fee for 2017 to the base rent and MW capacity fee currently established by policy for the 2016 billing year. Any net increase in costs to a right-of-way holder will be reduced by 50 percent for the 2017 billing year. This one-year reduction is intended to ease the transition for grant holders from the current policies to this final rule.

If 2017 is the first year for which you make an annual payment, the phase-in described under section 2806.52(b)(4) will apply without the BLM implementation reduction of 50 percent. The rates established by policy will remain in effect until 2017 for rights-of-way that are not issued under subpart 2809 of this final rule in order to provide notice of the adjusted rent and fees to existing holders.

Section 2806.52(d) is added to this final rule to establish the method by which the BLM will perform scheduled rate adjustments for solar and wind energy grants. In order for scheduled rate adjustments to be applied to a grant, a grant holder must have selected the scheduled rate adjustment method and notified the BLM, as provided in section 2806.51 of the final rule.

Paragraph 2806.52(d)(1) specifies which rates will be used initially for the scheduled rate adjustments. For new grants, the BLM will use the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) in place when your grant is issued. For existing grants that are in place prior to the publication of this final rule, the BLM will use the per acre zone rate and MW rate in place prior to this rule's publication, as adjusted in paragraph (d)(6) of this section and discussed further in corresponding section 2806.52(d)(6) of this preamble.

Paragraph 2806.52(d)(2) specifies that the per acre zone rate will be adjusted in two ways: annually, the rate will adjust upward by the current average change in the IPD-GDP, as described in § 2806.22(b); and every five years, the rate will adjust upward by an additional 20 percent. In other words, under the scheduled rate adjustment method, per acre zone rates will be adjusted in years 1 through 5 by the IPD-GDP; in year 6, the BLM will apply a 20 percent increase to the year-5 rate. The same two-part adjustment

process will then repeat itself in years 6-10 (IPD-GDP) and year 11 (20%); years 11-15 (IPD-GDP) and year 16 (20%); years 16-20 (IPD-GDP) and year 21 (20%); years 21-25 (IPD-GDP) and year 26 (20%); and finally, years 26-30 (IPD-GDP). If the grant is renewed, the rates in place at the time of renewal, as identified in section 2806.52(d)(1), will be used to establish the initial rates for the term of the renewed right-of-way.

As explained previously in connection with section 2806.51, the BLM developed the scheduled rate adjustment method in response to concerns that NASS values in certain areas have the potential to jump significantly. To address this concern while ensuring the BLM obtains fair market value for these uses of the public lands, the BLM reviewed changes in national per acre land values in NASS and determined that making fixed rate adjustments of 20 percent every 5 years would reflect historical trends.

The BLM reached this conclusion as follows. The NASS values are released every 5 years, reflecting the increases and decreases in land values. Over a period of 10 years, land values could change drastically in some counties, but the national and western state average changes in land values over the 10-year period from 2003 and ending 2012 were an 80 percent and a 65 percent increase, respectively. For the BLM lands in the west, the range in land value changes were increases of 33 to 253 percent. The BLM determined from these findings that the scheduled rate adjustment method, including both the annual IPD-GDP adjustment and the every-five-year scheduled adjustment, should target an upwards adjustment of about 60 percent for every 10 year period.

To achieve this outcome, over the term of a grant, the BLM will make five 20-percent adjustments to the per acre zone rates, in years 6, 11, 16, 21, and 26. Compounded, these five 20-percent adjustments will result in a 150 percent increase in

the per acre zone rate over the 30-year life of the grant (on top of whatever increases are dictated by the annual change in IPD-GDP). This adjustment is within the identified historic range of changes in land values from NASS, which reflect a change between 99 and 759 percent over a 30-year period, and is also in line with industry's recommended rate increase of 4 percent per year (which amounts to 324 percent over a 30 year period, if compounded annually).

Paragraph 2806.52(d)(3) specifies that the MW rate will also increase by 20 percent every 5 years. The BLM reviewed national changes in power pricing since 1960 and determined that adjusting the MW rate by 20 percent every 5 years is appropriate. Since 1960, power pricing has increased by over 450 percent, but over the last 30 years, it has increased approximately 90 percent. Pricing trends show that power pricing seldom drops on an annual basis. The BLM will make 5 20-percent adjustments to the MW rate, which amounts to a 150 percent increase when compounded over the 30-year life of the grant. This 150 percent adjustment is in line with the 4 percent annual rate increase indicated by industry representatives. It is also in line with historical changes in power prices.

Paragraph 2806.52(d)(4) makes it clear that the scheduled rate adjustment option will enter into effect in year 1 of the rule, for both the acreage rent and MW capacity fee. The phase-in (see section 2806.52(b)(4)) and initial implementation (see section 2806.52(c)) sections apply only for grants to which the standard rate adjustment applies. Grant holders that select the scheduled rate adjustment method choose a defined payment stream over the variable rates that may be applied with the standard rate adjustment method. As such, phase-ins are not included with the scheduled rate adjustment method.

Paragraph 2806.52(d)(5) explains that if the approved POD provides for staged development of the project, the BLM will calculate the MW capacity fee in each year using the MW capacity approved for that stage.

Paragraph 2806.52(d)(6) specifies that the existing rates for grant holders that select the scheduled rate adjustment method will be adjusted for year 1. The adjustment reflects the fact that, due to this rulemaking process, the BLM did not make the rate adjustments called for under existing policy in either 2008 (for wind energy) or 2010 (for solar energy). If the BLM does not update the rates for existing grant holders as specified in this section, it could be as long as 12 years between rate updates. Accordingly, in year 1 of this rule, the BLM will increase the per acre zone rate for these grant holders by 20 percent plus the annual change in the IPD-GDP, as described in § 2806.22(b), and increase the MW rate by 20 percent. The scheduled rate adjustments will then be based off of these adjusted, year-1 rates.

No additional comments were received, nor were other changes made to this section of the final rule, except for minor changes to improve readability.

Section 2806.54 Rents and fees for solar energy development leases.

The title of this section is revised by removing "inside designated leasing areas." In conjunction with a previous comment, the BLM has made various edits to the final rule to improve readability. The difference between grants and leases is explained earlier in this preamble, so this language is unnecessary and potentially confusing.

The introductory paragraph to section 2806.54 requires a holder of a solar energy lease obtained through the competitive process under subpart 2809 to pay an annual acreage rent and MW capacity fee. The first-year of acreage rent must be paid in

advance, prior to BLM's issuance of a lease, and the MW capacity fee will be phased-in and calculated based on the total authorized MW capacity of the solar energy development. Rents or fees for solar authorizations will vary depending on the number of acres, technology employed by the solar development, and whether the right-of-way authorization is a grant or lease.

There are many similarities in the rent and MW capacity fee for leases and grants for solar development. This section references the rent and MW capacity fee of grants under subpart 2804, as appropriate, and provides further discussion on how the rent MW capacity fee for a lease differs from that of a grant. Unlike grants, leases issued under subpart 2809 will be charged the full amount of the acreage rent and MW capacity fee schedules once this final rule is effective as there are no existing solar energy development leases. Although the BLM held a competitive offer relating to solar energy development in the Dry Lake SEZ, the successful bidders submitted applications and received right-of-way grants.

Paragraph (a) of this section identifies the acreage rent for a solar lease, which will be calculated in the same way as acreage rent for solar grants outside a DLA (see section 2806.52(a)). The acreage rent for the first year of a lease must be calculated and paid prior to BLM's issuance of a lease. Zone rates and payment of the acreage rent are the same for leases as they are for grants. For the per acre zone rates, see section 2806.52(a)(1). For the assignment of counties, see sections 2806.52(a)(2) and 2806.52(a)(3). For the acreage rent payment, see section 2806.52(a)(4).

Consistent with other revisions in this final rule, the BLM added "This acreage rent will be based on the following:" at the end of paragraph 2806.54(a). This revision

makes it clear that the following paragraphs will be the basis for BLM's acreage rent for leases in DLAs.

Section 2806.54(a)(4) describes the adjustments to the acreage rent that may be made for a lease. Once an acreage rent is determined for a lease under paragraph (a) of this section, any adjustments in the annual acreage rent will be made at 10-year intervals thereafter – the first adjustment would be made in year 11 of the lease term and the next in year 21. During the 10-year periods, the acreage rent for a lease will remain constant and not be adjusted.

The BLM will, however, adjust the per acre zone rates of the acreage rent schedule each year based on the average annual change in the IPD–GDP, as described in section 2806.22(a). This annual adjustment will not be applied to the acreage rent payments for a lease until the next 10-year interval, where the payment will be recalculated using the current acreage rent schedule. The BLM will use the most current per acre zone rates to calculate the acreage rent when first determining a new lease's acreage rent or when recalculating the acreage rent for the next 10-year period of a lease, unless the holder selected the scheduled rate adjustment method under section 2806.54(d).

Section 2806.54(b) identifies the MW capacity fee for solar development leases, which will be calculated in the same way as the MW capacity fee for solar grants outside of a DLA. The phase-in of the MW capacity fee is different from grants. For an explanation of when the BLM requires payment of the MW capacity fee, see section 2806.52(b). For the MW rate, see section 2806.52(b)(1). For the MW rate schedule, see

section 2806.52(b)(2). For periodic adjustments in the MW rate, see section 2806.52(b)(3).

Reference to section 2806.52(b) has been added to the final rule. In conjunction with a previous comment, the BLM has made various edits to the final rule to improve readability. The BLM has explained when and how it will require payment and adding this specific citation will make this section more understandable.

Section 2806.54(c) describes the MW rate phase-in for solar energy development leases. Unless the holder selected the scheduled rate adjustment method under section 2806.54(d), the MW rate in effect at the time the lease is issued will be used for the first 20 years of the lease. The MW rate in effect in year 21 of the lease will be used for years 21–30 of the lease.

In order to improve readability in this section, the BLM provided a more specific citation to section 2806.52(b)(2). This should help direct the reader to the appropriate section of this final rule.

Section 2806.54(c)(1) provides for a 10-year phase-in of the MW capacity fee, plus the initial partial year, if any. For the first ten years of a lease, the MW capacity fee is calculated by multiplying the authorized MW capacity by 50 percent of the MW rate for the applicable type of solar technology employed by the project. The MW rate schedule is provided for under section 2806.52(b)(2). The phase-in applies to the MW rate for either solar or wind energy leases (see section 2806.64(c)).

Section 2806.54(c)(2) applies to the MW rate phase-in for years 11 through 20 of a lease. The MW capacity fee for years 11 through 20 will be calculated by multiplying the MW capacity by 100 percent of the MW rate.

Section 2806.54(c)(3) applies to the MW rate for years 21 through 30 of a lease. The MW capacity fee for years 21 through 30 will be calculated by multiplying the MW capacity by 100 percent of the MW rate. If the POD requires that electricity generation will begin after year 10 of the lease, the MW capacity fee will be calculated using section 2806.54(c)(2) or 2806.54(c)(3), as appropriate.

Comments: Some comments suggested establishing a low cost payment structure, which is different from that proposed. The suggested payment structure would include a phase-in during the first half of a project's life and then raise fees to regular (full) rates for all solar and wind leases. The payment structure could require an upfront cost payment, and then full costs only when financial costs are being incurred by the developer. An example would be to reduce payments to 10 percent of the gross lease rate for the first 15 years for a lease within a designated solar energy development leasing area.

Response: The BLM did not change the payment structure as suggested by the commenter. FLPMA requires that the BLM generally receive fair market value for the use of the public lands. The suggested low cost payment structure may not provide fair market value.

Comments: Some comments suggested removing the distinction between solar or wind technologies and their respective base rent or fees (i.e., wind is 30 percent and solar is 25 percent without differentiation between technologies). The comment also suggested that the BLM incentivize storage for solar facilities, to promote grid stability, by offering a reduced rate.

Response: The BLM's methodology for collecting fair market value through rents and fees is similar to market comparable practices from non-Federal lands. Use of a technology-specific net capacity factor is appropriate for determining the MW rate for solar and wind energy development. Further, the BLM is not responsible for directing a technology's costs or its success in the energy market. Intentionally setting rates below market values or without market support, such as by establishing a net capacity factor, is not appropriate for this final rule. These suggestions have not been incorporated into the final rule, and the language in the proposed rule is carried forward to the final rule, with some revision as noted in the discussion of section 2806.52(b).

Comment: Another comment recommends that if a MW capacity fee is adopted in the final rule for leases (issued under subpart 2809), the MW rate should be phased-in at 50 percent for the life of the lease; for grants (issued under subpart 2804), the MW rate should be phased-in over a 5- year period. The comment also recommends using the MW rate in effect when the lease or grant is issued without adjustment. PPAs are generally fixed for a term, usually 20 years. A developer places a higher premium on certainty and stability of the MW capacity fee over the potential for reduced rates in the future in case of a long-term downward trend in prices.

Response: The BLM is aware that certainty and stability are factors to consider when developing and establishing its rules. However, based on the BLM's experience, most solar and wind energy developments break even with the costs of constructing and operating a facility within 15 to 20 years after the start of generation of electricity. The BLM has taken this into account as part of its formulation of the MW rate updates and phase-in.

The MW rate is set when a lease is issued, and not updated until year 21 of the lease. The MW rate is phased-in for the first 10 years at 50 percent of the full rate, after which the MW rate is no longer phased-in. Any updates to the MW rate schedule will not result in an adjustment to leases during the 10-year phase-in or the first 20 years of the lease. Only at year 21 and each following 10-year interval will the MW rate adjust, using the currently established MW rate schedule.

A grant's MW rate, however, is set each year, beginning when a project starts generating electricity. The MW rate is phased-in for the first 3 years at 25/50/100 percent of the MW rate, respectively. The BLM will recalculate the MW rate schedule once every 5 years, at which time the next year's payment by a developer will adjust consistent with the updated MW rate schedule.

Section 2806.54(c)(4) describes the MW capacity fee of the lease if it were to be renewed. The MW capacity fee is calculated using the then-current MW rates at the beginning of the new lease period and remain at that rate through the initial 10-year period of the renewal term. The MW capacity fee will be adjusted using the then-current MW rate at the beginning of each subsequent 10-year period of the renewed lease term.

Under section 2806.54(c)(5), the rule provides for the staged development of leases. Such staged development, consistent with section 2805.12(c)(3)(iii), will have no more than three development stages, unless the BLM approved more development stages in advance. The MW capacity fee is calculated using the authorized MW capacity approved for that stage multiplied by the MW rate for that year of the phase-in, plus any previously approved stages multiplied by the MW rate as described in section 2806.54(c).

Section 2806.54(d) is added to this final rule to establish the method by which the BLM will perform scheduled rate adjustments for leases, similar to the scheduled rate adjustments for grants in section 2806.52(d). In order for scheduled rate adjustments to be applied to a lease, a lease holder must have selected the scheduled rate adjustment method, as required in section 2806.51.

Paragraph 2806.54(d)(1) specifies which rates will be used initially for the scheduled rate adjustments. The BLM will use the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) that are in place when your lease is issued.

Paragraph 2806.54(d)(2) specifies that the per acre zone rate will be increased every 10 years by the change in the IPD-GDP for the preceding 10-year period. (In contrast, the per acre zone rate for grants is adjusted every 5 years.) The 10-year average IPD-GDP change used for this increase is the same that is used to adjust the per acre rent schedule annually for linear rights-of-way under section 2806.22(b), except that it will be adjusted once cumulatively every ten years, rather than annually. For example, the current annual change in IPD-GDP is 2.1 percent, which would result in a roughly 21 percent change in year ten. In addition to the IPD-GDP change, a 40 percent increase every 10 years will be applied as part of the scheduled rate adjustment (in contrast to a 20 percent increase every 5 years for grants). The BLM will continue to apply this adjustment every 10 years (that is, in years 11 and 21 for the 30-year lease).

Similar to the approach taken for grants, the BLM reviewed changes in national per acre land values in NASS when establishing the 40 percent adjustment. Over the term of a lease, the BLM would make two adjustments to the per acre zone rates. These

two adjustments would compound on each other, for a cumulative increase of 96% over the 30-year life of the lease. This adjustment is within the identified change in land values from NASS and is also in line with industry's recommendation of an annual change in rates limited to no more than 4 percent. (A 4 percent annual increase, compounded annually over 30 years, amounts to a 324 percent increase over the life of the lease.) For further discussion on this, see the preamble discussion of section 2806.52(d)(2).

Paragraph 2806.52(d)(3) specifies that likewise, the MW rate will increase by 40 percent every 10 years. The BLM reviewed national changes in power pricing since 1960 and determined that 40 percent adjustments to the MW rate every 10 years are appropriate. Over the term of the lease, the BLM would make 2 adjustments to the MW rate (in years 11 and 21). These 2 adjustments would compound on each other for a cumulative increase of 96% over the 30-year life of the lease. This adjustment is within the identified range of power pricing changes and is also in line with industry's recommendation of an annual change in rates limited to no more than 4 percent. (A 4 percent annual increase, compounded annually over 30 years, amounts to a 324 percent increase over the life of the lease.) For further discussion on this, see the preamble discussion of section 2806.52(d)(3).

Paragraph 2806.54(d)(4) specifies that the phase in of the MW rate for standard rate adjustments in section 2806.54(c) does not apply to authorizations that are using the scheduled rate adjustments. Instead, for years 1 through 5 of a lease, plus any initial partial year, the MW capacity fee is 50 percent of the otherwise applicable solar rate.

This reduction is applied only to new leases and only during the initial term; the phase-in will not be applied to leases when renewed.

Like the phase-in period under the standard rate adjustment method, the initial MW capacity is also subject to a phase-in; however, it is shorter (a 5-year period instead of a 10-year period). Again, the purpose of the phase-in period is to provide a financial incentive to developers to use the public lands within their grant earlier (since the clock on the phase-in starts running at lease issuance, even though the obligation to pay the MW capacity fee does not attach until power generation commences). The BLM selected a 5-year phase-in under the scheduled rate adjustment method instead of the 10-year phase-in from section 2806.54(c) because of the difference in rate structures. Under the standard rate adjustment, the MW capacity fee will not adjust for the first 20 years of a lease term, and that initial rate is phased-in for the first half of that period (10 years). Under the scheduled rate adjustments, the rate adjusts every 10 years and the phase-in is provided for half of the initial rate period (5 years). Both the 10-year and 5-year phase-in are consistent with market practices.

Paragraph 2806.54(d)(5) explains that if the approved POD provides for staged development of the project, the BLM will calculate the MW capacity fee using the MW capacity approved for that stage. Only development stages in operation during the first 5 years of a lease will be phased-in.

MW capacity fee-example 1: The MW capacity fee for a 400-MW photovoltaic solar energy right-of-way grant would be $1,145,200 per year (400 MWs × $2,863 per MW), implemented over a 3-year period after the start of electricity generation. In the first partial year after start of generation in July for a solar energy right-of-way, the MW

capacity fee would be $143,150 (400 MWs × $2,863 per MW × 25 percent × 0.5 year); in the second year after the start of electricity generation, the MW capacity fee would be $572,600 (400 MWs × $2,863 per MW × 50 percent × 1 year); and in the third year after the start of electricity generation, and each year thereafter, the MW capacity fee would be $1,145,200 per year (400 MWs × $2,863 per MW × 1 year).

MW capacity fee-example 2: The MW capacity fee for a 400 MW concentrated PV or concentrated solar power right-of-way grant would be $1,431,200 per year (400 MWs × $3,578 per MW), implemented over a 3-year period after the start of electricity generation. In the first partial year assuming the start of electricity generation in January for a solar energy right-of-way, the MW capacity fee would be $357,800 (400 MWs × $3,578 per MW × 25 percent × 1 year); in the second year after the start of electricity generation, the MW capacity fee would be $715,600 (400 MWs × $3,578 per MW × 50 percent × 1 year); and in the third year after start of generation and each year thereafter, the MW capacity fee would be $1,431,200 per year (400 MWs × $3,578 per MW × 1 year).

MW capacity fee-example 3: The MW capacity fee for a 400 MW solar power right-of-way grant with a storage capacity of 3 hours or more would be $1,717,600 per year (400 MWs × $4,294 per MW), implemented over a 3-year period after the start of electricity generation. Assuming generation began in January, in the first partial year after the start of electricity generation, the MW capacity fee would be $429,400 for a solar energy right-of-way (400 MWs × $4,294 per MW × 25 percent × 1 year); in the second year after the start of electricity generation, the MW capacity fee would be $858,800 (400 MW × $4,294 per MWs × 50 percent × 1 year); and in the third year after

the start of electricity generation, and each year thereafter, the MW capacity fee would be $1,717,600 per year (400 MW × $4,294 per MWs × 1 year).

Acreage rent and MW capacity fee example for a solar energy development grant: The annual acreage rent and MW capacity fee for 2016 for a 400 MW photovoltaic solar energy development grant located on 4,000 acres in Clark County, NV after the phase-in period would be approximately $2,231,480. (The acreage rent of $1,021,480 (4,000 acres × $255.37 per acre) plus the MW capacity fee of $1,261,600 (400 MWs × $3,154 per MW) equals $2,283,080).

No comments were received and no changes are made from the proposed rule to the final rule.

Section 2806.56 Rent for support facilities authorized under separate grant(s).

Under this section, support facilities for solar development will be authorized under a grant. Support facilities may include administration buildings, groundwater wells, and construction laydown and staging areas. Rent for support facilities authorized under separate grants is determined using the Per Acre Rent Schedule for linear facilities under existing section 2806.20(c). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2806.58 Rent for energy development testing grant(s).

Comments: Several comments suggested that site- and project-area testing should be allowed for both solar and wind energy.

Response: The final rule now includes site- and project-area testing authorizations for both solar energy and wind energy. New section 2806.58 has been added in this final rule to incorporate this change. Changes in this section are consistent

with section 2806.68, which did not receive any comments, but was modified to remove the word "wind" from the naming of the type of grants to remain consistent with the types of authorizations that the BLM will issue.

Section 2806.58(a) describes the rent for any energy site-specific testing grant. A minimum rent is established as $100 per year for each grant issued. Under this paragraph rent is set by incorporating into the final rule the site-specific rent amount found in the BLM's IM No. 2009-043, as follows: Site-specific grants are authorized only for one site and do not allow multiple sites to be authorized under a single grant; however, a single entity may hold more than one site-area testing grant. If a BLM office has an approved small site rental schedule, that office may use the rents, so long as the rent exceeds the $100 minimum. Small site rental schedules are provided to the BLM from the Department's Office of Valuation Services and reflect accurate determination of market value. In lieu of annual payments for a site-specific testing grant, a grant holder may pay for the entire 3-year term of the grant. See sections 2801.9(d)(1) and 2805.11(b)(2)(i) of this preamble for further discussion of site-specific energy testing grants.

Section 2806.58(b) describes the rent for any energy project-area testing grant. A per-year minimum rent is established at $2,000 per authorization or $2 per acre for the lands authorized by the grant, whichever is greater. The appraisal consultation report by the Office of Valuation Services supports the rent established in this final rule. Project-area grants may authorize multiple meteorological or instrumentation testing sites. There is no additional charge or rent for an increased number of sites authorized under such grants. See sections 2801.9(d)(2) and 2805.11(b)(2)(ii) of this preamble for further discussion of project-area energy testing grants.

Section 2806.60 Rents and fees for wind energy rights-of-way.

Section 2806.60 requires a holder of a wind energy right-of-way authorization to pay annual rent and MW capacity fees for right-of-way grants issued under subpart 2804 and leases issued under subpart 2809.

As noted earlier in this preamble, there are similarities between rents and MW capacity fees for solar and wind energy, as well as between rents and MW capacity fees for authorizations issued under subparts 2804 and 2809. The BLM intentionally designed the rents and fees for solar and wind energy development projects to match as closely as possible in order to reduce the potential for confusion and misunderstanding of the requirements. The methodology for calculating rents, fees, phase-ins, adjustments, and rate proration is the same for wind as for solar. Many of the terms and conditions of a lease issued under this subpart will also be the same. No comments were received on this section, and no changes were made between the proposed and final versions of this section, other than those discussed in connection with section 2806.50 of this preamble.

Section 2806.61 Scheduled Rate Adjustment

Section 2806.61 is added to the final rule, consistent with section 2806.51 of this final rule. This section parallels 2806.51 with no substantive differences, except that this section applies to wind energy grants and leases instead of solar energy grants and leases. See section 2806.51 of this preamble for further discussion. Parallel changes are also made in sections 2806.62(d) and 2806.64(d) of this preamble. See sections 2806.52(d) and 2806.54(d) of this preamble for further discussion of those sections.

Section 2806.62 Rents and fees for wind energy development grants.

Section 2806.62 parallels section 2806.52, which discusses rents and MW capacity fees for solar energy development grants. The discussion on all components of the wind energy development grants duplicates the provisions for solar rents and fees, except for paragraph (a)(1) of this section which discusses the per acre zone rates and paragraphs (a)(6), (a)(7), and (b)(4)(iii) of this section, which discuss the BLM implementation of the new acreage rent and MW capacity fee. Revisions have been made to the requirements of this section consistent with comments on the proposed rule. See comments discussed under section 2806.52 for further information and details regarding the revisions made to the final rule.

Section 2806.62(a) addresses the acreage rent for wind energy development. See section 2806.52(a) for a discussion of acreage rent. The acreage rent is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate in effect at the time the authorization is issued. The annual zone rate is derived from the wind energy acreage rent schedule in effect at the time the authorization is issued.

Section 2806.62(a)(1) addresses per acre zone rates for wind energy development grants. The methodology for calculating the acreage rent is the same for wind as it is for solar, but wind and solar energy have different encumbrance factors. Solar energy projects encumber approximately 100 percent of the land, while wind energy projects encumber approximately 10 percent of the land. Therefore, for wind, the per acre zone rate is calculated using a 10 percent encumbrance factor instead of 100 percent encumbrance factor.

Under section 2806.62(a)(1), the initial per acre zone rate for wind energy projects is now established by considering four factors: the per acre zone value multiplied by the encumbrance factor multiplied by the rate of return multiplied by the annual adjustment factor. This calculation is reflected in the following formula – A x B x C x D = E, where:

"A" is the per acre zone value are the same per acre zone values described in the linear rent schedule in section 2806.20(c);

"B" is the encumbrance equaling 10 percent;

"C" is the rate of return equaling 5.27 percent;

"D" is the annual adjustment factor equaling the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS census data becomes available; and

"E" is the annual per acre zone rate. The BLM will adjust the per acre zone rates each year, based on the average annual change in the IPD-GDP, as described in section 2806.22(a). Adjusted rates are effective each year on January first.

Under section 2806.62(a)(2), counties (or other geographical areas) are assigned a Per Acre Zone Value on the wind energy acreage rent schedule, based on the State-specific percent of the average land and building value published in the NASS Census. The Per Acre Zone Value is a component of calculating the Per Acre Zone Rate under paragraph (a)(1) of this section. As specified in new section 2806.62(a)(3), the initial assignment of counties to the zones on the wind energy acreage rent schedule will be based upon the NASS Census data from 2012 and be established for calendar years 2016 through 2020. Subsequent reassignments of counties will occur every 5 years following

the publication of the NASS Census, as described in section 2806.21. State-specific percentage factors will be recalculated once every 10 years at the same time the linear rent schedule is updated, as described in section 2806.22(b).

Section 2806.62(a)(2) provides the calculation to establish a State-specific percent factor that represents the difference between the improved agricultural land values provided by NASS and the unimproved rangeland values that represent BLM land. The calculation for determining the State-specific percent factor is (A/B) – (C/D) = E, where:

"A" is the NASS Census statewide average per acre value of non-irrigated acres;

"B" is the NASS Census statewide average per acre land and building value;

"C" is the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

"D" is the total statewide acres in farms; and

"E" is the State-specific percent factor or 20 percent, whichever is greater.

The county average per acre land and building values that exceed the 20 percent threshold for solar and wind energy development are as follows for the BLM managed lands:

Table of State-Specific Factors and other Data for Applicable States

State	**Existing Regulations and Proposed Rule: nationwide 20 percent factors**	**Final rule State-by-State calculated factors**	**Final Rule State-specific factors**
Alaska	20%	12%	20%

Arizona	20%	49%	49%
California	20%	51%	51%
Colorado	20%	24%	24%
Idaho	20%	29%	29%
Montana	20%	12%	20%
Nevada	20%	16%	20%
New Mexico	20%	24%	24%
North Dakota	20%	5%	20%
South Dakota	20%	5%	20%
Oregon	20%	2%	20%
Texas	20%	-1%	20%
Utah	20%	54%	54%
Washington	20%	21%	21%
Wyoming	20%	16%	20%
Average	20%	21%	27%

The following table lists the paragraphs where the wind energy grant provision parallels the solar energy provision for the same topic. The discussion for each relevant wind energy provision is found in this preamble under the associated solar energy provision.

Topic	**Wind**	**Solar**
Acreage Rent	43 CFR 2806.62(a)	43 CFR 2806.52(a)
Per acre Zone Rate	43 CFR 2806.62(a)(1)	43 CFR 2806.52(a)(1)
Assignment of Counties	43 CFR 2806.62(a)(2)	43 CFR 2806.52(a)(2)

Initial Assignment of Counties	43 CFR 2806.62(a)(3)	43 CFR 2806.52(a)(3)
Acreage Rent Payment	43 CFR 2806.62(a)(4)	43 CFR 2806.52(a)(4)
Acreage Rent Adjustments	43 CFR 2806.62(a)(5)	43 CFR 2806.52(a)(5)
Obtain a Copy of Rent Schedule	43 CFR 2806.62(a)(7)	43 CFR 2806.52(a)(6)
MW Capacity Fee	43 CFR 2806.62(b)	43 CFR 2806.52(b)
MW Rate	43 CFR 2806.62(b)(1)	43 CFR 2806.52(b)(1)
MW Rate Schedule	43 CFR 2806.62(b)(2)	43 CFR 2806.52(b)(2)
MW Rate Adjustments	43 CFR 2806.62(b)(3)	43 CFR 2806.52(b)(3)
MW Rate Formula	43 CFR 2806.62(b)(3)(i)	43 CFR 2806.52(b)(3)(i)
Rate of Return	43 CFR 2806.62(b(3)(ii)	43 CFR 2806.52(b)(3)(ii)
MW Rate Phase-in	43 CFR 2806.62(b)(4)	43 CFR 2806.52(b)(4)
Scheduled Rate Adjustment	43 CFR 2806.62(d)	43 CFR 2806.52(d)
Initial Rates Used	43 CFR 2806.62(d)(1)	43 CFR 2806.52(d)(1)
Acreage Rate Adjustment	43 CFR 2806.62(d)(2)	43 CFR 2806.52(d)(2)
MW Rate Adjustment	43 CFR 2806.62(d)(3)	43 CFR 2806.52(d)(3)
MW Rate Phase-in	43 CFR 2806.62(d)(4)	43 CFR 2806.52(d)(4)
Stage of Development	43 CFR 2806.62(d)(5)	43 CFR 2806.52(d)(5)
Existing Grants	43 CFR 2806.62(d)(6)	43 CFR 2806.52(d)(6)

Section 2806.62(a)(6) is added to this final rule to explain that holders of wind energy development grants must pay acreage rent as described in section 2806.62(a), except that for holders of wind energy development grants, the acreage rent will be phased in as described in section 2806.62(c).

Section 2806.62(b)(4)(i) addresses the term of the MW rate phase-in. Paragraphs (b)(4)(i)(A), (B), and (C) of this section address the percentages of the phase-in. See section 2806.52(b)(4)(i) for a discussion of the term of the MW rate phase-in and paragraphs (b)(4)(i)(A), (B), and (C) for the percentages of the phase-in. No change is made to the final rule, other than the change made for consistency with section 2806.52(b)(4)(i).

New section 2806.62(b)(4)(ii) addresses the MW rate phase-in for a staged development. Paragraph (b)(4)(ii)(A) of this section addresses the percentages of the phase-in and paragraph (b)(4)(ii)(B) addresses the calculation of the rent for the phase-in of a staged development. See section 2806.52(b)(4)(ii) for a discussion of the MW rate phase-in for a staged development, paragraph (A) for the percentages of the phase-in, and paragraph (B) for the calculation of the rent for the phase-in of a staged development.

New section 2806.62(b)(4)(iii) states that the MW rate will be implemented as described in section 2806.62(c).

Comment: A comment noted that the BLM has not yet designated any wind energy zones or other preferred wind energy development areas that would become a DLA. Without any such areas designated for wind energy, the BLM's rule would put wind energy at a disadvantage in comparison to solar energy since wind energy would not be able to benefit from the incentives available for development in such areas.

Response: The BLM agrees that there are currently no wind energy development areas and that wind energy developers cannot yet benefit from the incentives provide for DLAs in subpart 2809 of this final rule. The BLM intends to establish wind energy DLAs in the future. However, this would be done through amending or revising a land

use plan, which can take several years. Therefore, the BLM has added section 2806.62(c) to this final rule to explain how the BLM will implement the acreage rent and MW capacity fee for wind energy grants.

Developers that submitted an application prior to the publication of the proposed rule would not have known the potential incentives for developing inside a DLA. This final rule provides a payment reduction to developers that had committed to a project on the public lands before this rule was proposed. However, developers that submitted applications after the publication of the proposed rule were aware of the BLM's proposed rule and incentives and knew that they did not qualify for these incentives.

Section 2806.62(c) implements this payment reduction. Specifically, section 2806.62(c) applies to all wind energy development grants that have made a payment for billing year 2016, or for which an application to the BLM was filed before September 30, 2014. This is explained in the following paragraphs.

Under paragraph 2806.62(c)(1) of this section, the BLM will reduce the acreage rent and the MW capacity fee. The BLM will compare the total annual payment of the acreage rent and MW capacity fee for 2017 to the total annual payment currently required by policy for the 2016 billing year. Any net increase in costs to a right-of-way holder will be reduced by 50 percent for 2017 billing year. This one-year reduction is intended to ease the transition for grant holders from the current policies to this final rule. If 2017 is the first year for which you make an annual payment, the phase-in described under section 2806.52(b)(4) will apply without an implementation reduction of 50 percent. The rates established by policy will remain in effect until 2017 for rights-of-way that are not

issued under subpart 2809 of this final rule in order to provide notice to existing holders of the adjusted rent and fees.

Section 2806.62(c)(2) explains how the BLM will implement the acreage rent and MW capacity fee for wind energy grants for which an application to the BLM was filed before September 30, 2014. In addition to the timely filing requirement, a grant holder must also have an accepted POD and cost recovery agreement established before September 30, 2014.

The BLM intends for this section to apply to applications that were filed before the BLM issued the proposed rule on September 30, 2014. Anyone who submitted an application before this date would not have known about the proposed requirements of the final rule, including updates to the payment requirements and the incentives for developing inside a DLA.

Under paragraph (c)(2)(i) of this section, the BLM will reduce the acreage rent of the grant for the first year by 50 percent. This reduction applies only to the first year's annual payment, even if it is for a partial year. If the BLM requires an upfront payment for the first partial year and next full calendar year, only the partial year will be reduced by 50 percent. The BLM may require such payment for the year in advance for rights-of-way authorized consistent with section 2806.12 of this final rule. No reduction will be applied to the acreage rent for the subsequent years of the grant.

Under paragraph (c)(2)(ii) of this section when the project has reached a point where the BLM requires a MW capacity fee payment, the MW capacity fee will be reduced by 75 percent for the first and second year and 50 percent for the third and fourth year of the grant. The first year is the initial partial year, if any, after electricity

generation begins. The fifth and subsequent years will be charged at 100 percent of the MW capacity fee. This reduction applies to each approved stage of development.

No further comments were received and no other changes were made to this section, beyond those that were already discussed in this preamble in connection with section 2806.52.

Section 2806.64 Rents and fees for wind energy development leases.

The title of this section was revised by adding "and fees" and removing "inside designated leasing areas." This was done to be consistent with the title of section 2806.54.

See section 2806.54 for a discussion of all components of rent for a wind energy development lease, except for section 2806.54(a)(1), which discusses the per acre zone rates. Section 2806.54(a)(1) does not apply to wind energy development grants and leases because solar and wind energy acreage rents are calculated using different encumbrance factors. Section 2806.64(a)(1) addresses the per acre zone rate for wind energy leases. See section 2806.54(a)(1) for a discussion of acreage rent.

Section 2806.64(a)(1) addresses per acre zone rates for wind energy leases. See section 2806.62(a)(1) for a discussion of acreage rent, which differs from solar energy development. The per acre rents are calculated using the methodology discussed in section 2806.62(a)(1), which reflects the 10 percent encumbrance factor for wind energy development.

The following chart lists the paragraphs where the wind energy lease provisions parallel the solar energy provisions for the same topic. The discussions for each relevant

wind energy provision are found in the preamble under the associated solar energy provision.

Topic	Wind	Solar
Acreage Rent	43 CFR 2806.64(a)	43 CFR 2806.54(a)
Per acre Zone Rate	43 CFR 2806.64(a)(1)	43 CFR 2806.54(a)(1)
Assignment of Counties	43 CFR 2806.64(a)(2)	43 CFR 2806.54(a)(2)
Acreage Rent Payments	43 CFR 2806.64(a)(3)	43 CFR 2806.54(a)(3)
Acreage Rent Adjustments	43 CFR 2806.64(a)(4)	43 CFR 2806.54(a)(4)
MW Capacity Fee	43 CFR 2806.64(b)	43 CFR 2806.54(b)
MW Rate	43 CFR 2806.64(b)(1)	43 CFR 2806.54(b)(1)
MW Rate Schedule	43 CFR 2806.64(b)(2)	43 CFR 2806.54(b)(2)
MW Rate Adjustments	43 CFR 2806.64(b)(3)	43 CFR 2806.54(b)(3)
MW Rate Phase-in	43 CFR 2806.64(c)	43 CFR 2806.54(c)
Years 1-10	43 CFR 2806.64(c)(1)	43 CFR 2806.54(c)(1)
Years 11-20	43 CFR 2806.64(c)(2)	43 CFR 2806.54(c)(2)
Years 21-30	43 CFR 2806.64(c)(3)	43 CFR 2806.54(c)(3)
MW Capacity Fee if Renewed	43 CFR 2806.64(c)(4)	43 CFR 2806.54(c)(4)
Scheduled Rate Adjustment	43 CFR 2806.64(d)	43 CFR 2806.54(d)
Initial Rates Used	43 CFR 2806.64(d)(1)	43 CFR 2806.54(d)(1)
Acreage Rate Adjustment	43 CFR 2806.64(d)(2)	43 CFR 2806.54(d)(2)
MW Rate Adjustment	43 CFR 2806.64(d)(3)	43 CFR 2806.54(d)(3)
MW Rate Phase-in	43 CFR 2806.64(d)(4)	43 CFR 2806.54(d)(4)
Stage of Development	43 CFR 2806.64d)(5)	43 CFR 2806.54(d)(5)

MW Capacity for a Staged Development	43 CFR 2806.64(c)(5)	43 CFR 2806.54(c)(5)
Rent for Support Facilities	43 CFR 2806.66	43 CFR 2806.56

No comments were received on this section, and no changes were made from the proposed to the final version of this section, beyond those discussed in connection with section 2806.54.

Section 2806.66 Rent for support facilities authorized under separate grants.

This section states that if a wind energy development project includes separate right-of-way authorizations for support facilities such as wells, control structures, staging areas, or linear rights-of-way (e.g., roads, pipelines, transmission lines, etc.), then the rent schedule will be determined using the Per Acre Rent Schedule for linear facilities found at section 2806.20(c). No comments were received on this section, and no changes were made from the proposed to the final version of this section, beyond those discussed in connection with section 2806.56.

Section 2806.68 Rent for energy development testing grant(s).

Section 2806.68(a) describes the rent for any energy site-specific testing grant. A minimum rent is established as $100 per year for each grant issued. Under this section, rent is set by incorporating in this final rule the site-specific rent amount from IM 2009-043, Wind Energy Development Policy. Site-specific grants are authorized only for one site and do not allow multiple sites to be authorized under a single grant; however, a single entity may hold more than one grant. If a BLM office has an approved small site rental schedule, that office may use the rent amount established in the small site rental

schedule, so long as the rent schedule charges more than the $100 minimum rent per year found in the regulations. Since small site rental schedules are provided to the BLM by the Department's Office of Valuation Services, they represent a third party determination of market value. In lieu of annual payments for a site-specific testing grant, a grant holder may pay for the entire 3-year term of the grant. See sections 2801.9(d)(1) and 2805.11(b)(2)(i) of this preamble for further discussion of site-specific energy testing grants.

Consistent with comments received and discussed under section 2801.9 of this preamble, the title of this section is changed from the proposed rule to read as shown above. A similar change was made for the title of paragraphs (a) and (b) of this section. These changes are made in order to ensure the headings of the rule are consistent with revisions to the final rule that will allow site-specific and project-area testing to be available for both solar and wind energy testing.

Section 2806.68(b) describes the rent for a wind energy project-area testing grant. A per-year minimum rent is established at $2,000 per authorization or $2 per acre for the lands authorized by the grant, whichever is greater. The appraisal consultation report by the Office of Valuation Services supports the rent amounts established in this final rule. Project-area grants may authorize multiple meteorological or instrumentation testing sites. There is no additional charge or rent for an increased number of sites authorized under such grants. See sections 2801.9(d)(2) and 2805.11(b)(2)(ii) of this preamble for further discussion of project-area energy testing grants.

No further comments were received on this section and no additional changes were made in the final rule.

Section 2806.70 How will the BLM determine the payment for a grant or lease when the linear, communication use, solar energy, or wind energy payment schedules do not apply?

Section 2806.70 is redesignated from existing section 2806.50 and is retitled as shown above. This section provides guidance on how the BLM determines the payment for a grant or lease when the linear rent schedule, the communication use rent schedule, the solar acreage rent and MW capacity fee provisions, or the wind acreage rent and MW capacity fee provisions are not applicable.

The title of this section is amended by replacing "rent" with "payment" in two places. This final rule introduces the concept of MW capacity fees, which are a payment to the BLM for the commercial utilization value of the public lands, above the rural land values. The term "payment" includes both rents and fees, which is why it was selected. No other change is intended by this revision.

The only other change to this redesignated section is that solar and wind energy rights-of-way are now included in the listed rent schedules. No comments were received and no other changes are made from the proposed rule to the final rule.

Subpart 2807— Grant Administration and Operation

Section 2807.11 When must I contact BLM during operations?

This section is revised to make it clear that you must notify the BLM when your use requires a substantial deviation from the issued grant. Under the changes made to section 2807.11(b), "substantial deviations" from the right-of-way grant now require an amendment to the grant. "Substantial deviations" include changing the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in

use for the right-of-way. Substantial deviations to a grant may require adjustment to a grant or lease rent and fees under subpart 2806, or bonding requirements under subparts 2805 and 2809.

Consistent with other revisions to the final rule intended to improve readability, the BLM revised paragraph (b) of this section to read as "the BLM's" instead of "our." This revision is intended to improve understanding of who the BLM is referring to in the final rule.

Comment: One comment asked the BLM to narrow the circumstances under which a right-of-way holder must notify the BLM, suggesting that these reporting requirements be limited to changes that necessitate an assignment under the standards identified in section 2807.21(h).

Response: The requirement to report changes in partners, financial conditions, or business or corporate status is a requirement of the existing regulations found under section 2807.11(c). Section 2807.11(c) was not proposed for revision and is not revised or redesignated by this final rule. In addition, the BLM must have accurate and up-to-date information about right-of-way holders in order to facilitate its management of the public lands.

Paragraph (d) of this section requires you to contact the BLM when site-specific circumstances or conditions result in the need for you to propose changes to an approved right-of-way grant, POD, site plan, or other procedures that are not substantial deviations in location or use. Examples of proposed "minor deviations" include changes in location of improvements in the POD or design of facilities that are all within the existing boundaries of an approved right-of-way. Other such proposed non-substantial deviations

might include the modification of mitigation measures or project materials. For purposes of this provision, project materials include the POD, site plan, and other documents that are created or provided by a grant holder. These project materials are a basis for the BLM's inspection and monitoring activities and are often appended to a right-of-way grant, which is why the BLM needs to understand any changes to those materials. The requested changes may be considered as grant or lease modification requests. Proposals for non-substantial deviations will require review and approval by the authorized officer or other appropriate personnel. The preliminary application review meetings found under section 2804.12 and public meetings found under section 2804.25 are not required for an assignment.

Paragraph (e) requires that right-of-way holders contact the BLM to correct discrepancies or inconsistencies.

Section 2807.17 Under what conditions may the BLM suspend or terminate my grant?

Section 2807.17(d) contains the provisions formerly located at section 2809.10. This section was redesignated in order to make room for the renewable energy right-of-way leasing provisions. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2807.21 May I assign or make other changes to my grant or lease?

Some revisions were made to this section in response to comments, which are discussed in the following paragraphs. A summary of other revisions to this section is included after these comments and responses.

Comments: Some comments noted confusion over the BLM's requirements for name changes and assignments, specifically, what constitutes a name change or assignment. Additionally, comments noted that mergers and acquisitions are not assignments and that a name change or assignment should not be the basis for or occasion on which the BLM redrafts the terms and conditions of right-of-way agreements.

Response: Section 2807.21 is revised to provide clarity on the BLM's requirements for assignments and name changes. Sections 2807.21(b) and (c) of the proposed rule have been combined into section 2807.21(b) in this final rule. As a result of these changes, several paragraphs are also redesignated in the final rule. The BLM agrees with commenters that name changes should not necessitate the rewriting of the terms and conditions of a right-of-way agreement.

The BLM disagrees with the commenter equating mergers and acquisitions with name changes. A merger or acquisition is different in character as they can result in material changes to the corporate structure under which a right-of-way grantee or leaseholder operators. Such changes can affect financial positions or the technical capability of a parent company. As a result, the BLM determined that it was appropriate to expand the definition of assignment in both the final and proposed rules to include changes in ownership and other related change in control transactions, including "mergers or acquisitions." However, recognizing that there are changes in corporate structure within the same corporate family that may technically constitute change in control transactions, but that do not implicate BLM's concern about technical and financial capability of a grant- or lease- holder's parent, the BLM has revised sections 2807.21(a)(2) and (b)(2) to clarify that change in control transaction within the scope of

that provision do not include transactions or restructurings within the same corporate family.

When a right or interest in a right-of-way grant or lease is assigned from one party to another, the involved parties are identified as the assignor and assignee. The BLM generally evaluates the assignee, the party that is intended to receive the right or interest, as if they were a new applicant. The BLM may determine that additional terms and conditions are required when assigning the right or interest and would include them as a term or condition of the grant at the time of assignment. New terms and conditions could include the requirement to bond the authorized facility, such as in the case when a potential assignee of a grant has a poor history of meeting the terms and conditions of a BLM grant, that may have not applied to the assignor. The evaluation and determination of whether new terms and conditions should be applied would occur when the BLM considers the proposed conveyance of a right-of-way.

Other revisions to the terms and conditions that may occur with assignments are those which the BLM retains authority to revise, such as rents, fees, bonding, and other revisions identified under section 2805.15(e). Section 2805.15(e) allows the BLM to amend the terms and conditions of a right-of-way grant or lease as a result of changes in legislation, regulation, or as otherwise necessary to protect public health or safety or the environment. Because any changes to the terms and conditions of a right-of-way grant or lease would occur after the completion of the agency action (the BLM's decision to approve the right-of-way), the BLM anticipates doing so through a separate action, generally initiated at the BLM's discretion and requiring its own decision-making process.

Updating corporate or individual filings within a State where only a name is changed, but the filing does not transfer a right or interest to another party, qualifies as a name change. Name changes for a right-of-way grantee or lessee do not require a NEPA analysis and the right-of-way would not be subject to revision. When changing a name, the BLM does not issue a new right-of-way grant or lease, but would re-issue the same right-of-way grant or lease with the new name on it. This is because the BLM would be dealing with the same entity to which it had originally authorized the right-of-way. Name changes are an administrative action taken by the BLM to update its records showing the proper name of the entity it has authorized. In the case of a name change, there is no assignment, in whole or part, of any right or interest in a grant or lease.

A name change would occur if an entity had filed paperwork with a State for a name change. Re-issuing a grant or lease with the new name would only provide the BLM an opportunity to notify the right-of-way holder of updated rent, bonding, or other such revised provisions made under section 2805.15(e).

Section 2807.21 is amended by revising the section heading and existing paragraphs (a), (d), and (f); adding paragraphs (b), (g), and (h); and making other appropriate redesignations of the remaining paragraphs. We are further revising this section with a few changes made in the final rule in response to comments, which will be explained in greater detail in the discussion of each specific paragraph. The heading for this section is changed from "May I assign my grant?" to read as "May I assign or make other changes to my grant or lease?" The existing regulations do not cover all instances where an assignment is necessary and the section is revised to address situations where assignments may not be required. The changes are necessary to: (1) Add and describe

additional changes to a grant other than assignments; (2) Clarify what changes require an assignment; and (3) Specify that right-of-way leases issued under part 2809 are subject to the regulations in this section.

Without the BLM's approval of a right-of-way assignment, a private party's business transaction would not be recognized by the BLM and this lack of recognition could hinder a new holder's management and administration of the right-of-way. This rule also clarifies the responsibilities of a grant holder should such private party transactions occur.

Paragraph (a) of this section is revised to describe two events that may necessitate an assignment: (1) A transfer by the holder of any right or interest in the right-of-way grant or lease to a third party (e.g., a change in ownership); and (2) A change in control involving the right-of-way grant or lease holder such as a corporate merger or acquisition.

Paragraph (a)(1) in this final rule is revised by removing the word "voluntary" when describing a transfer. There are some situations, such as bankruptcy, when a transfer may be involuntary. The BLM did not intend to exclude those circumstances from this section.

Paragraph (a)(2) is revised to remove reference to changes in status as a "wholly owned subsidiary." That provision created confusion and was removed. No additional comments were received and no further changes were made to this paragraph.

New paragraph (b) of this section is revised to clarify and remove ambiguities in this section of the rule that explains the circumstances that do not constitute an assignment, but may necessitate filing new or revised information. A change in the holder's name only does not require an assignment nor do changes in a holder's articles

of incorporation. However, sometimes a change in a holder's name or articles of incorporation may indicate that an assignment occurred. The BLM will review the documentation filed with it in order to determine if a transfer in part or whole of the right-of-way has occurred or a change in control transaction of the grant-holder or lease holder has occurred.

This section is revised from the proposed to the final rule to help further explain these situations more clearly to the public. The introductory text of paragraph (b) of this section is revised to clarify that even though an assignment may not be necessary, some circumstances may necessitate filing new or revised information. Paragraphs (b)(1), (b)(2) and (b)(3) of this section provide examples for when this filing may be necessary. Paragraph (b)(1) of this section is added to this final rule to explain that transactions within the same corporate family do not constitute an assignment. Paragraphs (b)(2) and (b)(3) of this section contain the provisions of proposed paragraphs (b) and (c) of this section with some minor revisions.

Existing paragraph (b) of this section is revised and redesignated as paragraph (c). As revised, this paragraph requires the payment of application filing fees in addition to processing fees. This revision promotes consistency between applications for assignments and other applications for rights-of-way. For example, the rule (at section 2804.12(c)(2)) now requires an application filing fee for solar and wind energy applications. As revised, new paragraph (c) also provides that the BLM will not approve any assignment until the assignor makes any outstanding payments that are due. This paragraph is revised from the proposed to final rule by adding a provision stating that preliminary application review meetings are not required for an assignment.

Comments: Some comments stated that the pre-application requirements for would be burdensome for an assignments, name changes or even renewals and suggested excluding those requirements for assignments, name changes and renewals.

Response: Sections 2807.21 (c) and 2807.21(h)(1) are revised to make clear that the pre-application (now known as preliminary application review) meetings are not required for assignments and name changes. No other revisions have been made to these paragraphs in response to this comment.

Existing paragraph (c) of this section is redesignated, unchanged, as paragraph (d) and is included in the final rule. Existing paragraph (d) of this section is revised and redesignated as paragraph (e). As revised, new paragraph (e) will except leases issued under revised 43 CFR subpart 2809 (i.e., right-of-way authorizations inside a DLA) from the BLM's authority to modify terms and conditions when it recognizes an assignment. This provision provides incentives for potential right-of-way lessee to develop lands inside DLAs.

The BLM revised the first sentence in paragraph (e) of this section from the proposed to final rule to clarify how an assignment is recognized. The BLM will approve an assignment in writing.

Comment: A comment requested clarification of the BLM's right to modify terms of a lease issued under subpart 2809. As written, the proposed rule would have prohibited the BLM from modifying a lease issued under subpart 2809 when approving an assignment. In addition, the comment requested clarification of the relationship between section 2805.15(e) and sections 2807.21 and 2887.11.

Response: The BLM agrees with this suggestion and in the final rule further clarification has been provided to show the relationship between section 2805.15(e) and this provision for leases issued under subpart 2809. Revised section 2807.21(e) now includes an additional statement to make clear that a lease will not be modified to include additional terms and conditions when approving an assignment, unless a modification is required under section 2805.15(e).

The BLM may, however, "require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable bond instrument" (see section 2805.20(a)) when approving an assignment. A bond is required for a right-of-way at the BLM's discretion and is always required for a solar or wind energy grant or lease. If a bond is required, the BLM must be certain that a bond is in place to ensure the protection of the public lands before approving an assignment.

In addition, section 2809.18(f) has been modified to be consistent with this provision. The statement that a lease will not be modified to include additional terms and conditions is specific to when the BLM completes an assignment. Under a separate action which may occur at the same time an assignment is completed, the terms and conditions may be modified if requested by a lessee pursuant to section 2805.12(e).

No revision has been made under 2887.11 on this matter since leases issued under subpart 2809 cannot be assigned under section 2887.11.

Redesignated section 2807.21(f) provides that the BLM will process assignment applications according to the same time and conditions as in section 2804.25(d). This provision was formerly identified in the regulations as paragraph (e) of this same section. This provision applies the BLM's customer service standard to processing assignment

applications. This paragraph has been revised to update the referenced citation, consistent with the revisions made to the final rule under section 2804.25.

Section 2807.21(g) explains that only interests in right-of-way grants or leases are assignable. A pending right-of-way application cannot be assigned. A revision is made to the second sentence of this paragraph, to be consistent with changes made under section 2804.30(g), that clarifies that competitively gained applications held by a preferred applicant do provide a right and interest in the public lands. This revision is made here to be consistent with similar changes made under section 2804.30(g).

Section 2807.21(h) addresses how a holder informs the BLM of a name change when the name change is not the result of an underlying change in control of a grant. These procedures are necessary to ensure that the BLM can send rent bills or other correspondence to the appropriate party. This new provision addresses several specific circumstances. For example, it requires any corporation requesting a name change to supply: (1) A copy of the corporate resolution(s) proposing and approving the name change; (2) A copy of the acceptance of the change in name by the State or Territory in which it is incorporated; and (3) A copy of the appropriate resolution(s), order(s), or other documentation that shows the name change. Under this provision, the BLM could also modify a grant, or add bonding and other requirements, including additional terms and conditions when recognizing such changes. However, the only way that the BLM may modify a lease issued under subpart 2809 would be in accordance with section 2805.15(e), or as otherwise described in the regulations. Such modifications under section 2805.15(e) would be a result of changes in legislation, regulation, or to protect

public health, safety, or the environment. Any such name change would be recognized in writing by the BLM.

Section 2807.21(h)(1) was modified from the proposed to final rule to improve readability. The first and second sentences were combined and "preliminary application review and public meetings" were added to the list of exempted requirements during a name change only. This change was made to remain consistent with revisions made under section 2807.21(b), which excludes applications for assignments from preliminary application review meetings and public meetings for solar or wind energy development projects and transmission lines with a capacity of 100 kV or more.

The BLM revised paragraph (h)(2) of this section from the proposed to final rule in order to clarify the differences in how a grant and lease may be modified during a name change. The BLM added new paragraphs (h)(2)(i) and (h)(2)(ii) in order to more clearly separate these situations. Paragraph (h)(2)(i) of this section explains that the BLM may modify a grant to add bonding and other requirements when processing a name change only. However, under paragraph (h)(2)(ii) of this section, the BLM may modify a lease issued under subpart 2809 in accordance with section 2805.15(e). This is not a change from the requirements proposed rule, but it may not have been clear from the way it was phrased. The final rule is intended to prevent any possible confusion.

Generally, the BLM intends to make changes to a grant or lease during a name change only to reflect relevant changes consistent with section 2805.15 (e). This existing section explains the BLM's right to "[c]hange the terms and conditions of your grant as a result of changes in legislation, regulation, or as otherwise necessary to protect public

health or safety or the environment." The BLM will not make any other changes to lease issued under subpart 2809 as part of a name change only.

However, the BLM may take this opportunity to update other aspects of a grant, as appropriate. For example, under section 2805.20(a), "[t]he BLM will periodically review your bond for adequacy and may require a new bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or lease." The BLM may determine that additional actions are necessary, such as updates to the bond (see section 2805.20(a)) or the 10-year updates to the payment provisions (see sections 2806.54 or 2806.64. If the BLM determines that these actions are necessary, they will be taken separate from the name change only as appropriate.

Paragraph (h)(3) of this section is revised in this final rule to read: "Your name change is not recognized until the BLM approves it in writing." As proposed, the rule was not clear whether a name change would be recognized if submitted in writing to the BLM, or if approved in writing by the BLM. This revision makes it clear to readers of the final rule that it must be the BLM's approval in writing to recognize a name change.

Comments: Some comments recommend that the financial information of the original owner or its subsidiary may be used to meet financial qualification requirements of the grantee when assigning or changing the name on a grant or lease.

Response: The BLM will only accept the financial or technical information of the holder of the authorization. The holder is the legally responsible party for the right-of-way and will be held as such under the regulations and any subsequent authorization. However, substitution of one entity's financial and technical capabilities may be acceptable, provided that documentation showing the two entities are linked, such as in

the case of a subsidiary company where the parent company asserts the technical or financial responsibilities of the subsidiary. No revision to the rule was made in response to this comment. No other comments were received or changes made to the final rule.

Section 2807.22 How do I renew my grant or lease?

The title for section 2807.22 is revised by adding "or lease" to the end of the sentence so that leases issued under subpart 2809 are covered by this section. Likewise, paragraphs (a), (b), and (d) of this section are revised to include leases. Paragraphs (c) and (e) remain unchanged. A new paragraph (f) is also added to this section.

Paragraph (f) of this section explains how the BLM would ensure continued operations of a right-of-way during the renewal process. If a holder makes a timely and sufficient application for renewal, the grant or lease does not expire until the BLM acts upon the application for renewal.

The second part of this paragraph describes the circumstances in which the BLM would "reissue" a grant or lease instead of "renew" it. Most of the authorizations managed by the BLM are issued under FLPMA's authority, but some remaining authorizations were issued before FLPMA was enacted. In this situation, the BLM would reissue the grant under FLPMA's authority. Minor revisions are made to paragraph (f) to improve readability of this new paragraph.

This paragraph protects the interests of holders of rights-of-way who have timely and sufficiently made an application for the continued use of an authorization (see 5 U.S.C. 558(c)(1)), and is consistent with policy. In this situation, the authorized activity will not expire until the BLM evaluates the application and issues a decision. No comments were received and no other changes are made to the final rule.

Subpart 2809 Competitive process for leasing public lands for solar and wind energy development inside designated leasing areas.

Existing subpart 2809, which formerly consisted of a single regulation (section 2809.10) pertaining to Federal agency right-of-way grants, is revised and redesignated as new paragraph (d) of section 2807.17. Existing section 2809.10(b) explains that Federal agencies are generally not required to pay rent for a grant. This paragraph is removed, not redesignated, since existing section 2806.14(a)(2) already addresses rental exemptions for Federal agencies and, therefore, 2809.10(b) is no longer necessary.

Revised subpart 2809 is now dedicated to the competitive process for leasing public lands for solar and wind energy development.

Comment: Several comments raised concerns that the priority for handling solar or wind energy leases was unclear when compared to solar and wind grant applications under Part 2804.

Response: Application prioritization is discussed under section 2804.35 of this rule, which specifically states that leases issued under this subpart having priority over grant applications. A new section 2809.10(d) is added to the final rule, consistent with comments received and revisions made in section 2804.35, that clearly identifies the handling of leases issued under subpart 2809 have the highest priority with respect to solar and wind energy on the public lands.

Comment: Several comments suggest that regional mitigation strategies should be used for every designated leasing area and should be part of the land use planning process.

Response: BLM development of a regional mitigation strategy is not necessary prior to holding a competitive auction inside a DLA or otherwise authorizing solar or wind energy development. However, regional mitigation strategies further increase certainty to developers and stakeholders when considering a solar or wind energy development. The BLM believes that the regional mitigation strategies are a good tool to use when making decisions that would affect resources in certain areas, such as a DLA. Regional mitigations strategies provide a durable basis to evaluate mitigation for the impacted lands and the BLM may use such strategies when making land use planning decisions. The BLM is in the process of developing regional mitigation strategies for many SEZs, which qualify as DLAs under this final rule.

The BLM is currently in the process of establishing its mitigation policies and guidance, which include guidance for regional mitigation strategies. Consistent with this guidance, the BLM generally intends to prepare regional mitigation strategies, with opportunities for public review and engagement, before authorizing wind or solar energy development in DLAs, potentially including when the BLM designates DLAs in the future through land use planning.

Comment: One comment suggested that the BLM incorporate the FWS's Wind Energy Guidelines (WEG), which can be found on the Internet at http://www.fws.gov/ecological-services/es-library/pdfs/WEG_final.pdf, into the rule for pre-construction due diligence.

Response: The BLM did not revise the rule as a result of this comment. The BLM has a different scope of authority and responsibility in administering the public lands than the FWS and must take into account biological resources, cultural resources,

and land uses consistent with FLPMA's mandate that public lands be used for multiple use and sustained yield for current and future generations. This is different than the FWS's authority and objectives which do not have a multiple use mandate and generally require limited review for cultural resources. However, the BLM uses processes similar to the WEGs in the review and analysis of resources on the public lands. For wind energy site testing actions similar to steps 2 and 3 of the WEGs are completed prior to a BLM decision. Actions similar to steps 1 through 3 are incorporated into the BLM's processing of a development grant, as well as monitoring protocols that address similar issues as those in the steps of the WEGs.

Comments: Some comments suggest that all final granted right-of-way instrument terms and conditions, regardless of location, should be substantially the same, unless sufficiently justified.

Response: The BLM believes that it has adequate reason for differences in terms and conditions of the energy development projects issued as leases under subpart 2809, as compared to those issued as grants under subpart 2804. There are limited differences in leases and grants, which have been explained in great detail in this preamble. These differences are intended to incentivize development in DLAs, which the BLM has identified as preferred areas for solar or wind energy development, based on a high potential for energy development and lesser resource impacts. Consistent with SO 3285, which describes the need for strategic planning and a balanced approach to domestic resource development, the BLM believes that focusing solar and wind energy development in preferred areas would provide a benefit to the public by reducing potential resource conflicts.

The BLM identifies DLAs through its land use planning process, which requires the BLM to consider the effects of solar or wind energy developments in the area. Due to this prior planning process, the BLM is able to issue a lease almost immediately after holding an auction, because that type of use has already been approved for the area. Subsequent tiered NEPA analysis will generally be necessary for the BLM to evaluate the lease-holder's POD to ensure that it fits within the BLM's decisions before allowing development of the land.

Additionally, the rent and fee payment for leases issued under subpart 2809 are phased in over a longer period of time or updated less frequently than those issued under subpart 2804. The rent and fee payment structure is explained in more detail in sections 2806.50 through 2806.68 of this preamble. This difference in payment of the rent and fee allows the BLM to collect the determined fair market value of the public lands while incentivizing solar and wind energy development in DLAs over other public lands.

No other comments were received or changes made to the final rule for this section.

Section 2809.10 General.

Under section 2809.10, only lands inside DLAs will be available for solar and wind competitive leasing using the procedures under this subpart. Lands outside of DLAs may be offered competitively using the procedures under section 2804.35 of this rule. Under section 2809.10, the BLM may either include lands in a competitive offer on its own initiative or solicit nominations through a call for nominations (see section 2809.11).

A new paragraph (d) is added to this section in the final rule in response to comments on the proposed rule. Paragraph (d) states that the processing of leases awarded under this part will generally be prioritized ahead of grant applications, consistent with revisions made to section 2804.35, clarifying that leases generally have priority over grant applications. This revision is to show how the BLM will prioritize its handling of solar and wind energy development on the public lands. The BLM will generally prioritize leases because they are issued inside DLAs, which are the BLM's preferred areas for solar and wind energy development. The BLM recognizes that only a few wind energy DLAs have been identified to date, and therefore there are only limited opportunities for project proponents to obtain wind energy leases as opposed to grants. The BLM intends to consider this when prioritizing wind energy applications during this transition period, as the BLM develops additional wind energy DLAs. No other changes are made to the final rule for this section and no other comments were received.

Section 2809.11 How will BLM solicit nominations?

This section explains the process by which the BLM will request nominations for parcels of lands inside DLAs to be offered competitively for solar or wind energy development.

Under paragraph (a) of this section, "Call for nominations," the BLM requests expressions of interest and nominations for parcels of land located in a DLA. The BLM will publish a notice in the Federal Register for solar and wind energy development and may use other notification methods, such as a newspaper of general circulation in the area affected by a potential offer or the Internet. This final rule is revised to make notice in a newspaper an optional form of public notice. This section's public notice requirements

are consistent with revisions to other sections of this final rule and are described more fully in section 2804.23(c) of this preamble.

Paragraph (b) of this section, "Nomination submission," outlines the requirements for nominating a parcel of land for a competitive offer.

Paragraph (b)(1) of this section requires a payment of $5 per acre for the parcel(s) nominated. This payment is nonrefundable, except when submitted by an individual or company that does not meet the qualifications identified in section 2809.11(d). The average area of solar and wind grant or lease ranges between 4,000 and 6,000 acres. The $5 per acre fee is derived from an appraisal consultation report prepared by the Department's Office of Valuation Services and will be adjusted for inflation once every 10 years, using the change in the IPD-GDP for the preceding 10-year period. The appraisal consultation report provided a range of $10 - $27 per acre per year with the nominal range being $15 - $17 per acre as the fair market value for these uses of the public lands. The BLM is establishing the nomination fee below the indicated range in the analysis since the submission of a nomination does not ensure that the nominator would be the successful bidder.

The average annual change in the IPD-GDP from 2004-2013 is about 2.1 percent, which will be applied through 2025. The fee will be required only with a nomination and not on a yearly basis and this is noted under section 2809.11(b)(1). The nomination fee is lower than an application filing fee for grants issued under subpart 2804 in order to increase interest and encourage nominators to propose efficient use of the public lands inside DLAs. Payment of fair market value will be received through a combination of the bids (not including Federal administrative costs) received during a competitive process

and the rents and MW capacity fees described in sections 2806.50 through 2806.68 of this final rule.

Nomination fees are collected under Sections 304(b) and 504(g) of FLPMA as cost recovery fees. The nomination fees will reimburse the BLM for the expense of preparing and holding the competitive process for lands inside a DLA. Furthermore, the nomination allows the BLM to see specifically what parcel of land is of interest to a developer and would inform the BLM of parcel configurations for a competitive process. A variable offset may be offered for qualified bidders who submitted nominations. Variable offsets are discussed further in section 2809.16.

The BLM revised paragraph (b) of this section from the proposed to final rule to prevent confusion over how the BLM uses the IPD-GDP to adjust the nomination fees. This revision is consistent with the revision to section 2804.12(c)(2), which describes application filing fees. Both application filing fees and nomination fees may be adjusted once every 10 years. See the preamble discussion for section 2804.12(c)(2) for more information on this revision.

Paragraph (b)(2) of this section requires the nomination to include the nominator's name and address of record. This information is necessary for the BLM to communicate with the nominator about future leasing issues.

Paragraph (b)(3) of this section requires that a nomination be accompanied by a legal land description and map of the parcel of land in a DLA. This information will help the BLM in identifying parcels in the competitive offer.

Under paragraph (c) of this section, the BLM may consider informal expressions of interest. An expression of interest is an informal submission to the BLM, suggesting

that a parcel inside a designated leasing area be considered for a competitive offer. An expression of interest only provides a tentative bidder's interest in a parcel(s) of land located inside a DLA. If the expression of interest identifies a specific parcel, it must be submitted in writing, include the legal land description of the parcel, and a rationale for its inclusion in a competitive offer. There is no fee required to make an expression of interest, but submission does not qualify a potential bidder for a variable offset, as would formal nominations.

Under paragraph (d) of this section, you must qualify to hold a grant or lease under section 2803.10 in order to submit a nomination.

Under paragraph (e) of this section, a nomination cannot be withdrawn, except by the BLM for cause, in which case nomination monies would be refunded. This clause parallels language in the BLM's other competitive process regulations and encourages serious nominations for parcels on public lands.

Comments: Some comments stated that nomination fees, as discussed under section 2809.11(b)(1), should reflect the cost for the BLM to plan and conduct a competitive lease process. In addition, one comment recommended that the nomination fee be set at $5 per acre and be adjusted downward to a minimum of $2 per acre for large parcels. In the event the entity that nominates the parcel is not the successful bidder, then the nomination should be refunded to that party and assessed to the successful bidder.

Response: The BLM will maintain a flat rate fee for nominations. A tiered or sliding scale approach to such fees would create an unnecessarily complicated system. A flat fee ensures that such costs are consistent for each action and the expectation to meet the requirements are clear. In addition, nomination fees are kept as a non-refundable fee

because they are a cost recovery payment to the BLM for expenses the agency incurs. These fees would be used by the BLM to prepare and hold a competitive offer. Submission of a nomination demonstrates a developer's seriousness for use of an area. No other comments were received and nor changes are made from the proposed rule to the final rule.

Section 2809.12 How will BLM select and prepare parcels?

This section provides that the BLM will identify parcels suitable for leasing based on either nominations, expressions of interest, or its own initiative. Before offering the selected lands competitively, the BLM and as appropriate, other Federal or State entities, will conduct studies, comply with NEPA and other applicable laws, and complete other necessary site preparation work. This work is necessary to ensure that the parcels are ready for competitive leasing, to provide appropriate terms and conditions for any issued lease, to appropriately protect valuable resources, and to be consistent with the BLM's plan(s) for the area.

Paragraph (b) of this section is revised from the proposed to final rule by adding "as applicable" after "other Federal agencies." This revision clarifies that other Federal agencies will be involved, as applicable, but may not be involved on all projects. It may not always be necessary to include other Federal agencies and those agencies may not want to participate.

Comments: Some comments recommended that the BLM should include a procedural requirement in the regulation that a regional mitigation strategy must be completed before the initiation of a competitive leasing process. It is also suggested that this approach would benefit the project proponents with enhanced certainty regarding

compensatory mitigation costs. One comment specifically recommended the addition of the following text, "b) work, including applicable environmental reviews and public meetings and publish the availability of a final regional mitigation strategy, before . . . ."

Response: The BLM considered including a requirement to complete a regional mitigation strategy; however, the BLM did not revise the rule as a result of the comment because each competitive offer will vary based upon resource concerns, public, tribal, and developer issues, and government interests. The BLM is currently in the process of establishing its mitigation policies and guidance, which include guidance for regional mitigation strategies. Consistent with this guidance, the BLM intends to prepare regional mitigation strategies, with opportunities for public review and engagement, before authorizing wind or solar energy development in DLAs, potentially including when the BLM designates DLAs in the future through land use planning.

Section 2809.13 How will the BLM conduct competitive offers?

Under this section, the BLM may use any type of competitive process or procedure to conduct its competitive offer. Several options, such as oral auctions, sealed bidding, a combination of oral and sealed bidding, and others are identified in section 2809.13(a). Oral auctions are planned events where bidders are asked to orally bid for a lease at a predetermined time and location. Sealed bidding would occur when bidders are asked to submit bids in writing by a certain date and time. Combination bidding is when sealed bids are first opened and then afterward an oral auction would occur, with oral bids having to exceed the highest sealed bid.

Under paragraph (b) of this section, the BLM would publish a notice of competitive offer at least 30 days before bidding takes place in the Federal Register and

through other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the Internet. This section of the final rule is revised, consistent with revisions to other sections of this final rule, to make notice in a newspaper an optional method for public notice. See section 2804.23(c) of this preamble for further discussion of these revisions. Minor revisions are also made from the proposed to the final rule to paragraph (b)(5) of this section to improve readability. The word "factor" is added throughout paragraph (b)(6) of this section for the final rule. This is intended to help the reader understand that an offset factor is part of the variable offset that may be presented in the notice of competitive offer. A notice of competitive offer must include:

1. The date, time, and location (if any) of the competitive offer;
2. The legal land description of the parcel to be offered;
3. The bidding methodology and procedures that will be used in conducting the competitive offer, including any of the applicable competitive procedures identified in section 2809.13(a);
4. The required minimum bid (see section 2809.14(a));
5. The qualification requirements for potential bidders (see section 2809.11(d));
6. If applicable, the variable offset (see section 2809.16), including:

i. The percent of each offset factor;

ii. How bidders may pre-qualify for each offset factor; and

iii. The documentation required to pre-qualify for each offset factor; and

7. The terms and conditions to be contained in the lease, including requirements for the successful bidder to submit a POD for the lands involved in the competitive offer (see section 2809.18) and the lease mitigation requirements.

Section 2809.13(b)(7) is revised in the final rule to include in the terms and conditions of a notice of competitive offer any mitigation requirements, including those for compensatory mitigation to address residual impacts associated with the right-of-way. This revision is made to clarify where the BLM will incorporate mitigation in its administrative processes. Including mitigation requirements in this final rule is discussed in greater detail in the general comment and responses portion of this preamble.

Under paragraph (c) of this section, the BLM will notify you of its decision to conduct a competitive offer at least 30 days in advance of the bidding if you nominated lands and paid the nomination fees required by section 2809.11(b)(1). No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2809.14 What types of bids are acceptable?

Section 2809.14 explains the requirements for bids submitted under the competitive process outlined in this subpart.

Paragraph (a) of this section provides that your bid submission will be accepted by the BLM only if it included the minimum bid established in the competitive offer, plus at least 20 percent of your bonus bid, and you are able to demonstrate that you are qualified to hold a right-of-way by meeting the requirements in section 2803.10. Consistent with comments received and revisions made to the final rule, the words, "or lease" are added to this paragraph of the final rule to help improve its clarity. As proposed, the rule only referenced a grant, which is defined in these regulations to

include the term lease. For the final rule, language was added to make it clear that the qualifications to hold a lease are the same as to hold a grant.

Paragraph (b) of this section provides that a minimum bid will consist of three components. The first component is the amount required for reimbursement of administrative costs incurred by the BLM and other Federal agencies in preparing and conducting the competitive offer. Administrative costs include all costs required for the BLM to comply with NEPA plus any other associated costs, including costs identified by other Federal agencies. As mentioned in the general discussion section of this preamble, administrative costs are not a component of fair market value, but are used to reimburse the Federal Government for its work in processing a competitive offer and performing other necessary work.

The second component of the minimum bid is an amount determined by the authorized officer for each competitive offer. The BLM will consider known values of the parcel when determining this amount, which include, but are not limited to, the acreage rent and a megawatt capacity fee. The authorized officer will identify these factors and explain how they were used to determine this amount. The third component is a bonus bid submitted by the bidder as part of a bid package. This amount will be determined by the bidder.

Consistent with section 2804.30(e)(2)(ii) for notice of competitive offers outside of DLAs, the BLM has removed the reference to mitigation costs from section 2809.14(b)(2). Please see section 2804.30 of this preamble for further discussion on this topic.

In other BLM programs, the minimum bid is often a statutory requirement or is based on fair market value of the resource, but there are no statutory requirements for a minimum bid for the right-of-way renewable energy program. The acreage rent is based on the value of the land and the MW capacity fee is based on the value of the commercial use of the land. The BLM plans to base this minimum bid on factors such as these that are known values of the parcel. The minimum bid amount, how it was determined, and the factors used in this determination will be clearly articulated in the notice of competitive offer for each parcel.

A minimum bid is not a determination of fair market value, but a point at which bidding may start. Fair market value will be received through a combination of rent, MW capacity fees, and competitive bidding and this process will determine what the market is willing and able to pay for the parcel. Payment of cost recovery fees is also required, but is not considered a part of the minimum bid. The minimum bid is paid only by the successful bidder and is not prorated among all of the bidders.

As described in paragraph (c) of this section, a bonus bid consists of any dollar amount that a bidder wishes to bid, beyond the minimum bid. The total bid equals the minimum bid plus any additional bonus bid amount offered. If you are not the successful bidder, as defined in section 2809.15(a), your bid will be refunded.

Comments: Two comments were received pertaining to this section. The first comment states that the proposed rule does not provide an effective mechanism for incentivizing solar development in SEZs by eliminating or significantly reducing developer costs associated with NEPA compliance.

Response: There are significant incentives to developers for leases issued under subpart 2809, including the up-front land use planning and other environmental work that the BLM will complete and the certainty that after winning a competitive auction inside a DLA, a successful bidder would be awarded a lease. In addition, the BLM offers variable offsets, longer phase-ins for MW capacity fees, and greater time between acreage rent and MW capacity fees rate updates for leases issued under subpart 2809 that are not available for grants issued under subpart 2804.

Comment: The second comment stated that the BLM should not include the potential for lands to be developed for solar energy generation when determining the minimum bid for a competitive offer.

Response: Section 2809.14(b)(2) describes how the BLM will consider known and potential land values. While other competitive processes, such as the BLM's coal program, include a statutory requirement for the minimum bid, the BLM has no such requirement for the solar or wind energy programs. Therefore, the BLM determined that it would be appropriate to tie the minimum bid to the known values of the parcel being auctioned. These known values, such as the acreage rent, would reflect the potential for lands to be developed for solar energy. This minimum bid component will be explained in each notice of competitive offer.

Section 2809.15 How will the BLM select the successful bidder?

This section explains how the successful bidder is determined and what requirements they must meet in order to be offered a lease. The bidder with the highest total bid, prior to any variable offset, will be declared the successful bidder and may be offered a lease in accordance with section 2805.10. In paragraph (a) of this section,

"will" is changed to "may." The BLM will not offer a lease if the successful bidder does not meet the requirements described in paragraph (d) of this section. As written, paragraphs (a) and (d) of this section were inconsistent with each other and this revision is intended to resolve this inconsistency.

The BLM will determine the appropriate variable offset percentage by applying the appropriate factors identified in section 2809.16, before issuing final payment terms. The specific factors will be identified in the competitive offer. If you are the successful bidder, your payment must be submitted to the BLM by the close of official business hours on the day of the offer or at such other time as the BLM may have specified in the offer notice. Your payment must be made by personal check, cashier's check, certified check, bank draft, or money order, or by any other means the BLM deemed acceptable. Your remittance must be payable to the "Department of the Interior—Bureau of Land Management." Your payment must include at least 20 percent of the bonus bid prior to application of the variable offset described in section 2809.16, and the total amount of the minimum bid specified in section 2809.14(b). Within 15 calendar days after the day of the offer, you must submit to the BLM the balance of the bonus bid less the variable offset (see section 2809.16) and the acreage rent for the first full year of the solar or wind energy lease as provided for in sections 2806.54(a) or 2806.64(a), respectively. Submit these payments to the BLM office conducting the offer or as otherwise directed by the BLM in the offer notice.

In section 2809.15(d) of this final rule, the BLM revised "will approve your right-of-way lease" to "will offer you a right-of-way-lease." This change is for consistency in terminology with paragraphs (a) and (e) of this section, which refer to the offering of a

lease and not its approval. Under paragraph (e) of this section, the BLM will not offer a lease if the requirements of section (d) are not met. The BLM does not intend for this revision to change how it offers a lease to successful bidders.

Under section 2809.15(e), the BLM will not offer the successful bidder a lease, and will keep all money submitted, if the requirements of section 2809.15(d) are not met. In this circumstance, the BLM may offer the lease to the next highest bidder under section 2809.17(b) or re-offer the lands under section 2809.17(d). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2809.16 When do variable offsets apply?

Section 2809.16 provides that a successful bidder inside a DLA may be eligible for a variable offset of the bonus bid (in essence, a bidding credit), based on the factors identified in the notice of competitive offer. Variable offsets are not available outside of DLAs.

In providing for these offsets, the BLM intends to promote thoughtful and reasonable development based upon known environmental factors and impacts of different technologies. The BLM believes providing these offsets will increase the likelihood that a project is developed, expedite the development of that project, and encourage development that will result in lesser resource impacts from the right-of-way. Overall, the BLM believes the structure of these offsets will help encourage the production of clean renewable energy on public lands, which is a benefit to the general public.

Pre-qualified bidders may be eligible for offsets limited to no more than 20 percent of the high bid. Factors for a bidder to pre-qualify may vary from one

competitive lease offer to another and may include offsets for bidders with an approved PPA or Interconnect Agreement, among other factors.

For example, the BLM may apply a 5 percent offset factor to a bidder that has a PPA. This offset factor could encourage a bidder to secure an agreement before the offer, which could increase the likelihood of a project being developed and expedite the completion of such development. In the BLM's experience with solar and wind energy developments, a project is not always developed after a right-of-way is issued. Based on this experience, the BLM believes that it is appropriate to award an offset to a bidder with an agreement in place to sell power, because that bidder will be more likely to develop a project on the right-of-way. This could prevent the unnecessary encumbrance of a right-of-way being issued to a holder who never develops the intended project.

The BLM may also identify as an offset factor the submission of a plan showing a reasonable development scenario. For example, the BLM may apply a 5 percent offset factor to a bidder that would use a particular technology. The BLM may identify a preferred technology type that would reduce impacts to identified environmental or cultural resources on the proposed parcel.

The BLM anticipates selected factors for the offsets to be in increments of 5 percent. These will be reviewed at the BLM Washington Office for consistency and relevance prior to each competitive offer made in the first several years after publication of the final rule. The BLM intends to provide additional guidance on the use of these individual factors to ensure consistency between individual notices of competitive offer.

The BLM may offer a different percentage for each offset factor based on how qualified the bidder is for a specific offset factor. For example, the BLM may offer a 3

percent offset for an interim step in the PPA process or a 5 percent offset for a signed PPA. The BLM acknowledges that in some circumstances qualifying for these offsets may be difficult. For this reason, the BLM may offer incremental offset percentages to bidders that are working toward such qualifications. These offset factors (and their various increments) will be identified in the notice of competitive offer (see section 2809.13(b)(6)).

The notice of competitive offer will identify each factor for which BLM may grant a variable offset, and the corresponding maximum percentage offset that would be applied to a qualified bidder's bonus bid. The notice will also identify the documentation a bidder must submit to pre-qualify for the offset. The authorized officer will determine the total offset for each competitive offer, based on the parcel(s) to be offered and any associated environmental concerns or technological limitations.

As identified under paragraph (c) of this section, the factors for which the BLM may grant a variable offset in a particular lease sale include:

1. Power purchase agreement. This could be a signed agreement between the potential lessee and an entity that agrees to purchase the power generated from the solar or wind energy facility;
2. Large generator interconnect agreement. This would consist of a signed agreement from the holder of an electrical transmission facility and the potential lessee that power would be accepted on the grid controlled by the holder to be transported to a power receiving source;

3. Preferred solar or wind energy technologies. This would be an incentive to use technologies for generating or storing solar or wind energy that would efficiently use public lands or reduce impacts to identified resources such as water;
4. Prior site testing and monitoring inside the DLA. This would consist of evidence that the potential lessee or others associated with the lessee had previously performed appropriate testing or monitoring to determine the suitability and capability of the site for establishment of a successful solar or wind energy generating facility;
5. Pending applications inside the DLA. This would be a situation where the potential lessee had previously filed for authorization to construct facilities inside the DLA;
6. Submission of nomination fees. These are required when submitting a formal nomination (see section 2809.11(b));
7. Submission of biological opinions, strategies, or plans. This could include biological opinions, bird and bat conservation strategies, and habitat conservation plans;
8. Environmental benefits. This factor would include any positive environmental considerations such as identifying and salvaging archaeological or historical artifacts, additional protection for protected plant or animal species, or similar factors;
9. Holding a solar or wind energy grant or lease on adjacent or mixed land ownership. This could show the bidder's vested interest in developing the right-of-way;
10. Public benefits. These could include documented commitments or agreements to provide jobs or other support for local communities or supporting local public purposes projects; or

11. Other similar factors. These could include support for other Federal Government programs or national security by providing power for defense purposes or meeting government purchase contracts.

The only changes made in the listed variable offset factors between the proposed and final rule is for Factor Number 7, and those made for clarity and consistency in the final rule, are described in greater detail in the response to comments.

Comment: One comment requested that the BLM not use the variable offset concept, as it is unworkable and would result in appeals by rejected bidders.

Response: Throughout the preambles to the proposed and final rules, the BLM has explained DLAs and the various aspects of the competitive process for solar and wind energy in these areas. By creating incentives for prospective developers and encouraging various conditions that would lead to environmental and other public benefits, the use of a variable offset is an integral aspect of this process.

The BLM manages the public land under the principles of multiple use and sustained yield, but does not expect all interested stakeholders to agree with all of the BLM's decisions. This is, in part, the reason for the BLM's appeal process, allowing the public to seek an administrative remedy for the BLM's decisions by which they have been adversely affected. The BLM expects that there will be appeals or protests on decisions that are made regarding management of the public lands.

For each notice of competitive offer, the BLM will include the factor(s) of a variable offset, as well as the requirements a bidder must meet to qualify for each incremental percentage. Bidders, as well as the public, will have this information made available to them through the notice of competitive offer and be able to act according to

their interests or concerns over the proposed actions. The variable offset is carried forward in the final rule.

Comment: A comment expressed confusion over how the BLM would implement the proposed factor Number 7 (Timeliness of project development, financing and economic factors), and if the potential for meeting project timelines was even possible as a variable offset factor since the reduction in bid money would precede the demonstration of meeting agreed-upon time frames. Acts of God and other such influences that are outside the bidder's control were noted as possible reasons a bidder that received such a factor offset may not be able to meet it.

Response: Proposed factor number 7 for timeliness is removed from the final rule. The BLM agrees with the comment that implementing a timeliness factor would be difficult. There are many reasons outside of a winning bidder's control that may cause a delay to the development of a project. The proposed criteria for timeliness offset factor is a desired objective for an incentive, but was determined too difficult to enforce.

Comment: Another comment stated that the BLM must not shortchange taxpayers or other landowners through a discount that unjustly encourages development of public lands rather than comparable private lands. The BLM must ensure fair market value for the use of public lands.

Response: The variable offset is not a discount to a developer for the use of public lands. It is an incentive provided to a developer of the public lands, that accounts for certain steps a developer has already taken in a particular designated leasing area. Factors of the variable offset may also address the reduction of resource impacts, such as when a less water intensive technology is used. The variable offsets recognize these

early developer steps that could increase the certainty of the successful development of a lease area and assist the BLM in its management of the public lands under the multiple use and sustained yield principles. This increased certainty benefits the public by not having public lands unnecessarily encumbered by a lease that may not be developed and increases the likelihood that solar or wind power generation would occur on public lands.

Comment: A third comment believes that incentives for DLAs should be reached exclusively by reducing rents rather than a complicated structure of variable offsets, time limits, bonding provisions, authorization terms, and MW capacity fees, and that the BLM proposed incentives should be removed from the final rule. This comment specifically addressed some of the proposed factors as follows:

Comment (1): Factors 1 (Power purchase agreement) and 2 (Large generator interconnect agreement) cannot be attained without demonstrated site control.

Response (1): Although securing a PPA or large generator interconnect agreement (LGIA) may not be attainable without site control, the notice may identify interim steps toward meeting the requirements of the offset factor. The final rule allows for interim steps in each of these identified offset factors. The text of the rule cites that the "variable offset may be based on any of the following factors." The notice of competitive offer would include the specific criteria required to qualify for a factor of the variable offset under paragraphs (c)(1) and (c)(2) of this section, including any interim steps toward those factors.

Comment (2): Factor 3 (Preferred solar or wind energy technologies) for preferred technologies should be removed as it could discriminate against certain technologies

without having the expertise of an energy regulatory body (outside of the BLM's authority and expertise).

Response (2): The BLM has expertise in many areas, including the impacts that a certain a technology type may have on the public lands and its resources. This may include technologies with fewer impacts to wildlife or visual resources, or technologies that consume less water. The BLM may choose to provide a variable offset factor for a preferred technology that reduces impacts to the public lands and resources. However, in some cases, the BLM may choose to consult with one of the national laboratories or State authorities for their expertise for some technologies which may be outside of the BLM's expertise to determine as a preferred technology.

Comment (3): The comment asserts that under section 2809.19(a)(1), applications that are filed prior to the publication of the draft land use plan amendment that establishes a DLA should not make a bidder eligible for factors (4) (prior site testing in a DLA) and (5) (pending applications in a DLA). This would only encourage the strategic filing of speculative applications after publication of the draft land use plan amendment in order to qualify for factors (4) and (5).

Response (3): Applications that are filed on public lands before the publication of a notice of intent or other form of public notice by the BLM for a land use plan amendment that are later designated as a DLA will continue to be processed by the BLM and not subject to the competitive offer process of subpart 2809. The filing of speculative applications will not prevent the BLM from holding competitive offers in a particular area.

If the BLM elects to hold a competitive offer for the DLA, the applicant may qualify for offset factors (4) or (5) if they chose to participate. The BLM believes that submitting an application after a notice of intent or other public notice, paying the application filing fee, and waiting for the BLM to hold a competitive offer, should qualify an applicant for variable offset factor 4 or 5.

Comment (4): Factor 6 (submission of nomination fees) is not an incentive if a bidder can submit an expression of interest, which requires no fee, and increase their bonus bid by the amount of the nomination fee that they would have paid, thereby increasing their chances of being the winning bidder.

Response (4): Neither submitting an expression of interest nor submitting a nomination will guarantee that the BLM selects that parcel for a competitive offer. However, if a developer has a particular parcel in mind, the payment of a nomination fee may be preferable so that they may qualify for a variable offset factor. In addition, 5 percent of the bonus bid may result in greater savings to the bidder than the amount submitted for the nomination fees.

Comment (5): Factors 8 (environmental benefits) and 10 (public benefits) are open to distortion and variability across field offices.

Response (5): The BLM intends that in each notice of competitive offer it will identify each applicable variable offset factor offered and specify how a bidder may qualify for each factor. The criteria listed in the final rule are intended to be broad and varied so that they can be adapted for each competitive offer.

Factor 9 is revised from the proposed to the final rule to include grants. As proposed, the factor could appear to only apply for adjacent leases. In this final rule, the

BLM may authorize a grant under subpart 2804 inside a DLA, which may be adjacent to a parcel which is bid on. The parcel may also be adjacent to a grant that is outside the DLA. This revision clarifies that the BLM would consider the site control of adjacent lands, regardless of the instrument.

Comment: One comment suggests the following variable offsets be added: (1) A bird and bat conservation strategy for the project site; (2) A commitment to a specific right-of-way lease condition to obtain a bald and golden eagle protection act permit; (3) A plan to employ best available operation minimization strategies; and (4) agreement to: (a) Conduct monitoring and research with land-based WEG and Eagle Conservation Plan Guidance; (b) Provide this monitoring data to the public to facilitate a greater understanding to the wildlife impacts; and (c) implement avoidance measures to avoid impacts.

Response: A variable offset factor has been added in the final rule to account for biological opinions, strategies and plans. This factor has been added in the place of offset factor 7 which, as noted in an earlier response to comment, has been removed from this rule. New variable offset factor 7 reads as "Submission of biological opinions, strategies, or plans." This will encourage the early and thoughtful development of the public lands. To have such a plan or opinion completed at this point could lead to fewer biological resource impacts and quicker NEPA review of the project POD. The BLM does not expect many projects to complete a biological opinion at this point in the process, but interim steps toward such a plan would demonstrate the developer's commitment to protecting resources on public lands. Such interim steps could qualify a developer for

this factor of a variable offset, which would be described in the notice of competitive offer.

No other comments were received and no other changes are made to this section.

Section 2809.17 Will the BLM ever reject bids or re-conduct a competitive offer?

This section identifies situations where the BLM may reject a bid, offer a lease to another bidder, re-offer a parcel, and take other appropriate actions when no bids are received. Under section 2809.17(a), the BLM could reject bids regardless of the amount offered. Bid rejection could be for various reasons, such as discovery of resource values that cannot adequately be mitigated through stipulations (e.g., the only known site of a rare or endangered plant or for security purposes). If this occurs, the bidder will be notified and the notice will explain the reason(s) for the rejection and whether you are entitled to any refunds. If the BLM rejects a bid, the bidder may appeal that decision under section 2801.10. Minor revisions are made from the proposed to the final rule to improve readability of this section's title by adding the word "the" before BLM.

The BLM could offer the lease to the next highest qualified bidder if the first successful bidder is later disqualified or does not sign and accept the offered lease (see section 2809.17(b)).

Under paragraph (c) of this section, the BLM could re-offer a parcel if it cannot determine a successful bidder. This may happen in the case of a tie or if a successful bidder is later determined to be unqualified to hold a lease.

Under paragraph (d) of this section, if public lands offered competitively under this subpart receive no bids, the BLM could either reoffer the parcels through the competitive process under section 2809.13 or make the lands available through the non-

competitive process found in subparts 2803, 2804, and 2805. If the lands are offered on a noncompetitive basis, the successful applicant would receive a right-of-way grant issued under subpart 2804, rather than a lease issued under subpart 2809, and the offsets described in section 2809.16 would not apply.

Comment: A comment stated that the right to appeal a rejected bid must be qualified (i.e., not be a spurious appeal). The comment goes on to say that this may be remedied by the BLM: (1) prohibiting the issuance of a stay against a lease award while there is a pending appeal filed under section 2801.10; and (2) Specifying that a successful appeal would not rescind a lease award, but instead result in an automatic 20 percent offset for the next DLA competitive process in which the successful appellant participates.

Response: The BLM agrees that appeals should not be spurious or intended to disrupt the BLM's administration of the public lands. However, the BLM does not agree that it should prohibit the issuance of a stay in its regulations. The right to appeal a BLM decision, including the issuance of a stay, is an important part of the BLM's orderly administration of the public lands.

Should an appeal be successful in the IBLA, the BLM would not award a 20 percent variable offset to the appellant. A successful appeal may be grounds for a re-offer of the parcels or other similar action that would be consistent with the administrative status of the BLM decision that was appealed. Also, should a variable offset be awarded to successful appellants, it would likely incite further appeals from other unsuccessful bidders in the hopes to secure such a future credit. Therefore, the BLM will not provide for such variable offset awards in the rule for successful

appellants. No other comments were received or changes made to the final rule for this section.

Section 2809.18 What terms and conditions apply to leases?

Section 2809.18 lists the terms and conditions of solar and wind energy leases issued inside DLAs.

Under paragraph (a) of this section, the term of a lease issued under subpart 2809 will be 30 years and the lessee may apply for renewal under section 2805.14(g). While the BLM will issue grants under subpart 2804 for a term up to 30 years (see section 2805.11), leases issued under subpart 2809 are guaranteed a lease term of 30 years.

Under paragraph (b) of this section, a lessee must pay rent and MW capacity fees as specified in section 2806.54, if the lease is for solar energy development or as specified in section 2806.64, if the lease is for wind energy development. Rent and MW capacity fees are discussed in greater detail in sections 2806.50 through 2806.68 of the section-by-section analysis. Minor revisions are made from the proposed to the final rule to improve readability, but any significant changes are discussed in detail in this preamble.

Under paragraph (c) of this section, a lessee must submit, within 2 years of the lease issuance date, a POD that: (1) Is consistent with the development schedule and other requirements in the POD template posted on the BLM's website http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html; and (2) Addresses all pre-development and development activities. A POD is often required for rights-of-way under section 2804.25(c) of this final rule and is currently required for all renewable energy projects through policy. Due to their complexity, solar and wind energy

development projects will always require a POD. The POD must provide site-specific information that will be reviewed by the BLM and other Federal agencies in accordance with NEPA and other relevant laws.

Under paragraph (d) of this section, a lessee must pay the reasonable costs for the BLM or other Federal agencies to review and process the POD and to monitor the lease. The authority for collecting costs is derived from Sections 304(b) and 504(g) of FLPMA that authorize reimbursement to the United States of all reasonable and administrative costs associated with processing right-of-way applications and other documents relating to the public lands, and in the inspection and monitoring of construction, operation, and termination of right-of-way facilities. Such costs may be determined based on consideration of actual costs. A lessee may choose to pay full actual costs for the review of the POD and the monitoring activities of the lease. Through the BLM's experience, a lessee is more likely to choose payment of full actual costs as this expedites the BLM's review and monitoring actions by removing administrative steps in cost estimations and verifying estimated account balances.

Under paragraph (e) of this section, a lessee must provide a performance and reclamation bond for a solar or wind energy project. Bond amounts for leases issued under subpart 2809 will be set at a standard dollar amount (per acre for solar, or per turbine for wind) for either solar or wind energy development. See section 2805.20 of this preamble for additional information on the determination of these bond amounts. As explained in the general discussion section of this preamble, the BLM does not intend to change the amount of a standard bond after the lease is issued unless there is a change in

use. As previously discussed, these bond amounts were determined based on a review of recently bonded solar and wind energy projects.

Comments: Several comments were received on paragraph (e) of this section. One comment suggested that the BLM should require bonds that are tied to the actual cost of reclamation and mitigation of the project, rather than an arbitrary per acre or per project figure.

Response: It is the intent that these standard bond amounts would incentivize solar and wind energy development in DLAs. Reclamation of the lands in these DLAs is anticipated to be less than other locations outside of DLAs as the resource impacts are not expected to be as great, and the land could, in turn, be used for solar or wind development again if a developer failed to complete their lease obligation in developing the land. Additionally, consistent with its interim policy guidance for offsite mitigation (IM 2013-142)consistent with the recently issued mitigation manual and handbook guidance, the BLM intends to prepare regional mitigation strategies before authorizing wind or solar energy development in DLAs. These plans may identify additional costs for mitigating residual impacts of the right-of-way.

As noted in the preamble for section 2805.20, the minimum and standard bond amounts are the same. The BLM recently completed a review of existing bonded solar and wind energy projects and based the standard bond amounts provided in this final rule on the information found during this review. When determining these bond amounts, the BLM considered potential liabilities associated with the lands affected by the rights-of-way, such as cultural values, wildlife habitat, and scenic values, and the mitigation and reclamation of the project site. The BLM used this review to determine an appropriate

standard bond amount to cover the potential liabilities associated with solar and wind energy projects.

Comment: Another comment stated that both DLA and non-DLA bonding requirements should be the same. The BLM should use differences in rent to encourage development of DLAs.

Response: Bonding requirements for both grants issued under subpart 2804 and leases issued under subpart 2809 are established to protect the public lands. The requirements for leases are established using the same methodology as those minimum amounts established outside of a DLA. However, the standard bond amount recognizes that the impacts to resources and uses are likely to be less inside of a DLA than outside of a DLA, due to the BLM's effort to establish DLAs in areas where resource conflicts are expected to be lower. Furthermore, standard bond amounts increase the certainty for developers of costs when planning for and developing their project.

Comment: A comment recommended that the BLM reevaluate the standard bond amounts and identify a range commensurate with actual costs of decommissioning. The comment noted that the preamble to the proposed rule stated the range of solar bonding costs of $10,000 to $20,000 and wind bonding costs of $22,000 to $60,000. This comment asked if the minimum and standard bond amounts chosen at the bottom or below the stated ranges were adequate.

Response: The BLM has considered the recommendation to identify a range of standard bond amounts, but intends to keep these amounts as proposed. In order to accommodate the wind turbines that pose lesser risk to resources, and consistent with revisions made in section 2805.20, the BLM is including in the final rule a $10,000

standard bond amount for projects utilizing smaller turbines. Turbines with a nameplate capacity of one MW or greater will have a standard bond amount of $20,000, consistent with the proposed rule. This is because these amounts represent bond figures that are representative of the impacts to the resources of the public lands and the intended management decisions of DLAs for solar or wind energy development. Should a developer default or fail to fulfill the lease terms, the BLM may pursue a competitive offer to lease those lands again. The full amount of the bond may not be used in this situation. The balance will be returned to the previous leaseholder upon the completion of reclamation activities. See section 2805.20(d) comment responses of this preamble for further discussion on the added $10,000 bond amount.

BLM has determined that establishing the proposed standard bond amounts as proposed is appropriate. Using the proposed bond amounts reduces the potential for the BLM to secure bonds in amounts beyond what is necessary for the project. If a higher bond amount were selected, the BLM might over-bond the project, especially considering that the BLM has already identified these areas as having lower potential for resource impacts. Grant holders are still liable for damage done during the term of the grant or lease even if the bond amount does not cover the cost of reclamation.

The bonds collected for a project issued under subpart 2809 consider hazardous material liabilities, reclamation, and project site restoration. In addition to the required bond, BLM may require a mitigation fee to address adverse impacts resulting from the right-of-way authorization. Between securing the bond and collection of mitigation fees, the BLM believes that the impacts to the public lands are adequately protected.

A new provision (section 2809.18(e)(3)) has been added to this final rule to explain that lease holders for the testing sites that will be authorized under a lease in a DLA will provide a standard bond amount of $2,000 per site. This addition to the final rule is to make this section consistent with revisions to section 2801.9(d), which open up the site-specific and project-area testing authorizations to solar and wind energy. The standard bond amount for a lease issued under subpart 2809 is the same as a minimum bond amount in the proposed rule. Grants issued in a DLA for testing purposes will have a minimum bond amount as determined under section 2805.20. Testing and monitoring facilities include meteorological towers and instrumentation facilities.

For a solar energy development project, a lessee must provide a bond in the amount of $10,000 per acre at the time the BLM approves the POD. See the discussion at section 2805.20(b) for additional information. For a wind energy development project, a lessee must provide a bond in the amount of $10,000 or $20,000 per authorized turbine before the BLM issues a Notice to Proceed or otherwise gives permission to begin construction on of the development. See sections 2805.20(c) and 2805.20(d) of this preamble for additional information.

The BLM will adjust the solar or wind energy development bond amounts for inflation every 10 years by the average annual change in the IPD-GDP for the preceding 10-year period, and round the bond amount to the nearest $100. This adjustment would be made at the same time that the Per Acre Rent Schedule for linear rights-of-way is adjusted under section 2806.22.

The BLM revised paragraph (e)(4) of this section from the proposed to final rule for consistency with other sections of this final rule where the BLM uses the IPD-GDP to

adjust an amount every 10 years. See the preamble discussion of section 2804.12(c)(2) for further information about this revision

Under paragraph (f) of this section, a lessee may assign a lease under section 2807.21, and if an assignment is approved, the BLM would not make any changes to the lease terms or conditions, as provided in section 2807.21(e). See section 2807.21(e) of this preamble for further discussion of this topic, in response to a comment asking that we clarify the BLM's right to modify the terms of a lease issued under subpart 2809. We added language in paragraph (e) of this section to be consistent with section 2807.21(e) to state that changes made to a lease issued under this subpart will be made only when there is a danger to the public health and safety, environment, or a change to the statutory authority and other responsibilities of the BLM. These changes would only be made in coordination with the lessee.

Under paragraph (g) of this section, a lessee must start construction of a project within 5 years and begin generating electricity no later than 7 years from the date of lease issuance, as specified in the approved POD. The approved POD will outline the specific development requirements for the project, but all PODs require a lessee to start generating electricity within 7 years. The 5 years to start construction and 7 years to begin generating electricity contained in the rule should allow leaseholders time to construct and start generation of electricity and give a leaseholder time to address any concerns that are outside of the BLM's authority. Such concerns include PPAs or private land permitting or site control transactions. A request for an extension may be granted for up to 3 years with a show of good cause and BLM approval. If a leaseholder is unable to meet this timeframe, and does not obtain an extension, the BLM may terminate

the lease. No other comments were received or changes made to the final rule for this section.

Section 2809.19 Applications in DLAs or on lands that later become DLAs.

Section 2809.19 explains how the BLM processes applications for lands located inside DLAs or on lands that later become DLAs. Under the rule, lands inside DLAs will be offered through the competitive bidding process described in this subpart, and applications may not be filed inside these areas after the lands have been offered for competitive bid.

Section 2809.19 is revised from proposed to the final rule by adding a paragraph (a)(3) and redesignating proposed paragraphs (b) and (c) as paragraphs (c) and (d), respectively. The BLM also moved some provisions of proposed paragraph (a)(2) to a new paragraph (b). These changes are made to clarify how the BLM handles applications in areas that later become designated leasing areas. There is no change from the proposed requirements in the final rule.

Paragraph (a) of this section explains how the BLM will process applications filed for solar or wind energy development on lands outside of DLAs that subsequently become DLAs.

Under paragraph (a)(1) of this section, if an application is filed before the BLM publishes a notice of intent or other public announcement of intent for a land use plan amendment that considers designating an area for solar or wind energy, the BLM would continue to process the application, which would not be subject to the competitive leasing offer process found in this subpart. After publication of this notice, the public will have been notified of the BLM's intent to create a DLA.

Under paragraph (a)(2) of this section, if an application is filed after the notice of the proposed land use plan amendment, the application will remain in a pending status, unless it is withdrawn by the applicant or the BLM denies it or issues a grant. The BLM made a minor revision to this section from the proposed rule by adding "or issues a grant." This revision gives the BLM the option to approve a grant in pending status, if it chooses. This revision is made because the proposed rule inadvertently omitted the possibility that a pending application could be approved, instead of only being withdrawn or denied.

New paragraph (a)(3) of this section is added in this final rule to explain that applications may resume being processed by the BLM if lands in a DLA later become available for application. Under paragraph 2809.17(d)(2), the BLM may make the lands in a DLA available for application in some circumstances. For example, the BLM may hold a competitive offer and receive no bids. In this situation, the BLM may make these lands available for application and would resume processing any applications that are pending on these lands. This is consistent with the proposed rule but is added to the final rule to clarify how the BLM will handle such applications in these circumstances.

Some provisions of proposed paragraph (a)(2) of this section are moved into new paragraph (b) in this final rule. These provisions remain mostly unchanged and are discussed as follows.

Under new paragraph (b) of this section, if the subject lands become available for leasing under this subpart, an applicant could submit a bid for the lands. Under new paragraph (b)(1) of this section, any entity with an application pending on a parcel that

submits a bid on such parcel may qualify for a variable offset as provided for under section 2809.16.

Under paragraph (b)(2) of this section, the applicant may receive a refund for any unused application fees or processing costs if the lands described in the application are later leased to another entity under section 2809.15. This provision is revised consistent with changes made for application filing fees in this final rule, which are now a cost recovery payment. The BLM may use some of these fees in processing an application and will refund any unused fees to the applicant.

Proposed paragraph (b) of this section is redesignated as paragraph (c) in this final rule. Under paragraph (c) of this section, the BLM will not accept a new application for solar or wind energy development inside DLAs after the effective date of this rule (see sections 2804.12(b)(1) and 2804.23(e), except as provided for by section 2809.17(d)(2).

Proposed paragraph (c) of this section is redesignated as paragraph (d) in this final rule. Under paragraph (d) of this section, the BLM can authorize short term (3-year) grants for testing and monitoring purposes inside DLAs. These would be processed in accordance with sections 2805.11(b)(2)(i) or 2805.11(b)(2)(ii). These testing grants may qualify an entity for a variable offset under section 2809.16(b)(4).

Comment: One comment was received pertaining to paragraph (a)(1) of this section. The comment stated that the pending application exception in the paragraph requires clarification. A pending project exemption should be tied to a notice of intent rather than a notice of availability (NOA) to avoid a number of filings made immediately after publication of a notice of intent. Also, a pending project exemption should apply to

the potential competitive leasing of non-DLA lands under section 2804.30. In addition, the BLM should clarify that the rule would not apply to applications accepted and serialized or a grant issued before the rule takes effect.

Response: The BLM agrees in part with these suggestions. In this final rule, this section has been modified so that a notice of intent or other public notice will be the point at which the BLM determines that your application qualifies as a pending application. The notice of intent is specific to land use plan amendments that use an EIS for the analysis. Because a plan amendment may also be using an environmental assessment, which does not require a notice of intent, the BLM added the language, "other public announcement" into this section. The BLM believes that it is appropriate to continue processing applications that were submitted before the BLM provided public notice (e.g., through a notice of intent).

The final rule will apply to applications that are accepted and serialized as well as grants that are issued before this rule is effective. There may be exceptions to whether the rule will fully apply to an application or right-of-way grant. For example, application filing fees and preliminary application review meetings may not be required for some pending applications. Applications do not confer land use rights to an applicant, and other provisions of the rule such as rent and fees may be determined at the time a right-of-way is authorized, not at the time an application is submitted. Therefore, under the provisions of new section 2804.40 and 2805.12(e), you may request alternative requirements, stipulations, terms, and conditions from the BLM with a showing of good cause, and an explanation or reason for an alternative requirements, stipulations, terms, and conditions.

V. Section-by-Section Analysis for Part 2880

In addition to the revisions to its regulations governing rights-of-way for solar and wind energy development, the BLM is also revising several subparts of part 2880. These revisions are necessary to make rights-of-way administered under part 2880 consistent, where possible, with the policies, processes, and procedures for those administered under part 2800. Specific areas where we are making consistency changes include: bonding requirements; determination of initial rental payment periods; and when you must contact the BLM, including grant, lease, and temporary use permit (TUP) modification requests, assignments, and renewal requests. The BLM has removed the provision found in the proposed rule regarding pre application requirements and fees for any pipeline 10 inches or more in diameter from this final rule. This is because, based on further analysis and comments received, the use of a 10-inch diameter pipeline was found not to be an appropriate measure that could readily provide a basis for additional requirements.

This final rule adds Section 310 of FLPMA to the authority citation for this part to clarify that FLPMA authority may be used in processing a pipeline right-of-way. The MLA authorizes the Secretary to approve MLA pipeline rights-of-way that cross Federal lands when those pipeline rights-of-way are administered by the Secretary or by two or more Federal agencies. Where the Secretary authorizes a pipeline right-of-way across lands managed by the Secretary, including any bureaus or offices of the Department, other authorities applicable to the management of those lands would generally apply to the authorization. We have cited FLPMA specifically because that authority, governing

the management of the public lands generally, is the authority most commonly relied upon in such authorizations.

Subpart 2884—Applying for MLA Grants or TUPs

Section 2884.10 What should I do before I file my application?

In the proposed rule, this section included requirements for pre-application meetings when applying for a right-of-way for an oil or gas pipeline having a diameter exceeding 10 inches. Many comments were received concerning this proposal, including many comments stating that it was not a reasonable criterion to use in determining the need for pre-application meetings. After considering these comments and upon further evaluation of the proposal the BLM decided to not require these pre-application meetings. As a result, the proposed changes were not made to the regulations in this section.

Section 2884.11 What information must I submit with my application?

Section 2884.11 includes requirements for submitting applications. This section has been retitled from "What information must I submit in my application?" to read as shown above. This revision is consistent with the title revision of section of 2804.12. Proposed requirements for pipelines with a diameter of 10 inches or more have been removed from this section in the final rule.

Section 2884.11(c)(5) is amended by adding a second sentence that further explains that your POD must be consistent with the development schedule and other requirements that are noted on the POD template for oil or gas pipelines at http://www.blm.gov.

Comment: One comment suggested that paragraph (c)(5) of this section be revised to read as follows: "The estimated schedule for constructing, operating, maintaining, and terminating the project (a POD). Your POD must address the elements specified on the POD template for oil and gas pipelines at http://www.blm.gov." This suggestion would remove the requirement for the POD to be consistent with the development schedule in the POD template.

Response: The BLM did not make the suggested changes. The suggested revision to the rule would require that the applicant address each element of a POD, but would not require consistency with the POD template. This could allow a developer to acknowledge the development timeline, but not provide it to the BLM. It is important that applicants provide the necessary information to the BLM for the orderly administration of public lands, including the development schedule for the POD. No other comments were received and no changes are made from the proposed to the final rule.

Section 2884.12 What is the processing fee for a grant or TUP application?

Section 2884.12 explains the fees associated with an application, including those that involve Federal agencies other than the BLM. The applicant may either pay the BLM for work done by those Federal agencies or pay those Federal agencies directly for their work. This authority was recently delegated to the BLM by the Secretary by Secretarial Order 3327.

Paragraph (b) of this section revises the processing fee schedule to remove the 2005 category fees. Paragraph (c) of this section provides instructions on where you may obtain a copy of the current processing fee schedule. These changes parallel those made

to section 2804.14, which describe processing fees for grant applications. A further analysis of these changes can be found in that part of the section-by-section analysis. No comments were received and no, changes are made from the proposed rule to the final rule.

Section 2884.16 What provisions do Master Agreements contain and what are their limitations?

Section 2884.16 is revised to require that Master Agreements describe existing agreements with other Federal agencies for cost reimbursement associated with the application. This change parallels changes made in section 2804.18, which describes Master Agreements for all other rights-of-way. With the authority recently delegated by Secretarial Order 3327 to collect costs for other Federal agencies, it is important for the applicant, the BLM, and other Federal agencies to coordinate and be consistent regarding cost reimbursement. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2884.17 How will BLM process my Processing Category 6 Application?

Section 2884.17 explains how the BLM processes Category 6 applications and these changes parallel changes in section 2804.19. Under paragraph (e) of this section, the BLM may collect reimbursement for the United States for actual costs with respect to right-of-way applications and other document processing relating to Federal lands. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2884.18 What if there are two or more competing applications for the same pipeline?

Section 2884.18 parallels section 2804.23. Under paragraph (a)(1) of this section, the requirement to reimburse the BLM is expanded to allow for cost reimbursement from all Federal agencies for the processing of these right-of-way authorizations.

Under paragraph (c) of this section, the BLM may offer lands through a competitive process on its own initiative. Language is added to this paragraph to include "other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the Internet." This revision is consistent with other public notice sections of this rule. See section 2804.23(c) of this preamble for further discussion. No comments were received and no other changes are made from the proposed rule to the final rule.

Section 2884.20 What are the public notification requirements for my application?

Under section 2884.20, the phrase "and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet" is added to paragraphs (a) and (d) to provide for additional methods to notify the public of a pending application or to announce any public hearings or meetings. This final rule is revised, consistent with changes made to other notification language throughout this rule, to make notice in a newspaper an optional method of notice. See section 2804.23(c) of this preamble for further discussion. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2884.21 How will BLM process my application?

Under section 2884.21, the BLM will not process your application if you have any trespass action pending for any activity on BLM administered lands (see section 2888.11) or have any unpaid debts owed to the Federal Government. The only

application the BLM will process to resolve the trespass is for a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after all outstanding debts are paid. This provision is added to provide incentives for the applicant to resolve outstanding debts or other infractions involving the Federal Government and parallels section 2804.25.

New language is added to paragraph (b) of this section stating that outstanding debts are those currently unpaid debts owed to the Federal Government after all administrative collection actions have occurred, including administrative appeal proceedings under applicable Federal regulations and review under the APA. This language is added to be consistent with section 2804.25(d). No comments were received for section 2884.21, but comments were received and addressed under section 2804.25. The notification language contained in paragraph (d)(4) of this section is amended by adding the phrase "and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet." This section is revised, consistent with changes made to other notification language throughout this rule, to make notice in a newspaper an optional method of notice. See section 2804.23(c) of this preamble for further discussion.

Section 2884.22 Can BLM ask me for additional information?

Section 2884.22 describes what information the BLM may require in processing an application. This section was revised by changing the reference found in paragraph (a) from section 2804.25(b) to 2804.25(c). This change was not proposed, but is made to be consistent with other changes made in this final rule. No other changes were made to this section.

Section 2884.23 Under what circumstances may BLM deny my application?

Section 2884.23 describes the circumstances when the BLM may deny an application. In the proposed rule, section 2884.23(a)(6), stated that the BLM may deny an application if the required POD fails to meet the development schedule and other requirements for oil and gas pipelines.

Comment: Several comments suggested that the BLM remove the 10-inch pipeline threshold requirement in the proposed rule.

Response: As noted previously in the preamble, the BLM removed the proposed requirements for pipelines "10 inch or larger in diameter" from the final rule. This includes requirements such as the pre-application meetings, the POD timeline, and other such requirements that are specific to pipelines 10 inches in diameter or larger. The timeliness requirement, among others associated with the large-scale pipeline projects description has been removed from the final rule.

Comment: One comment stated that the BLM should account for instances when a developer does not meet the timeframe due to reasons outside of their control.

Response: The final rule adds a new section 2884.30 that parallels section 2804.40, both of which address situations in which a developer misses a timeframe or is unable to meet a requirement because of circumstances beyond its control. The preamble for section 2804.40 explains in greater detail the circumstances when an applicant may be unable to meet a requirement.

No other comments were received and no other changes made from the proposed rule to the final rule.

Section 2884.24 What fees do I owe if BLM denies my application or if I withdraw my application?

In the proposed rule, this section was consistent with section 2804.27. The proposed section would have required an applicant to pay any pre-application costs submitted under section 2884.10(b)(4). The BLM removed the "10 inches or larger in diameter" criteria used for determining large-scale pipeline projects from the final rule and as a result, requirements that are specific to large-scale pipeline projects are not carried forward in the final rule. This includes requirements such as the pre-application meetings, application submission, POD and other such requirements.

Section 2884.30 Showing of good cause.

This section was not in the proposed rule. It is added here to clarify that if you cannot meet one or more of the right-of-way process requirements for a MLA application, then you may: (a) Show good cause as to why you cannot meet a requirement; and (b) Suggest an alternative requirement and explain why that requirement is appropriate. This request must be in writing and received by the BLM before your deadline to meet a requirement(s) has passed. This section is added to respond to comments requesting a way to meet the intent of the regulation if an applicant believes that a requirement(s) cannot be met. Additional discussion can be found in section 2804.40 of this preamble.

Subpart 2885—Terms and Conditions of MLA Grants and TUPs

Section 2885.11 What terms and conditions must I comply with?

Section 2885.11 explains the terms and conditions of a grant. Paragraph (a) of this section is revised by adding the phrase "with the initial year of the grant considered

to be the first year of the term." This revision clarifies what BLM considers to be the first year of a grant. For example, a 30-year grant issued on September 1, 2015, will expire on December 31, 2044, and have an effective term of 29 years and 4 months. This is consistent with law, policy, and procedures. For all grants issued under parts 2800 and 2880 with terms greater than 3 years, the actual term will include the number of full years, including any partial year. The term for a MLA grant differs from the term for rights-of-way authorized under FLPMA, as FLPMA rights-of-way may be issued for periods greater than 30 years, while a MLA right-of-way may be issued for a maximum period of 30 years. If a 30 year FLPMA grant is issued on a date other than the first of a calendar year, that partial year will count as additional time of the grant (see discussion of section 2805.11 earlier in this preamble section).

A new sentence is added to the end of section 2885.11(b)(7) referencing new section 2805.20 that explains the bonding requirements for all rights-of-way. The introduction of this paragraph is revised consistent with the introduction made to paragraph 2805.20(a) that has the similar provision by which the BLM may require a bond. The introduction of this paragraph now reads: "The BLM may require that you obtain," instead of "If we require it…." This revision is for consistency within the final rule and its regulations.

Comments: Several concerns were raised about bonding requirements. One comment suggested that bonding should focus only on large scale operations (e.g., use a 60 acre or greater criterion), that right-of-way holders should be able to use liability insurance to satisfy bonding requirements, and asked that the rule make it clear that the new requirements would not affect existing operations.

Response: This final rule does not require bonding for any rights-of-way, except for solar and wind energy developments. As previously noted, the BLM has removed the criteria for large scale projects from this final rule. The BLM will continue to determine whether a bond is necessary and what the bond amount will be on a case-by-case basis.

In this final rule, the BLM accepts many bond instruments, including insurance policies. Insurance policies would include those that are issued for general liabilities of a company, individual, or organization.

The bonding provisions in the final rule apply to the grants that were issued before the effective date of this rule. The existing regulations require that a holder obtain or certify that they have obtained a bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property incurred in connection with the use and occupancy of the right-of-way or TUP area. The current regulations allow the BLM to adjust the bond requirements for any right-of-way grant or lease when a situation warrants it. These requirements in the existing rule are incorporated in this final rule and will continue to apply to existing and future grant holders.

Comments: Another comment suggested copying the bonding requirements from part 2800 into part 2880, instead of referring to the relevant requirements.

Response: The BLM intends to maintain the continuity of the regulations, as they currently exist. Section 2885.11(b)(7) refers to the terms and conditions in section 2805.12. This creates a consistent use of the regulations for the public as well as the BLM in its administration of the public lands. It is not necessary to duplicate the subpart

2805 regulations in part 2880. No other comments were received and no other changes made from the proposed rule to the final rule.

Section 2885.15 How will BLM charge me rent?

Section 2885.15 discusses how the BLM will prorate and charge rent for rights-of-way. Revisions to section 2885.15 clarify that there are no reductions of rents for grants or TUPs, except as provided under section 2885.20(b). Section 2885.20(b) is an existing provision under which a grant holder can qualify for phased-in rent. This section is revised to clarify existing requirements and add a cross-reference to another section of these regulations. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.16 When do I pay rent?

Revisions to section 2885.16 clarify that the BLM prorates the initial rental amount based on the number of full months left in the calendar year after the effective date of the grant or TUP. If your grant qualifies for annual payments, the initial rent bill consists of the beginning partial year plus the next full year. For example, the initial rent payment required for a 10-year grant issued on September 1 would be for 1 year and 3 months if the grant qualifies for annual billing. The initial rental bill for the same grant would be for 9 years and 3months if the grant does not qualify for annual billing. This is a new provision that parallels section 2806.24(c) and creates consistency in how all rights-of-way are prorated. No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.17 What happens if I do not pay rents and fees or if I pay the rents or fees late?

Section 2885.17(e) parallels section 2806.13(e), which identifies when the BLM would retroactively bill for uncollected or under-collected rent, late payments, and administrative fees. The BLM will collect such rents if: (1) A clerical error is identified; (2) A rental schedule adjustment is not applied; or (3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

Comment: One comment pointed out that the titles of sections 2806.13(e) and 2885.17(e) were not consistent and also questioned the location of the new subject matter within these paragraphs.

Response: The BLM agrees with the comment that the titles of the two paragraphs identified are not consistent, therefore we revised the section heading to read as above. However, we did not revise the placement of the subject matter within the final regulations. After revisions to this section heading, the provisions for retroactive billing and unpaid or under collected rents are appropriately placed in this section. No other comments were received and no other changes made from the proposed rule to the final rule.

Section 2885.19 What is the rent for a linear right-of-way grant?

Section 2885.19 is revised by updating the addresses in paragraph (b). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.20 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

Section 2885.20is amended by removing paragraph (b)(1) that discussed the phase-in of the Per Acre Rent Schedule and the 2009 per acre rent, because this provision

is no longer applicable. Paragraph (b) now consists of the language formerly found at paragraph (b)(2). No comments were received and no changes are made from the proposed rule to the final rule.

Section 2885.24 If I hold a grant or TUP what monitoring fees must I pay?

The changes in section 2885.24 parallel the changes made to other sections of this rule that contained tables with outdated numbers. Specific numbers are removed from the table. However, the monitoring fee amounts are available to the public either from BLM offices or on the BLM website. The rule adds the methodology for adjusting these fees on an annual basis to paragraph (a) of this section. Since this methodology has been added to paragraph (a), a description of how the BLM updates the schedule has been removed from paragraph (b) of this section.

Consistent with revisions made under 2805.16, the BLM is adding the words "inspecting and" to section 2885.24. This additional language codifies current practice or policy. It will allow the BLM to inspect and monitor the right-of-way to ensure a project's compliance with the terms and conditions of an authorization. Under this provision, if a project is out of compliance, the BLM could inspect the project to ensure that the required actions are completed to the satisfaction of the BLM, such as continued maintenance of the required activity. No comments were received and no other changes are made from the proposed rule to the final rule.

Subpart 2886—Operations on MLA Grants and TUPs

Section 2886.12 When must I contact BLM during operations?

Section 2886.12 describes when a right-of-way grant holder must contact the BLM during operations. The changes in this section parallel the changes made to section

2807.11. A grant holder is required to contact the BLM when site-specific circumstances require changes to an approved right-of-way grant, POD, site plan, or other procedures, even when the changes are not substantial deviations in location or use. These types of changes are considered to be grant or TUP modification requests. Paragraph (e) is added to conform to similar provisions found at section 2807.11(e), which requires you to contact the BLM if your authorization requires submission of a certificate of construction. See section 2807.11 for further discussion of these topics.

Comment: One comment stated that requiring grant holders to contact the BLM prior to making non-substantial deviations in location or use, including operational changes, project materials, and mitigation measures, is overly burdensome.

Response: Unless a grant provides for non-substantial deviations, a grant holder must contact the BLM and request approval of non-substantial deviations for an authorization. Should a holder not receive approval from the BLM, they could be found to be in noncompliance with the terms and conditions of the grant. The requirements of this section are required in order for the BLM to review and approve a non-substantial deviation and to ensure that the BLM is meeting its responsibilities under the MLA and any other applicable authorities, including FLPMA. It is the BLM's responsibility to determine if a deviation is substantial, not a grant holder's. No other comments were received and nor changes are made from the proposed rule to the final rule.

Subpart 2887—Amending, Assigning, or Renewing MLA Grants and TUPs

Section 2887.11 May I assign or make other changes to my grant or TUP?

The final rule revises section 2887.11 to parallel the revisions made to section 2807.21, which describes assigning or making other changes to a FLPMA grant or lease.

We received comments to sections 2807.21 and 2887.11 that apply to both sections. Sections 2807.21 and 2887.11 are consistent with each other in formatting and content, except where cross-references are made to their respective regulatory provisions.

The section heading for section 2887.11 is changed to be consistent with the section heading for section 2807.21 and the text in the final section. The existing regulations do not cover all instances when an assignment is necessary and also do not address situations when assignments are not required. The revisions to this section are necessary to: (1) Add and describe additional changes to a grant other than assignments; (2) Clarify what changes require an assignment; and (3) Make right-of-way grants or TUPs subject to the regulations in this section.

Paragraph (a) is revised to include two events that may require the filing of an assignment: (1) The transfer by the holder of any right or interest in the right-of-way grant to a third party, e.g., a change in ownership; and (2) A change in control transactions involving the right-of-way grantee. See section 2807.21 of this preamble for further discussion.

Revised paragraph (b) clarifies that a change in the holder's name only does not require an assignment. It also clarifies that changes in a holder's articles of incorporation do not trigger an assignment.

Revised paragraph (c) pertains to payments for assignments and adds a requirement to pay application fees in addition to processing fees. Also, the BLM may now condition a grant assignment on payment of outstanding cost recovery fees to the BLM.

Added paragraph (g) clarifies that only interests in right-of-way grants or TUPs are assignable. A pending right-of-way application is not a property right or other interest that can be assigned. No comments were received and no other changes made from the proposed rule to the final rule.

Section 2887.12 How do I renew my grant?

Section 2887.12 adds paragraph (d), to be consistent with the revisions made to section 2807.22, explaining that if a holder makes a timely and sufficient application for renewal, the existing grant or lease does not expire until BLM issues a decision on the application for renewal. This provision is derived from the APA (5 U.S.C. 558(c)(1)), and it protects the interests of existing right-of-way holders who have timely and sufficiently made an application for the continued use of an existing authorization. In this situation, the authorized activity does not expire until the application for continued use has been evaluated and a decision on the extension is made by the agency. This reiterates and clarifies existing policy and procedures.

Under section 2887.12(e), you may appeal the BLM's decision to deny your application under section 2881.10. This paragraph parallels the language under proposed section 2807.22(f), which is redesignated as section 2807.22(g). No comments were received and no changes are made from the proposed rule to the final rule.

VI. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is significant because it could raise novel legal or policy issues.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. This Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

This rule includes provisions intended to facilitate responsible solar and wind energy development and to receive fair market value for such development. These provisions are designed to:

1. Promote the use of preferred areas for solar and wind energy development (i.e., DLAs); and
2. Establish competitive processes, terms, and conditions (including rental and bonding requirements) for solar and wind energy development rights-of-way both inside and outside of DLAs.

These provisions also will assist the BLM in: (a) Meeting goals established in Section 211 of the EPAct of 2005, Secretarial Order 3285A1, and the President's Climate Action Plan; and (b) Implementing recommendations from the GAO and OIG regarding renewable energy development.

In addition to provisions that would affect renewable energy specifically, this rule also includes some provisions that affect all rights-of-way, and some that affect only transmission lines with a capacity of 100 kV or more. These provisions clarify existing regulations and codify existing policies.

Economic Impacts

The rule does not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The BLM anticipates this rule will reduce total costs to all applicants, lessees, and operators by up to approximately 17.9 million per year. The change in rents and fees from those currently set by policy primarily reflect changing market conditions. Increases in the minimum bond amounts also reflect increases in estimated reclamation costs. These impacts are discussed in detail in the Economic and Threshold Analysis for the rule.

Other Agencies

This rule does not create a serious inconsistency or otherwise interfere with another agency's actions or plans. The BLM is the only agency that may promulgate regulations for rights-of-way on public lands.

Budgetary Impacts

This rule does not materially alter the budgetary effects of entitlements, grants, user fees, loan programs, or the rights or obligations of their recipients.

Novel Legal or Policy Issues

This rule may raise novel legal or policy issues. It codifies existing BLM policies and provides additional detail about submitting applications for solar or wind energy development grants, and for transmission lines with a capacity of 100 kV or more. In addition, the rule provides for a competitive process for those entities seeking solar and wind energy development leases inside of DLAs.

National Environmental Policy Act (NEPA)

These regulatory amendments are of an administrative or procedural nature and thus are eligible to be categorically excluded from the requirement to prepare an environmental assessment (EA) or EIS. See 43 CFR 46.205 and 46.210(i). They do not present any of the extraordinary circumstances listed at 43 CFR 46.215.

Nonetheless, the BLM prepared an EA and Finding of No Significant Impact (FONSI) analyzing the final rule to inform agency decision-makers and the public. The EA/FONSI incorporates by reference the Final Solar Energy Development Programmatic Environmental Impact Statement (July 2012) and the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States (June 2005). The EA concludes that this rule does not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)). A detailed statement under NEPA is not required. To obtain single copies of the Programmatic EISs or the EA/FONSI, you may contact the person listed under the section of this rule titled, "**FOR FURTHER INFORMATION CONTACT**." You may also view the EA/FONSI and Programmatic Environmental Impact Statements at, respectively, http://windeis.anl.gov/,

http://solareis.anl.gov/, and

http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. For the purposes of this analysis, the BLM assumes that all entities (all grant holders, lessees, and applicants for rights-of-way for solar or wind energy projects, pipelines, or transmission lines with a capacity of 100 kV or more) that may be affected by this rule are small entities, even though that is not actually the case.

This rule does not have a significant economic effect on a substantial number of small entities under the RFA.

The rule does affect new applicants or bidders for authorizations of solar or wind energy development and transmission lines with a capacity of 100 kV or more. The BLM reviewed current holders of such authorizations to determine whether they are small businesses as defined by the SBA. The BLM was unable to find financial reports or other information for all potentially affected entities, so this analysis assumes that the rule could potentially affect a substantial number of small entities.

To determine the extent to which this rule will impact these small entities, we took two approaches. First, we attempted to measure the direct costs of the rule as a portion of the net incomes of affected small entities. However, we were unable to obtain

the financial records for a representative sample. Next, we estimated the direct costs of the rule as a portion of the total costs of a project.

The analysis showed that a range of potential impacts on the total cost of a project varied from a savings of 0.08 percent to a cost of 1.45 percent of the total project cost. The BLM determined that this was an insignificant impact in the context of developing a project and, therefore, not a significant economic impact on a substantial number of small businesses. For a more detailed discussion, please see the economic analysis.

Small Business Regulatory Enforcement Fairness Act

For the same reasons as discussed under the Executive Order 12866, Regulatory Planning and Review section of this preamble, this rule is not a "major rule" as defined at 5 U.S.C. 804(2). That is, it would not have an annual effect on the economy of $100 million or more; it would not result in major cost or price increases for consumers, industries, government agencies, or regions; and it would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector of $100 million or more per year; nor would it have a significant or unique effect on State, local, or tribal governments. This rule amends portions of the regulations found at 43 CFR parts 2800 and 2880, redesignates existing 43 CFR part 2809 in its entirety to a new paragraph found at 2801.6(a)(2), adds new 43 CFR part 2809, and modifies the MLA pipeline regulations in 43 CFR part 2880, but does not result in any unfunded mandates. Therefore, the BLM does not need to prepare a

statement containing the information required by Sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531 et seq. The rule is also not subject to the requirements of Section 203 of UMRA because it contains no regulatory requirements that might uniquely affect small governments, nor does it contain requirements that either apply to such governments or impose obligations upon them.

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

This rule is not a government action that interferes with constitutionally protected property rights. This rule sets out competitive processes for solar and wind energy development and revises some requirements for pipelines and electric transmission facilities on BLM-managed public lands. It establishes rent and fee schedules for various components of the development of such facilities inside DLAs that are conducive to competitive right-of-way leasing and clarifies a process that would rely on the BLM's existing land use planning system to allow for these types of uses. Because any land use authorizations and resulting development of facilities under this rule are subject to valid existing rights, it does not interfere with constitutionally protected property rights. Therefore, the Department determined that this rule does not have significant takings implications and does not require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The BLM determined that this rule does not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. It

does not apply to State or local governments or State or local government entities. Therefore, in accordance with Executive Order 13132, the BLM determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Department determined that this rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Department's Office of the Solicitor has reviewed this rule to eliminate drafting errors and ambiguity. It has been written to minimize litigation, provide clear legal standards for affected conduct rather than general standards, promote simplification, and avoid unnecessary burdens.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM found that this rule does not have significant tribal implications. Additionally, because the rulemaking itself is administrative in nature and does not establish any DLAs or approve any specific projects, the BLM has determined that it does not require tribal consultation.

Moreover, in the future when additional DLAs are established or projects are approved, the rule calls for further tribal consultation by the BLM and right-of-way applicants. Specifically, DLAs will be identified through the BLM's land use planning process. Tribal consultation is an important component of that process and will be undertaken when DLAs are identified. In addition to the preliminary review covered in the planning process, existing BLM regulations require site-specific analysis for specific

projects. As part of that site-specific analysis, right-of-way applicants must consult with affected tribes to discuss the proposed action and other aspects of the proposed project. For example, site-specific requirements for applications for a grant issued under subpart 2804 include application review, public meetings, and tribal consultation. The BLM would be able to deny an application after these meetings based on a variety of criteria, including tribal concerns.

Data Quality Act

In promulgating this rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Section 515 of Public Law 106-554). In accordance with the Data Quality Act, the Department has issued guidance regarding the quality of information that it relies upon for regulatory decisions. This guidance is available at the Department's website at: http://www.doi.gov/archive/ocio/iq.html.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A "significant energy action'' is defined as any action by an agency that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; (2) Is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) Is designated by the Administrator of OIRA as a significant energy action.

This rule could raise novel legal or policy issues within the meaning of Executive Order 12866 or any successor order. However, the BLM believes this rule is unlikely to

have a significant adverse effect on the supply, distribution, or use of energy, and may in fact have a positive impact on energy supply, distribution, or use. In fact, its intent is to facilitate such development. The rule codifies BLM policies and provides additional detail about the process for submitting applications for solar or wind energy development grants issued under subpart 2804, or for solar or wind energy development leases issued under subpart 2809.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM determined that this rule will not impede the facilitation of cooperative conservation. The rule takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodates local participation in the Federal decision-making process; and provides that the programs, projects, and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501-3521) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. Collections of information include requests and requirements that an individual, partnership, or corporation obtain information, and report it to a Federal agency. See 44 U.S.C. 3502(3); 5 CFR 1320.3(c) and (k).

This rule contains information collection activities that require approval by the OMB under the Paperwork Reduction Act. The BLM included an information collection

request in the proposed rule. OMB has approved the information collection for the final rule under control number 1004-0206.

Some of the information collection activities in the final rule require the use of Standard Form 299 (SF-299), Application for Transportation and Utility Systems and Facilities on Federal Lands. SF-299 is approved for use by the BLM and other Federal agencies under control number 0596-0082. The U.S. Forest Service administers control number 0596-0082. The OMB has approved the information collection activities in this final rule under control number 1004-0206.

The information collection activities in this rule are described below along with estimates of the annual burdens. Included in the burden estimates are the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each component of the proposed information collection.

The following features of the final rule pertain to more than one information collection activity.

Designated leasing areas: As defined in an amendment to 43 CFR 2801.5, a designated leasing area is a parcel of land identified in a BLM land use plan as a preferred location for solar or wind energy development. Regulations at 43 CFR subpart 2809 provide for the issuance of solar or wind right-of-way development "leases" inside a designated leasing area. Regulations at subpart 2804 provide for right-of-way development "grants" for solar or wind energy projects outside of any designated leasing area. Regulations at subpart 2804 also provide for testing grants for solar or wind energy inside or outside designated leasing areas.

Competitive process for solar or wind energy outside any designated leasing area: Section 2804.30 provides that the BLM may invite bids for land outside any designated leasing area for solar or wind energy testing and development. Section 2804.30(g) allows only one applicant (i.e., a "preferred applicant") to apply for a right-of-way grant for solar or wind energy testing or development outside any designated leasing area. The preferred applicant is the successful bidder in the competitive process outlined in subpart 2804.

Competitive process for solar or wind energy inside a designated leasing area: Subpart 2809 outlines a competitive process for land inside a designated leasing area, which provides for a parcel nomination and competitive offer instead of an application process.

Application filing fees: Section 2804.12(c)(2) requires an "application filing fee" as follows:

(1) $15 per acre for applications for solar or wind energy development outside any designated leasing area; and

(2) $2 per acre for applications for energy project-area testing inside or outside designated leasing areas.

As defined in an amendment to section 2801.5, an application filing fee is specific to solar and wind energy right-of-way applications. Section 2804.30(e)(4) provides that the BLM will refund the fee, except for the reasonable costs incurred on behalf of the applicant, if the applicant is not a successful bidder under subpart 2804 or subpart 2809. The proposed rule would have required an application filing fee for energy site-specific testing grants. On consideration of comments questioning whether site-specific testing

should be subject to an application filing fee, the BLM has removed that requirement from the final rule. The $2 per acre filing fee applies to applications for energy project-area testing, but not to energy site-specific testing.

Applications: Section 2804.12(b) refers to applications in the context of large-scale projects. In the BLM's experience, most applications and plans of development for large-scale projects evolve from several iterations of the first application that is submitted. Some requirements in the final rule (for example, application filing fees) apply to the first time an application is submitted but not to subsequent submissions of an application for the same project.

The information collection activities in the final rule are discussed below.

Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area (43 CFR 2804.12 and 2804.30(g)); and

Application for an Electric Transmission Line with a Capacity of 100 kV or More (43 CFR 2804.12)

New requirements at 2804.12(b) apply to the following types of applications:

- Solar and wind energy development grants outside any designated leasing area; and
- Electric transmission lines with a capacity of 100 kV or more.

In addition to these categories of applications, the proposed rule would have made these new requirements applicable to applications for pipelines 10 inches or greater. The rationale was that these applications, as well as the other 2 types of applications, were for large-scale operations that warrant their own procedures. Some comments questioned the

BLM's description of pipelines 10 inches or greater in diameter as a measure for large-scale pipeline projects, and suggested that the scale of pipeline projects is better measured by acreage than pipeline diameter. The BLM agrees. Rights-of-way for pipelines 10 inches or greater in diameter are not subject to section 2804.12 of the final rule.

Section 2804.12(b) includes the following requirements for applications for a solar or wind energy development project outside a designated leasing area, and to applications for a transmission line project with a capacity of 100 kV or more:

- A discussion of all known potential resource conflicts with sensitive resources and values, including special designations or protections; and
- Applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts, if any.

Section 2804.12(b) also requires applicants to initiate early discussions with any grazing permittees that may be affected by the proposed project. This requirement stems from FLPMA Section 402(g) (43 U.S.C. 1752(g)) and a BLM grazing regulation (43 CFR 4110.4-2(b)) that require 2 years' prior notice to grazing permittees and lessees before cancellation of their grazing privileges.

In addition to the information listed at 43 CFR 2804.12(b), an application for a solar or wind project, or for a transmission line of at least 100 kV, must include the information listed at 43 CFR 2804.12(a)(1) through (a)(7). These provisions are not amended in the final rule. The requirements at section 2804.12(e) (formerly section 2804.12(b)) apply to applicants that are business entities. These requirements are not amended substantively in the final rule. The burdens for all of these regulations are

already included in the burdens associated with the BLM for SF-299 and control number 0596-0082, and therefore are not included in the burdens for the final rule.

Applications for solar or wind energy development outside any designated leasing area, but not applications for large-scale transmission lines, are subject to a requirement (at 43 CFR 2804.12(c)(2)) to submit an "application filing fee" of $15 per acre. As defined in an amendment to section 2801.5, an application filing fee is specific to solar and wind energy right-of-way applications. Section 2804.30(e)(4) provides that the BLM will refund the fee, except for the reasonable costs incurred on behalf of the applicant, if the applicant is not a successful bidder in the competitive process outlined in subpart 2804.

General Description of a Proposed Project and Schedule for Submittal of a POD (2804.12(b)(1) and (b)(2))

Paragraph 2804.12(b)(1) and (b)(2) require applicants for a solar or wind development project outside a designated leasing area to submit the following information, using Form SF-299:

- A general description of the proposed project and a schedule for the submission of a POD conforming to the POD template at http://www.blm.gov;
- A discussion of all known potential resource conflicts with sensitive resources and values, including special designations or protections; and
- Proposals to avoid, minimize, and compensate for such resource conflicts, if any.

Preliminary Application Review Meetings for a Large-Scale Right-of-Way (43 CFR 2804.12 (b)(4))

The proposed rule would have required pre-application meetings for each large-scale project (defined in the proposed rule as an application for a solar or wind energy development project outside a designated leasing area, a transmission line project with a capacity of 100 kV or more, or a pipeline 10 inches or more in diameter). Several comments suggested that the BLM lacks authority to impose requirements on a developer before submission of an application without an application being submitted to the BLM.

The BLM agrees with these comments and has revised the proposed rule. Instead of pre-application meetings, the final rule requires "preliminary application review meetings" that will be held after an application for a large-scale right-of-way has been filed with the BLM. As discussed above, the BLM also has decided to remove 10-inch pipelines from the final rule, in response to comments questioning the characterization of pipelines 10 inches or greater in diameter as large-scale projects.

Within 6 months from the time the BLM receives the cost recovery fee for an application for a large-scale project (i.e., for solar or wind energy development outside a designated leasing area or for a transmission line with a capacity of 100 kV or more), the applicant must schedule and hold at least two preliminary application review meetings.

In the first meeting, the BLM will collect information from the applicant to supplement the application on subjects such as the general project proposal. The BLM will also discuss with the applicant subjects such as the status of BLM land use planning for the lands involved, potential siting issues or concerns, potential environmental issues or concerns, potential alternative site locations, and the right-of-way application process.

In the second meeting, the applicant and the BLM will meet with appropriate Federal and State agencies and tribal and local governments to facilitate coordination of potential environmental and siting issues and concerns.

The applicant and the BLM may agree to hold additional preliminary application review meetings.

Application for an Energy Site-Specific Testing Grant (43 CFR 2804.30, 2805.11(b)(2)(i), and 2809.19(c));

Application for an Energy Project-Area Testing Grant (43 CFR 2804.30, 2805.11(b)(2)(ii), and 2809.19(c)); and

Application for a Short-Term Grant (43 CFR 2805.11(b)(2)(iii))

Section 2804.30(g) authorizes only one applicant (i.e., a "preferred applicant") to apply for an energy project-area testing grant or an energy site-specific testing grant for land outside any designated leasing area. Section 2809.19(c) authorizes only one applicant (i.e., the successful bidder in the competitive process outlined at 43 CFR subpart 2809) to apply for an energy project-area testing grant or an energy site-specific testing grant for land inside a designated leasing area. Section 2805.11(b) authorizes applications for short-term grants for other purposes (such as geotechnical testing and temporary land-disturbing activities) either inside or outside a designated leasing area.

Each of these grants is for 3 years or less. All of these applications must be submitted on an SF-299. Applications for project-area grants (but not site-specific grants) are subject to a $2 per-acre application filing fee in accordance with section 2804.12(c)(2). Applicants for short-term grants for other purposes (such as geotechnical

testing and temporary land-disturbing activities) are subject to a processing fee in accordance with section 2804.14.

The proposed rule would have limited testing grants to wind energy. Some comments suggested that these authorizations should be made available for solar energy. The BLM has adopted this suggestion in the final rule.

Showing of Good Cause (43 CFR 2805.12(c)(6))

Any authorization for a solar and wind energy right-of-way requires due diligence in development. In accordance with section 2805.12(c)(6), the BLM will notify the holder before suspending or terminating a right-of-way for lack of due diligence. This notice will provide the holder with a reasonable opportunity to correct any noncompliance or to start or resume use of the right-of-way. A showing of good cause will be required in response. That showing must include:

- Reasonable justification for any delays in construction (for example, delays in equipment delivery, legal challenges, and acts of God);
- The anticipated date for the completion of construction and evidence of progress toward the start or resumption of construction; and
- A request for extension of the timelines in the approved POD.

The BLM will use the information to determine whether or not to suspend or terminate the right-of-way for failure to comply with due diligence requirements.

Reclamation Cost Estimate for Lands Outside Any Designated Leasing Area (43 CFR 2805.20(a)(3) and (a)(5))

New section 2805.20(a)(3) provides that the bond amount for projects other than a solar or wind energy lease under subpart 2809 (i.e., inside a designated leasing area) will be determined based on the preparation of a reclamation cost estimate that includes the cost to the BLM to administer a reclamation contract and review it periodically for adequacy.

New section 2805.20(a)(5) provides that reclamation cost estimate must include at minimum:

- Remediation of environmental liabilities such as use of hazardous materials waste and hazardous substances, herbicide use, the use of petroleum-based fluids, and dust control or soil stabilization materials;
- The decommissioning, removal, and proper disposal, as appropriate, of any improvements and facilities; and
- Interim and final reclamation, re-vegetation, recontouring, and soil stabilization. This component must address the potential for flood events and downstream sedimentation from the site that may result in offsite impacts.

Request to Assign a Solar or Wind Energy Development Right-of-Way (43 CFR 2807.21)

Section 2807.21, as amended, provides for assignment, in whole or in part, of any right or interest in a grant or lease for a solar or wind development right-of-way. Actions that may require an assignment include the transfer by the holder (assignor) of any right or interest in the grant or lease to a third party (assignee) or any change in control

transaction involving the grant holder or lease holder, including corporate mergers or acquisitions.

The proposed assignee must file an assignment application, using SF-299, and pay application and processing fees. No preliminary application review meetings and or public meetings are required.

The assignment application must include:

- Documentation that the assignor agrees to the assignment; and
- A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations.

Application for Renewal of an Energy Project-Area Testing Grant or Short-Term Grant (43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22)

Section 2805.11(b)(2), as amended, provides that holders of some types of grants may seek renewal of those grants. For an energy site-specific testing grant, the term is 3 years or less, without the option of renewal. However, for an energy project-area testing grant, the initial term is 3 years or less, with the option to renew for one additional 3-year period when the renewal application is also accompanied by a solar or wind energy development application and a POD. For short-term grants, such as for geotechnical testing and temporary land-disturbing activities, the term is 3 years or less with an option for renewal.

Applications for renewal of testing grants (except site-specific testing grants) may be filed, using SF-299, under section 2805.14(h) and 2807.22. Processing fees in accordance with section 2804.14, as amended, apply to these renewal applications.

Section 2807.22 provides that an application for renewal of any right-of-way grant or lease must be submitted at least 120 calendar days before the grant or lease expires. The application must show that the grantee or lessee is in compliance with the renewal terms and conditions (if any), with the other terms, conditions, and stipulations of the grant or lease, and with other applicable laws and regulations. The application also must explain why a renewal of the grant or lease is necessary.

Environmental, Technical, and Financial Records, Reports, and Other Information (43 CFR 2805.12(a)(15))

Section 2805.12(a)(15) authorizes the BLM to require a holder of any type of right-of-way to provide, or give the BLM access to, any pertinent environmental, technical, and financial records, reports, and other information. The use of SF-299 is required. The BLM will use the information for monitoring and inspection activities.

Application for Renewal of a Solar or Wind Energy Development Grant or Lease (43 CFR 2805.14(g) and 2807.22)

Amendments to sections 2805.14 and 2807.22 authorize holders of leases and grants to apply for renewal of their rights-of-way. A renewal requires submission of the same information, on SF-299, that is necessary for a new application. Processing fees, in accordance with 43 CFR 2804.14, as amended, will apply to these renewal applications. The BLM will use the information submitted by the applicant to decide whether or not to renew the right-of-way.

Request for an Amendment or Name Change, Amendment, or Assignment (FLPMA) (43 CFR 2807.11(b) and (d)) and 2807.21)

New section 2807.11(b) requires a holder of any type of right-of-way grant to contact the BLM, seek an amendment to the grant under section 2807.20 (a regulation that is not amended in this final rule), and obtain the BLM's approval before beginning any activity that is a "substantial deviation" from what is authorized.

New section 2807.11(d) requires contact with the BLM, a request for an amendment to the pertinent right-of-way grant or lease, and prior approval whenever site-specific circumstances or conditions result in the need for changes to an approved right-of-way grant or lease, plan of development, site plan, mitigation measures, or construction, operation, or termination procedures that are not "substantial deviations."

New section 2807.21 authorizes assignment of a grant or leased with the BLM's approval. It also authorizes the BLM to require a grant or lease holder to file new or revised information in circumstances that include, but are not limited to:

- Transactions within the same corporate family;
- Changes in the holder's name only; and
- Changes in the holder's articles of incorporation.

A request for an amendment of a right-of-way, using SF-299, is required in cases of a substantial deviation (for example, a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, must be submitted

to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay application and processing fees. In order to request a name change, the holder will be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee is required. The following documents are also required in the case of a name change:

- A copy of the court order or legal document effectuating the name change of an individual; or
- If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change.

In all these cases, the BLM will use the information to monitor and inspect rights-of-way, and to maintain current data.

Nomination of a Parcel of Land Inside a Designated Leasing Area (43 CFR 2809.10 and 2809.11)

Sections 2809.10 and 2809.11 authorize the BLM to offer land competitively inside a designated leasing area for solar or wind energy development on its own initiative. These regulations also authorize the BLM to solicit nominations for such development. In order to nominate a parcel under this process, the nominator must be qualified to hold a right-of-way under 43 CFR 2803.10. After publication of a notice by

the BLM, anyone meeting the qualifications may submit a nomination for a specific parcel of land to be developed for solar or wind energy. There is a fee of $5 per acre for each nomination. The following information is required:

- The nominator's name and personal or business address;
- The legal land description; and
- A map of the nominated lands.

The BLM will use the information to communicate with the nominator and to determine whether or not to proceed with a competitive offer.

Expression of Interest in Parcel of Land Inside a Designated Leasing Area (43 CFR 2809.11(c))

Section 2809.11(c) authorizes the BLM to consider informal expressions of interest suggesting specific lands inside a designated leasing area to be included in a competitive offer. The expression of interest must include a description of the suggested lands and a rationale for their inclusion in a competitive offer. The information will assist the BLM in determining whether or not to proceed with a competitive offer.

Plan of Development for a Solar or Wind Energy Development Lease Inside a Designated Leasing Area (43 CFR 2809.18)

Section 2809.l8(c) requires the holder of a solar or wind energy development lease for land inside a designated leasing area to submit a plan of development, using SF-299, within 2 years of the lease issuance date. The plan must address all pre-development and development activities. This collection activity is necessary to ensure diligent development.

This new provision will be a new use of Item # 7 of SF-299, which calls for the following information:

> Project description (describe in detail): (a) Type of system or facility (e.g., canal, pipeline, road); (b) related structures and facilities; (c) physical specifications (length, width, grading, etc.); (d) term of years needed; (e) time of year of use or operation; (f) volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction.

This collection has been justified and authorized under control number 0596-0082. In addition, section 2809.18(c) provides that the minimum requirements for either a "Wind Energy Plan of Development" or "Solar Energy Plan of Development" can be found at a link to a template at www.blm.gov. To some extent, that template duplicates the information required by Item # 7 of SF-299. The following requirements do not duplicate the elements listed in SF-299:

- Financial Operations and maintenance. This information will assist the BLM in verifying the right-of-way holder's compliance with terms and conditions regarding all aspects of operations and maintenance, including road maintenance and workplace safety;
- Environmental considerations. This information will assist the BLM in monitoring compliance with terms and conditions regarding mitigation measures and site-specific issues such as protection of sensitive species and avoidance of conflicts with recreation uses of nearby lands;

- Maps and drawings. This information will assist the BLM in monitoring compliance with all terms and conditions; and
- Supplementary information. This information, which will be required after submission of the holder's initial POD, will assist the BLM in reviewing possible alternative designs and mitigation measures for a final POD.

Section 2809.18(d) requires the holder of a solar or wind energy development lease for land inside a designated leasing area to pay reasonable costs for the BLM or other Federal agencies to review and approve the plan of development and to monitor the lease. To expedite review and monitoring, the holder may notify BLM in writing of an intention to pay the full actual costs incurred by the BLM.

Request for an Amendment, Assignment, or Name Change (MLA) (43 CFR 2886.12(b) and (d) and 2887.11)

Sections 2886.12 and 2887.11 pertain to holders of rights-of-way and temporary use permits authorized under the Mineral Leasing Act (MLA). A temporary use permit authorizes a holder of a MLA right-of-way to use land temporarily in order to construct, operate, maintain, or terminate a pipeline, or for purposes of environmental protection or public safety. See 43 CFR 2881.12. The regulations require these holders to contact the BLM:

- Before engaging in any activity that is a "substantial deviation" from what is authorized;
- Whenever site-specific circumstances or conditions arise that result in the need for changes that are not substantial deviations;

- When the holder submits a certification of construction;
- Before assigning, in whole or in part, any right or interest in a grant or lease;
- Before any change in control transaction involving the grant- or lease- holder; and
- Before changing the name of a holder (i.e., when the name change is not the result of an underlying change in control of the right-of-way).

A request for an amendment of a right-of-way or temporary use permit is required in cases of a substantial deviation (e.g., a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, are required to be submitted to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay processing fees. In order to request a name change, the holder will be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee is required. The following documents are also required in the case of a name change:

- A copy of the court order or legal document effectuating the name change of an individual; or
- If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing

acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change. The use of SF-299 is required. In all these cases, the BLM will use the information for monitoring and inspection purposes, and to maintain current data on rights-of-way.

Certification of Construction (43 CFR 2886.12(f))

A certification of construction is a document a holder of an MLA right-of-way must submit, using SF-299, to the BLM after finishing construction of a facility, but before operations begin. The BLM will use the information to verify that the holder has constructed and tested the facility to ensure that it complies with the terms of the right-of-way and is in accordance with applicable Federal and State laws and regulations.

Estimated Hour Burdens

The estimated hour burdens of the proposed supplemental collection requirements are shown in the following table.

Information Collection Requirements: Estimated Annual Hour Burdens

A. Type of Response	**B. Number of Responses**	**C. Hours Per Response**	**D. Total Hours (Column B x Column C)**
Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area 43 CFR 2804.12 and 2804.30(g) Form SF-299	10	8	80
Application for an Electric Transmission Line with a Capacity of 100 kV or More 43 CFR 2804.12 Form SF-299	10	8	80

General Description of a Proposed Project and Schedule for Submittal of a Plan of Development 43 CFR 2804.12(b)(1) and (b)(2) Form SF-299	20	2	40
Preliminary Application Review Meetings for a Large-Scale Right-of-Way 43 CFR 2804.12 (b)(4)	20	2	40
Application for an Energy Site-Specific Testing Grant 43 CFR 2804.30, 2805.11(b)(2)(i), and 2809.19(c) Form SF-299	20	8	160
Application for an Energy Project-Area Testing Grant 43 CFR 2804.30, 2805.11(b)(2)(ii), and 2809.19(c) Form SF-299	20	8	160
Application for a Short-Term Grant 43 CFR 2805.11(b)(2)(iii) Form SF-299	1	8	8
Showing of good cause 43 CFR 2805.12(c)(6)	1	2	2
Reclamation Cost Estimate for Lands Outside Any Designated Leasing Area 43 CFR 2805.20(a)(3) and (a)(5)	1	10	10
Request to Assign a Solar or Wind Energy Development Right-of-Way 43 CFR 2807.21 Form SF-299	11	8	88
Application for Renewal of an Energy Project-Area Testing Grant or Short-Term Grant 43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22 Form SF-299	6	6	36
Environmental, Technical, and Financial Records, Reports, and Other Information 43 CFR 2805.12(a)(15) Form SF-299	20	4	80
Application for Renewal of a Solar or Wind Energy Development Grant or Lease 43 CFR 2805.14(g) and 2807.22 Form SF-299	1	12	12

Request for an Amendment or Name Change (FLPMA) 43 CFR 2807.11(b) and (d) and 2807.21 Form SF-299	30	16	480
Nomination of a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.10 and 2809.11	1	4	4
Expression of Interest in a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.11(c)	1	4	4
Plan of Development for a Solar or Wind Energy Development Lease Inside a Designated Leasing Area 43 CFR 2809.18(c) Form SF-299	2	8	16
Request for an Amendment, Assignment, or Name Change (MLA) 43 CFR 2886.12(b) and (d) and 2887.11 Form SF-299	2,862	16	45,792
Certification of Construction 43 CFR 2886.12(f) Form SF-299	5	4	20
Totals	3,042	130	47,112

Estimated Non-Hour Burdens

The non-hour burdens of this final rule consist of fees authorized by Sections 304 and 504(g) of FLPMA (43 U.S.C.1734 and 1764(g)). Section 1734 authorizes the Secretary of the Interior to establish reasonable filing and service fees and reasonable charges with respect to applications and other documents relating to the public lands. Section 504(g) authorizes the Secretary to promulgate regulations that require, as a condition of a right-of-way, that an applicant for or holder of a right-of-way reimburse the United States for all reasonable administrative and other costs incurred with respect to right-of-way applications and with respect to inspection and monitoring of construction, operation, and termination of a facility pursuant to such right-of-way.

The fees (i.e., non-hour burdens) are itemized in the following table.

Information Collection Requirements: Estimated Annual Non-Hour Burdens

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Application for a Solar or Wind Energy Development Project Outside Any Designated Leasing Area 43 CFR 2804.12 and 2804.30(g) Form SF-299	43 CFR 2804.12(c)(2)	10	$15 per acre x average of 6,000 acres per application = $90,000	$900,000
Application for an Electric Transmission Line with a Capacity of 100 kV or More 43 CFR 2804.12 Form SF-299	43 CFR 2804.14	10	$1,156[1]	$11,560

[1] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Application for an Energy Project-Area Testing Grant 43 CFR 2804.30, 2805.11(b)(2)(ii), and 2809.19(c) Form SF-299	43 CFR 2804.12(c)(2)	20	$2 per acre x average of 6,000 acres per application = $12,000	$240,000
Application for a Short-Term Grant 43 CFR 2805.11(b)(2)(iii) Form SF-299	43 CFR 2804.14	1	$1,156[2]	$1,156
Request to Assign a Solar or Wind Energy Development Right-of-Way 43 CFR 2807.21 Form SF-299	43 CFR 2804.14	11	$15 per acre x average of 6,000 acres per application = $90,000	$990,000

[2] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Application for Renewal of an Energy Project-Area Testing Grant or Short-Term Grant 43 CFR 2805.11(b)(2), 2805.14(h), and 2807.22 Form SF-299	43 CFR 2804.14	6	$1,156[3]	$6,936
Application for Renewal of a Solar or Wind Energy Development Grant or Lease 43 CFR 2805.14(g) and 2807.22 Form SF-299	43 CFR 2804.14	1	$1,156[4]	$1,156

[3] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").
[4] In the BLM's experience, this collection activity usually falls under Category Four of the Processing Fee Schedule at 43 CFR 2804.14. The amount shown is for Processing Category Four for calendar year 2016, at IM 2016-025 (Dec. 1, 2015) ("Rights-of-Way Management and Land Use Authorization Management").

A. Type of Response	B. Regulatory Authority for Fee	C. Number of Responses	D. Amount of Fee Per Response	E. Total Amount of Fees (Column C x Column D)
Nomination of a Parcel of Land Inside a Designated Leasing Area 43 CFR 2809.10 and 2809.11	43 CFR 2809.11(b)(1)	1	$5 per acre x average of 6,000 acres per nomination = $30,000	$30,000
Total				$2,180,808

Authors

The principal author of this rule is Jayme Lopez, Program Lead, National Renewable Energy Coordination Office Washington Office, Bureau of Land Management, Department of the Interior, assisted by Charles Yudson, Jean Sonneman and Ian Senio, Office of Regulatory Affairs, BLM Washington Office; Michael Ford, Economist, BLM Washington Office; Michael Hildner, Planning and Environmental Analyst; Dylan Fuge, Counselor to the Director, BLM Washington Office; and Gregory Russell, Attorney Advisor, Office of the Solicitor, Department of the Interior.

List of Subjects

43 CFR Part 2800

Communications, Electric power, Highways and roads, Penalties, Public lands and rights-of-way, Reporting and recordkeeping requirements.

43 CFR Part 2880

Administrative practice and procedures, Common carriers, Pipelines, Federal lands and rights-of-way, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, the BLM amends 43 CFR parts 2800 and 2880 as set forth below:

PART 2800–RIGHTS-OF-WAY UNDER THE FEDERAL LAND POLICY AND MANAGEMENT ACT

1. Revise the heading of part 2800 to read as set forth above.

2. The authority citation for part 2800 continues to read as follows:

AUTHORITY: 43 U.S.C. 1733, 1740, 1763, and 1764.

Subpart 2801—General Information

3. Amend § 2801.5(b) by:

a. Adding, in alphabetical order, definitions of "Acreage rent," "Application filing fee," "Assignment," "Designated leasing area," "Megawatt (MW) capacity fee," "Megawatt rate," "Performance and reclamation bond," "Reclamation cost estimate (RCE)," "Screening criteria for solar and wind energy development," and "Short-term right-of-way grant;" and

b. Revising the definitions of "Designated right-of-way corridor," "Management overhead costs," and "Right-of-way."

The additions and revisions read as follows:

§ 2801.5 What acronyms and terms are used in the regulations in this part?

*****

Acreage rent means rent assessed for solar and wind energy development grants and leases that is determined by the number of acres authorized for the grant or lease.

*****

Application filing fee means a filing fee specific to solar and wind energy applications. This fee is an initial payment for the reasonable costs for processing, inspecting, and monitoring a right-of-way.

Assignment means the transfer, in whole or in part, of any right or interest in a right-of-way grant or lease from the holder (assignor) to a subsequent party (assignee) with the BLM's written approval. A change in ownership of the grant or lease, or other related change-in-control transaction involving the holder, including a merger or acquisition, also constitutes an assignment for purposes of these regulations requiring the BLM's written approval, unless applicable statutory authority provides otherwise.

*****

Designated leasing area means a parcel of land with specific boundaries identified by the BLM land use planning process as being a preferred location for solar or wind energy development that may be offered competitively.

Designated right-of-way corridor means a parcel of land with specific boundaries identified by law, Secretarial order, the land use planning process, or other management decision, as being a preferred location for existing and future linear rights-of-way and facilities. The corridor may be suitable to accommodate more than one right-of-way use or facility, provided that they are compatible with one another and the corridor designation.

*****

Management overhead costs means Federal expenditures associated with a particular Federal agency's directorate. The BLM's directorate includes all State Directors and the

entire Washington Office staff, except where a State Director or Washington Office staff member is required to perform work on a specific right-of-way case.

Megawatt (MW) capacity fee means the fee paid in addition to the acreage rent for solar and wind energy development grants and leases. The MW capacity fee is the approved MW capacity of the solar or wind energy grant or lease multiplied by the appropriate MW rate. A grant or lease may provide for stages of development, and the grantee or lessee will be charged a fee for each stage by multiplying the MW rate by the approved MW capacity for the stage of the project.

Megawatt rate means the price of each MW of capacity for various solar and wind energy technologies as determined by the MW rate formula. Current MW rates are found on the BLM's MW rate schedule, which can be obtained at any BLM office or at http://www.blm.gov. The MW rate is calculated by multiplying the total hours per year by the net capacity factor, by the MW hour (MWh) price, and by the rate of return, where:

(1) Net capacity factor means the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. The BLM establishes net capacity factors for different technology types but may determine another net capacity factor to be more appropriate, on a case-by-case or regional basis, to reflect changes in technology, such as a solar or wind project that employs energy storage technologies, or if a grant or lease holder or applicant is able to demonstrate that another net capacity factor is appropriate for a particular project or region. The net capacity factor for each technology type is:

(i) Photovoltaic (PV) – 20 percent;

(ii) Concentrated photovoltaic (CPV) and concentrated solar power (CSP) – 25 percent;

(iii) CSP with storage capacity of 3 hours or more – 30 percent; and

(iv) Wind energy – 35 percent;

(2) Megawatt hour (MWh) price means the 5 calendar-year average of the annual weighted average wholesale prices per MWh for the major trading hubs serving the 11 western States of the continental United States (U.S.);

(3) Rate of return means the relationship of income (to the property owner) to revenue generated from authorized solar and wind energy development facilities based on the 10-year average of the 20-year U.S. Treasury bond yield rounded to the nearest one-tenth percent; and

(4) Hours per year means the total number of hours in a year, which, for purposes of this part, means 8,760 hours.

*****

Performance and reclamation bond means the document provided by the holder of a right-of-way grant or lease that provides the appropriate financial guarantees, including cash, to cover potential liabilities or specific requirements identified by the BLM for the construction, operation, decommissioning, and reclamation of an authorized right-of-way on public lands.

(1) Acceptable bond instruments include cash, cashier's or certified check, certificate or book entry deposits, negotiable U.S. Treasury securities, and surety bonds from the approved list of sureties (U.S. Treasury Circular 570) payable to the BLM. Irrevocable

letters of credit payable to the BLM and issued by banks or financial institutions organized or authorized to transact business in the United States are also acceptable bond instruments. An insurance policy can also qualify as an acceptable bond instrument, provided that the BLM is a named beneficiary of the policy, and the BLM determines that the insurance policy will guarantee performance of financial obligations and was issued by an insurance carrier that has the authority to issue policies in the applicable jurisdiction and whose insurance operations are organized or authorized to transact business in the United States.

(2) Unacceptable bond instruments. The BLM will not accept a corporate guarantee as an acceptable form of bond instrument.

*****

Reclamation cost estimate (RCE) means the estimate of costs to restore the land to a condition that will support pre-disturbance land uses. This includes the cost to remove all improvements made under the right-of-way authorization, return the land to approximate original contour, and establish a sustainable vegetative community, as required by the BLM. The RCE will be used to establish the appropriate amount for financial guarantees of land uses on the public lands, including those uses authorized by right-of-way grants or leases issued under this part.

*****

Right-of-way means the public lands that the BLM authorizes a holder to use or occupy under a particular grant or lease.

*****

Screening criteria for solar and wind energy development refers to the policies and procedures that the BLM uses to prioritize how it processes solar and wind energy development right-of-way applications to facilitate the environmentally responsible development of such facilities through the consideration of resource conflicts, land use plans, and applicable statutory and regulatory requirements. Applications for projects with lesser resource conflicts are anticipated to be less costly and time-consuming for the BLM to process and will be prioritized over those with greater resource conflicts.

Short-term right-of-way grant means any grant issued for a term of 3 years or less for such uses as storage sites, construction areas, and site testing and monitoring activities, including site characterization studies and environmental monitoring.

*****

4. In § 2801.6, revise paragraph (a)(2) to read as follows:

§ 2801.6 Scope.

(a) ***

(2) Grants to Federal departments or agencies for all systems and facilities identified in § 2801.9(a), including grants for transporting by pipeline and related facilities, commodities such as oil, natural gas, synthetic liquid or gaseous fuels, and any refined products produced from them; and

*****

5. Amend § 2801.9 by revising paragraphs (a)(4) and (a)(7), and by adding paragraph (d) to read as follows:

§ 2801.9 When do I need a grant?

(a) ***

(4) Systems for generating, transmitting, and distributing electricity, including solar and wind energy development facilities and associated short-term actions, such as site and geotechnical testing for solar and wind energy projects;

*****

(7) Such other necessary transportation or other systems or facilities, including any temporary or short-term surface disturbing activities associated with approved systems or facilities, which are in the public interest and which require rights-of-way.

*****

(d) All systems, facilities, and related activities for solar and wind energy projects are specifically authorized as follows:

(1) Energy site-specific testing activities, including those with individual meteorological towers and instrumentation facilities, are authorized with a short-term right-of-way grant issued for 3 years or less;

(2) Energy project-area testing activities are authorized with a short-term right-of-way grant for an initial term of 3 years or less with the option to renew for one additional 3-year period under § 2805.14(h) when the renewal application is accompanied by an energy development application;

(3) Solar and wind energy development facilities located outside designated leasing areas, and those facilities located inside designated leasing areas under § 2809.17(d)(2), are authorized with a right-of-way grant issued for up to 30 years (plus the initial partial year of issuance). An application for renewal of the grant may be submitted under § 2805.14(g);

(4) Solar and wind energy development facilities located inside designated leasing areas are authorized with a solar or wind energy development lease when issued competitively under subpart 2809. The term is fixed for 30 years (plus the initial partial year of issuance). An application for renewal of the lease may be submitted under § 2805.14(g); and

(5) Other associated actions not specifically included in § 2801.9(d)(1) through (4), such as geotechnical testing and other temporary land disturbing activities, are authorized with a short-term right-of-way grant issued for 3 years or less.

Subpart 2802—Lands Available for FLPMA Grants

6. In § 2802.11, revise the section heading and paragraph (a), revise the introductory language of paragraph (b), and revise paragraphs (b)(3), (b)(4), (b)(6), (b)(7), and (d) to read as follows:

§ 2802.11 How does the BLM designate right-of-way corridors and designated leasing areas?

(a) The BLM may determine the locations and boundaries of right-of-way corridors or designated leasing areas during the land use planning process described in part 1600 of this chapter. During this process, the BLM coordinates with other Federal agencies, State, local, and tribal governments, and the public to identify resource-related issues, concerns, and needs. The process results in a resource management plan or plan amendment, which addresses the extent to which you may use public lands and resources for specific purposes.

(b) When determining which lands may be suitable for right-of-way corridors or designated leasing areas, the factors the BLM considers include, but are not limited to, the following:

*****

(3) Physical effects and constraints on corridor placement or leasing areas due to geology, hydrology, meteorology, soil, or land forms;

(4) Costs of construction, operation, and maintenance and costs of modifying or relocating existing facilities in a proposed right-of-way corridor or designated leasing area (i.e., the economic efficiency of placing a right-of-way within a proposed corridor or providing a lease inside a designated leasing area);

*****

(6) Potential health and safety hazards imposed on the public by facilities or activities located within the proposed right-of-way corridor or designated leasing area;

(7) Social and economic impacts of the right-of-way corridor or designated leasing area on public land users, adjacent landowners, and other groups or individuals;

*****

(d) The resource management plan or plan amendment may also identify areas where the BLM will not allow right-of-way corridors or designated leasing areas for environmental, safety, or other reasons.

Subpart 2804—Applying for FLPMA Grants

7. Amend § 2804.10 by revising paragraph (a)(2) to read as follows:

§ 2804.10 What should I do before I file my application?

(a)*****

(2) Determine whether the lands are located inside a designated or existing right-of-way corridor or a designated leasing area;

*****

8. Revise § 2804.12 to read as follows:

§ 2804.12 What must I do when submitting my application?

(a) File your application on Standard Form 299, available from any BLM office or at http://www.blm.gov, and fill in the required information as completely as possible. Your completed application must include the following:

(1) A description of the project and the scope of the facilities;

(2) The estimated schedule for constructing, operating, maintaining, and terminating the project;

(3) The estimated life of the project and the proposed construction and reclamation techniques;

(4) A map of the project, showing its proposed location and existing facilities adjacent to the proposal;

(5) A statement of your financial and technical capability to construct, operate, maintain, and terminate the project;

(6) Any plans, contracts, agreements, or other information concerning your use of the right-of-way and its effect on competition;

(7) A statement certifying that you are of legal age and authorized to do business in the State(s) where the right-of-way would be located and that you have submitted correct information to the best of your knowledge; and

(8) A schedule for the submission of a plan of development (POD) conforming to the POD template at http://www.blm.gov, should the BLM require you to submit a POD under § 2804.25(c).

(b) When submitting an application for a solar or wind energy development project or for a transmission line project with a capacity of 100 kV or more, in addition to the information required in subparagraph (a), you must:(1) Include a general description of the proposed project and a schedule for the submission of a POD conforming to the POD template at http://www.blm.gov;

(2) Address all known potential resource conflicts with sensitive resources and values, including special designations or protections, and include applicant-proposed measures to avoid, minimize, and compensate for such resource conflicts, if any;

(3) Initiate early discussions with any grazing permittees that may be affected by the proposed project in accordance with 43 CFR 4110.4-2(b); and

(4) Within 6 months from the time the BLM receives the cost recovery fee under § 2804.14, schedule and hold two preliminary application review meetings as follows:

(i) The first meeting will be with the BLM to discuss the general project proposal, the status of BLM land use planning for the lands involved, potential siting issues or concerns, potential environmental issues or concerns, potential alternative site locations and the right-of-way application process;

(ii) The second meeting will be with appropriate Federal and State agencies and tribal and local governments to facilitate coordination of potential environmental and siting issues and concerns; and

(iii) You and the BLM may agree to hold additional preliminary application review meetings.

(c) When submitting an application for a solar or wind energy project under this subpart rather than subpart 2809, you must:

(1) Propose a project sited on lands outside a designated leasing area, except as provided for by § 2809.19; and

(2) Pay an application filing fee of $15 per acre for solar or wind energy development applications and $2 per acre for energy project-area testing applications. The BLM will refund your fee, except for the reasonable costs incurred on your behalf, if you are the unsuccessful bidder in a competitive offer held under § 2804.30 or subpart 2809. The BLM will adjust the application filing fee at least once every 10 years using the change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP) for the preceding 10-year period and round it to the nearest one-half dollar. This 10-year average will be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under § 2806.22.

(d) If you are unable to meet a requirement of the application outlined in this section, you may submit a request for an alternative requirement under § 2804.40.

(e) If you are a business entity, you must also submit the following information:

(1) Copies of the formal documents creating the entity, such as articles of incorporation, and including the corporate bylaws;

(2) Evidence that the party signing the application has the authority to bind the applicant;

(3) The name and address of each participant in the business;

(4) The name and address of each shareholder owning 3 percent or more of the shares and the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote;

(5) The name and address of each affiliate of the business;

(6) The number of shares and the percentage of any class of voting stock owned by the business, directly or indirectly, in any affiliate controlled by the business;

(7) The number of shares and the percentage of any class of voting stock owned by an affiliate, directly or indirectly, in the business controlled by the affiliate; and

(8) If you have already provided the information in paragraphs (b)(1) through (7) of this section to the BLM and the information remains accurate, you need only reference the BLM serial number under which you previously filed it.

(f) The BLM may require you to submit additional information at any time while processing your application. See §2884.11(c) of this chapter for the type of information we may require.

(g) If you are a Federal oil and gas lessee or operator and you need a right-of-way for access to your production facilities or oil and gas lease, you may include your right-of-way requirements with your Application for Permit to Drill or Sundry Notice required under parts 3160 through 3190 of this chapter.

(h) If you are filing with another Federal agency for a license, certificate of public convenience and necessity, or other authorization for a project involving a right-of-way on public lands, simultaneously file an application with the BLM for a grant. Include a

copy of the materials, or reference all the information, you filed with the other Federal agency.

(i) Inter-agency Coordination: You may request, in writing, an exemption from the requirements of this section if you can demonstrate to the BLM that you have satisfied similar requirements by participating in an inter-agency coordination process with another Federal, State, local, or Tribal authority. No exemption is approved until you receive BLM approval in writing.

9. In § 2804.14, revise paragraphs (a), (b), and (c) to read as follows:

§ 2804.14 What is the processing fee for a grant application?

(a) Unless you are exempt under § 2804.16, you must pay a fee to the BLM for the reasonable costs of processing your application. Subject to applicable laws and regulations, if processing your application involves Federal agencies other than the BLM, your fee may also include the reasonable costs estimated to be incurred by those Federal agencies. Instead of paying the BLM a fee for the reasonable costs incurred by other Federal agencies in processing your application, you may pay other Federal agencies directly for such costs. Reasonable costs are those costs as defined in Section 304(b) of FLPMA (43 U.S.C. 1734(b)). The fees for Processing Categories 1 through 4 (see paragraph (b) of this section) are one-time fees and are not refundable. The fees are categorized based on an estimate of the amount of time that the Federal Government will expend to process your application and issue a decision granting or denying the application.

(b) There is no processing fee if the Federal Government's work is estimated to take 1 hour or less. Processing fees are based on categories. The BLM will update the

processing fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD-GDP, as measured second quarter to second quarter, rounded to the nearest dollar. The BLM will update Category 5 processing fees as specified in the Master Agreement. These categories and the estimated range of Federal work hours for each category are:

Processing Categories

Processing category	Federal work hours involved
(1) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are >1 ≤ 8
(2) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 8 ≤ 24
(3) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 24 ≤ 36
(4) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 36 ≤ 50
(5) Master agreements	Varies
(6) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 50

(c) You may obtain a copy of the current year's processing fee schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current processing fee schedule at http://www.blm.gov.

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10. Amend § 2804.18 by redesignating paragraphs (a)(6) through (a)(8) as paragraphs (a)(7) through (a)(9) and adding new paragraph (a)(6). The addition reads as follows:

§ 2804.18 What provisions do Master Agreements contain and what are their limitations?

(a) ***

(6) Describes existing agreements between the BLM and other Federal agencies for cost reimbursement;

*****

11. Amend § 2804.19 by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 2804.19 How will BLM process my Processing Category 6 application?

(a) For Processing Category 6 applications, you and the BLM must enter into a written agreement that describes how the BLM will process your application. The final agreement consists of a work plan, a financial plan, and a description of any existing agreements you have with other Federal agencies for cost reimbursement associated with your application.

*****

(e) We may collect reimbursement for reasonable costs to the United States for processing applications and other documents under this part relating to the public lands.

12. Amend § 2804.20 by revising paragraphs (a)(1) and (a)(5), redesignating paragraph (a)(6) as paragraph (a)(7), and adding new paragraphs (a)(6). The revisions and additions read as follows:

§ 2804.20 How does BLM determine reasonable costs for Processing Category 6 or Monitoring Category 6 applications?

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(a) ***

(1) Actual costs to the Federal Government (exclusive of management overhead costs) of processing your application and of monitoring construction, operation, maintenance, and termination of a facility authorized by the right-of-way grant;

*****

(5) Any tangible improvements, such as roads, trails, and recreation facilities, which provide significant public service and are expected in connection with constructing and operating the facility; and

(6) Existing agreements between the BLM and other Federal agencies for cost reimbursement associated with such application.

*****

13. Amend § 2804.23 by revising the section heading and paragraphs (a)(1) and (c) and adding new paragraphs (d) and (e) to read as follows:

§ 2804.23 When will the BLM use a competitive process?

(a) ***

(1) Processing Category 1 through 4. You must reimburse the Federal Government for processing costs as if the other application or applications had not been filed.

*****

(c) If we determine that competition exists, we will describe the procedures for a competitive bid through a bid announcement in the Federal Register. We may also provide notice by other methods, such as a newspaper of general circulation in the area affected by the potential right-of-way, or the Internet. We may offer lands through a competitive process on our own initiative. The BLM will not competitively offer lands

for which the BLM has accepted an application and received a plan of development and cost recovery agreement.

(d) Competitive process for solar and wind energy development outside designated leasing areas. Lands outside designated leasing areas may be made available for solar and wind energy applications through a competitive application process established by the BLM under § 2804.30.

(e) Competitive process for solar and wind energy development inside designated leasing areas. Lands inside designated leasing areas may be offered competitively under subpart 2809.

14. Amend § 2804.24 by revising paragraph (a), redesignating paragraph (b) as paragraph (c), and adding new paragraph (b) to read as follows:

§ 2804.24 Do I always have to submit an application for a grant using Standard Form 299?

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(a) The BLM offers lands competitively under § 2804.23(c) and you have already submitted an application for the facility or system;

(b) The BLM offers lands for competitive lease under subpart 2809 of this part; or

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15. Revise § 2804.25 to read as follows:

§ 2804.25 How will BLM process my application?

(a) The BLM will notify you in writing when it receives your application. This notification will also:

(1) Identify your processing fee described at §2804.14 of this subpart; and

(2) Inform you of any other grant applications which involve all or part of the lands for which you applied.

(b) The BLM will not process your application if you have any:

(1) Outstanding unpaid debts owed to the Federal Government. Outstanding debts are those currently unpaid debts owed to the Federal Government after all administrative collection actions have occurred, including any appeal proceedings under applicable Federal regulations and the Administrative Procedure Act; or

(2) Trespass action pending against you for any activity on BLM-administered lands (see § 2808.12), except those to resolve the trespass with a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after outstanding unpaid debts are paid.

(c) The BLM may require you to submit additional information necessary to process the application. This information may include a detailed construction, operation, rehabilitation, and environmental protection plan (i.e., a POD), and any needed cultural resource surveys or inventories for threatened or endangered species. If the BLM needs more information, the BLM will identify this information in a written deficiency notice asking you to provide the additional information within a specified period of time.

(1) For solar or wind energy development projects, and transmission lines with a capacity of 100 kV or more, you must commence any required resource surveys or inventories within one year of the request date, unless otherwise specified by the BLM; or

(2) If you are unable to meet any of the requirements of this section, you must show good cause and submit a request for an alternative under § 2804.40.

(d) Customer service standard. The BLM will process your completed application as follows:

Processing category	Processing time	Conditions
1-4	60 calendar days	If processing your application will take longer than 60 calendar days, the BLM will notify you in writing of this fact prior to the 30th calendar day and inform you of when you can expect a final decision on your application.
5	As specified in the Master Agreement	The BLM will process applications as specified in the Agreement.
6	Over 60 calendar days	The BLM will notify you in writing within the initial 60-day processing period of the estimated processing time.

(e) In processing an application, the BLM will:

(1) Hold public meetings if sufficient public interest exists to warrant their time and expense. The BLM will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved in the area affected by the potential right-of-way or the Internet, to announce in advance any public hearings or meetings;

(2) If your application is for solar or wind energy development:

(i) Hold a public meeting in the area affected by the potential right-of-way;

(ii) Apply screening criteria to prioritize processing applications with lesser resource conflicts over applications with greater resource conflicts and categorize screened applications according to the criteria listed in § 2804.35; and

(iii) Evaluate the application based on the information provided by the applicant and input from other parties, such as Federal, State, and local government agencies, and

tribes, as well as comments received in preliminary application review meetings held under § 2804.12(b)(4) and the public meeting held under paragraph (e)(2)(i) of this section. The BLM will also evaluate your application based on whether you propose to site the development appropriately (e.g. outside of a designated leasing area or exclusion area) and whether you address known resource values discussed in the preliminary application review meetings. Based on these evaluations, the BLM will either deny your application or continue processing it.

(3) Determine whether a POD schedule submitted with your application meets the development schedule or other requirements described by the BLM, such as in § 2804.12(b);

(4) Complete appropriate National Environmental Policy Act (NEPA) compliance for the application, as required by 43 CFR part 46 and 40 CFR parts 1500 through 1508;

(5) Determine whether your proposed use complies with applicable Federal and State laws;

(6) If your application is for a road, determine whether it is in the public interest to require you to grant the United States an equivalent authorization across lands that you own;

(7) Consult, as necessary, on a government-to-government basis with tribes and other governmental entities; and

(8) Take any other action necessary to fully evaluate and decide whether to approve or deny your application.

(f)(1) The BLM may segregate, if it finds it necessary for the orderly administration of the public lands, lands included in a right-of-way application under 43 CFR subpart 2804

for the generation of electrical energy from wind or solar sources. In addition, the BLM may also segregate lands that it identifies for potential rights-of-way for electricity generation from wind or solar sources when initiating a competitive process for solar or wind development on particular lands. Upon segregation, such lands would not be subject to appropriation under the public land laws, including location under the Mining Law of 1872 (30 U.S.C. 22 et seq.), but would remain open under the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.) or the Materials Act of 1947 (30 U.S.C. 601 et seq.). The BLM would effect a segregation by publishing a Federal Register notice that includes a description of the lands being segregated. The BLM may effect segregation in this way for both pending and new right-of-way applications.

(2) The effective date of segregation is the date of publication of the notice in the Federal Register. Consistent with 43 CFR 2091-3.2, the segregation terminates and the lands automatically open on the date that is the earliest of the following:

(i) When the BLM issues a decision granting, granting with modifications, or denying the application for a right-of-way;

(ii) Automatically at the end of the segregation period stated in the Federal Register notice initiating the segregation; or

(iii) Upon publication of a Federal Register notice terminating the segregation and opening the lands.

(3) The segregation period may not exceed 2 years from the date of publication in the Federal Register of the notice initiating the segregation, unless the State Director determines and documents in writing, prior to the expiration of the segregation period, that an extension is necessary for the orderly administration of the public lands. If the

State Director determines an extension is necessary, the BLM will extend the segregation for up to 2 years by publishing a notice in the Federal Register, prior to the expiration of the initial segregation period. Segregations under this part may only be extended once and the total segregation period may not exceed 4 years.

16. Amend § 2804.26 by revising paragraph (a)(5), redesignating paragraph (a)(6) as paragraph (a)(8), and adding new paragraphs (a)(6), (a)(7), and (c). The revisions read as follows:

§ 2804.26 Under what circumstances may BLM deny my application?

(a) ***

(5) You do not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities within the right-of-way.

(i) Applicants must have or be able to demonstrate technical and financial capability to construct, operate, maintain, and terminate a project throughout the application process and authorization period. You can demonstrate your financial and technical capability to construct, operate, maintain, and terminate a project by:

(A) Documenting any previous successful experience in construction, operation, and maintenance of similar facilities on either public or non-public lands;

(B) Providing information on the availability of sufficient capitalization to carry out development, including the preliminary study stage of the project and the environmental review and clearance process; or

(C) Providing written copies of conditional commitments of Federal and other loan guarantees; confirmed power purchase agreements; engineering, procurement, and

construction contracts; and supply contracts with credible third-party vendors for the manufacture or supply of key components for the project facilities.

(ii) Failure to demonstrate and sustain technical and financial capability is grounds for denying an application or terminating an authorization;

(6) The PODs required by §§ 2804.25(e)(3), 2804.12,(a)(8), and 2804.12(c)(1) do not meet the development schedule or other requirements in the POD template and the applicant is unable to demonstrate why the POD should be approved;

(7) Failure to commence necessary surveys and studies, or plans for permit processing as required by § 2804.25(c); or

(8) The BLM's evaluation of your solar or wind application made under § 2804.25(e)(2)(iii) provides a basis for a denial.

(b)***

(c) If you are unable to meet any of the requirements in this section you may request an alternative from the BLM (see § 2804.40).

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17. In § 2804.27, revise the section heading and introductory text to read as follows:

§ 2804.27 What fees must I pay if BLM denies my application or if I withdraw my application?

If the BLM denies your application or you withdraw it, you must still pay any application filing fees under § 2804.12(b)(2), and any processing fee set forth at § 2804.14, unless you have a Processing Category 5 or 6 application. Then, the following conditions apply:

*****

18. Add § 2804.30 to subpart 2804 to read as follows:

§ 2804.30 What is the competitive process for solar or wind energy development for lands outside of designated leasing areas?

(a) Available land. The BLM may offer through a competitive process any land not inside a designated leasing area and open to right-of-way applications under § 2802.10.

(b) Variety of competitive procedures available. The BLM may use any type of competitive process or procedure to conduct its competitive offer and any method, including the use of the Internet, to conduct the actual auction or competitive bid procedure. Possible bid procedures could include, but are not limited to: Sealed bidding, oral auctions, modified competitive bidding, electronic bidding, and any combination thereof.

(c) Competitive offer. The BLM may identify a parcel for competitive offer if competition exists or may include land in a competitive offer on its own initiative.

(d) Notice of competitive offer. The BLM will publish a notice in the Federal Register at least 30 days prior to the competitive offer and may use other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way or the Internet. The notice would explain that the successful bidder would become the preferred applicant (see paragraph (g) of this section) and may then apply for a grant. The Federal Register and other notices must also include:

(1) The date, time, and location, if any, of the competitive offer;

(2) The legal land description of the parcel to be offered;

(3) The bidding methodology and procedures to be used in conducting the competitive offer, which may include any of the competitive procedures identified in § 2804.30(b);

(4) The minimum bid required (see § 2804.30(e)(2));

(5) The qualification requirements for potential bidders (see § 2803.10); and

(6) The requirements for the successful bidder to submit a schedule for the submission of a POD for the lands involved in the competitive offer (see § 2804.12(c)(1)).

(e) Bidding.

(1) Bid submissions. The BLM will accept your bid only if it includes payment for the minimum bid and at least 20 percent of the bonus bid.

(2) Minimum bid. The minimum bid is not prorated among all bidders, but paid entirely by the successful bidder. The minimum bid consists of:

(i) The administrative costs incurred by the BLM and other Federal agencies in preparing for and conducting the competitive offer, including required environmental reviews; and

(ii) An amount determined by the authorizing officer and disclosed in the notice of competitive offer. This amount will be based on known or potential values of the parcel. In setting this amount, the BLM will consider factors that include, but are not limited to, the acreage rent and megawatt capacity fee.

(3) Bonus bid. The bonus bid consists of any dollar amount that a bidder wishes to bid in addition to the minimum bid.

(4) If you are not the successful bidder, as defined in paragraph (f) of this section, the BLM will refund your bid and any application filing fees, less the reasonable costs incurred by the United States in connection with your application, under § 2804.12(c)(2).

(f) Successful bidder. The successful bidder is determined by the highest total bid. If you are the successful bidder, you become the preferred applicant only if, within 15 calendar days after the day of the offer, you submit the balance of the bonus bid to the BLM office conducting the competitive offer. You must make payments by personal

check, cashier's check, certified check, bank draft, money order, or by other means deemed acceptable by the BLM, payable to the "Department of the Interior—Bureau of Land Management."

(g) Preferred applicant. The preferred applicant may apply for an energy project-area testing grant, an energy site-specific testing grant, or a solar or wind energy development grant for the parcel identified in the offer. Grant approval is not guaranteed by winning the subject bid and is solely at the BLM's discretion. The BLM will not accept applications on lands where a preferred applicant has been identified, unless allowed by the preferred applicant.

(h) Reservations.

(1) The BLM may reject bids regardless of the amount offered. If the BLM rejects your bid under this provision, you will be notified in writing and such notice will include the reasons for the rejection and any refunds to which you are entitled.

(2) The BLM may make the next highest bidder the preferred applicant if the first successful bidder fails to satisfy the requirements under paragraph (f) of this section.

(3) If the BLM is unable to determine the successful bidder, such as in the case of a tie, the BLM may re-offer the lands competitively to the tied bidders, or to all bidders.

(4) If lands offered under this section receive no bids the BLM may:

(i) Re-offer the lands through the competitive process under this section; or

(ii) Make the lands available through the non-competitive application process found in subparts 2803, 2804, and 2805 of this part, if the BLM determines that doing so is in the public interest.

19. Add § 2804.31 to subpart 2804 to read as follows:

§ 2804.31 How will the BLM call for site testing for solar and wind energy?

(a) Call for site testing. The BLM may, at its own discretion, initiate a call for site testing. The BLM will publish this call for site testing in the Federal Register and may also use other notification methods, such as a newspaper of general circulation in the area affected by the potential right-of-way, or the Internet. The Federal Register and any other notices will include:

(1) The date, time, and location that site testing applications identified under §2801.9(d)(1) of this part may be submitted;

(2) The date by which applicants will be notified of the BLM's decision on timely submitted site testing applications;

(3) The legal land description of the area for which site testing applications are being requested; and

(4) The qualification requirements for applicants (see § 2803.10).

(b) You may request that the BLM hold a call for site testing for certain public lands. The BLM may proceed with a call for site testing at its own discretion.

(c) The BLM may identify lands surrounding the site testing as designated leasing areas under § 2802.11. If a designated leasing area is established, a competitive offer for a development lease under subpart 2809 may be held at the discretion of the BLM.

20. Add § 2804.35 to subpart 2804 to read as follows:

§ 2804.35 How will the BLM prioritize my solar or wind energy application?

The BLM will prioritize your application by placing it into one of three categories and may re-categorize your application based on new information received through surveys, public meetings, or other data collection, or after any changes to the application. The

BLM will generally prioritize the processing of leases awarded under subpart 2809 before applications submitted under subpart 2804. For applications submitted under subpart 2804, the BLM will categorize your application based on the following screening criteria.

(a) High-priority applications are given processing priority over medium- and low-priority applications and may include lands that meet the following criteria:

(1) Lands specifically identified as appropriate for solar or wind energy development, other than designated leasing areas;

(2) Previously disturbed sites or areas adjacent to previously disturbed or developed sites;

(3) Lands currently designated as Visual Resource Management Class IV; or

(4) Lands identified as suitable for disposal in BLM land use plans.

(b) Medium-priority applications are given priority over low-priority applications and may include lands that meet the following criteria:

(1) BLM special management areas that provide for limited development, including recreation sites and facilities;

(2) Areas where a project may adversely affect conservation lands, including lands with wilderness characteristics that have been identified in an updated wilderness characteristics inventory;

(3) Right-of-way avoidance areas;

(4) Areas where project development may adversely affect resources and properties listed nationally such as the National Register of Historic Places, National Natural Landmarks, or National Historic Landmarks;

(5) Sensitive habitat areas, including important species use areas, riparian areas, or areas of importance for Federal or State sensitive species;

(6) Lands currently designated as Visual Resource Management Class III;

(7) Department of Defense operating areas with land use or operational mission conflicts; or

(8) Projects with proposed groundwater uses within groundwater basins that have been allocated by State water resource agencies.

(c) Low-priority applications may not be feasible to authorize. These applications may include lands that meet the following criteria:

(1) Lands near or adjacent to lands designated by Congress, the President, or the Secretary for the protection of sensitive viewsheds, resources, and values (e.g., units of the National Park System, Fish and Wildlife Service Refuge System, some National Forest System units, and the BLM National Landscape Conservation System), which may be adversely affected by development;

(2) Lands near or adjacent to Wild, Scenic, and Recreational Rivers and river segments determined suitable for Wild or Scenic River status, if project development may have significant adverse effects on sensitive viewsheds, resources, and values;

(3) Designated critical habitat for federally threatened or endangered species, if project development may result in the destruction or adverse modification of that critical habitat;

(4) Lands currently designated as Visual Resource Management Class I or Class II;

(5) Right-of-way exclusion areas; or

(6) Lands currently designated as no surface occupancy for oil and gas development in BLM land use plans.

21. Add § 2804.40 to subpart 2804 to read as follows:

§ 2804.40 Alternative Requirements.

If you are unable to meet any of the requirements in this subpart you may request approval for an alternative requirement from the BLM. Any such request is not approved until you receive BLM approval in writing. Your request to the BLM must:

(a) Show good cause for your inability to meet a requirement;

(b) Suggest an alternative requirement and explain why that requirement is appropriate; and

(c) Be received in writing by the BLM in a timely manner, before the deadline to meet a particular requirement has passed.

Subpart 2805—Terms and Conditions of Grants

22. Amend § 2805.10 as follows:

a. Revise the section heading;

b. Revise paragraph (a);

c. Redesignate paragraph (b) and (c) as paragraphs (c) and (d), respectively; and

d. Add new paragraph (b).

The revisions and additions read as follows:

§ 2805.10 How will I know whether the BLM has approved or denied my application or if my bid for a solar or wind energy development grant or lease is successful or unsuccessful?

(a) The BLM will send you a written response when it has made a decision on your application or if you are the successful bidder for a solar or wind energy development grant or lease. If we approve your application, we will send you an unsigned grant for your review and signature. If you are the successful bidder for a solar or wind energy lease inside a designated leasing area under § 2809.15, we may send you an unsigned

lease for your review and signature. If your bid is unsuccessful, it will be refunded under §§ 2804.30(e)(4) or 2809.14(d) and you will receive written notice from us.

(b) Your unsigned grant or lease document:

(1) Will include any terms, conditions, and stipulations that we determine to be in the public interest, such as modifying your proposed use or changing the route or location of the facilities;

(2) May include terms that prevent your use of the right-of-way until you have an approved Plan of Development (POD) and BLM has issued a Notice to Proceed; and

(3) Will impose a specific term for the grant or lease. Each grant or lease that we issue for 20 or more years will contain a provision requiring periodic review at the end of the twentieth year and subsequently at 10-year intervals. We may change the terms and conditions of the grant or lease, including leases issued under subpart 2809, as a result of these reviews in accordance with § 2805.15(e).

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23. Amend § 2805.11 by redesignating paragraph (b)(2) as paragraph (b)(3), adding new paragraph (b)(2), and revising newly redesignated paragraph (b)(3) to read as follows:

§ 2805.11 What does a grant contain?

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(b) ***

(2) Specific terms for solar and wind energy grants and leases are as follows:

(i) For an energy site-specific testing grant, the term is 3 years or less, without the option of renewal;

(ii) For an energy project-area testing grant, the initial term is 3 years or less, with the option to renew for one additional 3-year period when the renewal application is also accompanied by a solar or wind energy development application and a POD as required by § 2804.25(e)(3);

(iii) For a short-term grant for all other associated actions not specifically included in paragraphs (b)(2)(i) and (ii) of this section, such as geotechnical testing and other temporary land disturbing activities, the term is 3 years or less;

(iv) For solar and wind energy development grants, the term is up to 30 years (plus the initial partial year of issuance) with adjustable terms and conditions. The grantee may submit an application for renewal under § 2805.14(g); and

(v) For solar and wind energy development leases located inside designated leasing areas, the term is fixed for 30 years (plus the initial partial year of issuance). The lessee may submit an application for renewal under § 2805.14(g).

(3) All grants and leases, except those issued for a term of 3 years or less and those issued in perpetuity, will expire on December 31 of the final year of the grant or lease. For grants and leases with terms greater than 3 years, the actual term includes the number of full years specified, plus the initial partial year, if any.

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24. Revise § 2805.12 to read as follows:

§ 2805.12 What terms and conditions must I comply with?

(a) By accepting a grant or lease, you agree to comply with and be bound by the following terms and conditions. During construction, operation, maintenance, and termination of the project you must:

(1) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and State laws and regulations applicable to the authorized use;

(2) Rebuild and repair roads, fences, and established trails destroyed or damaged by the project;

(3) Build and maintain suitable crossings for existing roads and significant trails that intersect the project;

(4) Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area;

(5) Not discriminate against any employee or applicant for employment during any stage of the project because of race, creed, color, sex, sexual orientation, or national origin. You must also require subcontractors to not discriminate;

(6) Pay monitoring fees and rent described in § 2805.16 and subpart 2806;

(7) Assume full liability if third parties are injured or damages occur to property on or near the right-of-way (see § 2807.12);

(8) Comply with project-specific terms, conditions, and stipulations, including requirements to:

(i) Restore, revegetate, and curtail erosion or conduct any other rehabilitation measure the BLM determines necessary;

(ii) Ensure that activities in connection with the grant comply with air and water quality standards or related facility siting standards contained in applicable Federal or State law or regulations;

(iii) Control or prevent damage to:

(A) Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat;

(B) Public and private property; and

(C) Public health and safety;

(iv) Provide for compensatory mitigation for residual impacts associated with the right-of-way.

(v) Protect the interests of individuals living in the general area who rely on the area for subsistence uses as that term is used in Title VIII of Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111 et seq.);

(vi) Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant or lease, including the approved POD, if one was required;

(vii) When the State standards are more stringent than Federal standards, comply with State standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way; and

(viii) Grant the BLM an equivalent authorization for an access road across your land if the BLM determines that a reciprocal authorization is needed in the public interest and the authorization the BLM issues to you is also for road access;

(9) Immediately notify all Federal, State, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify the BLM at the same time and send the BLM a copy of any written notification you prepared;

(10) Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant;

(11) Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, (42 U.S.C. 11001 et seq.), when you receive, assign, renew, amend, or terminate your grant;

(12) Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to the BLM's satisfaction and to the satisfaction of any other Federal, State, tribal, or local agency having jurisdiction over the land, resource, or hazardous material;

(13) Comply with all liability and indemnification provisions and stipulations in the grant;

(14) As the BLM directs, provide diagrams or maps showing the location of any constructed facility;

(15) As the BLM directs, provide, or give access to, any pertinent environmental, technical, and financial records, reports, and other information, such as Power Purchase and Interconnection Agreements or the production and sale data for electricity generated from the approved facilities on public lands. Failure to comply with such requirements may, at the discretion of the BLM, result in suspension or termination of the right-of-way authorization. The BLM may use this and similar information for the purpose of monitoring your authorization and for periodic evaluation of financial obligations under the authorization, as appropriate. Any records the BLM obtains will be made available to

the public subject to all applicable legal requirements and limitations for inspection and duplication under the Freedom of Information Act. Any information marked confidential or proprietary will be kept confidential to the extent allowed by law; and

(16) Comply with all other stipulations that the BLM may require.

(b) You must comply with the bonding requirements under § 2805.20. The BLM will not issue a Notice to Proceed or give written approval to proceed with ground disturbing activities until you comply with this requirement.

(c) By accepting a grant or lease for solar or wind energy development, you also agree to comply with and be bound by the following terms and conditions. You must:

(1) Not begin any ground disturbing activities until the BLM issues a Notice to Proceed (see § 2807.10) or written approval to proceed with ground disturbing activities;

(2) Complete construction within the timeframes in the approved POD, but no later than 24 months after the start of construction, unless the project has been approved for staged development, or as otherwise authorized by the BLM;

(3) If an approved POD provides for staged development, unless otherwise approved by the BLM:

(i) Begin construction of the initial phase of development within 12 months after issuance of the Notice to Proceed, but no later than 24 months after the effective date of the right-of-way authorization;

(ii) Begin construction of each stage of development (following the first) within 3 years of the start of construction of the previous stage of development, and complete construction of that stage no later than 24 months after the start of construction of that stage, unless otherwise authorized by the BLM; and

(iii) Have no more than 3 development stages, unless otherwise authorized by the BLM.

(4) Maintain all onsite electrical generation equipment and facilities in accordance with the design standards in the approved POD;

(5) Repair and place into service, or remove from the site, damaged or abandoned facilities that have been inoperative for any continuous period of 3 months and that present an unnecessary hazard to the public lands. You must take appropriate remedial action within 30 days after receipt of a written noncompliance notice, unless you have been provided an extension of time by the BLM. Alternatively, you must show good cause for any delays in repairs, use, or removal; estimate when corrective action will be completed; provide evidence of diligent operation of the facilities; and submit a written request for an extension of the 30-day deadline. If you do not comply with this provision, the BLM may suspend or terminate the authorization under §§ 2807.17 through 2807.19; and

(6) Comply with the diligent development provisions of the authorization or the BLM may suspend or terminate your grant or lease under §§ 2807.17 through 2807.19. Before suspending or terminating the authorization, the BLM will send you a notice that gives you a reasonable opportunity to correct any noncompliance or to start or resume use of the right-of-way (see § 2807.18). In response to this notice, you must:

(i) Provide reasonable justification for any delays in construction (for example, delays in equipment delivery, legal challenges, and acts of God);

(ii) Provide the anticipated date of completion of construction and evidence of progress toward the start or resumption of construction; and

(iii) Submit a written request under paragraph (e) of this section for extension of the timelines in the approved POD. If you do not comply with the requirements of paragraph (c)(7) of this section, the BLM may deny your request for an extension of the timelines in the approved POD.

(7) In addition to the RCE requirements of § 2805.20(a)(5) for a grant, the bond secured for a grant or lease must cover the estimated costs of cultural resource and Indian cultural resource identification, protection, and mitigation for project impacts.

(d) For energy site or project testing grants:

(1) You must install all monitoring facilities within 12 months after the effective date of the grant or other authorization. If monitoring facilities under a site testing and monitoring right-of-way authorization have not been installed within 12 months after the effective date of the authorization or consistent with the timeframe of the approved POD, you must request an extension pursuant to paragraph (e) of this section;

(2) You must maintain all onsite equipment and facilities in accordance with the approved design standards;

(3) You must repair and place into service, or remove from the site, damaged or abandoned facilities that have been inoperative for any continuous period of 3 months and that present an unnecessary hazard to the public lands; and

(4) If you do not comply with the diligent development provisions of either the site testing and monitoring authorization or the project testing and monitoring authorization, the BLM may terminate your authorization under § 2807.17.

(e) <u>Notification of Noncompliance and Request for Alternative Requirements</u>.

(1) As soon as you anticipate that you will not meet any stipulation, term, or condition of the approved right-of-way grant or lease, or in the event of your noncompliance with any such stipulation, term, or condition, you must notify the BLM in writing and show good cause for the noncompliance, including an explanation of the reasons for the failure.

(2) You may also request that the BLM consider alternative stipulations, terms, or conditions. Any request for an alternative stipulation, term, or condition must comply with applicable law in order to be considered. Any proposed alternative to applicable bonding requirements must provide the United States with adequate financial assurance for potential liabilities associated with your right-of-way grant or lease. Any such request is not approved until you receive BLM approval in writing.

25. Amend § 2805.14 by removing "and" from the end of paragraph (e), removing the period from the end of paragraph (f) and adding "; and" in its place, and adding paragraphs (g) and (h) to read as follows:

§ 2805.14 What rights does a grant convey?

*****

(g) Apply to renew your solar or wind energy development grant or lease, under § 2807.22; and

(h) Apply to renew your energy project-area testing grant for one additional term of 3 years or less when the renewal application also includes an energy development application under § 2801.9(d)(2).

26. In § 2805.15, revise the first sentence of paragraph (b) to read as follows:

§ 2805.15 What rights does the United States retain?

*****

(b) Require common use of your right-of-way, including facilities (see § 2805.14(b)), subsurface, and air space, and authorize use of the right-of-way for compatible uses. ***
*****

27. Revise § 2805.16 to read as follows:

§ 2805.16 If I hold a grant, what monitoring fees must I pay?

(a) You must pay a fee to the BLM for the reasonable costs the Federal Government incurs in inspecting and monitoring the construction, operation, maintenance, and termination of the project and protection and rehabilitation of the public lands your grant covers. Instead of paying the BLM a fee for the reasonable costs incurred by other Federal agencies in monitoring your grant, you may pay the other Federal agencies directly for such costs. The BLM will annually adjust the Category 1 through 4 monitoring fees in the manner described at § 2804.14(b). The BLM will update Category 5 monitoring fees as specified in the Master Agreement. Category 6 monitoring fees are addressed at § 2805.17(c). The BLM categorizes the monitoring fees based on the estimated number of work hours necessary to monitor your grant. Category 1 through 4 monitoring fees are one-time fees and are not refundable. The monitoring categories and work hours are as follows:

Monitoring Categories

Monitoring category	Federal work hours involved
(1) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are $> 1 \leq 8$

(2) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 8 ≤ 24
(3) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 24 ≤ 36
(4) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 36 ≤ 50
(5) Master Agreements	Varies
(6) Inspecting and monitoring of new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 50

(b) The monitoring cost schedule is available from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at http://www.blm.gov.

28. Add § 2805.20 to subpart 2805 to read as follows:

§ 2805.20 Bonding requirements.

If you hold a grant or lease under this part, you must comply with the following bonding requirements:

(a) The BLM may require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable bond instrument to cover any losses, damages, or injury to human health, the environment, or property in connection with your use and occupancy of the right-of-way, including costs associated with

terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. The BLM will periodically review your bond for adequacy and may require a new bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or lease.

(1) The BLM must be listed as an additionally named insured on the bond instrument if a State regulatory authority requires a bond to cover some portion of environmental liabilities, such as hazardous material damages or releases, reclamation, or other requirements for the project. The bond must:

(i) Be redeemable by the BLM;

(ii) Be held or approved by a State agency for the same reclamation requirements as specified by our right-of-way authorization; and

(iii) Provide the same or greater financial guarantee that we require for the portion of environmental liabilities covered by the State's bond.

(2) Bond acceptance. The BLM authorized officer must review and approve all bonds, including any State bonds, prior to acceptance, and at the time of any right-of-way assignment, amendment, or renewal.

(3) Bond amount. Unless you hold a solar or wind energy lease under subpart 2809, the bond amount will be determined based on the preparation of a RCE, which the BLM may require you to prepare and submit. The estimate must include our cost to administer a

reclamation contract and will be reviewed periodically for adequacy. The BLM may also consider other factors, such as salvage value, when determining the bond amount.

(4) You must post a bond on or before the deadline that we give you.

(5) Bond components that must be addressed when determining the RCE amount include, but are not limited to:

(i) Environmental liabilities such as use of hazardous materials waste and hazardous substances, herbicide use, the use of petroleum-based fluids, and dust control or soil stabilization materials;

(ii) The decommissioning, removal, and proper disposal, as appropriate, of any improvements and facilities; and

(iii) Interim and final reclamation, re-vegetation, recontouring, and soil stabilization. This component must address the potential for flood events and downstream sedimentation from the site that may result in offsite impacts.

(6) You may ask us to accept a replacement performance and reclamation bond at any time after the approval of the initial bond. We will review the replacement bond for adequacy. A surety company is not released from obligations that accrued while the surety bond was in effect unless the replacement bond covers those obligations to our satisfaction.

(7) You must notify us that reclamation has occurred and you may request that the BLM reevaluate your bond. If we determine that you have completed reclamation, we may release all or part of your bond.

(8) If you hold a grant, you are still liable under § 2807.12 if:

(i) We release all or part of your bond;

(ii) The bond amount does not cover the cost of reclamation; or

(iii) There is no bond in place;

(b) If you hold a grant for solar energy development outside of designated leasing areas, you must provide a performance and reclamation bond (see paragraph (a) of this section) prior to the BLM issuing a Notice to Proceed (see § 2805.12(c)(1)). We will determine the bond amount based on the RCE (see paragraph (a)(3) of this section) and it must be no less than $10,000 per acre that will be disturbed;

(c) If you hold a grant for wind energy development outside of designated leasing areas, you must provide a performance and reclamation bond (see paragraph (a) of this section) prior to the BLM issuing a Notice to Proceed (see § 2805.12(c)(1)). We will determine the bond amount based on the RCE (see paragraph (a)(3) of this section) and it must be no less than $10,000 per authorized turbine less than 1 MW in nameplate capacity or $20,000 per authorized turbine equal to or greater than 1 MW in nameplate capacity; and

(d) For short-term right-of-way grants for energy site or project-area testing, the bond amount must be no less than $2,000 per authorized meteorological tower or instrumentation facility location and must be provided before the written approval to proceed with ground disturbing activities (see § 2805.12(c)(1)).

29. Revise the heading for subpart 2806 to read as follows:

Subpart 2806—Annual Rents and Payments

30. Amend § 2806.12 by revising the section heading and paragraphs (a) and (b) and adding paragraph (d) to read as follows:

§ 2806.12 When and where do I pay rent?

(a) You must pay rent for the initial rental period before the BLM issues you a grant or lease.

(1) If your non-linear grant or lease is effective on:

(i) January 1 through September 30 and qualifies for annual payments, your initial rent bill is pro-rated to include only the remaining full months in the initial year; or

(ii) October 1 through December 31 and qualifies for annual payments, your initial rent bill is pro-rated to include the remaining full months in the initial year plus the next full year.

(2) If your non-linear grant allows for multi-year payments, such as a short term grant issued for energy site-specific testing, you may request that your initial rent bill be for the full term of the grant instead of the initial rent bill periods provided under paragraphs (a)(1)(i) or (ii) of this section.

(b) You must make all rental payments for linear rights-of-way according to the payment plan described in § 2806.24.

*****

(d) You must make all rental payments as instructed by us or as provided for by Secretarial order or legislative authority.

31. Amend § 2806.13 by:

a. Revising the section heading and paragraph (a);

b. Redesignating paragraph (e) as paragraph (f); and

c. Adding new paragraphs (e) and (g).

The revisions and additions read as follows:

§ 2806.13 What happens if I do not pay rents and fees or if I pay the rents or fees late?

(a) If the BLM does not receive the rent or fee payment required in subpart 2806 within 15 calendar days after the payment was due under § 2806.12, we will charge you a late payment fee of $25 or 10 percent of the amount you owe, whichever is greater, per authorization.

*****

(e) Subject to applicable laws and regulations, we will retroactively bill for uncollected or under-collected rent, fees, and late payments, if:

(1) A clerical error is identified;

(2) An adjustment to rental schedules is not applied; or

(3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

*****

(g) We will not approve any further activities associated with your right-of-way until we receive any outstanding payments that are due.

32. In § 2806.20, revise paragraph (c) to read as follows:

§ 2806.20 What is the rent for a linear right-of-way grant?

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(c) You may obtain a copy of the current Per Acre Rent Schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE, Room 2134LM, Washington, DC 20003. We also post the current rent schedule at http://www.blm.gov.

33. In § 2806.22, revise the second sentence of paragraph (a) to read as follows:

§ 2806.22 When and how does the Per Acre Rent Schedule change?

(a) ***For example, the average annual change in the IPD–GDP from 1994 to 2003 (the 10-year period immediately preceding the year (2004) that the 2002 National Agricultural Statistics Service Census data became available) was 1.9 percent.***

*****

34. Amend § 2806.23 by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

35. In § 2806.24, revise paragraph (c) to read as follows:

§ 2806.24 How must I make rental payments for a linear grant?

*****

(c) Proration of payments. The BLM prorates the first year rental amount based on the number of months left in the calendar year after the effective date of the grant. If your grant requires, or you chose a 10-year payment term, or multiples thereof, the initial rent bill consists of the remaining partial year plus the next 10 years, or multiple thereof.

36. Amend § 2806.30 by:

a. Revising paragraphs (a)(1) and (a)(2);

b. Removing paragraph (b); and

c. Redesignating paragraph (c) as paragraph (b).

The revisions read as follows:

§ 2806.30 What are the rents for communication site rights-of-way?

(a) Rent schedule. (1) The BLM uses a rent schedule to calculate the rent for communication site rights-of-way. The schedule is based on nine population strata (the

population served), as depicted in the most recent version of the Ranally Metro Area (RMA) Population Ranking, and the type of communication use or uses for which we normally grant communication site rights-of-way. These uses are listed as part of the definition of "communication use rent schedule," set out at § 2801.5(b). You may obtain a copy of the current schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. We also post the current communication use rent schedule at http://www.blm.gov.

(2) We update the schedule annually based on two sources: The U.S. Department of Labor Consumer Price Index for All Urban Consumers, U.S. City Average (CPI-U), as of July of each year (difference in CPI-U from July of one year to July of the following year), and the RMA population rankings.

*****

37. In § 2806.34, revise the second sentence of paragraph (b)(4) to read as follows:

§ 2806.34 How will BLM calculate the rent for a grant or lease authorizing a multiple-use communication facility?

*****

(4) *** This paragraph does not apply to facilities exempt from rent under § 2806.14(a)(4) except when the facility also includes ineligible facilities.

38. In § 2806.43, revise the third sentence of paragraph (a) to read as follows:

§ 2806.43 How does BLM calculate rent for passive reflectors and local exchange networks?

(a) *** For passive reflectors and local exchange networks not covered by a Forest Service regional schedule, we use the provisions in § 2806.70 to determine rent. *** *****

39. Amend § 2806.44 by adding introductory text and revising paragraph (a) to read as follows:

§ 2806.44 How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses?

This section applies to a grant or lease that authorizes a mixture of communication uses, some of which are subject to the communication use rent schedule and some of which are not. We will determine rent for these leases under the provisions of this section.

(a) The BLM establishes the rent for each of the uses in the facility that are not covered by the communication use rent schedule using § 2806.70.

*****

40. Remove the undesignated centered heading preceding § 2806.50.

41. Redesignate § 2806.50 as § 2806.70.

42. Add an undesignated centered heading and new § 2806.50, 2806.51, 2806.52, 2806.54, 2806.56, and 2806.58, to read as follows:

Solar Energy Rights-of-Way

§ 2806.50 Rents and fees for solar energy rights-of-way.

If you hold a right-of-way authorizing solar energy site-specific or project-area testing, or solar energy development, you must pay an annual rent and fee in accordance with this section and subpart. Your solar energy right-of-way authorization will either be a grant (if issued under subpart 2804) or a lease (if issued under subpart 2809). Rents and fees

for either type of authorization consist of an acreage rent that must be paid prior to issuance of the authorization and a phased-in MW capacity fee. Both the acreage rent and the phased-in MW capacity fee are charged and calculated consistent with § 2806.11 and prorated consistent with § 2806.12(a). The MW capacity fee will vary depending on the size and technology of the solar energy development project.

§ 2806.51 Scheduled Rate Adjustment.

(a) The BLM will adjust your acreage rent and MW capacity fee over the course of your authorization as described in these regulations. For new grants or leases, you may choose either the standard rate adjustment method (see §§ 2806.52(a)(5) and 2806.52(b)(3) for grants; see §§ 2806.54(a)(4) or 2806.54(c) for leases) or the scheduled rate adjustment method (see § 2806.52(d) for grants; see § 2806.54(d) for leases). Once you select a rate adjustment method, that method will be fixed until you renew your grant or lease (see § 2807.22).

(b) For new grants or leases, if you select the scheduled rate adjustment method you must notify the BLM of your decision in writing. Your decision must be received by the BLM before your grant or lease is issued. If you do not select the scheduled rate adjustment method, the standard rate adjustment method will apply.

(c) If you hold a grant that is in effect prior to [INSERT EFFECTIVE DATE OF THIS FINAL RULE], you may either accept the standard rate adjustment method or request in writing that the BLM apply the scheduled rate adjustment method, as set forth in § 2806.52(d), to your grant. To take advantage of the scheduled rate adjustment option, your request must be received by the BLM before [INSERT DATE TWO YEARS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The BLM will continue to

apply the standard rate adjustment method to adjust your rates unless and until it receives your request to use the scheduled rate adjustment method.

§ 2806.52 Rents and fees for solar energy development grants.

You must pay an annual acreage rent and MW capacity fee for your solar energy development grant as follows:

(a) Acreage rent. The BLM will calculate the acreage rent by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the annual per acre zone rate from the solar energy acreage rent schedule in effect at the time the authorization is issued;

(1) Per acre zone rate. The annual per acre zone rate from the solar energy acreage rent schedule is calculated using the per acre zone value (as assigned under paragraph (a)(2) of this section), encumbrance factor, rate of return, and the annual adjustment factor. The calculation for determining the annual per acre zone rate is A × B × C × D = E where:

(i) A is the per acre zone value = the same per acre zone values described in the linear rent schedule in § 2806.20(c);

(ii) B is the encumbrance factor = 100 percent;

(iii) C is the rate of return = 5.27 percent;

(iv) D is the annual adjustment factor = the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS Census data becomes available (see § 2806.22(a)). The BLM will adjust the per acre zone rates each year based on the average annual change in the IPD–GDP as determined under § 2806.22(a). Adjusted rates are effective each year on January 1; and

(v) E is the annual per acre zone rate.

(2) Assignment of counties: The BLM will calculate the per acre zone rate in paragraph (a)(1) of this section by using a State-specific factor to assign a county to a zone in the solar energy acreage rent schedule. The BLM will calculate a State-specific factor and apply it to the NASS data (county average per acre land and building value) to determine the per acre value and assign a county (or other geographical area) to a zone. The State-specific factor represents the percent difference between improved agricultural land and unimproved rangeland values, using NASS data. The calculation for determining the State-specific factor is (A/B) – (C/D) = E where:

(i) A = the NASS Census statewide average per acre value of non-irrigated acres;

(ii) B = the NASS Census statewide average per acre land and building value;

(iii) C = the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

(iv) D = the total statewide acres in farms; and

(v) E = the State-specific percent factor or 20 percent, whichever is greater.

(3) The initial assignment of counties to the zones on the solar energy acreage rent schedule will be based upon the most recent NASS Census data (2012) for years 2016 through 2020. The BLM may on its own or in response to requests consider making regional adjustments to those initial assignments, based on evidence that the NASS Census values do not accurately reflect the value of the BLM-managed lands in a given area. The BLM will update this rent schedule once every 5 years by re-assigning counties to reflect the updated NASS Census values as described in § 2806.21 and recalculate the State-specific percent factor once every 10 years as described in § 2806.22(b).

(4) Acreage rent payment. You must pay the acreage rent regardless of the stage of development or operations on the entire public land acreage described in the right-of-way authorization. The BLM State Director may approve a rental payment plan consistent with § 2806.15(c);

(5) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.51). The BLM will adjust the acreage rent annually to reflect the change in the per acre zone rates as specified in paragraph (a)(1) of this section. The BLM will use the most current per acre zone rates to calculate the acreage rent for each year of the grant term; and

(6) You may obtain a copy of the current per acre zone rates for solar energy development (solar energy acreage rent schedule) from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current solar energy acreage rent schedule for solar energy development at http://www.blm.gov;

(b) MW capacity fee. The MW capacity fee is calculated by multiplying the approved MW capacity by the MW rate (for the applicable type of technology employed by the project) from the MW rate schedule (see paragraph (b)(2) of this section). You must pay the MW capacity fee annually when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first:

(1) MW rate. The MW rate is calculated by multiplying the total hours per year, by the net capacity factor, by the MWh price, by the rate of return. For an explanation of each of these terms, see the definition of MW rate in § 2801.5(b).

(2) MW rate schedule. You may obtain a copy of the current MW rate schedule for solar energy development from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current MW rate schedule for solar energy development at http://www.blm.gov;

(3) Periodic adjustments in the MW rate. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.51). The BLM will adjust the MW rate applicable to your grant every 5 years, beginning in 2021, by recalculating the following two components of the MW rate formula:

(i) The adjusted MWh price is the average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States for the full 5 calendar-year period preceding the adjustment, rounded to the nearest dollar increment; and

(ii) The adjusted rate of return is the 10-year average of the 20-year U.S. Treasury bond yield for the full 10 calendar-year period preceding the adjustment, rounded to the nearest one-tenth percent, with a minimum rate of return of 4 percent.

(4) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.51). If you hold a solar energy development grant, the MW rate will be phased in as follows:

(i) There is a 3-year phase-in of the MW rate when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first, at the rates of:

(A) 25 percent for the first year. This rate applies for the first partial calendar year of operations, from the date electricity generation begins until Dec. 31 of that year;

(B) 50 percent for the second year; and

(C) 100 percent for the third and subsequent years of operations.

(ii) After generation of electricity starts and an approved POD provides for staged development:

(A) The 3-year phase-in of the MW rate applies to each stage of development; and

(B) The MW capacity fee is calculated using the authorized MW capacity approved for that stage plus any previously approved stages, multiplied by the MW rate.

(5) The general payment provisions for rents described in this subpart, except for § 2806.14(a)(4), also apply to the MW capacity fee.

(c) Initial implementation of the acreage rent and MW capacity fee. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.51). If you hold a solar energy grant and made payments for billing year 2016, the BLM will reduce by 50 percent the net increase in annual costs between billing year 2017 and billing year 2016. The net increase will be calculated based on a full calendar year.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment method (see § 2806.51), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) in place when your grant is issued, or for existing grants, the per acre zone rate and MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], as adjusted under paragraph (d)(6) of this section;

(2) The per acre zone rate will increase:

(i) Annually, beginning after the first full calendar year plus any initial partial year following issuance of your grant, by the average annual change in the IPD-GDP as described in § 2806.22(b); and

(ii) Every 5 years, beginning after the first 5 calendar years, plus any initial partial year, following issuance of your grant, by 20 percent;

(3) The MW rate will increase by 20 percent every 5 years, beginning after the first 5 years, plus the initial partial year, if any, your grant is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.52(b)(4) or the reduction under § 2806.52(c);

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for the current stage plus any previously approved stages, multiplied by the MW rate, as described under this section.

(6) For grants in place prior to [INSERT EFFECTIVE DATE OF FINAL RULE] that select the scheduled rate adjustment method offered under § 2806.51(c), the per acre zone rate and the MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be adjusted for the first year's payment using the scheduled rate adjustment method as follows:

(i) The per acre zone rate will increase by the average annual change in the IPD-GDP as described in § 2806.22(b) plus 20 percent;

(ii) The MW rate will increase by 20 percent; and

(iii) Subsequent increases will be performed as set forth in paragraphs (d)(2) and (d)(3) of this section from the date of the initial adjustment under this paragraph.

§ 2806.54 Rents and fees for solar energy development leases.

If you hold a solar energy development lease obtained through competitive bidding under subpart 2809 of this part, you must make annual payments in accordance with this section and subpart, in addition to the one-time, upfront bonus bid you paid to obtain the lease. The annual payment includes an acreage rent for the number of acres included within the solar energy lease and an additional MW capacity fee based on the total authorized MW capacity for the approved solar energy project on the public lands.

(a) Acreage rent. The BLM will calculate and bill you an acreage rent that must be paid prior to issuance of your lease as described in § 2806.52(a). This acreage rent will be based on the following:

(1) Per acre zone rate. See § 2806.52(a)(1).

(2) Assignment of counties. See §§ 2806.52(a)(2) and 2806.52(a)(3)

(3) Acreage rent payment. See § 2806.52(a)(4).

(4) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.51). Once the acreage rent is determined under § 2806.52(a), no further adjustments in the annual acreage rent will be made until year 11 of the lease term and each subsequent 10-year period thereafter. The BLM will use the per acre zone rates in effect when it adjusts the annual acreage rent at those 10-year intervals,

(b) MW capacity fee. See §§ 2806.52 (b), (b)(1), (2), and (3).

(c) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.51). If you hold a solar energy development lease, the MW capacity fee will be phased in, starting when electricity begins to be generated. The MW capacity fee for years 1-20 will be calculated using the MW rate in effect when the lease is issued. The MW capacity fee for years 21-30 will be calculated using the MW rate in effect in year 21 of the lease. These rates will be phased-in as follows:

(1) For years 1 through 10 of the lease, plus any initial partial year, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2);

(2) For years 11 through 20 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2).

(3) For years 21 through 30 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2).

(4) If the lease is renewed, the MW capacity fee is calculated using the MW rates at the beginning of the renewed lease period and will remain at that rate through the initial 10-year period of the renewal term. The MW capacity fee will be adjusted using the MW rate at the beginning of each subsequent 10-year period of the renewed lease term.

(5) If an approved POD provides for staged development, the MW capacity fee is calculated using the MW capacity approved for that stage plus any previously approved stages, multiplied by the MW rate as described under this section.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment (see § 2806.51), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.52(a)(1)) and MW rate (see § 2806.52(b)(1)) in place when your lease is issued;

(2) The per acre zone rate will increase every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect, by the average annual change in the IPD-GDP for the preceding 10-year period as described in § 2806.22(b) plus 40 percent;

(3) The MW rate will increase by 40 percent every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.52(c). Instead, for years 1 through 5, plus any initial partial year, the BLM will calculate the MW capacity fee by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate. This phase-in will not be applied to renewed leases; and

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for the current stage plus any previously approved stages, multiplied by the MW rate, as described under this section.

§ 2806.56 Rent for support facilities authorized under separate grant(s).

If a solar energy development project includes separate right-of-way authorizations issued for support facilities only (administration building, groundwater wells, construction lay down and staging areas, surface water management and control

structures, etc.) or linear right-of-way facilities (pipelines, roads, power lines, etc.), rent is determined using the Per Acre Rent Schedule for linear facilities (see § 2806.20(c)).

§ 2806.58 Rent for energy development testing grants.

(a) Grants for energy site-specific testing. You must pay $100 per year for each meteorological tower or instrumentation facility location. BLM offices with approved small site rental schedules may use those fee structures if the fees in those schedules charge more than $100 per meteorological tower per year. In lieu of annual payments, you may instead pay for the entire term of the grant (3 years or less).

(b) Grants for energy project-area testing. You must pay $2,000 per year or $2 per acre per year for the lands authorized by the grant, whichever is greater. There is no additional rent for the installation of each meteorological tower or instrumentation facility located within the site testing and monitoring project-area.

43. Add an undesignated centered heading and new §§ 2806.60, 2806.61, 2806.62, 2806.64, 2806.66, and 2806.68, to read as follows:

Wind Energy Rights-of-Way

§ 2806.60 Rents and fees for wind energy rights-of-way.

If you hold a right-of-way authorizing wind energy site-specific testing or project-area testing or wind energy development, you must pay an annual rent and fee in accordance with this section and subpart. Your wind energy development right-of-way authorization will either be a grant (if issued under subpart 2804) or a lease (if issued under subpart 2809). Rents and fees for either type of authorization consist of an acreage rent that must be paid prior to issuance of the authorization and a phased-in MW capacity fee. Both the acreage rent and the phased-in MW capacity fee are charged and calculated consistent

with § 2806.11 and prorated consistent with § 2806.12(a). The MW capacity fee will vary depending on the size of the wind energy development project.

§ 2806.61 Scheduled Rate Adjustment.

(a) The BLM will adjust your acreage rent and MW capacity fee over the course of your authorization as described in these regulations. For new grants or leases, you may choose either the standard rate adjustment method (see §§ 2806.52(a)(5) and 2806.52(b)(3) for grants; see §§ 2806.54(a)(4) or 2806.54(c) for leases) or the scheduled rate adjustment method (see § 2806.52(d) for grants; see § 2806.54(d) for leases). Once you select a rate adjustment method, that method will be fixed until you renew your grant or lease (see § 2807.22).

(b) For new grants or leases, if you select the scheduled rate adjustment method you must notify the BLM of your decision in writing. Your decision must be received by the BLM before your grant or lease is issued. If you do not select the scheduled rate adjustment method, the standard rate adjustment method will apply.

(c) If you hold a grant that is in effect prior to [INSERT EFFECTIVE DATE OF THIS FINAL RULE], you may either accept the standard rate adjustment method or request in writing that the BLM apply the scheduled rate adjustment method, as set forth in § 2806.52(d), to your grant. To take advantage of the scheduled rate adjustment option, your request must be received by the BLM before [INSERT DATE TWO YEARS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The BLM will continue to apply the standard rate adjustment method to adjust your rates unless and until it receives your request to use the scheduled rate adjustment method.

§ 2806.62 Rents and fees for wind energy development grants.

You must pay an annual acreage rent and MW capacity fee for your wind energy development grant as follows:

(a) Acreage rent. The BLM will calculate the acreage rent by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per acre zone rate from the wind energy acreage rent schedule in effect at the time the authorization is issued;

(1) Per acre zone rate. The annual per acre zone rate from the wind energy acreage rent schedule is calculated using the per acre zone value (as assigned in accordance with paragraph (a)(2) of this section), encumbrance factor, rate of return, and the annual adjustment factor. The calculation for determining the annual per acre zone rate is A × B × C × D = E where:

(i) A is the per acre zone value = the same per- acre zone values described in the linear rent schedule in § 2806.20(c);

(ii) B is the encumbrance factor = 10 percent;

(iii) C is the rate of return = 5.27 percent;

(iv) D is the annual adjustment factor = the average annual change in the IPD-GDP for the 10-year period immediately preceding the year that the NASS Census data becomes available (see § 2806.22(a)). The BLM will adjust the per acre rates each year based on the average annual change in the IPD–GDP as determined under § 2806.22(a). Adjusted rates are effective each year on January 1; and

(v) E is the annual per acre zone rate.

(2) Assignment of counties: The BLM will calculate the per acre zone rate in paragraph (a)(1) of this section by using a State-specific factor to assign a county to a zone in the

wind energy acreage rent schedule. The BLM will calculate a State-specific factor and apply it to the NASS data (county average per acre land and building value) to determine the per acre value and assign a county (or other geographical area) to a zone. The State-specific factor represents the percent difference between improved agricultural land and unimproved rangeland values, using NASS data. The calculation per acre for determining the State-specific factor is (A/B) – (C/D) = E where:

(i) A = the NASS Census statewide average per acre value of non-irrigated acres;

(ii) B = the NASS Census statewide average per acre land and building value;

(iii) C = the NASS Census total statewide acres in farmsteads, homes, buildings, livestock facilities, ponds, roads, wasteland, etc.;

(iv) D = the total statewide acres in farms; and

(v) E = the State-specific percent factor or 20 percent, whichever is greater.

(3) The initial assignment of counties to the zones on the wind energy acreage rent schedule will be based upon the most recent NASS Census data (2012) for years 2016 through 2020. The BLM may on its own or in response to requests consider making regional adjustments to those initial assignments, based on evidence that the NASS Census values do not accurately reflect those of the BLM-managed lands. The BLM will update this rent schedule once every 5 years by re-assigning counties to reflect the updated NASS Census values as described in § 2806.21 and recalculate the State-specific percent factor once every 10 years as described in § 2806.22(b).

(4) Acreage rent payment. You must pay the acreage rent regardless of the stage of development or operations on the entire public land acreage described in the right-of-way

authorization. The BLM State Director may approve a rental payment plan consistent with § 2806.15(c); and

(5) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.61). The BLM will adjust the acreage rent annually to reflect the change in the per acre zone rates as specified in paragraph (a)(1) of this section. The BLM will use the most current per acre zone rates to calculate the acreage rent for each year of the grant term; and(6) The acreage rent must be paid as described in § 2806.62(a) except for the initial implementation of the wind energy acreage rent schedule of section §2806.62(c).

(7) You may obtain a copy of the current per acre zone rates for wind energy development (wind energy acreage rent schedule) from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current wind energy acreage rent schedule for wind energy development at http://www.blm.gov.

(b) MW capacity fee. The MW capacity fee is calculated by multiplying the approved MW capacity by the MW rate. You must pay the MW capacity fee annually when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first.

(1) MW rate. The MW rate is calculated by multiplying the total hours per year by the net capacity factor, by the MWh price, by the rate of return. For an explanation of each of these terms, see the definition of MW rate in § 2801.5(b).

(2) MW rate schedule. You may obtain a copy of the current MW rate schedule for wind energy development from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current MW rate schedule for wind energy development at http://www.blm.gov;

(3) Periodic adjustments in the MW rate. This paragraph applies unless you selected the scheduled rate adjustment method (see § 2806.61). We will adjust the MW rate every 5 years, beginning in 2021, by recalculating the following two components of the MW rate formula:

(i) The adjusted MWh price is the average of the annual weighted average wholesale price per MWh for the major trading hubs serving the 11 Western States of the continental United States for the full 5 calendar-year period preceding the adjustment, rounded to the nearest dollar increment; and

(ii) The adjusted rate of return is the 10-year average of the 20-year U.S. Treasury bond yield for the full 10 calendar-year period preceding the adjustment, rounded to the nearest one-tenth percent, with a minimum rate of return of 4 percent.

(4) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61). If you hold a wind energy development grant, the MW rate will be phased in as follows:

(i) There is a 3-year phase-in of the MW rate when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first, at the rates of:

(A) 25 percent for the first year. This rate applies for the first partial calendar year of operations;

(B) 50 percent for the second year; and

(C) 100 percent for the third and subsequent years of operations.

(ii) After generation of electricity starts and an approved POD provides for staged development:

(A) The 3-year phase-in of the MW rate applies to each stage of development; and

(B) The MW capacity fee is calculated using the authorized MW capacity approved for that stage, plus any previously approved stages, multiplied by the MW rate.

(iii) The MW rate may be phased in further, as described in paragraph (c) of this section.

(5) The general payment provisions for rents described in this subpart, except for § 2806.14(a)(4), also apply to the MW capacity fee.

(c) Initial implementation of the acreage rent and MW capacity fee. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61).

(1) If you hold a wind energy grant and made payments for billing year 2016, the BLM will reduce by 50 percent the net increase in annual costs between billing year 2017 and billing year 2016. The net increase will be calculated based on a full calendar year.

(2) If the BLM accepted your application for a wind energy development grant, including a plan of development and cost recovery agreement, prior to September 30, 2014, the BLM will phase in your payment of the acreage rent and MW capacity fee by reducing the:

(i) Acreage rent of the grant by 50 percent for the initial partial year of the grant; and

(ii) MW capacity fee by 75 percent for the first (initial partial) and second years and by 50 percent for the third and fourth years for which the BLM requires payment of the MW capacity fee. This reduction to the MW capacity fee applies to each stage of development.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment (see § 2806.61), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.62(a)(1)) and MW rate (see § 2806.62(b)(1)) in place when your grant is issued, or for existing grants, the per acre zone rate and MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], as adjusted under paragraph (d)(6) of this section;

(2) The per acre zone rate will increase:

(i) Annually, beginning after the first full year plus the initial partial year, if any, your grant is in effect by the average annual change in the IPD-GDP as described in § 2806.22(b); and

(ii) Every 5 years, beginning after the first 5 years, plus the initial partial year, if any, your grant is in effect, by 20 percent;

(3) The MW rate will increase by 20 percent every 5 years, beginning after the first 5 years, plus the initial partial year, if any, your grant is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.62(b)(4) or the reduction under § 2806.62(c);

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for that stage in question

plus any previously approved stages, multiplied by the MW rate as described under this section.

(6) For grants in place prior to [INSERT EFFECTIVE DATE OF FINAL RULE] that select the scheduled rate adjustment method offered under § 2806.61(c), the per acre zone rate and the MW rate in place prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be adjusted for the first year's payment using the scheduled rate adjustment method as follows:

(i) The per acre zone rate will increase by the average annual change in the IPD-GDP as described in § 2806.22(b) plus 20 percent;

(ii) The MW rate will increase by 20 percent; and

(iii) Subsequent increases will be performed as set forth in paragraphs (d)(2) and (d)(3) of this section from the date of the initial adjustment under paragraph (d)(6) of this section.

§ 2806.64 Rents and fees for wind energy development leases.

If you hold a wind energy development lease obtained through competitive bidding under subpart 2809 of this part, you must make annual payments in accordance with this section and subpart, in addition to the one-time, up front bonus bid you paid to obtain the lease. The annual payment includes an acreage rent for the number of acres included within the wind energy lease and an additional MW capacity fee based on the total authorized MW capacity for the approved wind energy project on the public lands.

(a) Acreage rent. The BLM will calculate and bill you an acreage rent that must be paid prior to issuance of your lease as described in § 2806.62(a). This acreage rent will be based on the following:

(1) Per acre zone rate. See § 2806.62(a)(1).

(2) Assignment of counties. See §§ 2806.62(a)(2) and 2806.62(a)(3).

(3) Acreage rent payment. See § 2806.62(a)(4).

(4) Acreage rent adjustments. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61). Once the acreage rent is determined under § 2806.62(a), no further adjustments in the annual acreage rent will be made until year 11 of the lease term and each subsequent 10-year period thereafter. We will use the per acre zone rates in effect at the time the acreage rent is due (at the beginning of each 10-year period) to calculate the annual acreage rent for each of the subsequent 10-year periods.

(b) MW capacity fee. See §§ 2806.62 (b), (b)(1), (2), and (3).

(c) MW rate phase-in. This paragraph applies unless you selected the scheduled rate adjustment method (see §2806.61). If you hold a wind energy development lease, the MW capacity fee will be phased in, starting when electricity begins to be generated. The MW capacity fee for years 1-20 will be calculated using the MW rate in effect when the lease is issued. The MW capacity fee for years 21-30 will be calculated using the MW rate in effect in year 21 of the lease. These rates will be phased-in as follows:

(1) For years 1 through 10 of the lease, plus any initial partial year, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 50 percent of the wind energy technology MW rate, as described in § 2806.62(b)(2);

(2) For years 11 through 20 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the wind energy technology MW rate described in § 2806.62(b)(2);

(3) For years 21 through 30 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the wind energy technology MW rate as described in § 2806.62(b)(2);

(4) If the lease is renewed, the MW capacity fee is calculated using the MW rates at the beginning of the renewed lease period and will remain at that rate through the initial 10 year period of the renewal term. The MW capacity fee will continue to adjust at the beginning of each subsequent 10 year period of the renewed lease term to reflect the then currently applicable MW rates; and

(5) If an approved POD provides for staged development, the MW capacity fee is calculated using the MW capacity approved for that stage plus any previously approved stage, multiplied by the MW rate, as described in this section.

(d) Scheduled rate adjustment. Under the scheduled rate adjustment (see § 2806.61), the BLM will update your per acre zone rate and MW rate as follows:

(1) The BLM will calculate your payments using the per acre zone rate (see § 2806.62(a)(1)) and MW rate (see § 2806.62(b)(1)) in place when your lease is issued;

(2) The per acre zone rate will increase every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect, by the average annual change in the IPD-GDP for the preceding 10-year period as described in § 2806.22(b) plus 40 percent;

(3) The MW rate will increase by 40 percent every 10 years, beginning after the first 10 years, plus the initial partial year, if any, your lease is in effect;

(4) The BLM will not apply the phase-in to your MW rate under § 2806.62(c). Instead, for years 1 through 5, plus any initial partial year, the BLM will calculate the MW

capacity fee by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate. This phase-in will not be applied to renewed leases; and

(5) If the approved POD for your project provides for staged development, the BLM will calculate the MW capacity fee using the MW capacity approved for that stage in question plus any previously approved stages, multiplied by the MW rate as described under this section.

§ 2806.66 Rent for support facilities authorized under separate grant(s).

If a wind energy development project includes separate right-of-way authorizations issued for support facilities only (administration building, groundwater wells, construction lay down and staging areas, surface water management, and control structures, etc.) or linear right-of-way facilities (pipelines, roads, power lines, etc.), rent is determined using the Per Acre Rent Schedule for linear facilities (see § 2806.20(c)).

§ 2806.68 Rent for energy development testing grants.

(a) Grant for energy site-specific testing. You must pay $100 per year for each meteorological tower or instrumentation facility location. BLM offices with approved small site rental schedules may use those fee structures if the fees in those schedules charge more than $100 per meteorological tower per year. In lieu of annual payments, you may instead pay for the entire term of the grant (3 years or less).

(b) Grant for energy project-area testing. You must pay $2,000 per year or $2 per acre per year for the lands authorized by the grant, whichever is greater. There is no additional rent for the installation of each meteorological tower or instrumentation facility located within the site testing and monitoring project area.

44. Add an undesignated centered heading between §§ 2806.68 and 2806.70 to read as follows:

Other Rights-of-Way

45. Revise newly redesignated § 2806.70 to read as follows:

§ 2806.70 How will the BLM determine the payment for a grant or lease when the linear, communication use, solar energy, or wind energy payment schedules do not apply?

When we determine that the linear, communication use, solar, or wind energy payment schedules do not apply, we may determine your payment through a process based on comparable commercial practices, appraisals, competitive bids, or other reasonable methods. We will notify you in writing of the payment determination. If you disagree with the payment determination, you may appeal our final determination under § 2801.10.

Subpart 2807—Grant Administration and Operation

46. Amend § 2807.11 by:

a. Revising paragraph (b);

b. Redesignating paragraphs (d) and (e) as paragraphs (f) and (g); and

c. Adding new paragraphs (d) and (e).

The revisions and additions read as follows:

§ 2807.11 When must I contact BLM during operations?

*****

(b) When your use requires a substantial deviation from the grant. You must seek an amendment to your grant under § 2807.20 and obtain the BLM's approval before you begin any activity that is a substantial deviation;

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(d) Whenever site-specific circumstances or conditions result in the need for changes to an approved right-of-way grant or lease, POD, site plan, mitigation measures, or construction, operation, or termination procedures that are not substantial deviations in location or use authorized by a right-of-way grant or lease. Changes for authorized actions, project materials, or adopted mitigation measures within the existing, approved right-of-way area must be submitted to us for review and approval.

(e) To identify and correct discrepancies or inconsistencies.

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47. Amend § 2807.17 by redesignating existing paragraph (d) as paragraph (e) and adding new paragraph (d) to read as follows:

§ 2807.17 Under what conditions may the BLM suspend or terminate my grant?

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(d) The BLM may suspend or terminate another Federal agency's grant only if:

(1) The terms and conditions of the Federal agency's grant allow it; or

(2) The agency head holding the grant consents to it.

*****

48. Revise § 2807.21 to read as follows:

§ 2807.21 May I assign or make other changes to my grant or lease?

(a) With the BLM's approval, you may assign, in whole or in part, any right or interest in a grant or lease. Assignment actions that may require BLM approval include, but are not limited to, the following:

(1) The transfer by the holder (assignor) of any right or interest in the grant or lease to a third party (assignee); and

(2) Changes in ownership or other related change in control transactions involving the BLM right-of-way holder and another business entity (assignee), including corporate mergers or acquisitions, but not transactions within the same corporate family.

(b) The BLM may require a grant or lease holder to file new or revised information in some circumstances that do not constitute an assignment (see subpart 2803 and §§ 2804.12(e) and 2807.11). Circumstances that would not constitute an assignment but may necessitate this filing include, but are not limited to:

(1) Transactions within the same corporate family;

(2) Changes in the holder's name only (see paragraph (i) of this section); and

(3) Changes in the holder's articles of incorporation.

(c) In order to assign a grant or lease, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, including paying application and processing fees, and the grant must be in compliance with the terms and conditions of § 2805.12. The preliminary application review meetings and public meeting under §§ 2804.12 and 2804.25 are not required for an assignment. We will not approve any assignment until the assignor makes any outstanding payments that are due (see § 2806.13(g)).

(d) The assignment application must also include:

(1) Documentation that the assignor agrees to the assignment; and

(2) A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations.

(e) Your assignment is not recognized until the BLM approves it in writing. We will approve the assignment if doing so is in the public interest. Except for leases issued under subpart 2809 of this part, we may modify the grant or lease or add bonding and other requirements, including additional terms and conditions, to the grant or lease when approving the assignment, unless a modification to a lease issued under subpart 2809 of this part is required under § 2805.15(e). We may decrease rents if the new holder qualifies for an exemption (see § 2806.14) or waiver or reduction (see § 2806.15) and the previous holder did not. Similarly, we may increase rents if the previous holder qualified for an exemption or waiver or reduction and the new holder does not. If we approve the assignment, the benefits and liabilities of the grant or lease apply to the new grant or lease holder.

(f) The processing time and conditions described at § 2804.25(d) of this part apply to assignment applications.

(g) Only interests in issued right-of-way grants and leases are assignable. Except for applications submitted by a preferred applicant under § 2804.30(g), pending right-of-way applications do not create any property rights or other interest and may not be assigned from one entity to another, except that an entity with a pending application may continue to pursue that application even if that entity becomes a wholly owned subsidiary of a new third party.

(h) To complete a change in name only, (i.e., when the name change in question is not the result of an underlying change in control of the right-of-way grant), the following requirements must be met:

(1) The holder must file an application requesting a name change and follow the same procedures as for a new grant, including paying processing fees. However, the application fees (see subpart 2804 of this part) and the preliminary application review and public meetings (see §§ 2804.12 and 2804.25) are not required. The name change request must include:

(i) If the name change is for an individual, a copy of the court order or other legal document effectuating the name change; or

(ii) If the name change is for a corporation, a copy of the corporate resolution(s) proposing and approving the name change, a copy of the acceptance of the change in name by the State or Territory in which it is incorporated, and a copy of the appropriate resolution, order or other documentation showing the name change.

(2) When reviewing a proposed name change only, we may determine it is necessary to:

(i) Modify a grant issued under subpart 2804 to add bonding and other requirements, including additional terms and conditions to the grant; or

(ii) Modify a lease issued under subpart 2809 in accordance with § 2805.15(e).

(3) Your name change is not recognized until the BLM approves it in writing.

49. Amend § 2807.22 by:

a. Revising the section heading and paragraphs (a), (b), and (d);

b. Redesignating paragraph (f) as paragraph (g); and

c. Adding new paragraph (f).

The revisions and additions read as follows:

§ 2807.22 How do I renew my grant or lease?

(a) If your grant or lease specifies the terms and conditions for its renewal, and you choose to renew it, you must request a renewal from the BLM at least 120 calendar days before your grant or lease expires consistent with the renewal terms and conditions specified in your grant or lease. We will renew the grant or lease if you are in compliance with the renewal terms and conditions; the other terms, conditions, and stipulations of the grant or lease; and other applicable laws and regulations.

(b) If your grant or lease does not specify the terms and conditions for its renewal, you may apply to us to renew the grant or lease. You must send us your application at least 120 calendar days before your grant or lease expires. In your application you must show that you are in compliance with the terms, conditions, and stipulations of the grant or lease and other applicable laws and regulations, and explain why a renewal of your grant or lease is necessary. We may approve or deny your application to renew your grant or lease.

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(d) We will review your application and determine the applicable terms and conditions of any renewed grant or lease.

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(f) If you make a timely and sufficient application for a renewal of your existing grant or lease, or for a new grant or lease, in accordance with this section, the existing grant does not expire until we have issued a decision to approve or deny the application.

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50. Revise subpart 2809 to read as follows:

Subpart 2809—Competitive Process for Leasing Public Lands for Solar and Wind Energy Development Inside Designated Leasing Areas

Sec.

2809.10 General.

2809.11 How will the BLM solicit nominations?

2809.12 How will the BLM select and prepare parcels?

2809.13 How will the BLM conduct competitive offers?

2809.14 What types of bids are acceptable?

2809.15 How will the BLM select the successful bidder?

2809.16 When do variable offsets apply?

2809.17 Will the BLM ever reject bids or re-conduct a competitive offer?

2809.18 What terms and conditions apply to leases?

2809.19 Applications in designated leasing areas or on lands that later become designated leasing areas.

Subpart 2809—Competitive Process for Leasing Public Lands for Solar and Wind Energy Development Inside Designated Leasing Areas

§ **2809.10 General.**

(a) Lands inside designated leasing areas may be made available for solar and wind energy development through a competitive leasing offer process established by the BLM under this subpart.

(b) The BLM may include lands in a competitive offer on its own initiative.

(c) The BLM may solicit nominations by publishing a call for nominations under § 2809.11(a).

(d) The BLM will generally prioritize the processing of "leases" awarded under this subpart over the processing of non-competitive "grant" applications under subpart 2804, including those that are "high priority" under § 2804.35.

§ **2809.11 How will the BLM solicit nominations?**

(a) Call for nominations. The BLM will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the area affected by the potential offer of public land for solar and wind energy development or the Internet; to solicit nominations and expressions of interest for parcels of land inside designated leasing areas for solar or wind energy development.

(b) Nomination submission. A nomination must be in writing and must include the following:

(1) Nomination fee. If you nominate a specific parcel of land under paragraph (a) of this section, you must also include a non-refundable nomination fee of $5 per acre. We will adjust the nomination fee once every 10 years using the change in the IPD-GDP for the preceding 10-year period and round it to the nearest half dollar. This 10 year average will be adjusted at the same time as the per acre rent schedule for linear rights-of-way under § 2806.22;

(2) Nominator's name and personal or business address. The name of only one citizen, association, partnership, corporation, or municipality may appear as the nominator. All communications relating to leasing will be sent to that name and address, which constitutes the nominator's name and address of record; and

(3) The legal land description and a map of the nominated lands.

(c) We may consider informal expressions of interest suggesting lands to be included in a competitive offer. If you submit a written expression of interest, you must provide a description of the suggested lands and rationale for their inclusion in a competitive offer.

(d) In order to submit a nomination, you must be qualified to hold a grant or lease under § 2803.10.

(e) Nomination withdrawals. A nomination cannot be withdrawn, except by the BLM for cause, in which case all nomination monies will be refunded to the nominator.

§ 2809.12 How will the BLM select and prepare parcels?

(a) The BLM will identify parcels for competitive offer based on nominations and expressions of interest or on its own initiative.

(b) The BLM and other Federal agencies, as applicable, will conduct necessary studies and site evaluation work, including applicable environmental reviews and public meetings, before offering lands competitively.

§ 2809.13 How will the BLM conduct competitive offers?

(a) Variety of competitive procedures available. The BLM may use any type of competitive process or procedure to conduct its competitive offer, and any method, including the use of the Internet, to conduct the actual auction or competitive bid procedure. Possible bid procedures could include, but are not limited to: Sealed bidding, oral auctions, modified competitive bidding, electronic bidding, and any combination thereof.

(b) Notice of competitive offer. We will publish a notice in the Federal Register at least 30 days prior to the competitive offer and may use other notification methods, such as a

newspaper of general circulation in the area affected by the potential right-of-way or the Internet. The Federal Register and other notices will include:

(1) The date, time, and location, if any, of the competitive offer;

(2) The legal land description of the parcel to be offered;

(3) The bidding methodology and procedures to be used in conducting the competitive offer, which may include any of the competitive procedures identified in paragraph (a) of this section;

(4) The minimum bid required (see § 2809.14(a)), including an explanation of how we determined this amount;

(5) The qualification requirements for potential bidders (see § 2803.10);

(6) If a variable offset (see § 2809.16) is offered:

(i) The percent of each offset factor;

(ii) How bidders may pre-qualify for each offset factor; and

(iii) The documentation required to pre-qualify for each offset factor; and

(7) The terms and conditions of the lease, including the requirements for the successful bidder to submit a POD for the lands involved in the competitive offer (see § 2809.18) and any lease mitigation requirements, including compensatory mitigation for residual impacts associated with the right-of-way.

(c) We will notify you in writing of our decision to conduct a competitive offer at least 30 days prior to the competitive offer if you nominated lands and paid the nomination fees required by § 2809.11(b)(1).

§ 2809.14 What types of bids are acceptable?

(a) Bid submissions. The BLM will accept your bid only if:

(1) It includes the minimum bid and at least 20 percent of the bonus bid; and

(2) The BLM determines that you are qualified to hold a grant or lease under § 2803.10. You must include documentation of your qualifications with your bid, unless we have previously approved your qualifications under §§ 2809.10(d) or 2809.11(d).

(b) Minimum bid. The minimum bid is not prorated among all bidders, but must be paid entirely by the successful bidder. The minimum bid consists of:

(1) The administrative costs incurred by the BLM and other Federal agencies in preparing for and conducting the competitive offer, including required environmental reviews; and

(2) An amount determined by the authorized officer and disclosed in the notice of competitive offer. This amount will be based on known or potential values of the parcel. In setting this amount, the BLM will consider factors that include, but are not limited to, the acreage rent and megawatt capacity fee.

(c) Bonus bid. The bonus bid consists of any dollar amount that a bidder wishes to bid in addition to the minimum bid.

(d) If you are not the successful bidder, as defined in § 2809.15(a), the BLM will refund your bid.

§ 2809.15 How will the BLM select the successful bidder?

(a) The bidder with the highest total bid, prior to any variable offset, is the successful bidder and may be offered a lease in accordance with § 2805.10.

(b) The BLM will determine the variable offsets for the successful bidder in accordance with § 2809.16 before issuing final payment terms.

(c) Payment terms. If you are the successful bidder, you must:

(1) Make payments by personal check, cashier's check, certified check, bank draft, or money order, or by other means deemed acceptable by the BLM, payable to the Department of the Interior—Bureau of Land Management; and

(2) By the close of official business hours on the day of the offer or such other time as the BLM may have specified in the offer notices, submit for each parcel:

(i) Twenty percent of the bonus bid (before the offsets are applied under paragraph (b) of this section); and

(ii) The total amount of the minimum bid specified in § 2809.14(b);

(3) Within 15 calendar days after the day of the offer, submit the balance of the bonus bid (after the variable offsets are applied under paragraph (b) of this section) to the BLM office conducting the offer; and

(4) Within 15 calendar days after the day of the offer, submit the acreage rent for the first full year of the solar or wind energy development lease as provided in §§ 2806.54(a) or 2806.64(a), respectively. This amount will be applied toward the first 12 months acreage rent, if the successful bidder becomes the lessee.

(d) The BLM will offer you a right-of-way lease if you are the successful bidder and:

(1) Satisfy the qualifications in § 2803.10;

(2) Make the payments required under paragraph (c) of this section; and

(3) Do not have any trespass action pending against you for any activity on BLM-administered lands (see § 2808.12) or have any unpaid debts owed to the Federal Government.

(e) The BLM will not offer a lease to the successful bidder and will keep all money that has been submitted, if the successful bidder does not satisfy the requirements of

paragraph (d) of this section. In this case, the BLM may offer the lease to the next highest bidder under § 2809.17(b) or re-offer the lands under § 2809.17(d).

§ **2809.16 When do variable offsets apply?**

(a) The successful bidder may be eligible for an offset of up to 20 percent of the bonus bid based on the factors identified in the notice of competitive offer.

(b) The BLM may apply a variable offset to the bonus bid of the successful bidder. The notice of competitive offer will identify each factor of the variable offset, the specific percentage for each factor that would be applied to the bonus bid, and the documentation required to be provided to the BLM prior to the day of the offer to qualify for the offset. The total variable offset cannot be greater than 20 percent of the bonus bid.

(c) The variable offset may be based on any of the following factors:

(1) Power purchase agreement;

(2) Large generator interconnect agreement;

(3) Preferred solar or wind energy technologies;

(4) Prior site testing and monitoring inside the designated leasing area;

(5) Pending applications inside the designated leasing area;

(6) Submission of nomination fees;

(7) Submission of biological opinions, strategies, or plans;

(8) Environmental benefits;

(9) Holding a solar or wind energy grant or lease on adjacent or mixed land ownership;

(10) Public benefits; and

(11) Other similar factors.

(d) The BLM will determine your variable offset prior to the competitive offer.

§ **2809.17 Will the BLM ever reject bids or re-conduct a competitive offer?**

(a) The BLM may reject bids regardless of the amount offered. If the BLM rejects your bid under this provision, you will be notified in writing and such notice will include the reason(s) for the rejection and what refunds to which you are entitled. If the BLM rejects a bid, the bidder may appeal that decision under § 2801.10.

(b) We may offer the lease to the next highest qualified bidder if the successful bidder does not execute the lease or is for any reason disqualified from holding the lease.

(c) If we are unable to determine the successful bidder, such as in the case of a tie, we may re-offer the lands competitively (under § 2809.13) to the tied bidders or to all prospective bidders.

(d) If lands offered under § 2809.13 receive no bids, we may:

(1) Re-offer the lands through the competitive process under § 2809.13; or

(2) Make the lands available through the non-competitive application process found in subparts 2803, 2804, and 2805 of this part, if we determine that doing so is in the public interest.

§ **2809.18 What terms and conditions apply to leases?**

The lease will be issued subject to the following terms and conditions:

(a) Lease term. The term of your lease includes the initial partial year in which it is issued, plus 30 additional full years. The lease will terminate on December 31 of the final year of the lease term. You may submit an application for renewal under § 2805.14(g).

(b) Rent. You must pay rent as specified in:

(1) Section 2806.54, if your lease is for solar energy development; or

(2) Section 2806.64, if your lease is for wind energy development.

(c) POD. You must submit, within 2 years of the lease issuance date, a POD that:

(1) Is consistent with the development schedule and other requirements in the POD template posted at http://www.blm.gov; and

(2) Addresses all pre-development and development activities.

(d) Cost recovery. You must pay the reasonable costs for the BLM or other Federal agencies to review and approve your POD and to monitor your lease. To expedite review of your POD and monitoring of your lease, you may notify BLM in writing that you are waiving paying reasonable costs and are electing to pay the full actual costs incurred by the BLM.

(e) Performance and reclamation bond. (1) For Solar Energy Development, you must provide a bond in the amount of $10,000 per acre prior to written approval to proceed with ground disturbing activities.

(2) For Wind Energy Development, you must provide a bond in the amount of $10,000 per authorized turbine less than 1 MW in nameplate capacity or $20,000 per authorized turbine equal or greater than 1 MW in nameplate capacity prior to written approval to proceed with ground disturbing activities.

(3) For testing and monitoring sites authorized under a development lease, you must provide a bond in the amount of $2,000 per site prior to receiving written approval to proceed with ground disturbing activities.

(4) The BLM will adjust the solar and wind energy development bond amounts every 10 years using the change in the IPD-GDP for the preceding 10-year period rounded to the

nearest $100. This 10-year average will be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under § 2806.22.

(f) Assignments. You may assign your lease under § 2807.21, and if an assignment is approved, the BLM will not make any changes to the lease terms or conditions, as provided for by § 2807.21(e) except for modifications required under § 2805.15(e).

(g) Due diligence of operations. You must start construction within 5 years and begin generation of electricity no later than 7 years from the date of lease issuance, as specified in your approved POD. A request for an extension may be granted for up to 3 years with a show of good cause and approval by the BLM.

§ **2809.19 Applications in designated leasing areas or on lands that later become designated leasing areas.**

(a) Applications for solar or wind energy development filed on lands outside of designated leasing areas, which subsequently become designated leasing areas will:

(1) Continue to be processed by the BLM and are not subject to the competitive leasing offer process of this subpart, if such applications are filed prior to the publication of the notice of intent or other public announcement from the BLM of the proposed land use plan amendment to designate the solar or wind leasing area; or

(2) Remain in pending status unless withdrawn by the applicant, denied, or issued a grant by the BLM, or the subject lands become available for application or leasing under this part, if such applications are filed on or after the date of publication of the notice of intent or other public announcement from the BLM of the proposed land use plan amendment to designate the solar or wind leasing area.

(3) Resume being processed by the BLM if your application is pending under paragraph (a)(2) of this section and the lands become available for application under 2809.17(d)(2).

(b) An applicant that submits a bid on a parcel of land for which an application is pending under paragraph (a)(2) of this section may:

(1) Qualify for a variable offset under § 2809.16; and

(2) Receive a refund for any unused application fees or processing costs if the lands identified in the application are subsequently leased to another entity under § 2809.13.

(c) After the effective date of this regulation, the BLM will not accept a new application for solar or wind energy development inside designated leasing areas (see §§ 2804.12(b)(1) and 2804.23(e)), except as provided by § 2809.17(d)(2).

(d) You may file a new application under part 2804 for testing and monitoring purposes inside designated leasing areas. If the BLM approves your application, you will receive a short term grant in accordance with §§ 2805.11(b)(2)(i) or (ii), which may qualify you for an offset under § 2809.16.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

51. Revise the authority citation for part 2880 to read as follows:

AUTHORITY: 30 U.S.C. 185 and 189, and 43 U.S.C. 1732(b), 1733, and 1740.

Subpart 2884—Applying for MLA Grants or TUPs

52. In § 2884.11, revise paragraph (c)(5) to read as follows:

§ 2884.11 What information must I submit in my application?

*****

(c) ***

(5) The estimated schedule for constructing, operating, maintaining, and terminating the project (a POD). Your POD must be consistent with the development schedule and other requirements as noted on the POD template for oil and gas pipelines at http://www.blm.gov;

*****

53. In § 2884.12, revise paragraphs (a), (b), and (c) to read as follows:

§ 2884.12 What is the processing fee for a grant or TUP application?

(a) You must pay a processing fee with the application to cover the costs to the Federal Government of processing your application before the Federal Government incurs them. Subject to applicable laws and regulations, if processing your application will involve Federal agencies other than the BLM, your fee may also include the reasonable costs estimated to be incurred by those Federal agencies. Instead of paying the BLM a fee for the estimated work of other Federal agencies in processing your application, you may pay other Federal agencies directly for the costs estimated to be incurred by them in processing your application. The fees for Processing Categories 1 through 4 are one-time fees and are not refundable. The fees are categorized based on an estimate of the amount of time that the Federal Government will expend to process your application and issue a decision granting or denying the application.

(b) There is no processing fee if work is estimated to take 1 hour or less. Processing fees are based on categories. We update the processing fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD-GDP, as measured second quarter to second quarter. We will round these changes to the nearest dollar. We will update Category 5 processing fees as specified in the Master Agreement.

These processing categories and the estimated range of Federal work hours for each category are:

Processing Categories

Processing category	Federal work hours involved
(1) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >1 ≤8
(2) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >8 ≤24
(3) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >24 ≤36
(4) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >36 ≤50
(5) Master Agreements	Varies
(6) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs	Estimated Federal work hours are >50

(c) You may obtain a copy of the current schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at http://www.blm.gov.

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54. Amend § 2884.16 by redesignating paragraphs (a)(6), (a)(7), and (a)(8) as paragraphs (a)(7), (a)(8), and (a)(9), and adding new paragraph (a)(6). The addition reads as follows:

§ 2884.16 What provisions do Master Agreements contain and what are their limitations?

(a) ***

(6) Describes existing agreements between the BLM and other Federal agencies for cost reimbursement;

*****

55. Amend § 2884.17 by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 2884.17 How will BLM process my Processing Category 6 application?

(a) For Processing Category 6 applications, you and the BLM must enter into a written agreement that describes how we will process your application. The final agreement consists of a work plan, a financial plan, and a description of any existing agreements you have with other Federal agencies for cost reimbursement associated with such application.

*****

(e) We may collect funds to reimburse the Federal Government for reasonable costs for processing applications and other documents under this part relating to the Federal lands.

56. In § 2884.18, revise paragraphs (a)(1) and (c) to read as follows:

§ 2884.18 What if there are two or more competing applications for the same pipeline?

(a) ***

(1) Processing Categories 1 through 4. You must reimburse the Federal Government for processing costs as if the other application or applications had not been filed.

*****

(c) If we determine that competition exists, we will describe the procedures for a competitive bid through a bid announcement in the Federal Register and may use other notification methods, such as a newspaper of general circulation or the Internet. We may offer lands through a competitive process on our own initiative.

57. Amend § 2884.20 by revising the introductory text of paragraph (a) and revising paragraph (d) to read as follows:

§ 2884.20 What are the public notification requirements for my application?

(a) When the BLM receives your application, it will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet. If we determine the pipeline(s) will have only minor environmental impacts, we are not required to publish this notice. The notice will, at a minimum, contain:

*****

(d) We may hold public hearings or meetings on your application if we determine that there is sufficient interest to warrant the time and expense of such hearings or meetings. We will publish a notice in the Federal Register and may use other notification methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet, to announce in advance any public hearings or meetings.

58. Amend § 2884.21 by:

a. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d);

b. Adding new paragraph (b); and

c. Revising redesignated paragraph (d)(4).

The revisions and additions read as follows:

§ 2884.21 How will BLM process my application?

*****

(b) The BLM will not process your application if you have any trespass action pending against you for any activity on BLM-administered lands (see § 2888.11) or have any unpaid debts owed to the Federal Government. The only applications the BLM would process are those to resolve the trespass with a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after outstanding debts are paid. Outstanding debts are those currently unpaid debts owed to the Federal Government after all administrative collection actions have occurred, including any appeal proceedings under applicable Federal regulations and the Administrative Procedure Act.

*****

(d) ***

(4) Hold public meetings, if sufficient public interest exists to warrant their time and expense. The BLM will publish a notice in the Federal Register and may use other methods, such as a newspaper of general circulation in the vicinity of the lands involved or the Internet, to announce in advance any public hearings or meetings; and

*****

59. Amend § 2884.22 by revising paragraph (a) to read as follows:

§ 2884.22 Can BLM ask me for additional information?

(a) If we ask for additional information, we will follow the procedures in § 2804.25(c) of this chapter.

*****

60. Amend § 2884.23 by revising paragraph (a)(6), redesignating paragraph (b) as paragraph (c), and adding new paragraph (b), to read as follows:

§ 2884.23 Under what circumstances may BLM deny my application?

(a) ***

(6) You do not adequately comply with a deficiency notice (see § 2804.25(c) of this chapter) or with any requests from the BLM for additional information needed to process the application.

(b) If you are unable to meet any of the requirements in this section you may request an alternative from the BLM (see § 2884.30).

(c)***

*****

61. Add new § 2884.30 to read as follows:

§2884.30 Showing of good cause.

If you are unable to meet any of the processing requirements in this subpart, you may request approval for an alternative requirement from the BLM. Any such request is not approved until you receive BLM approval in writing. Your request to the BLM must:

(a) Show good cause for your inability to meet a requirement;

(b) Suggest an alternative requirement and explain why that requirement is appropriate; and

(c) Be received in writing by the BLM in a timely manner, before the deadline to meet a particular requirement has passed.

Subpart 2885—Terms and Conditions of MLA Grants and TUPs

62. Amend § 2885.11 by revising the introductory text of paragraph (a) and revising paragraph (b)(7) to read as follows:

§ 2885.11 What terms and conditions must I comply with?

(a) Duration. All grants, except those issued for a term of 3 years or less, will expire on December 31 of the final year of the grant. The term of a grant may not exceed 30 years, with the initial partial year of the grant considered to be the first year of the term. The term of a TUP may not exceed 3 years. The BLM will consider the following factors in establishing a reasonable term:

*****

(b) ***

(7) The BLM may require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property incurred in connection with your use and occupancy of the right-of-way or TUP area, including terminating the grant or TUP, and to secure all obligations imposed by the grant or TUP and applicable laws and regulations. Your bond must cover liability for damages or injuries resulting from releases or discharges of hazardous materials. We may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or TUP. This bond is in addition to any individual lease, statewide, or nationwide oil and gas bonds you may have. All other provisions in§ 2805.12(b) of this chapter regarding bond requirements for grants and leases issued under FLPMA also apply to grants or TUPs for oil and gas pipelines issued under this part;

*****

63. Amend § 2885.15 by revising paragraph (b) to read as follows:

§ 2885.15 How will BLM charge me rent?

*****

(b) There are no reductions or waivers of rent for grants or TUPs, except as provided under § 2885.20(b).

*****

64. Amend § 2885.16 by revising paragraph (a) to read as follows:

§ 2885.16 When do I pay rent?

(a) You must pay rent for the initial rental period before we issue you a grant or TUP. We prorate the initial rental amount based on the number of full months left in the calendar year after the effective date of the grant or TUP. If your grant qualifies for annual payments, the initial rent consists of the remaining partial year plus the next full year. If your grant or TUP allows for multi-year payments, your initial rent payment may be for the full term of the grant or TUP. See § 2885.21 for additional information on payment of rent.

*****

65. Amend § 2885.17 by revising the section heading, redesignating paragraph (e) as paragraph (f), and by adding new paragraph (e) to read as follows:

§ 2885.17 What happens if I do not pay rents and fees or if I pay the rents or fees late?

*****

(e) We will retroactively bill for uncollected or under-collected rent, including late payment and administrative fees, upon discovery if:

(1) A clerical error is identified;

(2) An adjustment to rental schedules is not applied; or

(3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

*****

66. In § 2885.19, revise paragraph (b) to read as follows:

§ 2885.19 What is the rent for a linear right-of-way grant?

*****

(b) You may obtain a copy of the current Per Acre Rent Schedule from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current rent schedule at http://www.blm.gov.

67. In § 2885.20, revise paragraph (b) to read as follows:

§ 2885.20 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

(a) ***

(b) Phase-in provisions: If, as the result of any revisions made to the Per Acre Rent Schedule under § 2885.19(a)(2), the payment of your new annual rental amount would cause you undue hardship, you may qualify for a 2-year phase-in period if you are a small business entity as that term is defined in Small Business Administration regulations and if it is in the public interest. We will require you to submit information to support your

claim. If approved by the BLM State Director, payment of the amount in excess of the previous year's rent may be phased-in by equal increments over a 2-year period. In addition, the BLM will adjust the total calculated rent for year 2 of the phase-in period by the annual index provided by § 2885.19(a)(1).

*****

68. Revise § 2885.24 to read as follows:

§ 2885.24 If I hold a grant or TUP, what monitoring fees must I pay?

(a) Monitoring fees. Subject to § 2886.11, you must pay a fee to the BLM for any costs the Federal Government incurs in inspecting and monitoring the construction, operation, maintenance, and termination of the pipeline and protection and rehabilitation of the affected public lands your grant or TUP covers. We update the monitoring fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD-GDP, as measured second quarter to second quarter. We will round these changes to the nearest dollar. We will update Category 5 monitoring fees as specified in the Master Agreement. We categorize the monitoring fees based on the estimated number of work hours necessary to monitor your grant or TUP. Monitoring fees for Categories 1 through 4 are one-time fees and are not refundable. These monitoring categories and the estimated range of Federal work hours for each category are:

Monitoring Categories

Monitoring category	Federal work hours involved
(1) Inspecting and monitoring of new grants and TUPs,	Estimated Federal work

assignments, renewals, and amendments to existing grants and TUPs	hours are >1 ≤8
(2) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs	Estimated Federal work hours are >8 ≤24
(3) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs	Estimated Federal work hours are >24 ≤36
(4) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPS	Estimated Federal work hours are >36 ≤50
(5) Master Agreements	Varies
(6) Inspecting and monitoring of new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs	Estimated Federal work hours >50.

(b) The current monitoring cost schedule is available from any BLM State, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at http://www.blm.gov.

69. Amend § 2886.12 by:

a. Revising paragraph (b);

b. Redesignating paragraph (d) as paragraph (g); and

c. Adding new paragraphs (d), (e), and (f).

The revisions and additions read as follows:

§ 2886.12 When must I contact BLM during operations?

*****

(b) When your use requires a substantial deviation from the grant or TUP. You must seek an amendment to your grant or TUP under § 2887.10 and obtain our approval before you begin any activity that is a substantial deviation;

*****

(d) Whenever site-specific circumstances or conditions arise that result in the need for changes to an approved right-of-way grant or TUP, POD, site plan, mitigation measures, or construction, operation, or termination procedures that are not substantial deviations in location or use authorized by a right-of-way grant or TUP. Changes for authorized actions, project materials, or adopted mitigation measures within the existing, approved right-of-way or TUP area must be submitted to the BLM for review and approval;

(e) To identify and correct discrepancies or inconsistencies;

(f) When you submit a certification of construction, if the terms of your grant require it. A certification of construction is a document you submit to the BLM after you have finished constructing a facility, but before you begin operating it, verifying that you have constructed and tested the facility to ensure that it complies with the terms of the grant and with applicable Federal and State laws and regulations; and

*****

Subpart 2887—Amending, Assigning, or Renewing MLA Grants and TUPs

70. Revise § 2887.11 to read as follows:

§ 2887.11 May I assign or make other changes to my grant or TUP?

(a) With the BLM's approval, you may assign, in whole or in part, any right or interest in a grant or TUP. Assignment actions that may require BLM approval include, but are not limited to, the following:

(1) The transfer by the holder (assignor) of any right or interest in the grant or TUP to a third party (assignee); and

(2) Changes in ownership or other related change in control transactions involving the BLM right-of-way grant holder or TUP holder and another business entity (assignee), including corporate mergers or acquisitions, but not transactions within the same corporate family.

(b) The BLM may require a grant or lease holder to file new or revised information in some circumstances that do not constitute an assignment (see subpart 2883 and §§ 2884.11(c) and 2886.12). Circumstances that would not constitute an assignment but may necessitate this filing include, but are not limited to:

(1) Transactions within the same corporate family;

(2) Changes in the holder's name only (see paragraph (h) of this section); and

(3) Changes in the holder's articles of incorporation.

(c) In order to assign a grant or TUP, the proposed assignee, subject to § 2886.11, must file an application and follow the same procedures and standards as for a new grant or TUP, including paying processing fees (see § 2884.12).

(d) The assignment application must also include:

(1) Documentation that the assignor agrees to the assignment; and

(2) A signed statement that the proposed assignee agrees to comply with and to be bound by the terms and conditions of the grant or TUP that is being assigned and all applicable laws and regulations.

(e) Your assignment is not recognized until the BLM approves it in writing. We will approve the assignment if doing so is in the public interest. The BLM may modify the

grant or TUP or add bonding and other requirements, including terms and conditions, to the grant or TUP when approving the assignment. If we approve the assignment, the benefits and liabilities of the grant or TUP apply to the new grant or TUP holder.

(f) The processing time and conditions described at § 2884.21 apply to assignment applications.

(g) Only interests in issued right-of-way grants and TUPs are assignable. Pending right-of-way and TUP applications do not create any property rights or other interest and may not be assigned from one entity to another, except that an entity with a pending application may continue to pursue that application even if that entity becomes a wholly owned subsidiary of a new third party.

(h) Change in name only of holder. Name-only changes are made by individuals, partnerships, corporations, and other right-of-way and TUP holders for a variety of business or legal reasons. To complete a change in name only, (i.e., when the name change in question is not the result of an underlying change in control of the right-of-way grant or TUP), the following requirements must be met:

(1) The holder must file an application requesting a name change and follow the same procedures as for a new grant or TUP, including paying processing fees (see subpart 2884 of this part). The name change request must include:

(i) If the name change is for an individual, a copy of the court order or other legal document effectuating the name change; or

(ii) If the name change is for a corporation, a copy of the corporate resolution(s) proposing and approving the name change, a copy of the filing/acceptance of the change

in name by the State or territory in which it is incorporated, and a copy of the appropriate resolution(s), order(s), or other documentation showing the name change.

(2) In connection with processing of a name change only, the BLM retains the authority under § 2885.13(e) to modify the grant or TUP, or add bonding and other requirements, including additional terms and conditions, to the grant or TUP.

(3) Your name change is not recognized until the BLM approves it in writing.

71. In § 2887.12, add new paragraphs (d) and (e) to read as follows:

§ 2887.12 How do I renew my grant?

*****

(d) If you make a timely and sufficient application for a renewal of your existing grant or for a new grant in accordance with this section, the existing grant does not expire until we have issued a decision to approve or deny the application.

(e) If we deny your application, you may appeal the decision under § 2881.10.

_____ _____

Amanda C. Leiter
Acting Assistant Secretary for Land and Minerals Management
Department of the Interior

Date

From: Kilili Sablan
To: harry_blanco@IOS.DOI.GOV
Subject: This Week in Congress – Friday, February 24, 2017
Date: Friday, February 24, 2017 6:14:53 PM

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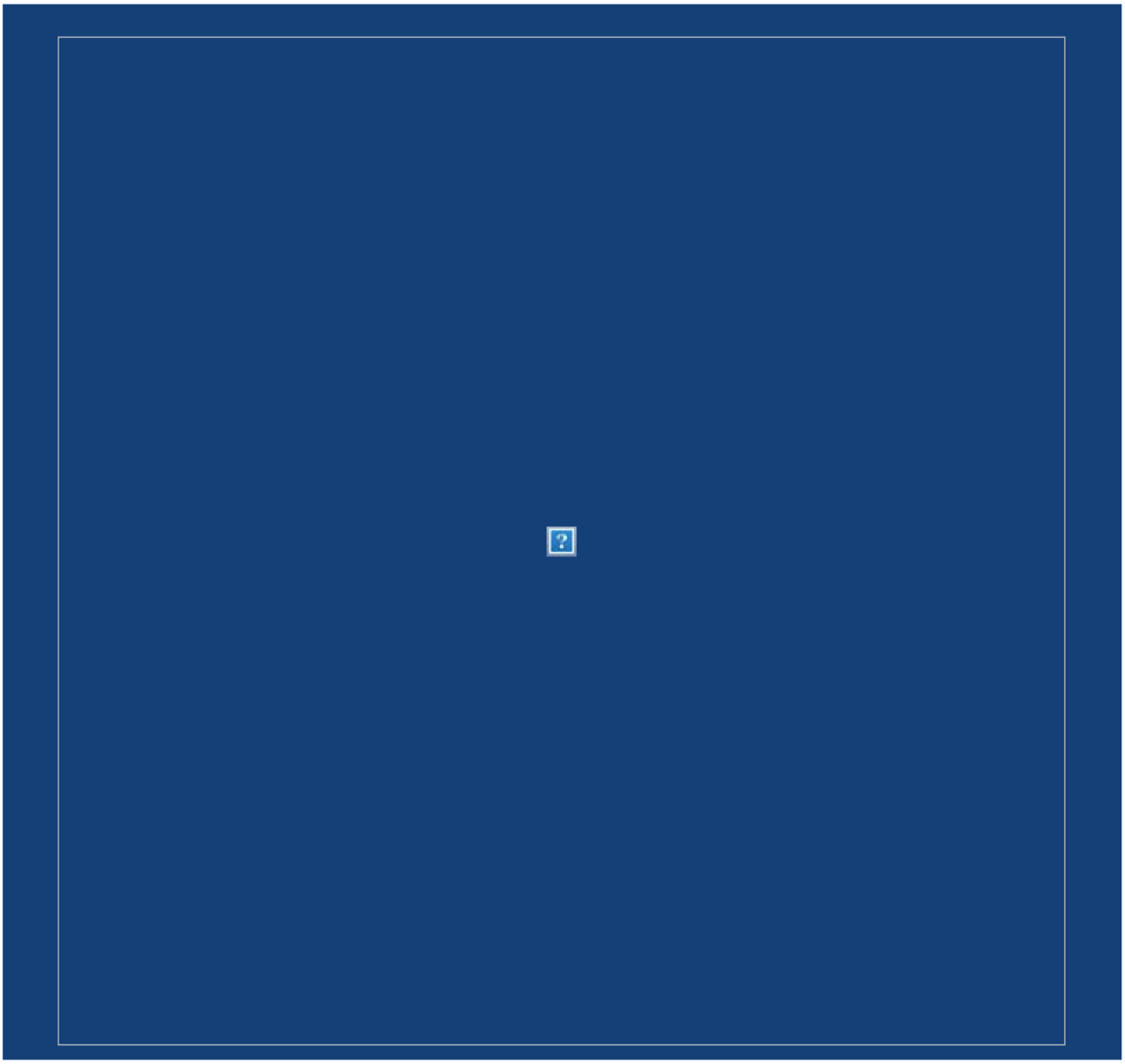


This Week in Congress
February 24, 2017

- **First Veterans Resource Fairs held**
- **Veteran online store coming in November**
- **Do we want a Rota National Park?**

- **CODEL Bishop visits the Marianas**
- **CUC gets $5M for fuel storage repair**
- **Opportunities – Federal grants, jobs for/in the Marianas**
- **Highlights in the legislative program**

We held our first-ever Veterans Resource Fair on Saipan, Tinian, and Rota this week. Thanks to all of the federal and local service providers who were there to help our veterans, service members, and their families access the benefits they have earned. And thanks to those veterans, service members, and families for their sacrifices.

Hundreds turn out for Veterans Resource Fairs

More than 150 veterans, service men and women, and their family members, along with representatives from over 30 service providers, took part in our first-ever Northern Marianas Veterans Resource Fairs this week on Saipan, Tinian, and Rota. I understand how difficult it can be for those who have served our country to access the benefits they have earned. My goal in hosting these fairs was to make it easier by bringing as many federal and local resources that serve vets together in one place. And there will be more such efforts in the coming months. Now that I am a member of the House Veterans Affairs Committee, I look forward to new opportunities to improve services for all our military heroes and their families. They have earned these services, and they deserve better.

Veterans online store coming in November

The Army & Air Force Exchange Service has announced that beginning November 11, 2017, they will be able to serve honorably discharged Veterans online through a lifelong exchange benefit. More information will be posted on **ShopMyExchange.com/veterans**, as it becomes available.

Should we do more to protect the sanctity and beauty of ancient Chamorro sites on Rota? How can future generations be assured of access to medicinal plants and other natural resources? Would a Rota National Park create jobs and be good for the economy? These were some of the questions raised at National Park Service listening sessions on Saipan and Rota this week.

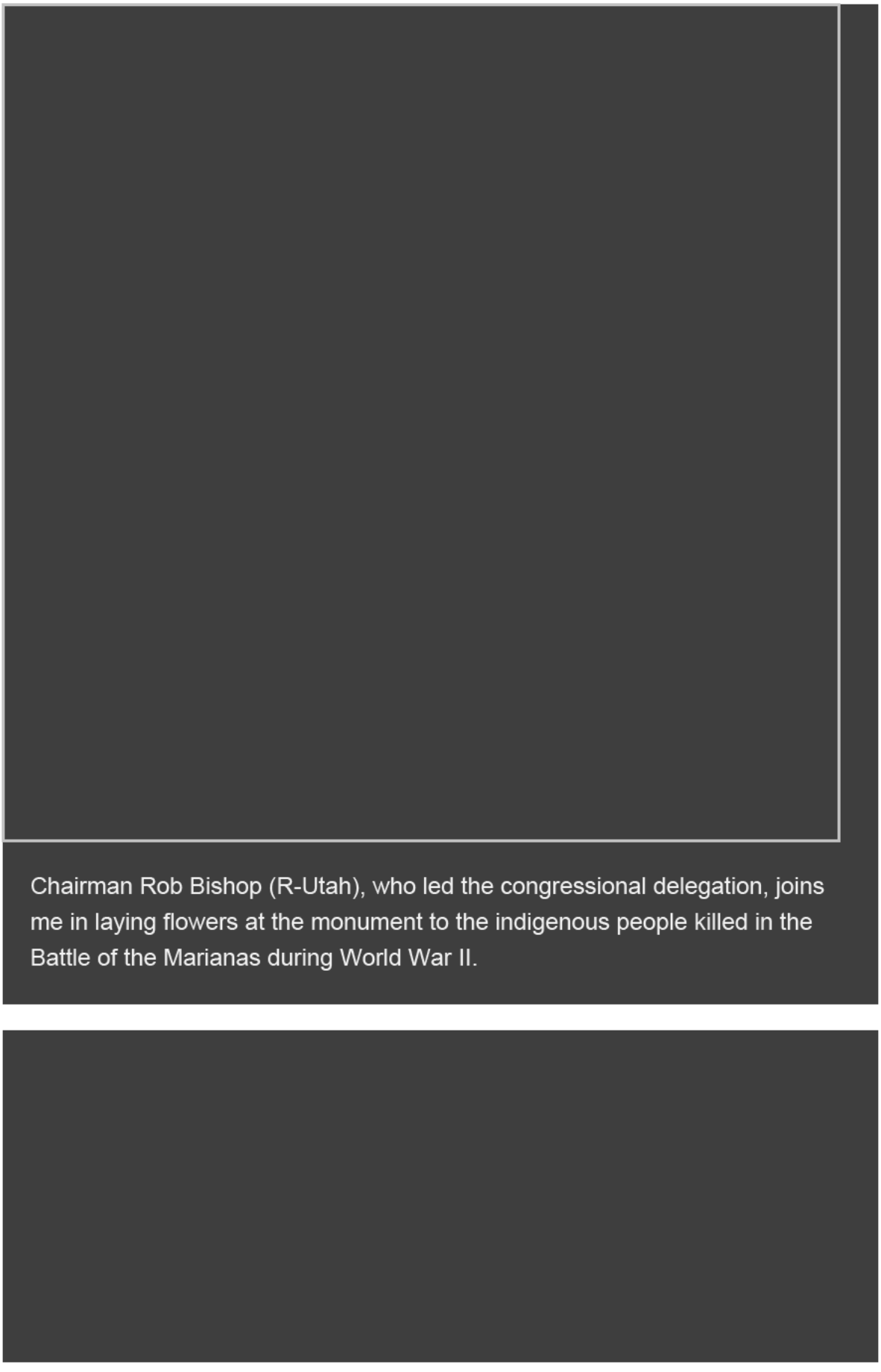
Do we want a Rota National Park?

Following up on the request of the Rota Legislative Delegation to consider the possibility of a Rota National Park to preserve ancient Chamorro sites, the National Park Service held listening sessions on Rota and Saipan this week. About 70 people came to the meetings. A report, authorized by legislation I had enacted in 2015, will make a recommendation on whether a Park is

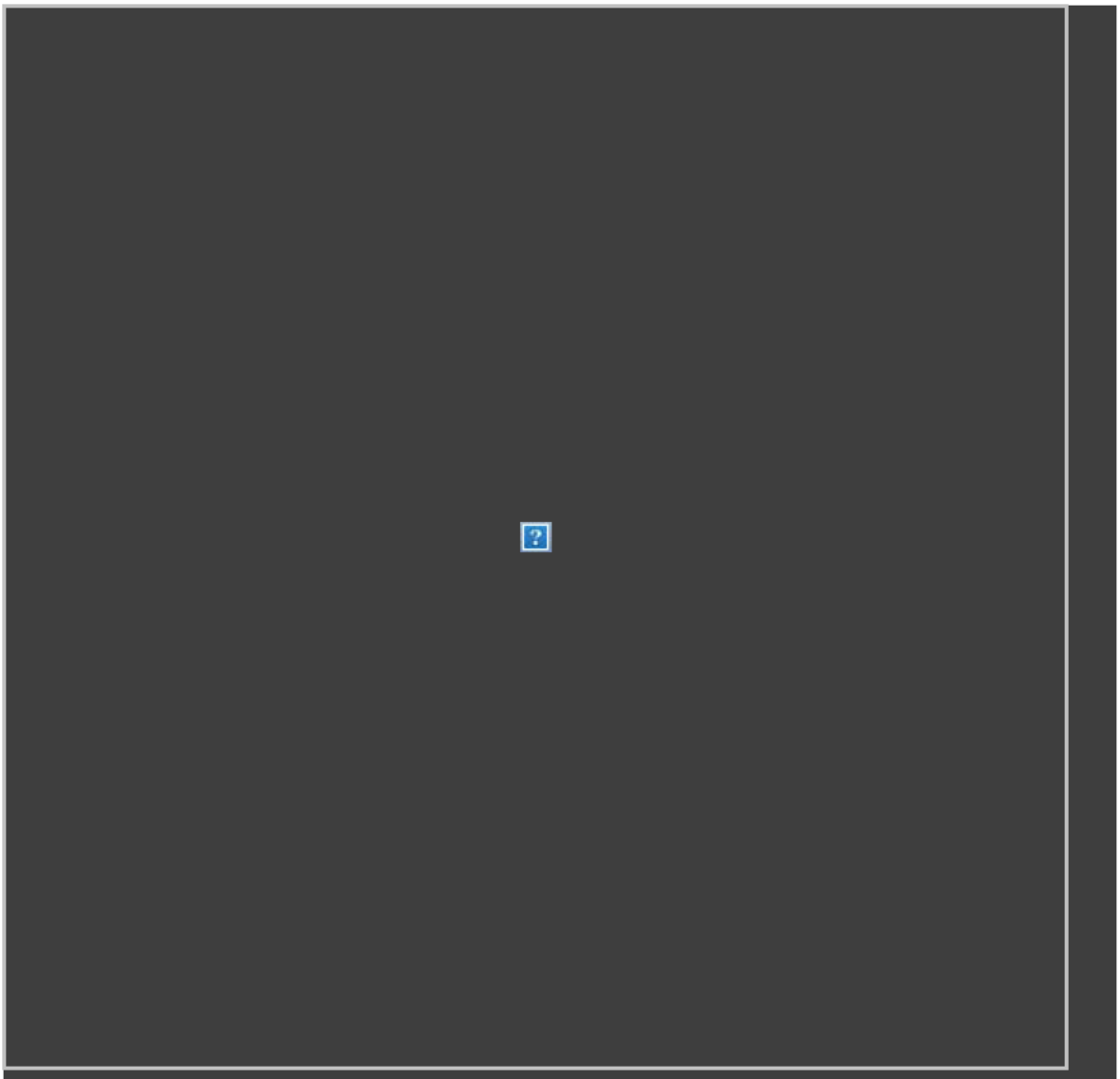
possible by 2020. Congress would then consider further public input from the Marianas. The National Park Service already manages American Memorial Park on Saipan, where the photo above was taken during a listening session on Tuesday. The people of the Marianas leased the American Memorial Park land to the federal government for 50 years in the Covenant. A $2 million lease payment is held in trust and investment earnings from the fund help pay for Park operations. Thanks to all who participated. Written comments may also be sent to study team leader, **jean_boscacci@nps.gov**.

CODEL Bishop visits the Marianas

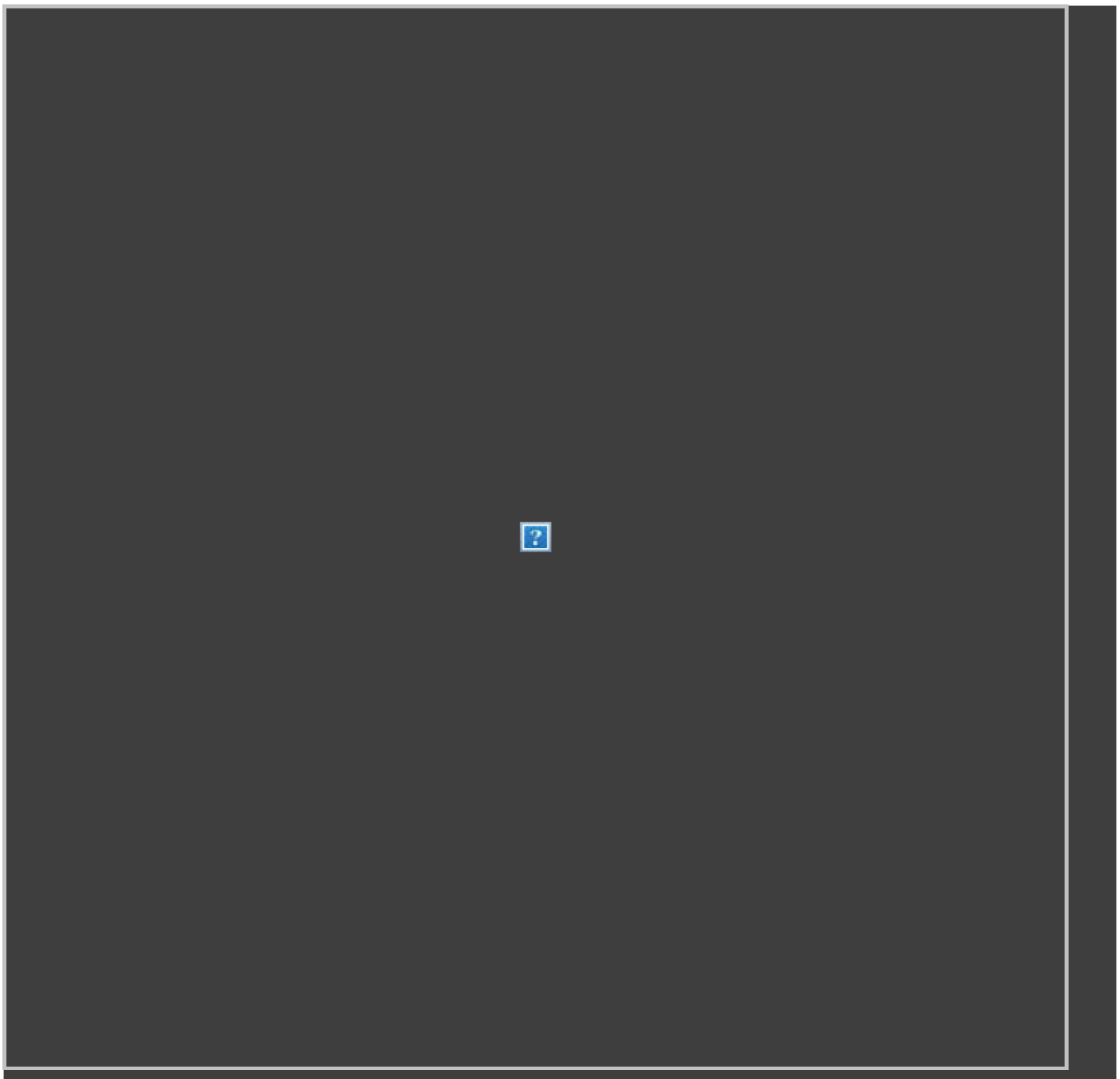
A delegation, led by House Natural Resources Committee Chairman Rob Bishop (R-Utah), included the Marianas as part of our Pacific tour during the congressional recess this week. We have been planning this trip since Mr. Bishop became Chairman two years ago. My thanks to him for accepting the invitation. And my thanks to all the Members, who took time away from their own districts to learn about our area of the world. Below are some photo highlights of the visit.



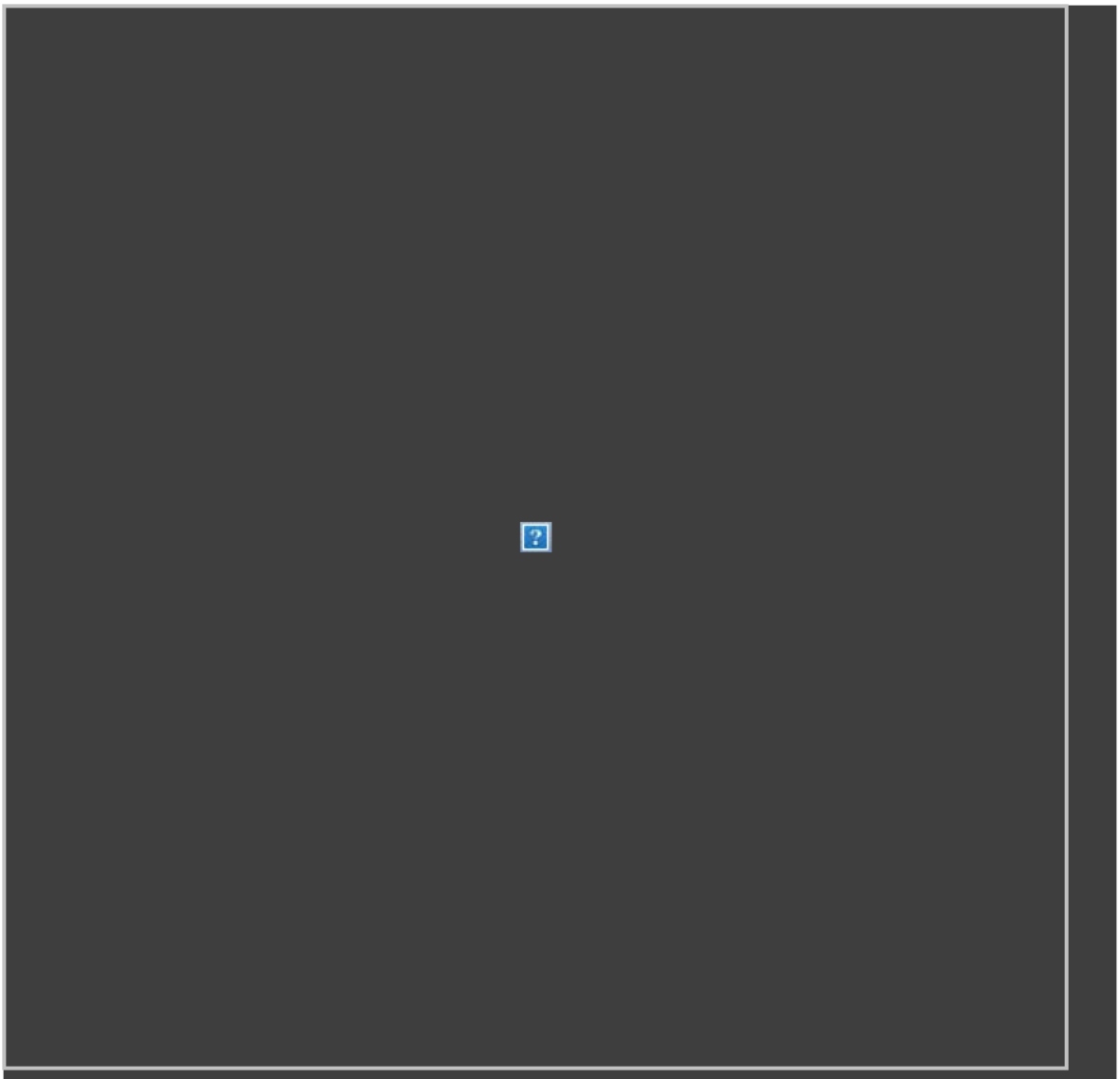
Chairman Rob Bishop (R-Utah), who led the congressional delegation, joins me in laying flowers at the monument to the indigenous people killed in the Battle of the Marianas during World War II.



Ms. Andrea Sablan, Governor and Ms. Ralph DLG. Torres, and Lt. Governor and Ms. Victor Hocog came aboard the military aircraft to welcome CODEL Bishop on arrival Wednesday.



At my request the CODEL stopped in Rota—a first—where Mayor Efraim Atalig hosted lunch and the Members of Congress were shown ancient Chamorro sites by Eloy Ayuyu of the Historic Preservation Office, far left.



On Tinian, the group was briefed on build-up issues by the military and Mayor Joey Patrick San Nicolas. From left to right: Col. Brent Bien, myself, Mrs. Penny Ammerman-Thompson, Rob Bishop (R-Utah), Madeleine Bordallo (D-Guam), Glenn Thompson (R-Pennsylvania), Jenniffer González-Colón (R-Puerto Rico), Bruce Westerman (R-Arkansas), Aumua Amata Coleman Radewagen (R-American Samoa), and Tinian Mayor San Nicolas.

CUC gets $5M for fuel storage repair

An award of $5 million in federal funding this week will help the Commonwealth Utilities Corporation repair fuel storage tanks at the Saipan

power plant and meet health and safety requirements related to oil spill prevention, preparedness and response. The grant is part of the annual capital improvement funds that Congress appropriates every year for the Marianas. This is the third of an expected four consecutive $5 million annual grants to CUC. The Office of Insular Affairs at the Interior Department is responsible for making sure all terms and conditions of the funding are followed.

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Federal Opportunities for/in the Marianas

Jobs:

- **Congressional staff assistant** – Congressman Gregorio Kilili Camacho Sablan is seeking a Staff Assistant in the Washington, D.C. congressional office. Responsibilities include answering phones, maintaining the front office, greeting visitors and giving Capitol tours, answering constituent requests for general information, assisting the office manager with scheduling and bookkeeping, and assisting staff with other various administrative and legislative duties in a supportive role. Excellent writing, verbal and organizational skills are essential. High degree of professionalism required, as well as an ability to work a flexible schedule. Ties to the Northern Mariana Islands preferred. Qualified candidates should submit a cover letter, resume and two writing samples to **MP00.Job@mail.house.gov**. No phone calls or drop-ins, please.
- **Chief Medical Officer** – The Veterans Health Administration has an opening for a physician (chief medical officer) on Guam. The chief medical officer exercises overall leadership responsibility for the day-to-day operations at the community-based outpatient clinic on Guam and is responsible for coordinating care consistent with patient-centered medical home or patient aligned care teams. Position is open until March 2, 2017. For more information, go to

https://www.usajobs.gov/GetJob/ViewDetails/464475500/.

- **Aircraft Mechanic** – The Guam Army National Guard has an opening for an aircraft mechanic. The aircraft mechanic (crew chief) will manage the operational readiness of one or more aircraft, and train aviation unit personnel. Guard membership is required. Position is open until March 16, 2017. For more information, go to **https://www.usajobs.gov/GetJob/ViewDetails/464492600/**
- **Management Assistant** – The Air Force Reserve Command has an opening for a management assistant on Guam. The primary purpose of this Air Reserve technician-enlisted position is to accomplish a variety of work involved with the medical phases concerning the technical aspects of aeromedical functions, and to provide training to reservists. Position is open until February 28, 2017. For more information, go to **https://www.usajobs.gov/GetJob/ViewDetails/464580700/**.
- **Supply Technician** – The Guam Army National Guard has an opening for a supply technician. The purpose of this position is to function as the assistant logistics non-commissioned officer for the command. Position is open until March 21, 2017. For more information, go to **https://www.usajobs.gov/GetJob/ViewDetails/464640000/**.

Highlights in the Legislative Program

THIS WEEK

The House is in recess for the District Work Period.

NEXT WEEK

On the Floor

- **S. 442** – National Aeronautics and Space Administration Transition Authorization Act of 2017
- **H.R. 1009** – OIRA Insight, Reform and Accountability Act
- **H.R. 998** – SCRUB Act

- **H.J. Res. 83** – Disapproving the rule submitted by the Department of Labor relating to "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness"
- **H.R. 1004** – Regulatory Integrity Act of 2017

Committee Hearings
Monday, February 27

- Committee on Veterans' Affairs' Subcommittee on Oversight and Investigations - Assessing VA's Risks for Drug Diversion

Tuesday, February 28

- Senate and House Committees on Veterans' Affairs Joint Hearing - Legislative Presentation of the Disabled American Veterans

Wednesday, March 1

- Committee on Education and the Workforce - Legislative Proposals to Improve Health Care Coverage and Provide Lower Costs for Families
- Committee on Natural Resources Subcommittee on Water, Power and Oceans Modernizing Western Water and Power Infrastructure in the 21st Century
- Senate and House Committees on Veterans' Affairs Joint Hearing - Legislative Presentation of The American Legion
- Senate and House Committees on Veterans' Affairs Joint Hearing - Legislative Presentation of the Veterans of Foreign Wars of the United States

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Date: Tuesday, February 28, 2017 10:14:18 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

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expense of taxpayers.

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Further, H.R. 998 would create a "regulatory cut-go" procedure not dependent on congressional approval that would require any agency issuing a new regulation to repeal an existing regulation of greater or equal value within its jurisdiction that the commission has determined should be abolished. Under "regulatory cut-go," all regulations recommended by the Commission for repeal would be placed into an inventory of regulations which the agencies would be required to repeal over time through a "cut-go" process as agencies promulgate new regulations. The costs of each new agency regulation must be offset by cost-reductions associated with the repeal of regulations in the inventory of regulations, until each agency completes the repeals of its own regulations specified in the inventory. Simply put, no federal agency could issue a new rule, however justified or in the public's immediate interest, unless it cut an existing one that imposes equal "costs" on the economy.

This bill would give enormous power to an appointed commission with virtually no oversight or regulations, while tying the hands of agencies that are knowledgeable and have extensive experience in particular areas. It would put the American people at risk, impede the ability of agencies to issue regulations that protected the public's health and security, while wasting their tax dollars.

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PDF Version

Background for H.R. 998:
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— The Hill, 2/27/2017

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Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 28, 2017
Date: Tuesday, February 28, 2017 10:18:00 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR TUESDAY, FEBRUARY 28, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	1:30 – 2:30 p.m.	4:00 – 5:00 p.m.

Business **Fifteen "One Minutes"**		

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PDF Version

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From: Democratic Whip
To: lara_levison@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 28, 2017
Date: Tuesday, February 28, 2017 10:24:17 AM

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— The Hill, 2/27/2017

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To: pamela_barkin@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 28, 2017
Date: Tuesday, February 28, 2017 10:24:19 AM

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To: sarah_neimeyer@ios.doi.gov
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Date: Tuesday, February 28, 2017 10:25:43 AM

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House Report (PDF Version)

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The GOP Leadership has announced the following schedule for Wednesday, March 1: The House will meet at 12:00 p.m. for legislative business. The House is expected to complete consideration H.R. 998 – SCRUB Act (Rep. Smith (MO) – Oversight and Government Reform) and H.J.Res. 83 – Disapproving the rule submitted by the Department of Labor relating to "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness" (Rep. Byrne – Education and the Workforce). The House is also expected to consider H.R. 1009 – OIRA Insight, Reform, and Accountability Act (Rep. Mitchell – Oversight and Government Reform) (Subject to a Rule).

THE DAILY QUOTE

"March is shaping up to be the most important month for the Republican Party in more than a decade… The wish list begins with passing a budget, reforming the tax code and repealing and replacing ObamaCare. All three issues are divisive… If Republicans fail to deliver, Trump may follow conservative pundits in directing fire at GOP legislative leaders. Some lawmakers have acknowledged the slow start. During an appearance last week on CBS's 'Face the Nation,' Sen. Lindsey Graham (R-S.C.) said the 'Congress is stumbling' and Republicans 'are tied up in knots.'"

— The Hill, 2/27/2017

Visit www.democraticwhip.gov for more press, floor and member resources.

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From: Democratic Whip
To: carlos_uriarte@ios.doi.gov
Subject: THE DAILY WHIP: TUESDAY, FEBRUARY 28, 2017
Date: Tuesday, February 28, 2017 10:27:09 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR TUESDAY, FEBRUARY 28, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	1:30 – 2:30 p.m.	4:00 – 5:00 p.m.

Business **Fifteen "One Minutes"**		

Members are advised that the House will recess no later than 5:00 p.m., to allow for a security sweep of the House Chamber and reconvene at approximately 8:35 p.m. for a Joint Session of Congress to receive the President's Address. **Members are requested to be on the Floor and seated no later than 8:25 p.m.

H.Res. 150 – Rule Providing for Consideration of H.R. 998 – SCRUB Act (Rep. Smith (MO) – Oversight and Government Reform) and H.J.Res. 83 – Disapproving the rule submitted by the Department of Labor relating to "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness" (Rep. Byrne – Education and the Workforce) (One hour of debate). The Rules Committee has recommended one Rule which would provide for consideration of two measures.

For H.R. 998, the Rules committee has recommended a structured Rule that provides for one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Oversight and Government Reform. The Rule allows for 12 amendments, debatable for 10 minutes equally divided between the offeror and an opponent. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

For H.J.Res. 83, the Rules Committee has recommended a closed Rule that provides for one hour of general debate equally divided between the Chair and Ranking Member of the Committee on Education and the Workforce. The Rule allows one motion to recommit and waives all points of order against the resolution.

The Rules Committee rejected a motion by Mr. Hastings of Florida to strike the waiver of section of 311 of the Congressional Budget Act for H.J.Res. 83. **Members are urged to VOTE NO.**

Begin Consideration of H.R. 998 – SCRUB Act (Rep. Smith (MO) – Oversight and Government Reform) (One hour of debate). This bill would establish an un-elected, nine-member commission to review existing federal rules and regulations and identify those they determine should be repealed. H.R, 998 is based on the faulty premises that regulations have an adverse impact on economic growth, job creation, and innovation. In fact, H.R. 998 would make it easier to roll back existing regulations that promote health and safety in communities and at the workplace, protect the environment, and safeguard consumers, and make it harder for every department and agency in the federal government to issue new ones. The unelected commission would have the power to issue subpoenas "requiring the attendance and testimony of witnesses and the production of any evidence relating to the duties of the commission." This broad, unspecified authority will give an unelected panel more power than Inspectors General, while having no oversight or accountability, all at the

expense of taxpayers.

In addition, Members of Congress would be unable to debate and vote on each rule recommended for immediate repeal by the unelected commission, and instead would be forced to vote on rule repeals as a package. Any recommended repeal that is approved by Congress would result in the specified agency having to rescind the covered rules within sixty days. H.R. 998 would essentially take the power away from elected representatives and Members of Congress, and give the power to an unelected appointed panel.

Further, H.R. 998 would create a "regulatory cut-go" procedure not dependent on congressional approval that would require any agency issuing a new regulation to repeal an existing regulation of greater or equal value within its jurisdiction that the commission has determined should be abolished. Under "regulatory cut-go," all regulations recommended by the Commission for repeal would be placed into an inventory of regulations which the agencies would be required to repeal over time through a "cut-go" process as agencies promulgate new regulations. The costs of each new agency regulation must be offset by cost-reductions associated with the repeal of regulations in the inventory of regulations, until each agency completes the repeals of its own regulations specified in the inventory. Simply put, no federal agency could issue a new rule, however justified or in the public's immediate interest, unless it cut an existing one that imposes equal "costs" on the economy.

This bill would give enormous power to an appointed commission with virtually no oversight or regulations, while tying the hands of agencies that are knowledgeable and have extensive experience in particular areas. It would put the American people at risk, impede the ability of agencies to issue regulations that protected the public's health and security, while wasting their tax dollars.

This legislation is similar to an Executive Order issued by the Trump Administration that requires two federal regulations to be rescinded for everyone new regulation that is created. In January of 2016 the House passed H.R. 1155 which is identical legislation to H.R. 998. That vote can be found here.

The Rule makes in order 12 amendments, debatable for 10 minutes each, equally divided between the offeror and an opponent. The amendments are:

Rep. Beyer Amendment. Provides that a Commission member must not have been a registered lobbyist during the two-year period prior and must file financial disclosure reports in accordance with the Ethics in Government Act.
Rep. DeSaulnier Amendment. Requires the consideration of impacts to public health prior to repealing any federal rules under the bill.
Rep. McSally Amendment. Expands the scope of the nature of the Retrospective Regulatory Review Commission's review to ensure a rule or set of rules is compliant with certain provisions of the Congressional Review Act.

Reps. Plaskett/Courtney Amendment. Provides that no funding will be authorized to carry out the requirements of the underlying legislation.
Rep. McNerney Amendment. Exempts from the bill rules relating to the physical and cyber security of the bulk-power system.
Rep. Krishnamoorthi Amendment #6. Ensures that the underlying legislation will not in any way hinder the safe and legal development and deployment of unmanned aerial systems.
Rep. Krishnamoorthi Amendment #7. Ensures that the underlying legislation will not in any way weaken the protections afforded by noise restriction policies at and around airports.
Reps. Bonamici/Davis (CA)/Polis Amendment #8. Exempts any rule or set of rules prescribed by the Secretary of Education and relating to consumer protections for student loan borrowers from the provisions of the underlying legislation.
Reps. Bonamici/Polis Amendment #9. Exempts any rule or set of rules relating to Title I of the Elementary and Secondary Education Act of 1965 from the provisions of the underlying legislation.
Rep. Raskin Amendment. Exempts rules relating to the enforcement of the Clean Air Act from the provisions of the underlying legislation.
Rep. Moore Amendment. Exempts rules affecting or impacting the special government to government relationship between the federal government and tribal communities or affecting tribal sovereignty or self-determination.
Rep. Cummings Amendment. Exempts any rule relating to protections for whistleblowers or penalties for retaliation against whistleblowers.

Bill Text for H.R. 998:
PDF Version

Background for H.R. 998:
House Report (HTML Version)
House Report (PDF Version)

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From: Rosemarie Calabro Tully
To: tracy_goodluck@ios.doi.gov
Subject: Cantwell Details Her Opposition to Zinke's Nomination to be Secretary of the Interior
Date: Tuesday, February 28, 2017 1:04:23 PM

For Immediate Release
February 28, 2017
Contact: Rosemarie Calabro Tully
rct@energy.senate.gov
(202) 224-7556

Cantwell Details Her Opposition to Zinke's Nomination to be Secretary of the Interior

Cantwell: I am not convinced Zinke will be able to moderate the Trump administration's extreme views on exploiting our public lands.

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Explaining her opposition, Sen. Cantwell said: "**Unfortunately, I'm not convinced that Congressman Zinke will be able to moderate the Trump administration's extreme views on exploiting our public lands. I'm not sure he will be able to stand up to the president and protect the public interest … required to manage our public lands for the benefit of all Americans—not just the oil, gas and mining companies and their commercial interests**."

Specifically, Sen. Cantwell took issue with Rep. Zinke's potential support of transferring federal management responsibilities of public lands to the states. She is opposed to Rep. Zinke's openness to weaken or repeal recently designated monuments through the use of the Antiquities Act. She is opposed to lifting the federal coal leasing moratorium, as well as the Trump administration's decision to greenlight the construction of the Dakota Access Pipeline without adequate consultation with the Standing Rock Sioux, Cheyenne River and other affected tribes.

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The Secretary of the Interior has one of the most important jobs in the federal government—responsible for managing our nation's public lands, national parks and national wildlife refuges; overseeing mineral and energy development on public lands and in federal waters; managing water resources in Western states; and discharging the nation's trust obligations to Indian tribes and insular areas.

On the issue of tribal responsibilities, Sen. Cantwell noted: "**The Secretary of the Interior must be committed to upholding our trust and treaty obligations for our country's 567 federally recognized tribes. That secretary must be committed to recognizing tribal sovereignty and self-determination; to protecting tribal lands, waters and mineral resources; and to supporting adequate resources for tribal education, social services and infrastructure**."

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The Senate will vote on Rep. Zinke's nomination later tonight or early tomorrow; the vote has not yet been scheduled. Sen. Cantwell plans to vote "no" on his nomination.

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From: Rosemarie Calabro Tully
To: fain_gildea@ios.doi.gov
Subject: Cantwell Details Her Opposition to Zinke's Nomination to be Secretary of the Interior
Date: Tuesday, February 28, 2017 1:04:32 PM

For Immediate Release
February 28, 2017
Contact: Rosemarie Calabro Tully
rct@energy.senate.gov
(202) 224-7556

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From: Rosemarie Calabro Tully
To: kerry_rae@ios.doi.gov
Subject: Cantwell Details Her Opposition to Zinke's Nomination to be Secretary of the Interior
Date: Tuesday, February 28, 2017 1:04:33 PM

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Please click here to unsubscribe.

From: Rosemarie Calabro Tully
To: joshua_mahan@ios.doi.gov
Subject: Cantwell Details Her Opposition to Zinke's Nomination to be Secretary of the Interior
Date: Tuesday, February 28, 2017 1:04:43 PM

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Contact: Rosemarie Calabro Tully
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From: Hayes, Colin (Energy)
To: Micah Chambers
Subject: Fwd: Senate Evening Update
Date: Tuesday, February 28, 2017 6:29:36 PM

C.

Begin forwarded message:

From: "Van Doren, Terry (McConnell)" <Terry_VanDoren@mcconnell.senate.gov>
Date: February 28, 2017 at 6:15:09 PM EST
To: "Van Doren, Terry (McConnell)" <Terry_VanDoren@mcconnell.senate.gov>
Subject: Senate Evening Update

Senate Opens Next for Business: 10AM

Length of Morning Business: None

First Vote of the Day: Approximately 10:30AM

At approximately 10:30AM tomorrow, the Senate will vote to confirm Ryan Zinke of Montana to be Interior Secretary. After completion of this vote and up to ten minutes of debate, the Senate will conduct a cloture vote on the nomination of Benjamin S. Carson, Sr., to be Secretary of Housing and Urban Development (HUD).

By consent, if cloture is invoked on the Carson nomination, the up to 30 hours of post-cloture debate time will be counted as if it started at 1AM on Wednesday.

Today in the Senate

No roll call votes occurred in today's session of the Senate. However, several items were passed by unanimous consent or voice vote –

<!--[if !supportLists]-->1. <!--[endif]-->S.Res.62 – Committee Funding
<!--[if !supportLists]-->2. <!--[endif]-->S.Res.35 – Venezuela
<!--[if !supportLists]-->3. <!--[endif]-->S.Res.73 – Rare Disease Day

Below are a couple of documents regarding the Waters of the U.S. (WOTUS) rule.

Senate Republican Communications Center
202 • 228 • NEWS

Contact:
Antonia Ferrier 202.228.NEWS
http://bit.ly/2l8T3jJ

Hard At Work 'Repealing Obama EPA Water Rule'

‘Obama-Era Regulation … Was Just A Blatant Power Grab By The Federal Government To Regulate Every Pothole, Ditch, And Puddle In The Nation’

SEN. MITCH McCONNELL (R-KY): “President Trump should be commended for doing what he can to begin turning back this attack on middle class families in Kentucky and across the country. Although this Obama-era regulation claimed to protect this nation’s waterways, it was just a blatant power grab by the federal government to regulate every pothole, ditch, and puddle in the nation. Based more on ideology than fact, the rule would directly harm the Middle Class.” (Sen. McConnell, Press Release, 2/28/17)

President Trump’s Executive Order ‘The First Step Toward Repealing The 2015 Water Rule’

“President Trump on Tuesday instructed the Environmental Protection Agency and Army Corps of Engineers to review and reconsider a 2015 rule known as the Waters of the United States rule…” (“Trump Directs Rollback Of Obama-Era Water Rule He Calls ‘Destructive And Horrible,’” The Washington Post, 2/28/17)

<!--[if !supportLists]-->● <!--[endif]-->“It’s the first step toward repealing the 2015 water rule, which asserted federal power over small waterways like wetlands and streams…” (“Trump Directs EPA To Reconsider Obama Water Rule,” The Hill, 2/28/17)

“President Trump [signed] an executive order Tuesday scrapping a controversial Environmental Protection Agency rule that expanded the agency's jurisdiction over the nation's waterways during the second term of former President Obama. The regulation, known as the Waters of the U.S. rule, broadened the definition of the type of water body that would fall under EPA's formidable clean water enforcement powers, making everything from streams to ditches and watering holes subject to the EPA's and Army Corps of Engineers' oversight.” (“Trump Executive Order Scraps EPA Water Rule,” Washington Examiner, 2/28/2017)

<!--[if !supportLists]-->● <!--[endif]-->“Speaking to reporters Monday, the senior administration official said the regulation issued in 2015 ‘vastly expands federal jurisdictions over state waters, and we think ... it could potentially violate previous Supreme Court decisions.’” (“Trump To Direct Rollback Of Obama-Era Water Rule Tuesday,” The Washington Post, 2/27/2017)

“The executive order is the first step toward fulfilling one of Trump’s key campaign promises, repealing a regulation ... [T]he order will instruct the EPA and the Army Corps of Engineers to formally reconsider the rule, which could lead to its repeal or a significant rewrite.” (“Trump Moves Toward Repealing Obama EPA Water Rule,” The Hill, 2/28/2017)

‘One Of The [Obama] Administration’s Most High-Profile And Controversial Regulations’

“The water regulation… has become one of the administration’s most high-profile and controversial regulations in recent years. Opponents of the rule, which include a range of agriculture and energy companies and their congressional representatives from rural and energy-intensive states, say the regulation amounts to a federal intrusion into states’ rights.” (“House Votes to Overturn Expanded Waterway Regulations,” The Wall Street Journal, 1/13/2016)

“Barack Obama's water war… a massive power grab by Washington.” (“Barack Obama's Water War,” Politico, 5/27/2015)

<!--[if !supportLists]-->● <!--[endif]-->“…it will give bureaucrats carte blanche to swoop in and penalize landowners every time a cow walks through a ditch.” (“Barack Obama's Water War,” Politico, 5/27/2015)

SEN. HEIDI HEITKAMP (D-ND): “‘There is not one single federal regulation in the entire country that has caused more concern in the state of North Dakota than this Waters of the United States proposed regulation,’ Heitkamp said. ‘There is incredible uncertainty out there.’” (“Senators Target Obama’s Water Rule,” The Hill, 4/30/2015)

<!--[if !supportLists]-->● <!--[endif]-->SEN. HEITKAMP: “Farmers across North Dakota and the nation deserve better than the sweeping federal rules regulating possibly every pothole on their land – they deserve certainty, and they deserve to be heard before any rule goes into effect.” (Sen. Heitkamp, Press Release, 8/27/2015)

SEN. JOE MANCHIN (D-WV): "Today, the EPA is once again dangerously overreaching its boundaries by expanding the definition of water sources it can regulate," Senator Manchin said. "It is completely unreasonable that our country's ditches, puddles and other un-navigable waters be subjected to the same regulations as our greatest lakes and rivers, and implementing this rule will certainly have a significant impact on West Virginia's economy, hindering businesses, manufacturing and energy production. The bottom line is that no federal agency should go around Congress to control what has not been legislated, especially when its actions will harm economic growth. I urge my colleagues to take immediate action on the bipartisan Water Quality Protection Act to rein in this harmful rule." (Sen. Manchin, Press Release, 5/27/2015)

SEN. JOE DONNELLY (D-IN): "That is why it is incredibly important that the EPA rewrite the Waters of the United States rule with input from the people who live and work on the land and alongside these waters every day." (Sen. Donnelly, Press Release, 4/30/2015)

Obama-Era Rule 'A Nightmare For Farmers' And 'For Small Businesses'

American Farm Bureau Federation's Don Parrish: "It's going to cause a nightmare for farmers. ... Our members own the majority of the landscape that's going to be impacted by this. ... It's going to make their land, the most valuable thing they possess, less valuable. It could reduce the value of some farmland by as much as 40 percent." ("Obama Announces New Rule Limiting Water Pollution," The New York Times, 5/27/2015)

NFIB Vice President of Public Policy Amanda Austin: "The Waters of the United States rule would make developing property a nightmare for small businesses. Small businesses simply don't have the resources to pay the fees and hire the consultants to help them navigate the Clean Water Act. The Environmental Protection Agency didn't even bother to consider how this rule would affect small firms with limited ability to cut through the red tape." ("Small Business Calls on House to Stop Waters Rule," NFIB Website, 1/12/2016)

<!--[if !supportLists]-->● <!--[endif]-->"As a result of this new regulation, the Agencies are bringing seasonal streams, ponds, ditches, and depressions in fields into federal jurisdiction. The financial impact of this rule will affect small businesses disproportionately; Clean Water Act permits can cost tens of thousands of dollars and lead to lengthy project delays." (NFIB, Letter to House Members, 1/11/2016)

FLASHBACK
Bipartisan Votes In Both Houses To Overturn The Regulation Last Congress

"President Obama on Tuesday rejected an attempt by congressional Republicans to overturn his landmark regulation asserting federal power over small bodies of water." ("Obama Vetoes GOP Attempt To Block Water Rule," The Hill, 1/19/2016)

"The House voted Wednesday to overturn a contentious rule from the Environmental Protection Agency that asserts federal authority over small waterways. The House passed the resolution 253-166 Wednesday, with 12 Democrats supporting it." ("House Votes To Overturn Obama Water Rule," The Hill, 1/13/2016)

"The Senate approved a bill Wednesday to block the Obama administration's new regulation setting federal authority over small waterways. The Congressional Review Act (CRA) resolution against the Environmental Protection Agency's (EPA) water rule passed on a 53-44 vote. Three Democrats joined every Republican except [one] in advancing the bill." ("Senate Votes To Kill EPA's Water Rule," The Hill, 11/4/2015)

Federal Courts Temporarily Blocked The Controversial Regulation In 2015

"Issued in 2015, the WOTUS rule unleashed a torrent of Federal litigation. Thirty-one states, many local governments, and private industry asserted that the rule unconstitutionally expanded the Clean Water Act's (CWA) reach and misapplied Justice Anthony Kennedy's 'significant nexus' opinion in the 2006 Rapanos case." ("U.S. Supreme Court's 'Waters Of The U.S.' Gift To The Trump Administration," The Hill, 1/20/17)

<!--[if !supportLists]-->● <!--[endif]-->"Various Courts of Appeal challenges had been consolidated before the Sixth Circuit in Cincinnati, which granted a nationwide wide stay in November 2015." ("U.S. Supreme Court's 'Waters Of The U.S.' Gift To The Trump Administration," The Hill, 1/20/17)

<!--[if !supportLists]-->● <!--[endif]-->"The [U.S. District J]udge said the rule appears to be too broad in some cases. He said the definition of tributary, for example, could include many waters that are unlikely to have a significant connection to larger waters downstream. He also said the rules are 'arbitrary and capricious,' and would cover some waters that are 'remote and intermittent.'" ("Judge Rules Obama Administration Water Rule Should Be Halted," The Associated Press, 8/27/2015)

###
SENATE REPUBLICAN COMMUNICATIONS CENTER
202.228.NEWS

Click HERE to download Senator McConnell's comments

MITCH McCONNELL
SENATE MAJORITY LEADER
U.S. SENATOR for KENTUCKY

For Immediate Release, Tuesday, February 28, 2017
Contacts: Don Stewart, David Popp 202-224-2979
Robert Steurer, Stephanie Penn 202-224-8288

Senator McConnell Comments on President Trump's Executive Order on Waters of the United States Regulation

WASHINGTON, D.C. – U.S Senate Majority Leader Mitch McConnell (R-KY) made the following comments today regarding President Donald Trump's executive order directing the Environmental Protection Agency (EPA) and Army Corps of Engineers to begin a formalized review of the Waters of the United States (WOTUS) regulation:

"President Trump should be commended for doing what he can to begin turning back this attack on middle class families in Kentucky and across the country.

"Although this Obama-era regulation claimed to protect waterways, it was a blatant power grab by the federal government to regulate every pothole, ditch, and puddle in the nation. Based more on ideology than fact, the rule would directly harm the Middle Class.

"The Sixth Circuit Court of Appeals issued a nationwide stay against the rule in 2015. It recognized the serious legal questions about the rule.

"Earlier this year, I sent a letter to then President-Elect Trump, in which I asked him to begin the process of overturning this harmful regulation. I am thrilled to see that President Trump has decided to join our cause to protect Kentucky families and stop the growth of government bureaucracy.

"Together, we can find better ways to protect our environment without a regulatory

assault on the Middle Class. That's why I've previously joined with my colleagues to sponsor common-sense legislation to keep our waterways clean.

"I look forward to continuing to work with the Administration and my colleagues in the Senate to promote safety through reasonable solutions."

###

From: Democratic Whip
To: meghan_conklin@ios.doi.gov
Subject: THE DAILY WHIP: WEDNESDAY, MARCH 1, 2017
Date: Wednesday, March 01, 2017 9:45:23 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR WEDNESDAY, MARCH 1, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	2:00 – 3:00 p.m.	6:00 – 7:00 p.m.

Business **Fifteen "One Minutes"**		

H.Res. 156 – Rule Providing for Consideration of H.R. 1009 – OIRA Insight, Reform, and Accountability Act (Rep. Mitchell – Oversight and Government Reform) and H.R. 1004 – Regulatory Integrity Act of 2017 (Rep. Walberg – Oversight and Government Reform) (One hour of debate). The Rules Committee has recommended one Rule which would provide for consideration of two bills.

For H.R. 1009, the Rules committee has recommended a structured Rule that provides for one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Oversight and Government Reform. The Rule allows for 6 amendments, debatable for 10 minutes equally divided between the offeror and an opponent. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

For H.R. 1004, the Rules committee has recommended a structured Rule that provides for one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Oversight and Government Reform. The Rule allows for 3 amendments, debatable for 10 minutes equally divided between the offeror and an opponent. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

The Rules Committee rejected a motion by Ms. Slaughter of New York to consider both H.R. 1004 and H.R. 1009 under open Rules. The Rules Committee also rejected a motion by Mr. McGovern of Massachusetts to strike the waiver of all points of order against consideration of H.R. 1009 which includes waiver of CUTGO, statutory pay-go, and sections 303 and 311 of the Congressional Budget Act. **Members are urged to VOTE NO.**

Complete Consideration of H.R. 998 – SCRUB Act (Rep. Smith (MO) – Oversight and Government Reform). This bill would establish an un-elected, nine-member commission to review existing federal rules and regulations and identify those they determine should be repealed. H.R, 998 is based on the faulty premises that regulations have an adverse impact on economic growth, job creation, and innovation. In fact, H.R. 998 would make it easier to roll back existing regulations that promote health and safety in communities and at the workplace, protect the environment, and safeguard consumers, and make it harder for every department and agency in the federal government to issue new ones. The unelected commission would have the power to issue subpoenas "requiring the attendance and testimony of witnesses and the production of any evidence relating to the duties of the commission." This broad, unspecified authority will give an unelected panel more power than Inspectors General, while having no oversight or accountability, all at the expense of taxpayers.

In addition, Members of Congress would be unable to debate and vote on each rule recommended for immediate repeal by the unelected commission, and instead would be forced to vote on rule repeals as a package. Any recommended repeal that is approved by Congress would result in the specified agency having to rescind the covered rules within sixty days. H.R. 998 would essentially take the power away from elected representatives and Members of Congress, and give the power to an unelected appointed panel.

Further, H.R. 998 would create a "regulatory cut-go" procedure not dependent on congressional approval that would require any agency issuing a new regulation to repeal an existing regulation of greater or equal value within its jurisdiction that the commission has determined should be abolished. Under "regulatory cut-go," all regulations recommended by the Commission for repeal would be placed into an inventory of regulations which the agencies would be required to repeal over time through a "cut-go" process as agencies promulgate new regulations. The costs of each new agency regulation must be offset by cost-reductions associated with the repeal of regulations in the inventory of regulations, until each agency completes the repeals of its own regulations specified in the inventory. Simply put, no federal agency could issue a new rule, however justified or in the public's immediate interest, unless it cut an existing one that imposes equal "costs" on the economy.

This bill would give enormous power to an appointed commission with virtually no oversight or regulations, while tying the hands of agencies that are knowledgeable and have extensive experience in particular areas. It would put the American people at risk, impede the ability of agencies to issue regulations that protected the public's health and security, while wasting their tax dollars.

This legislation is similar to an Executive Order issued by the Trump Administration that requires two federal regulations to be rescinded for everyone new regulation that is created. In January of 2016 the House passed **H.R. 1155** which is identical legislation to H.R. 998. That vote can be found here.

The Rule makes in order no further general debate. As of yesterday, the House completed consideration of amendments through the Krishnamoorthi Amendments. The House will continue consideration of the remaining five amendments. The amendments are:

Reps. Bonamici/Davis (CA)/Polis Amendment #8. Exempts any rule or set of rules prescribed by the Secretary of Education and relating to consumer protections for student loan borrowers from the provisions of the underlying legislation.

Reps. Bonamici/Polis Amendment #9. Exempts any rule or set of rules relating to Title I of the Elementary and Secondary Education Act of 1965 from the provisions of the underlying legislation.

Rep. Raskin Amendment. Exempts rules relating to the enforcement of the Clean Air Act from the provisions of the underlying legislation.
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Rep. Cummings Amendment. Exempts any rule relating to protections for whistleblowers or penalties for retaliation against whistleblowers.

Bill Text for H.R. 998:
PDF Version

Background for H.R. 998:
House Report (HTML Version)
House Report (PDF Version)

H.J.Res. 83 – Disapproving the rule submitted by the Department of Labor relating to "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness" (Rep. Byrne – Education and the Workforce) (One hour of debate). The resolution disapproves of the Rule issued by the Department of Labor (DOL) to standardize the Occupational Safety and Health Administration's (OSHA) record keeping of work-related injuries and illnesses for five years. This Rule was created in order to clarify existing practices and to ensure that employees were being protected, while giving OSHA tools to enforce their continuing obligation to record workplace injuries. In 2012 the D.C. Circuit Court of Appeals held that OSHA did not have the authority to issue a citation for the "occurrence" of a violation that continued beyond a six-month statute of limitations set forth in the Occupational Safety and Health (OSH) Act. This ruling went against forty-years of precedents in reporting workplace-safety violations. Since 1972, every administration has maintained that the five-year retention period for recording work-related injuries, illnesses or deaths is standard practice, and this DOL rule was simply put in place to codify and create some consistency that will benefit both employers and employees.

Under the terms of the Congressional Review Act (CRA) process, H.J.Res. 83, if adopted and signed by President Trump, will not only nullify, in one brief, partisan debate, this rule that helps protect working Americans but it will prevent DOL from considering a "substantially similar" rule in the future.

The Rule, which was adopted yesterday, provides for one hour of debate equally divided and controlled by the Chair and Ranking Member of the Committee on Education and the Workforce.

Bill Text for H.J.Res. 83:
PDF Version

H.R. 1009 – OIRA Insight, Reform, and Accountability Act (Rep. Mitchell –

Oversight and Government Reform) (One hour of debate). This bill would significantly alter the function of the Office of Information and Regulatory Affairs (OIRA). Currently, OIRA reviews significant draft rules from agencies, other than independent agencies, and can clear the rules with or without changes, or return the rules to agencies for reconsideration, and can encourage the agencies to withdraw them. Additionally, for rules that have a $100 million impact on the economy, OIRA reviews the economic analyses and potential impact of implementation.

While both Democrats and Republicans agree that the oversight role of OIRA needs to be clarified and the review process needs to be improved, especially regarding transparency and reducing regulatory delays, H.R. 1009 is not the answer. H.R. 1009 goes too far in strengthening OIRA at the expense of federal agencies. This legislation could hinder the independence of federal agencies like the Consumer Financial Protection Bureau, the Consumer Product Safety Commission, and the Federal Communications Commission, and subject rules promulgated by those agencies to political review by the White House. Regarding regulatory delays, H.R. 1009 would allow OIRA to conduct a review within ninety days, but it also allows the Administrator or the head of the specific agency any number of additional thirty-day period extensions, which would hamstring the regulatory process.

H.R. 1009 is not a responsible or workable solution for OIRA. During the Obama Administration, Republicans regularly warned against "executive overreach" and "inflated bureaucracy." H.R. 1009 shows the emptiness of these warnings. Less than two months into 2017, with Republicans now controlling the White House, the Senate, and the House of Representatives, they have suddenly changed their tune. Now they are trying to centralize control of independent agencies by subjecting them to review by the White House and creating a process that can ultimately come to a standstill. H.R. 1009 is a reckless and irresponsible effort to hinder the ability of federal agencies to promulgate rules, consistent with the laws that Congress enacts, to protect the health, safety, and financial well-being of the American people.

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TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule for Thursday, March 2: The House will meet at 9:00 a.m. for legislative business. The House is expected to complete consideration of **H.R. 1004** – Regulatory Integrity Act of 2017 (Rep. Walberg – Oversight and Government Reform).

THE DAILY QUOTE

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- The Hill, 2/28/2017

From: Democratic Whip
To: jhoset_burgosrodriguez@ios.doi.gov
Subject: THE DAILY WHIP: WEDNESDAY, MARCH 1, 2017
Date: Wednesday, March 01, 2017 9:53:01 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

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- The Hill, 2/28/2017

From: Democratic Whip
To: csalotti@ios.doi.gov
Subject: THE DAILY WHIP: WEDNESDAY, MARCH 1, 2017
Date: Wednesday, March 01, 2017 9:54:12 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

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In addition, Members of Congress would be unable to debate and vote on each rule recommended for immediate repeal by the unelected commission, and instead would be forced to vote on rule repeals as a package. Any recommended repeal that is approved by Congress would result in the specified agency having to rescind the covered rules within sixty days. H.R. 998 would essentially take the power away from elected representatives and Members of Congress, and give the power to an unelected appointed panel.

Further, H.R. 998 would create a "regulatory cut-go" procedure not dependent on congressional approval that would require any agency issuing a new regulation to repeal an existing regulation of greater or equal value within its jurisdiction that the commission has determined should be abolished. Under "regulatory cut-go," all regulations recommended by the Commission for repeal would be placed into an inventory of regulations which the agencies would be required to repeal over time through a "cut-go" process as agencies promulgate new regulations. The costs of each new agency regulation must be offset by cost-reductions associated with the repeal of regulations in the inventory of regulations, until each agency completes the repeals of its own regulations specified in the inventory. Simply put, no federal agency could issue a new rule, however justified or in the public's immediate interest, unless it cut an existing one that imposes equal "costs" on the economy.

This bill would give enormous power to an appointed commission with virtually no oversight or regulations, while tying the hands of agencies that are knowledgeable and have extensive experience in particular areas. It would put the American people at risk, impede the ability of agencies to issue regulations that protected the public's health and security, while wasting their tax dollars.

This legislation is similar to an Executive Order issued by the Trump Administration that requires two federal regulations to be rescinded for everyone new regulation that is created. In January of 2016 the House passed **H.R. 1155** which is identical legislation to H.R. 998. That vote can be found here.

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Bill Text for H.R. 998:
PDF Version

Background for H.R. 998:
House Report (HTML Version)
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Under the terms of the Congressional Review Act (CRA) process, H.J.Res. 83, if adopted and signed by President Trump, will not only nullify, in one brief, partisan debate, this rule that helps protect working Americans but it will prevent DOL from considering a "substantially similar" rule in the future.

The Rule, which was adopted yesterday, provides for one hour of debate equally divided and controlled by the Chair and Ranking Member of the Committee on Education and the Workforce.

Bill Text for H.J.Res. 83:
PDF Version

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Oversight and Government Reform) (One hour of debate). This bill would significantly alter the function of the Office of Information and Regulatory Affairs (OIRA). Currently, OIRA reviews significant draft rules from agencies, other than independent agencies, and can clear the rules with or without changes, or return the rules to agencies for reconsideration, and can encourage the agencies to withdraw them. Additionally, for rules that have a $100 million impact on the economy, OIRA reviews the economic analyses and potential impact of implementation.

While both Democrats and Republicans agree that the oversight role of OIRA needs to be clarified and the review process needs to be improved, especially regarding transparency and reducing regulatory delays, H.R. 1009 is not the answer. H.R. 1009 goes too far in strengthening OIRA at the expense of federal agencies. This legislation could hinder the independence of federal agencies like the Consumer Financial Protection Bureau, the Consumer Product Safety Commission, and the Federal Communications Commission, and subject rules promulgated by those agencies to political review by the White House. Regarding regulatory delays, H.R. 1009 would allow OIRA to conduct a review within ninety days, but it also allows the Administrator or the head of the specific agency any number of additional thirty-day period extensions, which would hamstring the regulatory process.

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House Report (PDF Version)

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The GOP Leadership has announced the following schedule for Thursday, March 2: The House will meet at 9:00 a.m. for legislative business. The House is expected to complete consideration of **H.R. 1004** – Regulatory Integrity Act of 2017 (Rep. Walberg – Oversight and Government Reform).

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- The Hill, 2/28/2017

From: Democratic Whip
To: lara_levison@ios.doi.gov
Subject: THE DAILY WHIP: WEDNESDAY, MARCH 1, 2017
Date: Wednesday, March 01, 2017 9:59:47 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR WEDNESDAY, MARCH 1, 2017

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10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	2:00 – 3:00 p.m.	6:00 – 7:00 p.m.

Business **Fifteen "One Minutes"**		

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House Report (HTML Version)
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TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule for Thursday, March 2: The House will meet at 9:00 a.m. for legislative business. The House is expected to complete consideration of **H.R. 1004** – Regulatory Integrity Act of 2017 (Rep. Walberg – Oversight and Government Reform).

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From: Democratic Whip
To: pamela_barkin@ios.doi.gov
Subject: THE DAILY WHIP: WEDNESDAY, MARCH 1, 2017
Date: Wednesday, March 01, 2017 10:01:55 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

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From: Democratic Whip
To: sarah_neimeyer@ios.doi.gov
Subject: THE DAILY WHIP: WEDNESDAY, MARCH 1, 2017
Date: Wednesday, March 01, 2017 10:03:11 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

FLOOR SCHEDULE FOR WEDNESDAY, MARCH 1, 2017

HOUSE MEETS AT:	FIRST VOTE PREDICTED:	LAST VOTE PREDICTED:
10:00 a.m.: Morning Hour 12:00 p.m.: Legislative	2:00 – 3:00 p.m.	6:00 – 7:00 p.m.

Business **Fifteen "One Minutes"**		

H.Res. 156 – Rule Providing for Consideration of H.R. 1009 – OIRA Insight, Reform, and Accountability Act (Rep. Mitchell – Oversight and Government Reform) and H.R. 1004 – Regulatory Integrity Act of 2017 (Rep. Walberg – Oversight and Government Reform) (One hour of debate). The Rules Committee has recommended one Rule which would provide for consideration of two bills.

For H.R. 1009, the Rules committee has recommended a structured Rule that provides for one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Oversight and Government Reform. The Rule allows for 6 amendments, debatable for 10 minutes equally divided between the offeror and an opponent. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

For H.R. 1004, the Rules committee has recommended a structured Rule that provides for one hour of general debate equally divided and controlled by the Chair and Ranking Member of the Committee on Oversight and Government Reform. The Rule allows for 3 amendments, debatable for 10 minutes equally divided between the offeror and an opponent. The Rule allows one motion to recommit, with or without instructions, and waives all points of order against the legislation.

The Rules Committee rejected a motion by Ms. Slaughter of New York to consider both H.R. 1004 and H.R. 1009 under open Rules. The Rules Committee also rejected a motion by Mr. McGovern of Massachusetts to strike the waiver of all points of order against consideration of H.R. 1009 which includes waiver of CUTGO, statutory pay-go, and sections 303 and 311 of the Congressional Budget Act. **Members are urged to VOTE NO.**

Complete Consideration of H.R. 998 – SCRUB Act (Rep. Smith (MO) – Oversight and Government Reform). This bill would establish an un-elected, nine-member commission to review existing federal rules and regulations and identify those they determine should be repealed. H.R, 998 is based on the faulty premises that regulations have an adverse impact on economic growth, job creation, and innovation. In fact, H.R. 998 would make it easier to roll back existing regulations that promote health and safety in communities and at the workplace, protect the environment, and safeguard consumers, and make it harder for every department and agency in the federal government to issue new ones. The unelected commission would have the power to issue subpoenas "requiring the attendance and testimony of witnesses and the production of any evidence relating to the duties of the commission." This broad, unspecified authority will give an unelected panel more power than Inspectors General, while having no oversight or accountability, all at the expense of taxpayers.

In addition, Members of Congress would be unable to debate and vote on each rule recommended for immediate repeal by the unelected commission, and instead would be forced to vote on rule repeals as a package. Any recommended repeal that is approved by Congress would result in the specified agency having to rescind the covered rules within sixty days. H.R. 998 would essentially take the power away from elected representatives and Members of Congress, and give the power to an unelected appointed panel.

Further, H.R. 998 would create a "regulatory cut-go" procedure not dependent on congressional approval that would require any agency issuing a new regulation to repeal an existing regulation of greater or equal value within its jurisdiction that the commission has determined should be abolished. Under "regulatory cut-go," all regulations recommended by the Commission for repeal would be placed into an inventory of regulations which the agencies would be required to repeal over time through a "cut-go" process as agencies promulgate new regulations. The costs of each new agency regulation must be offset by cost-reductions associated with the repeal of regulations in the inventory of regulations, until each agency completes the repeals of its own regulations specified in the inventory. Simply put, no federal agency could issue a new rule, however justified or in the public's immediate interest, unless it cut an existing one that imposes equal "costs" on the economy.

This bill would give enormous power to an appointed commission with virtually no oversight or regulations, while tying the hands of agencies that are knowledgeable and have extensive experience in particular areas. It would put the American people at risk, impede the ability of agencies to issue regulations that protected the public's health and security, while wasting their tax dollars.

This legislation is similar to an Executive Order issued by the Trump Administration that requires two federal regulations to be rescinded for everyone new regulation that is created. In January of 2016 the House passed **H.R. 1155** which is identical legislation to H.R. 998. That vote can be found here.

The Rule makes in order no further general debate. As of yesterday, the House completed consideration of amendments through the Krishnamoorthi Amendments. The House will continue consideration of the remaining five amendments. The amendments are:

Reps. Bonamici/Davis (CA)/Polis Amendment #8. Exempts any rule or set of rules prescribed by the Secretary of Education and relating to consumer protections for student loan borrowers from the provisions of the underlying legislation.

Reps. Bonamici/Polis Amendment #9. Exempts any rule or set of rules relating to Title I of the Elementary and Secondary Education Act of 1965 from the provisions of the underlying legislation.

Rep. Raskin Amendment. Exempts rules relating to the enforcement of the Clean Air Act from the provisions of the underlying legislation.
Rep. Moore Amendment. Exempts rules affecting or impacting the special government to government relationship between the federal government and tribal communities or affecting tribal sovereignty or self-determination.
Rep. Cummings Amendment. Exempts any rule relating to protections for whistleblowers or penalties for retaliation against whistleblowers.

Bill Text for H.R. 998:
PDF Version

Background for H.R. 998:
House Report (HTML Version)
House Report (PDF Version)

H.J.Res. 83 – Disapproving the rule submitted by the Department of Labor relating to "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness" (Rep. Byrne – Education and the Workforce) (One hour of debate). The resolution disapproves of the Rule issued by the Department of Labor (DOL) to standardize the Occupational Safety and Health Administration's (OSHA) record keeping of work-related injuries and illnesses for five years. This Rule was created in order to clarify existing practices and to ensure that employees were being protected, while giving OSHA tools to enforce their continuing obligation to record workplace injuries. In 2012 the D.C. Circuit Court of Appeals held that OSHA did not have the authority to issue a citation for the "occurrence" of a violation that continued beyond a six-month statute of limitations set forth in the Occupational Safety and Health (OSH) Act. This ruling went against forty-years of precedents in reporting workplace-safety violations. Since 1972, every administration has maintained that the five-year retention period for recording work-related injuries, illnesses or deaths is standard practice, and this DOL rule was simply put in place to codify and create some consistency that will benefit both employers and employees.

Under the terms of the Congressional Review Act (CRA) process, H.J.Res. 83, if adopted and signed by President Trump, will not only nullify, in one brief, partisan debate, this rule that helps protect working Americans but it will prevent DOL from considering a "substantially similar" rule in the future.

The Rule, which was adopted yesterday, provides for one hour of debate equally divided and controlled by the Chair and Ranking Member of the Committee on Education and the Workforce.

Bill Text for H.J.Res. 83:
PDF Version

H.R. 1009 – OIRA Insight, Reform, and Accountability Act (Rep. Mitchell –

Oversight and Government Reform) (One hour of debate). This bill would significantly alter the function of the Office of Information and Regulatory Affairs (OIRA). Currently, OIRA reviews significant draft rules from agencies, other than independent agencies, and can clear the rules with or without changes, or return the rules to agencies for reconsideration, and can encourage the agencies to withdraw them. Additionally, for rules that have a $100 million impact on the economy, OIRA reviews the economic analyses and potential impact of implementation.

While both Democrats and Republicans agree that the oversight role of OIRA needs to be clarified and the review process needs to be improved, especially regarding transparency and reducing regulatory delays, H.R. 1009 is not the answer. H.R. 1009 goes too far in strengthening OIRA at the expense of federal agencies. This legislation could hinder the independence of federal agencies like the Consumer Financial Protection Bureau, the Consumer Product Safety Commission, and the Federal Communications Commission, and subject rules promulgated by those agencies to political review by the White House. Regarding regulatory delays, H.R. 1009 would allow OIRA to conduct a review within ninety days, but it also allows the Administrator or the head of the specific agency any number of additional thirty-day period extensions, which would hamstring the regulatory process.

H.R. 1009 is not a responsible or workable solution for OIRA. During the Obama Administration, Republicans regularly warned against "executive overreach" and "inflated bureaucracy." H.R. 1009 shows the emptiness of these warnings. Less than two months into 2017, with Republicans now controlling the White House, the Senate, and the House of Representatives, they have suddenly changed their tune. Now they are trying to centralize control of independent agencies by subjecting them to review by the White House and creating a process that can ultimately come to a standstill. H.R. 1009 is a reckless and irresponsible effort to hinder the ability of federal agencies to promulgate rules, consistent with the laws that Congress enacts, to protect the health, safety, and financial well-being of the American people.

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regulation is submitted for review - for each regulation and to publish a list of all the consultations when the regulation is published in the Federal Register.
Rep. Chaffetz Amendment. Requires OIRA to maintain records on each significant regulatory action reviewed such that it is easily accessible to provide to Congress upon request.
Rep. Connolly Amendment. Exempts independent agencies from the underlying legislation.

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PDF Version

Background for H.R. 1009:
House Report (HTML Version)
House Report (PDF Version)

TOMORROW'S OUTLOOK

The GOP Leadership has announced the following schedule for Thursday, March 2: The House will meet at 9:00 a.m. for legislative business. The House is expected to complete consideration of **H.R. 1004** – Regulatory Integrity Act of 2017 (Rep. Walberg – Oversight and Government Reform).

THE DAILY QUOTE

"Sen. Lindsey Graham (R-S.C.) said Tuesday that President Trump's first budget was 'dead on arrival' and wouldn't make it through Congress. 'It's not going to happen,' said Graham, according to NBC News. 'It would be a disaster.'"

- The Hill, 2/28/2017

From: Democratic Whip
To: carlos_uriarte@ios.doi.gov
Subject: THE DAILY WHIP: WEDNESDAY, MARCH 1, 2017
Date: Wednesday, March 01, 2017 10:05:55 AM

Office of the Democratic Whip Steny H. Hoyer

DemocraticWhip.gov - (202) 225-3130

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- The Hill, 2/28/2017

From: Marino Thacker, Meghan (Daines)
To: Amanda Kaster (amanda_kaster@ios.doi.gov)
Subject: FW: RELEASE: Senate Western Caucus Applauds Confirmation of Zinke for Interior Secretary
Date: Wednesday, March 01, 2017 11:32:14 AM

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icymi

From: Press (Daines)
Sent: Wednesday, March 1, 2017 11:03 AM
To:
Subject: RELEASE: Senate Western Caucus Applauds Confirmation of Zinke for Interior Secretary

FOR IMMEDIATE RELEASE
March 1, 2017

Senate Western Caucus Applauds Confirmation of Zinke for Interior Secretary

U.S. SENATE —Today, Senate Western Caucus led by Chairman Steve Daines (R-MT) applauded the confirmation of U.S. Representative Ryan Zinke for Secretary of the U.S. Department of the Interior.

U.S. Representative Ryan Zinke (MT-AL) is a fifth generation Montanan, former state senator, and a 23-year U.S. Navy SEAL veteran. In 2014, Ryan became the first Navy SEAL elected to the House.

Senator Steve Daines (R-MT): "I'm thrilled that we have Ryan Zinke, a westerner as Secretary of the Interior who understands Montana values. I have no doubt that Ryan Zinke will aggressively work to grow jobs through responsible development and improve public access through better management of federal lands."

Senator Dean Heller (R-NV): "With over 85 percent of Nevada's public land administered by the federal government, we need a Department of the Interior that will work with, not against us to on important public land priorities. Ryan Zinke, a fellow westerner, will restore common sense to land management and prioritize policies that bolster mining, ranching, hunting, fishing, and energy production in the west. As a sportsman myself, I know firsthand the importance of good stewardship, and I look forward to working with Ryan to benefit our western way of life."

Senator John Boozman (R-AR): "Ryan Zinke's knowledge of public land management and energy issues is important to the responsible use of our natural resources. I'm pleased to support his confirmation as Secretary of the Interior and look forward to working with him."

Senator Jim Risch (R-ID: "I am glad that a Westerner will be at the helm of the Interior Department. I look forward to working with someone who understands and has advocated for the issues most pressing to Western states."

Senator Mike Crapo (R-ID): "Congratulations to Secretary Zinke on his confirmation. We Idahoans have a number of important issues that can be helped tremendously by having the

full attention of Secretary Zinke, a Westerner with common-sense values. I look forward to working with him as we continue our collaborative efforts."

Senator Mike Enzi (R-WY): "Being from a western state, Representative Ryan Zinke understands the incredible importance of public land issues to states like Wyoming. With so much of our land managed by the federal government, it is key that they are open for multiple uses such as recreation, agriculture and energy production. I look forward to working with him on the critical issues that matter to Wyoming and other western states."

Senator Orrin Hatch (R-UT): "As a fellow Westerner who understands our way of life, Ryan Zinke is the right choice to lead the Interior Department. Under his leadership, I am confident that the Department will be committed to an inclusive approach to land management that values the voices of Utahns and respects our role in stewarding the lands we know and love. In particular, he understands the enormous damage inflicted on our communities by the abuse of the Antiquities Act, and I look forward to working with him and the President to undo the harm caused by the unilateral designations of the Bears Ears and Grand Staircase-Escalante National Monuments. I applaud his confirmation and look forward to working closely with him in these endeavors."

Senator Dan Sullivan (R-AK): "I'm excited that we will have an Interior Secretary from a Western state who has been a strong advocate for energy independence. Secretary Zinke has committed to me that he will return the Interior Department to its rightful role, working with my state as a partner in progress, instead of stymying much needed economic and resource development."

Senator Lisa Murkowski (R-AK): "I congratulate Rep. Zinke on his confirmation as Interior Secretary, and am eager to work with him to restore balance to the management of federal areas. This is particularly important for Alaska, which has more at stake and is more deeply affected by this Department than any other part of our country."

Senate Western Caucus Membership

Senator Steve Daines (R-MT), *Chairman*
Senator John Barrasso (R-WY), *Founder & Chairman Emeritus*
Senator Roy Blunt (R-MO)
Senator John Boozman (R-AR)
Senator John Cornyn (R-TX)
Senator Tom Cotton (R-AR)
Senator Mike Crapo (R-ID)
Senator Mike Enzi (R-WY)
Senator Joni Ernst (R-IA)
Senator Deb Fischer (R-NE)
Senator Jeff Flake (R-AZ)
Senator Cory Gardner (R-CO)
Senator Orrin Hatch (R-UT)
Senator Dean Heller (R-NV)
Senator John Hoeven (R-ND)
Senator James Inhofe (R-OK)
Senator James Lankford (R-OK)

Senator Mike Lee (R-UT)
Senator John McCain (R-AZ)
Senator Jerry Moran (R-KS)
Senator Lisa Murkowski (R-AK)
Senator Jim Risch (R-ID)
Senator Pat Roberts (R-KS)
Senator Mike Rounds (R-SD)
Senator Ben Sasse (R-NE)
Senator Dan Sullivan (R-AK)
Senator John Thune (R-SD)
Senator Bill Cassidy (R-LA)

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Contact:

From: Marino Thacker, Meghan (Daines)
To: Amanda Kaster (amanda_kaster@ios.doi.gov)
Subject: FW: RELEASE: Daines: Zinke Confirmed as Interior Secretary
Date: Wednesday, March 01, 2017 11:33:06 AM

And this.

From: Press (Daines)
Sent: Wednesday, March 1, 2017 11:29 AM
To:
Subject: RELEASE: Daines: Zinke Confirmed as Interior Secretary

FOR IMMEDIATE RELEASE
March 1, 2017

Daines: Zinke Confirmed as Interior Secretary

U.S. SENATE —U.S. Senator Steve Daines today released the following statement after the U.S. Senate voted to confirm President Donald J. Trump's nominee for Secretary of the U.S. Department of the Interior, Montana's U.S. Representative Ryan Zinke.

"This is a historic moment for Montana as Congressman Zinke is the first Montanan to ever serve in a President's cabinet," Daines stated. **"Ryan is a Montanan who grew up in America's public lands. He knows that we must strike the right balance between conservation and responsible energy development, and he understands more than most that one-size fits all policies from Washington, D.C., never work for real America."**

On the Senate floor, Daines called for the vote to confirm Zinke. Following Zinke's confirmation Daines spoke on the Senate floor to congratulate the first Montanan to serve in a President's cabinet. Click HERE to download.

Matt Rosendale, Montana State Auditor: "Big congratulations to Ryan Zinke on being confirmed as our new Secretary of Interior. It's great to have a fellow Montanan serving in the cabinet who understands the importance of improving access to our public lands."

Elsie Arntzen, State Superintendent: "Congratulations to Ryan Zinke on becoming our nation's next Interior Secretary. As Vice-Chair of the Montana Land Board, I look forward working with Secretary Zinke in his new capacity to put Montana students first. The Land Board is crucial to school funding and it will be very beneficial to have Montana leadership managing our public lands at the U.S. Department of the Interior."

Senate President Scott Sales, R - Bozeman: "I congratulate Congressman Zinke and look forward to the leadership he will bring as Secretary to the Department of the Interior concerning the management of our lands here in the west. It is also good that the clock will start regarding the selection of his replacement in Congress. It is imperative that Montana's voice is heard in the U.S. House of Representatives."

Senate Majority Leader Fred Thomas, R - Stevensville: "This is truly one of the highlights of my political tenure. To see a Montana Congressman become the Secretary of the Interior is

absolutely a tribute to Montana and its citizens!"

Daines first met Zinke at Boys State in Dillon, Montana in 1979.

On January 17, Daines introduced Zinke at his confirmation before the U.S. Senate Committee on Energy and Natural Resources.

On January 5, Daines met with Zinke in his Washington, D.C. office to discuss Zinke's confirmation and his commitment to Montana's public lands.

Immediately following Zinke's confirmation, Daines sent a letter to Zinke outlining Montana priorities for the Department of Interior.

Daines' letter is available to download HERE and below:

Dear Secretary Zinke:

What an historic day for Montana! Congratulations on your appointment as Secretary of the Department of the Interior (Department). As a fellow Montanan, a member of the Senate Committee on Energy and Natural Resources and the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies, I look forward to working with you in your new role. Serving at the helm of the Department of the Interior, you will be a strong advocate for our public lands, help uphold the federal trust responsibility to Indian tribes, will help unleash American energy and will strengthen our water infrastructure. As you begin to set priorities and goals for the Department, including informing the President's budget request for Fiscal Year 2018 and the important work of addressing our nation's infrastructure challenges, I would like to highlight several specific policies that demand your immediate and personal attention.

Unleash American Energy

Terminate Secretarial Order 3338. This order imposed a moratorium on federal coal leasing, paused ongoing lease applications and modification reviews, and launched a programmatic review of the federal coal leasing program, including overhauling the leasing process and changing royalty rates. This moratorium and Programmatic Environmental Impact Statement will put nearly 65,000 direct and indirect mining jobs at risk, as well as impact the billions of dollars in revenues to states like Montana, as well as to Indian tribes, used to pay for schools, reclamation, and other infrastructure projects. I urge you to rescind this damaging order.

Utilize coal export terminals. As you are well aware, Powder River Basin coal is lower in sulfur content than Indonesian coal. Currently, Montana coal producers must rely on Canadian ports to bring our coal to market. I urge you to assist other departments in ensuring coal export terminal permits are issued in a timely manner. Doing so will help Montana coal reach international demand, thereby creating more American jobs here at home instead of across our border while keeping global emissions down.

Help approve the Keystone XL pipeline. The Keystone XL pipeline will be a much-needed lifeline to many rural Montana communities, entering the United States through Phillips County, traveling about 284 miles across eastern Montana to South Dakota. After nearly a

decade of environmental review and then ultimate denial by the Obama Administration, thanks to President Trump, Montana and builders across the country stand on the cusp of finally building this pipeline. In Montana, the pipeline would create about 800 jobs, help keep electricity prices affordable for families, and generate more than $80 million in Montana property taxes, more than $16 million of which would be distributed to Montana's schools and university system. While the Keystone XL pipeline project proceeds through the Presidential permitting process, there are several rights-of-way permits under review by the Bureau of Land Management (BLM) in Montana and throughout the proposed route. I urge your attention to those permits to ensure the Keystone XL project can become a reality.

Empower states and tribes to take the lead in natural resource development and protecting the environment. Rules such as the BLM's Methane and Waste Reduction Rule and hydraulic fracturing rule are duplicative and unnecessary, conflict with current state laws, such as those put in place in Montana, and would discourage state-driven solutions to managing emissions. The BLM hydraulic fracturing rule, in particular, would make it harder to do business with Native nations and make them less competitive in energy markets. Furthermore, the BLM Sage-Grouse Conservation Plans are yet another example of federal requirements' dissonance with work states have already done. Whether through regulation of our nation's vast energy resources, or approaches to wildlife management, I believe state and tribal governments are best suited to lead in addressing these issues, not an overreaching and out-of-touch federal bureaucracy.

Strengthen our nation's critical mineral supply. Our foreign mineral dependence is a mounting threat to our economy, national security, and international competitiveness. Despite our nation's abundant resources, including Montana's supply of palladium, platinum, molybdenum, and other minerals, our nation's permitting process for mineral development remains one of the longest in the world. I believe there are ways to streamline our critical mineral production while protecting our environment and urge you to work with Congress toward that end by prioritizing formulating a robust domestic critical mineral strategy.

Consolidated Federal Oil and Gas and Federal and Indian Coal Valuation Reform Rule (81 Fed. Reg. 43338). While we must be committed to protecting the federal taxpayer and our states' fair share of mineral royalties, this rule as finalized will have a detrimental effect to American energy production, could decrease shared revenues and royalties in our states, and place our nation's energy and infrastructure security and good-paying energy jobs at risk. The rule's complexity has caused much uncertainty and has the potential to risk financial ruin to energy operators and mine-mouth electricity generators who are critical to meeting our nation's energy needs and important to our state economies. Although the Department postponed implementation of the rule, I urge you to rescind the rule and implement a common-sense royalty policy that would protect the economic use of our nation's vast energy resources while ensuring our states and the federal taxpayer continue to receive revenue they deserve.

<u>Protect our Sportsmen's Heritage and Increase Access to Public Lands</u>

Address the National Park Service maintenance backlog. As two Montana kids who grew up neighboring two crown jewels of the National Park System, I know we share high regard for the importance of strengthening and sustaining our National Park System for future generations. The Park Service currently has an over $11.9 billion backlog in deferred maintenance projects. As the Chair of the Senate Energy and Natural Resources Subcommittee

on National Parks and a member of the Senate Appropriations Committee, I ask for your cooperation to reexamine prioritization of these projects and work with Congress to address these challenges.

Endangered Species Act and Federal Forest Management. As you know well, federal forest management reform continues to be a major priority in Montana. Too often a handful of fringe groups are able to exploit the flawed Endangered Species Act to obstruct projects through obstructionist litigation. Many of these stymied projects would have widespread benefits, such as creating forest jobs, reducing the threat of wildfire, enhancing wildlife habitat, and increasing outdoor recreation. The Ninth Circuit Court of Appeal's *Cottonwood* decision is a prime example of where smart forest management projects are held hostage to fringe groups litigating on ESA. I urge you to ensure that the U.S. Fish and Wildlife Service stands shoulder-to-shoulder with the U.S. Forest Service and the Department of Justice in support of statutorily reversing the disastrous *Cottonwood* ruling. I also ask that you work with Congress to modernize and strengthen the ESA so that it protects our diverse wildlife without having severe impacts on livelihoods and local communities.

Land and Water Conservation Fund. The Land and Water Conservation Fund is an important tool for protecting, conserving and expanding access to our public lands. Full funding and permanent reauthorization of this program is a critical step toward ensuring that Montanans can continue to enjoy the beauty of our state for generations to come.

Facilitating more local and state input in management of federal lands. Too many land-use decisions, such as Antiquities Act designations and their land-use plans or land planning more broadly, like the BLM's Planning 2.0 Rule, have occurred with the Department's disregard for impacts of these decisions to those who live closest to the land. Farmers, ranchers and other land users have spent generations working and protecting the land they use every day. I ask that you work with them and states to increase their voice when making land management decisions.

Director's Order 219. The Obama Administration's midnight directive ban on the use of lead ammunition and fishing tackle on federal lands is an example of a misguided and rushed directive from the top. I am concerned this directive was motivated by politics, not sound science, and would jeopardize the revenues hunters and anglers generate for conservation purposes. I ask that you rescind the directive and work with the states and Congress to address the use of lead in ammunition and fishing tackle.

<u>Securing Water Infrastructure</u>

Stop the spread of aquatic invasive species. As you know, last year invasive mussel larvae were detected in Montana waters managed by the Bureau of Reclamation (BOR). Should these larvae propagate, it will have detrimental impacts on Montana's ecosystem, obstruct irrigation and hydropower infrastructure, and negatively impact our economy. In your new role, I urge you to work with the Corps of Engineers and other federal, tribal and state agencies to ensure these mussels do not proliferate.

Complete and Fund Rural Water Projects. The Dry-Redwater Regional Water Authority and Musselshell-Judith Rural Water System have spent seven and 11 years, respectfully, in deliberation with BOR, as well as $7 million in combined state, local, and federal funding to date without authorization. Authorizing these projects would help provide access to a dependable and clean water supply to the nearly 25,000 residents in central and eastern

Montana who currently lack access to reliable water supply systems that meet the basic drinking water requirements. Montana is also home to two rural water projects authorized that are in dire need of dedicated funding. We worked together in Congress to advance their authorizations and fund our authorized projects in Montana. I ask for your continued cooperation to reexamine prioritization of these projects and work with Congress to secure authorization and address resource challenges, including consistent and robust funding.

Promoting Prosperity in Indian Country

Fund Implementation of the Blackfeet Water Rights Settlement Act. Together with your leadership in the House of Representatives, we were able to enact an historic water settlement for the Blackfeet people. In order for the settlement to become effective, however, the funding authorized in the settlement, approximately $422 million, must be appropriated no later January 21, 2026. Fully funding this settlement is a crucial step to upholding the commitment made by Congress, the Administration, and the State of Montana to the Blackfeet people and neighboring communities. I urge your assistance in requesting robust funding for this settlement each year, beginning with at least $100 million in the President's Budget request for 2018.

Recognize the Little Shell Tribe. The Little Shell Tribe has been fighting for federal recognition for nearly four decades. While I remain committed to seeing the Little Shell Tribe of Chippewa Indians Restoration Act--which would legislatively grant federal acknowledgement to the tribe--into law, the Department of the Interior is uniquely positioned to grant that recognition unilaterally in a way that has the potential to be more expeditious than the legislative process. I urge you to do so and give them the dignity they deserve.

Facilitate development of tribal energy resources. A good-paying job is the key to a brighter future for Indian tribal communities and for many tribes, development of their natural resources would stimulate economic growth. Unfortunately, Indian tribes face obstacles in tapping into their rich natural resources potential, almost all of which has gone undeveloped. Furthermore, according to a 2014 Department document, Indian energy resources are underdeveloped relative to surrounding non-Indian resources. I ask that you work with me to remedy these troubling statistics by facilitating easier all-of-the-above energy development on Indian lands and helping tribes cut through existing red tape that stands in the way.

Keep Indian Country safer. Over three thousand Native American veterans transition out of the military each year. This pipeline of talent offers a potential pool of highly qualified and civic-minded personnel to fill challenging vacancies in law enforcement positions across Indian Country. I hope that the Department can work constructively with the Office of Personnel Management to reduce the bureaucratic maze that confronts applicants who are willing to fill critical law enforcement vacancies. The talent pool exists to fill these positions, but if the time required to complete the hiring process and finalize background checks remains excessive, prospects may lose interest and look for opportunities elsewhere.

While not an exhaustive list, I believe the above policies reflect important areas to begin your important work leading the Department of the Interior. I look forward to working with you on these issues; and, I extend an invitation for you to join me in Montana to meet face-to-face with our constituents directly impacted by the Department.

###

Contact:

From:	Casey, Sharon
To:	micah_chambers@ios.doi.gov; Amanda_kaster@ios.doi.gov
Cc:	Beaumont, Melissa; McGrath, William; McKenna, Liam
Subject:	Letter to Secretary Zinke DOI re 114th Document Requests
Date:	Wednesday, March 01, 2017 5:36:49 PM
Attachments:	image003.png 2017-03-01 JEC to Zinke-DOI - 114th Document Requests.pdf

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Attached please find a letter from Chairman Chaffetz of the U.S. House of Representatives Committee on Oversight and Government Reform.

Please acknowledge receipt of this letter.

Thank you,
Sharon Casey

Sharon Ryan Casey
Deputy Chief Clerk
Committee on Oversight and Government Reform
2157 Rayburn Building, Washington, DC 20515
202-593-8219 sharon.casey@mail.house.gov

U.S. HOUSE OF REPRESENTATIVES

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FIFTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States

House of Representatives

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March 1, 2017

The Honorable Ryan Zinke
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Mr. Secretary:

The Committee currently has certain pending requests for documents and information with the Department of the Interior. As the Department transitions to new leadership, I reiterate these requests here. For your ready reference, I have attached them hereto.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

Please have your staff contact Melissa Beaumont of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your cooperation in this matter.

Sincerely,

Jason Chaffetz
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

Enclosures

Attachments

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

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October 16, 2015

The Honorable Neil Kornze
Director
U.S. Bureau of Land Management
1849 C Street NW, Room 5665
Washington, DC 20240

Dear Director Kornze:

The hydraulic fracturing rule finalized by the Bureau of Land Management in March 2015 will impinge on thousands of wells, impose significant costs, and expand federal oversight of hydraulic fracturing operations in the West.[1] As a result, several states, including Utah and Wyoming, Indian tribes and other affected parties, have litigated to prevent the rule from being implemented.[2] On September 30, 2015, a federal judge in Wyoming granted an injunction that blocked the rule on the grounds that BLM exceeded its authority to regulate hydraulic fracturing.[3]

Given the controversy surrounding this rule, and the impact that it will have on the West, the Committee is reviewing the process by which the rule was made. To assist the Committee, please provide the following documents and information:

1. All documents and communications that comprise the full administrative record relating to the hydraulic fracturing rule issued by BLM on or about March 20, 2015.

2. All documents and communications, including, but not limited to, maps, charts, diagrams, photos, logs, illustrations, memoranda, guidelines, orders, instructions, regulations, journals, notes, periodicals, studies, proposals, meeting minutes/agendas, agreements, reports, contracts, matrices, comments, correspondence, lists, and presentations, referring or relating to the hydraulic fracturing rule.

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[1] Michelle Ye Hee Lee, *You can't trust the numbers on the new fracking regs,* WASH. POST, Mar. 30, 2015, *available at* http://www.washingtonpost.com/blogs/fact-checker/wp/2015/03/30/you-cant-trust-the-numbers-on-the-new-fracking-regs/ (last visited Sep. 30, 2015).
[2] Ann Butler, *BLM fracking rule stayed*, DURANGO HERALD, June 24, 2015.
[3] Tom Morton, *Judge Grants Injunction Blocking Fracking in Favor of Energy Groups, States, Tribe*, K2 RADIO WYOMING, Sep. 30, 2015, *available at* http://k2radio.com/judge-grants-injunction-blocking-fracting-in-favor-of-energy-groups-states-tribe/ (last visited Sep. 30, 2015).

It is our understanding that much of this information has already been gathered as part of the litigation process and we expect that BLM will produce those records promptly. Records that BLM has withheld from plaintiffs as privileged should also be produced pursuant to this request.

Please provide the requested information as soon as possible, but no later than 5:00 p.m. on October 30, 2015. An attachment to this letter provides additional information about responding to the Committee's request. When producing documents to the Committee, please deliver production sets to the OGR Majority staff in room 2157 of the Rayburn House Office Building and the OGR Minority staff in room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact Bill McGrath of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,

Jason Chaffetz
Chairman

Cynthia Lummis
Chairman
Subcommittee on the Interior

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

Enclosure

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

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February 4, 2016

The Honorable Neil Kornze
Director
U.S. Bureau of Land Management
1849 C Street NW, Room 5665
Washington, D.C. 20240

Dear Director Kornze:

The Committee has become aware of increasing complaints about Bureau of Land Management activities in Nevada and Utah. State officials have asserted that BLM law enforcement agents use tactics that amount to "bullying, intimidation and . . . lack of integrity."[1] Those tactics have undermined safety in rural communities and strained local law enforcement budgets. In particular, BLM's officers allegedly harass citizens and tourists, interfere with the work of local law enforcement, operate outside of their jurisdictions, and refuse to cooperate with local officials.[2] The situation has led some local counties to declare the presence of BLM law enforcement in Utah and Nevada "a threat to the health, safety and welfare of their citizens."[3]

Last year, BLM law enforcement terminated long-standing contracts with county sheriffs in Utah. Under those agreements, BLM compensated local law enforcement officers for patrolling public lands, handling emergency and rescue operations, and providing crucial police oversight during busy periods.[4] This decision created a law enforcement vacuum in the area and caused serious financial problems for local governments. As one county official from Utah stated, "BLM's Chief of Law Enforcement cancelled the agreement leaving Garfield County with a significant budget shortfall and staff operating in an area without an agreement."[5]

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[1] *Threats, Intimidation and Bullying by Federal Land Managing Agencies, Part II. before the Subcomm. on Public Lands and Envt'l Regulation.*, 113th Cong. (2014) (Testimony of Leland F. Pollock, Commissioner, Garfield Cty, UT), *available at* http://naturalresources.house.gov/uploadedfiles/pollocktestimony7-24-14.pdf.
[2] *Id.*
[3] Brian Maffley, *BLM, Utah Counties Wrangle Over Law Enforcement*, THE SALT LAKE TRIB., June 19, 2014.
[4] *Id.*
[5] *Supra*, note 1.

The press reported on allegations that the contracts were cancelled as retribution for state legislation passed in 2013 to limit federal police powers on public lands.[6]

Moreover, during the summer of 2015, BLM law enforcement demanded a more than $1 million increase to the permit price for the annual *Burning Man* event in Nevada's Black Rock Desert to fund amenities for BLM agents.[7] The demands were unrelated to providing safety and security, and instead included having laundry facilities, 24-hour access to ice cream, air conditioning, and vanity mirrors.[8] BLM eventually withdrew its demands and granted the permit,[9] but only after a significant public outcry, including intervention by Senator Harry Reid (D-NV), who criticized these "outlandishly unnecessary facilities."[10]

In order to help the Committee better understand BLM's changing role, please provide the following documents and information:

1. All documents and communications referring or relating to BLM's decision to terminate or not renew contracts with Utah sheriffs;

2. All documents and communications referring or relating to the BLM permit for *Burning Man* in 2015, and demands made by BLM law enforcement relating to the event;

3. All communications between BLM law enforcement personnel and state and local officials in Utah and Nevada, including elected officials, county commissioners and state/local law enforcement, from January 2009 to the present; and

4. All communications between BLM law enforcement personnel referring or relating to state and local officials in Utah and Nevada, including elected officials, county commissioners and state/local law enforcement from January 2009 to the present.

Please provide the requested information as soon as possible, but no later than by 5:00 p.m. on February 18, 2016. An attachment to this letter provides additional information about responding to the Committee's request. When producing documents to the Committee, please deliver production sets to the OGR Majority staff in room 2157 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

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[6] *Supra*, note 3.
[7] Jenny Kane, *RGJ Exclusive: BLM Wants $1 Million VIP Compound From Burning Man*, RENO GAZETTE JOURNAL, June 26, 2015.
[8] *Id.*
[9] Assoc. Press, *Burning Man Gets Black Rock Site Permit, BLM Scraps 'Lavish' Request*, BILLBOARD, Aug. 10, 2015.
[10] Jenny Kane, *Reid to BLM: You want flush toilets at Burning Man? Go to Gerlach*, RENO GAZETTE-JOURNAL, June 29, 2015.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact Bill McGrath of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,

Jason Chaffetz
Chairman

Cynthia M. Lummis
Chairman
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

Congress of the United States

Washington, DC 20515

March 29, 2016

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

Dear Madam Secretary:

On February 12, 2016, the White House designated 1.8 million acres of land in California for conservation under the Antiquities Act of 1906.[1] The designation, which created three new national monuments in the California desert, nearly doubled the total amount of land set aside as national monuments by the President during his time in office.[2] In fact, the President has used the Antiquities Act to unilaterally designate approximately 265 million acres of land and water as national monuments—far more than any previous President.[3]

The broad and frequent application of the Antiquities Act raises questions about the lack of transparency and consultation with local stakeholders leading up to the President's designation of national monuments. To help the Committees understand how and why certain areas are designated for conservation, please provide the following documents:

1. All documents and communications referring or relating to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from January 1, 2015, to the present.

Please provide the requested information as soon as possible, but no later than 5:00 p.m. on April 12, 2016. When producing documents to the Committees, please deliver production sets to the Committee on Oversight and Government Reform Majority staff in Room 2157 of the Rayburn House Office Building and Minority staff in Room 2471 of the Rayburn House Office Building; the Committee on Natural Resources Majority staff in Room 1324 of the Longworth House Office Building and Minority staff in Room 1329 of the Longworth House Office Building; and to the Committee on Appropriations Majority staff in H-305 of the Capitol Building and Minority staff in 1016 Longworth House Office Building. The Committees strongly prefer to receive all documents in electronic format.

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[1] White House Fact Sheet: President Obama to Designate New National Monuments in the California Desert (Feb. 12, 2016), *available at* https://www.whitehouse.gov/the-press-office/2016/02/12/fact-sheet-president-obama-designate-new-national-monuments-california.

[2] Jenny Rowland, *Obama Designates Three New National Monuments In The California Desert*, CLIMATE PROGRESS, Feb. 12, 2016.

[3] Timothy Cama, *Obama sets aside 1.8M California desert acres as monument*, THE HILL, Feb. 12, 2016.

PRINTED ON RECYCLED PAPER

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. The Committee on Natural Resources has broad jurisdiction with regard to the Department of the Interior and regarding relations of the United States with Native Americans and Native American tribes, public lands generally, fisheries and wildlife, mining interests generally and irrigation and reclamation as well. The Committee on Appropriation's jurisdiction includes the organization and operation of executive departments and agencies.

Please contact William McGrath of the Committee on Oversight and Government Reform staff at (202) 225-5074, or Spencer Kimball of the Committee on Natural Resources staff at (202) 226-7736, or Dave LesStrang of the Committee on Appropriations at (202) 225-2771 with any questions about this request. Thank you for your prompt attention to this important matter.

Sincerely,

Jason Chaffetz
Chairman
Committee on Oversight and Government Reform

Rob Bishop
Chairman
Committee on Natural Resources

Harold Rogers
Chairman
Committee on Appropriations

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member
Committee on Oversight and Government Reform

The Honorable Raul M. Grijalva, Ranking Member
Committee on Natural Resources

The Honorable Nita M. Lowey, Ranking Member
Committee on Appropriations

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May 11, 2016

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

Dear Madam Secretary:

In a letter dated March 29, 2016, this Committee, along with the House Committees on Natural Resources and on Appropriations, requested information related to use of the Antiquities Act of 1906.[1] As outlined in that letter, the Committees are interested in the Administration's process for using the Act. Specifically, the Committees requested documents and communications from the Council on Environmental Quality (CEQ) and the Department of the Interior referring or relating to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from January 1, 2015, to the present. The letter requested these materials by April 12, 2016. A similar request was sent to CEQ.

Since the Department received that letter, it has not provided a single responsive document to the Committees, or even an official response stating when the Department intends to do so. In fact, the Committees have only received an official response from CEQ, which vaguely indicated that the Committees should expect the Department to respond on its behalf at some point in the future. If the Department does not produce these documents voluntarily by 5:00 p.m. on May 25, 2016, the Committee will be required to issue a subpoena to obtain them.

Additionally, in order to better understand the Administration's use of the Antiquities Act, the Committee requests a transcribed interview with DOI employee Nikki Buffa not later than May 25, 2016.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

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[1] Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, Hon. Rob Bishop Chairman, H. Comm. on Nat. Resources, and Hon. Harold Rogers, Chairman, H. Comm. on Appropriations, to Ms. Christy Goldfuss, Man. Dir., Council on Environmental Quality, (Mar. 29, 2016).

Please contact Bill McGrath of the Committee staff at (202) 225-5074 to schedule Ms. Buffa's interview, or with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,

Jason Chaffetz
Chairman

Cynthia M. Lummis
Chairman
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

The Honorable Rob Bishop, Chairman
Committee on Natural Resources

The Honorable Harold Rogers, Chairman
Committee on Appropriations

JASON CHAFFETZ, UTAH
CHAIRMAN

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ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States

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August 4, 2016

The Honorable Neil Kornze
Director
U.S. Bureau of Land Management
1849 C Street NW, Room 5665
Washington, D.C. 20240

Dear Director Kornze:

On October 2, 2015, the Bureau of Land Management (BLM) California State Office issued a decision regarding the Cadiz Valley Water Conservation Recovery and Storage Project's use of a right-of-way on BLM land pursuant to the General Railroad Right-of-Way Act of 1875. For years, the Act has been interpreted to allow railroads to extend rights-of-way to third parties on BLM land without prior authorization from the agency,[1] until a November 4, 2011, memorandum from the Department of the Interior Office of the Solicitor changed this interpretation.[2] After the memorandum, in order for a third party to obtain a railroad right-of-way, the proposed use must advance a railroad purpose.[3] In its recent decision concerning the Cadiz project, BLM decided that the project did not "originate from a railroad purpose" despite the fact that the project brought recognizable benefits to the railroad.[4]

The Committee is concerned that the November 4, 2011, memorandum may have been specifically drafted for the purpose of denying a permit to the Cadiz project. Documents obtained by the Committee also raise concerns about the level of coordination between BLM and private interests with respect to the Cadiz decision.

Emails obtained by the Committee show a Realty Specialist in BLM's California State office regularly communicated with an employee at Whetstone Capital Advisors, LLC about the Cadiz Project and the right-of-way authorization process it was unfolding.[5] Cadiz Inc. is a publicly traded company, and the permit decision would affect the company's financial outlook.

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[1]The General Railroad Right of Way Act of 1875 (Mar 3, 1875), ch. 152, 18 Stat. 482.
[2]Memorandum from the Dep't of the Interior Office of the Solicitor to BLM, "Partial Withdrawal of M-36964-Proposed Installation of MCI Fiber Optic Communications Line Within Southern Pacific Transportation Co.'s Railroad Right-of-Way" (Nov. 4, 2011).
[3]*Id.*
[4]Letter from James Kenna, CA State Dir., BLM, to Jason Perry, Genesse & Wyoming Inc. and Scott Slater, Cadiz, Inc. (Oct. 2, 2015).
[5]Email from Mr. Erik Pignata, Realty Specialist, BLM, to Thomas McGannon, Whetstone Capital (Sept. 23, 2014).

Whetstone is a "Kansas City-based value oriented investment manager," according to the fund's website.[6] Specifically, the emails show the BLM Realty Specialist shared information related to the potential approval of the Cadiz project with Whetstone.[7] He also shared information from a meeting of senior BLM officials regarding the Department's evaluation of the project,[8] and his opinions on how the project was progressing.[9]

The emails obtained by the Committee raise questions about BLM's decision-making process with respect to the Cadiz project. The emails also implicate executive branch ethics guidelines, including Executive Order 12731 which states, "Employees shall act impartially and not give preferential treatment to any private organization or individual."[10] E.O. 12731 also states, "Employees shall not engage in financial transactions using nonpublic government information or allow the improper use of such information to further any private interest."[11]

To help the Committee understand the Department's decision on the Cadiz project, please provide the following documents and information:

1. All documents and communications between any Bureau of Land Management employee and any employee of Whetstone Capital, since June 1, 2014.

2. All documents and communications to or from any employee of the Bureau of Land Management, since June 1, 2014, referring or relating to:

    a. Whetstone Capital;

    b. the partial withdrawal of M-36964 by the Department of the Interior Office of the Solicitor;

    c. The Cadiz Valley Water Conservation Recovery and Storage Project; and

    d. The railroad purpose of the Cadiz Valley Water Conservation Recovery and Storage Project.

Please provide the requested information as soon as possible, but no later than by 5:00 p.m. on August 18, 2016.

---

[6] Whetstone Capital Advisors, LLC website, *available at* http://whetstone-capital.com/home.
[7] Email from Erik Pignata, Realty Specialist, BLM, to Thomas McGannon, Whetstone Capital (June 18, 2015).
[8] Email from Erik Pignata, Realty Specialist, BLM, to Thomas McGannon, Whetstone Capital (Sept. 23, 2015).
[9] Email from Erik Pignata, Realty Specialist, BLM, to Thomas McGannon, Whetstone Capital (Oct. 1, 2015).
[10] U.S. Office of Govt. Ethics, "Executive Order 12731 of October 17, 1990 Principles of Ethical Conduct for Government Officers and Employees," *available at* https://www2.oge.gov/Web/OGE.nsf/All%20Documents/25792F3D2FF647AF85257E96006A90F1/$FILE/f69da5359a134002808b96ca703cc4692.pdf?open.
[11] *Id.*

Additionally, please make Mr. Erik Pignata, BLM Realty Specialist, available for a transcribed interview as soon as possible, but no later than August 18, 2016.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

When producing documents to the Committee, please deliver production sets to the Majority staff in room 2157 of the Rayburn House Office Building and the Minority staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

Please contact Melissa Beaumont of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,

Jason Chaffetz
Chairman

Cynthia M. Lummis
Chairman
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

http://oversight.house.gov

September 9, 2016

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

Dear Madam Secretary:

The Department of the Interior has failed to respond to a series of requests for documents and information related to the Committee's oversight and investigative initiatives. The same challenges that have thus far prevented the Department from complying with the Committee's requests may also be affecting the Department's ability to fulfill its responsibilities under the Freedom of Information Act (FOIA).

To help the Committee understand how and why the Department is unable to comply with document requests in a timely and complete manner, please provide a briefing for Committee staff and a tour of the Department's resources for responding to document requests from Members of Congress and FOIA requests. The briefing and tour will assist the Committee's effort to identify ways by which the Department can improve the timeliness and completeness of its responses to such document requests.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

Please have your staff contact Melissa Beaumont of Chairman Chaffetz' staff at (202) 225-5074 to schedule the briefing and tour, or with any questions about this request. Thank you for your cooperation in this matter.

Sincerely,

Jason Chaffetz
Chairman

Mark Meadows
Chairman
Subcommittee on Government Operations

Cynthia M. Lummis
Chairman
Subcommittee on the Interior

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Gerald E. Connolly, Ranking Member
Subcommittee on Government Operations

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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MINORITY (202) 225–5051

http://oversight.house.gov

December 29, 2016

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

Dear Madame Secretary:

On December 28, 2016, President Obama designated the Bears Ears National Monument in Utah and the Gold Butte National Monument in Nevada pursuant to his authority under the Antiquities Act.[1] Advocates for this action touted it as a means to establish a co-management agreement for Bears Ears between the federal government and a group of Native American tribes.[2] In fact, in the press release announcing these new national monuments, the White House recognizes the importance of tribal participation in the management of the land and asserts this action serves as a tool to achieve co-management.[3] Co-management of public lands, however, requires the approval of Congress.[4] Advocacy organizations, federal agencies, and the White House have all put out differing opinions on co-management, and it is important to clarify the bounds of the President's authority. I am writing to obtain more information about how and why the President exercised his authority in this case.

---

[1] *Rumors point toward possible December 23 designation. Anxiety builds over possible national monument,* SAN JUAN RECORD, Dec. 13, 2016, *available at* http://www.sjrnews.com/view/full_story/27329673/article-Rumors-point-toward-possible-December-23-designation--Anxiety-builds-over-possible-national-monument-?instance=home_news_left.

[2] Amy Jol O'Donoghue, *Native American chairman says Jewell order lacks equality for tribes*, DESERET NEWS, Oct. 21, 2016, *available at* http://www.deseretnews.com/article/865665388/Bears-Ears-coalition-leader-says-Jewell-order-lacks-equality-for-tribes.html?pg=all.

[3] FACT SHEET: President Obama to Designate New National Monuments Protecting Significant Natural and Cultural Resources in Utah and Nevada, , https://www.whitehouse.gov/the-press-office/2016/12/28/fact-sheet-president-obama-designate-new-national-monuments-protecting.

[4] *See U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 565-66 (D.C. Cir. 2004) ("[S]ubdelegations to outside parties are assumed to be improper absent an affirmative showing of congressional authorization . . . . When an agency delegates authority to its subordinate, responsibility—and thus accountability—clearly remain with the federal agency. But when an agency delegates power to outside parties, lines of accountability may blur, undermining an important democratic check on government decision-making. Also, delegation to outside entities increases the risk that these parties will not share the agency's "national vision and perspective . . . ."). *See also High Country Citizens' Alliance v. Norton*, 448 F. Supp. 2d 1235, 1246-1247 (D. Colo. 2006) (similar, citing U.S. Telecom).

The President has exercised his authority under the Antiquities Act to create or expand at least 25 national monuments—more than any other president in history.[5] His sweeping application of the Antiquities Act raises questions about the Administration's commitment to transparency and consultation with local stakeholders with respect to designating national monuments. It also raises serious questions about whether these designations are limited to the, "smallest area compatible with proper care and management of the objects to be protected."[6] The Antiquities Act "was designed to protect federal lands and resources quickly" in response to concerns about "theft from and destruction of archaeological sites."[7] In most cases, however, the processes outlined by the National Environmental Policy Act (NEPA) and the Federal Land Policy Management Act (FLPMA) are most appropriate because they require environmental studies, a review of the public purpose, and an opportunity for public participation before any federal agency action.[8] The NEPA and the FLPMA processes provide for a more thoughtful determination, whereas the Antiquities Act was meant to be reserved for emergency scenarios.

Until yesterday, the Administration's actions with respect to Bears Ears more closely resembled the NEPA and FLPMA process. In anticipation of the Bears Ears designation, the Department of the Interior took on a large role in gathering input and coordinating planning.[9] You, Secretary Jewell, visited the potential site for a listening session.[10] In fact, during a hearing before the Subcommittee on the Interior, Bureau of Land Management (BLM) Director Neil Kornze testified that BLM and the White House have been coordinating.[11] It is therefore unclear why the President opted to designate a massive national monument in Utah via the Antiquities Act in the waning days of his presidency, and to ignore federal environmental and procedural laws enacted to ensure stakeholders and other affected parties have a meaningful role in determining the outcome.

Similarly, the President's actions with regard to the Gold Butte National Monument designation bypassed Congress and the public. Located in Clark County, Nevada, the Gold Butte National Monument spans nearly 300,000 acres.[12] Such a large designation, made unilaterally, deprives the American people and their elected representatives a collaborative discussion on how best to protect the land for all to enjoy. Large designations such as Gold Butte Monument are the type of major federal agency action envisioned by our federal environmental and procedural laws.

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[5] H. Sterling Burnett, *Obama's Dangerous Use of The National Monument law*, FORBES, Oct. 12 2016.
[6] Antiquities Act of 1906, 54 U.S.C. §§320301-320303
[7] Carol Hardy Vincent, "National Monuments and the Antiquities Act," Cong. Research Serv. (2016) (R41330).
[8] *Id.*
[9] Amy Jol O'Donoghue, *Bears Ears Controversy Ramps Up With Jewell's Visit; Bishop's Planned Legislation*, KSL NEWS, July 13, 2016, *available at* https://www.ksl.com/?sid=40632616&nid=148&title=bears-ears-controversy-ramps-up-with-jewells-visit-bishops-planned-legislation.
[10] *Id.*
[11] *Examining BLM Public Lands Leasing Hearing Before the Subcomm. on the Interior of the H. Comm. on Oversight and Gov't Reform,* 114th Cong. 14 (2016) (statement of Neil Kornze, Director, Bureau of Land Management) (Mr. Kornze: "I am talking about looking at the country and figuring out where would this be appropriate, where would it not?" Mr. Gosar: "So there is some conversation going on between the White House and BLM and agencies in regards to antiquities withdrawal?" Mr. Kornze: "Yes.").
[12] *See supra* note 3.

Furthermore, in a letter dated March 29, 2016, this Committee, along with the House Committees on Natural Resources and on Appropriations, requested information related to use of the Antiquities Act of 1906.[13] After receiving an inadequate response, a follow up letter was sent on May 11, 2016.[14] As outlined in both letters, the Committees are interested in the Administration's process for using the Antiquities Act. Specifically, the Committees requested documents and communications from the Council on Environmental Quality and the Department of the Interior (DOI) referring or relating to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from January 1, 2015, to the present.

To date, DOI has only provided a very limited response to the Committee that largely consisted of public statements and news clippings. If the Department does not produce these documents voluntarily, the Committee will be required to obtain them through compulsory measures.

Please immediately provide the documents requested in the Committee's March 29th and May 11th letters. In addition, please produce the following documents as soon as possible, but not later than January 13, 2016:

1. All calendars, including all meetings and attendees, for all DOI employees involved or referenced in any discussions related to any national monument selection or designation.

2. The daily schedules and call logs for Secretary Jewell, Tommy Beaudreau, Nikki Buffa and Neil Kornze from April 21, 2013 to present.

3. All communications between any DOI employee and White House staff, including but not limited to Senior Advisor Brian Deese, between January 2015 and present.

4. All documents and communications referring or related to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from April 21, 2013 to present.

5. All documents and communications related to the reduction in size, limitation, or repeal of a national monument from January 20, 2008 to present.

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[13] Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, Hon. Rob Bishop Chairman, H. Comm. on Nat. Resources, and Hon. Harold Rogers, Chairman, H. Comm. on Appropriations, to Hon. Sally Jewell, Secretary, U.S. Department of the Interior (Mar. 29, 2016).

[14] Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, and Hon. Cynthia Lummis, Chairman, H. Comm. on Oversight and Gov't Reform Subcommittee on the Interior, to Hon. Sally Jewell, Secretary, U.S. Department of the Interior (May 11, 2016).

Additionally, please make available for transcribed interview the following three DOI officials as soon as possible, but not later than January 20, 2016: Bureau of Land Management Director Neil Kornze; your Chief of Staff Tommy Beaudreau; and DOI employee Nikki Buffa.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact Chris Esparza of the Committee staff at (202) 225-5074 to schedule the interviews, or with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,

Jason Chaffetz
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

From:	Barnes, Elmer (Appropriations)
To:	"Hall, Tricia"
Subject:	Final Review of Pages for Department of Interior Hearing Wednesday, March 2, 2016
Date:	Wednesday, March 01, 2017 10:12:56 PM
Attachments:	06MA02_DOI.pdf

Hi Tricia:

Please review the attached pages of your hearing. Could you please let me know by Thursday, March 2, 2017 if you approve or have changes. Also, will you be my contact for the Department of the Interior for the fiscal year 2018 hearings?

Thank you for your help,

Elmer

United States Senate

COMMITTEE ON APPROPRIATIONS

PROOF FOR FINAL REVIEW

Attached please find a PDF file of the Department of the Interior hearing held on Wednesday, March 2, 2016. If you have any changes please mark up the PDF file and send back the marked-up document as a PDF attachment. Inserts can be sent to me by email or fax inserts and/or corrected pages only (202–228–2348).

If you have any questions or concerns about the attachment please don't hesitate to contact me. Also, please send me an email if the final proof is acceptable to you.

Thank you.

DUE DATE: [Thursday, March 2, 2017].

Elmer L. Barnes, Jr.

Editorial and Printing Office
United States Senate

Committee on Appropriations

Office hours: 7 p.m. - 3:30 a.m.
Work: (202) 224-7266
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DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2017

WEDNESDAY, MARCH 2, 2016

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:02 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Lisa Murkowski (chairman) presiding.

Present: Senators Murkowski, Cochran, Blunt, Daines, Cassidy, Udall, Feinstein, Leahy, Reed, Tester, and Merkley.

DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

STATEMENT OF HON. SALLY JEWELL, SECRETARY

ACCOMPANIED BY:
MICHAEL CONNOR, DEPUTY SECRETARY
KRISTEN SARRI, PRINCIPAL DEPUTY ASSISTANT SECRETARY

OPENING STATEMENT OF SENATOR LISA MURKOWSKI

Senator MURKOWSKI. Good morning. I would like to welcome everyone to our first hearing of the Interior Appropriations Subcommittee for fiscal year 2017. We are here to review the budget request for the Department of the Interior.

I would like to welcome our witnesses this morning. We have the Honorable Secretary Sally Jewell, who is accompanied by Deputy Secretary Mike Connor as well as Principal Deputy Assistant Secretary Kris Sarri. Welcome to all of you.

Since this is our first hearing this year, I will just remind colleagues that we will follow past practices and adhere to the early bird rule for recognizing members for questions. I will call on members in the order they arrive, going back and forth between majority and the minority. We will do 6-minute rounds of questions.

My expectation this morning is that we will likely do two to three rounds of questions, depending on votes and schedules of the members and the witnesses. I will try to accommodate everyone so that they have an opportunity to address the issues that they wish to raise.

I also want to thank and welcome my ranking member, Senator Udall. We managed to mark up this bill for the first time in 6 years in fiscal year 2016. While we didn't agree on everything that was in the bill, things were never disagreeable. I really appreciate that.

February 15, 2017 (11:14 p.m.)

I think that my friend from New Mexico has an overall good nature and a passion for the issues that are important to this subcommittee and I greatly respect it. So I am looking forward to another productive year for the subcommittee, working with both you and all the members of the subcommittee.

Turning to the budget request for the Department of the Interior, it is $12.25 billion for programs within this subcommittee's jurisdiction. This includes $290 million for a proposal similar to last year, which allows certain firefighting costs to be appropriated as disaster funds. This total is 2 percent above the enacted level.

But I should note for my colleagues that the department's request does not include funds for the Payments in Lieu of Taxes program (PILT) as part of the discretionary budget.

Funding for PILT was provided within our bill last year at the fully authorized level of $452 million. So when you look at an apples-to-apples comparison to fiscal year 2016, my assessment is that the President's request is roughly 5.8 percent above current levels.

Secretary, as I noted when you appeared before the Energy Committee last week, there are a number of aspects of the President's budget proposal that I do find troubling. It includes a number of mandatory spending proposals without providing any offsets.

Mandatory spending for the Land and Water Conservation Fund (LWCF) is at $425 million without an offset. Similarly, for the National Park Service, the budget proposes mandatory spending of $1.5 billion over a 3-year window, again with no offsets.

This administration has engaged in this somewhat questionable practice of proposing mandatory funding for popular programs with no offsets during the last several budget cycles. This approach raises expectations that funding will materialize when we all know that finding payfors—even for the most popular programs—is extremely difficult in this budget environment.

If the authorizing committees are unable to find offsets in their jurisdiction to pay for these proposals, it puts more pressure on this subcommittee to find funds out of our limited resources.

The budget also prioritizes certain programs within this subcommittee's jurisdiction over others, and essentially places them on autopilot at the expense of other dire needs. Some of those needs, and I am sure we will hear about them this morning, are the needs in Indian country, where our schools are failing and suicide rates are so far above the national average that it is just heartbreaking.

I know, Secretary, that you share concerns about what is headed in Indian Country with me.

The healthcare system is strained to its limits, often providing services in facilities that are over 100 years old.

So you have a situation where funding increases, as proposed for LWCF and the National Park Service, are elevated and prioritized each year among all the programs over which this subcommittee has oversight. This budget appears to have done just that.

I don't want to send the wrong impression here. I will work with the administration and my colleagues on a responsible, bipartisan National Park Service centennial bill. I think that is important. But I do think the $1.5 billion proposal put forward is not realistic. I hope we can be creative in the use of public/private partnerships

and other means to stretch our Federal funding further and to reach consensus on a bill that appropriately celebrates the 100th anniversary of our national parks.

I am also concerned that, yet again, when oil prices have fallen dramatically and many companies are on the verge of bankruptcy, the department indicates in its budget request that it will propose a host of new fees and royalty rate increases on energy producers that will exceed $1.7 billion. There are also new fees on grazing and hard-rock mining.

I just don't see how making it more expensive to do business on public lands is sound policy or good for the United States Treasury.

I am pleased that this budget fully funds contract support costs and adopts the approach that I put forward in the Senate mark for fiscal year 2016, which establishes a separate, indefinite appropriation for these costs to ensure that these legal obligations are met and other programs will not be affected.

We have come a long way since a couple years ago when the administration proposed circumventing the tribes' victory in the Ramah decision and sought to cap these costs. I thank all my colleagues both here in the Senate and in the House for their support in this effort.

Finally, Madam Secretary, there remains King Cove, which is still totally unresolved. We once again discussed this issue last week in your testimony before the Energy Committee. But, again, I don't see anything in this budget request to help those whose lives are in needless danger. You did agree last week, Secretary, to publicly release the nonroad, nonsolutions study that Interior commissioned for King Cove during the budget hearing. When we get to the questions time, I do plan to ask you about the timing on this report.

I have talked to virtually all of my colleagues about the need for a lifesaving road to King Cove. I mention it again here, particularly for the information of members who are not on the Energy Committee, so that they remain aware that I remain committed to do everything in my power as the chairman of that committee and as chairman of the Interior Subcommittee to fight for the construction of this critical road.

With that, I want to thank, again, the Secretary and the Deputy Secretaries, and my colleagues for their appearance here this morning.

And I will now turn to Ranking Member Udall for any comments that he would like to make.

STATEMENT OF SENATOR TOM UDALL

Senator UDALL. Good morning. Thank you, Madam Chair, for those very kind comments at the beginning. I will reciprocate here in a minute with some also.

Good morning, also, Secretary Jewell. We are very pleased to have you appear before the subcommittee to discuss the Department of the Interior's fiscal year 2017 budget request. I am also pleased to welcome Deputy Secretary Mike Connor and Deputy Assistant Secretary Kris Sarri before the subcommittee.

Before we turn to the budget, I want to thank Chairman Murkowski for working with me to produce what I think is a very good

budget for the department in 2016. Madam Chairman, we have had some challenging policy issues to work through, so I am very pleased that we were able to pass a bill that included critical increases for national parks, tribal programs, Land and Water Conservation Fund, and many of the programs that we will discuss this morning.

I also want to recognize, Madam Chair, your hard work and your leadership of this subcommittee. I know it will be a pleasure to work with you again this year, and to work with your very fine staff to support our common interests in this bill.

That said, this subcommittee's job is not going to be easy. Under the Budget Control Act, discretionary spending for nondefense programs is essentially flat in 2017. At the same time, we have to fund certain must-do increases across the Government, including firefighting and tribal contract support costs for this subcommittee. So that flat funding level effectively means a cut.

On paper, the department's discretionary request also looks flat compared to fiscal year 2016, in keeping with the budget caps. But if you dig a little deeper, it is clear that the President used savings from a number of proposals to create room for some significant increases. These proposals include funding part of the firefighting budget with a new disaster cap authorization and providing mandatory funding for the Payment in Lieu of Taxes program.

In fact, when you factor in all the sources of funding, this budget is really a 2 percent increase overall for the department. I like many of the increases that this budget proposes. It provides a 9 percent increase for our national parks and a 5 percent increase for the Bureau of Indian Affairs to support tribal education and social service needs.

I could not agree, Chairman Murkowski, with you more, in talking about the dire state and dire situation in Indian country, in terms of education.

This budget also expands on the increases that we provided in the 2016 omnibus to the Land and Water Conservation Fund (LWCF). It proposes $475 million for LWCF programs funded by this bill, and proposes to transition the program to its full authorized level of $900 million in future years.

There are many important increases as well for wildlife refuges, energy development, science and climate change programs—all very important investments. But let's be clear. Since funding is tight, our ability to fund many of these increases depends on getting agreement to reform the wildland firefighting budget and enacting a long-term mandatory funding source for the Payment in Lieu of Taxes program.

Until we are successful in enacting those changes, we will have to prioritize what we fund very carefully, and that means very tough trade-offs.

The budget also includes some important legislative proposals that I expect we will discuss today. In particular, I want to applaud the administration's leadership to reform energy and mining activities on public lands and make sure that taxpayers are getting a fair return from the development of those lands. I am pleased to see that your budget addresses hard-rock mining reforms, including setting a fair royalty for mining operations on public lands and pro-

posing a hard-rock abandoned mine fee to address legacy cleanup issues.

I have also sponsored legislation to take on this issue. We need real mining reform, and we have needed it for a long time. It makes no sense that we still rely on an antiquated law that is nearly 150 years old as the framework for mining in this country.

Events like the Gold King Mine disaster should serve as a wake-up call for all of us. We have to get serious about cleaning up abandoned mines. There are abandoned toxic mine sites throughout the West. These mines are ticking time bombs. They are releasing a slow-motion stream of lead, arsenic, cadmium, and toxins into water supplies, water we need for drinking, irrigation, and recreation.

The cleanup costs are absolutely astronomical. I have seen estimates between $9 billion and $21 billion. In New Mexico alone, the cost is estimated between $385 million and $840 million.

Today's mining industry has much better standards, but this toxic legacy cannot be left unaddressed. The damage has been done, and taxpayers should not be left holding the bag for the mess as well as for future cleanup costs. The cost of inaction on mining reform has been too great already. We cannot afford to wait, and it is time that we act.

You are doing the right thing, Secretary Jewell, and I want to work with you to enact common-sense reforms.

Thank you again for appearing before us. I look forward to hearing your testimony and having a good discussion and dialogue.

Thank you, Madam Chair.

Senator MURKOWSKI. Thank you, Senator Udall.

We have the chairman of the full Appropriations Committee with us this morning.

Mr. Chairman, would you care to make any comments or statements before we hear from the Secretary?

STATEMENT OF SENATOR THAD COCHRAN

Senator COCHRAN. Madam Chair, I appreciate the recognition. I am delighted to be able to announce that, this year, the City of Natchez, Mississippi, is celebrating its tricentennial anniversary, a very rich history. A historically significant area of the Lower Mississippi River Valley will be brought together with local municipalities and counties in helping make sure that tourists know of this destination site where you will learn a lot and meet a lot of fine people. So come to Natchez and help us celebrate. Thank you.

Senator MURKOWSKI. Thank you, Mr. Chair.

I just had to think, tricentennial. As a State, we are about 58 years old in Alaska. So boy, if that does not remind you——

Senator COCHRAN. To be 58 again. [Laughter]

Senator MURKOWSKI. To be 58 again, yes. America is a beautiful place.

With that, let us go to the Secretary of the Interior. Welcome this morning. We appreciate you being here and look forward to your comments and the questions that will follow.

SUMMARY STATEMENT OF HON. SALLY JEWELL

Secretary JEWELL. Thank you. And congratulations on the tricentennial. It would be fun to be there.

Chairman Murkowski, Ranking Member Udall, Chairman Cochran, and members of the subcommittee, thank you so much for the opportunity to discuss the fiscal year 2017 budget request for the Department of the Interior. This is the administration's final budget, and I want to take the opportunity to thank all of you and your capable staffs for working with me over the last 3 years to help the Department meet its mission for the American people.

I would like also to take a moment to mention the incident at the Malheur National Wildlife Refuge in Harney County, Oregon. Through tremendous patience and professionalism, the FBI, with support from State and local law enforcement, ended the occupation on February 11 as quickly and safely as possible after more than 40 days.

It was an incredibly disruptive and distressing time for our employees, their families, and the Harney County community. I am proud of our Department of the Interior law enforcement personnel who supported the response and helped keep our employees safe.

We continue to cooperate with DOJ, the FBI, and others, as the investigations move forward. And we remain committed to working with local communities on the management of public lands.

Interior's overall fiscal year 2017 budget request is $13.4 billion, a lion's share within this subcommittee. Specifically for programs within this subcommittee's jurisdiction, as mentioned, is $12.3 billion.

It builds on the successes we are achieving through partnerships, the application of science and innovation, and balanced stewardship. It gives us the tools to help communities strengthen resilience in the face of climate change, conserve natural and cultural resources, secure clean and sustainable water, engage the next generation with the great outdoors, promote a balanced approach to safe and responsible energy development, and expand opportunities for Native American communities.

These areas are core to our mission and play a vital rule in job creation and economic growth.

The budget invests in our public lands, providing $5 billion to support operations of our national parks, historical and cultural sites, wildlife refuges and habitats, and managing multiple use and sustained yield on our Nation's public lands.

It focuses investment on important working landscapes like the western Sage-Steppe, and the Arctic, and proposes a 10-year, $2 billion coastal climate resilience program to support at-risk coastal States and local governments, including funding for communities in Alaska to prepare for and adapt to climate change.

As the National Park Service begins its second century, the budget provides $3 billion and includes a proposal to dedicate significant funding to reduce the deferred maintenance backlog. It calls for full and permanent funding of the Land and Water Conservation Fund and extends the expired authority for the Historic Preservation Fund.

It reflects the administration's strategy to more effectively budget for catastrophic wildfires, as you pointed out. And in response to drought challenges across the West, it continues to safeguard sustainable and secure water supplies.

We continue to engage the next generation of Americans to play, learn, serve, and work outdoors with $103 million for youth engagement. This includes mentoring and research opportunities at the U.S. Geological Survey; urban community partnerships; scholarships and job corps training for tribal, rural, and urban youth; and work opportunities within our bureaus. There is $20 million for the Every Kid in a Park initiative, which introduces America's fourth graders to their public lands, providing education programs across the country and transportation support for low-income students.

We continue to promote a balanced approach to safe and responsible energy development that maximizes a fair return for taxpayers with $800 million for renewable and conventional energy development, a $42 million increase. We are on track to meet the President's goals of permitting 20,000 megawatts of renewable energy capacity on public lands by 2020, with nearly $100 million for renewable energy development and infrastructure.

Offshore, this budget supports the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement with funding to reform and strengthen responsiveness, oversight, and safety for oil and gas development.

Onshore, an increase of $21 million supports the Bureau of Land Management's (BLM's) efforts to develop a landscape-level approach to oil and gas development, modernize and streamline permitting, and strengthen inspection capacity.

We are expanding educational and job opportunities for Native American communities with $3 billion for Indian Affairs, a 5 percent increase, to support native youth education, American Indian and Alaskan Native families, public safety, and building resilience to climate change. The President's budget calls for a $1 billion investment in Indian education as part of Generation Indigenous, and $278 million to fully fund contract support costs, a cornerstone of tribal self determination.

The budget supports our commitment to resolve Indian water right settlements and supports sustainable water management in Indian country with $215 million, a $5 million increase.

The budget includes funding to strengthen cybersecurity controls across all agencies. It also invests in science and innovation with $150 million for natural hazards at the USGS, an $11 million increase. Funding will continue development of Landsat 9, a critical new satellite expected to launch in 2021.

This is a smart budget that builds on our previous successes and strengthens partnerships to ensure we balance the needs of today with opportunity for future generations. So thank you, members of the subcommittee. I look forward to any questions you may have.

[The statement follows:]

PREPARED STATEMENT OF HON. SALLY JEWELL

Madame Chairman, Ranking Member Udall, and members of the subcommittee, I am pleased to present the 2017 President's budget for the Department of the Interior providing $13.4 billion for the Department's programs with $290 million avail-

able in the event of catastrophic fires. Of this amount, $12.3 billion is within the jurisdiction of this subcommittee, an increase of $224.4 million with the fire cap adjustment.

This is a strong budget that builds on our accomplishments. Our request enables us to carry out our important missions—maintain our core capabilities, meet commitments, and invest in key priorities. The investments in this request show the administration remains focused on meeting the Nation's greatest challenges looking forward and ensuring our economy works for all.

Our budget is part of the President's broader strategy to make critical investments in domestic and national security priorities while adhering to the bipartisan budget agreement signed into law last fall, and lifts sequestration in future years to continue investment in the future. This budget recognizes the importance of Interior's programs to the overall strength of the Nation's economy. To put this into perspective, in 2014, Interior-managed lands and activities contributed about $360 billion in national economic output, supporting an estimated 2 million jobs. Of this, energy and mineral development on Interior-managed lands and offshore areas generated more than $241 billion in economic activity and supported nearly 1.1 million jobs.

At the same time, our 2017 proposed investments lay the groundwork for promoting renewable energy development, managing the Nation's lands responsibly, helping to protect communities in the face of climate change, and investing in science to inform natural resource management. Our budget features investments to launch the second century of the national parks and expand public accessibility to and enjoyment of America's public lands. It supports tribal priorities in Indian Country, including a $1.1 billion investment to transform Indian schools and education, and provides full funding for tribal contract support costs. This request addresses significant resource challenges for the Nation, including water availability, particularly in the arid West, and makes important investments in America's water infrastructure.

The 2017 budget includes $1.0 billion for research and development activities throughout the Department, an increase of $84.5 million from the 2016 enacted level. Activities supported include scientific analysis of natural systems and applied field research to address specific problems, such as thawing permafrost, invasive species, and flooding. With multiple science programs across the Department's bureaus and offices, science coordination remains a critical component in the process of effective science application. Interior is well served by the deployment of science advisors in each bureau. These advisors serve critical roles within the organizations and across the Department by sharing information concerning new research efforts, identifying and evaluating emerging science needs, and ensuring effective science delivery and application. The Interior 2017 budget reflects high priority needs identified for scientific research across the Department.

THE 2017 BUDGET ADVANCES A RECORD OF ACHIEVEMENT

This budget builds on a record of achievement across Interior's diverse mission. For the past several years, the Department led an unprecedented proactive strategy to develop land use plans with Federal, State, and local partners to address the deteriorating health of America's sagebrush landscapes and the declining population of the Greater sage-grouse. This landscape scale conservation effort is an extraordinary collaboration to significantly address threats to the Greater sage-grouse across 90 percent of the species' breeding habitat. These efforts enabled the U.S. Fish and Wildlife Service to conclude the charismatic rangeland bird does not warrant protection under the Endangered Species Act. This collaborative, science-based strategy is the largest land conservation effort in U.S. history, and helps to protect the species and its habitat while also providing certainty needed for sustainable economic development across millions of acres of Federal and private lands throughout the western United States. The 2017 budget includes $89.7 million for Sage Steppe conservation, an increase of $22.9 million over 2016 enacted.

This budget continues to advance development of renewable energy. Over the summer of 2015, Interior's offshore wind energy leasing efforts led to beginning construction of the first offshore wind farm. This first of its kind project will provide a model for future development of offshore wind energy. Since 2009, Interior has approved 56 wind, solar, and geothermal utility scale projects on public or tribal lands. When built, these projects could provide about 14,600 megawatts—enough energy to power nearly 4.9 million homes and support more than 24,000 construction jobs. The 2017 budget includes $97.3 million for clean energy programs, an increase of $3.1 million over 2016 enacted.

The 2017 budget sustains President Obama's strong commitment to tribal self-determination, strengthening tribal nations, and investing in the future of Native youth. Interior established the Land Buy Back Program which, in only 2 years of active land purchases, invested more than $730 million in Indian Country to restore nearly 1.5 million acres of land to Indian tribes. The effort to improve and transform the Bureau of Indian Education to better serve American Indian and Alaska Native youth is building the foundation for improved student outcomes and enduring traditions and native cultures. In 2016, work will begin to replace the final 2 of 14 Bureau of Indian Education schools identified in 2004 as requiring the greatest need for replacement construction. Also, in 2016, Interior will finalize the next list of replacement schools determined through a negotiated rulemaking process. This budget includes $138.3 million for education construction and maintains a commitment to continue to invest in improving educational opportunities and quality from the earliest years through college.

Interior continues to engage in innovative efforts to leverage youth engagement and partnerships to advance the Department's extraordinary mission. Interior set the goal to provide 40,000 work and training opportunities during 2014 and 2015 for young adults, toward a goal of 100,000 by 2017. Interior met its priority goal—providing 52,596 work and training opportunities over the past two fiscal years by collaborating across all levels of government and mobilizing the 21st Century Conservation Corps. From Denali to the Everglades, members of the youth conservation corps are gaining work experience, helping improve the visitor experience, and mobilizing entire communities in the stewardship of our parks, refuges, waters and heritage. The 2017 budget includes a total of $102.5 million, an increase of $37.6 million over 2016 enacted, for programs to advance youth engagement.

Partnerships are critical to enhancing our public lands and providing additional recreational opportunities to the public. An example of the significant impact of these efforts is the CityArchRiver project is a public-private partnership building connections that enhance downtown St. Louis, the Gateway Arch grounds at the Jefferson National Expansion Memorial, and the Mississippi riverfront. This partnership includes the National Park Service, Missouri Department of Transportation, Great Rivers Greenway District, City of St. Louis, Bi-State Development Agency, CityArchRiver Foundation, and others. In January, the Foundation completed a $250 million capital campaign which means the Foundation has raised $221 million in private funding for construction of the $380 million CityArchRiver project and an additional $29 million to seed an endowment that will help maintain and operate the park moving forward.

PROMOTES THE CONSERVATION AND PROTECTION OF AMERICA'S NATURAL AND CULTURAL RESOURCES

This year, the National Park Service celebrates 100 years of preserving and sharing America's natural, cultural, and historic treasures. Interior's 2017 budget makes investments to connect a new generation to "America's Best Idea," and to care for and maintain our national parks for the next 100 years. Last year, the National Park Service's 410 units welcomed 307 million visitors—setting a new visitation record. Every tax dollar invested in a park returns more than $10 to the U.S. economy.

The budget includes a discretionary increase of $190.5 million to invest in the next century of the National Park Service. This includes a $20.0 million increase for the *Every Kid in a Park* initiative, a $20.0 million increase to the Centennial Challenge program providing a Federal match to leverage partner donations for projects and programs at national parks, and a $150.5 million increase to address high priority deferred maintenance needs across the national park system.

This current funding is complemented by a legislative proposal to provide new mandatory funding, The National Park Service Centennial Act includes $100.0 million a year, for 3 years, for Centennial Challenge projects to provide the Federal match in support of signature projects at park units; $100.0 million a year for 3 years for the Public Lands Centennial Fund, a competitive opportunity for public lands agencies to support conservation and maintenance projects; and $300.0 million a year, for 3 years, for Second Century Infrastructure Investment projects to make a meaningful and lasting impact on the NPS deferred maintenance backlog. The Act also provides authority to collect and retain additional camping or lodging fees and funds collected from purchases of the lifetime pass for citizens 62 years of age or older. Receipts for this Second Century Fund will be matched by donations to fund visitor enhancement projects.

Together, the discretionary and mandatory funding proposals will allow the National Park Service to make targeted, measurable upgrades over the next 10 years

to all of its highest priority, non-transportation assets, restoring and maintaining them in good condition.

America's public lands and waters offer space to get outside and get active, and provide living classrooms with hands-on opportunities to build skills. The administration launched the *Every Kid in a Park* Initiative to inspire the next generation to discover all America's public lands and waters have to offer. Starting with the 2015–2016 school year, all fourth grade students and their families are able to receive free admission to all national parks and other Federal lands for a full year. The National Park Service budget for 2017 includes $20.0 million for *Every Kid in a Park* to introduce at least one million fourth grade students from elementary schools serving disadvantaged students in urban areas to nearby national parks and provide park programs tailored for young people and their families, especially at high visitation and urban parks.

Investments in America's great outdoors create and sustain millions of jobs and spur billions of dollars in national economic activity through outdoor recreation and tourism. An estimated 423 million recreational visits to Interior lands contributed $42 billion to the economy and supported about 375,000 jobs nationwide. The 2017 budget proposes full funding for Land and Water Conservation Fund (LWCF) programs at Interior and the Department of Agriculture. This innovative, highly successful program reinvests royalties from offshore oil and gas activities into public lands across the Nation. Starting in 2017, the budget will invest $900.0 million annually into conservation and recreation projects, equal to the amount of receipts authorized for deposit into the LWCF each year, through a combination of $475.0 million in current discretionary funding and $425.0 million in mandatory funding. These investments will conserve public lands in or near national parks, refuges, forests and other public lands, and provide grants to States for close-to-home recreation and conservation projects on non-Federal lands.

The budget continues efforts to manage and promote the health and resilience of ecosystems on a landscape scale, including a continued focus in priority landscapes such as the California Bay-Delta, the Everglades, the Great Lakes, Chesapeake Bay, and the Gulf Coast. The request includes a total of $79.2 million for Bureau of Land Management efforts, to protect and restore America's vast sage steppe landscape supporting abundant wildlife and significant economic activity, including recreation, ranching and energy development. This investment reflects Interior's continued support of the unprecedented Federal and State collaboration to conserve the imperiled sage steppe landscape in the face of threats from fire, invasive species, expanding development, and habitat fragmentation. The budget also invests $160.6 million in landscape scale efforts to address the complex natural resource issues facing the Arctic.

IMPLEMENTS THE PRESIDENT'S CLIMATE ACTION PLAN

As manager of roughly 20 percent of the land area of the United States and a partner with tribal, Federal, State, local, and territorial government land managers, the Interior Department works to address the challenges of natural hazards brought on by a changing climate as an integral part of its mission. The budget includes funding to improve the resilience of communities and ecosystems to changing stressors, including flooding, severe storm events, and drought as part of the administration's effort to better understand and prepare for the impacts of a changing climate.

The budget proposes $2.0 billion in mandatory funding for a new Coastal Climate Resilience program, to provide resources over 10 years for at-risk coastal States, local governments, and their communities to prepare for and adapt to climate change. This program would be paid for by redirecting roughly half of the savings that result from the repeal of offshore oil and gas revenue sharing payments that are set to be paid to only four States under current law. A portion of these program funds would be set aside to cover the unique impacts of climate change in Alaska where rising seas, coastal erosion, and storm surges are threatening Native Villages that must prepare for potential relocations.

Population growth near forests and rangelands and a changing climate are increasing wildfire risk and resulting costs. The budget calls for a new funding framework for wildland fire suppression, similar to how other natural disasters are addressed. The budget includes base level funding of 70 percent of the 10-year average for suppression costs and an additional $290.0 million through a cap adjustment, available in the event of the most severe fire activity, which comprises only 2 percent of the fires but 30 percent of the costs. This framework allows for a balanced suppression and fuels management and restoration program, with flexibility to ac-

commodate peak fire seasons, but not at the cost of other Interior and U.S. Department of Agriculture missions.

Healthy communities require secure, sustainable water supplies. This is particularly challenging with record drought conditions and increasing demand taxing watersheds throughout the country, especially in the arid West. To help increase the security and sustainability of Western watersheds, the budget continues investment in the Department's WaterSMART program to promote water reuse, recycling, and conservation, in partnership with States, tribes, and other partners. Funding is also included for research, development, and challenge competitions to find longer term solutions through new water technologies. The budget invests in the Nation's water infrastructure to ensure millions of customers receive the water and power that are the foundation of a healthy economy.

POWERS THE FUTURE THROUGH BALANCED ENERGY DEVELOPMENT

To enhance national energy security and create jobs in new industries, the budget invests in renewable energy development programs to review and permit renewable energy projects on public lands and in offshore waters. Under the President's Climate Action Plan, these funds will allow Interior to continue progress toward its goal of increasing approved capacity authorized for renewable—solar, wind, geothermal, and hydropower—energy resources affecting Interior managed lands, while ensuring full environmental review, to at least 16,600 Megawatts (since the end of fiscal year 2009). The budget includes an increase of $2.0 million for the Office of Insular Affairs to provide assistance to implement energy projects identified by the territories in their comprehensive sustainable energy strategies.

To address the continuing legacy of abandoned mine lands on the health, safety, environment, and economic opportunity of communities, the budget proposes $1.0 billion to States and tribes over 5 years from the unappropriated balance of the AML Trust Fund, administered by the Office of Surface Mining Reclamation and Enforcement. As part of the President's POWER+ Plan, the AML funding will be used to target the reclamation of mine land sites and associated polluted waters in a manner that promotes sustainable redevelopment in economically distressed coalfield communities. The budget includes legislative reforms to strengthen the healthcare and pension plans that provide for the health and retirement security of coal miners and their families.

The budget provides support for onshore energy permitting and oversight on Federal lands, with the Bureau of Land Management's discretionary and permanent oil and gas program receiving a 17 percent increase in funding compared to the 2016 enacted level. The funding increase will enhance BLM's capacity to oversee safe, environmentally-sound development and ensure a fair return to taxpayers, with increases targeted to improve leasing processes, implementation of new regulations and rules, and a modernized automated permitting process. The BLM's costs would be partially offset through new inspection fees totaling $48 million in 2017, requiring the onshore oil and gas industry to share in the cost of managing the program from which it benefits, just as the offshore industry currently does.

The budget also supports reforms to strengthen oversight of offshore industry operations following the 2010 *Deepwater Horizon* oil spill, with an additional emphasis on risk management. The budget includes $175.1 million for the Bureau of Ocean Energy Management and $204.9 million for the Bureau of Safety and Environmental Enforcement, which share responsibility for overseeing development of oil and gas resources on the Outer Continental Shelf.

STRENGTHENING TRIBAL NATIONS

The President's budget maintains the administration's strong support for the principle of tribal self-determination and strengthening tribal communities across Indian Country. This commitment is reflected in a nearly 5 percent increase for the Bureau of Indian Affairs over the 2016 enacted level. The budget calls for full funding for contract support costs that Tribes incur from managing Federal programs, complemented by a proposal to secure mandatory funding in future years. The budget provides significant increases across a wide range of Federal programs that serve tribes; proposes a "one-stop" approach to improve and coordinate access to Federal programs and resources; seeks to improve the quality of data by partnering with the Census Bureau; supports sustainable stewardship of land, water, and other natural resources; provides funds for communities to plan, prepare, and respond to the impacts of climate change; and expands resources to promote tribally based solutions and capacity building to strengthen tribal communities as a whole. The budget continues to address Indian water rights settlement commitments and programs to sup-

port tribes in resolving water rights claims, developing water sharing agreements, and supporting sustainable water management.

The budget includes key investments to support Generation Indigenous, an initiative addressing barriers to success for American Indian and Alaska Native children and teenagers. In addition to Interior, multiple agencies—including the Departments of Education, Housing and Urban Development, Health and Human Services, Agriculture, and Justice—are working collaboratively with tribes on new and increased investments to implement education reforms and address issues facing Native youth. The budget provides over $1 billion for Interior investments in Indian education.

IMPROVES OVERSIGHT AND USE OF FEDERAL DOLLARS

Interior has several multi-year efforts underway to reduce its nationwide facilities footprint, and improve the efficiency and effectiveness of its information technology infrastructure and financial reporting capabilities. The budget includes $6.4 million to consolidate building space and reduce costs to the taxpayer for privately leased space. Interior achieved a 4.6 percent reduction—2.1 million square feet—in office and warehouse space between fiscal year 2012 and fiscal year 2015. This represents a net annual cost avoidance of approximately $8 million. In 2016, the modernization of the sixth and final wing of the Main Interior Building will be completed, including infrastructure upgrades that improve energy efficiency and sustainability and reconfigured space to support higher occupancy.

The budget includes $3.0 million for Interior's Digital Services team to increase the efficiency and effectiveness of the agency's highest impact digital services. The budget continues to optimize the Department-wide Financial and Business Management System with targeted investments to improve reporting and increase data quality and transparency, as envisioned in the DATA Act.

The budget includes an increase of $2.6 million to support implementation of Federal Information Technology Acquisition Reform Act, to improve standardization of information technology investments by strengthening the role of the Department's Chief Information Officer in strategic planning, budget formulation and execution, and acquisition of information management and technology activities. The budget includes $34.7 million in the appropriated working capital fund to continue the Department's remediation of its cybersecurity systems and processes, an increase of $24.7 million above the 2016 enacted level. The additional funding will allow the Department to secure its valuable information on behalf of our employees, customers, partners and the American public.

The United States Treasury received $7.2 billion in 2015 from fees, royalties and other payments related to oil and gas development on public lands and waters. A number of studies by the Government Accountability Office and Interior's Office of Inspector General found taxpayers could earn a better return through policy changes and more rigorous oversight. The budget proposes a package of legislative reforms to bolster administrative actions focused on advancing royalty reforms, encouraging diligent development of oil and gas leases, and improving revenue collection processes. The administration is committed to ensuring American taxpayers receive a fair return from the sale of public resources and benefit from the development of energy resources owned by all Americans.

The budget includes legislative proposals related to Reforms of Hardrock Mining. To increase safety and minimize environmental impacts, the budget proposes a fee on hardrock mining, with receipts to be used by States, tribes and Federal agencies to restore the most hazardous sites—similar to how coal Abandoned Mine Lands funds are used. In addition, to ensure taxpayers receive a fair return from mineral development on public lands, the budget proposes a royalty on select hardrock minerals—such as silver, gold and copper—and terminating unwarranted payments to coal producing States and tribes that no longer need funds to clean up abandoned coal mines.

BUREAU HIGHLIGHTS

Bureau of Land Management.—The 2017 request is $1.3 billion, $7.1 million above 2016. This includes $1.2 billion for BLM operations, an increase of $2.1 million above the 2016 enacted level, with $1.1 billion for Management of Lands and Resources and $107.0 million for Oregon and California Grant Lands programs. The change in total program resources from 2016 and 2017 is larger, as the budget proposes offsetting user fees in the Rangeland Management and Oil and Gas Management programs which reduce the total request by $64.5 million.

The budget also includes $44.0 million in current appropriations for LWCF land acquisition, including $8.0 million to improve access to public lands for hunting,

fishing, and other recreation. BLM's LWCF land acquisition investments promote the conservation of natural landscapes and resources by consolidating public lands through purchase, exchange and donation to increase management efficiency and preserve areas of natural, cultural, and recreational importance. The BLM estimates 23 million acres (or nine percent) of BLM-managed public lands lack public access or have inadequate public access, primarily due to checkerboard land ownership patterns. The BLM's proposed land acquisition project within the Rio Grande del Norte National Monument in New Mexico illustrates the many benefits of land acquisition to BLM's mission. An investment of $1.3 million would allow BLM to acquire 1,186 acres of private inholdings within the monument to preserve traditional uses, secure connectivity to the Rio Grande Wild & Scenic Corridor, preserver avian and wildlife habitat, protect prehistoric human habitation sites, and improve recreation and tourism.

Complementing the second century of the parks, the BLM budget includes investments in the National Conservation Lands, which recently celebrated their 15th anniversary. Thirteen new National Conservation Lands units were designated during the current administration and visitation and visitor expectations and demands have consistently increased for the whole National Conservation Lands system during this period. The 2017 budget features a $13.7 million increase to meet basic operating requirements and support critical and overdue investments to effectively safeguard the cultural, ecological, and scientific values for which they were designated and provide the quality of recreational opportunities intended with the National Conservation Lands designation. A program increase of $1.1 million in Cultural Resources Management will enhance BLM's capacity to preserve and protect the vast treasure of heritage resources on public lands and a program increase of $2.0 million in Recreation Resources Management will further implement a National Recreation Strategy to facilitate access to public lands.

The BLM continues to support the President's broad energy strategy, with significant increases requested in 2017 to strengthen its ability to effectively manage onshore oil and gas development on Federal lands. The 2017 budget for oil and gas management activities, including the request for direct and fee funded appropriations and estimated permanent appropriations totals $186.6 million, an increase of $27.6 million in total program resources over the 2016 enacted level.

For direct appropriations, the oil and gas request is a net program increase of $19.9 million. Within this net total, $13.1 million will support implementation of rules and regulations to ensure oil and gas operations are safe, environmentally responsible, and ensure a fair return to the taxpayer. These include new oil and gas measurement and site security regulations, hydraulic fracturing regulations, and venting and flaring regulations. A $2.1 million increase will complete modernization of the Automated Fluid Minerals Support System. The development work associated with Phase II of AFMSS modernization includes new functionality supporting new proposed rules and those currently expected to be finalized in 2016. Overall, the AFMSS modernization project also will support greater efficiencies in oil and gas permitting and inspection activities.

The Oil and Gas Management request also includes a program increase of $2.6 million for oil and gas special pay costs to improve BLM's ability to recruit and retain high caliber oil and gas program staff to provide effective oversight and meet workload and industry demand. Finally, the BLM budget request includes a program increase of $2.8 million to enhance BLM's capability to address high priority legacy wells in the National Petroleum Reserve-Alaska to supplement permanent funds provided in the Helium Security Act of 2013. The 2017 budget continues to request authority to charge inspection fees similar to those in place for offshore oil and gas inspections. Such authority will reduce the net costs to taxpayers of operating BLM's oil and gas program and allow BLM to be more responsive to industry demand and increased inspection workload in the future. A $48.0 million decrease in requested appropriations reflects shifting the cost of inspection activities to fees.

In 2017, BLM will continue to invest heavily in the Greater Sage Grouse Conservation Strategy and the budget includes a program increase of $14.2 million to protect, improve, or restore sage steppe habitat. Funds will also assist States in implementing GSG conservation plans. The BLM's efforts to implement the Greater Sage Grouse Conservation Strategy are also reliant upon successful execution of the National Seed Strategy, which is also integral to the administration's wildland fire rehabilitation efforts and the success of the Secretary's Integrated Rangeland Fire Management Strategy. The budget includes a $5.0 million program increase within Wildlife Management to more aggressively implement the National Seed Strategy.

Other budget highlights include program increases totaling $16.9 million in the Resource Management Planning, Assessment, and Monitoring subactivity. This includes $4.3 million to expand the BLM Assessment, Inventory, and Monitoring pro-

gram for increased data collection and monitoring central to the success of high priority landscape management efforts such as the Western Solar Energy Plan, as well as implementation of the Department's plan for the National Petroleum Reserve-Alaska, the Greater Sage Grouse Conservation Strategy, and the broader landscape mitigation strategy. The request also includes an increase of $6.9 million to accelerate implementation of the BLM enterprise geographic information system, which aggregates data across boundaries to capture ecological conditions and trends; natural and human influences; and opportunities for resource conservation, restoration, development, and partnering. The remaining $5.7 million increase will support high priority planning efforts that could include the initiation of new plan revisions in 2017, as well as plan evaluations and implementation strategies.

Bureau of Ocean Energy Management.—The 2017 President's budget for BOEM is $175.1 million, including $80.2 million in current appropriations and $94.9 million in offsetting collections. This is a net increase of $4.3 million in current appropriations above the 2016 enacted level.

The total 2017 estimate of $94.9 million for offsetting collections is a net decrease of $1.7 million, including reductions in rental receipts partially offset by a new $2.9 million cost recovery fee for the Risk Management Program. An increase in direct appropriations of $6.0 million makes up for the projected decrease in rental receipts.

The budget provides $23.9 million for offshore renewable energy activities. To date, BOEM has issued 11 commercial wind energy leases offshore; conducted 5 competitive wind energy lease sales for areas offshore Maryland, Massachusetts, New Jersey, Rhode Island, and Virginia; and approved the Construction and Operations Plan for the Cape Wind project offshore Massachusetts. Additionally, BOEM is in the planning stages for wind leasing offshore New York, North Carolina, and South Carolina. In 2015, BOEM executed the first wind energy research lease in U.S. Federal waters with the Commonwealth of Virginia's Department of Mines, Minerals, and Energy.

The 2017 budget provides $64.2 million for conventional energy development, a programmatic increase of $4.2 million above 2016. These funds support high priority offshore oil and gas development activities, including lease sales outlined in BOEM's Five Year OCS Oil and Gas Leasing Program for 2012–2017. Under this program, BOEM's eight sales generated over $2.97 billion in high bids. Five lease sales remain on the lease sale schedule through mid-2017. The next lease sales are Eastern Gulf of Mexico Lease Sale 226, Central Gulf of Mexico Lease Sale 241, and Western Gulf of Mexico Lease Sale 248, all scheduled to be held during 2016.

The 2017 provides $68.4 million for BOEM's Environmental Programs. These funds support world class scientific research to provide critical information informing policy decisions regarding energy and mineral development on the OCS.

Bureau of Safety and Environmental Enforcement.—The 2017 President's budget for the Bureau of Safety and Environmental Enforcement is $204.9 million, including $96.3 million in current appropriations and $108.5 million in offsetting collections. The 2017 budget is a net $196,000 increase above the 2016 enacted level, reflecting an increase of $7.9 million in current appropriations and a $7.7 million decrease in offsetting collections. The total 2017 estimate of $108.5 million in offsetting collections assumes decreases from 2016 of $11.5 million for rental receipts, $2.2 million for cost recoveries, and a $6.0 million increase for inspection fee collections. Funding for Oil Spill Research is maintained at the 2016 enacted level of $14.9 million. The 2017 budget supports continued safe and responsible offshore energy development.

Office of Surface Mining Reclamation and Enforcement.—The 2017 budget request is $157.9 million, $82.6 million below the 2016 enacted level.

The 2017 budget for Regulation and Technology is $127.6 million, $4.3 million above 2016. The request includes $10.5 million, $1.8 million above 2016, to improve implementation of existing laws and support State and tribal programs. The 2017 budget includes $65.5 million for State and tribal regulatory grants, this level of funding supports State requirements.

The budget includes program increases of $2.5 million to advance the Bureau's GeoMine Project; $1.2 million for applied science to conduct studies to advance technologies and practices specific to coal mined sites for more comprehensive ecosystem restoration; $1.0 million to expand the use of reforestation techniques in coal mine reclamation and provide opportunities for youth and community engagement; $2.3 million to support Technical Assistance; and $1.6 million for National Environment Policy Act compliance document preparation, legal review, and program monitoring.

The 2017 budget for the Abandoned Mine Reclamation Fund is $30.4 million, $86.9 million below 2016. The 2016 enacted level included a $90.0 million increase for grants to three States for the reclamation of abandoned mine lands in conjunction with economic and community development activities. The 2017 budget pro-

poses a broader legislative effort to support reclamation and economic and community development as part of the administration's POWER+ Plan. POWER+ would provide $200 million per year to target the cleanup and redevelopment of AML sites and AML coal mine polluted waters in a manner that facilitates sustainable revitalization in economically depressed coalfield communities. The budget includes a $1.5 million program increase for technical assistance to States, tribes, and communities to address AML technological advances and issues for AML site reclamation. The budget also includes program increases of $525,000 for applied science studies pertaining to abandoned mines, $799,000 to enhance and expedite current OSMRE efforts in digitizing underground mine maps, and $287,000 for support within the Office of the Solicitor.

U.S. Geological Survey.—The 2017 budget is $1.2 billion, $106.8 million above 2016, to advance our national commitment to research and development that supports economic growth, balances priorities on resource use, addresses climate change, and ensures the security and well- being of the Nation. The budget improves response to and warning of natural disasters, responds to drought and other water challenges, supports sustainable domestic energy and minerals development, and advances scientific understanding of land use, land change, and the effects of resource decisions to assist communities and land managers in making choices informed by sound science.

The 2017 budget invests in the USGS's capabilities for science and innovation to monitor and respond to natural disasters with increases for priority science to help stabilize and rehabilitate ecosystems after fires and provide geospatial information, monitoring strategies, and other relevant scientific information faster for real-time fire response. Related increases build USGS' capability to respond to landslide crises, and expand the use of flood inundation mapping and rapidly deployable streamgages to meet urgent needs of flood-threatened communities lacking a permanent streamgage.

The budget continues $8.2 million to develop the West Coast Earthquake Early Warning system to complete a production prototype system, expand coverage, and beta-test alerts. The budget continues funding of $3.0 million to repair and upgrade monitoring stations on high-threat volcanoes. The budget includes funding to assume long-term operations of the Central and Eastern United States Seismic Network from the National Science Foundation and allows USGS to continue a 5-year effort to deploy, install and improve the Global Seismic Network, ensuring that the Network continues to provide global earthquake and tsunami monitoring, nuclear treaty research and verification, and earth science research.

The budget provides an increase of $18.4 million for science to support sustainable water management, nearly doubling the investment made in 2016. As climate models forecast increasingly frequent and more intense droughts, improving water management science is a paramount concern for land and water management agencies, States, local governments, and tribes. The budget would improve water use information and research, provide grants to State water resource agencies, and create hydrologic models and databases for better decision support. The budget also includes $3.9 million for drought science and $4.0 million to develop methods to assess regional and national water use trends during drought. Innovation is critical to address the severe threats to water supply posed by drought and climate change.

The budget provides increases across several programs to advance understanding of conventional and unconventional energy, critical minerals such as rare earth elements, and the environmental health effects of resource development. These investments include $3.6 million to provide decision ready information to support safe and prudent unconventional oil and gas development, $2.0 million to study the environmental impacts of uranium mining in the Grand Canyon, and $1.0 million to identify and evaluate new sources of critical minerals and continue criticality analysis for mineral commodities.

The USGS budget increases science investments for changing landscapes, including $9.8 million in the Arctic, $3.0 million for the vulnerable sagebrush habitats of the Intermountain West, and $3.9 to improve coastal science that will help communities build resilient coastal landscapes and improve post-storm contaminant monitoring network along the Atlantic coast. The budget also establishes a Great Lakes Climate Science Center to focus on the many natural resource challenges in the distinct bio-geographic Great Lakes region. As with the eight existing Climate Science Centers, the Great Lakes CSC will help address regional concerns associated with climate change, providing a pathway to resilience and supporting local community priorities.

The budget includes increases of $2.1 million to address research on pollinator health and expand the small group of USGS researchers working on this critical component of agricultural and ecosystem health, $1.4 million for tribal climate

science partnerships, and $2.5 million for better tools to detect and control invasive species, particularly new and emerging invasive species. The budget continues a commitment to priority ecosystems including the Chesapeake Bay, the Everglades, Puget Sound, the Upper Mississippi River, the California Bay-Delta, and the Gulf Coast.

The USGS plays a pivotal role in providing research, analysis, and decision support tools. The budget supports these efforts and includes investments to extend the four-decade long Landsat satellite program with the development of Landsat 9, and provide information to better understand and respond to changes in the environment. The 2017 budget provides an increase of $17.6 million for satellite operations, funding the development of Landsat 9 ground systems and satellite operations and an investment to retrieve and disseminate data from the European Space Agency's Sentinel-2 earth observation satellite. The budget provides an increase of $4.9 million to expand the three-dimensional elevation program and leverage partnerships across the Nation, accelerate Alaskan map modernization, and provide coastal imaging to help communities make infrastructure resilience investments. The budget also provides $3.0 million to develop the computing resources necessary to produce and disseminate Landsat-based information products.

High-quality science depends on a strong science infrastructure. The budget makes necessary investments to continue the USGS legacy of reliable, valuable scientific information and monitoring. These investments fund science support, facilities and equipment, including laboratories, and the administrative support that is the backbone of science production and delivery. The 2017 budget also includes program increases to enhance the Mendenhall post-doctoral program, support tribal science coordination, enhance science education, and engage youth in underserved communities in earth and biological sciences through outreach activities and science camps.

Fish and Wildlife Service.—The 2017 budget for FWS includes current appropriations of $1.6 billion, an increase of $54.5 million compared to the 2016 enacted level.

The 2017 request for FWS includes $1.3 billion for FWS operations, of which $506.6 million supports National Wildlife Refuge System operations and maintenance. A feature of the 2017 FWS budget is support to expand opportunities for all Americans to access public lands and experience the great outdoors, regardless of where they live. With 80 percent of the U.S. population currently residing in urban communities near more than 260 wildlife refuges, Interior is leveraging the National Wildlife Refuge System to encourage urbanites to rediscover the outdoors. The request includes $10.0 million for the Refuge System's Urban Wildlife Conservation Partnerships to expand opportunities for urban populations including an increase of $2.0 million for additional Refuge System law enforcement officers to ensure the safety of visitors, natural and cultural resources, and Federal employees and facilities. The budget includes $40.7 million for general Refuge Law Enforcement operations.

The request also includes funding within Law Enforcement and International Affairs to combat wildlife trafficking. The budget provides $75.1 million for the law enforcement program to investigate wildlife crimes, enforce the laws governing the Nation's wildlife trade, and continue cooperative international efforts to prevent poaching and trade in illegal wildlife products. The request includes $15.8 million for the International Affairs Program, an increase of $1.1 million above 2016. This includes increases of $500,000 to provide technical support for international efforts to reduce illegal wildlife trafficking and develop innovative conservation activities. Also within International Affairs, is $550,000 to support the U.S. Chairmanship of the Arctic Council.

The budget invests in resources for the Refuge System which has lost more than 400 staff positions since 2010. The request for the Refuge System is $506.6 million, an increase of $25.2 million above 2016. This includes increases of $1.0 million for pollinator conservation, $3.7 million for wildlife and habitat inventory and monitoring, $2.0 million to establish management capability across 418 million acres of submerged land and water within the Pacific Marine National Monuments, and $4.4 million to begin rebuilding capacity within the Refuge System to improve the condition of refuge system facilities and resources, improve the visitor experience and manage natural resources.

The budget emphasizes improving the resilience of communities and wild landscapes, enabling them to better adapt to a rapidly changing environment, and uses smart investments in conservation and landscape-level planning to improve the Service's ability to facilitate economic growth, while avoiding and mitigating the impacts on wildlife and habitat.

Within the FWS main operating account, the request provides $252.3 million for Ecological Services to conserve, protect, and enhance listed and at-risk species and

their habitat, an increase of $18.3 million. Since 2008, FWS has downlisted or delisted 15 species, more than in any other administration. The increases within Ecological Services include $5.7 million to support conservation, restoration and economic development across the Gulf Coast region and other parts of the Country.

The budget includes $152.8 million for Fish and Aquatic Conservation, a program increase of $4.6 million. Within this request is $53.8 million for operation of the National Fish Hatchery System and $7.9 million to combat the spread of Asian carp in the Missouri, Ohio, upper Mississippi Rivers, and other high priority watersheds. The request also includes an increase of $1.5 million to support fish passage while improving the resilience of communities to withstand flooding.

The budget funds Cooperative Landscape Conservation at $17.8 million, an increase of $4.8 million above 2016. The approach employed by Landscape Conservation Cooperatives to identify landscape scale conservation solutions fosters collaboration across a wide variety of partners and builds capabilities beyond the scale any single State, tribe, Federal agency, or community could achieve alone. The requested increase will support landscape planning and design, and partner cooperation that will improve the condition of wildlife habitat and enhance the resilience of communities.

The 2017 budget for Science Support is $20.6 million, an increase of $3.6 million above 2016. The request includes an additional $1.0 million to expand application of Strategic Habitat Conservation, an approach to conservation that, in cooperation with stakeholders, identifies priority species and habitat, desired biological outcomes, and develops conservation strategies to achieve these outcomes. This approach supports the design of successful management strategies that deliver measureable improvements to wildlife populations and habitats. The FWS will use a program increase of $2.6 million to obtain high priority data and scientific tools needed by on-the-ground resource managers.

The FWS budget includes $137.6 million for LWCF Federal land acquisition, composed of $58.7 million in current funding and $79.0 million in permanent funding. Within the request for current funding, is $19.9 million for high priority acquisition projects focused on FWS specific needs, including $16.0 million for collaborative projects in coordination with partners and other Federal agencies, and $2.5 million to support increased access to FWS lands for sportsmen and recreationists. The FWS requests $2.5 million in discretionary funding for the Everglades Headwaters National Wildlife Refuge and Conservation Area, one of the great grassland and savanna landscapes of eastern North America, to acquire nearly 1,000 acres to help protect high-quality habitat for 278 Federal and State listed species. Acquisition of this property would protect the headwaters, groundwater recharge, and watershed of the Kissimmee Chain of Lakes, Kissimmee River, and Lake Okeechobee region, and improve water quantity and quality in the Everglades watershed, supporting the Comprehensive Everglades Restoration Plan goals and protecting the water supply for millions of people.

Supporting the administration's America's Great Outdoors initiative objectives is $106.0 million for grant programs administered by FWS. The 2017 budget maintains 2016 funding levels for grants through the Cooperative Endangered Species Conservation Fund, North American Wetlands Conservation Fund, Multinational Species Conservation Fund, and the Neotropical Migratory Bird Conservation Fund. Funding for the State and Tribal Wildlife grant program on which many States and tribes rely to fund non-game animal conservation, is an increase of $6.4 million.

National Park Service.—The 2017 President's current budget request for NPS of $3.1 billion is $250.2 million above the 2016 enacted level. Highlights of the 2017 budget include $190.5 million in increases for the NPS Centennial, as well as a focus on the stewardship of natural and cultural resources, including a $20.0 million increase for the Historic Preservation Fund grant programs to document and preserve stories and sites related to the Civil Rights Movement.

The NPS budget request for operations is $2.5 billion, an increase of $154.8 million from 2016. A $2.2 million programmatic reduction to refocus operations funding partially offsets the following increases: $49.2 million for additional repair and rehabilitation projects, $46.6 million for additional cyclic maintenance projects, $20.0 million for the Every Kid in a Park initiative, $10.7 million for new parks and responsibilities, $8.1 million for healthcare insurance for seasonal employees, $3.0 million for climate change adaptation projects, $2.6 million for increased communications bandwidth at parks, $2.0 million for the Vanishing Treasures program, $1.2 million to address energy development near parks, $1.1 million for Arctic science and monitoring, and $1.0 million for uranium mining studies in the Grand Canyon.

The 2017 budget provides a total of $35.0 million for the Centennial Challenge matching program, an increase of $20.0 million. These funds will provide a Federal match to leverage partner donations for signature projects and programs at national

parks into the NPS' second century. All Federal funds must be matched on at least a 50:50 basis. In 2016, Congress appropriated $15 million for projects which will be matched by almost $33 million from more than 90 park partners. This program is bolstered by the administration's legislative proposal to fund an additional $100.0 million a year for 3 years for this program as a permanent appropriation.

The 2017 request for the Historic Preservation Fund is $87.4 million, an increase of $22.0 million from 2016. Of this total, $46.9 million is requested for grants-in-aid to States and Territories, which is level with 2016. A total of $12.0 million is requested for grants-in-aid to tribes, an increase of $2.0 million. The remaining $20.0 million increase is for grants to document and preserve the sites and stories of the Civil Rights Movement; of which $17.0 million is for competitive grants, and $3.0 million is for grants to Historically Black Colleges and Universities.

The 2017 budget includes $54.4 million for National Recreation and Preservation programs that support local community efforts to preserve natural and cultural resources. This is a decrease of $8.2 million compared to 2016. These changes consist of a program reduction of $10.4 million to Heritage Partnership Programs; and programmatic increases of $0.9 million for modernization and digitization in the National Register program, $0.8 million for the Preservation Technology and Training grants program, $0.3 million for the Federal Lands to Parks program, and fixed costs increases.

Construction funding totals $252.0 million, $59.1 million above 2016. This request provides funding critical to the implementation of the Centennial initiative to make a meaningful impact on the NPS deferred maintenance backlog. The budget includes $153.3 million for line-item construction projects, a $37.1 million increase, which will fund projects such as the $13.2 million rehabilitation of the Paradise Inn Annex and snow bridge connection at Mount Rainier National Park in Washington, and $13.9 million for the final phase of the rehabilitation of the El Portal sanitary sewer to prevent raw sewage spills at Yosemite National Park in California.

The 2017 current funding request for LWCF Land Acquisition and State Assistance is $178.2 million, an increase of $4.6 million from 2016. This includes $110.0 million for State Assistance grants, maintaining the increase provided in 2016. The budget requests $68.2 million for Federal Land Acquisition, an increase of $4.6 million. This provides $26.6 for projects addressing NPS specific needs, $10.8 million for collaborative acquisition projects, $2.0 million for projects to improve recreation access, and $10.0 million for American Battlefield Protection Program acquisition grants. A high priority for NPS, the Hawaii Volcanoes National Park is also part of the Island Forests at Risk collaborative landscape proposal. An investment of $6.0 million would allow NPS to begin acquisition of a parcel which protects the hawksbill and Green turtles, and island monk seal habitat, and contains anchialine pond communities and coastal strands of endangered plants. Significant archaeological sites, cultural landscapes, petroglyphs and ancient trails are also present. Time is a concern as the area faces potential rezoning from conservation to medium density urban and resort development.

Indian Affairs.—The 2017 President's budget for Indian Affairs is $2.9 billion in current appropriations, $137.6 million above the 2016 level. Funding for the main operating account for Indian Affairs, Operation of Indian Programs is $2.4 billion, $127.9 million above 2016. The 2017 request for Construction is $197.0 million, $3.0 million above 2016.

The 2017 budget supports continuing efforts to advance self-governance and self-determination, improve educational outcomes for American Indian children, support human services activities, prudently manage tribal natural resources, build stronger economies and self-sufficiency, and maintain safer Indian communities.

Key to self-governance and self-determination is full funding for Contract Support Costs. The 2017 request includes $278.0 million for Contract Support Costs, $1.0 million above 2016, which will fully fund these costs based on the most recent analysis. As in the 2016 enacted bill, the budget requests funding for Contract Support Costs in a separate dedicated current account. To further stabilize long-term funding, the 2017 budget includes a legislative proposal to reclassify these costs as permanent funding beginning in fiscal year 2018.

The Interior budget proposes a $1.1 billion investment in Indian education and construction to continue to support the transformation of the BIE to support tribes in educating their youth, and deliver an improved and culturally appropriate education across Indian Country. The budget includes $49.3 million in increases across a number of programmatic areas in BIE related to the transformation.

The budget includes $138.3 million for Education Construction, maintaining the $63.7 million increase provided in 2016. The request will provide the funding stability necessary to develop an orderly education construction pipeline and properly pace projects. The 2016 enacted appropriation will replace two remaining BIE school

campuses on the 2004 priority list—Little Singer Community School and Cove Day School, both in Arizona—and support planning for the schools identified on the new school replacement construction list nearing finalization. The 2017 funding will be applied to construction costs for projects chosen from the new list.

To further higher education, the budget includes increases of $9.4 million for scholarships, adult education and tribal colleges and universities; and $3.6 million for Johnson O'Malley education grants to provide additional resources to tribes and organizations to meet the unique and specialized educational needs of American Indian and Alaska Native students.

To foster public-private partnerships to improve the student experience at BIE-funded schools, the 2017 budget again proposes appropriations language enabling the Secretary to reactivate the National Foundation for American Indian Education. The proposed bill language will initiate a foundation focused on fundraising to create opportunities for Indian students in and out of the classroom.

As part of the President's commitment to protect and promote the development of prosperous tribal communities, Indian Affairs proposes to expand the Tiwahe "family" initiative. This effort takes an integrated approach to address the inter-related challenges impacting the lives of youth, families, and communities in Indian Country—including poverty, violence, and substance abuse. The Tiwahe approach seeks to empower individuals and families through health promotion, family stability, and strengthening communities as a whole.

The 2017 budget expands the Tiwahe initiative with increases totaling $21.0 million for programs in social services, Indian Child Welfare Act, housing, tribal courts, and job placement and training. To better focus funding and evaluate outcomes in meeting social service needs in Indian Country, the Department will evaluate social service and community development needs in Indian Country in 2016. The evaluation will inform programmatic design, assessments, management, and budgeting.

The budget contains a number of increases to support tribal nation-building and economic development. The budget includes $4.0 million for a Native One-Stop Support Center to make it easier for tribes to find and access hundreds of services available to tribes across the Federal Government. The 2017 budget includes $1.0 million to help tribes adopt uniform commercial codes which help build the legal infrastructure on reservations to promote credit and other capital transactions. The budget provides $12.0 million to enable Interior to work with American Indian/Alaskan Native communities to improve Federal data quality and availability, to create a reimbursable agreement with the Census Bureau to address data gaps in Indian Country, and to create an Office of Indian Affairs Policy, Program Evaluation, and Data to support effective, data-driven, tribal policy making and program implementation. The budget also proposes $1.3 million increase for the Small and Needy Tribes program to assist eligible tribes in expanding and sustaining tribal governance.

The 2017 budget strongly supports sustainable stewardship of trust lands, natural resources, and the environment in Indian Country. These priorities include the protection and restoration of ecosystems and important landscapes; stewardship of land, water, ocean, and energy resources; resilience in the face of a changing climate; and clean and sustainable energy development.

The budget provides a $15.1 million program increase over 2016 across eight natural resource programs to support tribes in developing science, tools, training, planning, and implementation of actions to build resilience into resource management, infrastructure, and community development activities. Funding will be set-aside to support Alaska Native Villages in the Arctic and other critically vulnerable communities to evaluate options for the long-term resilience of their communities. The budget also includes $2.0 million to address subsistence management in Alaska to better prepare for the impacts of climate change, as part of an ongoing commitment to improve the Nation's resilience. In addition, the budget includes a total increase of $8.7 million for trust real estate service activities to reinforce the stewardship of trust resources. The expanded capacity will address the probate backlog, land title and records processing, geospatial support needs, and database management in addition to providing expanded technical and legal support for authorized settlements involving tribal water rights.

The 2017 budget request for Indian Land and Water Claim Settlements is $55.2 million, a $5.7 million increase over the 2016 enacted level for payments on enacted settlements. The budget includes $25.0 million for the final payment to the Aamodt settlement and $10.0 million in one-time funding to provide the Yurok Tribe, located in Northern California, funds to acquire lands as authorized in the Hoopa-Yurok Settlement Act. This acquisition supports efforts by the Yurok Tribe, State of California, private foundations and individual donors to conserve over 47,000 acres of the Klamath-Siskiyou ecoregion to ensure the long-term health of temperate forests, rare wildlife, and extraordinary runs of wild salmon. The land, to be conserved as

a salmon sanctuary and sustainable community forest, will restore the Yurok Tribe's historic connection to the land, support the Yurok economy through jobs in forestry and restoration, and provide revenue to the tribe through sustainable timber and salmon harvests and the sale of carbon credits. The budget also includes increases totaling $12.9 million in the Operation of Indian Programs account to provide expanded technical and legal support for tribal water rights settlement negotiations and implementation. A reduction of $29.2 million in the settlement account reflects completion of the Taos Pueblos water settlement in 2016.

The 2017 budget request for the Indian Guaranteed Loan Program is $7.8 million, the same as 2016, which will provide loan guarantee and insurance authority for $106.0 million in loan principal to support Indian economic development.

Departmental Offices.—The 2017 budget request for Departmental Operations is $278.4 million, a decrease of $443.4 million below the 2016 enacted level. The decrease reflects a reduction of $452.0 million associated with the Payments in Lieu of Taxes program. In 2017, the budget proposes to fund PILT as permanent funding not subject to appropriation. State and local governments depend on PILT funding to finance such vital services as firefighting and police protection, construction of public schools and roads, and search and rescue operations. Providing a mandatory source of funding will create greater certainty that PILT investments will be available in future years. The budget proposes mandatory PILT funding for 1 year, while a sustainable long-term funding solution is developed for the program.

The budget proposes program increases of $1.5 million for work with the National Invasive Species Council to develop an Early Detection Rapid Response framework. Early detection and rapid response (EDRR) has the potential to result in significant cost savings, as compared to battling invasive species such as Asian carp, cheatgrass, and emerald ash borer once established. The EDRR request support multiple pilot projects to demonstrate early detection and rapid response approaches, as well as conducting assessments to identify current capacities and gaps in capacities to implement EDRR.

The budget includes $1.0 million for Native Hawaiian community development through capacity building and technical assistance. This request will allow the Department to provide support to Native Hawaiians similar to the capacity building and technical assistance the Department provides to other Native Americans, and the Insular areas consistent with the Hawaiian Homes Commission Act and Hawaiian Homes Land Recovery Act. The Department will work with the Native Hawaiian community on a variety of economic, social, and cultural projects.

The 2017 Budget includes critical investments to ensure effectiveness and compliance of Interior information technology investments. The request includes $3.0 million to develop a Digital Service Team responsible for driving the efficiency and effectiveness of the Department's highest-impact digital services. Additional information technology investments are proposed under the Working Capital Fund appropriated account.

Within the request for Departmental Operations is $129.3 million for Office of Natural Resources Revenue's receipts management programs, $3.8 million above 2016. The increase includes $968,000 to fully fund Osage Trust Accounting responsibilities in compliance with the Osage settlement agreement; $1.0 million to expand Geospatial Information Systems; and $1.2 million to strengthen ONRR's audit and compliance mission activities.

The 2017 request for the Office of Insular Affairs is $102.7 million, $12.4 million above the 2016 level excluding Palau Compact Extension funding of $13.1 million. The 2017 budget proposes $149.0 million in permanent funding to support enactment of a new Compact with Palau. The appropriated funding request includes increases of $4.0 million for community, landscape and infrastructure adaptation and resilience initiatives; $3.9 million to improve health and safety conditions in insular school facilities; $2.0 million to implement energy projects; $2.0 million for Coral Reef Initiative and Natural Resources; $1.6 million for direct technical assistance grants; and $1.0 million to support invasive species eradication efforts, including the coconut rhinoceros beetle and little fire ant. Brown Treesnake Control is funded at $3.0 million, a program decrease of $500,000, reflecting completion of an automated aerial bait system in 2015. The budget requests $3.3 million for Compact of Free Association, level with 2016, excluding $13.1 million provided for Palau Compact Extension in 2016.

The budget includes $69.4 million for the Office of the Solicitor, $3.6 million above 2016 to support additional personnel and necessary legal services for delivering the Department's mission. The Office of the Solicitor's ability to provide early and continuous legal counsel in new priority areas to ensure that developing programs are grounded in established legal principles and precedents is absolutely vital. The requested increase will allow the Office of the Solicitor to provide the much needed

preventive assistance that is lost to the demands of non-discretionary litigation. The additional funding will also be used to restart the Honors Program, where recent law graduates are hired at the entry level and trained to assume senior positions. This program will ensure DOI has experienced lawyers as many senior staff becomes eligible for retirement.

The request for the Office of the Inspector General is $55.9 million, $5.9 million above 2016 to support audits concerning Offshore Energy Oversight, Indian Country, and Cybersecurity, and Offshore Energy Investigations.

The Office of the Special Trustee request is $140.4 million, $1.4 million above 2016. The budget includes increases of $1.5 million to provide additional estate planning opportunities to Indian Trust beneficiaries; $1.3 million for an appraiser training program to address the shortage of qualified appraisers and the resulting delays in completing appraisal evaluations; $1.5 million to enhance talent management capabilities and systems automation; and less than $400,000 to modernize and improve business processes and enhance the Trust Funds Accounting System. These increases are partially offset by a $3.4 million reduction in funding for Historical Trust Accounting based on anticipated workload levels.

Department-wide Programs.—The 2017 request for the Department's Wildland Fire Management program is $824.6 million without the proposed fire cap adjustment, and $1.1 billion including the adjustment. The base budget includes $276.3 million for fire suppression, which is 70 percent of the 10 year suppression average spending. The cap adjustment of $290.0 million covers the remaining 30 percent of the 10-year average and provides a contingency. The cap adjustment would only be used for the most severe fires, since it is 2 percent of the fires that cause 30 percent of the costs. The new budget framework for Wildland Fire Management eliminates the need for additional funds through the FLAME Act.

The 2017 budget includes $179.1 million for Fuels Management and Resilient Landscapes subactivities, $9.1 million above 2016 enacted. Of this, $30.0 million is proposed in a new Resilient Landscapes subactivity to build on resilient landscapes activities supported by Congress in 2015 and 2016. This equates to a $20.0 million increase for the program to take better advantage of the shared goals of bureau resource management programs to treat large landscapes to achieve and maintain fire-adapted ecosystems that both reduce the threat of catastrophic wildfire and achieve restoration and other ecological objectives. The increase for Resilient Landscapes is partially offset with a program realignment of $21.7 million in the Fuels Management program from 2016.

Other highlights in the Wildland Fire Management budget include an increase of $6.9 million in Preparedness to maintain or strengthen initial and extended attack capacity. Specific increases include $2.8 million to enhance the initial attack capability of rural fire departments and rural fire protection associations. The budget includes program increases of $1.6 million to purchase replacement vehicles for the BIA fire program and $1.5 million to cover utility costs for the Alaska Fire Service's leased space. The budget includes $20.4 million for Burned Area Rehabilitation, a $1.5 million increase to address greater post-fire rehabilitation needs caused by the 2015 and 2016 fire seasons; and $10.0 million for Facilities Construction and Deferred Maintenance, a $3.6 million increase to address the deferred maintenance backlog.

The 2017 budget request for the Central Hazardous Materials Fund is $13.5 million, $3.5 million above 2016, to fund the remedial design for the Red Devil Mine cleanup in Alaska. The 2017 request for Natural Resource Damage Assessment and Restoration is $9.2 million, $1.5 million above 2016 to increase restoration activities.

The 2017 budget proposes $111.5 million for the appropriated portion of the Department's Working Capital Fund, $44.4 million above 2016. The majority of the increase, $24.7 million, continues cybersecurity remediation in the wake of the serious cyber intrusions experienced during 2015. Other increases include: $10.2 million to support the Department's multi-year effort to implement requirements identified under the Digital Accountability and Transparency Act, known as the DATA Act, and monitor compliance; $5.2 million for the Department's Office Consolidation Strategy; $2.6 million to fund Federal Information Technology Acquisition Reform Act coordination and reporting activities for the Department; $1.0 million for Cultural and Scientific Collections; and $702,000 for Service First activities.

LEGISLATIVE PROPOSALS

The 2017 President's budget includes a suite of legislative and offsetting collection proposals affecting spending, revenues, and available budget authority that require action by the congressional authorizing committees. These mandatory proposals address a range of administration priorities, from investing in high-priority conserva-

tion and recreation programs to achieving a fair return to the American taxpayer from the sale of Federal resources and reducing unnecessary spending. The 2017 budget includes seven spending proposals with an estimated $18.0 billion in outlays over the next decade. This spending is partially offset by revenue and savings proposals to reduce outlays from the Treasury by an estimated $4.5 billion over the next decade.

Gulf of Mexico Energy Security Act and the Coastal Climate Resilience Program.—The administration is committed to ensuring American taxpayers receive a fair return from the sale of public resources and taxpayers throughout the Country benefit from the development of offshore energy resources owned by all Americans. The Gulf of Mexico Energy Security Act of 2006 opened some additional areas in the Gulf of Mexico for offshore oil and gas leasing, while maintaining moratoria on activities east of the Military Mission Line and within certain distances from the coastline of Florida. The Act provides that 37.5 percent of Outer Continental Shelf revenues from certain leases be distributed to just four coastal States—Alabama, Louisiana, Mississippi, and Texas—and their local governments based on a complex allocation formula. The administration proposes to repeal GOMESA revenue-sharing payments to these select States from Gulf of Mexico oil and gas leases, which are set to expand substantially starting in 2018.

More than half of the savings, $2.0 billion, from the repeal of GOMESA revenue sharing payments to States will be redirected to a new Coastal Climate Resilience Program to provide resources for at-risk coastal States, local governments, and their communities to prepare for and adapt to climate change. A portion of these program funds would be set aside to cover the unique impacts of climate change in Alaska where some native villages are so threatened by rising seas, coastal erosion, and storm surges, that they must prepare for potential relocation.

Historic Preservation Fund.—The budget includes a legislative proposal to extend the authority to deposit $150.0 million in receipts from offshore oil and gas revenues annually into the Historic Preservation Fund.

Bureau of Indian Affairs Contract Support Costs.—The budget includes a legislative proposal to reclassify funding for the existing Contract Support Costs program from discretionary to mandatory beginning in fiscal year 2018. The budget proposes to adjust the discretionary budget caps to reflect the reclassification to mandatory funding. New contract support cost estimates will be provided on a 3-year cycle as part of the reauthorization process.

POWER+ Accelerate AML Distribution for Mine Cleanup and Economic Recovery.—The budget proposes to allocate a portion of the remaining unappropriated balance of the Abandoned Mine Lands Fund to target the cleanup and redevelopment of AML sites and AML coal mine polluted waters in a manner that facilitates sustainable revitalization in economically depressed coalfield communities. The proposal will provide $1.0 billion over 5 years to States based on AML program and economic eligibility factors—such as the unemployment rate of coal mining regions—and remaining priority coal problems, including abandoned mine drainage, where reclamation linked to job creating economic development strategies will help revitalize impacted communities.

United Mineworkers of America Pension Reform.—The budget proposes to better provide for retired coal miners and their families by revising the formula for general fund payments to the 1993 UMWA Health Benefit Plan. The new formula will consider all beneficiaries enrolled in the plan as of enactment, as well as those retirees whose health benefits were denied or reduced as the result of a bituminous coal industry bankruptcy proceeding commenced in 2012. Additionally, the proposal will transfer funds through the Pension Benefit Guaranty Corporation to the trustees of the 1974 UMWA Pension Plan to ensure the plan's long-term solvency. The plan, which covers more than 100,000 mineworkers, is underfunded and approaching insolvency. The new formula will provide an additional $375.0 million to the UMWA in 2017 and $4.2 billion over 10 years.

Land and Water Conservation Fund.—The budget proposes $900.0 million in combined current and mandatory funding in 2017, and starting in 2018, the budget proposes permanent authorization of $900.0 million in mandatory funding for LWCF programs in the Departments of the Interior and Agriculture. During a transition to mandatory funding in 2017, the budget proposes $425.0 million for mandatory funding and $475.0 million for current funding, to be shared by Interior and Agriculture.

National Parks Centennial Act.—The budget proposes enactment of legislation, the National Park Service Centennial Act, to honor the Park Service's 100th anniversary. The Act specifically authorizes the following: $100.0 million a year for 3 years for the Centennial Challenge to leverage private donations; $300.0 million a year for 3 years for NPS deferred maintenance; and $100.0 million a year for 3

years for a Public Lands Centennial Fund, which will competitively allocate funds for projects on public lands to enhance visitor services and outdoor recreation opportunities, restore lands, repair facilities, and increase energy and water efficiency. The availability of mandatory funding to address deferred maintenance and other conservation projects will allow NPS to plan ahead more efficiently to achieve significant results. Stable and predictable funding streams will allow projects to be appropriately scheduled and phased for more effective project delivery and completion. The proposal includes the authority to collect additional camping or lodging fees, and funds from purchases of the lifetime pass for citizens 62 years of age or older. Receipts for this Second Century Fund will be matched by donations in order to fund visitor enhancement projects. The impact of this new revenue source is estimated at $40.4 million in 2017. Also included is a proposal to establish a program to allow a Visitor Services Management Authority to award and manage contracts for the operation of commercial visitor services programs and activities.

Federal Land Transaction Facilitation Act.—The budget proposes to reauthorize this Act which expired on July 25, 2011, to allow lands identified as suitable for disposal in recent land use plans to be sold using this authority. The sales revenue will be used to fund the acquisition of environmentally sensitive lands and administrative costs associated with conducting the sales.

Recreation Fee Program.—The budget proposes legislation to permanently authorize the Federal Lands Recreation Enhancement Act, authorized through September 30, 2017. The program currently brings in an estimated $335 million in recreation fees annually under this authority that are used to enhance the visitor experience on Federal land recreation sites.

Federal Oil and Gas Reforms.—The budget includes a package of legislative reforms to bolster administrative actions to reform management of Interior's onshore and offshore oil and gas programs, with a key focus on improving the return to taxpayers from the sale of these Federal resources and on improving transparency and oversight. Proposed statutory and administrative changes fall into three general categories: advancing royalty reforms, encouraging diligent development of oil and gas leases, and improving revenue collection processes. Collectively, these reforms will generate roughly $1.7 billion in revenue to the Treasury over 10 years, of which $1.2 billion will result from statutory changes. Many States also will benefit from higher Federal revenue sharing payments as a result of these reforms.

Palau Compact.—On September 3, 2010, the U.S. and the Republic of Palau successfully concluded the review of the Compact of Free Association and signed a 15-year agreement that includes a package of assistance. The budget assumes authorization of mandatory funding for the Compact in 2017 to strengthen the foundations for economic development in Palau by developing public infrastructure and improving healthcare and education. The cost for this proposal for 2017–2024 is $149.0 million.

Payments in Lieu of Taxes.—The budget proposes to extend PILT mandatory funding for an additional year with the current PILT payment formula based on the amount of Federal land within an eligible unit of local government, its population, and certain other Federal payments the local government may receive. The cost of a 1 year extension of the PILT program is estimated to be $480.0 million in 2017.

Reclamation of Abandoned Hardrock Mines.—The budget proposes to create an Abandoned Mine Lands Program for abandoned hardrock sites financed through a new AML fee on hardrock production on both public and private lands. The fee is estimated to generate $1.8 billion through 2026 to reclaim the highest priority hardrock abandoned sites on Federal, State, tribal, and private lands.

Reform Hardrock Mining on Federal Lands.—The budget proposes to institute a leasing program under the Mineral Leasing Act of 1920 for certain hardrock minerals, including gold, silver, lead, zinc, copper, uranium, and molybdenum, currently covered by the General Mining Law of 1872. Half of the receipts will be distributed to the States in which the leases are located and the remaining half will be deposited in the U.S. Treasury. The proposal is projected to generate revenues to the U.S. Treasury of $80.0 million over 10 years, with larger revenues estimated in following years.

Return Coal Abandoned Mine Land Reclamation Fees to Historic Levels.—The budget proposes legislation to modify the 2006 amendments to the Surface Mining Control and Reclamation Act, which lowered the per-ton coal fee companies pay into the AML Fund. The proposal would return the current fee of 28 cents per ton of surface mined coal to 35 cents a ton, the same level companies paid prior to the 2006 fee reduction. The additional revenue, estimated at $258 million over 10 years, will be used to reclaim high priority abandoned coal mines and reduce a portion of the estimated $6.0 billion needed to address remaining dangerous coal AML sites nationwide.

Termination of AML Payments to Certified States.—The 2017 budget proposes to discontinue unrestricted payments to States and tribes certified for completing their coal reclamation work. This proposal terminates all such payments with estimated savings of $520.0 million over the next 10 years.

Termination of EPAct Geothermal Payments to Counties.—The 2017 budget proposes to repeal Section 224(b) of the Energy Policy Act of 2005 to permanently discontinue payments to counties and restore the disposition of Federal geothermal leasing revenues to the historical formula of 50 percent to the States and 50 percent to the Treasury. This results in estimated savings of $41.0 million over 10 years.

Bureau of Land Management Foundation.—The budget proposes to establish a congressionally chartered National BLM Foundation to leverage private funding to support public lands, achieve shared outcomes, and focus public support on the BLM mission.

National Foundation for American Indian Education.—The budget proposes appropriations language enabling the Secretary to reactivate a foundation created by Congress in 2000 to generate private donations in support of the mission of the Bureau of Indian Education. The proposal will allow the foundation to start anew to obtain nonprofit tax exempt status, with a new Board of Directors focused on making the foundation a successful fund raising entity.

Migratory Bird Hunting and Conservation Stamp Act—Duck Stamp.—The budget includes a legislative proposal to provide limited authority to increase the price of a Duck Stamp, with the approval of the Migratory Bird Conservation Commission, to keep pace with inflation.

Wildland Fire Suppression Disaster Cap Adjustment.—The budget proposes to amend the Balanced Budget and Emergency Deficit Control Act to establish a new framework for funding Fire Suppression Operations to provide stable funding, while minimizing the adverse impacts of fire transfers on the budgets of other programs. Under this new framework, the 2017 budget request covers 70 percent of the 10-year suppression average within the domestic discretionary cap or $276.3 million for the Department of the Interior. This base level ensures the cap adjustment will only be used for the most severe fire activity as 2 percent of the fires incur 30 percent of the costs. Only extreme fires that require emergency response or are near urban areas or activities during abnormally active fire seasons—which rightly should be considered disasters—will be permitted to be funded through the adjustment to the discretionary spending limits. For 2017, the request for the budget cap adjustment for the Department is $290.0 million. The cap adjustment does not increase overall spending, as the ceiling for the existing disaster relief cap will be reduced by the same amount as the increase required for fire suppression.

OFFSETTING COLLECTIONS AND FEES

Bureau of Ocean Energy Management Risk Management Fee.—The budget proposes appropriations language for a new cost recovery fee to recoup funds for services rendered by the Risk Management Program. The program is critical to protecting the American taxpayer from becoming financially responsible for liabilities associated with oil and gas and renewable energy operations on the Outer Continental Shelf. This proposed fee will generate an estimated $2.9 million annually, fully offsetting the requested risk management programmatic increase in 2017.

Bureau of Safety and Environmental Enforcement Inspection Fee.—The budget includes appropriations language modifying and expanding the enacted inspection fee language to clarify that facilities subject to multiple inspections are subject to additional fees for each inspection. The BSEE estimates the inspection fees will generate $65.0 million in 2017.

Fee for Onshore Oil and Gas Inspections.—Through appropriations language, Interior proposes to implement inspection fees in 2017 for onshore oil and gas activities subject to inspection by BLM. The proposed inspection fees are expected to generate $48.0 million in 2017, level with 2016. The fees are similar to those already in place for offshore operations and will support Federal efforts to increase production accountability, safety, and environmental protection.

Grazing Administrative Fee.—The budget proposes a grazing administrative fee to offset costs to administer the program. The budget proposes to implement a fee of $2.50 per animal unit month through appropriations language on a pilot basis. Interior estimates the fee will generate $16.5 million in 2017 to support the Rangeland Management program at the 2016 level. During the period of the pilot, BLM will work to promulgate regulations to continue this cost recovery fee administratively, once the pilot expires.

National Wildlife Refuge Damage Cost Recovery.—The budget includes appropriations language to authorize the Fish and Wildlife Service to retain recoveries for the cost to restore or replace damaged habitat from responsible parties.

CONCLUSION

Thank you for the opportunity to testify on the President's 2017 budget request for the Department of the Interior. This budget is responsible, and proposes to maintain core capabilities with targeted investments to advance the stewardship of lands and resources, renewable energy, oil and gas development and reforms, water conservation, youth employment and engagement, and improvements in the quality of life in Indian communities. I thank you again for your continued support of the Department's mission. I look forward to answering questions about this budget. This concludes my written statement.

Senator MURKOWSKI. Thank you, Secretary.

Mr. Connor or Ms. Sarri, were either of you prepared to provide an opening statement or should we just go to questions?

Secretary JEWELL. Just questions.

Senator MURKOWSKI. Okay, thank you.

KING COVE

Let me start off, Madam Secretary, as I mentioned to you in my opening statement, and as we discussed in the Energy Committee hearing last week, my ongoing concern about the situation in King Cove, the promise that you had made to me and to the committee to do what you could to help the people of King Cove. As I noted, I do not see anything in the President's budget that would help to facilitate that promise.

You have indicated that the report that you had requested has been completed. I asked if that would be released. You indicated that it would be. Can you give me an indication as to when we might expect that?

Secretary JEWELL. I did ask my Chief of Staff, as you know, an Alaskan, to follow up on that, which he is doing. One complication I did not realize last week is it is actually the Army Corps' report, so we will need to work with them on posting it. But Tommy is working through it, and we will make sure we get it to your office as soon as we are able to do that.

Senator MURKOWSKI. We conveniently have a hearing with the Army Corps this afternoon, so perhaps I will have a chance to ask them that question at that point in time.

Are you able to provide me any details of the report at this point in time?

Secretary JEWELL. I am happy to go through just a high-level overview. As I expressed in the letter from July, three alternatives were identified in that report. As we discussed, and I know we differ on this point, I do not support a road through the refuge because of the extraordinary damage we believe——

Senator MURKOWSKI. I understand that. If what you are telling me is that what we will see in this report is what we have seen before, then I would rather not take the subcommittee's time to have you detail that right now, because, as you know, that was unacceptable not only to me before, but it was unacceptable to the people of King Cove.

WILDLIFE MANAGEMENT

So we will continue this discussion, but let me move to another issue that is equally unsettling to the people of Alaska right now. That is the proposed regulations from the Park Service and Fish and Wildlife on the proposal to govern wildlife management and procedures to close areas that are currently open to hunting and fishing in the State.

These are controversial because they call into question State management authority over fish and game, over resources within their borders. This is contrary and inconsistent with the Alaska National Interest Lands Conservation Act (ANILCA), a statute which gives the State of Alaska and the Department of Fish and Game management inside our preserves, our refuges, and our parks. Do you believe that the State of Alaska has the right to manage its wildlife within the borders of the State?

Secretary JEWELL. Certainly, Senator Murkowski, I believe the State has the right to manage its wildlife. I also, though, say that the Fish and Wildlife Service and the Park Service must operate within the congressional mandates they have. What they have struck in this is really around non-subsistence take of predators, things like——

Senator MURKOWSKI. Let me ask about that subsistence take, because I know you have said that these regs do not impact subsistence. But since the amount of game that is available for natives around the State is definitely impacted by the take of wildlife by predators, how can you suggest that somehow the subsistence rights of our native people are not impacted by these new predator control policies?

A bigger question is whether you think it is proper for the Federal Government to effectively reverse the State Board of Game decisions, because that is effectively what we are seeing here. From Alaska's perspective, we have ANILCA that says the State has the right to manage. Now you have the Federal Government, the Park Service, the Fish and Wildlife Service, saying, yes, except for when we think that what we are doing is more appropriate.

It is a violation of what has been set out not only within ANILCA but within the United States Constitution. I hope you appreciate the anxiety that has been created right now in the State because of these proposed regulations.

I know you had a discussion with Congressman Young about this yesterday. You know where he is coming from, clearly. I think you know where myself and Senator Sullivan are coming from on it.

We have a collision going on right now between your Federal agencies with the Park Service and with the Fish and Wildlife Service stepping in and telling a State that, effectively, we do not think that the State can manage what by Constitution and Federal law we have given you that authority to manage.

That is more of a rhetorical question for you, but you need to understand how significant an issue this has become in the State of Alaska. It may be right up there with the fight on the Arctic National Wildlife Refuge (ANWR) and King Cove. It may surpass them all, because this truly does go to a State's rights issue.

I am out of my 6 minutes already, so I am going to turn to my ranking member, but we will have time for multiple rounds here.

Senator Udall.

Senator UDALL. Thank you, Madam Chair.

Several Senators on my side have urgent hearings to actually chair, so I am going to defer my questions and call on Senator Leahy to ask questions at this point. Thank you very much, Madam Chair.

Senator LEAHY. Thank you, Madam Chair.

Thank you, Senator Udall.

Secretary Jewell, as I mentioned to you earlier, it is great to see you here. I was thinking, as we were looking at the picture, when you were in Vermont this time for the Leahy Environmental Summit, I am glad you were able to enjoy a day of snowshoeing in Vermont's Green Mountains, something both my wife and I love to do at our home.

But you know what? Last year, you had about 6 feet of snow in Vermont's backcountry. If you were there today, the grass would be sticking up through the little bit of snow on the ground. At our home, we have not been able to snowshoe or cross-country ski. It has just been strange, so let me ask you a couple questions.

I understand you got an earful on the House side yesterday. Members blamed you and the administration for all sorts of harm to the States, almost suggesting you personally control the price of fossil fuels. Oil just went up, so I am sure they are all going to call you this morning and give you credit for that, too.

But I want to praise you for your foresight and leadership in addressing this problem. We have an obligation not only to current taxpayers, but to future generations to see that all Federal programs deliver a fair return to American taxpayers. That can be coal mining activity, offshore oil exploration, logging, even our Federal grazing permits. The price to extract these natural resources should not be so heavily subsidized that it encourages damage to our Federal lands or wildlife or causes, as it could, permanent damage to the taxpayers of this country.

COAL LEASING PROGRAM REVIEW

My question is, does your proposed fiscal year 2017 budget provide the resources to complete a full evaluation of the coal leasing program? Will it include a cost-benefit analysis to consider, among other things, carbon emissions and medium- and long-term impacts of climate change? Could you do a similar valuation on oil exploration?

Secretary JEWELL. Thank you very much, Senator Leahy. It was a pleasure to be in your State.

I will say, a year ago, when I was in Senator Murkowski's State, the green grass was poking through, because they did not have snow.

We are launching a programmatic environmental impact statement on the coal program. It has not been done for 30 years. It is very evident from a Government Accountability Office (GAO) report and our own Inspector General report, there are not only questions about the adequacy of payment to the taxpayers, but also that it does not take into account the impact of climate change.

The assessment we will launch with this programmatic environmental impact statement (PEIS) will take into account climate change and the impact broadly of the coal program, as well as the returns and the royalties.

I cannot get it done within the time I am here. It is too complicated. It takes too long. We will have an interim report, which will scope out exactly what will be done, with a timeline through which we intend to complete that work.

I have not, at this point, contemplated a similar program on the oil and gas activities. Coal has been criticized, as I mentioned, by our own Inspector General and the GAO, so I am prioritizing that.

WIND ENERGY AND BATS

Senator LEAHY. There are other programs that you have for development of renewable energy projects. You have wind energy on Federal land. I wrote to the department last week on Bat Week. I will point out that I don't talk about fictional Batman. I talk about real bats and what they do helping with our crops, keeping down pests, and other all these other things.

If you have wind energy, you also have this question of bat and bird interaction, migrating birds, bats, and so on. If additional resources are available, what could your department do to, one, make progress on wind energy, but also in a way that would help with flights of birds and flights of bats, all of which are so important to our whole ecosystem.

Secretary JEWELL. Thank you very much for pointing out the importance of bats, in particular, as pollinators, and they are in real trouble right now because of White-Nose Syndrome, which you are well aware of.

I have seen through the USGS the work we are doing with the wind energy industry and others on early warning systems to detect when there are avian species like bats and birds in the area, that will proactively shutdown wind turbines. It is a relatively modest amount, and I would say that if we had more, we could probably accelerate that work. Some of it is being paid for by industry, which is also appropriate, to reduce those impacts. And it is a concern of the Fish and Wildlife Service.

Where we site these wind energy projects on public lands, it does take into account the migration patterns and the potential impact.

But with more resources, we certainly could do more.

Senator LEAHY. Let me and my office help you with that, and also, help you with industry, because people are concerned, as you know. And I know you are.

TEMPORARY EMPLOYEES

One last question. Your department, like others, relies on temporary employees for programs we have funded either through partnership agreements or the discretion of Congress. I worry sometimes these temporary employees are on permanent things.

For example, at the risk of being at all parochial in this committee of all committees, we have the Lake Champlain sea lamprey control. The Fish and Wildlife Service has run this continuously now for 25 years. Some of the employees are classified as temporary. We always have money in there for this program.

I worry these temporary—they have to be experts. If they are temporary, they say, I can get a job somewhere else, and they leave and we lose all the expertise. How do we make these people permanent?

Secretary JEWELL. Madam Chair, do you mind if I respond? I know we are over time.

Senator LEAHY. I am sure she has similar things in Alaska, for that matter.

Secretary JEWELL. Well, quickly, I will say our budget does support an increase for the wildlife refuge system. That would enable us to take some positions that are temporary and make them permanent.

Specific to the sea lamprey, we actually have four positions that are supported by the State Department because of the cross-border issues with Canada. Those, because they are not funded by our department, are term positions, and, are therefore, temporary. We certainly would be willing to look at a more permanent authorization for them.

There is a blend of the Fish and Wildlife budget being lower in the past, and we asked for increases, but also part of it is being supported by the State Department. We appreciate the challenge.

Senator LEAHY. Thank you.

Thank you, Madam Chair.

Senator MURKOWSKI. Senator Cassidy.

Senator CASSIDY. If one of my colleagues has a hearing to chair, they can go ahead.

Senator REED. I have a hearing. Thank you. Very gracious.

Senator MURKOWSKI. Senator Reed.

Senator REED. Thank you, Madam Chairman. Let me begin by commending you and your colleague for your great leadership. Thank you very much.

BLACKSTONE NATIONAL HISTORIC PARK

Madam Secretary, thank you. One of the major developments in Rhode Island, as you know, is the creation of the Blackstone National Historic Park. Thank you, because you were there with us kayaking along the Blackstone River. We thank you for that.

The way it is envisioned, it is a partnership park. The existing Blackstone Valley Heritage Corridor, a federally funded entity, is going to work in partnership with the National Park Service to develop the plan to implement it and to do all those things.

But there is a growing concern, and I would like your comments about how you balance these two entities, so that they have adequate resources to continue their jobs and one does not suffer at the expense of the other as we go forward and coordinate their operations. Could you comment on that, Madam Secretary?

Secretary JEWELL. I will make a quick comment. We have just slightly above the funding recommended for 2017 versus 2016. For 2017, it is $932,000. In 2016, the funding with the National Heritage Areas was $501,000. Once we get the 2017 amount, the Park Service will work closely with the National Heritage Area to figure out what the appropriate split is.

I certainly understand how important that funding is, and I will pass that along to the Park Service.

Senator REED. Thank you. I think both entities now have to continue at an appropriate pace. At some point, there might be a transition point where the Park Service accumulates more support and activities as we go forward. But at this point, I think it is important to keep both those entities empowered, resourced, and working together.

Another issue with respect to the park, because it is such a major undertaking, the first one in our State, and we are all looking forward to its successful implementation, one of the first sites is likely to be Slater Mill, which is really the beginning of the Industrial Revolution in the United States. It is the first real factory in America.

That is likely to be the first component of the park. Do you have any notion about how that transfer will be completed in this fiscal year, the resources available, and sort of anything else you might want to add?

Secretary JEWELL. I have been to the Slater Mill site. It is extraordinary, and compliments to the community on that. I have not spoken with the Park Service specifically about plans for Slater Mill, so let me get back to you on the record for that one.

[The information follows:]

SLATER MILL

The National Park Service (NPS) is working closely with the Old Slater Mill Association to acquire the Historic Slater Mill campus. The board of the non-profit has agreed to the property transfer, which will make this property the anchor and manageable unit of the new park. The estimate for the transfer of the property is spring 2017. Currently, title work is underway.

Once the property is owned by the NPS, it is anticipated that the Old Slater Mill Association will continue to offer high quality programming at Slater Mill and remain an active partner in the management of the national park property. The NPS will use its current budget to support that programming, as well as preserve and maintain the historic structures. Of the $926,000 budget this fiscal year, the park retained $425,000 and transferred $501,000 to the national heritage area. This $425,000 is the core of the resources available for the new park, though it is also anticipated that the NPS will fund one-time projects such as investing in waysides and signs within the next year.

Senator REED. Thank you, Secretary, and your staff.

And I want to thank the chairwoman again, and particularly thank Senator Cassidy for his graciousness. Because I have to get back to another hearing, I will just wish you well.

Thank you.

Senator MURKOWSKI. So, theoretically, that was the majority's turn. We should go to this side, but Senator Cassidy was gracious, so I do not know, we will ask you, Senator Cassidy.

Senator REED. We all vote for Senator Cassidy.

Senator MURKOWSKI. Thank you.

OIL AND GAS RULEMAKING

Senator CASSIDY. Secretary Jewell, when you put out the well control rule and the Bureau of Land Management (BLM) venting rule, I am told that you used $80 oil and $4 natural gas to justify the economics. Is that correct?

Secretary JEWELL. I do not know specifically what was used in the economic assumptions. That probably is correct, given the timing that it was done, but we can get back to you and confirm that.

Senator CASSIDY. Is it fair to say that probably the economics of that are now different because of the lower prices?

Secretary JEWELL. To the extent the economics are dependent on oil prices, it would be, but oil prices, of course, are a commodity and they fluctuate from $100 to below $30 a barrel. So, I do not know how much that specifically impacts the cost of the well control rule. It certainly impacts the industry.

Senator CASSIDY. Now, when it impacts the economics of the industry, it is fair to say that a well that could be economically developed at $80 a barrel probably cannot be at $30. That just goes without saying. There is a marginal cost to compliance with regulation, and if that marginal cost is on $30 as opposed to $80, it is going to make a difference in economics. I think that goes without saying.

Secretary JEWELL. Well, if I can just say there are a lot of things that will impact the economics. The cost of the rig, the cost to drill, the risk, and all of those things are factored in.

Senator CASSIDY. Absolutely.

Secretary JEWELL. I used to do this for a living, so I certainly understand that.

Senator CASSIDY. I get that. But, marginal cost of regulation is a cost.

WELL CONTROL RULE

Now, according to a Wood Mackenzie report, the well control rule, the cost of compliance, could cause a decline of 55 percent in exploratory wells by 2030. I just say that for the record. Others may fuss with that.

But at the same time, it is fair to say that there is some cost associated with the well control rule.

That said, one of the concerns that has been raised with me regarding the well control rule is that the Bureau of Safety and Environmental Enforcement (BSEE) is promulgating this, and they are promulgating it, but it apparently violates a congressional mandate that specifically is the National Technology Transfer and Advancement Act, the NTTAA, which bars the use of government unique technical standards in lieu of voluntary consensus standards. Again, I have a document here that goes through the statement of it.

Any thoughts about that? Because it does seem, what I have heard about the well control rule is being given kind of ex cathedra as opposed to from a voluntary consensus methodology.

Secretary JEWELL. I have never heard of the Act you referenced, but I am confident through our solicitors that everything we are doing in regard to the well control rule is within our rights and consistent with what we believe we must do for the safe and responsible development of offshore resources, particularly in the wake of the *Deepwater Horizon* spill.

Senator CASSIDY. It isn't insofar as—believe me, I care about the *Deepwater Horizon.* It is not insofar as regulations are not required but rather that BSEE is supposed to show that voluntary consensus standards are impractical. I am not sure that it is clear that the voluntary consensus standards are impractical, and I am not sure that it has been shown.

So, it is not so much the regulation should not be promulgated but rather the technique should be first the consensus standards, and then only, again, my term, if you will, is ex cathedra being prescribed without the consensus standards being formed.

Obviously, that might be something a little technical, but if you could address that for the record, I would appreciate that.

Secretary JEWELL. We are happy to follow up.

Senator CASSIDY. Related to that, and again on the well control rule, is that, clearly, if we are going to have an impact upon the ability of oil wells to be drilled, that is going to affect the energy supply in the United States. I am told that under Executive Order 13211, from May 18, 2001, such things require a statement of energy effects.

BSEE has denied that there is an impact upon energy supply from these regulations, which seems a little crazy. But nonetheless, if they do, it means that they have another reporting requirement.

Any thoughts about that? It just seems so self-evident that if you are going to have an impact upon the supply of oil and gas that you are going to have an energy effect. That may be a little technical for this conversation. I do not know if you are prepared to comment on that.

Secretary JEWELL. I will just comment briefly that the well control rule really codifies many of the practices currently in place in the Gulf that were addressed after the *Deepwater Horizon* spill. I do not support the notion that the regulation itself would impact energy supply. I am happy to get back to you for the record.

[The information follows:]

IMPACT OF THE NTTAA ON THE DEVELOPMENT OF THE WELL CONTROL RULE

BSEE's promulgation of the rule is consistent with the NTTAA's requirement that agencies use technical standards that are developed or adopted by voluntary consensus standards bodies rather than government-unique standards, except where inconsistent with law or impractical. BSEE expressly proposed to incorporate the following voluntary consensus technical standards in its rule:

—American Petroleum Institute (API) Standard 53 (Blowout Prevention Equipment Systems for Drilling Wells);
—American National Standards Institute (ANSI)/API Specification (Spec.) 11D1 (Packers and Bridge Plugs);
—ANSI/API Spec. 16A (Drill-through Equipment);
—API Spec. 16C (Choke and Kill Systems);
—API Spec. 16D (Control Systems for Drilling Well Control Equipment and Control Systems for Diverter Equipment);
—ANSI/API Spec. 17D (Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment); and
—ANSI/API RP 17H (Remotely Operated Vehicle Interfaces on Subsea Production Systems).

The NTTAA and the associated implementing guidance in Office of Management and Budget (OMB) Circular A–119 permit an agency to include in its regulations a voluntary consensus standard "in whole [or] in part . . . ." (OMB Circular A–119, at p. 3). Thus, the NTTAA does not require that BSEE incorporate every provision of each standard. For example, BSEE has excluded from its regulations the API Standard 53 provision that authorizes offshore operators to "opt-out" of the requirement to use dual shear rams for BOPs on floating facilities. BSEE believes that a decision to "opt out" should be based on a risk assessment subject to oversight.

In addition, OMB explains that the NTTAA:

> [D]oes not preempt or restrict agencies' authorities and responsibilities to make regulatory decisions authorized by statute. Such regulatory authorities and responsibilities include determining the level of acceptable risk and risk-management, and due care; setting the level of protection; and bal-

ancing risk, cost, and availability of alternative approaches in establishing regulatory requirements. (OMB Circular A–119, at p. 25).

BSEE's proposed variations from the industry standard do not indicate that the bureau is seeking to use government-unique standards in its regulations. Rather, BSEE's non-incorporation of portions of industry standards is fully consistent with the NTTAA because OMB has clarified that agencies may incorporate consensus standards in whole or in part in their regulations. Additionally, OMB has clarified that the NTTAA does not preempt or restrict an agency's authority to make regulatory determinations about the level of acceptable risk and risk-management, and due care, setting the level of protection, and balancing risk and cost. BSEE's incorporation of less than all of API Standard 53 is based upon these principles and is not inconsistent with the NTTAA.

The potential impacts of the well control rule on oil and gas supplies:

BSEE received comments that the initial Regulatory Impact Analysis did not account for asserted impacts of the proposed regulation on national energy security. These comments appear to assume that this rulemaking will cause a reduction in domestic oil production, thereby implicating the requirements of Executive Order 13211 applicable to agency actions that significantly affect the Nation's energy supply, distribution, or use. These comments suggested that the rule would weaken national energy security by reducing domestic oil production and increasing reliance on foreign oil. BSEE does not agree with this comment. BSEE's own analysis indicates that the net effect of the final rule on the oil and gas industry would be positive (*i.e.,* the potential benefits exceed the potential costs). This does not support the assumption that the rule would precipitate a reduction in domestic oil production. The regulations consist of an envisioned level of safety derived from numerous post-*Deepwater Horizon* studies and existing industry standards. The regulations also allow for alternative methods to achieve the envisioned level of safety. There is no reason to conclude that this approach will adversely affect U.S. energy production. Technological advancements and variable market factors, such as the price of oil, which are unrelated to the requirements of the proposed rule, are likely to be the most important factors to affect future domestic oil production.

Senator CASSIDY. Please. And I will say that, speaking to folks, they actually feel like the initial rules that came out after the Macondo were actually fairly reasonable. It is those that were proposed that would go beyond it that are again being given almost, in effect, by fiat, not with consensus standards.

According to at least one consultant, it is going to have a significant impact upon the drilling of exploratory wells.

So we will fashion these for the record, and look forward to your reply.

Secretary JEWELL. If I could just say briefly, there was a lot of industry input after the draft rule. Those have been taken into account, and I believe you will see significant changes from the draft rule to the final when it is released.

Senator CASSIDY. Sounds great.

LAND BUY-BACK PROGRAM

On the Land Buy-Back Program, what is the cost basis for the sale of the land? Does that include the mineral rights that might be beneath it, the grazing rights, et cetera?

Secretary JEWELL. Mike.

Mr. CONNOR. We are not typically acquiring land through the Land Buy-Back Program with mineral rights on it. We are right now excluding——

Senator CASSIDY. I thought this is where the Indian tribes were allowed—the Native American tribes were allowed to buy land back from the United States. Did I misunderstand that program?

Mr. CONNOR. This is one where resources are provided to acquire these fractionated interests in lands and restore to tribal ownership. So there are significant tracks out there that do not have mineral interests. We are doing appraisals of those lands and restoring those to tribal——

Senator CASSIDY. I see. So, those typically do not have mineral and grazing rights associated with them.

Mr. CONNOR. That is correct.

Secretary JEWELL. Just to clarify, they are not Federal lands. Typically, they are in fractionated private ownership consolidated for the tribes.

Senator CASSIDY. Okay. I yield back. Thank you.

Senator MURKOWSKI. Senator Tester.

Senator TESTER. Thank you, Madam Chair.

LAND AND WATER CONSERVATION FUND

I, too, want to thank Senator Cassidy for his courtesy. That happens seldom around here, so we thank you for that very, very much, even though I was not the beneficiary directly.

Secretary Jewell, thank you for being here. I want to talk about the Land and Water Conservation Fund for a second. We have been over the numbers before. You know the impact it has on Montana's overall economy—$5.8 billion in consumer spending in a State of 1 million people. Seventy percent of Montana businesses list public access as a major reason they do business in our State.

In 1978, this fund was funded at $900 million—1978, the year I graduated from college, a long time ago. Now we are finally back up to $900 million, $475 million discretionary, $425 million mandatory. I appreciate that.

Back in 1978, it was supposed to be funded by offshore oil revenue. When we had this debate on the Senate floor, people said there was lots of money in this account, lots of money in this account. It was my understanding it flows into the general fund.

The question for you is, do we need an offset for the Land and Water Conservation Fund? When it was set up in 1978, it was set up to be at $900 million, and somebody took that money and we never heard a word about offset back in those days.

Secretary JEWELL. There are people here with much more history on this body than I have. It was authorized at $900 million. It has fluctuated wildly, and less than half, I believe, has actually been appropriated, and the rest has been used for other purposes.

Senator TESTER. Was it appropriated at $900 million back then, do you know?

Secretary JEWELL. It was.

Senator TESTER. And it has been appropriated at that level a few times since then.

The reason I bring this up is because in my opinion at least these places are not going to be around forever. They might not be around in 10 or 20 years. When you are looking at proposals, what are you looking at when you utilize this fund money?

Secretary JEWELL. There is a stateside program, which is prioritized by States. That is very, very important. On the Federal programs, we really have a list that is far longer than what we are able to do for things like sportsman's access, critical parcels be-

tween pieces of public land that promote access, inholdings where it is costing us money to provide rights-of-way that would actually reduce our costs. There are a number of different things.

Senator TESTER. Does the $900 million bring you up to a point where you can address all of the requests?

Secretary JEWELL. No.

Senator TESTER. Half the requests?

Secretary JEWELL. No. It would just enable us to make progress. There is a much longer list of requests.

Senator TESTER. I appreciate you trying to get back to the $900 million figure. It actually should have been indexed so it would be more than that now, in my opinion. These are special ecosystems that are not going to be around much longer.

COAL LEASING PROGRAM REVIEW

I want to talk about the Federal coal program for a second. I believe in transparency. I believe in a fair return to the taxpayer. These public lands are owned by every citizen in this country, contrary to what some might say.

I think that it is critical that we get a fair return on those coal dollars. I think, and correct me if I am wrong, the last time there was an assessment done on Federal land, coal leasing was in the early 1980s. Is that correct?

Secretary JEWELL. It was 30 years ago. It was 1986.

Senator TESTER. Nineteen eighty-six, the year that I bought a brand-new Chevy pickup four-wheel drive, three-quarter ton for $12,000. That same pickup would cost around $38,000 now, by the way, because I am looking to trade it off.

But that aside, can you tell me, I think it is a good idea to do the research and it is a good idea to make sure we are getting a fair return, but this cannot go on forever. I mean, it has to be a date certain.

I have heard 3 years. Is 3 years a reasonable amount time to get this survey done? And, if it is, would you support legislation saying that?

Secretary JEWELL. I would support legislation putting a date certain. Three years, we believe, is as fast as we could do it. The program review done in the 1980s was longer than that. The pause on coal leasing extended longer than that, as a result.

I will be putting in place a date certain timeline when I leave, but that could be undone by a successor and I would welcome a clear timeline so we can complete this in a timely way.

GRAZING FEES

Senator TESTER. Okay, Madam Chairman brought up the Federal grazing fee. It was raised up to $2.11 in this budget, correct me if I am wrong, maybe it was not. Maybe it was done before that.

The point I want to make is this. There are some who want to transfer our Federal lands to our States. The amount of grazing fees that are charged by the States are much, much, much higher. And the private grazing fees are much higher than the State fees.

Could you talk about, because I do not know that a lot of people are talking about this—we have more cattle in Montana than we have people, by the way. Can you talk about the impact transfer-

ring these Federal BLM or Forest Service lands to States would have on grazing fees?

Secretary JEWELL. The impact would be dramatic. The Federal Government charges $2.11, which was set by Congress many years ago. While our budget asks for an administrative fee of $2.50, right now we cannot even cover 35 percent of our costs of administering the program.

Just to give you some examples, in your home State, the State charges $19.57 compared to the Federal Government's $2.11. In Colorado, it varies between $9 and $15.25. In Wyoming, it is $6.14. On private lands, it is $21, 10 times what the Federal Government rate is. That is pretty consistent.

I would say that for the grazing interests, people are getting an incredibly good deal on BLM lands right now. The increase we are talking about still would not even fully cover our costs just to administer the program.

Senator TESTER. Thank you very much. I look forward to working with you on this budget.

Thank you, Madam Chair.

Senator MURKOWSKI. Thank you, Senator Tester.

Senator Daines.

Senator DAINES. Thank you, Madam Chair.

Good to see you again, Secretary Jewell.

COAL LEASING PROGRAM REVIEW

Last week in the Energy Committee, I mentioned my concerns about the programmatic review and the pause on coal leasing. It is very troubling for many back home in Montana and for the Crow tribe. I think we need to be careful to not make producing Federal coal completely uneconomical.

That is a reality that is dangerously close under the current administration's moratorium on coal leasing, and if not inevitable, if our States and I think our tribes are left out of the process.

At last week's hearing, I asked about gathering input from the States and the tribes, and you mentioned six listening sessions the department has had, and that there is a very open process. Several tribal members and others who rely on these coal jobs to provide for their families for the revenues, for the general fund, expressed strong concern regarding potential administration actions at the listening session that was actually held in Billings, Montana. In fact, most present there expressed concern.

Yet the administration is moving forward with this programmatic review and a coal leasing moratorium. Quite frankly, I think there needs to be something more formal to allow the States and tribes and other stakeholders a more predictable and impactful seat at the table, like the Royalty Policy Committee, which actually you allowed to lapse in 2014. I think Congresswoman Lummis mentioned that yesterday in a hearing.

ROYALTY POLICY COMMITTEE

The question was, why did the agency allow the proposed rulemaking initiative to move forward when the Royalty Policy Committee, which was important—it has members from the States, from the tribes, from non-governmental organizations (NGOs), from

industry, the committee lapsed in 2014, a very important voice in this process. Why did we go forward with rulemaking initiatives when you allowed that committee to lapse?

COAL PROGRAM

Secretary JEWELL. Let me say a couple things, if I may. First, I will have to look into the committee lapsing, but royalty rates on the Federal coal program have not changed in 30 years, so I am not sure of the function of the committee.

There are minimum royalty rates set, and then a lot of exceptions that actually reduce the royalty rates. We have seen a real decline in revenue coming in from the coal program, and the decline in production is really due to economic factors like the switch to natural gas and a change in the interest in exports of coal, which I know the Crow tribe was interested in.

The bonuses over the last 10 years were about $.875 per ton. And in 2015, $.315 a ton, so the price is collapsing on coal due to market conditions.

ROYALTY POLICY COMMITTEE

Senator DAINES. Right. I understand the dynamic nature certainly of what is going on. I guess, it makes it in my opinion even more important—why wouldn't we want to have the States' voice, the tribes' voice, industries' voice, NGOs' voices there in a more formal process as far as their input goes, which was a key part of this Royalty Policy Committee, which lapsed in 2014?

Secretary JEWELL. I just had some more recent information handed to me.

The Royalty Policy Committee last met in 2008. The charter was renewed in 2010, but did not meet because of other events—*Deepwater Horizon,* after which the Minerals Management Service, was reorganized and created the Office of Natural Resources Revenue was created. The Royalty Policy Committee was set up to expire in 2012.

It was renewed as a potential vehicle for the Extractive Industries Transparency Initiative multi-stakeholder group, but the most recent charter expired in 2014, and our Office of Natural Resources Revenue did not feel it made sense to reestablish it.

But we are happy to look into that more for the record. That is as much information as I have right now.

Senator DAINES. The concern I hear back home is that we want to make sure the States' voices are heard in that process, that the tribes' voices are heard in that process, the industry voices are in that process, as well as NGOs. I think the stakes are perhaps much higher now than they might have been in the past and why it is so important.

I believe this policy needs to be reinstated. And I am concerned why rulemaking is going forward here without having that important body functioning, given I think the dynamics and the stakes are a lot higher today than they might have been in the past.

COAL LEASING PROGRAM REVIEW

Secretary JEWELL. Just to adjust a little bit, rulemaking is not what is happening. It is a programmatic and environmental impact statement, which is a review of the overall program. We absolutely will be listening to industry. We will be listening to tribes. We will be listening States, local stakeholders, local communities. People impacted by this on the ground will be a very robust part of this process, I promise you.

Senator DAINES. I appreciate Senator Tester's concerns voiced a little earlier about trying to get a 3-year date certain, in terms of this programmatic review. I have an amendment that I am trying to work to get bipartisan support on that to, again, deliver some certainty here in what is very much an uncertain process in many regards.

TRIBAL CONSULTATION

I want to pivot over and talk about the meaningful consultation with Indian tribes. The Crow tribe I do not think believes they have had meaningful consultation.

What does meaningful consultation look like to you, Secretary Jewell, because they are saying that they do not really feel like they have had a meaningful consultation.

Secretary JEWELL. I have not met with the Crow for probably 1.5 years, maybe a bit more. But, if they feel the consultation they had is not meaningful, please have them let us know, and we will make sure we are responsive.

I would say meaningful consultation is not necessarily reaching an agreement on a position a tribe necessarily wants, but it is making sure their position is known and heard. We have been committed to that throughout this administration.

Senator DAINES. As you know, their unemployment rate today is about 40 percent. The loss of these jobs takes the unemployment rate to north of 80 percent. It is devastating for the tribe.

Secretary JEWELL. I understand, and I know you understand, too, that the economics of coal are changing dramatically. What we are looking to do is not the cause of that. There is a multifaceted global market for coal that is, in fact, going down dramatically.

Senator DAINES. I would argue that the EPA power plan is having a tremendous impact right now in creating uncertainty there as well.

I understand the economic dynamics. The EPA power plan is probably the single most devastating impact right now on the coal business up there in Montana. Thank you.

Senator MURKOWSKI. Senator Daines, I appreciate you bringing up the issue, though, of tribal consultation. Secretary, I am going to turn to Senator Feinstein, but I would just like to put you on notice.

I have a large delegation of Alaskan Native leaders that are in Washington, DC, this week. Every single one of them is bringing up with me the breakdown that they are seeing with tribal consultation with the agency. So I will put that on your plate as well, and I can speak with you about specifics.

Senator Feinstein.

Senator FEINSTEIN. Thank you very much, Madam Chairman.

I just want to say, it is fortuitous you are also chairman of the Energy Committee, and the subject I want to bring up today is a bill that we have submitted for your consideration, and that is a California water bill, which would hopefully be part of a Western water bill.

I cannot express too strongly how serious this drought is for California. A lot of people have counted on El Niño. It may or may not bear real fruition, but the State has really had dramatic problems. Let me just give you a few.

We have 69 California communities that face significant water supply and water quality issues. In other words, most of them do not have water. We have lost $2.7 billion from the drought in just 2015. More than 1 million acres of California farmland have been fallowed in 2015. The drought has led to a loss of 35,000 permanent jobs in the State.

Land subsidence in the southern Central Valley has caused large areas to begin to sink because of overpumping groundwater, and it is sinking as much as 2 inches per month. As a result, bridges, aqueducts, and roads have begun to crack.

So, I would like to ask a couple questions of the Deputy Secretary on the subject. Deputy Secretary Connor, is it true that we have worked closely with Reclamation and your office in the drafting, redrafting, and amending of this bill?

Mr. CONNOR. It is absolutely true.

Senator FEINSTEIN. Deputy Secretary Connor, is it true that every amendment or suggestion, and there have been many, made by Reclamation and your office has been worked through and incorporated into the bill?

Mr. CONNOR. Senator, a great many. I would hesitate to say all, but I think for the most part, most of the very substantive ones have been addressed. I believe there may be some technical issues that we still are discussing. But yes, in general, I agree with your statement.

Senator FEINSTEIN. Okay, I would like to know, not now, but what those technical issues are.

Do you believe that the bill, if enacted, would increase operational flexibility and increase water supply during this drought?

Mr. CONNOR. I agree, yes, on both counts.

Operational flexibility in the bill incorporates provisions that reflect the flexibility we have tried to maintain in our water operations, and that we have over the past couple years developed, consistent with our drought contingency plan.

It institutionalizes those provisions. It provides greater resources for monitoring activities that greatly help in our operations. It facilitates transfer. I think in the midst of this drought, it does increase flexibility and has the capacity to provide for more water. I would say, in the long-term, it absolutely, unquestionably will provide for more water supply reliability for California.

Senator FEINSTEIN. Thank you very much. I appreciate that.

FUNDING FOR CALIFORNIA MONUMENTS

Madam Secretary, if I may, I want to thank you for your efforts related to the President's designation of three new national monuments in the California desert. The California desert has been a very big deal for me. We have done two desert bills. As a city girl, the California desert is such a wonderful place to visit. At night, the shadows, the dawn, the flora, the fauna, the petroglyphs, it is just an incredible place. So I am very delighted to see these monuments.

If I understand your budget request, it includes $6.5 million for the BLM office in California that is responsible for managing the national monuments. That is an increase of $1.9 million when compared with last year.

While I understand the monuments were designated after submission of the President's fiscal year 2017 budget, do you believe the additional $1.9 million will be enough for BLM to manage the 1.7 million acres of land it is now responsible for?

Secretary JEWELL. I am just going to do a high level answer, and then turn it to Kris for the direct answer.

I want to say a profound thank you for your work on the drought legislation—hard, hard work—and also for your tireless work over many, many years on the protection of the California Desert.

Senator FEINSTEIN. You might be interested to know, Madam Secretary, we have done 26 drafts of that legislation and made 41 amendments to it, as the time has gone on, and as we have talked and consulted with others. So, that has been 2 years of work, and I might say, much harder than the desert bill.

Secretary JEWELL. It was very constructive. And the subsidence you pointed out is something few people know about.

We have increased money in the budget overall for the National Landscape Conservation System in BLM that does include the California deserts. There is not specific money in the budget for them beyond an allocation for that, because of the timing of the monuments. We will be doing a lot of planning associated with that, and future budgets will reflect that.

But, Kris, do you want to jump in?

Ms. SARRI. Sure.

Senator, thank you very much for the question. As the Secretary mentioned, there is an increase for BLM's conservation lands. We are up to $50 million for the request. That does include the $1.9 million increase for the California areas. BLM thinks that will be sufficient if they get the budgetary increase to take care of the new monument.

Senator FEINSTEIN. Thank you. That is very helpful. I appreciate it.

ABANDONED MINES

Just a quickie, one of the prior Senators mentioned the problem with abandoned mines. It is a serious problem in our State. We have some 24,422 abandoned mines. According to BLM, there are 1,672 known mine sites on or near BLM property. BLM estimates that there were an additional 22,730 sites that have yet to be even inventoried.

BLM says that will require $118 million just to complete the inventory. That is an enormous cost just to inventory.

My question is, would you take a look at that cost? I am concerned about these. I know we get $1 million, $2 million a year to deal with these, and some have been boarded up where people can fall into them. But I am very concerned that we could still have some kind of a catastrophic event.

So, if you would take a look, BLM has requested $20 million in discretionary funding for its nationwide Abandoned Mine Lands program. You propose $1.8 billion in mandatory funding from a new fee that most people think will not go anywhere in Congress.

So, if you have some suggestions, Madam Secretary, I would love to hear them.

Secretary JEWELL. I will just say thank you for pointing out this issue, as did Senator Udall. He does have some legislation he is proposing.

This is an enormous problem. We will certainly look into the cost and get back to you on the record for that, because I do not have a great answer, except that I know that just to inventory across landscape is hundreds of millions of dollars. That is because these are remote sites. To inventory them, we have to understand what is happening, and the features within those sites. That is very labor-intensive work.

But we will look into that and be happy to work with this subcommittee and others on bringing a long-term solution.

Senator FEINSTEIN. Let me ask you just quickly this question. To inventory them first, so much money, could there be another criteria for selecting abandoned mines to take care of? It seems to me those would be the mines where you have hikers, visitors, where there is the most jeopardy of an accident. Could it be done on that basis?

Secretary JEWELL. I will talk to the BLM and ask them. I am fairly confident those are the ones they have prioritized within the National Park Service, those that do have closed visitor access. But we will check into that, and I will get back to you on it. Thank you very much.

[The information follows:]

ABANDONED MINE LANDS

The BLM confirms the estimated cost of completing an inventory of abandoned mine lands in the State of California is $118 million. The BLM also confirms for both conducting inventories and reclaiming AML sites, priority is given to areas and sites with high visitation or near population centers.

Senator FEINSTEIN. Thank you, Madam Chairman.

Senator MURKOWSKI. Senator Blunt.

Senator BLUNT. Thank you, Chairman.

ST. LOUIS ARCH

Secretary Jewell, I want to thank you for mentioning the arch in your written testimony. It is one of the very first projects, and maybe in terms of private funding the largest project in terms of local funding that is going into that partnership.

It does seem to me that we have a real opportunity there and in other places to really usher in what I believe is your vision of

the second century of the Park Service. I would say that I hope it would not hurt his reputation in the service, but the new regional director, Cam Sholly, appears to fully understand the importance of setting this model. We are enjoying working with him, as, more importantly, the people locally are enjoying working with him.

We were able to get some language in the omnibus appropriations bill. Chairman Murkowski supported that legislation that just would help attract private dollars.

What that language does is direct the Treasury Department to invest the dollars privately raised in interest-bearing accounts. I know in the case of the arch the goal is to raise $29 million of endowment funding. I would hope the endowment funding and any future funding raised for that and other projects benefits from that new sense of direction to the Park Service and, more importantly, to the Treasury. I do not think the Park Service ever resisted the idea that private money should actually benefit the project it had been raised for as opposed to any interest going into the general treasury.

Secretary JEWELL. We share a common interest in that. I have to compliment the St. Louis community; $250 million of private money raised for the CityArchRiver project, which is extraordinary.

Thank you for your efforts, so that they could use the interest during the interim timeframe as opposed to going to the Treasury. That is very helpful. We will continue to advocate for that, broadly.

STE. GENEVIEVE SPECIAL RESOURCE STUDY

Senator BLUNT. Right. There is another study going on that should be released any time. I will just bring it to your attention to be sure that you spend a little time looking at it. This is on Ste. Genevieve, Missouri, which is just south of St. Louis on the Mississippi River.

It is a French settlement that still actually has a substantial number of 18th-century French buildings in that community, some of which have been under the direction of the State parks system for some time.

But my belief is that both the State parks system and study that the National Park Service is about to do will reach the conclusion that a better place to preserve that unique part of our history is probably as a unit of the National Park Service. I would expect that to come out any day. I hope you have a chance to look at it.

Like I said, these are 18th-century structures west of the Mississippi River. A lot of them are the vertical log structure that was unique to the way the French were building housing compared to the horizontal structure that other people were. I am interested in that and hope you will be, too.

COAL LEASING PROGRAM REVIEW

Just to follow up a little bit on one of Senator Daines' comments, on the 3-year date certain on the coal study, I actually do not know how much there is to figure out about coal that we do not already know. I was going to suggest that I thought 3 years was an excessive amount of time for that study.

So, you hear that point of view, as well as just promise us that you will get it done in 3 years.

I really think you should look at this and determine what you are going to know that takes 3 years as opposed to half that time or 2 years or sometime that is less than 3 years. I think the questions on coal have already been well asked.

I will say that, in Missouri, we are 80 percent coal-dependent for utilities. Ninety percent of that coal comes from the Powder River Basin. The fact that a taxpayer should get a fair return there is important, but it is also important in the other energy resources. While oil and gas on State and private lands have almost doubled between 2010 and 2014, there have been no changes, no appreciable change, on Federal Government lands.

I do think return to taxpayers for what we can minimize the intrusiveness of in terms of oil and gas is an important return.

SOLAR PROJECTS

I also know that on a significant amount of Federal land, over 30 solar projects have been approved since 2010. I am not opposed to solar at all, but if you are worried about impacting the way the landscape should look, or it would look if people were not involved in the landscape, I am sure 30 solar projects have more impact on that topic.

And there is no Federal return, there is no taxpayer return, on solar. I am not objecting to that. I am not opposed to solar. I am not opposed to wind. I am actually truly an all-of-the-above person.

But if we are interested in fair taxpayer return, it would seem to me that we would be looking pretty aggressively at why we have 89 percent more production in State and Federal lands and essentially no more production on Federal lands. I will let you respond to that.

Secretary JEWELL. Let me just clear up one point. We do actually charge solar energy companies when they are leasing Federal land for solar, and for wind. There is a charge to them. Just as we are doing for offshore wind in the Atlantic, we are doing lease sales similar to what we do in the Gulf of Mexico for offshore oil and gas.

Senator BLUNT. Good. Would you provide me or the subcommittee how that works?

Secretary JEWELL. Yes, we are happy to.

[The information follows:]

Solar and wind energy developments are authorized under the authority of the Federal Land Policy and Management Act, which requires that the BLM generally receive fair market value for an authorization. The BLM has established payment requirements for solar and wind energy developments based off of comparable commercial practices from non-Federal lands. The payments to BLM consist of both an acreage rent and megawatt (MW) capacity fee. The acreage rent is required annually each year, regardless of the operational status of the development, and is determined based upon the location of the development on the public lands. A per MW capacity fee is required annually at the start of energy generation of the development, and is determined based upon the development's capacity and efficiency of the technology. The annual payments may differ between solar and wind energy developments based upon the acreage encumbered, efficiency of the technology used, and the generation capacity for that development.

The BLM has received increased payments for solar and wind energy developments since 2010, corresponding with the increasing number of rights-of-way issued. In 2010, the BLM received little more than $3 million in payments, almost all of which was from wind energy developments. In 2015, the BLM received over $15 million in annual payments for solar and wind energy developments, of which over $10.5 million were annual payments for solar developments, compared to $4.5 mil-

lion for wind energy developments. In addition to the annual payments, the BLM may also hold auctions for solar developments in designated areas. Such auctions are held infrequently; the most recent was held in 2014 for lands in Nevada. The BLM received over $5.8 million in bids for the parcels auctioned. Both the bonus bid revenues and the required annual rental payments are returned to the Treasury.

Senator BLUNT. If that is a one-time payment or an ongoing payment, as you would have from production from other facilities. I would like to see that.

Secretary JEWELL. Yes, we are happy to do that. It is an ongoing rental payment. There is a bonus paid upfront, and then there is an ongoing rental payment. I think it is per acre or per tract, but we will get back to you on that.

COAL LEASING PROGRAM REVIEW

Also, just to point out, because I had not said it earlier today, on the programmatic EIS for coal, it actually is complicated. There are a lot of different interests at stake and a number of different States at stake. There is metallurgical coal. There is steam coal.

We do believe, based on how long it takes us, for example, to do a programmatic EIS on an offshore leasing program, that 3 years is a pretty expedited timeframe.

I will be not in this job, clearly. That will change in about 11 months, maybe we're down to 10.5. We do have 20 years of supply of Powder River Basin coal, Federal coal, under lease to companies already. We do have emergency provisions in the pause that we put on the leasing program during the PEIS to allow companies to continue to mine and to get a permit, if their mine is at risk of closing because of the pause or if a coal-fired power plant is at risk of closing because of the pause. We also grandfathered projects that were nearing their completion.

So we do not believe there will be disruption in the supply of coal or to the jobs.

Senator BLUNT. Let me make one point there before the end of my time, and we are at the end of my time, but I noticed last time was little extensive too.

How long the study would take if the study hadn't put long-term Government program in abeyance until the study was over, I think that is two different questions. Patriot Coal in St. Louis just went into bankruptcy. Shortly after they went into bankruptcy, as I understand it, I have not talked to them, but everything I have read about this would indicate that one of the things they thought would bring them out of bankruptcy was that they were right at the end of the permit process to get access to some coal mining area that they hadn't previously had.

That is now postponed until the study is over. I do not know what impact that is going to have on the company, but I assume it is significant. They, as many others would have, would have pursued what they understood to be Government policy, which just suddenly stopped so the Government can figure out what they were doing. It does seem to me the Government can figure out what they are doing without necessarily stopping everything we have been doing for a long time.

Thank you, Chairman.

Senator MURKOWSKI. Senator Merkley.

Senator MERKLEY. Thank you, Madam Chairman.

MALHEUR NATIONAL WILDLIFE REFUGE

And thank you, Madam Secretary, for being here and helping us understand a variety of things.

When you started out your commentary, you mentioned Harney County and Malheur Refuge. That has been a traumatic experience for Oregon. We are hoping to work with the Department of Justice in terms of some compensation back to the completely overstrapped local system of justice that was dealing with that, in partnership with FBI.

But also the Burns Paiute Tribe, and this would be more relevant to Interior, had to incur a lot of increased costs and damage to sacred sites. It is still being evaluated.

Is it possible that the BIA could assist the tribe in some of these expenses that they are going to incur?

Secretary JEWELL. It is certainly something we would be happy to look at. I know that the FBI left recently, and we are just now doing an inventory of the damage. But certainly, we can work with the Bureau of Indian Affairs (BIA) if there are costs incurred by the tribes in addressing that.

I did meet with the tribes on the phone beforehand. I did meet with Judge Grasty from the county recently in my office. I will be making a trip there when the time is right to visit. We will make sure we encompass the tribes and I engage with the BIA as well.

Senator MERKLEY. Thank you. I really appreciate that. I know the tribe appreciates that as well.

One of the ironies is that that particular county where the occupation occurred has had some terrific successes on collaboration, the types of successes that we all say need to happen through dialogue and cooperation and sharing perspectives and so forth, one including sage-grouse conservation, another being the Malheur Refuge itself, management of the refuge.

Judge Grasty, who you mentioned, has thought that, given their successes in Federal-county collaboration, this would be a very good place to have a center that helped advance that type of collaboration, both from the local experiences, but bringing in the issues from throughout the West.

So, I think it is a terrific idea. There are tensions that certainly are natural between a longstanding landlord, the Federal Government, and a longstanding ranching and grazing tenants, and issues over the use of the land. And having a center to facilitate collaboration, it seems like a pretty cool thing.

Any chance we could get some support for that idea from the administration?

Secretary JEWELL. This is a new concept I have not really considered, so we would be happy to consider it.

I will say what happened in advance of the occupation of the refuge and the cooperation that has happened throughout Oregon with not just our own agencies, but also the Natural Resources Conservation Service has been extraordinary. I think there are models there to learn from.

I would hope it will set a model for every office—Fish and Wildlife Service, BLM—working cooperatively across the landscape. But

we are happy to do give that consideration, and I will chat with Judge Grasty the next time we talk.

Senator MERKLEY. Thank you very much. I appreciate that.

KLAMATH

I also appreciate the administration's support for the Klamath settlement efforts. We had substantial development with the process of decommissioning the dams being taken offline and, therefore, removing some of the obstacles. There is still a lot of work to be done to capture through legislation the water certainty for the irrigators, the land for the Klamath Tribes, habitat restoration, and so on and so forth. You have been a great partner.

Can we continue to ask you to assist us?

Secretary JEWELL. We absolutely will be there. We know there is a legislative fix that is needed to move this forward, and we are fully supportive.

Senator MERKLEY. Thank you. I appreciate it.

And there was, by the way, $3 million appropriated in fiscal year 2016 to support the agreements, specifically habitat restoration. Because the agreements were not concluded or the legislation was not concluded, we just want to try to make sure that the $3 million actually does get spent on the habitat restoration efforts, so it would be helpful to keep moving the process forward as much is possible.

Mr. CONNOR. I believe that process will continue with additional funds that were made available from Reclamation with the spending plan. The upper basin agreement with the Klamath Tribes is still in effect, and there is some restoration activity that is contemplated as part of that agreement, and we want to carry forward with that.

Senator MERKLEY. Great. Thank you. Thank you for all your assistance on this, Michael.

COAL LEASING PROGRAM REVIEW

Turning to coal leasing, I think it flies to the top of the chart for questions that you have been asked. It shows how much different Senators care about this from substantially diverse perspectives.

I certainly agreed with Senator Blunt when he was saying that we should be able to figure out the answer in a shorter period of time. To me, the answer is already obvious, but it is probably the opposite of what Senator Blunt might conclude.

Currently, we have, I believe, in terms of leases, already granted about a 20-year supply of coal already leased out for extraction. Am I in the ballpark on that?

Secretary JEWELL. That is correct. It is 20 at current production rates, and production rates are declining, so it is likely more than 20.

Senator MERKLEY. So we have a tremendous supply that already has been leased. And we also know that when you do a new lease, that lease might be exploited for decades thereafter. So if we do a new lease now—there are occasions where a lease has been exploited for 30, 40, even 50 years—we are essentially locking in a contract for many decades in the future. Am I still on track?

Secretary JEWELL. That is correct.

Senator MERKLEY. So here is the thing, we are seeing the impact of burning fossil fuels all over Oregon from the growth of the pine beetle because winters are warmer and so damage to our forest.

We have three of the worst ever droughts in the last 15 years in Klamath Basin, a huge impact on agricultural families.

The winter sports in the Cascades have declined as the snowpack has declined. The trout streams are getting smaller and warmer, which nobody who fishes likes to see smaller, warmer streams.

Our oysters on the coast are having trouble reproducing because the ocean is more acidic, 30 percent more acidic than before the Industrial Revolution. If that is not a canary in the coal mine, I do not know what it is.

So we have the knowledge, not just in some theoretical model in the future, but right now facts on the ground. We know there is extensive damage to our forestry, to our fishing, to our farming, to our natural resources. And therefore, why would we possibly do a new lease locking in more extraction and combustion decades into the future?

So that is the conclusion I would come to. If the administration reaches the same conclusion, as you put it, before your time is up, I would love to see the coal leasing program ended.

Secretary JEWELL. All right. Thank you.

Senator MERKLEY. Thank you.

Senator MURKOWSKI. Senator Udall.

Senator UDALL. Madam Chair, thank you very much.

NATIONAL PARKS DEFERRED MAINTENANCE

Secretary Jewell, I am pleased to see that you have proposed a 9 percent increase for national parks, including major investments in construction and maintenance programs to address the estimated $11.9 billion maintenance backlog at parks nationwide. It is mind-boggling, that number.

CARLSBAD CAVERNS

We have a particular issue with park maintenance in New Mexico I want to briefly raise. The public elevators at Carlsbad Caverns National Park have been out of service since early November, leaving visitors to hike in and out of the caverns if they want to visit.

Obviously, the lack of elevator service creates a problem for visitors who have accessibility issues as well as a problem for the general public.

I have had the chance to raise this issue with you personally. And you know how important it is to me for the Park Service to restore temporary elevator service at the park as possible and to come up with a plan to permanently upgrade the elevators. I appreciate you working with me on this to resolve this issue as quickly as possible and to ensure that the local communities know what to expect.

VALLES CALDERA NATIONAL PRESERVE

I also would like to thank you for your strong support of the Valles Caldera National Preserve during its recent transition to be-

come part of the national park system. I am also pleased to note that you have included $3.3 million in your budget request to continue funding for the preserve into 2017.

Now that you have visited, I know you will agree with me that the preserve is one of the crown jewels of the national park system. What makes it so special is not just a stunning landscape, however. There is recreation, hunting, fishing, and grazing at Valles Caldera. All those make it a vibrant park for New Mexico's community and for our local economies.

That is why I am concerned to hear that the Park Service is still weighing whether to continue traditional grazing permits on the preserve for this upcoming season. The law that transferred the Valles Caldera to the National Park Service allows these longstanding permits to remain in place while the Park Service develops its long-term management policies. These ranchers deserve to know now that they can count on their grazing permits for the season.

Can I have your commitment that you will work with me and other members of the congressional delegation who are also very concerned about this to resolve this issue quickly and avoid any further disruption to these traditional grazing permits?

Secretary JEWELL. Certainly, Senator, we will be happy to engage directly with you. The Park Service is well aware of the need to act fast on this.

I will say there are some complexities, an endangered species, for example, that needs to be incorporated into their planning process, and figuring out the market rates for appropriate grazing fees. But we are very happy to work with your office to keep the priority high for the Park Service.

Senator UDALL. Thank you very much. I think on the endangered species issues, there are areas where there are not endangered species issues, and I think the park superintendent is very aware of those, and the local people on the ground.

Another issue related to the transition of the Valles Caldera is the importance of continuing a multiyear stewardship contract with the Jemez Pueblo. This project supports vital landscape restoration work and jobs for tribal members.

As you know, I worked to include $1.5 million in the 2016 omnibus to support forest restoration projects at new parks like Valles Caldera. Could you tell me what work you expect to accomplish this year with the funding we provided? Is funding included in your fiscal year 2017 budget to continue this effort?

Secretary JEWELL. So the short answer is yes, funding is included. It is going to be used for thinning about 1,200 acres of forest. As we are both aware, they had devastating forest fires, and that is really important. So that will continue.

Senator UDALL. Great. Thank you very much for that response.

VENTING AND FLARING

As you know, I am very supportive of the department's efforts to develop new rules related to methane venting and flaring. New Mexico's natural resources provide jobs and royalty payments that are an important part of our State's economy, but outdated requirements are resulting in over $100 million worth of natural gas being

wasted, which has cost my State $43 million in lost royalties since 2009.

There is also a serious health component to this issue.

I understand that you are now in the public comment period on the methane venting and flaring rule. Could you give us a sense of the timeline for the final rule? What are some of the issues you are hearing from industry that you believe will be addressed in the final rule?

Secretary JEWELL. At this point, the public comment period ends next month on April 8. So far, we have had two public listening sessions, one in Farmington, New Mexico, the other one in Oklahoma City. We will be taking input on all of those comments.

I cannot tell you what all of them are because we have not analyzed them yet. I am sure you are aware of what some of them are, in terms of cost and methodology and the importance of doing this. But once we have all of those comments in, we will be happy to analyze them and factor that into the rulemaking.

Senator UDALL. Great, thank you very much.

COAL

I have a question here on coal, but that one is kind of like beating a dead horse. Senator Wyden and I have a piece of legislation on that, and I think I will submit that one for the record.

INDIAN EDUCATION CONSTRUCTION

I am very pleased that this subcommittee was able to provide an 85 percent increase for Indian school construction and improvements in the 2016 omnibus. That amount includes funds to finish the schools on the 2004 school construction priority list. It also provides a down payment to begin work on new schools that the Bureau of Indian Education (BIE) is in the process of selecting. I am glad that you were able to include another $45 million for replacement school construction in your 2017 budget.

I know that BIE is currently considering applications for schools that want to be considered for the next round of funding. There are four schools in New Mexico that are currently competing for a place on the final list, and they are all very anxious to find out whether they will get selected.

In addition, this subcommittee needs to know how the funds in your budget will be used so that we can support your efforts during the appropriations process.

When do you expect to finalize your new school construction list? And what is your plan for providing the subcommittee with more detail on how year 2017 budget request will align with that list?

Secretary JEWELL. The Indian Affairs team is hard at work, and they are nearing finalizing the list. We narrowed the list down from many, many schools to 10 that submitted additional information, which has been received. It is being analyzed, and I would expect that sometime in the coming weeks to see the final version of the list for the new school construction.

There are also replacement buildings, which would be considered afterwards.

We are very happy to provide you with information on how the funding would be used. We are happy to work with the committee and provide you with an inventory of that.

But as you pointed out, this is a much bigger issue than we have money in the budget to address. We can just begin to chip away at the list and work on stemming the increase in deferred maintenance.

But we need a longer-term solution, as happened with the Department of Defense schools, to really address this long-term systemic problem, which is afflicting fully a third of our schools that are considered in poor condition, including a bunch of them in your State.

Senator UDALL. Thank you. I know you have a real passion for this.

Madam Chair, I see I am well over time here. I do not know whether we are doing another round or not.

Senator MURKOWSKI. I have some more questions. We have given our colleagues some latitude here so they can move on to other things, but if we can continue for a little bit longer, that would be great.

MITIGATION

Madam Secretary, I want to go back to some of the lands issues. Something that has caused a level of concern is where we are in this big discussion about mitigation.

As you know, the President has issued this memorandum on mitigation, and then you have your Secretarial Order Number 3330. I think these two issues are causing more questions than resolving any issues.

Just a couple years ago, as we were dealing with issues within the National Petroleum Reserve, the concern was the metrics that were relied on to arrive at a $8 million cost for mitigation within the National Petroleum Reserve-Alaska (NPRA). BLM, at that time, had discussed a real rigorous understanding of how this impacted subsistence use. It seemed to so many who were observing that this was just kind of divined from different individuals, agencies, and that it had come to a point where it was, how much can we get? That is not a standard that anyone would suggest is reasonable.

But the bigger question is whether or not there is authority to require mitigation for projects on public lands in the first place. When you move forward on natural resource development, responsible natural resource development by definition includes reclamation of disturbed lands and our Federal laws require that reclamation then occur. Laws that govern multiple use on public lands do not have this mitigation requirement.

I led a letter that went out just about a week ago with about 18 other colleagues here in the Senate outlining a series of questions to DOI focusing on we are with developing this program guidance—not only for DOI but for all the relevant agencies that are involved.

So a couple questions on mitigation. Can you provide a status update as to program guidance about the bigger point, which is what is the authority that the department has to require mitigation for projects on public lands in the first place? Additionally, the bigger

problem and the consideration that we face in Alaska is that you have multiple agencies that have seemingly different standards or different approach to mitigation. As a consequence of the lack of certainty, operators are not even able to begin a project, because whose standards are we going to be looking to?

So, a longer question that hopefully has a clear answer. We have not gotten the guidance that we have asked for.

We are going to be having a hearing in the Energy and Natural Resources Committee on this within this month to hopefully gain more clarity. Can give me a little bit of guidance here from your perspective?

Secretary JEWELL. Let me do a high level answer and then I am going to turn it over to Mike Connor, who has worked on the details for me on this.

First, we believe the individual, localized mitigation does not actually address sometimes the bigger issue that development has on the landscape. This is something that I looked at from day one.

When you have the fragmentation of habitat, when you have road networks and so on, there tend to be impacts to the landscape, the animal migration patterns, and so on, that are not necessarily contained within the footprint of that area. We are looking at landscape-level mitigation, understanding what those impacts are.

Good examples of that, I would say, in the National Petroleum Reserve in Alaska, understanding the caribou calving grounds, understanding the oil and gas development potential, understanding that if there is offshore development, how do you move that. All of those things were factored in.

As a project gets done, there is now a greater understanding of what the impact will be. That is the whole concept of mitigation.

Senator MURKOWSKI. Can I interrupt on that? What you are describing is that it is going to be a case-by-case determination. How can you give some level of certainty then to anybody who is looking to develop a project, whether it is oil and gas or whether it is a new runway or whether it is a driveway? How can there be any level of certainty and understanding when everything is done on a case-by-case basis?

Because what you described is going to depend on what is happening with the landscape around it. Every landscape is going to be different.

Secretary JEWELL. The intent is to bring certainty. Another example, the Desert Renewable Energy Conservation Plan, what are the areas that are set aside for development? What are the areas critical to conserve?

So as this gets developed, the mitigation would be used on the area that is highest priority for conservation, not necessarily on that footprint. The overall intent, to bring greater certainty, not less.

I am going to turn it over to Mike for the specifics on what he is working on.

Mr. CONNOR. I think I would just continue along the lines with the view that the President's memo I think gets to the point you are trying to have us do, which is having more consistency across the agencies in developing our mitigation criteria and not doing it project-by-project, by doing these planning efforts, which I think

have demonstrated they do facilitate permitting processes because they add more certainty as we work with companies.

A perfect example is the Western Solar Plan and the Solar Energy Zones we did in Dry Lake in Nevada. We identified the corridors of development, and the appropriate mitigation standards, that should apply there. We worked with companies taking environmental analysis that used to take 18 to 24 months down to 6 months to complete those environmental analyses.

I think the NPRA is a situation I am particularly familiar with having been involved in the discussions with ConocoPhillips. The mitigation was not pie-in-the-sky what can we get. It was very specifically related to the intrusion on the Fish Creek barrier. That was the issue we were discussing with ConocoPhillips. We talked about specific ways to compensate for that. We had a disagreement about methodology.

Quite frankly, we all agreed there was a range of dollar figures we were talking about to compensate for that particular intrusion, and it could best be applied toward developing a regional mitigation plan with the affected communities, including the Alaskan Native communities. That is the process that is ongoing right now, which should add greater clarity to further developments in the NPRA, quite frankly.

Senator MURKOWSKI. I think what you established there is a precedent that basically says, if you want to operate within this area, you are going to pay, not mitigation—it is not being viewed as mitigation by those who are looking—a penalty. We would differ mightily in terms of the specific project with Conoco and whether or not that $8 million that was ultimately arrived at or settled upon was where it was started. We recognize that was not where the conversation started. It was being used more as a bargaining tool for Conoco to be able to move forward.

So, again, we have a letter out there that we are looking for concrete answers on, and we will have an opportunity to have this before us in the Energy Committee to get a better understanding.

This is a concern that, again, we are not talking just about development of oil and gas opportunities in my State or in others. It is the opportunity to advance any kind of a project, whether it might be an area for school or runway or what have you.

I want to recognize that Senator Udall will have more questions, too, but let me follow on to a couple comments that were made by Senator Udall in his opening, and by Senator Feinstein.

ABANDONED WELLS

Senator Feinstein was talking about abandoned mines, developing potential for an inventory. As you all know, legacy wells, which is horribly, horribly misnamed, are abandoned oil and gas wells in Alaska that were drilled by the Government and then just left in varying states of disrepair. We have been making some progress. We have identified the universe there in terms of the cleanup.

To Senator Feinstein's point, when she talks about an inventory, I think we have established that at least in Alaska. You identify what it is that you have, now you have to prioritize how we are

going to be spending the money. We were successful in getting $50 million, with helium funding last year.

I appreciate the fact that we have a path, an action spend plan, for that $50 million. But my concern is that there is still going to be a significant number of wells that will need to be attended to when that fund is exhausted.

You have included $3.8 million in this budget for next year. I understand that this is a budget for this year. But we are still hoping to get an understanding as to how we intend to deal with all of the Federal Government's obligations to clean up these wells up on the North Slope. Because if you are suggesting that it is $3.8 million this year, and perhaps a like amount next year, I am told we are looking at 30, 40 years to clean up these wells, if that is the case.

Do you have an estimate of the likely cost to finish this environmental cleanup project, in both money and time?

Secretary JEWELL. I will give you the information I do have, and we will get back to you on the record for what I do not have.

There are 136 wells, these legacy wells. Fifty were identified in 2013 as requiring remediation.

Senator MURKOWSKI. I want to make sure that we are both clear on that, because I have heard that there is still some disagreement between the State of Alaska and Interior in terms of whether or not some of these wells require that level of remediation. I understand what you are saying, but I want to make sure that we are in alignment between State and the Federal Government on what the level of responsibility is.

Secretary JEWELL. Okay. I am not aware of that dispute, but I will say, because of the work that you did with the Helium Fund, we will have 29 left requiring work at the end of 2016. We will have three to five wells we can do with what is in the budget for 2017, the Wolf Creek cluster. I think because they are together, we will be able to address that.

That still will leave somewhere on the order of the mid-20s that need to be cleaned up. What I do not have is the estimated cost to do that or the amount of time it would take.

Of course, we would welcome the opportunity to work with you on a more permanent funding solution for this, just as we would on abandoned mines, and just as we would on school construction. It is very difficult putting small amounts of money toward a program each year that is much larger than what we can address in the regular budget cycle.

Senator MURKOWSKI. Understood. Absolutely. But I think this is one of those glaring examples where our Federal Government is being absolutely hypocritical when it comes to environmental standards. In this case, it is the Government that has drilled wells, and the Government that has walked away. The Government acknowledges that it left a mess, and yet the budget does not prioritize that.

Part of the problem is, unlike perhaps abandoned mines in California where you have a lot of people who are wandering around and hiking, the North Slope is a long way away, and there are not that many people on that North Slope.

You and I both agree that we have a responsibility to clean up that land. We have a responsibility to those subsistence hunters

and fishers up there who are worried about the contamination. Our Federal Government left a mess, and they have an obligation to clean it up.

I am going to continue my push on this, and we need to be working together.

CONTAMINATED LANDS

I also want to raise the contaminated lands issues. These are lands that have been conveyed to Alaskan Natives under the Alaska Native Claims Settlement Act that are separate from the legacy wells the Federal Government drilled.

Here we have a situation where lands have been conveyed that were already contaminated. These are Native lands, given to Natives as part of a settlement.

We have done an inventory of these lands. We have asked that inventory be updated. At the budget hearing last year, you said the survey was nearing completion, and that it would be soon released.

We are still sitting here a year later. It still is not public. I am told by BLM officials that it will be released soon. But we were told it was going to be released last year.

Assuming that this inventory is completed and will soon be made publicly available, I would like to have an assurance that, along with legacy wells, there is going to be an action plan from the Department of the Interior to accelerate the cleanup of contamination on Native lands that the BIA, the BLM, the Fish and Wildlife Service, the National Park Service, or the Bureau of Mines actually caused.

I also need to know that there is going to be some level of coordination in terms of how we are going to clean this up, because there are other Federal agencies, that have responsibilities, whether it is DOD or FAA.

Understanding how we are going to meet our Federal responsibility for this cleanup is something that we are going to continue to knock on your door, bang on the drum, raise our voices, because it is a responsibility that we have.

Can you give me any updates on when we might see the inventory, the updated inventory?

Secretary JEWELL. The information I have says next month. That is the best I can do. I do not know why it has taken so long, but that is the best information I have at this point.

Senator MURKOWSKI. And that information will be made public?

Secretary JEWELL. I do not know.

Do you know?

Ms. SARRI. I will get back to you on that one after I talk to BLM a little bit more about it.

[The information follows:]

ALASKA CONTAMINATED LANDS

The requested report on Contaminated Lands in Alaska has been drafted and is currently in the review stage. It will be transmitted to the Committee soon. The BLM plans to publicly release the Contaminated Lands Inventory database. With the Committee's permission, BLM would also like to make the report public by posting it on the BLM Web site.

Senator MURKOWSKI. The first inventory was completed at the request of my father in the 1990s. It had a timeline to be renewed

and updated frequently and prioritized. So "frequently" has now turned into almost a decade.

It is not just this administration's fault. If for some reason it is not going to be released next month, I would certainly appreciate a very detailed explanation as to why it is not, because you can count on me to continue to make a big stink about this.

Senator Udall.

Senator UDALL. Thank you, Madam Chair.

REPATRIATION OF SACRED OBJECTS

Secretary Jewell, an issue of serious importance for tribes in New Mexico is the repatriation of sacred objects back to the tribes.

First, I want to applaud your recent efforts to work with French authorities to seek cooperation in these efforts. As you know, these items are not pieces of art to be sold. They are sacred objects that are deeply important for tribal identity. What's more, it is illegal to traffic these items within the United States.

I think we need to be doing more to crack down on the sales of these priceless cultural objects. One idea I have heard from the Pueblo of Acoma is to establish an antiquities unit within the BIA to investigate these kinds of cases.

I want to work with you to ensure that BIA and other bureaus within the department have the ability to put a stop to these illegal trafficking efforts.

Can you elaborate on the work of the department in terms of bringing awareness to this issue and preventing tribal objects from being trafficked? And are there specialized law enforcement resources within the department able to handle these repatriation cases?

Secretary JEWELL. Senator, this is a significant issue. When I was in Paris as part of the climate talks, I met with the Minister of Justice for France, and I also met with the individual that administers the auction houses in France.

They typically produce a catalog with a number of these items that are exactly as you described. They are not works of art. They are critical artifacts that were removed from the tribes for whatever means many, many decades ago and have been circulating in the art market. They do not provide sufficient time for the tribes to even know they are there, let alone take the kind of action the French authorities say they need.

I was met with a very sympathetic voice in the Minister of Justice. Unfortunately, she just quit, so we will have to start over again with the next minister.

I do think there was a path forward that we learned about, about the repatriation of articles taken in Nazi Germany from families at that time. That may be a path we can use.

On the international market, I would say the State Department is a critical ally in this effort. They have the people that work the legal systems there. I would say that to dedicate someone from BIA's law enforcement to this is something that would have to come out of another area of BIA's law enforcement, so it is a tradeoff, given the law enforcement challenges we have in Indian country.

But I do think the BLM has some capabilities in this area. I know the State Department, Interpol, the international organizations do. It is on our agenda to raise awareness internationally to see if we can actually address this.

I will also say we are not without fault. Our auction houses in New York City, for example, do trade in artifacts. And they may be those that are inappropriate to trade, and then we do not find out about it until too late.

This is very, very important. The New Mexico tribes are quite active in this, but so are the Alaska tribes as well. It is important. And thanks for raising visibility.

Senator UDALL. Thank you for your efforts on that.

BUREAU OF INDIAN EDUCATION REORGANIZATION

As you know, we have had extensive discussions, and I know the chairman has also been involved, on this reorganization of the Bureau of Indian Education. And I understand the department is now moving forward with the first phase of proposed reorganization of the BIE, including the establishment of new educational resource centers that your 2017 budget anticipates additional changes to the bureau.

This subcommittee supports your efforts to improve education for Native students, and we recognize that you are tackling some of the very tough issues as you overall the bureau. But I want to make sure that the reorganization is done right and actually leads to concrete improvements in the classroom.

I also want to make sure stakeholders at all levels, from tribal governments to educators and parents, understand clearly what to expect from these changes. As part of the first phase of the reorganization you have proposed a number of staffing changes, including changes to the regional office in Albuquerque to create these new centers to assist BIE and tribally controlled schools.

What is your timeline for staffing up these centers? And what services can schools expect to receive starting in the fall? And what is your plan to ensure that all stakeholders, including BIE employees whose jobs may be affected, know what to expect during the reorganization?

There are other questions there that I will submit for the record, but I want to get an answer from you on those.

Secretary JEWELL. Okay, I am happy to give you a quick update. I will also say that taking on reorganization of something as storied, and not necessarily in a good way, as the BIE is, from a business person's perspective, unbelievably difficult over a multiyear period of time and extraordinarily difficult in the timeframe I have left.

The goal is to set a path forward so we continue to make progress on Indian education reform. It is not all going to be done in 1 year.

We have had multiple meetings with all employees. Those were held in February, and we outlined the whole process. On February 22, so just a week or so ago, we announced 65 vacancy announcements across the BIE. Some of them are vacant. Some are new positions. People will apply. Those positions will close on March 11,

and we will begin filling the jobs in April. So, it is really a fast timeline.

I would say what you will see in terms of near-term improvements, we have been working now for more than a year on professional development of teachers aligned with Common Core. We have been providing training for effective school boards, financial accountability training for school leadership, and then training for certain tribes that have wanted alternative accountability standards like the Miccosukee and Navajo.

There is a lot of work going on. I personally met with leadership of the BIE to see how it is going. We have a lot of work to do, but I would say people understand the importance of this. People are now a bit more reassured all their jobs are not in jeopardy. We are working toward a common end, which is better education for these students and self determination in education by tribal communities that want to take control of the schools.

So we continue to have an open door to any suggestions you have in this regard, but we are well on our way.

Senator UDALL. Thank you very much, and thank you for your hard work on that.

LAND AND WATER CONSERVATION FUND

Since Senator Murkowski mentioned her father, just as a closing comment here, when we were talking about the Land and Water Conservation Fund, and Senator Tester asked a question, as you know, my father worked in the 1960s when he was Secretary of Interior to start the Land and Water Conservation Fund. He worked with Congress. He went down and I believe met with a Congressman by the name of Wilbur Mills from Arkansas, and they came up with idea of taking offshore oil and gas, knowing that these resources are limited, taking some of it and dedicating it to permanent protection of land.

The original idea I think came from a national commission, a blue ribbon panel, an incredible panel headed I think by Lawrence Rockefeller and others that said, what do we need to do in terms of parks? The suggestion was from this commission—these were people outside of politics—you should spend $1 billion a year and everybody should know you are going to spend that and split it up between the State program, as you talked about, and the Federal program. And the reason you do that is everybody can plan. All these city councils and States and Federal Government and its agencies can all plan and look to see that money is there.

As Senator Tester pointed out, we have now reached the point where we have authorized it at that level. The money is over there in the fund. But somehow we do not dedicate the resources there.

So we are all trying to figure out how we got to this place. I know President Obama and you have encouraged us now to move forward.

I thank very much, Senator Murkowski, for working with me on the increase that happened in Land and Water Conservation Fund. That was a good step. But we are not anywhere near where we need to be in terms of the original idea behind the Land and Water Conservation Fund.

But thank you very much. I know she was trying to get out of here. We are running over here a little bit.

Senator MURKOWSKI. Thank you, Senator Udall.

Yet one more reason why this energy bill is a good energy bill that we are going to try to get moved through the Senate, because we do have the LWCF piece in there that allows for permanent reauthorization. It does have some reforms in terms of reminding us of the significance of State-side LWCF at the same time we have Federal.

Secretary, I know that you have to go. I have just a couple more questions and hopefully your answers will be yes and no.

ALASKA LAND CONVEYANCE

I mentioned the land conveyance and reductions that we have seen in the budget, a 20 percent reduction from last year. I have raised the issue of the methodology for the survey. There is a peer-review that is going on. BLM has agreed to that.

Can you commit to me that BLM will not act unilaterally to implement their preferred method of survey, if the State of Alaska formally objects, once that peer-reviewed process is complete? I just want to know that the State has been heard on this.

Secretary JEWELL. We absolutely are working closely with the State. I hope it does not come down to a veto of what we want to do. We are working now with the National Society of Professional Surveyors at the State's request.

Senator MURKOWSKI. Yes.

Secretary JEWELL. We are providing them with all the needed information. I think it is our collective hope they will come to a meeting of the minds, and it does not come down to the State saying this is not acceptable. I hope they can find something that both agree is acceptable.

Senator MURKOWSKI. We are going through that peer review process, so I think that is important.

TRIBAL COURTS

I will submit for the record several questions, one on tribal courts. We were successful in getting funding for Public Law 280 States for the first time last year in the amount of $10 million. The President's request cuts this by $8 million. I am very concerned about that.

EARTHQUAKE HAZARDS

We just sent a letter to you, the Alaska delegation, on the USGS earthquake program. I mentioned that to you. I would like assurances that any future summits or meetings you are conducting regarding earthquake preparedness at least include Alaska. Additionally, the earthquake monitoring cost-benefit study is being formulated, and I would like to see the status of that report. Can you let me know when we might see some of the findings?

BOTTLED WATER BAN

I also want to raise the bottle ban on bottled water in parks, not the ban but giving parks the option to eliminate the sale of bottled

water on a park-by-park-basis. We have asked for a report within the omnibus about the justification for making this determination. The report was due February 16. We have not gotten it. I would hope that you can let us know when you are expecting that report.

I still have some concerns. We can sell bottled sugar water in the parks, but we cannot sell good glacier water. We are actually drinking Alaskan Glacier water here at the committee.

I was contacted by the COO of Alaska Glacier Products. He is worried that he is not going to be able to sell his Alaska product in the Alaska park units. This concerns me.

I do not know whether or not, for instance, Denali National Park is opting not to sell bottled water.

I understand we are trying to eliminate the waste, but you are still allowing the waste from pop in our parks as well. Not every parent is able to bring or remembers to bring water bottles.

ALASKA MAPPING

The last thing that I am going to raise is where we are on Alaskan mapping, the Alaska Mapping Initiative, improving our topographic maps for the State.

I was present at a celebration in Alaska last summer where we celebrated 55 percent completion of mapping the State. Where else in America would you celebrate being just a little over halfway?

We have a way to go on this. I remain concerned that, as we look at our priorities, mapping, both terrestrial mapping and mapping our waters, is something where we are woefully behind.

I have much more that I will submit to you all, and we would hope for timely responses. I appreciate you being here before the subcommittee, and I apologize that the subcommittee has gone over time.

Thank you for your indulgence, and we look forward to your responses. Thank you very much.

Secretary JEWELL. Can I just say that I actually do have a response on the mapping.

Senator MURKOWSKI. Yes, please. Go ahead.

Secretary JEWELL. We were at 63 percent at the end of last year. By the end of 2017, we will be 70 percent complete. We should be fully complete by 2020.

I do have personal vested interest. My son actually is a critical care flight nurse and does medevac flights.

Senator MURKOWSKI. He knows.

Secretary JEWELL. He knows. He does that in Alaska as well. So, we share the concern and also share the urgency of why this is so important for the State of Alaska.

Thank you both very much. This is a little different in terms of tenor and tone than the session that I was at yesterday. I do appreciate the constructive nature and also the flexibility with which you ran the agenda to allow me time to answer after time had expired. So thank you both very much, and we look forward to working with you.

Senator MURKOWSKI. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. SALLY JEWELL

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

Question (1). Last year the Alaskan Village of Council Presidents (AVCP) was selected to participate in the Tiwahe d emonstration project and has received approximately $986,000 in base and Tiwahe funding. For those of you not familiar with the AVCP, it is a consortium of 56 Alaska Native villages in western Alaska. The villages are remote and somewhat isolated over a 59,000 square mile area with a population of approximately 25,000. All travel to and from the villages is by small plane or boat. The AVCP administers programs, fund projects, and provides social services to the villages.

The Tiwahe initiative is a 5-year pilot program that aims to help tribes develop a comprehensive approach for the delivery of services to communities through partnerships with the tribe, local communities and the State and Federal Government. The overall goals and objectives are, to improve screening and access to family and social services, to create alternatives to incarceration via solution focused sentencing, improving links to appropriate prevention, intervention and treatment opportunities.

a. I understand this is a 5-year pilot program, but I am interested in hearing more about how the program is structured for each tribe and how the funding for each pilot site is determined. Would you briefly explain how the sites are selected, how the pilot is designed, and how the funding is determined and delivered?

Answer. Tiwahe sites were selected based on geographic diversity, governance structure diversity, unmet need, and capacity. Alaska's geographic diversity from the lower 48 tribes and level of Federal resources to support tribal families, combined with AVCP's administrative capacity and interest in developing wrap-around services, led to BIA's selection of AVCP as a pilot site.

Tribes at the six pilot sites (four in fiscal year 2015 and two in fiscal year 2016) are required to develop plans to address their needs. Each site plan must address goals in the areas of social services, child welfare, employment and training, recidivism and/or tribal courts. BIA provided funding through a 50 percent increase to their Social Services Tribal Priority Allocation (TPA) and Indian Child Welfare Act (ICWA) fiscal year 2014 base level funding, and a pro rata increase in Job Placement and Training Funds. BIA delivered funding through either an Indian Self Determination and Education Assistance Act (ISDEAA) contract or compact. In addition to the funding received by the pilot sites, all tribes and BIA regions operating social services and ICWA programs received increases from their fiscal year 2014 base levels as part of the Initiative.

b. The President's proposal for the initiative is $21 million over fiscal year 2016 enacted levels. What is the plan for this increase? Would you seek to expand the pilot to additional sites in Alaska and elsewhere?

Answer. Of the $21.0 million Tiwahe Initiative increase in the fiscal year 2017 request, $18.4 million is for social/human services programs and $2.6 million is for the Public Safety and Justice's Tribal Courts program. Here is a summary of the funding breakdown:

—+$12.3 million—Social Services (TPA)
  —$5.0 million: Provide expanded social services such as child welfare and family and domestic services at five additional Tiwahe sites;
  —$5.2 million: Focus on capacity building at specific tribal sites, including the hiring of 30 additional social workers in Indian Country;
  —$1.0 million: Support the continuation of the Research and Evaluation contract which will assist tribes with goals and performance measures;
  —$1.1 million: Support the continuation of the Center for Excellence which gives tribes opportunities to continue learning, cross training, and to conduct information sharing in areas related to leadership, best practices, research, support and training.
—+$3.4 million—Indian Child Welfare Act (ICWA) TPA: Increase tribal preventive services efforts in providing family assistance and home improvement serv-

ices, which should build stronger families and decrease instances of child removal from the home.

—+$1.7 million—Housing Improvement Program (HIP): Improve housing conditions, and access to suitable housing, at the Tiwahe sites with a focus on veterans and single family households.

—+$1.0 million—Job Placement &Training Program (JPT): Support employment and training activities at Tiwahe sites.

—+2.6 million—Tribal Courts: Sustain the existing Tiwahe sites and provide targeted base funding to five additional locations under the Tiwahe Initiative. The resources will assist tribes in creating stronger tribal court infrastructure to address issues related to children and family services, as well as develop special projects to reduce the rate of repeat offenders and criminal recidivism.

If funded at the President's request, BIA would add five additional Tiwahe sites in fiscal year 2017. These five would join the original four selected in fiscal year 2015, and the two selected in fiscal year 2016 (bringing the total number of Tiwahe sites to eleven by the end of fiscal year 2017).

Question (2). ANILCA is perhaps the largest conservation contribution in the world's history and certainly the Nation's. Alaska has more Conservation System Units ("CSUs") than the entire Nation combined, yet we continue to see more and more land taken off the table for development. Land planning in Alaska is managed in a tenuous and never-ending process that specifically ignores ANILCA. The process results in outcomes that do not favor development. In addition, few people have the time, energy, and expertise to participate in these plans. For example: Bering Sea/Western Interior RMP contained 56 maps, 1,200 pages, and 63GB of data. Furthermore, this plan and similar plans exclude multiple-use through ACECs, RNAs, and other proposed closures. What is being done to ensure the balance for conservation and economic opportunity intended by ANILCA is considered for future land management plans?

Answer. The land use planning process in Alaska encourages collaboration and partnerships that assist the Bureau of Land Management (BLM) in determining how to balance the needs of adjacent communities with the management of public land resources. Recognizing the challenges associated with the timeliness of long term planning activities, BLM has recently developed the Planning 2.0 initiative that will improve the bureau's ability to respond to environmental, economic and social changes in a timely manner; strengthen opportunities for State and local governments, Indian Tribes, and the public to be involved in initial decisions leading to the development of land use plans; and improve the BLM's ability to address landscape-scale resource issues. In Alaska, the provisions of the Alaska National Interest Lands Conservation Act (ANILCA) and the Alaska Native Claims Settlement Act (ANCSA) are regularly incorporated into the planning process and when considering mitigation, provisions of FLPMA and ANILCA help identify significant resources and Conservation System Units that could be impacted by development. Early and frequent public engagement and a robust planning process that balance both conservation and resource use will continue to be the key to BLM's land use planning.

Question (3). As you know, once covering 160 million acres, the Public Land Orders ("PLOs") were put in place after 1971 to guarantee that Alaska Natives could select their ANCSA selections. The Department's own report in 2004 said there was no need for any more than 6.7 million acres to still be encumbered—and that number has since been further reduced over the past dozen years with the completion of revised Bureau of Land Management plans. Moreover, Natives have now filed all their selections.

a. Please provide specifically what actions your agency is taking to actively lift the remaining Public Land Orders (PLOs) reserving lands throughout the State of Alaska.

Answer. Public Land Orders (PLOs) determine which lands are or are not available for selection by either an Alaska Native Claims Settlement Act (ANCSA) corporation or the State of Alaska. This authorizes the Secretary to classify and reclassify the lands withdrawn and to open the lands to appropriation in accordance with the Secretary's classification. The original PLOs state that any lands not conveyed to an ANCSA corporation would remain reserved for study and review for the purpose of classification or reclassification. The Bureau's land-use planning process satisfies the requirement for such study, review, and classification and is the appropriate mechanism for recommending a withdrawal be lifted. Over the decades, many of these PLOs were amended several times to allow for millions of acres to be made available for State selection and/or entry under the mining laws.

The State currently has an estimated remaining entitlement of 5.2 million acres, but an estimated 14.9 million acres selected. By contrast, the State has 6.5 million acres of "top-filings" (future selections that would "attach" if and when the pertinent withdrawal (PLO) is lifted). It should be noted that the State has a statutory 25 percent limitation on its over selections. Based on its existing remaining entitlement, the State should have only 6.6 million acres of selections. The State is currently 8.3 million acres over its statutory limit on over-selections. Lifting any PLOs to make more lands available for the State to select would further increase its over-selection.

Currently, lands selected by the State are not available for a rural subsistence priority. Accordingly, lifting PLOs to allow a State top-filing to attach and become a selection will reduce the acreage of lands available for rural subsistence priority. This is one of the reasons the BLM feels that the Bureau's land use planning process, which is open to public input and comment (including by the State) is the appropriate mechanism for recommending a withdrawal be lifted.

b. I would like your commitment to lift all the remaining PLOs as soon as possible, and please provide a timeline by which you commit to abide.

Answer. The appropriate mechanism for recommending withdrawals is through the Bureau's land-use planning process. This process is open to public input (including the State of Alaska) and comment. Since 2007 in Alaska, four resource management plans have been completed where recommendations were made to lift withdrawals and currently there are three resource management plans ongoing where recommendations will be made upon completion.

Question (4). On February 4, I sent you a letter with Chairman Cochran, Chairman Rogers, and Subcommittee Chairman Calvert regarding the Office of Surface Mining's Stream Buffer Zone Rule. The letter related to the directive in the fiscal year 2016 omnibus that required the Office of Surface Mining to provide States with information they requested related to the Stream Buffer Zone Rule, as well as to meet with States at their request.

I am extremely concerned about the manner in which this rule has been written—primarily because 9 out of 10 of the States who entered the process as cooperating agencies decided to withdraw from the process because of a lack of meaningful consultation with OSM. This directive was meant to reverse course and ensure that OSM moves forward in a more cooperative manner.

Shortly after my letter was sent, the State of Alaska sent the Department a letter related to the requirement that OSM provide States with relevant reports, data and analyses. As an initial step, the State of Alaska requested that OSM provide a summary of the documents. The letter indicated that Alaska would then request a subset of those documents and eventually, request a meeting with OSM.

a. Have you provided the State of Alaska with the summary of documents they requested? If not, when do you anticipate that such information will be provided?

Answer. OSMRE made these documents available to all of the States on March 24, 2016, by uploading reference materials cited in the proposed rule on the Web site *regulations.gov* with the exception of reference materials protected by copyright law. OSMRE has also offered assistance through its librarian to those States that request such help to obtain copyright protected materials. The materials are available to the public. The Assistant Secretary and OSMRE officials are holding meetings with the State of Alaska on May 18–22, 2016.

b. In a recent budget hearing in the Senate Energy Committee, Deputy Director Connor said the documents specified in the report language would be ready for the States "in a few weeks." What is your plan for meeting with States after they have had time to review the information you are required to provide them?

Answer. OSMRE offered to dedicate its time at the Interstate Mining Compact Commission on April 18, 2016, to meet with the States. During these meetings, the Stream Protection Rule as well as other topics were discussed. In addition, OSMRE scheduled a series of technical meetings to further engage the States. Staff from 6 State regulatory authorities participated in the meeting on April 14, 2016 and 5 State regulatory authorities participated in the meeting on April 21, 2016.

c. Additionally, can you share the timing and process you envision for moving forward with the stream buffer zone rule? Given that the States will presumably be raising a number of new issues based on the information they receive in the technical documents, will you reopen the comment period so that the public has the opportunity to comment on that information as well?

Answer. OSMRE has prepared a summary of the State meetings for the administrative record. No additional public comment period for the rulemaking is currently planned.

Question (5). Within the Fish and Wildlife Service's Ecological Services budget, and specifically within the Endangered Species Listing program, the Department has proposed shifting a sizeable portion of the budget from "critical habitat designations" to "petitions." I am concerned about this shift because I am still hearing concerns from members who opposed the Department's decision to enter into a multi-species settlement agreement in 2011.

I have heard from members that this effort, which required the Service to make listing determinations on more than 250 species was done without consultation of local governments or communities that are impacted by that settlement agreement. With the actions required in that settlement agreement coming to an end in 2016, I am concerned that the Service will see fit to enter into another similar agreement.

How can I be certain that, if we decide to shift money from critical habitat designations to petitions, the Service will not be inclined to enter into a similar, closed-door settlement agreement?

Answer. The Endangered Species Act establishes mandatory duties and timeframes for various listing duties including petition findings, listing determinations, and critical habitat designations. Failure to meet the statutory timeframes can lead to lawsuits. When it is in the best interest of the Government to do so, litigation can be resolved through settlement agreements; this typically occurs when the Service does not have a viable defense and a settlement is expected to achieve more favorable terms through negotiation. To avoid litigation, the Service strives to meet the ESA's deadlines and has requested the funding needed to do so.

The requested amounts in the Listing subactivity reflect the anticipated fiscal year 2017 workload. In fiscal year 2017, the Service will need less funding than in fiscal year 2016 to address critical habitat designation for already listed species because there are fewer such critical habitat designations outstanding. In contrast, the anticipated workload for petition findings will be greater in fiscal year 2017 than in fiscal year 2016; thus, the budget includes funding under the subcap for the functional area to be increased. By having the subcaps reflect the distribution of the workload, the Service hopes to reduce litigation by working on all types of outstanding actions.

Question (6). I have been concerned with the Department's actions related to the polar bear for a number of years. I disagree with the 2008 listing determination and vehemently disagree with the designation of more than 187,000 square miles of land—an area larger than the State of California—as "critical habitat" for polar bears. When combined with the other hostile actions undertaken by the administration when it comes to developing our public lands, the listing and designation has the potential to devastate our State's economy.

My concern has long been that the Department based its listing decision more on the expectation that climate change would decrease polar bear habitat and stocks in the future, than on fact that stocks are currently in decline. I have seen no data to show that polar bear stocks currently are in significant decline across northern Alaska (the issue of potential Russian poaching aside) and thus, the species does not warrant protections under the Endangered Species Act.

Has the Department undertaken any recent efforts to consider new science related to polar bears in an effort to determine whether the species should be listed under the Endangered Species Act? If so, please provide me with the studies that you have considered. If not, please share with me the reason for not moving forward and whether there is a plan for moving forward.

Answer. The Fish and Wildlife Service (Service) initiated a 5-year status review under the Endangered Species Act of 1973, as amended (ESA), for the polar bear (*Ursus maritimus*) on October 13, 2015. The purpose of this 5-year review is to ensure that the polar bear has the appropriate level of protection under the Act. The polar bear's "threatened" status reflects the finding that it is not presently in danger of extinction, but is likely to become endangered in the foreseeable future. A 5-year review affords the opportunity to periodically take a comprehensive look at the full body of information available for a species and assess its progress toward recovery. These reviews assist the Service and its partners in identifying conservation needs, better targeting and prioritizing conservation efforts for the species, and determining whether a species may warrant downlisting, delisting, or uplisting.

As a part of the 5-year review, the Service published its intent to collect the following data regarding the polar bear species: species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics; habitat conditions, including but not limited to amount, distribution, and suitability; conservation measures that have benefited the species; threat status and trends;

and other new information, data, or corrections, including but not limited to changes in taxonomy or nomenclature and identification of erroneous information contained in the List of Endangered and Threatened Wildlife and Plants.

In addition to the 5-year review process, through the Service's participation in co-management arrangements via the U.S.-Russia Bilateral and Inuvialuit-Inupiat Agreements, the Service considers new science on an annual basis as it relates to sustainable harvest levels for the Chukchi and Southern Beaufort Sea subpopulations of the polar bear, which are harvested for subsistence. The Service does not have a recent population estimate for the Chukchi Sea subpopulation, but does have evidence that polar bear body size and condition remains stable despite the declines in habitat (sea ice). In the Southern Beaufort Sea subpopulation, multiple lines of evidence suggest that polar bears may be in decline due to decreased sea ice availability, including reductions in body size, body condition, and recruitment in recent decades (Regehr et al. 2006, Rode et al. 2010, 2014a). A recent publication (Bromaghin et al. 2015) indicates that polar bear numbers in the Southern Beaufort Sea subpopulation significantly declined from 2004 to 2007 and survival of subadult bears declined throughout the entire period of 2001–2010.

Regehr et al. 2006:

Regehr E.V., S.C. Amstrup, and I. Stirling. 2006. Polar bear population status in the southern Beaufort Sea. U.S. Geological Survey Open-File Report 2006–1337, U.S. Geological Survey, Alaska Science Center, Anchorage, AK, USA.

Rode et al. 2014:

Rode, K.D., E.V. Regehr, D.C. Douglas, G. Durner, A.E. Derocher, G.W. Thiemann, and S.M. Budge. 2014. Variation in the response of an Arctic top predator experiencing habitat loss: feeding and reproductive ecology of two polar bear populations. Global Change Biology 20:76–88.

Rode et al. 2010:

Rode K.D., S.C. Amstrup, and E.V. Regehr. 2010. Reduced body size and cub recruitment in polar bears associated with sea ice decline. Ecological Applications 20:768–782.

Bromaghin et al. 2015:

Bromaghin, J. F., T. L. McDonald, I. Stirling, A. E. Derocher, E. S. Richardson, E. V. Regehr, D. C. Douglas, G. M. Durner, T. Atwood, and S. C. Amstrup. 2015. Polar bear population dynamics in the southern Beaufort Sea during a period of sea ice decline. Ecological Applications 25:634–651.

Question (7). The Fish and Wildlife Service has requested the authority to seek compensation from responsible parties who damage or destroy National Wildlife Refuge System or other Service resources. This legislative language has been circulating for a number of years. In 2014, a hearing was held in the Environment and Public Works Committee a bill that was introduced by Senator Cardin. My understanding is that no legislation has been introduced in the current Congress and the Environment and Public Works Committee has not taken action on the matter.

a. Why has the Department only requested this authority for the Fish and Wildlife Service? I understand the National Park Service has similar authority already, but the Bureau of Land Management does not. Is there a reason that the request was made only for the Fish and Wildlife Service?

Answer. The National Park Service (NPS) and Bureau of Land Management both have authorities to allow them to retain collections from damages for repair and restoration.

The NPS authority provided by 54 U.S.C 100721–25 allows NPS to use response costs and damages recovered under the authority or amounts recovered under any statute as a result of damage (destruction, loss of, or injury) to any resource within a unit of the National Park System to be retained and used for response costs, damage assessments, restoration, and replacements.

The Bureau of Land Management's annual appropriations language for Service Charges, Deposits and Forfeitures provides general Federal authority to collect fees for rehabilitation of damaged public lands. The BLM has specific requirements in the BLM Realty Trespass Abatement Handbook on the deposit and use of rehabilitation/stabilization funds. It states that funds received for rehabilitation/stabilization of damaged lands as result of trespass settlement or bond forfeiture are deposited into the Service Charges, Deposits and Forfeitures account and are available for in-State rehabilitation and stabilization work on lands damaged by trespass.

b. I have heard concerns that providing this authority will lead to additional prosecutions of individual because the Service will be incentivized by the prospect of additional revenue. What can you do to assure me that this will not happen?

Answer. The Service has a responsibility to manage public resources for both current and future generations. In order to maintain these resources, the Service expects parties responsible for damaging them, not taxpayers, to pay restoration costs. The intent of this authority is to ensure that the Service, and the American people, will not have to pay for restoration activities and that those causing these impacts pay for their restoration. It is not intended to generate revenue for the Service.

While this authority would be new for the Service, it is not a new authority for government agencies. The National Park Service (NPS), National Oceanic and Atmospheric Administration (NOAA), and the Bureau of Land Management (BLM) have similar authorities and we look to their models to implement this law, if enacted.

Any funds collected to compensate for resource injuries will be used to rectify that specific injury alone. The legislation, if enacted, would deposit the recovered funds into the Department of the Interior Natural Resource Damage Assessment and Restoration Fund, as is done with natural resource damages recovered under the Comprehensive Environmental Response, Compensation, and Liability Act, the Oil Pollution Act, and the Park System Resource Protection Act (16 USC 19jj). These funds would be maintained separately and used solely for cases handled under this authority.

Question (8). The fiscal year 2016 Omnibus Appropriations bill contained a substantial increase for the Land and Water Conservation Fund (LWCF). The total discretionary appropriation was $450 million, an increase of $50 million over the President's fiscal year 2016 discretionary total and $144 million over the fiscal year 2015 enacted level of $306 million. Congress was able to fund the President's proposed discretionary funding lists and increase the NPS State side program to $110 million. Given the funding pressures for the Interior bill this year it will be hard to meet the fiscal year 2016 appropriated level; therefore, we need to carefully look at the projects the President has proposed in his budget submission to make sure they have been fully vetted and are ready to go.

The explanatory statement on the fiscal year 2016 Omnibus stated that many of the projects the administration has proposed over the years lack sufficient information, and that requested projects should have identified properties, willing sellers, updated appraisals or market information, and the support of Federal, State, and local officials.

Have all of the projects submitted in the fiscal year 2017 budget met all of these conditions?

Answer. To the greatest extent possible, LWCF land acquisition projects proposed by the fiscal year 2017 budget meet the conditions laid out by the fiscal year 2016 Omnibus explanatory statement; however, the Department chooses to use discretion when it comes to disclosing certain details on the projects in the Greenbooks for a variety of reasons. Upon request from the Appropriations Committee, the bureaus may provide further details to cover the conditions, and both the bureaus and Department make a point to alert in a timely manner the Interior Appropriations Subcommittees if project details and/or status change.

The bureaus included the following information in the Greenbook project data sheets, as well as briefing materials for Congress, for each proposed acquisition:

—Full page profiles and maps of each acquisition, including estimated cost, acres, and location. Should those details change or be updated, the bureaus and Department relay that information to the Appropriations Committee.

—Contributors known to the bureaus' State and regional offices that are partners or supporters of the proposal acquisition. These identified contributors may include, but are not limited to, the following: State, county or local governments or agencies; national, State or local private non-profit organizations; Federal Government partner agencies; charitable foundations; land and battlefield trusts; and local and regional committees or networks (including those representing ranchers, farmers, hunters, anglers, and other outdoorsmen).

The bureaus did not cite by name in the Greenbook project data sheets individual Federal, State, and local officials who support projects, choosing instead—where applicable—to cite the support of Federal, State, county, or local governments or agencies.

Willing sellers are not identified in the budget for several reasons. Bureaus, working through their field and regional offices, identify land parcels in or adjacent to public lands for purchase, as well as potential willing sellers. Given that acquisition projects may take 2 to 3 years to complete, in the early stage of a budget request,

bureaus may not have concrete willing sellers yet (only potential). Privacy issues may arise when landowners and potentially willing sellers do not want their neighbors to know that they are talking to the government about selling. Additionally, there is the value expectation. If a landowner sees his or her name listed along with a request number, the landowner comes to expect the entire amount, regardless of the actual appraised value.

Details on each land acquisition project also reflect consideration of several additional criteria important to the bureaus and Department, including the ecological, economic, and cultural values the project conserves; contribution of leveraged funds; partner participation and support; and the urgency of project completion to protect natural areas and wildlife species habitats from development or other incompatible uses.

In a continuing effort to provide user friendly data, the Department provides an interactive map of the properties it submitted for consideration to Congress for the 2017 budget at: https://www.doi.gov/sites/doi.gov/files/uploads/LWCF__BIB__map__FY2017.pdf.

Question (9). The explanatory statement also expressed that the agencies should include the feasibility of phasing projects as well as a description of which parcels are being considered for conservation easements or fee simple acquisition.

Discuss compliance with this guidance. What number or percent of the requested projects were identified as able to be accomplished in phases? What number or percent of the projects were identified as acquisitions for conservation easements versus fee simple acquisitions?

Answer. For the BLM, several of the fiscal year 2017 projects could be phased—within discretionary funding 10 of the 14 projects (or 71 percent) could be phased. Within BLM discretionary funding, 68 percent would be invested in fee acquisitions and 32 percent would be invested in easement acquisitions.

The FWS discretionary request for fiscal year 2017 would purchase approximately 16,375 fee acres (39 percent) and 25,670 conservation easement acres (61 percent). Most of the FWS projects have already been phased; however, four of the projects, or 25 percent, can be further phased since they are comprised of multiple tracts.

Of the 33 projects included in the NPS fiscal year 2017 budget for Federal land acquisition, four projects are parts of phased acquisitions:

1. *Grand Teton NP(Discretionary):* The State of Wyoming entered into an agreement with the United States for a phased conveyance of approximately 1,400 acres of State-owned land within Grand Teton National Park. The fiscal year 2017 budget includes $22.5 million which will be obligated to cover the Federal cost of a portion of that phased conveyance.
2. *Hawaii Volcanoes NP (Discretionary):* Funding requested ($6 million) will be used to acquire half of the 16,467-acre Pohue Bay/Kau Coast property at the park.
3. *Hawaii Volcanoes NP (Mandatory):* Funding requested ($6 million), if appropriated, will be used to acquire the second half of the Pohue Bay/Kau Coast property at the park.
4. *Palo Alto NHP (Mandatory):* The requested funds would commence a phased acquisition of a tract containing 1,353.84 acres of land (Total Estimated Value: $9,125,000) located within the national historic site.

Of the 33 projects included in the NPS fiscal year 2017 budget request for Federal land acquisition, three projects are identified as easement or less-than-fee acquisitions (Death Valley NP, Katmai NP and Redwood NP), one project involves both fee and easement acquisitions (Martin Van Buren NHS), and two projects may involve either fee or easement acquisitions (Little River Canyon NPres and Nez Perce NHP). The possibility of acquiring a conservation easement varies, depending on the contemplated Federal use of the property and the willingness of the landowner to sell such easement.

Question (10). The explanatory statement also included language to increase the transparency of the project selection and prioritization processes in the annual budget requests, particularly in regard to collaborative landscape projects. Over the years, there has been concern among many in the community and here in Congress about how the administration picks projects for the discretionary and mandatory lists. It appears that many of the projects have been geared toward the Western US and that geographic distribution of funds has not been a factor in your project selection. Typically Congress has funded the proposed lists in the order requested; however, with questions about the quality of projects and the process used to select projects Congress may need to revisit this approach.

Given these questions about quality and process: What process does the Department use to compile the project lists, including for identifying collaborative areas?

What considerations does the Department take into account when selecting and prioritizing projects? What is the geographic distribution of requested funds?

Answer. The President's fiscal year 2017 budget includes 135 land acquisition projects across the Department of the Interior and the Department of Agriculture's four land management agencies in 41 States. The wide range of projects proposed for funding includes important wildlife habitat and migration corridors in Florida's Everglades, grassland and wetland habitats popular with hunters and anglers in eastern North Dakota and South Dakota, historic structures associated with the Wright brothers and the early development of the airplane at the Dayton Aviation Heritage National Historical Park in Ohio, permanent public access to the South Puget Sound Coastal Forest in Washington State, scenic vistas along the Appalachian Trail, and popular public recreation sites in national monuments in Arizona, Idaho and New Mexico. The attached map shows the location of each proposed land acquisition project, and demonstrates the geographic diversity of projects in fiscal year 2017.

The National Park Service (NPS), Bureau of Land Management (BLM), and Fish and Wildlife Service (FWS) each has its own criteria that are used to evaluate and prioritize proposed land acquisitions.

NPS utilizes a nationwide priority ranking system, the Land Acquisition Ranking System (LARS). The initial information for each project is provided by the park unit and reviewed by regional or field offices of the Land Acquisition Program. Land Acquisition staff in each office assists the Regional staff in ranking the requests received using guidelines provided by the Washington (WASO) Program Office. The LARS incorporates several criteria, including, but not limited to: the threat to and preservation of the resource; a commitment has been made to acquire; involvement of partners, non-profit group support or availability of matching funds; recreational opportunities; existence of legislative authority to acquire; and ability to obligate appropriated dollars.

For BLM, submissions include a completed project narrative, fact sheet, questionnaire, representational map(s) and digital color images—and are limited to no more than 20 projects per State Office (SO). To be eligible projects must be:

1. Within or contiguous to, a unit of the National Landscape Conservation System (NLCS) (with the exception of Wilderness Study Areas), an Area of Critical Environmental Concern or a Special Recreation Management Area;
2. Comply with Section 205 (b) of the Federal Land Policy and Management Act (identified for acquisition within an approved land use plan); and
3. Be available for purchase from a willing seller owner.

Submissions are then reviewed by the National Review Team (NRT). The NRT is a multi-disciplinary team consisting of representatives from different levels of the organization. The NRT recommends a prioritized list of project proposals to the Bureau of Land Management (BLM) leadership. The BLM Land and Water Conservation Fund (LWCF) Land Acquisition list reflects bureau and departmental priorities, potential sources and levels of funding, and the latest information on willing sellers.

FWS's 2014 Strategic Growth Policy directs FWS to focus on acquiring lands and waters in fee, conservation easement, and/or donation that support three conservation priorities:

1. Recovery of threatened and endangered species;
2. Implementing the North American Waterfowl Management Plan; and
3. Conserving migratory birds of conservation concern.

Based on these three priorities to evaluate proposed NWRS land acquisitions, FWS uses the Targeted Resource Acquisition Comparison Tool (TRACT). The TRACT provides a biological, science-based, and transparent process for ranking proposed NWRS land acquisitions.

TRACT biological evaluation plays a role in LWCF budget formulation, but is not the only factor considered when making decisions about where to request LWCF funds for NWRS land acquisition. The LWCF project list submitted by FWS reflects additional considerations, such as bureau operational priorities, partner support, potential non-Federal funding sources, unique land acquisition opportunities, and the latest information on willing sellers. Land acquisition projects proposed for the fiscal year 2017 budget reflect additional important factors, including conservation partner participation, and urgency of project completion to protect natural areas from development or other incompatible uses.

The Service considers the minimum interest necessary to reach management objectives. For example, conservation efforts for the greater sage grouse and central Florida ecosystem are compatible with traditional land use. Therefore the Service may choose to seek conservation easements or, to enhance public access and rec-

reational opportunities, a combination of fee and conservation easements acquisition.

The administration's strategic approach to using LWCF land acquisition funds in fiscal year 2017 includes funding for Collaborative Landscape Planning (CLP) projects. This interagency program brings the Departments of the Interior and Agriculture together with local stakeholders to identify large natural areas where LWCF funds can achieve the most important shared conservation and community goals in the highest priority landscapes. Conserving large-scale natural areas provides multiple resource and economic benefits to the public, including clean drinking water, recreational opportunities, protected habitat for at-risk and game species, and jobs generated on and off these lands. The Secretaries of the Interior and Agriculture follow a rigorous competitive and merit-based based evaluation process to select collaborative landscapes for investment. After evaluating and prioritizing multiple ecosystems, they selected seven landscapes for discretionary and mandatory funding in fiscal year 2017:

—Island Forests at Risk (Hawaii)
—High Divide (Idaho, Montana)
—Rivers of the Chesapeake Collaborative (Maryland, Virginia, West Virginia)
—National Trails System (California, Georgia, Hawaii, Idaho, Montana, New Mexico, Oregon, Pennsylvania, Tennessee)
—Florida-Georgia Longleaf Pine Initiative (Florida)
—Southern Blue Ridge (Georgia, North Carolina, Tennessee, Virginia)
—Pathways to the Pacific (Oregon, Washington).

Qualifying projects are submitted by bureaus which are evaluated and selected for inclusion within available budget resources.

Question (11). According to the EPA, methane emissions from hydraulic fracturing at natural gas wells is down 83 percent since 2011 and total methane emissions from natural gas production are down 38 percent since 2005.

a. Is natural gas a key component of GHG reductions?

Answer. Reducing natural gas emissions reduces waste of America's public resources and provides important greenhouse gas (GHG) emission reductions. Methane, the primary component of natural gas, is an especially powerful GHG. Its climate impact is roughly 25 times that of CO_2, if measured over a 100-year period, or 86 times that of CO_2, if measured over a 20-year period.[1] Thus, measures to conserve such gas, avoid its waste, and reduce unnecessary releases significantly benefit local communities, public health, and the environment.

b. Does the use of natural gas help drive down GHG emissions?

Answer. The effect of use of natural gas on GHG emissions depends on both the energy source that would be used in lieu of the natural gas, and on the quantity of methane lost during the natural gas production process. Assuming limited methane losses, replacing coal or oil with natural gas can help drive down GHG emissions. Where natural gas replaces non-carbon energy sources, such as renewable or nuclear energy, however, the use of natural gas increases GHG emissions. Also, because methane is a far more potent GHG than CO_2, methane lost during the natural gas production process can offset the benefits of using natural gas in place of other fossil fuels.

c. Does the administration want to see U.S. natural gas production continue to help bring down GHG emissions?

Answer. The continued production and use of natural gas are consistent with the administration's goal of achieving a cleaner, more secure energy future, provided that gas losses are minimized. Consistent with this recognition and our overall climate goals, finalization of the recently proposed Methane and Waste Prevention rule will help curb waste of our Nation's natural gas supplies, reduce harmful methane emissions that worsen climate change, and provide a fair return on public resources for Federal taxpayers, tribes and States.

Question (12). Over the course of the U.S. energy boom, according to the Energy Information Administration, marketed natural gas production has increased by 35 percent, over the 9-year period from 2005 to 2013, from about 19 trillion cubic feet of gas per year to about 25 and a half trillion cubic feet of gas per year. Over this same period, EPA data show that methane emissions from hydraulically fractured natural gas wells decreased by about 80 percent, emissions from natural gas produc-

[1] See Intergovernmental Panel on Climate Change, Climate Change 2013: The Physical Science Basis, Chapter 8, *Anthropogenic and Natural Radiative Forcing,* at 714 (Table 8.7), *available at* https://www.ipcc.ch/pdf/assessment-report/ar5/wg1/WG1AR5 Chapter08 FINAL.pdf.

tion decreased by about 38 percent and total methane emissions decreased by about 11 percent.

a. In view of this information, and in view of EPA's continued efforts to reduce methane emissions from industry sources, why has the BLM, under your authority, chosen to promulgate its own methane regulations?

Answer. The proposed Methane and Waste Prevention Rule aims to reduce the waste of natural gas from BLM-administered mineral leases. This gas is lost during oil and gas production activities through flaring or venting of the gas, and equipment leaks. The BLM has an independent statutory responsibility to address this waste. Specifically, the Mineral Leasing Act of 1920 (MLA) requires the BLM to ensure that lessees "use all reasonable precautions to prevent waste of oil or gas . . ." (30 U.S.C. 225). While oil and gas production technology has advanced dramatically in recent years, the BLM's requirements to minimize waste of gas have not been updated in over 30 years. The BLM believes there are economical, cost-effective, and reasonable measures that operators should take to minimize waste, which will enhance our Nation's natural gas supplies, boost royalty receipts for American taxpayers, tribes, and States, and reduce environmental damage from venting and flaring.

EPA has finalized regulations under the Clean Air Act to reduce methane emissions from certain new, reconstructed, and modified oil and gas production activities. While these requirements will have the effect of reducing some losses of gas as well, the EPA requirements are not aimed directly at waste and would not fulfill the BLM's statutory responsibilities. For example, unlike the proposed BLM regulations, the proposed EPA regulations do not address gas losses through flaring, and do not address gas losses from existing sources, unless the existing source is modified or reconstructed (as defined by EPA).

b. Related to this question, can you describe the consultation that the BLM has undertaken with EPA, and with the State regulatory agencies with Clean Air Act authority in the states with operations on BLM lands?

Answer. The BLM has engaged in substantial stakeholder outreach in the course of developing the proposal. In 2014 and 2016, the BLM conducted a series of forums to consult with tribal governments and solicit stakeholder views to inform the development of the proposed rule (2014) and to discuss the proposed rule after publication (2016). The outreach included tribal and public meetings (some of which were livestreamed) in Colorado (2014/2016), New Mexico (2014/2016), North Dakota (2014/2016), Washington, DC (2014), and Oklahoma City (2016).[2] For each forum, BLM held a tribal outreach session in the morning and a public outreach session in the afternoon. The BLM also accepted informal comments generated as a result of the public/tribal outreach sessions (2014).

The BLM also consulted State regulators (both oil and gas regulators and air quality regulators) both while developing the proposal and since its issuance. Specifically, the BLM held discussions with regulators from: North Dakota (2014/2016), Wyoming (2014/2016), Alaska (2014/2016), Colorado (2014/2016), Utah (2014/2016), and New Mexico (2014) to discuss the States' rules and practices, their effectiveness, the States' recommendations with respect to the BLM rulemaking, and their views on the proposal. The BLM is continuing to hold further discussions with States, is looking forward to receiving detailed written comments from State regulators, and will take those comments into careful consideration in developing the final rule.

During the development of the proposed rule, the BLM and the EPA held regular discussions to share data and technical information, identify areas of potential overlap between the two regulatory efforts, consider ways to align the proposed rule requirements as much as practicable, and identify provisions where the BLM could exempt otherwise covered sources or activities because they are or are proposed to be subject to equally effective EPA requirements. Those meetings are continuing during development of the final EPA and BLM rules.

Question (13). Over the last few years the United States has undergone an energy renaissance which has created thousands of new well-paying jobs, made the United States more energy secure and less reliant on evil powers across the globe as well as make U.S. energy more affordable—just look at the cost of gasoline today—all while methane and GHG emissions have dramatically declined. During this same time BLM's permitting process continues to lag which is not only a lost opportunity for the benefits I just described, but also to the detriment of potential revenues to the Federal Treasury and the States. Additionally, the BLM has put out a number of regulations and proposals including the Hydraulic Fracturing, updates to Onshore

[2] Further information can be found at the BLM oil and gas program's outreach–events page: http://www.blm.gov/wo/st/en/prog/energy/public events on oil.html.

Orders 3, 4, and 5, and the proposed venting and flaring rule. Each of these, separately and combined, could have real effects on U.S. energy production, jobs, revenues, etc. If the goal of the Climate Action plan is to decrease GHG emissions, does it make sense to propose a suite of regulations that will shut down U.S. natural gas production?

Answer. The common-sense and cost-effective rules BLM has proposed or finalized in the last 2-plus years are an important component of its efforts to modernize its oil and gas program. These regulations—including the proposed updates to Onshore Orders 3, 4, and 5, the Hydraulic Fracturing Rule, and the proposed Methane and Waste Prevention Rule—are all necessary updates to 30-year old regulatory requirements that no longer reflect modern technology or practices. The BLM expects that these regulatory efforts will increase production and royalty accountability, enhance the safety of operations, and conserve resources, without harming U.S. energy production.

These rules often propose or adopt standards and practices developed by industry that are already being successfully employed by operators. Updating and clarifying the regulations will make them more effective, more transparent, and easier to understand and administer, which will benefit both industry and the public. The proposed and adopted changes will provide modern, effective regulation of oil and gas operations on BLM-administered leases, ensuring such development occurs in an environmentally responsible way that provides a fair return to taxpayers.

Question (14). For several years, the EPA has been working on the development of new requirements for compliance with elements of the Clean Air Act for oil and gas production operations. The process of developing new regulations for emissions from new sources has involved—indeed required—highly technical discussions, and has been characterized by regular opportunities for substantive discussion between EPA and the regulated industry. Why is the BLM undertaking its own separate rulemaking process?

a. Did the BLM work with the EPA to make sure the two packages were not in conflict with one another? If so, why are there many examples of the two rules differing or the BLM requiring something the EPA determined was not necessary or cost prohibitive?

   For example: BLM's inclusion of liquids unloading requirements when EPA has determined there is not a single cost-effective method that can address this source. Additionally, there are differences between survey frequency based on number of leaks (BLM) versus percent of components (EPA).

Answer. The BLM and the EPA have worked closely together throughout the rulemaking processes to ensure that the two regulatory packages are not in conflict with each other, as discussed in more detail in the response to Question 12a. In some cases the two rules are different because they are being adopted under different statutory authorities and they have different primary purposes.

For example, our understanding is that section 111 of the Clean Air Act requires the EPA to base its standards on an identified "best system of emission reduction." The EPA proposed that it could not identify a single best system of emission reduction that should apply in all situations to reduce emissions from liquids unloading. In contrast, the Mineral Leasing Act simply requires the BLM to ensure that lessees "use all reasonable precautions to prevent waste of oil or gas . . ." 30 U.S.C. 225. With respect to liquids unloading, the BLM has determined that there are multiple technologies and practices that would reduce gas losses from liquids unloading, depending upon the particular circumstances of the well. The BLM has not proposed to require operators to use specific technologies. Rather, the BLM has simply proposed a performance-based standard—to prohibit liquids unloading through manual well purging from new wells—allowing operators to choose the technologies or practices to apply to achieve this result.

Question (15). What assurance do we have that the two agencies' efforts can be coordinated such that BLM's rulemaking will be informed by the EPA effort so that regulatory conflict is avoided?

Answer. The BLM and the EPA fully understand the importance of coordinating their approaches, have coordinated closely throughout the rulemaking processes to date, and are committed to continuing to coordinate until both rulemakings are finalized. As a practical matter, the EPA's rulemaking was finalized before the BLM's rulemaking, which allows the BLM to take EPA's final rule fully into account before finalizing the BLM's rule.

Question (16). How do these rules interact with the State's own efforts on methane? What consideration did you give the State programs? Is there a scenario where projects will need to comply with a State methane program and regime, a different

BLM methane program and regime and a different EPA methane program and regime? Is that necessary and reasonable?

Answer. As discussed in the response to Question 12b, the BLM has reached out to many States to gain an understanding of State regulations and the States' experiences with their regulations. In fact, many of the provisions in the proposed rule track elements of effective State programs.

The BLM has also constructed its proposed rule to address concerns about the potential for multiple applicable regulations. To minimize any overlap with EPA regulations, the BLM proposed that sources meeting the EPA requirements would either be exempt from the BLM rules altogether, or be permitted to demonstrate compliance with the EPA requirements in lieu of meeting the BLM requirements, depending on the specific requirement. In addition, the BLM and the EPA proposed to align their requirements to a very significant degree and aim to further align the final rules, to the full extent consistent with legal authorities and with consideration of comments received.

With respect to State rules, the BLM proposed specific provisions to allow variances from one or more BLM requirements where one or more State requirements are equally or more effective.

Question (17). How does the cost-benefit analysis hold up when there are a lot of legacy producing wells that would cost more to comply with these proposals than the energy that is produced which would then result in production being shut-in? Would this mean that DOI loses in royalty revenue?

Answer. The proposed rule includes several exceptions and alternative limits that would apply if implementing provisions of the rule would impose such costs as to cause the operator to cease production and abandon significant recoverable oil reserves under a lease. The Regulatory Impact Analysis for the proposed rule projects that the rule would produce modest increases in both gas production and royalties.

Question (18). In January, a magnitude 7.1 earthquake hit Alaska. Though a handful of families lost their homes, damage was limited because the earthquake occurred away from populated areas. Alaska's history demonstrates clearly, however, that we are not always so fortunate.

a. In 2000, congress authorized the Advanced National Seismic System to "establish and maintain an advanced infrastructure for seismic monitoring throughout the United States that operates with high performance standards . . ." A decade and a half later, many of the baseline performance standards set by this program have not been achieved in Alaska. As other States with high earthquake hazard move on to advanced technologies, such as earthquake early warning, what is the Department doing to make sure Alaska has access to the instrumentation, technology, and funding needed to expand and modernize the seismic infrastructure?

Answer. In the past 15 years, the USGS has invested in earthquake monitoring and reporting, seismic hazard assessment, and other earthquake loss reduction activities in Alaska, and collaborates with several groups in the State. The USGS supports the Alaska Earthquake Center and the University of Alaska—Fairbanks (UAF), our regional seismic network partner in the State, at about $600,000 per year. The USGS also supports the Anchorage Strong Motion Network, a collaborative effort among the USGS National Strong Motion Project, the Alaska Volcano Observatory (a joint center of the USGS, UAF, and Alaska Division of Geological & Geophysical Surveys). The network consists of more than 30 free-field stations, a borehole site, and several instrumented buildings and bridges. USGS monitoring investments in Alaska also include USGS National Network stations, and the services provided by the USGS National Earthquake Information Center.

In recent years, the USGS invested in improvements to the Anchorage and Alaska regional seismic networks. For example, in 2010, USGS made an award to the UAF of $483,000 plus seismic equipment for upgrading these networks. The USGS has also invested in improving the Anchorage monitoring infrastructure. As a result of these improvements, high-quality data on how shaking varied across the Anchorage urban area were successfully collected from the January 2016, magnitude-7.1 earthquake. The USGS has also supported the Delaney Park geotechnical array in Anchorage, operated by the University of California, which provides field observations of earthquake activity and uses these observations as control data for testing models and simulation techniques.

b. Language was included in the fiscal year 2016 omnibus for USGS to conduct a cost benefit study related to earthquake monitoring for Alaska. Please tell me what the status of that report is and when we may be able to expect to see some of the findings?

Answer. A working group has been formed to conduct a cost-benefit study for monitoring improvements in Alaska: the study will be released in the fall of 2016 or before. The working group will evaluate the costs and benefits of seismic station adoptions, earthquake early warning, as well as improvements to existing monitoring operations. USGS will use the results of this study in its planning for future investment in seismic monitoring in Alaska.

c. President Obama's 2013 arctic strategy document emphasizes cooperative efforts with the State of Alaska to respond to natural and man-made disasters. In the last 2 years there have been significant swarms of earthquakes in the Bering Sea, Northwest Alaska and the Arctic National Wildlife Refuge. How does the Department intend to engage with the State of Alaska to develop earthquake mitigation strategies for the Arctic region?

Answer. The USGS is a member of the four-agency National Earthquake Hazards Reduction Program (NEHRP) partnership, but developing earthquake mitigation strategies are primarily the responsibility of the National Institute of Standards and Technology and Federal Emergency Management Agency. As a member of the NEHRP, the USGS conducts and supports targeted geoscience research investigations on earthquake causes and effects; produces seismic hazard maps and assessments; monitors and reports on earthquakes and shaking intensities; works to improve public understanding of earthquake hazards; and coordinates post-earthquake reconnaissance carried out and supported by NEHRP agencies and other organizations.

Question (19). The President's proposal includes an increase of $8.8 million for USGS activities related to the Arctic.

a. Could you provide more detail on the Department's Arctic priorities, particularly as they relate to the administration's "Implementation Plan for its National Strategy for the Arctic Region"?

Answer. On May 10, 2013, the President issued the National Strategy for the Arctic Region (Strategy). The accompanying Implementation Plan set forth the methodology, process, and approach for executing the Strategy. The Implementation Plan follows the structure and objectives of the Strategy's three lines of effort:

—Advance United States Security Interests
—Pursue Responsible Arctic Region Stewardship
—Strengthen International Cooperation

The Implementation Plan reflects the reality of a changing Arctic environment and upholds national interests in safety, security, and environmental protection, and works with international partners to pursue global objectives of addressing climatic changes. The Implementation Plan complements and builds upon existing initiatives by Federal, State, local, and tribal authorities, the private sector, and international partners, and focuses efforts where opportunities exist and action is most needed.

Under the Implementation Plan, the Department's priorities include:

—Ensuring the safe and responsible exploration and development of onshore and offshore Arctic non-renewable energy resources in an environmentally sound manner;
—Implementing Integrated Arctic Management and employing management approaches, such as ecosystem-based management, to enhance good governance to provide for sustainable economies in the region, ensure long-lasting benefits of balanced ecosystems, and preserve cultural activities of the people that depend on the Arctic environment; and,
—Coordinating and integrating terrestrial ecosystem research to increase the understanding of geophysical and ecosystem responses to a changing climate and to inform management decisions and subsistence uses.

The Department continues to study offshore environments, evaluate energy development and spill response capabilities, and to promote safety across all energy development activities. In cooperation with the State of Alaska and Alaska Native organizations, the Department is also encouraging use of Integrated Arctic Management, a science-based, whole-of-government approach for stewardship and planning, that integrates and balances environmental, economic, and cultural needs and objectives.

The Department is also a member of the Interagency Arctic Research Policy Committee (IARPC) to advance research in areas of common interest to member agencies. The IARPC 2013–2017 research plan was drafted with contributions from all IARPC agencies with public involvement. The plan, which is currently being updated, intentionally builds on the strong intellectual accomplishments and ideas of

the research community at the Federal, State, local, and tribal levels as well as inclusion of ideas from the academic community, non-governmental organizations, and industry. As an IARPC member, the Department is engaged in answering key research questions such as determining the impact of diminishing permafrost on Arctic ecosystems and inhabitants.

The 2017 budget request for the Department's activities in the Arctic is $160.6 million, an increase of $15.8 million above the 2016 enacted level. The request for USGS includes increases totaling $9.8 million, which includes $8.8 million in Arctic funding and a net addition of $1 million primarily for Alaska map modernization that will be applied to the Arctic. Across the USGS, these increases will be used to analyze the impacts of a changing climate, including changing distributions of fish and wildlife populations, the melting of glaciers and the resulting impact to fresh water resources; to analyze the risks posed by sea-level rise to coastal communities; and to develop predictive models.

b. Also, can you provide specific details about the type of research and activities that would be conducted if this funding were approved? For example, will these activities improve our understanding of the continental shelf offshore Alaska's north coast?

Answer. With these increases, the USGS will support research and development efforts focused on the Arctic through a multidisciplinary approach designed to both individually understand and holistically evaluate ecosystem processes and interactions in the Arctic to provide the objective science needed for effective management of Arctic resources. Additionally, an increase of $1.5 million within the National Geospatial program for Alaska map modernization will be used in the Arctic region and a proposed decrease in the Mineral Resources program reduces Arctic spending by $500,000. Including the Alaska map modernization funding to be used in the Arctic, the President's budget request includes an increase of $9.8 million for USGS Arctic activities.

The increase of $1.0 million in the Environments Program in the Ecosystems Mission Area will be used to analyze changes in fish and wildlife population distribution and habitats. Additionally, the program will use computer simulations to improve strategies for estimating polar bear populations from data gathered in Western Hudson Bay, the Chukchi Sea, and the Southern Beaufort Sea.

The increase of $500,000 for the DOI Alaska Climate Science Center and other related programs will develop a process to estimate total glacier loss in Alaska and any changes in freshwater input. These and other forecasts will improve understanding of effects on river systems and ecosystem dynamics that affect economically and culturally important species such as salmon and caribou. The funding would build upon other research investments in interior Alaska to better understand the potential for larger scale and more frequent effects of ecological drought in the region.

Additionally, the increase of $1.9 million in the Climate and Land Use Change Mission Area's Land Remote Sensing Program is to develop predictive models for permafrost melt. Using remote sensing data from satellites and airborne systems, in combination with field-based studies, this work will prepare Arctic communities for the effects of the thawing land beneath them and improve global climate modeling.

The increase of $3.5 million in the Coastal and Marine Geology program within the Natural Hazards Mission Area accelerates work for underserved communities dealing with impacts of sea level rise, severe storms and melting permafrost on their coastal communities and economies. The cost of field studies in these large and remote areas, the lack of baseline data, and the poorly understood dynamics of icebound and permafrost coasts limits the availability of coastal change tools to benefit Alaskan communities. The increase will accelerate bringing Artic communities the tools available to open-ocean coastal regions of the coterminous United States. The investment will improve coastal change models for forecasting and assessing vulnerability over the next 10–25 years.

The increase of $2.0 million for the Water Resources Water Availability and Use Science Program will address interactions among water-mediated processes in a warming Arctic and assess system feedbacks (e.g., effects of warming on hydrology and biogeochemical cycling, which subsequently affects climate and hydrology). The program will investigate methods that allow extrapolation from monitored to unmonitored locations and expand monitoring of sentinels of change, including permafrost temperature, streamflow, and materials exported from watersheds.

Within base funding, continued analyses of geologic data resulting from the joint USGS–NOAA–Department of State effort to define the limits of the Extended Continental Shelf will result in enhanced understanding of the continental shelf, slope,

and Arctic Ocean basin. Analyses of these data, and data from surveys supported by USGS–DOE investigations of methane gas hydrates, will enhance our understanding of the stability of the continental shelf and slope and the potential for and consequences of hydrate release in response to changing oceanographic conditions.

c. Will the research improve our understanding of the resource potential for new oil and gas discoveries, as well help us understand how to minimize the risks of utilizing those resources?

Answer. The USGS Energy Resources Program conducts oil and gas resource assessments across the Nation. The program has several active projects in the Arctic, including research on unconventional oil and gas (UOG), which will continue with base program funds. These continued studies of shales and other tight formations on the Alaskan North Slope will help underpin more accurate resource assessments and reduce the uncertainty associated with resource development.

The 2017 President's budget proposes several increases for unconventional oil and gas research across the Nation, including $1.0 million for the USGS Energy Resources Program, a portion of which will support field research in Alaska to assess undiscovered UOG resources on the North Slope of Alaska. This additional funding will provide for field research in Alaska on an annual basis instead of the current research cycle of every other year, allowing more comprehensive data collection and accelerating assessments.

The proposed increase for the program's unconventional oil and gas research will better characterize environmental and operational risks posed by oil and gas development (e.g., the mitigation of produced waters derived by oil and gas production), and the increase supports research and field work activities to lessen the statistical uncertainty associated with resource potential estimates, allowing efficient, environmentally responsible development. The increase for unconventional oil and gas continues leveraging capabilities with the Alaska Department of Natural Resources in support of these field studies.

The USGS Coastal and Marine Geology Program will conduct studies to provide actionable science to respond to changes along the Arctic shoreline, and help inform decisions with respect to infrastructure and development associated with development of energy resources.

Question (20). The Federal Government and the State are joint partners in the Alaska Mapping Initiative, with the goal of improving the topographic maps for the State. Some of the maps are over 50 years old and vital to aviation safety, land use planning, and research. The President's fiscal year 2017 budget proposes to increase funding for this program by $1.5 million.

a. If the President's proposed increase of $1.5 million is included in the fiscal year 2017 appropriations bill, that would bring this initiative to a total program funding level of $6.7 million. At that rate, how long would it take to complete the maps?

Answer. Alaska has many broad mapping needs, including topographic maps. The $1.5 million proposed increase relates to topographic mapping supported/implemented by the USGS National Geospatial Program (NGP). With the proposed increase and continued funding from our Federal partners, we estimate that it would take 5 years (2021) to complete statewide coverage of ifsar elevation data and 6 years (2022) to complete the statewide topographic maps for Alaska.

b. What percentage of the State now has updated maps and what areas pose the most challenges for mapping?

Answer. As of March 2016, 15.6 percent of Alaska has published topographic maps. The NGP's most challenging areas for collecting and assembling high-quality elevation map data for Alaska include low-lying coastal deltas with complex lake and river systems, the Aleutian Islands and other remote islands in the Bering Sea. Other challenges include expensive aircraft mobilization costs, limited time over the acquisition targets, and severe weather conditions.

c. Will these maps be available in digital form and how accurate will they be compared to topographic maps in the Lower 48?

Answer. All Alaska topographic maps are available online in digital format (geoPDF). The data are free and the public can easily use this file type across multiple platforms (desktop, Web, and mobile). Anyone can upload the data into digital mapping/spatial analysis software to build new applications for research, education, or industry.

USGS follows the same procedures used for map production for the lower 48 in compiling new maps for Alaska. The elevation data accuracy for the Alaska topographic maps (produced at a scale of 1:25,000) is the same for topographic maps for the lower 48 States which follow USGS' National Map Accuracy standards for

1:24,000 scale mapping. With current funding, USGS corrects major errors for the majority of Alaska map production and we have updated approximately 10 percent of the State hydrography to meet higher specifications, where State funding contributions have supported these efforts.

Question (21). The United States Geological Survey operates the Alaska Volcano Observatory, a joint entity with the University of Alaska. USGS operates five such observatories in the Western United States. The observatory maintains a series of seismic monitors on volcanoes in Alaska, largely on the Alaska Peninsula and the Aleutian Chain, near the air corridor for flights to America from Asia. Ash from eruptions is particularly dangerous to such flights as shown by the near crash of a jumbo jet years ago.

a. The President's fiscal year 2017 budget proposes a very small increase for the Volcano Hazards Program, $117,000 for fixed costs, even though the entire USGS budget request is an increase of 10 percent. I understand there has been some progress made on the repair and monitoring systems on Alaska Volcanoes and I appreciate the good work that is being done there, but I am afraid we are not doing enough. It was also brought to our attention that the good work we are doing now to repair these systems may not be in compliance with the changing Federal Communications Commission (FCC) regulations over radio frequency spectrum allocations.

Answer. USGS radio telemetry networks fall under the jurisdiction of the National Telecommunications and Information Administration (NTIA) for spectrum allocation. Telemetry networks at most Very High Threat volcanoes in Alaska (Spurr, Redoubt, Augustine, and Makushin) are nearly compliant with NTIA spectrum allocation regulations. The Alaska Volcano Observatory (AVO), operated by the USGS in partnership with the University of Alaska and the Alaska Division of Geological and Geophysical Surveys, is focused on achieving full network compliance at these volcanoes as soon as possible. As part of ongoing maintenance and repairs, the USGS typically converts six to eight stations per year from analog to digital.

To address near-term public safety concerns, the USGS used funding received in 2015 to bring defunct and severely impaired networks back on line. This required maintenance of existing analog telemetry links that USGS cannot use past 2020.

b. Are you familiar with the FCC spectrum allocation issue? Are the systems we are repairing in compliance with the FCC regulations or are we repairing a system that will need to be converted to digital in the next few years?

Answer. USGS radio telemetry networks fall under the jurisdiction of the National Telecommunications and Information Administration (NTIA) for spectrum allocation. Changes to the spectrum guidelines and allocations made USGS analog telemetry networks for volcano monitoring in Alaska non-compliant. NTIA authorization permits USGS to use the deprecated frequencies until 2020, which provides time to bring the system into compliance by transitioning the networks to new digital technology operating on an authorized spectrum.

As part of ongoing repair and maintenance, the USGS makes analog to digital conversions when possible. This typically results in converting six to eight stations per year. To address public safety concerns, the USGS used fiscal year 2015 funding to bring defunct and severely impaired networks back on line. Bringing the networks back on line required maintenance of existing analog telemetry links that the USGS cannot use past 2020.

c. Could you provide this committee with the current gaps in the monitoring infrastructure at the Alaska Volcano Observatory and the estimated costs to complete the monitoring system?

Answer. The USGS has identified five Very High Threat and 27 High Threat volcanoes in Alaska. None of these 32 volcanoes have complete monitoring networks by the USGS standards for the National Volcano Early Warning System (NVEWS) and none of the existing networks are compliant with National Telecommunications and Information Administration (NTIA) regulation and guidelines for spectrum allocation.

The USGS has until 2020 to achieve compliance with the NTIA regulations. Telemetry networks at most Very High Threat volcanoes are nearly compliant. The estimated cost of upgrading to a NTIA-compliant system is $18.5 million over 4 years over current funding levels. Completing the conversion in 3 years, instead of four, would increase the cost to $20.2 million, with the increase necessary to fund additional staff to complete the work at the accelerated pace.

Additionally, to fully reach the USGS standards for NVEWS for the 32 Very High Threat and High Threat volcanoes in Alaska, the USGS estimates 237 additional monitoring instruments (e.g., seismometers, GPS receivers, and remote cameras) are

required. The chart below describes the current monitoring capabilities of the USGS in Alaska. The average cost of deploying an instrument on an Alaskan volcano is approximately $90,000. The total estimated cost to bring Alaska's volcano monitoring networks up to NVEWS standards is $21.3 million ($4.4 million for the five Very High Threat volcanoes and $16.9 million for the 27 High Threat volcanoes). This includes all aspects of installation, including instrument procurement, logistics, power systems, data telemetry, instrument housing, and permitting, but does not include the cost associated with the telemetry upgrades needed for NTIA compliance. The telemetry upgrades are necessary to support the new instrumentation. In most cases, NVEWS-guided augmentation with additional instruments would proceed in tandem with the analog-to-digital conversion work.

Upgrading the monitoring system to NTIA compliance and completing the monitoring system to NVEWS standards would cost an estimated $39.8 to $41.5 million in total.

Current Monitoring Level	Current Monitoring Level Capabilit es	Number of Volcanoes	
		Very High Threat	High Threat
None	Eruptions detected after the fact by satellite or direct observation. Eruption forecasting is not possible. No research potential.	0	4
Minimal	Significant eruptions likely detected, but small events missed. Eruption forecasting is not possible. Little if any research potential.	0	5
Limited	Most eruptions detected. Forecasting possible under ideal circumstances. Sensor data of limited usefulness for research.	1	17
Basic	Nearly all eruptions detected and some successfully forecast. Sensor data have research potential.	4	1
Complete	All eruptions detected and most successfully forecast. Sensor data have excellent research value.	0	0
Totals		5	27

Question (22). In 2014, Congress passed the BLM Permit Processing Improvement Act of 2014.

a. How has the passage of the legislation impacted permit timelines?

Answer. The higher application for permit to drill (APD) fee of $9,500 and associated allocations to the particular BLM offices went into effect on October 1, 2015. The increased fee has the ability to generate additional revenue, and therefore provide increased resources for processing permits, all other things being equal. However, because of market forces beyond the BLM's control, most notably the recent steep drops in the price of natural gas and oil, there has been a significant drop in the number of APDs submitted, which has reduced revenues coming to BLM for APD processing. Based on the past 6 month's observation, the BLM has not seen any overall impacts to the permitting timeline as a result of the Act. That said, over the past 4 years, the BLM has made significant progress in reducing the time to process an APD—permit times have dropped from an average of 307 days in 2011 to an average of 220 days in 2015.

b. The reauthorization also required BLM to report to Congress by February 1 each fiscal year the allocation of funds to each office and the accomplishments of each office. Where is that report?

Answer. The BLM has prepared a draft report for fiscal year 2015. This report is in the Department of the Interior review process and will be submitted as soon as that process has been completed.

Question (23). Over the last several years the Department of the Interior has proposed or finalized a number of offshore and onshore rules and regulations including the BLM hydraulic fracturing rule, updates to BLM Onshore Order 3, 4, and 5, the BLM venting and flaring proposal, the release of BLM Land Use Plan Amendments that limit areas where oil and natural gas development can take place, changes to ONRR's civil penalty regulations, additional regulations to Arctic OCS operations as well as the proposed Well Control Rule, potential changes to onshore royalties, bonus bids, etc. Interior is also expected to propose updates to offshore air regulations and there are also a number of additional items included in the Unified Agenda that have not been proposed. All of this regulatory activity is taking place at a time when investment on Federal land oil and natural gas production continues to fall. Each of these items on their own may have a chilling effect on future invest-

ment and interest in Federal production of oil and gas and taken together, the cumulative impacts could potentially alter not only production on Federal lands but also government revenue as a result.

a. Are you analyzing and considering the cumulative effect of each regulation on an individual basis as well as combined with the entire suite of regulations? How do you ensure that the Department adheres to its multiple-use mandate and continues to place great value on the oil and gas production on Federal lands and the important revenues that come to the Treasury as a result?

Answer. The regulations being updated have not been revised for decades, and it is long past time to modernize them to reflect recent technological advances in oil and gas production, health and safety protection, and waste prevention. Reflecting reasonable and common-sense revisions to existing requirements, these regulatory updates incorporate modern industry practices and technology, and we therefore do not expect them to pose an undue burden on industry.

Consistent with Federal requirements, the Department has conducted analyses of the economic effects of the rules and presented those findings in the Regulatory Impact Analysis for each rule. These analyses evaluate each rule individually, because there is so much geographic and operational variability in where and when the rules will apply, and whether and how they will impact operators. That said, a number of the new standards reflect existing industry best practices, with which many operators are already in partial or full compliance. Moreover, some of the measures will actually save producers money. Finally, many of the rules incorporate grandfathering or other provisions that are specifically designed to take account of operators' concerns about the rules' impacts, including impacts on lower-producing wells.

Question (24). The decision by DOI to pull the Arctic lease sales in the 2012–2017 Five Year Program as well as the denial of lease term extensions was shortsighted and without justification. Access to oil and natural gas resources in the Alaska OCS is essential to the Nation's economy and energy security and predictable leasing and workable regulations are necessary to take advantage of this vast resource. The Arctic contains the world's largest remaining conventional undiscovered oil and natural gas. Given the resource potential and long timelines required to bring Arctic resources to market, decisions made today will have an impact on industry's ability to provide the U.S. oil production of the future.

a. How does the Department view the importance of Arctic resources and our need to continue exploration and development in the Arctic, especially as other nations continue to reap the benefits of Arctic development?

Answer. Alaska continues to be an important part of the Nation's energy strategy. BOEM estimates that there are more than 23 billion barrels of undiscovered technically recoverable oil in the Chukchi Sea and Beaufort Sea planning areas, including multiple geologic plays. This is based on information gathered from over 30 exploration wells drilled in the Arctic, seismic data, and analogous reservoir analysis.

Significant acreage in the Chukchi and Beaufort Seas is already under lease, including some of the best prospects. As of April 2016, there were 434 existing leases in the Chukchi Sea and 77 in the Beaufort Sea. In addition to the Liberty project that is currently under review, should DOI receive any exploration and development proposals from industry, we will review them to ensure safe and careful exploration and development in the Arctic.

Recognizing the significant oil and gas potential in the Arctic OCS region, industry interest, and the views of the State of Alaska, the 2017–2022 Proposed Program, published on March 18, 2016, schedules three potential sales offshore Alaska, one in each of the Beaufort Sea, Chukchi Sea, and Cook Inlet. The Department is soliciting comments on this proposal through June 16, 2016. In March, Director Hopper traveled to the North Slope of Alaska to get input on the proposed Five Year Program and the bureau will continue its outreach to encourage stakeholder and partner feedback from Alaskan communities. Comments received will inform the Proposed Final Program, scheduled to be published in late 2016.

In advance of any potential lease sale offshore Alaska, BOEM will continue to use scientific information and stakeholder and partner feedback to proactively determine which specific areas offer the greatest resource potential while minimizing potential conflicts associated with the environment, subsistence activities, and multiple use concerns.

b. Does the Department's lack of regulatory uncertainty, which only becomes greater with the proposed Arctic rule and the proposed Well Control rule, play a part in the unsuccessful project last year?

Answer. Over the course of two different offshore drilling seasons, the Department has been transparent and consistent about what it will require to ensure drilling operations conducted in the Arctic are conducted in a safe and environmentally responsible manner. On September 28, 2015, Shell announced in a press release that it "found indications of oil and gas. . . . but these were not sufficient to warrant further exploration." This followed the 2015 drilling season, during which BSEE and BOEM approvals were conditioned on requirements consistent with many of the provisions contained in the proposed Arctic Rule. These requirements were similar to a number of the requirements that BSEE and BOEM imposed on Shell during 2012.

Question (25). I am very concerned with the BOEM–BSEE proposed Arctic rule because it imposes prescriptive requirements, including the requirement for a same-season relief well, assuming that one solution universally applies to any given Arctic location. Instead, the rule should look to using performance-based rule which allow an operator to minimize risks by designing a well program specific to the landscape, ecosystem, ice conditions, water depths and weather of that particular well. The rule should focus on prevention and consider fit-for-purpose response planning alternatives to respond to potential loss of well control.

a. What is the likely timing of the final Arctic rule? Do you believe that you have an opportunity to step back and take time to assess the Arctic rules package and examine the NPC report before putting out a final rule since you've closed the door on leasing in this current Five Year program?

Answer. BSEE and BOEM have closely considered the National Petroleum Council (NPC) Arctic Potential Study, as well as many other studies and resources. Representatives from BSEE were involved in the NPC Study and were aware of many of the technical discussions and analysis that occurred prior to publication. The Department is in the process of finalizing its Arctic drilling rule, which would apply to exploratory drilling operations in the U.S. Arctic. The Department is carefully considering all comments received on the Proposed Rule as it works to complete the rulemaking process. We intend to publish a Final Rule later this year.

b. How will this timing match with the BSEE well control rule, which as you know will also apply in the Arctic? Would it make more sense to hold the Arctic rule's final release until after the well control rule is final and allow for comments to inform how both set of rules will affect the Arctic before finalizing and implementing?

Answer. The Department promulgated the Well Control Rule on April 29, 2016 (see 81 FR 25887). BSEE has carefully considered comments on each Rule and the potential overlaps between the two Rules.

c. Has DOI taken a hard look at the NPC report and made agency adjustments or taken counsel from it?

Answer. Yes, the Department has reviewed the NPC Arctic Potential Study carefully, along with many other studies and analyses. Many of the findings are consistent with BOEM and BSEE's assessment of operations in the Arctic.

For example, the NPC study recommends that BSEE "[e]ncourage innovation by providing for the incorporation of technological advancements" (NPC Study, Executive Summary, p. 51). BSEE regulations specifically allow for approval of innovative technologies that provide equal or greater protection to personnel and the environment (30 CFR § 250.141). The proposed Arctic regulations clarify that this provision can be utilized to approve equipment for use in Arctic drilling operations.

Additionally, Chapter 10, entitled "The Human Environment," presents a detailed assessment of the effects of oil and gas activities in the Arctic on human health, economic development, and culture. BSEE agrees with the NPC's recommendations that industry, government, and stakeholders should work to preserve cultural sustainability, ensure food security, optimize consultation and community engagement, develop traditional knowledge studies, standardize socioeconomic impact assessment processes, and evaluate collaboration frameworks.

In some areas, BSEE does not agree with the study. Chapter 8 of the study, entitled "Arctic Offshore Oil Spill Prevention, Control, and Response," stressed the importance of prevention "as the primary defense against loss of well control." The chapter identifies a number of controls and barriers that should be in place to prevent oil spills in the Arctic. BSEE agrees that the identified barriers and controls are crucial to operators' prevention efforts. BSEE does not, however, agree that the implementation of prudent prevention measures should eliminate the need to have available equipment and/or a rig to respond to a loss of well control.

There are many other aspects of the NPC Study—both the findings and the recommendations—that are consistent with both the proposed Arctic offshore drilling

regulations and with BSEE's overall approach to oversight of offshore drilling operations on the Arctic OCS.

Question (26). The increased domestic oil and gas production we have been witnessing is occurring almost entirely on private and State lands where the Federal Government does not have control. This is because it can still take from 240 to as much as 300 days to get a permit to drill on BLM managed lands, and where it can take as much as 10 years to complete an environmental review. The Department has taken steps to expedite the permit process for projects on Federal lands that involve renewables, or the infrastructure for renewables, but in the case of oil and gas resources the Department has increased permitting burdens.

a. Can you explain the apparent discrepancy between how the Department treats permitting for renewable energy projects, and projects for the exploration and production of natural gas and crude oil?

Answer. Since 2008, oil production is up 108 percent on lands where drilling requires a BLM permit. This doubling of production is greater than the 88 percent increase in oil production that occurred on all lands nationwide during the same time period. In fiscal year 2015, the BLM approved over 4,228 Applications for Permit to Drill (APDs) on Federal and Indian lands, yet industry only drilled 1,927 wells. The BLM also continued to make significant progress in reducing the time to process an APD—permit times have dropped from an average of 307 days in 2011 to an average of 220 days in 2015. The BLM also continued to make significant progress in fiscal year 2015 at reducing the number of pending APDs. As of the end of the year, the BLM had roughly 7,500 approved APDs that have not yet been drilled, more than ever before. These APDs are ready for immediate use by industry without further action by the BLM.

To further build upon these improvements, the BLM continues to make strategic investments in technology to streamline the permit review process. Most notably, BLM recently completed the bureau-wide deployment of the update to its permit processing system, AFMSS II. That update will help streamline the review process and will allow BLM and applicants to better track the progress of individual applications. The BLM is committed to building on this progress and continuing to improve the APD review and approval process.

It should also be noted with respect to the BLM's treatment of permitting requests for renewable energy relative to oil and gas that much of the expedited process currently used for renewable energy projects is patterned directly on efficiencies developed in the oil and gas permitting context.

Based on its experience in the oil and gas program, the BLM took the following actions with respect to the Renewable Energy Management program:

—Established special permitting offices (Renewable Energy Coordination Offices),
—Improved early coordination with State and other Federal agencies, and
—Identified important energy zones and then completed comprehensive environmental analyses (i.e. Solar PEIS, Wind PEIS and the Geothermal PEIS), in order to provide additional upfront analysis that could then be used to simplify the project-specific NEPA required for permitting individual development projects.

All of these processes were first developed and utilized for oil and gas. The processes used for both energy sources are largely driven by the same or similar land and environmental laws and procedures. The most expedited solar project approval occurred in the Dry Lake Solar Energy Zone in Nevada; utilizing these steps, the BLM took 300 days from lease sale to project approval.

Question (27). On lands administered by the BLM there are thousands of older wells, many producing less than 15 barrels of oil per day. However, in the aggregate, this so-called "stripper production" represents several percent of America's domestic crude oil production. In the past year, BLM has introduced four rulemakings (site security and commingling, measurement of crude oil, measurement of natural gas, venting and flaring) that taken together could significantly increase costs of operation on these older leases, possibly resulting in shutting in production.

a. Is an agency like BLM that already struggles to issue permits to drill from companies holding BLM leases within 300 days, staffed and equipped to manage the expansion of its regulatory mandate?

Answer. The BLM has an obligation to ensure that operators accurately measure, properly report, and account for all oil and gas production, and reduce waste associated with that production. Yet the BLM's rules governing oil and gas measurements and waste reduction have not been updated in over 25 years. As a result, the Government Accountability Office (GAO), the Office of the Inspector General, and the Department of the Interior Royalty Policy Committee have all concluded that these

existing rules provide no assurance that production is being accurately measured, that all of the royalties due are paid, and that waste is minimized. The proposed rules also address the many new technologies that have been developed and adopted by industry since the current regulations were put in place.

That said, the BLM also recognizes that the royalty risk (i.e., the risk posed by inaccurate measurement from a particular well) at a given well is a function of its overall production level and that low level wells pose less of a risk than higher level wells. It is precisely this recognition that led the BLM to include in the proposed onshore orders thresholds that reduced the requirements applicable to lower volume wells. In some cases these proposed changes reduced the compliance burdens on low volume properties relative to existing requirements. Based on the comments received, the BLM is carefully evaluating those thresholds to see if further refinements are necessary to ensure that the burden imposed on any given facility by the new measurement rules is comparable to the royalty risk presented by that facility.

In addition, the Methane and Waste Prevention Rule includes some provisions to streamline implementation for both industry and the BLM. For example, the flaring provisions would reduce regulatory burden by eliminating the existing requirement to submit a sundry notice for each request to flare gas.

b. Why is the focus of the Department and BLM on adding permit obligations for oil and gas operations when on the contrary the Department's focus is on expediting permitting for renewable energy?

Answer. As part of the administration's All-of-the Above Energy Policy, the BLM manages the public lands for both conventional and renewable energy. The BLM has a statutory obligation to balance this energy development with other use of the public lands and to ensure that the development occurs in an environmentally sound manner and provides a fair return to the taxpayers for use of those lands and mineral resources.

With respect to the permitting requirements for conventional energy development, the BLM is not adding permit obligations, but rather is proposing commonsense updates to its existing rules designed to ensure that operators accurately measure, properly report, and account for all production from Federal and Indian lands. The existing rules do not reflect modern technology or practices, and therefore, in some instances, require the review, submittal, and processing of unwarranted variance requests. These circumstances will be addressed by the final rule.

Question (28). Not long ago, the Social Security Administration engaged in an aggressive program to obtain a new custom designed computer system to deal with disability claims. After spending over $300 million, they had a very little to show for it. They had a program racked with delays and mismanagement, but no new working custom system. Likewise, the U.S. Citizenship and Immigration Services spent more than $1 billion trying to replace its approach to managing immigration documents with digital online forms, and as of this fall it had only a single online form, the form to replace a lost green card online.

You're probably wondering what does this have to do with the Federal land management agencies. But right now, as I understand the situation, those agencies are working to refurbish the Federal Government's campsite booking Web site, Recreation.gov, which hosts virtually all online booking for not only the National Park Service but also the U.S. Fish and Wildlife Service, the Bureau of Reclamation in addition to Forest Service campgrounds, and even many of the Army Corps of Engineers facilities. Many people use this online system every year, and if things go bad it could be a very big black eye for these land management agencies that could have broader impacts to the recreation fee program in general, particularly as we approach the Park Service Centennial.

I am asking for an assurance from you that you are going to do everything possible to make sure that any improvements to the online reservation system doesn't risk ending up with missed deadlines, and rollout delays caused by mismanagement and untested products or custom created software, like I mentioned. I hope you will work to ensure that the system will be dependable, time tested, secure and cost effective for the United States.

a. Will you examine the situation and make sure that we are not headed down a pathway like those I mentioned?

Answer. The Recreation.gov contract is funded entirely by revenues generated from the recreation fees and reservation fees charged to visitors who make reservations. The current contract that provides the reservation and trip planning service for Recreation.gov is nearing the end of the period of performance and will be extended as needed to ensure that there is no disruption of service.

In this digital age, software solutions should be designed not by software engineers writing code but by the people who will be using the system so that the final

product truly serves the needs of the government and the people. It is also critical to ensure that the solution is nimble enough to adapt to emerging technologies throughout the life of the contract. The Recreation One-Stop (R1S) program has been conducting market research for over 2 years in order to identify emerging technologies and additional vendors who can provide the kind of service that meets modern customer expectations.

The R1S program has adopted the tenets laid out in the US Digital Services Playbook in which we will employ 'Agile' software development principles and processes. Agile development is the new norm in the private sector and, by following its best practices, we aim to provide a superior service and pleasant customer experience. This will entail face-to-face meetings with the contractor's program management and software development teams. We intend to work in short 'sprints' to write, test, and deploy usable code that will provide all of the tools for trip planning, reservations, financial processing, reporting, design, and customer service. As sprints are completed, we will test each portion of the code to ensure that it meets the government's needs and public expectations. Code that does not pass testing will be immediately identified for correction. By using this method, the R1S program will be involved at every step to ensure that we do not end up with an unusable product when it is time to transition. The public and many other stakeholders will be involved in the development and testing throughout this process to ensure that we are able to deliver what the public wants. The contract requirements include the highest levels of information security, privacy protection, secure financial processing, and compliance with all applicable laws and regulations pertaining to government IT services.

b. As a way to ensure data security indeed does meet the highest standard, will you be using people who are Payment Card Industry Data Security Standard (PCI) compliant?

Answer. Payment Card Industry Data Security Standard (PCI) compliance is an absolute requirement in the new (and current) contract. With the number of credit card transactions processed, the contractor's system is required to meet the highest level of PCI compliance.

The contractor must also deliver security that ensures compliance with the Federal Risk and Authorization Program (FedRAMP), Federal Information Processing Standards (FIPS), Federal Information Security Management Act (FISMA), and the Privacy Act.

Question (29). While many land management agency units are available as part of Recreation.gov, we know there are additional units that could take benefit from additional exposure. What are you doing to make sure more of your units are able to be part of the recreation.gov system and timeframes for bringing them online?

Answer. Recreation.gov currently hosts reservation services for over 3,200 locations which include campgrounds, picnic shelters, cabins, lookouts, yurts, tour ticketing, event lotteries, and a variety of wilderness permits. More locations continue to be added every year. When the system was launched in 2006, the primary focus was to provide reservations for basic front country campgrounds. Since that time, the R1S program recognized the need to expand the service to cover many different types of facilities and activities. This was one of the driving factors in moving to a more agile approach that affords the agencies the flexibility to use the platform for a wide variety of facilities and activities.

The R1S program expects that, upon launch of a new contract, the service will be able to support many more operations; this should facilitate the incorporation of reservation services more broadly. The new contract also requires that the contractor proactively 'market' the service to all agencies where it is appropriate. This includes offering Web services which can improve the efficiency and effectiveness of local operations.

Question (30). What, if any, human resources planning has OSMRE done in preparation for or in advance of the proposed Stream Protection Rule?

Answer. OSMRE typically makes human resource planning decisions based upon on the overall workload for the entirety of its regulatory and oversight program. The actual staff number may change depending on the program areas, the presence or absence of problems, input from the public, and the terms of the performance agreements in each State. The estimated annual hours for Federal oversight of the proposed Stream Protection Rule does not warrant any additional human resource planning.

Question (31). Which, if any, employment assignments or employee deployments have been made as a consequence of the Stream Protection Rule?

Answer. OSMRE has not found it necessary to make new assignments or employee deployment changes as a consequence of the Stream Protection Rule.

Question (32). Does OSMRE employ any "hydrogeologists"?

Answer. OSMRE currently has about 15 highly qualified technical staff classified under the "hydrologist" title. All have formal education, experience, and technical credentials in the area of surface and groundwater hydrogeology.

Question (33). What, if any, human resources planning has BLM done to satisfy mitigation measures, both those created by the Presidential Memorandum and the Department's own mitigation manual and efforts?

Answer. In the fall of 2013, Secretary Jewell released Secretarial Order 3330, Improving Mitigation Policies and Practices of the Department of the Interior. Secretary Jewell directed the Department and each of its bureaus to follow a common set of principles for its mitigation programs while using a landscape-scale approach building on and expanding concepts pioneered in the BLM's 2013 interim mitigation policy. Consistent with Secretarial Order 3330 and incorporating key lessons learned since release of the interim mitigation policy, the BLM is working to revise and finalize its mitigation policy to ensure it is responsive to emerging best practices and compatible with similar policies being developed by sister agencies and States.

Secretarial Order 3330 and the BLM's interim mitigation policy address concepts that broadly apply to mitigation—including principles of additionality, durability, and transparency—without prescribing the amount of mitigation that might be required for any given project. In general, the BLM will continue to identify appropriate mitigation measures by evaluating the specific impacts of each project proposal, in light of applicable BLM land use plans and in compliance with the National Environmental Policy Act (NEPA).

Mitigation broadly refers to a set of tools that allows the BLM to permit projects while responding to the concerns of local communities and meeting our mission of multiple use and sustained yield. For many years, the BLM has recognized a need to bring greater consistency to the use of these tools and to increase their availability to solve resource challenges like supporting development while planning for the recovery of the Greater sage grouse. Accordingly, the BLM has sought to better plan and train staff to help support the implementation of mitigation policies that will allow for more streamlined permitting, more consistent application of mitigation across offices, and better outcomes for resources. This includes identifying a national mitigation lead in the Washington Office as part of the agency's resource planning and decision support staff to ensure greater consistency and identifying State mitigation leads in each State Office to provide expertise as well as a consistent point of contact for State governments seeking to coordinate with the BLM on mitigation efforts. Already, State governments across the West are working with the BLM and our Federal partner agencies to establish and deploy some of these innovative tools. The BLM seeks to further support these collaborative efforts.

Question (34). Which, if any, employment assignments or employee deployments have been made as a consequence of the new mitigation efforts? If the answer is that mitigation efforts have had no human resource planning or employment consequences, please explain why that is the case.

Answer. As noted above, the BLM has identified a national mitigation lead to bring greater consistency to our efforts and has identified State mitigation leads to provide stronger State-level expertise and coordination with State governments. The BLM has long considered mitigation through the agency's routine resource management planning process and through individual project reviews as appropriate, and that will continue to be the case.

Question (35). What vacancies does the Department currently have, and what are the Department's plans or intentions to fill those vacancies?

Answer. The BLM has not increased staffing levels to address mitigation efforts. However, staffing has been reorganized to meet the requirements of the Presidential Memorandum and the Department's mitigation work. This reorganization includes identifying one position on the Washington Office staff for the role of national mitigation lead. This position is currently being advertised on USAJOBS. At the State level, mitigation leads are assigned as a collateral duty and these are not new positions. At the field level, mitigation functions are generally performed by BLM's existing planning or project management specialists.

Question (36). The BLM's draft updated planning rule, known as Planning 2.0, seeks to updated the agency's planning process.

a. One of the frustrations frequently expressed by public lands communities regarding the planning process is that the BLM takes their comments, but does not truly consider the needs of the area, particularly when it comes to projects that potentially provide opportunities for economic development. How will the new rule improve BLM's coordination with State, county, and local govern-

ments? Will there be certainty for the manner in which BLM will consider the needs of State, county, and local governments.

Answer. The proposed rule would improve coordination with State, county, and local governments by requiring communication and coordination early in the planning process. Two new steps would include (1) input into the development of the planning assessment and (2) review of the preliminary alternatives, rationale for alternatives and basis for analysis prior to issuance of the draft plan.

During the planning assessment the BLM would coordinate with State and local governments to identify the best available data for the planning area. BLM frequently hears from our State and local partners that they often have the best data for a resource and they want to ensure that BLM uses this data. This proposed step would respond to these requests and ensure early coordination on data and information sharing. During this step the BLM would also coordinate with State and local governments to identify existing State and local land use plans to begin to seek consistency between local land use plans and BLM's Resource Management Plans (RMPs).

Once BLM has developed a preliminary range of alternatives, the BLM will make these preliminary alternatives and rationale available to State and local partners for review. This new coordination step will allow State and local governments to provide early feedback to the BLM on the alternatives and whether the range of alternatives adequately considers the needs of State and local governments. The BLM will use this feedback to revise the alternatives and develop a draft resource management plan that is more responsive to the needs of State, county, and local governments.

Question (37). One of the goals of Planning 2.0 is to "improve the BLM's adaptability to respond to social and environmental changes." What types of social change does the BLM need a new rule in order to adapt to? Also, what types of environmental change require the new rule?

Answer. The proposed rule would provide the BLM the tools necessary to respond to both social and environmental change in an efficient and effective manner. Examples of social change that affect the public lands include the increased demand for recreation on public lands, changes in the composition and needs of local communities, or new emerging markets such as the increasing demand for renewable energy development on public lands. Examples of environmental change that affect the public lands include severe drought, catastrophic wildfire, or changes in plant community composition due to invasive species or pest infestations.

Question (38). I've made no secret about my concerns with this administration's practices relating to mitigation. The President's Memorandum entitled, Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment, coupled with your Secretarial Order 3330 on mitigation have only served to further my initial apprehension.

The President's Memorandum mandated that, "[w]ithin 1 year of the date of this memorandum, the Department of the Interior will develop program guidance regarding the use of mitigation projects and measures on lands administered by bureaus or offices of the Department through a land-use authorization, cooperative agreement, or other appropriate mechanism that would authorize a project proponent to conduct actions, or otherwise secure conservation benefits, for the purpose of mitigating impacts elsewhere."

a. Is there a status update as to where the DOI and its relevant agencies are in the development of program guidance?

Answer. The Department is working diligently on the policies required by the Presidential Memorandum (PM), including the guidance document identified above. The primary work by the Bureau of Land Management (BLM) and the Department since the publication of the PM has been to finalize BLM's forthcoming mitigation handbook and manual.

Question (39). I understand mitigation can be a great tool for land managers, but what authority does the Department have to require mitigation for projects on public lands under the Department's jurisdiction? And, to that end, what authority is there to require that mitigation meet a standard of benefit for natural resource damage?

Answer. The Department's authority to seek a net benefit in recommended or required mitigation actions is derived from the underlying statutory authority mandating the management of the impacted resource. Under these authorizations, the bureaus and offices of the Department are responsible for managing different resources and for different purposes.

For example, the Federal Land Policy and Management Act (FLMPA) mandates management of resources in accordance with the principle of sustained yield, which

is defined as the "maintenance in perpetuity of a high annual or regular periodic output" of such resources. Where, for example, past practices have degraded resources so as to reduce their annual or regular periodic output to low levels, requiring that mitigation achieve a net benefit is consistent with the statutory mandate to achieve and maintain a high periodic output by restoring such resources to predegradation levels.

Question (40). Along the same lines, given that much of the framework from the Presidential Memorandum reflects your own mitigation efforts stemming from your Secretarial Order 3330, please explain in detail what you hoped to achieve through your own mitigation efforts?

a. How will those efforts would be implemented across your Department and with other Department sub-agencies and among sister agencies where mitigation efforts and/or natural resource impacts straddle multiple jurisdictions.

Answer. A stated goal of the Council on Environmental Quality and the Department in establishing new mitigation policies is the transparency, efficiency, and consistency such guidance will bring to permitting processes. Although a multitude of factors play a role in successful permitting and project development, mitigation principles espoused by these policies, such as efforts to produce better avoidance and the consideration of mitigation measures early in the permitting process, are intended to reduce permit times and create better outcomes for impacted resources.

To ensure the Department's ability to achieve these objectives consistently, bureaus and offices of the Department have established common frameworks to apply the mitigation hierarchy in the development of mitigation recommendations and requirements. The frameworks create consistency in how bureaus and offices implement mitigation in a number of important ways, including the use of a compensatory mitigation goal; a clear and stated preference when selecting between compensatory mitigation providers; use of standardized definitions and terms; and adherence to a consistent set of standards to ensure equivalency among compensatory mitigation providers, among others.

Question (41). The Bureau of Land Management briefed the Senate on the Presidential Memorandum, and admitted to not having a rigorous understanding of impacts to subsistence use. Nevertheless, the Department assigned an $8 million impact in the National Petroleum Reserve—Alaska (NPR–A). What metrics are used generally to determine dollar values associated with anticipated natural resource damage(s), and specifically, what metrics were relied upon to arrive at the $8 million dollar cost in the NPR–A?

Answer. The Record of Decision for the Greater Mooses Tooth One Project included a voluntary contribution by ConocoPhillips Alaska, Inc. (CPAI) of $8 million to a compensatory mitigation fund to address impacts to subsistence uses that were not sufficiently avoided or minimized in the decision—in particular, encroachment of the project footprint into the established setbacks for Fish Creek and the Ublutuoch River. The Alaska National Interest Lands Conservation Act directs the BLM to specifically consider subsistence uses when reviewing projects and prohibits the BLM from approving projects with significant impacts that have not been adequately addressed (16 USC 3120 section 810). This contribution represents less than 1 percent of the cost estimate cited by CPAI for development of the project.

Question (42). The Department's Budget Brief for 2017 notes "(r)esource management plans provide the basis for every BLM management action and are *necessitated* by changes in resource use and demands . . ." (emphasis added)

a. What, specifically, are the changes in resource uses and demands that necessitate potential management of:

—715,000 acres of the Fortymile and Mosquito Flats Area of Critical Environmental Concern (ACECs) in the Eastern Interior Management Plan;

Answer. Based on public comment on the Eastern Interior Draft Resource Management Plan (EIRMP)/Environmental Impact Statement (EIS), the BLM considered changing the boundary of the proposed Fortymile Area of Critical Environmental Concern (ACEC) and designating a new ACEC on the Mosquito Flats, also in the Fortymile region.

The Fortymile ACEC (685,000 acres) is proposed for the purpose of protecting caribou calving and post calving habitat for the Fortymile caribou herd, and Dall sheep habitat. The Fortymile caribou herd is both a highly important subsistence resource in east central Alaska and an international resource, with a considerable portion of its historic range occurring in Canada. BLM-managed lands in the Fortymile region are used by Fortymile caribou for calving, post-calving, and winter range. The population and range of the herd is currently depressed compared to its historical extent. The herd was estimated at more than 500,000 animals in 1920, but currently numbers 50,000 animals. A cooperative planning effort, involving diverse interests in

Canada and the United States, focuses on the recovery of the herd in numbers and into historic range. Calving and post-calving habitats were identified as the most sensitive habitats by the Fortymile Recovery Planning Team. Additionally, the planning area is predicted to become warmer and drier with a likely rise in tree line. These changes will increase the importance of alpine and subalpine habitats for calving and year-round habitat. Focusing on limiting impacts to the most critical habitat areas is the most efficient strategy for maintaining this important resource.

The Mosquito Flats ACEC (30,000 acres) was proposed to protect a unique high elevation wetland. This wetland is atypical; the Mosquito Fork River flows over continuous sand beds that are uncharacteristically clean, light colored, well-sorted, and low in organics, suggesting the origin of the sand is likely from a past depositional environment, possibly related to eolian deposits of Pleistocene or later age. These wetlands are an important moose calving area and support BLM sensitive species, including nesting trumpeter swans and short-eared owls.

—Nearly 700,000 acres in the Sheefish Bering Sea-Western Interior Plan;

Answer. While developing the Bering Sea-Western Interior (BSWI) RMP, the BLM received a number of public comments and nominations from tribes, advisory councils, and individuals regarding the increased importance of non-Salmon species due to the crash of the salmon population. Sheefish is one of the species specifically mentioned.

Sheefish were mentioned as being a culturally significant fish species along the Kuskokwim River. They are harvested for subsistence use by many, especially in the middle and upper river. Sheefish are often caught before salmon in the spring, and offer an opportunity for fresh fish early in the season. In recent years, salmon have been in decline and there has been an even greater shift in harvest patterns away from salmon and more toward whitefish and other salmon species. Sheefish spawning grounds have very specific needs and occur in small numbers on the Kuskokwim River. Sheefish spawn in relatively small and specific locations, and a section of the Big River located south of McGrath has been identified as a well-known spawning area for sheefish. Local residents depend on the fish and wildlife resources of this drainage. The local Athabascan name for the river is "Zidlaghe Zighashno" which translates as "Sheefish Spearing (Harvest) River" and the river has been expressed as very important to local people.

A November 2012 ADF&G report on sheefish spawning grounds on the Kuskokwim River provides detailed information about documented spawning areas. The report shows three spawning locations on the Kuskokwim River for sheefish, located on the Tonzona, Middle Fork and Big River, all located in the upper Kuskokwim River area. Of these locations, there are BLM-managed lands near the Big River. The sheefish that populate the entire Kuskokwim River spawn in very discrete areas or, smaller tributaries of the main Kuskokwim River. Eighty percent of the sheefish spawning in the Kuskokwim River spawn in a 15.5 mile section of the Big River (Stuby, 2012, Alaska Department of Fish & Game (ADF&G) Report).

As a result of the local importance expressed in public comment and after review of the ADF&G studies, the BLM found there were relevant and important values and proposed the Sheefish ACEC to protect the sheefish spawning areas.

—Any of the over 6 million proposed acres in the Central Yukon Management Plan; and

Answer. The BLM is in the early stages of planning for the Central Yukon RMP and does not anticipate a final decision until 2019. There are approximately 1.8 million acres of existing ACECs in the Central Yukon Planning Area. These were designated in 1986 by the Central Yukon RMP and in 1991 by the Utility Corridor RMP. During scoping and public outreach in 2013–2014, the BLM received numerous nominations for new ACECs (approximately 3.7 million acres) and expansions of existing ACECs (approximately 1 million acres). Many of the nominations identify habitats of important subsistence species such as caribou, Dall sheep, and salmon. The Central Yukon interdisciplinary team members reviewed all ACEC nominations and BLM-managed lands in the planning area to determine whether any areas should be considered for designation as an ACEC. Team members also reviewed all existing ACECs and research natural areas (RNAs) to determine if the designations were still relevant. The interdisciplinary team determined that approximately 5.2 million acres met the relevance and importance criteria. These findings are published in the Central Yukon RMP Web site at: http://www.blm.gov/ak/cyrmp.

To date, the BLM has only made determinations on relevance and importance criteria and not special management attention. If needed, the special management approach is determined by the resource at risk and the BLM implements the least restrictive management needed to protect the resource. These restrictions could be seasonal restrictions on an activity, or additional stipulations on permitted activi-

ties, or limiting off highway vehicle use to designated trails. While the special management needed could be a recommendation to close the area to mineral entry, this would only be the recommendation if a closure is necessary to protect the relevant and important resource at risk.

The BLM will further analyze potential ACECs during development of draft alternatives and in the Draft RMP/EIS. The BLM will allow for public comment on both the preliminary alternatives and the Draft RMP/EIS when reaching those stages of the planning process.

—Some of the proposed ACECs would result in the closure of the public lands to mining or other activities. Please articulate how the Department would satisfy its multiple-use, sustained yield mandate in the Federal Land Policy and Management Act if any of the ACECs proposals that contemplate a form of closure are finalized.

Answer. Areas of Critical Environmental Concern (ACECs) are specifically defined in the Federal Land Policy and Management Act (FLPMA) as "areas within the public lands where special management attention is required . . . to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards." In FLPMA, Congress also directed that, "In the development and revision of land use plans, the Secretary shall . . . give priority to the designation and protection of areas of critical environmental concern . . ." in addition to the broader considerations of multiple use and sustained yield.

In addition to the specific discussion of ACECs, FLPMA sets a policy that the public lands be managed "in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor public recreation and human occupancy and use. . . ."

FLPMA defines the term multiple use as "making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output."

FLPMA defines sustained yield as "achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use."

In the event that some ACECs are closed to the mining laws, the BLM will meet FLPMA's multiple use mandate by allowing mining on lands outside of the those ACECs. For example, in the Eastern Interior RMP Fortymile Subunit, the agency preferred alternative recommends mining be allowed on more than half (70 percent) of the BLM-managed lands in the planning subunit. Should this alternative become the final decision, the BLM will meet the sustained yield mandate for caribou by designating ACECs for calving and post calving habitat.

b. Please tell me what efforts the Department has made to apprise Alaskans, and specifically Fortymile placer miners, of developing management plans, individual obligations and new enforcement approaches?

Answer. The BLM uses a variety of methods to notify and engage the public in planning efforts and changes to policy and practices, depending on the issue and the scope of the impact. For many planning efforts, the BLM is required to publish notices to the *Federal Register.* However, the BLM generally creates many more opportunities for public outreach than the *Federal Register* and is currently revising its planning regulations to include more robust public outreach and collaboration.

Other types of BLM actions require different levels of public involvement. Of recent concern was the development and implementation of the "mining IMs" in Alaska. These Instructional Memoranda (IMs) on mining reclamation and bonding are direction to staff on how to interpret the current mining regulations in 43 CFR 3809 in a consistent way. These IMs provide consistency in how the BLM evaluates reclamation performance and will provide miners with consistent methods for meas-

uring reclamation success. The regulations that define reclamation standards have been in place since 2001.

In 2013 and 2014, BLM staff began discussions with miners and mining organizations on current practices that were not meeting reclamation performance standards. There have been many advances in the last 15 years since the regulations were developed and many of the past practices for rehabilitating fish, wildlife, and riparian habitat after placer mining have, in many cases, failed to meet a number of reclamation performance standards required by regulation. The BLM was also concerned about whether there were adequate financial guarantees to cover all of the Federal mining operations in the State.

After the issuing IMs, the BLM sent a letter with associated information to every Federal miner in Alaska and met with individual miners to go over the regulations and how BLM would be measuring reclamation. The BLM also provided presentations on reclamation and a short course on revegetation with the Alaska Miner Association (AMA) and Alaska Minerals Commission in the Fall of 2015. In the summer 2015, the BLM implemented the Jack Wade Demonstration project in the Fortymile Wild and Scenic River Corridor to test new reclamation techniques for placer mined streams in Alaska. The project is designed to accelerate the recovery of in-stream and riparian habitats in a historically mined area. The ultimate goal was to find new approaches to reclamation and to help miners meet the reclamation standards more quickly. If the techniques are successful it will help miners to plan and implement their own reclamation work and assist them in meeting the reclamation performance standards required by regulation. Several Fortymile miners attended a workshop in Chicken to discuss reclamation evaluations and view the demonstration project. One of the successes from the workshop is that one of the area miners has asked BLM to help develop another demonstration project in 2016 on his mine site.

In April 2016, the BLM plans to give presentations on reclamation and a short course on revegetation at the AMA conference in Fairbanks. The BLM will also organize field workshops and demonstrations for miners in Chicken, Central and Coldfoot in the summer of 2016 and develop booklets and videos describing reclamation techniques.

c. And please elaborate on what the Department's policy is in the interim while new policies, enforcement approaches, management plans and the like are being developed. For example, is it the Department's position to continue operating under existing policies while a new policy is being drafted?

Answer. Existing operations are not affected until new policy, plans or regulations are finalized. In some instances, operations are "grandfathered in" and follow the old regulations. For example, some mining operations are covered by the 1980 version of the CFR while others are covered by the 2001 version. However both versions require revegetation and the rehabilitation of fisheries and wildlife habitat. The mining IMs outline ways to measure the effectiveness of the reclamation and assure that it meets either version of the regulations.

When the new Resource Management Plan is completed, the stipulations in the plan will only affect new or modified mining plans of operation. Existing plans of operation, or those with only minor modifications, are not affected.

Question (43). The administration has been vague on the details surrounding your proposed $10.25/barrel "fee," as you call it.

a. Has the Interior Department performed any analysis of how a $10.25/barrel fee would impact energy production on Federal lands? If not, why not?

Answer. The proposed oil fee, which would be gradually phased in over 5 years, is an important part of the administration's effort to address the challenges of our outdated transportation system. The fee would raise the funding necessary to make these new investments, while also providing for the long-term solvency of the Highway Trust Fund to ensure we maintain the infrastructure we have. By placing a fee on oil, the President's plan creates a clear incentive for private sector innovation to reduce our reliance on oil and at the same time invest in clean energy technologies that will power our future.

The proposed fee is not a wellhead tax and is not specific to oil production from Federal lands. Therefore, BLM has no reason to believe that energy production from Federal lands would be disproportionately impacted—either positively or negatively—by the fee and has not performed an analysis on its impact. The Department understands that the administration has indicated a desire to work with Congress on how to optimize collection of the fee. However, the Department would not have a direct role in developing or implementing the details of this fee proposal. Further questions about this proposal should be directed to the Department of the Treasury.

b. In 2013, a report commissioned by the Department of the Interior concluded that raising royalty rates on onshore oil and gas production on public lands would discourage investment and bring less money to the treasury, and consequently was not warranted. With oil prices drastically lower than in 2013 and the literally thousands of pages of new regulations that have come out of your Department to regulate industry over the last few months, has your Department analyzed what the cumulative impact of all of these actions will be on production on Federal lands and revenue to the treasury?

Answer. Consistent with Federal requirements, the Department has analyzed the economic effects of each rule. These analyses evaluate the rules individually, because there is so much geographic and operational variability in where and when the rules will apply and whether and how they will impact operators. That said, a number of the new standards reflect existing industry best practices, with which many operators are already in partial or full compliance, and some of the measures will actually save producers money. Additionally, many of the rules incorporate grandfathering or other provisions that are specifically designed to take account of operators' concerns about the rules' impacts, including impacts on lower-producing wells.

c. In light of these news regulations and fees, can you tell me that your actions are designed to increase production on public lands, or are you ready to concede that we have different policy objectives when it comes to energy development on Federal lands?

Answer. With respect to onshore production, the Department has a unique and broad mission to manage public lands on behalf of the American people under the dual framework of multiple use and sustained yield. This means we manage these lands for a broad range of uses including renewable and conventional energy development, livestock grazing, timber production, hunting, fishing, recreation, and conservation. These rules are part of a broad regulatory framework designed to balance oil and gas production on the public lands with the many other uses of those lands and assure development of the public's oil and gas resources occurs safely, responsibly, and in the right places.

Question (44). The fiscal year 2015 Omnibus included a requirement for a comprehensive inventory of contaminated sites conveyed through ANCSA and a detailed plan on how the Department intends to complete cleanup of each contaminated site within 180 days of enactment.

a. When will the report be completed and made public?

Answer. The report is complete and in the midst of a final review. It should be available this summer.

b. Does the Department have any plans to accelerate the cleanup of contamination on Native lands, either the lands that BIA, BLM, FWS, NPS, or Bureau of Mines actually caused, and do you have any plans to coordinate a cleanup among the other Federal agencies: DOD, FAA, the National Weather Service and the Forest Service since as Secretary you do have a trust responsibility to Alaska Natives?

Answer. The BLM developed a database with the most comprehensive inventory to date of known contaminated sites on lands conveyed to Alaska Native Corporations through the Alaska Native Claims Settlement Act (ANCSA). The database contains current information about each site's land and regulatory status, including (1) the entity to which the BLM conveyed the property; (2) the precise coordinates, if known, for where the contaminated site is located; (3) the current understanding of the site's type and amount of contaminants, if known; and (4) any data gaps. Before it can be considered final, the inventory needs to be refined with further regulatory and site characteristics, when that information is identified. Additionally, further outreach needs to be completed to those Alaska Native Corporations that did not respond during the BLM's facilitated meetings with stakeholder groups. Once finalized, the inventory will provide Alaska Native entities and the appropriate Federal and State regulators with a powerful tool to help address these contaminated sites.

It is important to stress that, once non-Department of Defense lands pass from Federal ownership, former land-managing agencies no longer have authority under CERCLA and Executive Order 12580 (Superfund) to compel or conduct clean up, although the United States may remain liable for pre-conveyance contamination. The Department of Defense is the only Federal agency besides the Environmental Protection Agency (EPA) authorized to execute or compel cleanup of contaminated lands no longer under its ownership per 10 USC 2701(c)(1)(B). The BLM and DOI have no authority over other entities that may be identified as parties responsible for existing contamination on lands conveyed to ANCSA corporations. With the comple-

tion of this comprehensive database, the BLM has worked to the full extent of its authority in fulfilling its responsibilities under the Consolidated and Further Continuing Appropriations Act, 2014 (Public Law 113–235).

Among the sites known to be in need of cleanup, the Alaska Department of Environmental Conservation (ADEC) has identified a responsible party or parties for almost all sites. For the vast majority of parcels, the BLM was not managing the lands when they became contaminated and ADEC has identified other agencies as the responsible party. Once responsible parties have been documented for the sites identified in the completed inventory, the final phase of work will be directed by the appropriate regulatory agency. Within Alaska, this authority lies with ADEC and EPA for sites not on federally managed lands. For sites where a Federal agency has been identified as the responsible party, funds for cleanup will require budgetary planning and prioritization.

c. Does the Department have any estimates or intend to develop estimates for exactly what it will cost to clean up the lands so they are usable by Natives to generate the benefits that were intended when the Native Claims Settlement Act passed 45 years ago?

Answer. The sites not currently in a clean-up program vary in levels of confirmation with regard to the extent of the contamination. Without the details related to a verification of a release, extent of hazardous material, and other site characteristics that would support estimates for cleanup, it is difficult to predict cleanup costs.

QUESTIONS SUBMITTED BY SENATOR TOM UDALL

Question (1). I'm very pleased that this subcommittee was able to provide an 85 percent increase for Indian school construction and improvements in the 2016 omnibus. That amount includes funds to finish the schools on the 2004 school construction priority list. It also provides a down payment for to begin work on new schools—that BIE is in the process of selecting.

Selecting five new schools for priority construction is only the beginning of the investment we need to make in tribal schools—and I believe we won't get there unless we develop some kind of "Marshall Plan" for Native youth that fully funds infrastructure needs. We included language in the 2016 omnibus urging the Department to follow the lead of the Defense Department—and develop a comprehensive plan to modernize and improve all BIE schools. DOD produced a plan to modernize its education facilities needs in 2009—and has been able to make significant progress towards fixing its schools as a result. There's no reason that the administration and Congress can't work together to do the same for tribal schools.

a. Secretary Jewell, can you share what steps the Department is taking to develop a comprehensive plan to improve all Indian schools?

Answer. Indian Affairs and the Department have directed the Office of Facilities, Property, and Safety Management, through its Division of Facilities Management and Construction to work with a contractor to develop a "Poor-to-Good" 5-year plan to identify the approach and resource requirements necessary to modernize our school facilities. The results of the assessment will be ready for internal review and further strategic planning development in May 2016.

b. Is there any reason that the Department can't move forward with preparing a comprehensive needs assessment—and plan to address the needs identified by such an assessment—this fiscal year?

Answer. As described above, the Office of Facilities, Property, and Safety Management, through its Division of Facilities Management and Constructions is engaged in developing such a plan. The results of the assessment will be ready for internal review and further strategic planning development in May 2016.

Question (2). I understand that the Department is now moving forward with the first phase of the proposed reorganization of the Bureau of Indian Education—including the establishment of new Educational Resource Centers—and that your 2017 budget anticipates additional changes to the Bureau. As part of the first phase of the reorganization, you have proposed a number of staffing changes, including changes to the regional office in Albuquerque, to create these new centers to assist BIE and tribally controlled schools.

a. What is your timeline for staffing up these centers, and what services can schools expect to receive starting in the fall?

Answer. Staff hiring is planned to be completed by the end of June 2016 in time for the new school year 2016–2017.

The Education Resource Centers are geographically positioned close to schools and will be staffed with School Solutions Teams. These Teams will ensure that principals and teachers have the resources and support they need to operate high achieving schools. These Teams will assist schools in their improvement efforts by providing data-supported best practice models in such areas as school management and climate, professional development, curriculum, and instruction. These Teams will not micromanage or direct reforms in schools; rather, they will listen to principals and teachers and then provide the support that is requested.

b. I am still hearing from tribes in New Mexico that they don't feel fully informed about changes to expect from the reorganization. What is your plan to ensure that all stakeholders—including BIE employees whose jobs may be affected—know what to expect during the reorganization?

Answer. The BIE has sought to inform Tribes about the expected changes to the BIE reorganization through consultation and outreach. In 2015, the BIE held 12 regional and individual consultations along with six national consultations. The BIE welcomes further questions or comments.

In terms of informing BIE employees, the BIE Office of Human Resources (HR) has held an open house, as well as encouraged BIE employees to stop by the office to discuss the reorganization and positions. All employees were notified by email that HR was available for private meetings to discuss the reorganization and the potential impact on them individually; approximately 110 individual counseling sessions were held in person or via telephone. Since February 22, 2016, the BIE has issued vacancy announcements for available positions under the new structure. The Acting HR Director and his staff have sent email updates as the vacancy announcements have been made and provided letters to all staff affected by the reorganization. In addition, information is posted on the HR Web site and distributed by the BIE newsletter and flyers. HR has also provided Webinars that can be accessed at any time by staff explaining how to access USAJobs and how to apply for jobs using USAJobs.

c. Your budget request provides $8 million dollars in new funds to implement more changes to the Bureau to "increase capacity" and provide additional services to BIE-funded schools, but it doesn't provide much more detail. What specific changes are you proposing to make, and what additional capacity will BIE build with these funds? Will these funds be used to address shortfalls in facilities management, contracting and other services provided to schools, as identified by the Governmental Accountability Office?

Answer. The additional $8 million is required to stand up the new Schools Operations Division within the Bureau of Indian Education. The School Operations Division will include the following functions: Facilities (school construction, repair and maintenance, school safety and school property); Human Resources; Educational Technology; Acquisitions; Budget and Finance; and Communications. The redesign and restructuring of the Schools Operations Division will address the Government Accountability Office recommendations related to accountability and management of funds, school safety issues, shortfalls in facilities management, and the planning and execution of acquisitions. These issues are addressed in several ways under the restructuring of the BIE as follows: (1) dedicated, additional staffing; (2) establishment of new offices with new responsibilities (e.g., auditing, technical assistance, policy development); (3) new reporting chains to ensure oversight of functional experts; (4) new business processes that support school needs, and (5) consolidation of functions to eliminate duplication.

Question (3). Secretary Jewell, I am pleased to see your 2017 budget includes a $350,000 increase to expand the Manhattan Project National Historical Park, for a total budget of $691,000. I know that the Park Service is still working with the Department of Energy to develop its plan for the park.

Could you please provide an update on what we can expect to happen with the park in 2016, particularly in Los Alamos? What activities do you plan to fund with your requested increase?

Answer. If appropriated, funding would provide for adequate initial staffing of all three park locations, including Los Alamos. A Superintendent, a site manager at each location, and some interpretive staff are planned based on the proposed budget for fiscal year 2017.

If funding is appropriated, the Los Alamos site will hire a site manager in 2017 and will expand interpretive staff. The Department of Energy is working to have the first buildings open to the public in late calendar year 2017.

In the meantime, the park has developed a brochure showing the Manhattan Project resources visitors can see in town, and will be hosting regular ranger talks and tours by summer 2016. NPS anticipates expanding the interpretive presence in

2017 with the additional funding as well as continuing to develop partnerships with the local community.

Question (4). Secretary Jewell, I am very pleased that my colleagues and I were able to provide the BLM National Conservation Lands line item with its first increase since fiscal year 2012. As you know, we recently established two new national monuments in New Mexico—the Organ Mountains-Desert Peaks National Monument in the southern border area of the State, and the Rio Grande del Norte National Monument in the north near Taos. Tourism at these monuments creates critical economic opportunities for the people in surrounding communities—and they are also places that New Mexicans enjoy visiting ourselves. The President's budget once again proposes a significant increase of $13.8 million dollars for monuments throughout the country.

a. Can you tell us what BLM's plans are for utilizing the new funds we provided in fiscal year 2016— particularly to support the monuments in New Mexico?

Answer. The BLM's National Monuments and National Conservation Areas (NM&NCA) program received a $5.0 million increase in fiscal year 2016. The increase brings the program's total appropriation to $36.8 million, which is used to administer 46 areas covering about 12.2 million acres (as of April 1, 2016). New Mexico has received $1.3 million, or 26 percent, of the increase because of several new NM&NCA designations. This brings the State's total NM&NCA program funding to $2.5 million—a 110 percent increase from fiscal year 2015.

These funds will support all NM&NCAs in New Mexico, including newer national monuments. Specific direction includes funding managers, critical staff, signage, and educational materials, among other things. Funding is also directed for New Mexico's critical maintenance needs, to inventory and protect the resources, objects, and values for which units were designated, to reduce staffing vacancies, provide education and interpretation to the public, hire youth and veterans, and provide safe and legal public access.

b. With the increased funding included in the 2017 Budget for national monuments, what will you be working on? What are the needs that should be addressed?

Answer. The BLM plans to use the proposed $13.8 million increase to the NM&NCA program as described in the fiscal year 2017 President's budget. Specifically, the program will use the increase to fill critical management and staff vacancies, conduct vital inventories, provide safe and legal public access, perform basic maintenance on infrastructure, protect wildlife habitat and irreplaceable historical resources, and provide opportunities for recreation, volunteering, youth and veteran engagement, and scientific research.

c. Since the budget was delivered, the President has designated new monuments in California, and I understand there is still the potential for additional designations. Will the funding needs for those areas be covered by the increases you've proposed? If not, how will you fund them without impacting other states like New Mexico?

Answer. The 2017 budget was formulated prior to these most recent designations. BLM base funding has been used to manage these acres prior to their designation as national monuments. Decisions on allocation of the requested increase have yet to be made. The BLM will have a better idea of 2017 funding needs for the new monuments in the coming months, and will be able to reprioritize estimated NM/NCA State allocations at that time.

Question (5). The budget proposes $1.7 million dollars to implement a Departmental Southwest Border Radio Initiative—in partnership with the Forest Service—to improve communications infrastructure amongst the various land management agencies, based on some issues the Inspector General uncovered.

a. Can you talk about how this funding specifically addresses the concerns raised by the Inspector General? Will this initiative improve Interior's ability to communicate with Border Patrol and State and local law enforcement as well?

Answer. The funding proposed for the fiscal year 2017 Bureau of Land Management Deferred Maintenance budget will allow the Department of the Interior to complete the first pilot projects aimed at resolving deficiencies in the land mobile radio program in an area with a critical need for improved communications. Projects to be completed with these funds will focus on resolving concerns over safety of DOI personnel using and maintaining land mobile radio facilities. In addition, land mobile radio infrastructure will be consolidated, removing redundant facilities and upgrading equipment on remaining sites. The priorities for work will be accomplished in collaboration with other DOI Bureaus in the region including the National Park Service (NPS), Fish and Wildlife Service, Bureau of Indian Affairs, the Bureau of

Reclamation and the U.S. Forest Service. There may be as many as 32 sites in the region which could be eliminated through this consolidation.

When completed this project will lead to reduced infrastructure costs since there will be fewer sites to maintain and the condition of the remaining sites will be much improved. A key aspect of this project is the cross Bureau cooperation within DOI and the inclusion of the USFS as a full partner. Safety and effectiveness will also be enhanced with upgraded replacement communication hardware and operational support for the infrastructure will be shared.

Radio coverage and reliability will be enhanced which should lead to better communications with other partners including the U.S. Border Patrol. The work to be done is not focused on correcting interoperability issues. These issues have been addressed through MOUs and exchange of radio frequencies and encryption keys. On the Southwest Border, the DOI and USFS Law Enforcement have been successfully interoperable with the Department of Homeland Security since 2008, in some cases much earlier. Our Officers communicate on these shared frequencies and infrastructure every day.

b. Can you tell us why BLM was chosen as the lead agency and why the Park Service and Fish and Wildlife Service do not have similar increases proposed for this project?

Answer. BLM currently administers and operates a regional interagency dispatch center in Phoenix and has been a leader in managing land mobile radio communications in the region. The Arizona BLM State Directors Office and staff have collaborated with other DOI Bureaus and the USFS to identify priority actions needed to address field communications issues and has entered into a partnership with the NPS, FWS, and the USFS in the border region of New Mexico and Arizona. Radio communications are a common operational activity and BLM has agreed to manage the requested funds to address needs across all Bureaus and the USFS. The funding will be used to consolidate existing infrastructure, removing towers that provide overlapping service and upgrading the towers that will remain and serve all the participating agencies. The specific sites to be worked on will be identified based on technical information gathered through a collaborative effort with the partners involved.

c. What are the tangible impacts we will see on the ground in New Mexico if this program is funded?

Answer. When project work is completed there should be fewer land mobile radio communication sites in New Mexico since sites that provide overlapping service will be removed. This will reduce environmental impacts and maintenance costs for unneeded sites. Maintenance visits to the sites will no longer be required reducing disturbance to sensitive species and removal of equipment and associated infrastructure will allow for restoration of previously impacted sites.

Improvements at remaining communication sites will increase radio coverage and reliability for DOI Bureaus and the USFS and should make these sites viable for colocation use by the New Mexico FirstNet Public Safety Broadband Network, counties, cities, and other Federal agencies.

Question (6). I am the lead cosponsor of legislation with Senator Wyden that would require the Department to collect royalties for coal mined on Federal lands based on the actual market value of coal. The bill also increases transparency within the Federal coal program by making it a requirement to calculate and publish the going market rate for coal and coal transportation.

I know that you have called for a comprehensive review of the coal program. What is the status of that review, and the expected timetable for completion? Will the reforms proposed in our bill be evaluated as part of your review? Please provide a comprehensive list of the issues that you expect to investigate or address as part of the review.

Answer. On January 15, 2016, the Secretary of the Interior issued Order No. 3338 directing the BLM to conduct a broad, programmatic review of the Federal coal program it administers through preparation of a Programmatic EIS under NEPA. The Order was issued in response to a range of concerns raised about the Federal coal program, including, in particular, concerns about whether American taxpayers are receiving a fair return from the development of these publicly owned resources; concerns about market conditions, which have resulted in dramatic drops in coal demand and production in recent years, with consequences for coal-dependent communities; and concerns about whether the leasing and production of large quantities of coal under the Federal coal program is consistent with the Nation's goals to reduce greenhouse gas emissions to mitigate climate change. In light of these issues, the coal Programmatic EIS will identify and evaluate a full range of potential re-

forms to the Federal coal program, including those related to ensuring a fair return to the taxpayer.

On March, 30, 2016, the Department of the Interior published a Notice of Intent (NOI) to prepare a programmatic EIS to review the Federal coal program and conduct public scoping meetings [Pages 17720–17728 [FR DOC # 2016–07138]]. Scoping meetings are scheduled for May and June 2016. The BLM will invite interested agencies, States, American Indian tribes, local governments, industry, organizations and members of the public to submit comments or suggestions to assist in identifying significant issues and in determining the scope of this Programmatic EIS. All comments and recommendations submitted during the scoping process will be collected for consideration. The estimated completion time for the program review is 3 years.

Question (7). Secretary Jewell, the demand for ivory and rhino horns has skyrocketed. The Congressional Research Service reports that a rhino horn is worth more than $50,000 per kilogram—more than even gold and platinum. The profit incentive is just staggering—so it's no surprise that terrorist networks such as al-Shabab and the Lord's Resistance Army are turning to poaching to support their operations.

The fiscal year 2016 Omnibus included $8 million dollars, a 12 percent boost, to the Fish and Wildlife Service's efforts to combat wildlife trafficking. The budget request for fiscal year 2017 would maintain that increased effort.

What progress is the Service making on hiring the planned 45 new specialists and agents, and how quickly will they get into the field? What other steps is the Service planning to take with the new funds, both in 2016 and 2017?

Answer. The fiscal year 2016 Omnibus included an $8 million dollar increase for the U.S. Fish and Wildlife Service's Office of Law Enforcement to combat wildlife trafficking. These funds are being used to strengthen the Service's capacity to combat trafficking by hiring additional international special agent attachés, digital forensic specialists, intelligence analysts, and special agents.

International attachés are experts on investigating wildlife trafficking and breaking up smuggling networks. They are stationed around the world in strategic international locations to strengthen ongoing international partnerships to protect the world's wildlife from poaching and illegal trade. In August 2015, three additional attachés were stationed at U.S. embassies in Dar es Salaam, Tanzania; Gaborone, Botswana; and Lima, Peru. The Service continues to work with the State Department to place a fifth attaché in Beijing, China in May 2016. In 2016, the Service plans to deploy an additional four international attachés in areas of the world that have been determined to be strategically important in the fight to combat illegal wildlife trafficking. The Service is in final discussions with the State Department concerning the placement of four additional attachés. The Service anticipates advertising the positions before July 2016, with selections for the positions to be made in August 2016.

Digital forensic specialists support agents in case development and execution by providing forensic results concerning computers, cell phones, and other digital technologies. The Service is currently reviewing applications for the five new special agent positions funded in the fiscal year 2016 budget. The Service aims to place the new agents at the Digital Evidence and Recovery Computer Forensics Lab by June 2016.

Intelligence analysts support special agents and wildlife inspectors working in the field in numerous ways, including providing information concerning trends in wildlife trafficking, researching information on smuggling syndicates, performing criminal history checks, and producing and distributing intelligence bulletins. The Service is on track to select a new Special Agent in Charge of the expanded Intelligence Unit in June 2016, with plans to bring the remaining agents on board shortly thereafter.

The Service has also hired 43 special agents to ensure its ability to enforce the Nation's wildlife laws and safeguard protected species. The additional special agents will address the current staffing level shortfall that has limited the Service's ability to perform ongoing investigations. A portion of the new agents have completed initial training and are already working at field locations. Final training will take place in June 2016 at the Federal Law Enforcement Training Center in Glynco, Georgia. After completion of all training, new agents will be deployed to the field for direct interdiction of illegal commercial exploitation by organized crime elements.

Through increased staff in these vital areas of expertise, the Service will strengthen our own and our global partners' capacity to prosecute and deter criminals that engage in the poaching and smuggling of wildlife and plants.

Question (8). Secretary Jewell, the Fish and Wildlife Service's efforts to reintroduce the Mexican gray wolf in New Mexico and Arizona has had a promising start. They were virtually eliminated from the wild by the 1970s, but thanks to the program, the population reached 110 wolves in 2014.

Unfortunately, the 2015 count brought some troubling news—the Mexican gray wolf population dropped to 97. I also understand that two wolves passed away during or right after being darted and tagged by the Fish and Wildlife Service. Wild populations can naturally ebb and flow, but we know that these wolves are at risk for a number of factors. It's critical that we investigate closely.

a. Do your scientists have a theory for why the population is trending downward? Are there plans underway to help support a rebound?

Answer. The drop in numbers from 2014 to 2015 represents 1 year and does not yet indicate a trend. The population decline in 2015 was due to a combination of factors. There were 13 Mexican wolf mortalities (5 illegal, 2 natural, 1 capture complication, 5 awaiting necropsy) compared to 11 in 2014. Ten additional wolves are considered fate unknown compared to three in 2014. Finally, a significantly lower proportion of pups survived to December, relative to last year: 55 percent survival in 2015 compared to 86 percent in 2014. In the 2014 Environmental Impact Statement for the revised regulations for the Mexican wolf experimental population, the Service anticipated an average annual population growth of 10 percent. In 2014, Mexican wolves had higher than usual pup survival and a population growth of 30 percent. The Service maintains that the strategy for the experimental population continues to be viable. The Service and its partners remain focused and committed to making this population genetically healthy and robust so that it can contribute to the recovery of the Mexican wolf.

b. Why did the two wolves die during the count and capture operation? Has the Fish & Wildlife Service done a full review of their policies and procedures to prevent similar accidents?

Answer. The Service conducted preliminary investigations immediately following the two deaths during the 2015 count and capture operation. Both wolves are undergoing necropsies at the Service's Forensics Laboratory in Ashland, Oregon, to determine cause of death. We have requested that the lab specifically determine if either wolf experienced capture myopathy and if there was any other contributing underlying health issue. The techniques, protocol, and drugs used were the same as those used throughout this year's and last year's count and capture operations. This year, 13 additional wolves were successfully darted, processed, collared, and released back into the wild. Based on the outcome of the necropsies, the Service will determine if any changes to protocol are needed.

QUESTIONS SUBMITTED BY SENATOR ROY BLUNT

Question (1). Could you please provide a comparison of the revenues returned in the last several fiscal years from oil, gas, and coal leases, versus any revenue brought in from solar energy. Please include in the report what the revenue is generated from, such as rents. Further, please identify where there this money is accounted for in the Interior budget. It does not appear to be documented in Interior's Office of Natural Resources Revenue which lists revenues from other sources.

Answer. A comparison of the revenues generated for oil, gas, coal and solar energy are provided in the tables below.

Revenues from oil, gas, and coal leases: Data with respect to revenue generated by the production of Federal oil, gas, and coal is maintained by ONRR on its Statistical Information Web page (http://statistics.onrr.gov/ReportTool.aspx). Information made available is broken down into information on Revenue Type (reported royalties, rents, bonus, and other revenues), Commodity (leased solid and fluid minerals), and the total Revenue collected. Definitions for these categories are provided by ONRR on its Web site.

The tables below present the total revenue collected from Federal oil, gas, and coal production on both an annual and aggregate basis from fiscal year 2010 through fiscal year 2015.

OIL AND GAS REVENUE

Fiscal Year 2010–2015

Type	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015
Gas (mcf)	$1,444,790,640	$1,360,191,600	$976,195,024	$1,008,066,360	$1,161,006,314	$915,071,846
NGL (gal)	$210,688,138	$253,774,439	$298,372,582	$284,957,168	$279,379,284	$154,241,725
Oil (bbl)	$870,739,500	$1,110,883,193	$1,275,117,598	$1,459,973,589	$1,634,903,295	$1,269,596,134
Total Royalt es	$2,526,218,278	$2,724,849,233	$2,549,685,203	$2,752,997,117	$3,075,288,892	$2,338,909,704
Oil & Gas Rents	$48,800,065	$45,002,896	$43,758,281	$41,036,833	$36,684,823	$30,886,105
Oil & Gas Bonuses	$201,872,509	$233,467,555	$283,051,994	$188,982,219	$161,936,505	$112,651,284
Total Royalty, Rent and Bonus	$2,776,890,852	$3,003,319,684	$2,876,495,478	$2,983,016,170	$3,273,910,220	$2,482,447,094

COAL LEASE REVENUE

Fiscal Year 2010–2015

Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Total Fiscal Year 2010–2015
$856,793,241	$956,018,290	$1,364,744,116	$1,165,066,525	$1,161,706,509	$1,137,450,911	$6,641,809,592

Revenues from Solar Energy: ONRR does not collect renewable resource revenue information. Renewable energy revenue is reported by the BLM in the Public Land Statistics. Since 2010, the BLM has authorized 35 solar projects. As of April 2016, there are 6 projects that have been built and are providing power to the grid. The following table summarizes renewable energy revenues that BLM has collected over the past several years.

The table below reflects annual payments that the BLM collects for solar and wind energy development. It does not include revenues collected through competitive bidding for development parcels at an auction since there has only been one auction held to date, in 2014, which resulted in over $5.8 million in bids. This is an amount that the BLM collected in addition to the amounts reported in the table below. All revenues, including bid monies, are sent to the General Fund at the Treasury.

SOLAR AND WIND ENERGY REVENUE

Fiscal Year 2010–2015

Year	Solar	Wind	Fiscal Year Total
Fiscal Year 2010	$3,911.76	$3,115,480.25	$3,119,392.01
Fiscal Year 2011	$6,230,982.09	$3,713,338.16	$9,944,320.25
Fiscal Year 2012	$5,199,338.42	$4,354,260.32	$9,553,598.74
Fiscal Year 2013	$6,343,817.72	$4,315,856.99	$10,659,674.71
Fiscal Year 2014	$7,307,687.93	$5,402,276.42	$12,709,964.35
Fiscal Year 2015	$10,686,757.63	$4,538,337.65	$15,225,095.28
Totals	$35,772,495.55	$25,439,549.79	$61,212,045.34

Question (2). Given that your department has concluded that a PEIS for the coal leasing program is necessary, will you commit to refraining from other major modifications to the coal program while this analysis is being conducted?

Answer. The intent of the discretionary Programmatic EIS is to analyze potential leasing and management reforms to the current Federal coal program in response to concerns raised by the Government Accountability Office, the Interior Department's Office of Inspector General, Members of Congress, interested stakeholders and the public. Any potential reforms or changes to the Federal coal program will be identified in the scoping process.

Question (3). You have indicated that a number of coal leases that have received record of decisions will be grandfathered. Are you firmly committed to allowing those lease sales to move forward as planned?

Answer. The Secretarial Order states that applications having records of decisions or decision records issued by either the surface management agency or the bureau at the time of the order will be processed and not affected by the pause.

QUESTIONS SUBMITTED BY SENATOR MITCH MCCONNELL

Question (1). The Consolidated Appropriations Act of 2016 (Public Law 114–113) included a directive to require the Office of Surface Mining Reclamation and Enforcement (OSMRE) to provide States with technical reports, data, analyses, comments received, and documents related to the environmental review and environmental impact statements for the agency's proposed stream buffer zone regulation. To date, what has OSMRE done in conjunction with the Department of Interior to comply with Congress' directive?

Answer. OSMRE made these documents available to all of the States on March 24, 2016. Reference materials cited in the proposed rule were uploaded on the Web site *regulations.gov* with the exception of reference materials protected by copyright law.

Question (2). The Office of Surface Mining and Enforcement (OSMRE) claims that States have been reluctant to work with the agency despite their outreach efforts on the proposed stream buffer zone regulation. The Energy and Environment Cabinet in Kentucky sent a letter to your agency on February 8, 2016, indicating that the State agency would be interested in receiving the information directed by Congress in the Consolidated Appropriations Act of 2016 (Public Law 114–113) to see how those studies and assessment documents compare with their own findings and reviews. Where is your agency in the process of responding to this request? What steps will your agency take to ensure that the newly elected and appointed officials in the commonwealth of Kentucky are brought up to speed with the proposed rule and reviews and findings associated with it? What sort of engagement can the Kentucky Energy and Environment Cabinet expect from your agency before the stream buffer zone rule is finalized?

Answer. OSMRE has and will continue to honor its commitment to provide the State of Kentucky as well as all other States the information directed by Congress. In this regard, OSMRE scheduled a series of technical meetings to provide answers to questions the States might have with any of the documents provided. The State of Kentucky was invited to participate in these meetings held on April 14, 2016 and on April 21, 2016.

QUESTIONS SUBMITTED BY SENATOR BILL CASSIDY

Question (1). In 1996 Congress passed the National Technology Transfer and Advancement Act (NTTAA). The law prohibits the use of technical standards unique to the Federal government in lieu of voluntary consensus standards as they relate to agency rule making. However, the Blowout Preventer Systems and Well Control final rule, RIN 1014–AA11 violates the NTTAA by using government unique technical standards. This violation makes it impossible to implement numerous portions of the rule while remaining compliant with existing law. In its formulation of the rule BSEE also infringes upon OMB Circular A–119. The circular requires the publishing of a NTTAA "statement" in its Notice of Proposed Rulemaking (NPRM) detailing why government unique technical standards were necessary in lieu of consensus standards if exceptional reasons existed.

a. Why did BSEE not include a NTTAA statement in its original NPRM?

Answer. BSEE's Blowout Preventer Systems and Well Control final rule is consistent with the NTTAA's requirement that agencies use technical standards that are developed or adopted by voluntary consensus standards bodies rather than government-unique standards. The final rule expressly incorporates the following voluntary consensus technical standards as required by the NTTAA:

—American Petroleum Institute (API) Standard 53 ("Blowout Prevention Equipment Systems for Drilling Wells");
—ANSI/API Specification (Spec.) 11D1 (Packers and Bridge Plugs,
—ANSI/API Spec. 16A (Drill-through Equipment);
—API Spec. 16C (Choke and Kill Systems);
—API Spec. 16D (Control Systems for Drilling Well Control Equipment and Control Systems for Diverter Equipment);
—ANSI/API Spec. 17D (Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment); and

—ANSI/API RP 17H (Remotely Operated Vehicle Interfaces on Subsea Production Systems).

The final rule does not use government-unique standards in lieu of voluntary consensus standards. As a result, BSEE is not required to provide a statement that identifies government-unique standards and explain why using voluntary consensus standards would be inconsistent with law or otherwise impractical.

b. How does BSEE plan to implement all of rule RIN1014–AA11 if key provisions violate existing statues?

Answer. BSEE does not believe that any provisions of the rule violate existing statutes. As BSEE described in the preamble to the proposed rule, pursuant to the Outer Continental Shelf Lands Act (OCSLA), Congress authorized BSEE to promulgate regulations concerning natural resources of the Outer Continental Shelf.[3] BSEE relied on this legal authority as its basis for developing and issuing the final Blowout Preventer Systems and Well Control rule. The final rule is consistent with OCSLA and other existing statutes described in the rulemaking record.

c. Does the Department plan to publish a NTTAA statement and reopen the public comment period?

Answer. As the Blowout Preventer Systems and Well control rule complies with the requirements of the NTTAA and the guidance in OMB Circular A–119 concerning the Bureau's identification of voluntary consensus standards used in the rule, the Department does not plan to reopen the public comment period.

Question (2). The NTTAA does allow for exceptions from the voluntary consensus standards mandate when their use "is inconsistent with applicable law or otherwise impractical" and requires agencies to "transmits to the Office of Management and Budget an explanation of the reasons for using such standards." In accordance with 15 U.S.C. § 272.

a. Please explain the Department's process for justifying a NTTAA exemption when BSEE was actively involved in creating and approving the consensus standards at issue.

Answer. BSEE's promulgation of the final Blowout Preventer Systems and Well Control rule is consistent with the NTTAA's requirement that agencies use technical standards that are developed or adopted by voluntary consensus standards bodies, rather than government–unique standards, when such technical standards are consistent with the law and practical (e.g., when the technical standards would serve the agency's program needs and would not be ineffectual, inefficient or inconsistent with the agency's mission). The final rule does not rely on an exemption from the NTTAA.

b. Please explain the justification that voluntary consensus standards are "impractical", especially taking into account that government-unique standards lack a technical basis and create potential safety risks.

Answer. Each departure from voluntary consensus standards is founded on a sound technical basis, generally accepted engineering best practices, and BSEE's determination that the relevant consensus standard, or a specific provision of the standard, does not provide an acceptable level of risk, risk management, or due care. For example, API Standard 53 contains a provision that allows an operator to opt out of a requirement to have dual shear rams on a subsea blowout preventer. The final version of the Blowout Preventer Systems and Well Control rule incorporates API Standard 53, but does not incorporate the "opt-out" provision as the Bureau determined that full incorporation of Standard 53 cannot provide the same level of safety as an absolute requirement to have dual shear rams. In instances such as this, where the Bureau decided that a departure from consensus standards was appropriate, BSEE exercised its authority carefully with an eye toward establishing an acceptable level of protection while also balancing risks, costs, and the availability of alternative approaches in establishing regulatory requirements.

Question (3). In its NPRM BSEE claims the proposed rule is not a "significant energy action" triggering the need for a Statement of Energy Effects under the Outer Continental Shelf Lands Act ("OCSLA") and procedural requirements under Executive Order 13211 (May 18, 2001) requiring a "Statement of Energy Effects." However, based on comments received from the public it is unreasonable for BSEE and the Department to continue this claim. BSEE has acknowledged that the proposed rule in total "represents one of the most substantial rulemakings in the history of the BSEE and its predecessor organizations." While simultaneously and inconsistently claiming that the proposed rule is not a significant energy action under E.O.

[3] 80 Fed. Reg. 21505 (April 17, 2015); 43 U.S.C. 1334.

13211, BSEE has not met the mandate under OCSLA for a reasoned analysis of the rule.

Given the obvious and BSEE acknowledged impact this rule will have; will the Department renew its analysis and prepare the requisite Statement of Energy Effects and submit the Statement for public comment, as required by law?

Answer. The rule represents one of the most substantial rulemakings in BSEE history because it codifies significant improvements to the safety of well control operations, not because of any possible energy effects. The Bureau's analysis of the final rule indicates that it will not have a significant adverse effect on energy supply, distribution, or use because its estimated impacts will not exceed the thresholds established by OMB.[4]

Question (4). BOEM has stated that offshore sources have not been demonstrated to impact onshore air quality. At the same time, BOEM is currently undergoing air modeling studies to inform its air quality rulemaking and these studies are not expected to conclude until 2017. However it appears the agency is on the cusp of proposing an entirely new regulatory program for offshore operators.

a. Is the agency going to move forward with a proposed rule before receiving the results of the air modeling studies that are intended to inform the rule for which it has commissioned nearly $4 million? What assurance can you provide today that the agency will issue a draft report of the studies for public review and comment prior to finalizing the report or incorporating its conclusions into any revised regulatory requirements?

Answer. The proposed regulations continue the framework of the current BOEM air quality regulations. The framework, a construct in place since 1980 when the Department of the Interior first issued air quality regulations, was designed to meet the Department's statutory mandate to ensure that offshore oil and gas activities do not exceed onshore national ambient air quality standards (NAAQS).

Given today's landscape, we acknowledge the need to update the 36 year-old regulations to reflect current science and technology and recent determinations about pollutant levels that are potentially harmful to human health and the environment. The existing regulations reflect outdated air quality standards that the Environmental Protection Agency (EPA) has since revised to better reflect current science.

The proposed regulations will more effectively protect public health and the welfare of affected States. In addition, BOEM's current regulations do not take into account air quality impacts over State coastal waters, which BOEM believes would more accurately meet its statutory responsibility. Finally, revisions are also needed to address BOEM's responsibility to assess air quality impacts in the Arctic, as required by The Consolidated Appropriations Act, 2012 (Public Law 112–74).

The proposed regulations are designed to allow advances in science and assessment of air quality impacts to be flexibly and efficiently incorporated into BOEM's air quality rules, including results of the modeling studies currently underway. The modeling studies are intended to inform air quality requirements *within* the framework of the proposed regulations, not the framework itself. Consistent with BOEM's practice for scientific standards, the studies will be peer-reviewed and made public once final. Also, as BOEM's proposed regulation provides, any changes in the current emission exemption thresholds, which the models are designed to inform, would not occur until the studies are completed, and would not occur before BOEM gives notice in the *Federal Register* that it intends to revise the thresholds and provide an opportunity for public comment.

Conclusions about the environmental impact of OCS air emissions depend on the focus of review and the most recent science. Those assessments are determined when BOEM reviews site-specific plans of operations. In that context, it is possible for emissions to exceed significant impact levels or lead to deterioration of State air quality. Accordingly, it is necessary for BOEM to conduct a broad cumulative impact analysis, as well as a site-specific review of plans.

b. What justification does the agency have for moving forward without the results of the studies when your agency, through its environmental impact assessments, has repeatedly concluded that offshore sources do not impact onshore air quality?

Answer. The proposed regulations continue the framework of the current BOEM air quality regulations. The framework, a construct in place since 1980 when the Department of the Interior first issued air quality regulations, was designed to meet the Department's statutory mandate to ensure that offshore oil and gas activities do not exceed onshore national ambient air quality standards (NAAQS).

[4] OMB Memoranda 01–27 (Guidance for Implementing E.O. 13211) (2001).

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c. What reassurance can you provide that the agency will not rush, in order to meet an artificial deadline, the regulated community's ability to comment on the proposed rule and allow the agency time to engage with stakeholders as you analyze and digest those comments in order to incorporate any appropriate revisions into the final rule?

Answer. BOEM is proceeding with the rulemaking in a deliberative manner with ample opportunity for public comment. For instance, while drafting the Air Quality proposed rule, BOEM held a number of meetings and listening sessions with other government entities, and environmental and industry stakeholders. The proposed rulemaking provides 60 days for public comment following its publication on April 5, 2016 in the *Federal Register.* Additionally, the proposal was posted on BOEM's Web site on March 17, 2016, providing the public an additional 19 days to review the proposed rule. BOEM will carefully review the comments it receives on the proposed rule as it develops a final rule.

Question (5). BSEE is currently working to finalize its BOP/Well Control Rule which as proposed may actually decrease safety and increase risk. Will the final rule make offshore operations less safe and increase risk like the proposal did?

Answer. The Department announced the final rule on April 14, 2016, and the final rule was published in the *Federal Register* on April 29, 2016. The Bureau's analysis of the administrative record, including the many recommendations associated with the *Deepwater Horizon* blowout and explosion investigations and the public comments indicates that the final rule will reduce the risk of an offshore oil or gas blowout that could result in the loss of life, serious injuries, or substantial harm to the environment. Accordingly, the final rule represents one of the most significant safety and environmental protection reforms the Interior Department has undertaken since *Deepwater Horizon,* and builds upon a number of reforms instituted over the last 6 years to strengthen and modernize offshore energy standards and oversight.

a. Prior to the rule's proposal last year did DOI thoroughly examine all of the safety improvements made since 2010 and identify the existing gaps to determine what this rule needed to address?

Answer. Following the *Deepwater Horizon* tragedy, several immediate actions were taken to address specific offshore safety concerns involving drilling operations. The regulations that were issued in 2010 and 2012 provided new standards for well design, casing and cementing, and third-party certification of designs. These rules represented an important first step in addressing regulatory gaps in the offshore program, but did not address the full cadre of regulatory deficiencies identified after *Deepwater Horizon.*

The Blowout Preventer Systems and Well Control rule represents the next step in the process of creating a robust regulatory program that is responsive to all of

the recommendations received from the several investigations of the *Deepwater Horizon* incident. BSEE employed a number of strategies to ensure that regulatory gaps were identified and addressed, including, but not limited to, involving industry and other stakeholders in the development of the proposed rule and in the final rulemaking process.

b. DOI received significant comments and feedback on a number of safety concerns with the proposed rule. A recent Wall Street Journal article, which may have been written as a result of a DOI leak of the final rule, suggests that changes have been made to the proposal. What changes have been made to enhance safety?

Answer. The Blowout Preventer Systems and Well Control rule codifies many important improvements to offshore drilling. The final rule addresses key recommendations made after the *Deepwater Horizon* tragedy and closes gaps in existing regulations and updates BSEE regulations to reflect industry best practices. Parts of the final rule that were modified after the public comment period on the proposed rule include the safe drilling margin requirement, real-time monitoring, blowout preventer (BOP) inspection requirements, and BOP accumulator capacities.

As to the drilling margin requirement, text was added to clarify the acceptability of risk-based justifications for specifying an alternative drilling margin, which clearly provides the flexibility requested in numerous industry comments. With regards to the real-time monitoring provisions, language was revised to clarify the Bureau's intent and to address misperceptions reflected in the comments. The new provision reflects the Bureau's intent to allow maximum flexibility in complying with real-time monitoring requirements.

In addition to enhancing safety and flexibility, many of the changes reflected in the final rule will result in substantial cost-savings for offshore operators. For example, the final rule modifies the 5-year BOP inspection requirement, allowing inspections to occur in phases, provided every component is inspected once every 5 years. Compliance dates were also extended for several important requirements, including the extension of the requirement to use BSEE-Approved Verification Organizations (BAVOs) to perform certifications from 90 days to no later than 1 year from the date when BSEE publishes the list of BAVOs. In response to industry comments, the requirement to use "hydraulically operated locks" on surface BOPs was modified to allow the use of remote-controlled locks and the effective date of that requirement was extended to 3 years after the date of publication. These are just a few instances where comments and other feedback BSEE received were reflected in changes to the final rule.

c. A number of us in Congress have real concerns with the proposal all centered on safety and as a result the DOI needed to undertake a more robust analysis and engage in real dialogue to make sure the unintended consequences were addressed and the rule actually made offshore operations safer. As a result, the fiscal year 2016 omnibus spending bill expressed the need for more robust analysis and that further examination needed to take place prior to the finalization of the rule. Did DOI heed to the call of the Congress prior to finalizing and sending the rule to OMB? Why or why not?

Answer. Yes. BSEE conducted extensive stakeholder engagement after publication of the proposed rule and during the extended comment period. BSEE participated in numerous meetings with industry and other stakeholders before and after publication of the proposed rule on subject matter related to the Blowout Preventer Systems and Well Control rule, a number of which dealt specifically with clarifying stakeholders' written comments on the rule. BSEE also attended listening sessions arranged by the Office of Management and Budget (OMB) during the E.O. 12866 review period for the draft final rule, most of which were requested by members of industry. BSEE staff carefully considered all stakeholder comments and input.

The Bureau's comprehensive and transparent outreach was critical to the development of the final rule. The final rule does not represent a "one-size-fits-all" approach. Rather, the final rule incorporates sufficient flexibility to allow operators to focus on the ultimate goal of increasing safety and reducing risk offshore. The final rule also allows for the development and deployment of new technologies that lead to safer operations. Additionally, the final rule employs a phased implementation approach for some of its more complex provisions that gives industry sufficient time to come into compliance with new technological requirements.

d. Does the final rule address and fix all of the safety concerns stakeholders and Congress had with the proposal? Does the final rule enhance safety?

Answer. The final Blowout Preventer Systems and Well Control rule combines prescriptive and performance-based approaches to regulation to ensure that oil and

gas companies and offshore rig operators are cultivating a greater culture of safety with a focus on risk reduction. Based on the extensive technical comments received during the rulemaking process, several adjustments were made to provisions of the proposed rule that are reflected in the final rule. The final rule provides a level of flexibility sufficient to ensure that regulatory oversight keeps pace with technological advancement, provided future innovations can meet the rule's standards for safety performance. The key concerns of industry based on the proposed rule are addressed in the final rule including, but not limited to safe drilling margins, accumulator capacity, BOP inspection intervals, and real-time monitoring requirements. The Bureau firmly believes that the regulatory process has resulted in a final rule that will raise the bar for offshore safety, both in United States Federal waters and internationally.

SUBCOMMITTEE RECESS

[Whereupon, at 12:08 p.m., Wednesday, March 2, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

From: Office of Senator Ted Cruz
To: Lara_Levison@ios.doi.gov
Subject: Cruz News: March 3, 2017
Date: Saturday, March 04, 2017 4:16:39 AM

March 3, 2017

Greetings,

For years, Obamacare has failed millions of hardworking Texas families. It is a proven disaster. This week, I outlined a path forward for repealing and replacing Obamacare. We have tremendous opportunities before us to repeal this disastrous law, and replace it with free-market, patient centered reforms, which will expand access to health care for every American. I look forward to working with my colleagues in both the House and the Senate to honor our promise to the American people.

This week, we celebrated our great state's Independence Day. I had the honor of reading Lieutenant Colonel William Barret Travis' 1836 letter from the Alamo on the Senate floor, commemorating those who with their bravery, courage and sacrifice, helped secure the free Republic of Texas.

Please read below for an update from this last week.

Keep Texas Strong,

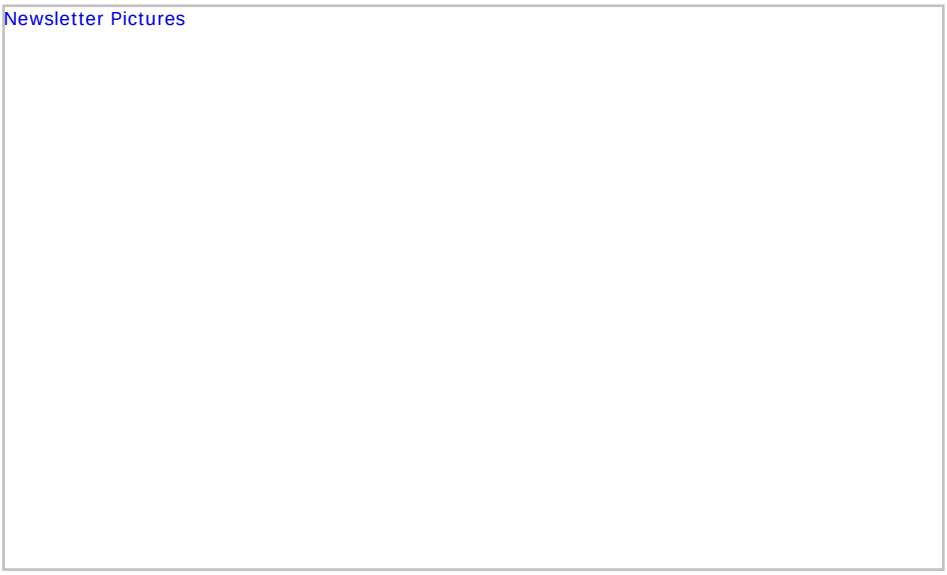
Ted Cruz

Sen. Cruz Op-Ed in Politico: 'The Right Way to Repeal Obamacare'

Sen. Cruz penned an op-ed for Politico, outlining a plan for repealing and replacing Obamacare. Among Sen. Cruz's prescriptions for healthcare reform, he calls for the repeal of Obamacare's insurance regulations and makes clear that the vice president or Senate majority has the statutory and constitutional authority to ensure the regulations are repealed, regardless of the advice of the Senate parliamentarian.

Read the op-ed in its entirety here.

Sen. Cruz: The President's Speech Laid Out a Vision Americans Have Been Hungry For – Bringing Back Jobs and Economic Growth



Sen. Cruz appeared on Fox News with Bret Baier and Martha MacCallum and MSNBC's Morning Joe to discuss President Trump's remarks to the joint session of Congress.

"I thought it was a bold, positive speech. It laid out a vision for America that I think millions of Americans have been hungry for. Bringing back jobs and economic growth - that is what I hear from Texans all across our great state and across the country." Sen. Cruz said. "There's no doubt we have to be serious about the national debt. The most potent tool for dealing with the national debt and deficit is not cost cutting - it's economic growth. That is why my number one priority in the Senate is and always has been jobs and economic growth. That is why I'm so encouraged by President Trump's speech tonight. He focused on regulatory reform, building the Keystone Pipeline, on tax reform, Obamacare repeal which will produce enormous economic growth, and millions of new jobs. That's how we pay down our debt and that's how we solve our fiscal crisis."

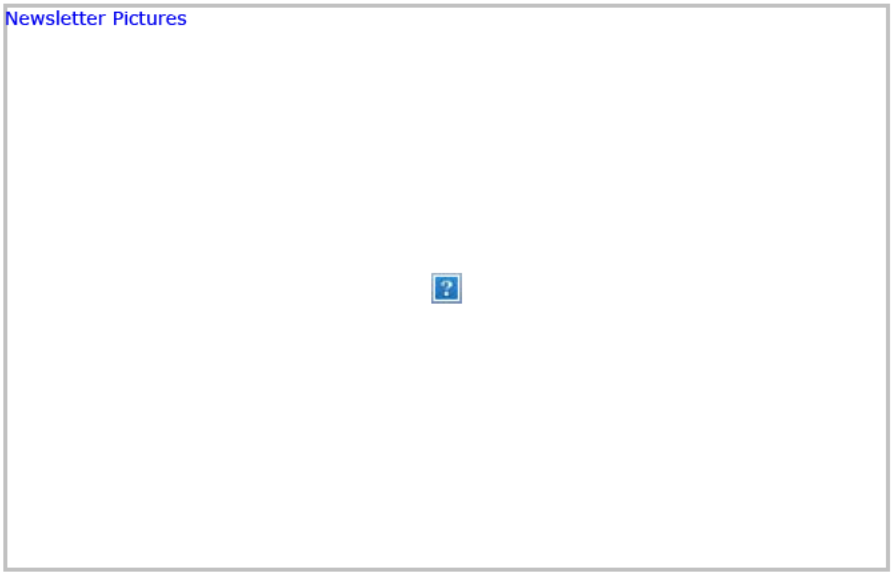
View the full interviews here.

Sen. Cruz Visits With Texas Military Leaders and Job Creators

Last Friday, Sen. Cruz made stops in Fort Worth and Dallas to visit with Texas military leaders and job creators.

At the first stop, Sen. Cruz received a briefing and base update from the leadership of Naval Air Station Joint Reserve Base (NAS JRB) Fort Worth, which was recently selected by the U.S. Air Force to receive the first Air Force Reserve F-35 Joint Strike Fighters.

“I was delighted to have the opportunity to visit the new home of the first Reserve F-35’s and meet the extraordinary leaders here at NAS JRB Fort Worth,” said Sen. Cruz. “The men and women of NAS JRB are true professionals, and today I witnessed firsthand the tremendous value that this base and the local community offer to our nation’s defense.”



Later in the day, Sen. Cruz attended a roundtable conversation in Dallas with the Best Southwest Partnership, a group of Southwest Dallas County business owners and executives. At the roundtable, Sen. Cruz discussed opportunities to expand economic growth and job creation in Dallas County with tax reform and regulatory reform that reduces the federal burden on job creators.

Cruz continued: “The business leaders and executives from the Best Southwest Partnership are working hard to expand economic opportunities in their communities, and I intend to keep working to ensure the federal government gets out of their way. I am

greatly encouraged by the work the new administration has undertaken, along with Congress, to roll back harmful regulations that will allow us to ignite economic growth. There is even more we can do with tax reform that will finally get government off the backs of job creators and working people in Texas. I was grateful for the valuable time these business leaders shared with me today and I will continue to fight for opportunities for upward mobility for hardworking Texans."

Read the full press release here.

Sen. Cruz Addresses Texas State Rifle Association Annual Meeting

On Saturday, Sen. Cruz delivered remarks at the Texas State Rifle Association (TSRA) Annual Meeting. He discussed his efforts to ensure the protection of the Second Amendment, and other federal and state legislative issues important to the members of the TSRA.

"The Second Amendment, it's not about hunting, it's not about target shooting – it is about protecting your home and your family and your life. The rights secured under the Second Amendment make us more safe, secure and free." Sen. Cruz said. "When citizens cease to have the right to defend ourselves, we cease to be free. Under the previous administration, we saw an unprecedented attack on our constitutional rights. I am optimistic about the direction of the new Administration and will continue to fight for the Second Amendment rights of every American and every Texan."

Read the full press release here.

Sen. Cruz: New WOTUS Rule Reflects Reality That We Can Have Both Clean Water and Economic Growth

Sen. Cruz issued the following statement regarding President Trump's executive order on the Waters of the United States (WOTUS) rule:

"Today's executive order on the Waters of the United States rule reflects what many Americans already believe: that we can have both clean water and regulations that don't stifle economic growth and job creation. The new staff at the EPA will have the opportunity to ensure that the phrase 'navigable waters' maintains its actual, common-

sense meaning, and not include puddles and drainage ditches like the regulation-happy bureaucrats at the Obama EPA tried to impose on hard-working farmers and ranchers. I am encouraged by the President's action to further roll back the administrative state that exploded over the past eight years – action that puts us another step closer to stopping the federal government from controlling what families, farmers, and ranchers in Texas and across the country can and cannot do with their private property."

Read the full press release here.

Sen. Cruz and Rep. McCaul Op-Ed in USA Today: Hold Iran Accountable for Terrorism

Sen. Cruz and Rep. Michael McCaul penned an op-ed for USA Today advocating that the United States stand up to Iran and hold America's enemy accountable for acts of terrorism.

"When news from Iran flashes across television screens in the United States, Americans have grown accustomed to seeing belligerence, including ballistic missile tests, harassment of U.S. forces, the kidnapping of our sailors and the unlawful imprisonment of U.S. citizens," Sen. Cruz and Rep. McCaul wrote. "These are not the actions of a rational or friendly regime. They are the actions of autocratic thugs. The Obama administration appeased Iran for eight years. Now the Trump Administration is ensuring America finally — and rightfully — stands up against Iranian hostility. We believe they should also start pushing back against the regime's disturbing and unabashed support for our terrorist enemies."

Read the op-ed in its entirety here.

Sen. Cruz Joins Colleagues to Reintroduce Bill to Halt Palestinian Authority Funding Until Terror Rewards Stop

Sen. Cruz joined Sens. Lindsey Graham (R-S.C.), Roy Blunt (R-Mo.), and Tom Cotton (R-Ark.), along with U.S. Reps. Doug Lamborn (R-Colo.) and Lee Zeldin (R-N.Y.) to reintroduce The Taylor Force Act, which would cut off funding to the Palestinian Authority if it continues its policy of paying monetary rewards to terrorists and their surviving family members.

Taylor Force was a former U.S. Army officer who was part of a Vanderbilt University tour group visiting Israel when he was brutally stabbed and killed by a Palestinian terrorist. Palestinian Authority Mahmoud Abbas' Fatah faction praised the terrorist as a "heroic martyr" and the Palestinian Authority has yet to condemn the terrorist attack.

"This bill delivers a message that should be heard loud and clear: The United States must not fund a Palestinian leadership that engages in incitement and supports acts of terrorism against both American and Israeli citizens," said Sen. Cruz. "I'm proud to work with Sen. Graham and my colleagues on this legislation, named in honor of Taylor Force, a Texas native and Iraq and Afghanistan war veteran who served multiple tours in defense of our country before being murdered by a Palestinian terrorist in Tel Aviv last year. The US must hold the Palestinian leadership accountable for continuing this heinous practice of incentivizing and rewarding terrorism by providing monthly salaries and benefits to terrorists, their families, and the families of those who died committing acts of terrorism. We must ensure US taxpayer dollars are not being used to fund and enable Palestinian terrorism and stand with Israel against radical Islamic terrorism that targets citizens from both of our countries."

Read the full press release here.

Texans in Washington

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Dallas, TX 75219
Phone: (214) 599-8749

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Houston, TX 77002
Phone: (713) 718-3057

South/Central Texas Office
9901 IH-10W,
Suite # 950
San Antonio, TX 78230
Phone: (210) 340-2885

East Texas Office
305 S. Broadway,
Suite 501
Tyler, TX 75702
Phone: (903) 593-5130

South Texas Office
200 S. 10th St,
Suite 1603
McAllen, TX 78501
Phone: (956) 686-7339

Washington Office
404 Russell Senate Office
Building
Washington, DC 20510
Phone: (202) 224-5922

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From: Rosemarie Calabro Tully
To: fain_gildea@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, March 05, 2017 9:30:24 AM

Good morning, Fain,

It was a busy week on Capitol Hill for Ranking Member Maria Cantwell, with the Senate confirming two cabinet-level, ENR-related nominees—Congressman Ryan Zinke to be Interior Secretary and former Gov. Rick Perry to be Energy Secretary. Check out what you missed and what's to come below.

As always, don't hesitate to reach out with questions.

CATCHING UP

Zinke

- Sen. Cantwell opposed now-Secretary Zinke because of her uncertainty that he "will be able to moderate the Trump administration's extreme views on exploiting our public lands."
- *The Washington Post's* Darryl Fears reported on Sen. Cantwell's concerns: "**We need someone who's going to stand up and say the outdoor economy is worth it**."
- Secretary Zinke was confirmed by a vote of 68 to 31.

Perry

- Sen. Cantwell opposed now-Secretary Perry for his unwillingness to commit to funding critical programs at the Department of Energy, including the Office of Electricity and the Office of Energy Efficiency and Renewable Energy.
- *The Tri-City Herald's* Annette Cary reported on Sen. Cantwell's rationale for her vote: "**We need an energy secretary for the 21st century** — one that will help us by fighting for an (efficient) electricity grid and cybersecurity that will make our entire internet economy safer and more reliable," said Sen. Maria Cantwell, D-Wash. "**We need one who will invest in an energy efficiency strategy that will save our businesses money, that will help make them competitive**."
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- Secretary Perry was confirmed by a vote of 62 to 37.

COMING UP

Senate schedule relatively unknown. At least two ENR-related Congressional Review Act (CRA) resolutions are still floating out there—the BLM Methane Waste Rule and the BLM Planning 2.0 Rule (which could come up as early as Tuesday). The only known action for next week's Senate floor schedule is Monday's debate and vote on a non-ENR CRA—H.J. Res. 37. We'll keep you posted on any ENR-related floor action as it's scheduled.

Thanks for your interest in Sen. Cantwell's work. Don't hesitate to reach out with any questions or comments.

Best,

ROSEMARIE CALABRO TULLY
Democratic Press Secretary
U.S. Senate Committee on Energy & Natural Resources
rct@energy.senate.gov
Office: (202) 224-7556
Cell: (202) 329-7658
@EnergyDems

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From: Rosemarie Calabro Tully
To: tracy_goodluck@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, March 05, 2017 9:30:29 AM

Good morning, Tracy,

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From: Rosemarie Calabro Tully
To: kerry_rae@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, March 05, 2017 9:30:29 AM

Good morning, Kerry,

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rct@energy.senate.gov
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@EnergyDems

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From: Rosemarie Calabro Tully
To: joshua_mahan@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, March 05, 2017 9:30:30 AM

Good morning, Joshua,

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From: Ryan Ullman
To: micah_chambers@ios.doi.gov
Subject: V/F CRA
Date: Monday, March 06, 2017 11:45:25 AM
Attachments: Royalty Revenue Charts.pptx
BLM Venting Flaring Rule Myth vs Fact.pdf

Micah,

Below is a generic text body I've been using to craft messages to the Hill on this CRA. It links to all of the data and studies I've mention in the body. I've also attached the charts we put together along with a "Myth vs. Fact" document.

We don't have a meeting scheduled with Portman for our fly-in as the schedules did not work out and Portman's LD is out of the office tomorrow. What I will do is see that IPAA schedules a meeting with Portman's office following the fly-in, perhaps early next week.

Thanks Micah.
Ryan

Additionally, we did a point by point rebuttal to the justification of the v/f rule https://energyindepth.org/mtn-states/debunking-obama-administrations-justification-midnight-methane-rules-on-fracking-on-federal-lands/ with citations. This hits on all the points from cost/benefit to emissions and addresses each of them. Again, with citations.

This link is to our Energy In Depth brief breakdown on the methane rule and what it would mean to small producers. It's not nearly as technical as the attached analysis.
https://energyindepth.org/national/obama-administration-sides-with-activists-on-methane-rule-moves-to-put-small-producers-out-of-business/

The short of it is that my guys, particularly in ND, have been playing catch up for years to build the infrastructure (gathering lines) to capture nat gas at the well site and then move that product to larger pipes for transportation to market. In terms of emissions reductions, we have made significant progress on this front. To that end I've included some data below for your review.

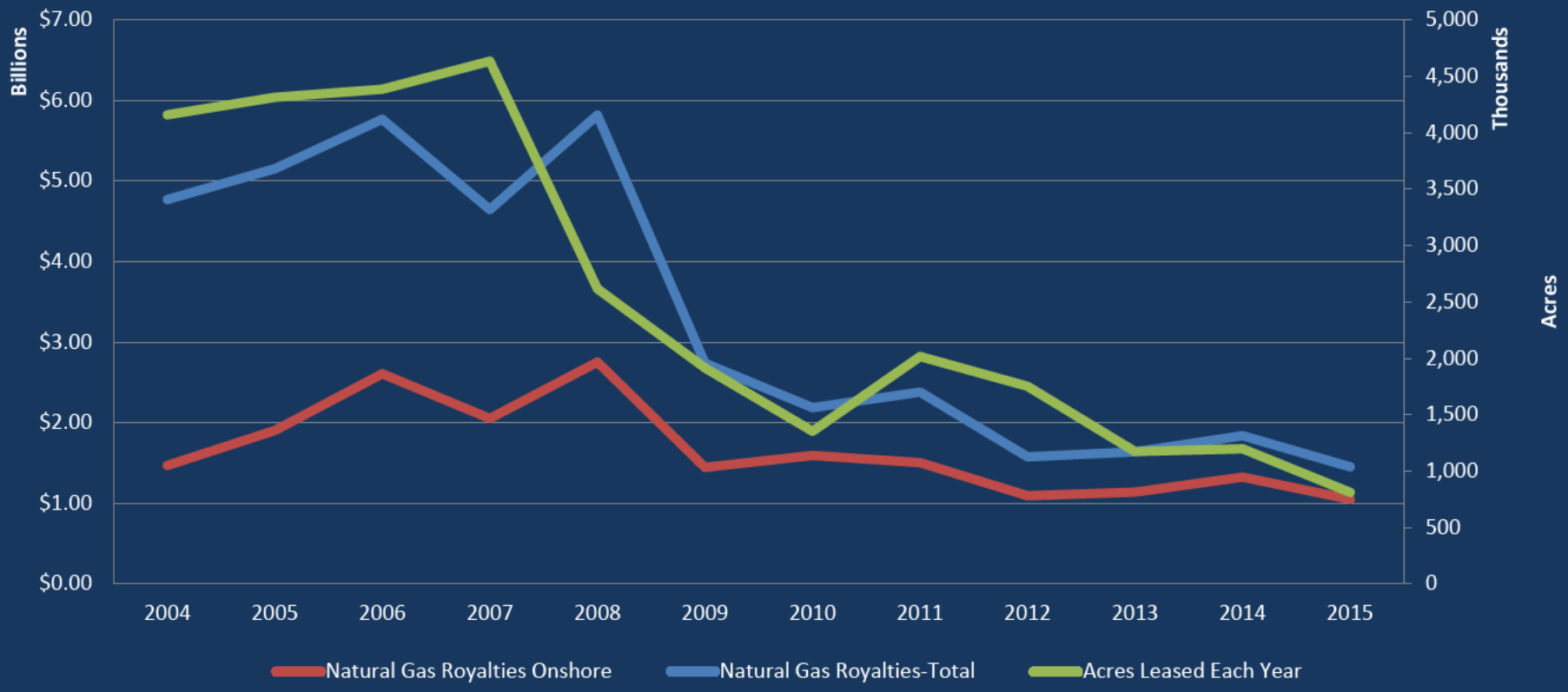
1. Data from EIA shows a dramatic decrease in the use of flaring in ND over the past 2 years while natural gas production went to a record level in March of 2016. From EIA
    a. "The volume of North Dakota's natural gas production that is flared has fallen sharply in both absolute and percentage terms since 2014. In March 2016, 10% of North Dakota's total natural gas production was flared, less than one-third of the January 2014 flaring rate, which was at 36%. Flaring rates and volumes have significantly decreased as North Dakota's total natural gas production has continued to grow, setting a monthly total natural gas production record of 1.71 billion cubic feet per day in March 2016. The North Dakota Industrial Commission established targets in September 2015 to reduce natural gas flaring."
2. Studies continue to find very low emissions – well below the threshold (2.7 percent) which scientists say must be maintained for natural gas to have climate advantages. Most studies have found leakage rates ranging from 1.2% to 1.6%, well below the threshold mentioned

above.

3. With respect to emissions reductions, a recent NOAA study found that microbial sources such as rice paddies and wetlands are the cause of global methane emissions increases. And while that study found that methane emissions from fossil fuels have been underestimated, global increases in methane since 2007 are "not responsible for the increase in total methane emissions observed since 2007" according to leader author Stefan Schwietzke of NOAA.
4. Another study by researchers at the University of London corroborated this point stating that the global increase had been largely driven by tropical wetlands and agriculture.
5. Another NOAA study, in conjunction with the National Institute of Water and Atmospheric Research in New Zealand, identified wetlands and ag as the driver for increased global emissions. *Climatewire* reported, "Greenhouse gas inventories from U.S. EPA show that emissions from fossil fuel extraction have increased in recent years. But this has apparently not registered on the global scale. This is possibly because the U.S. energy industry contributes little to the overall burden of global fossil fuel emissions, Schaever said."

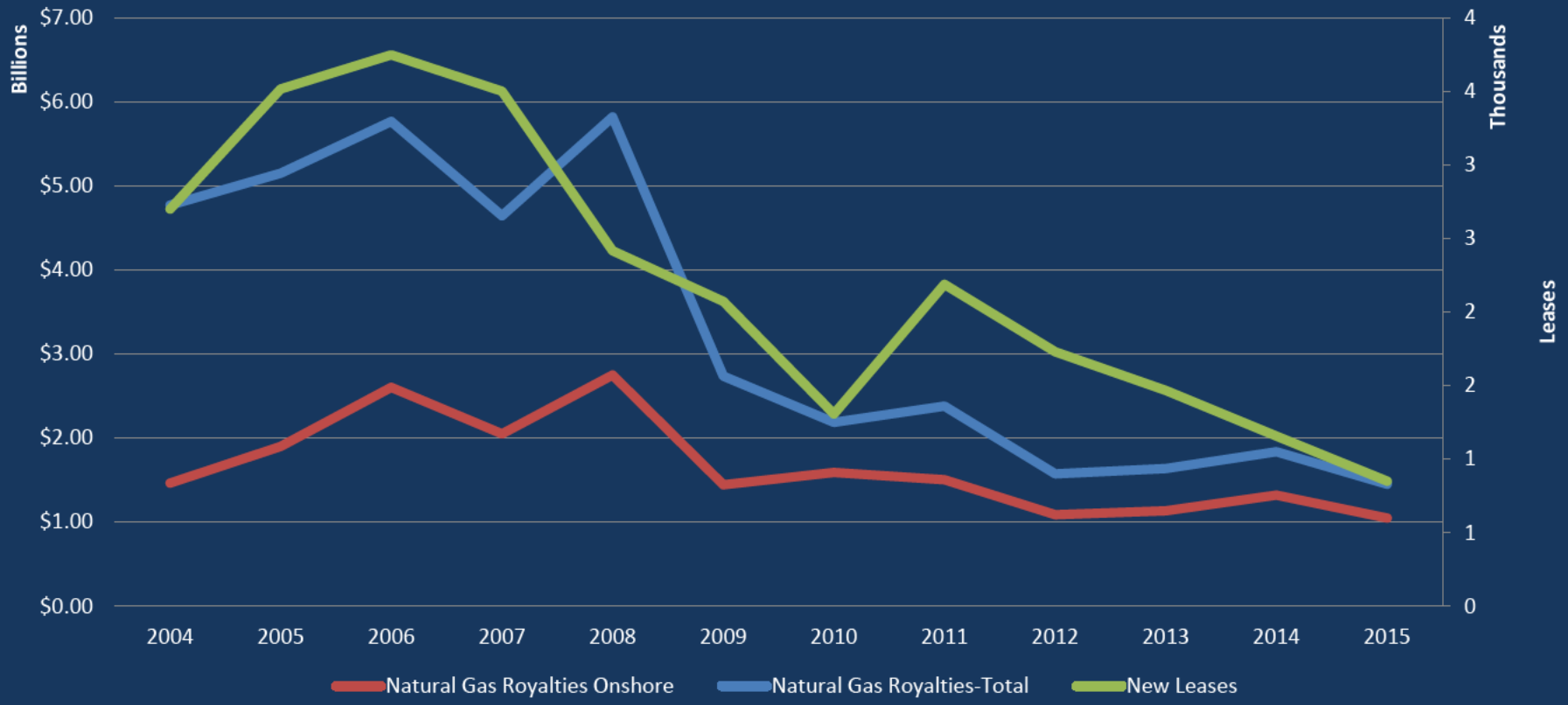
Ryan Ullman
Director of Government Relations & Political Affairs
Independent Petroleum Association of America
Office: 202-857-4722
rullman@ipaa.org

Natural Gas
Royalty Revenues and Acres Leased



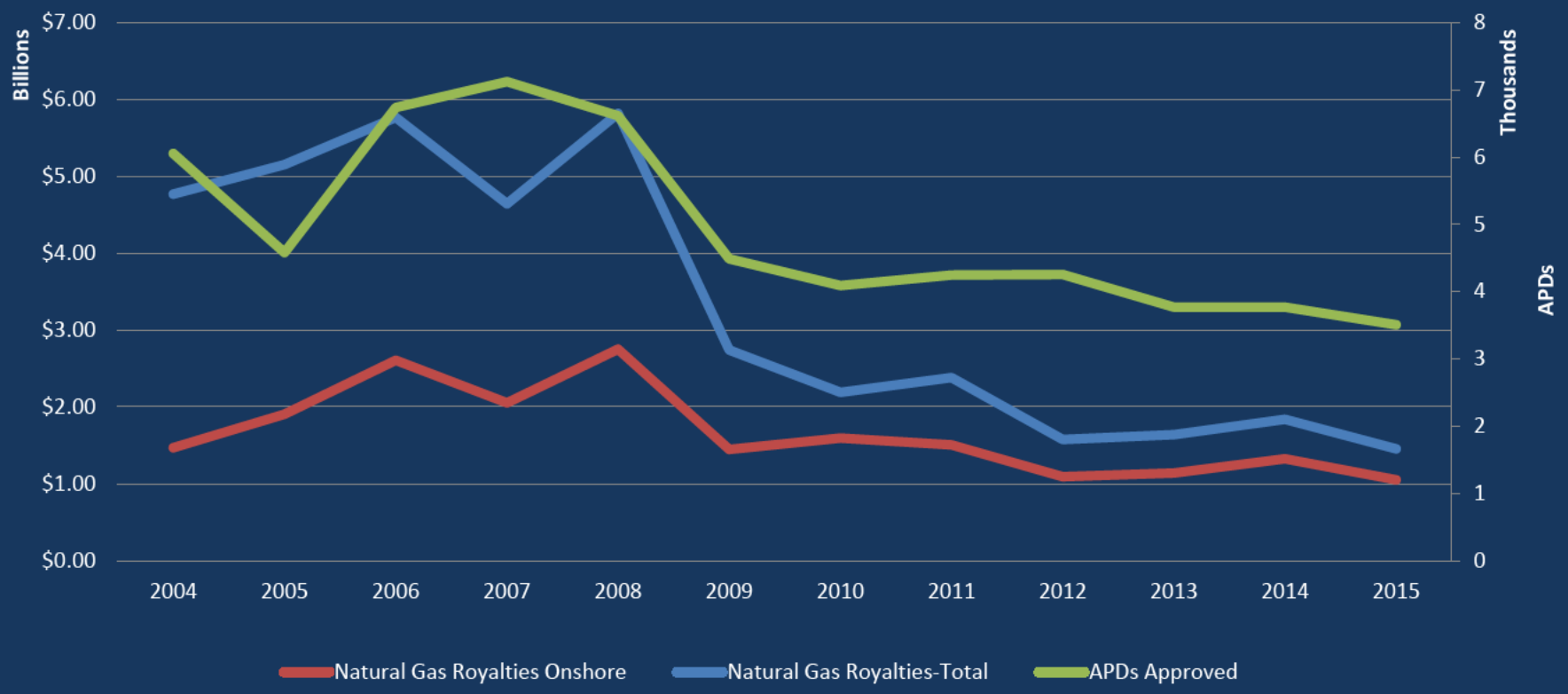
SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

Natural Gas
Royalty Revenues and New Leases



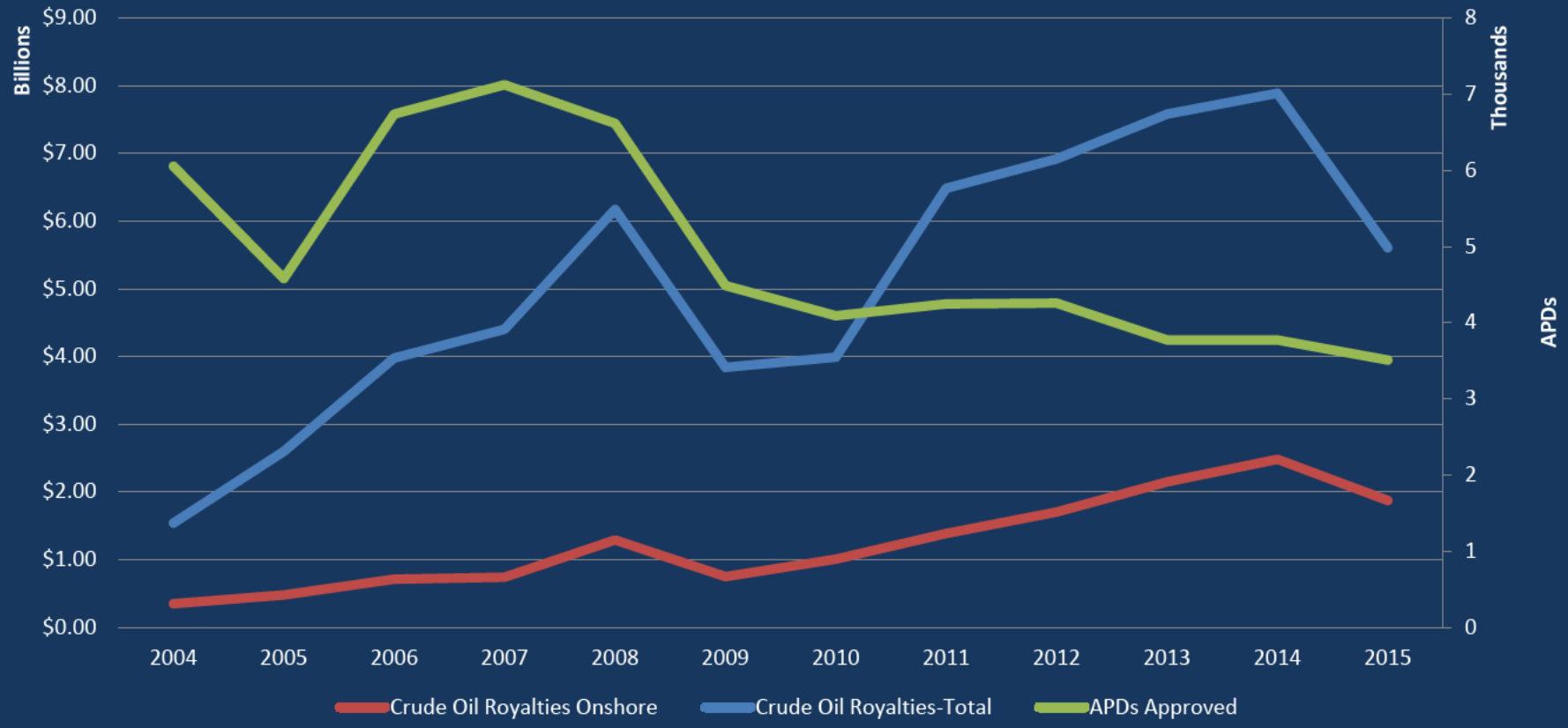
SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

Natural Gas
Royalty Revenues and Approved APDs



SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

Crude Oil
Royalty Revenues and Approved APDs



SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

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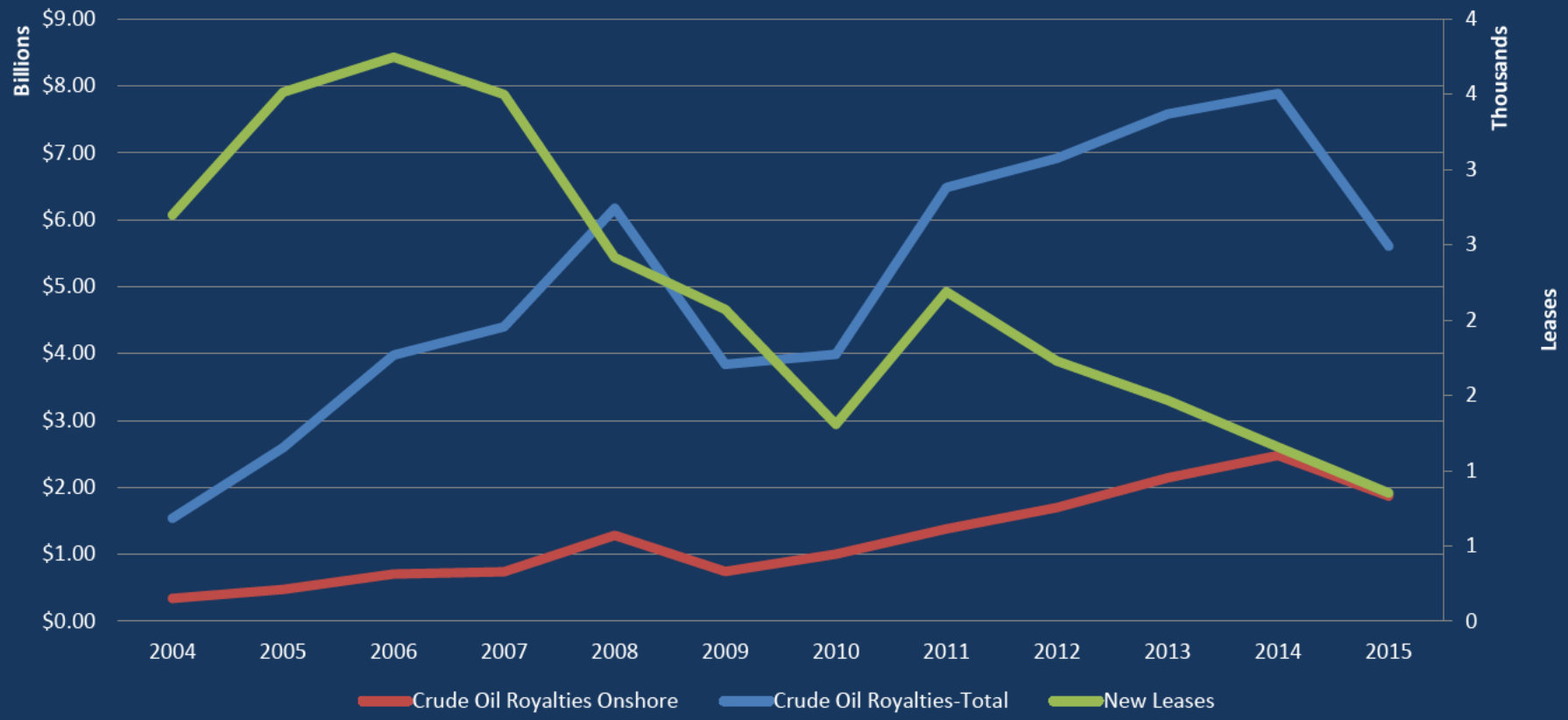
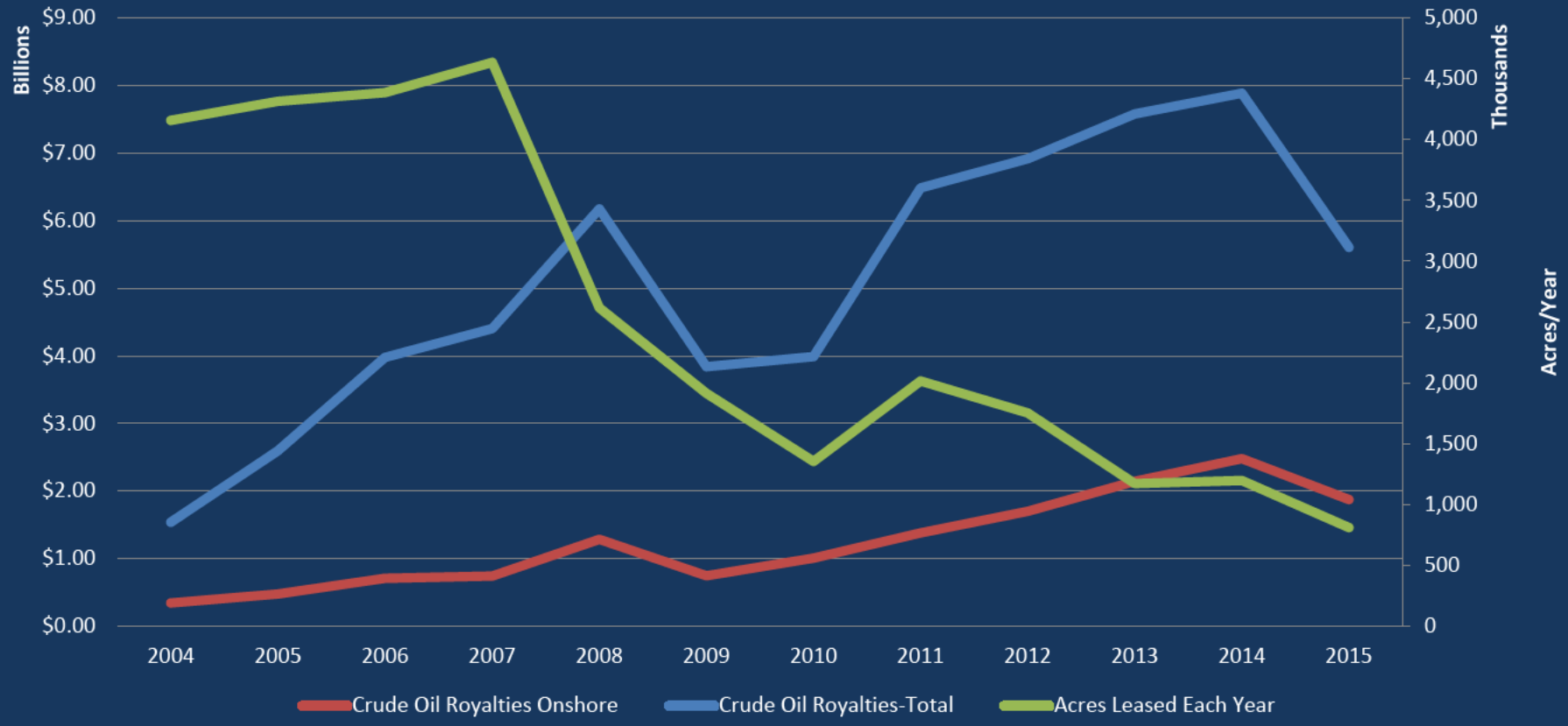


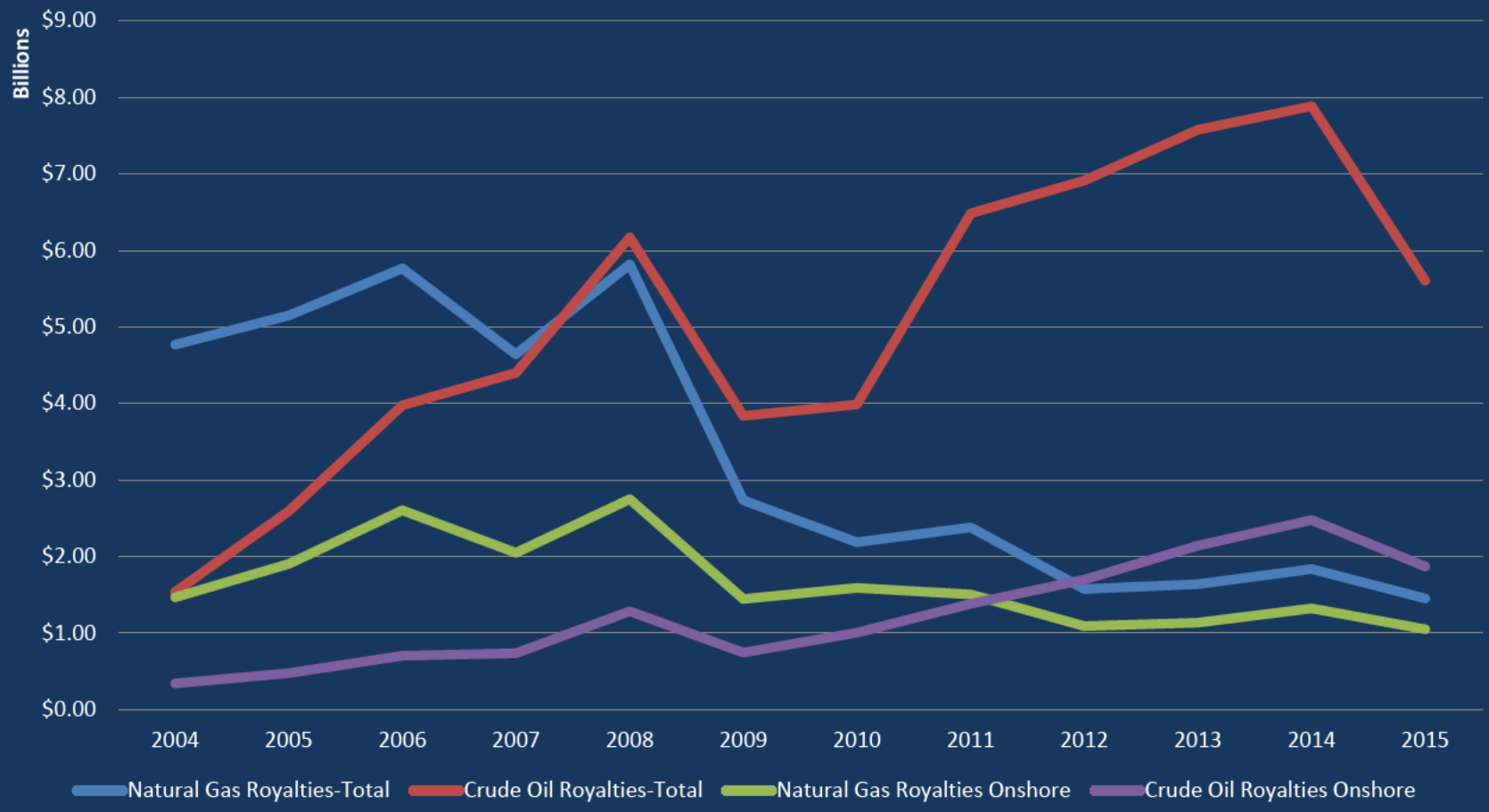
SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

Crude Oil
Royalty Revenues and Acres Leased



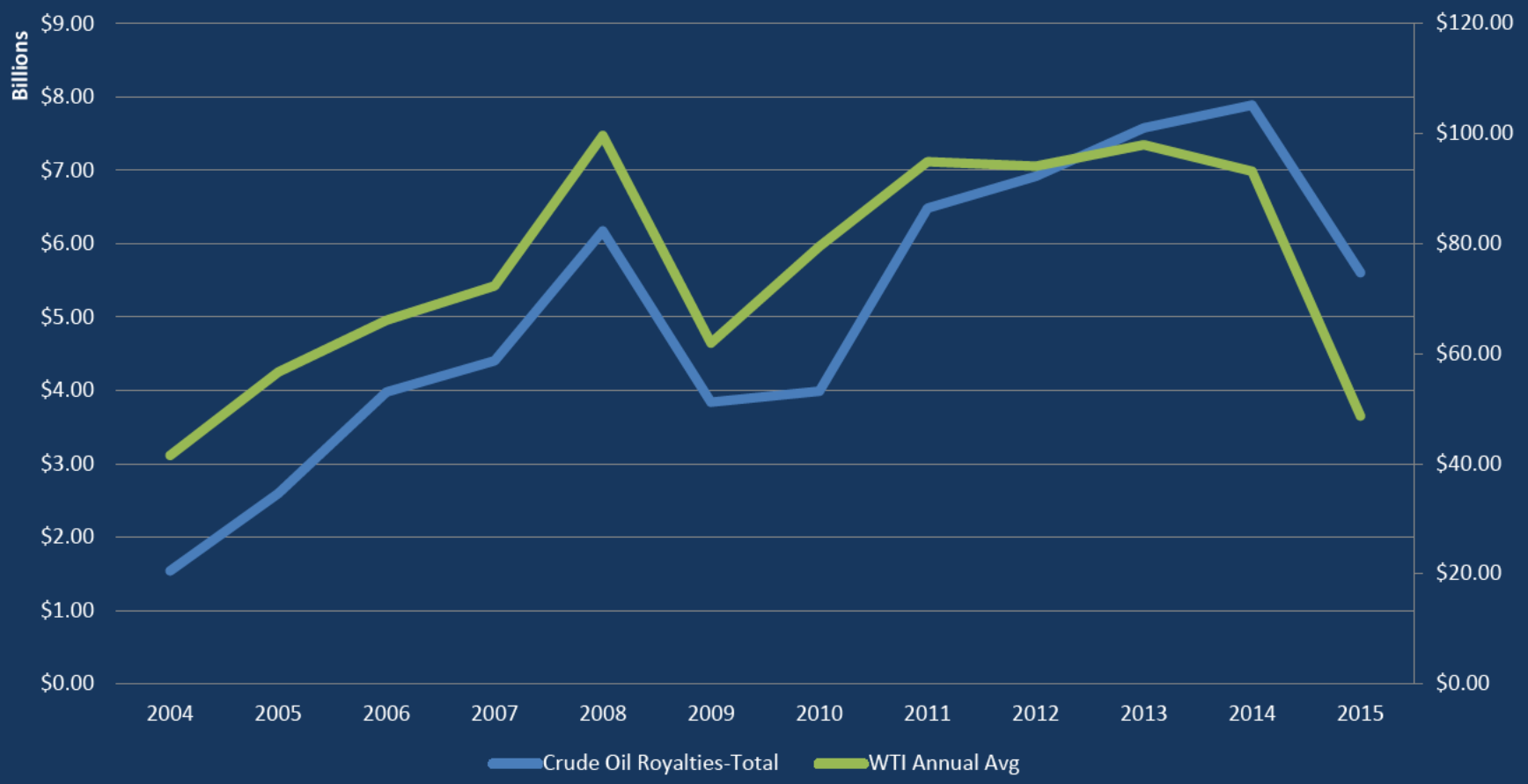
SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

Oil and Natural Gas Royalties



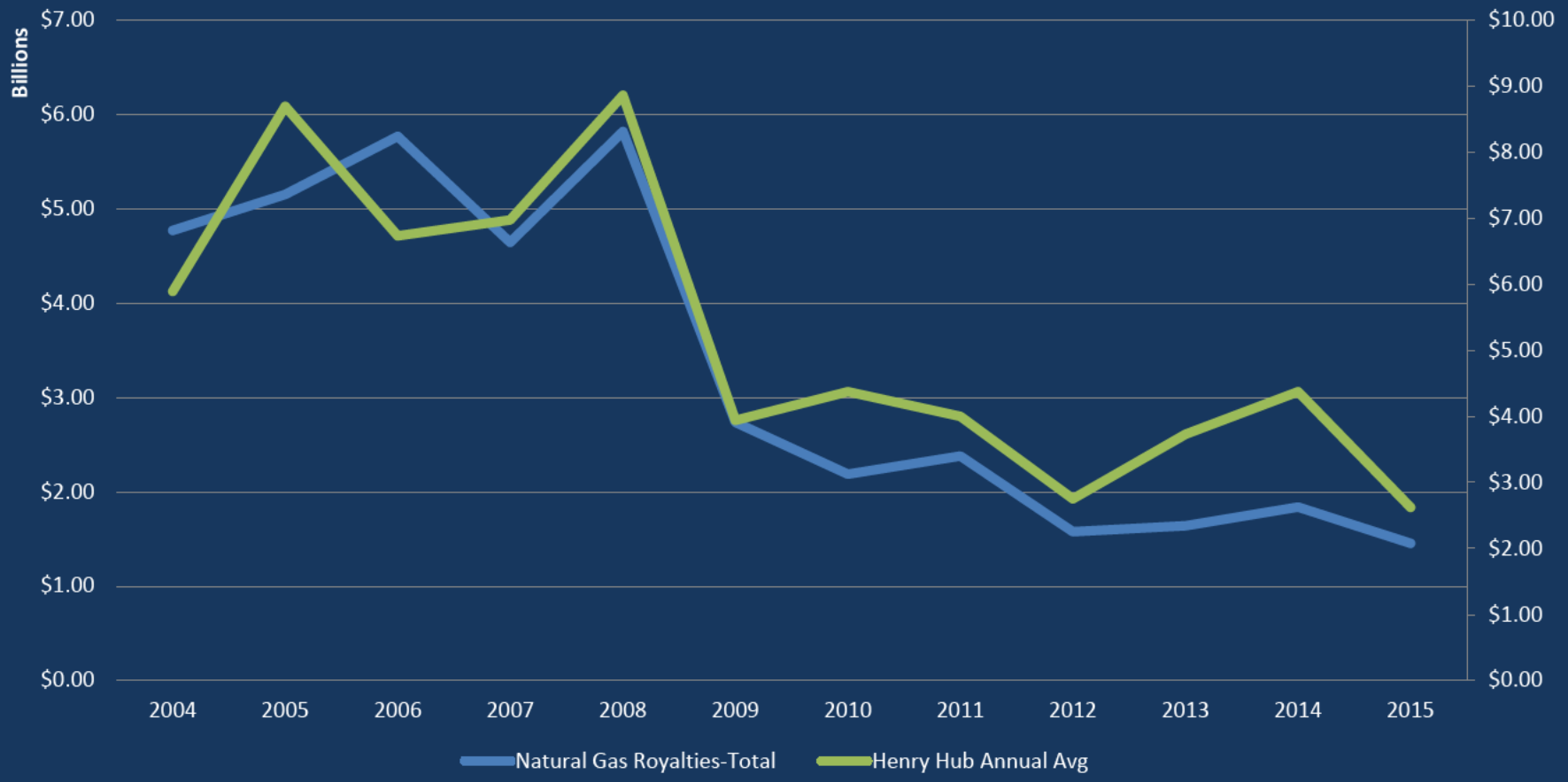
SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

Crude Oil Revenues and Annual WTI Crude Price



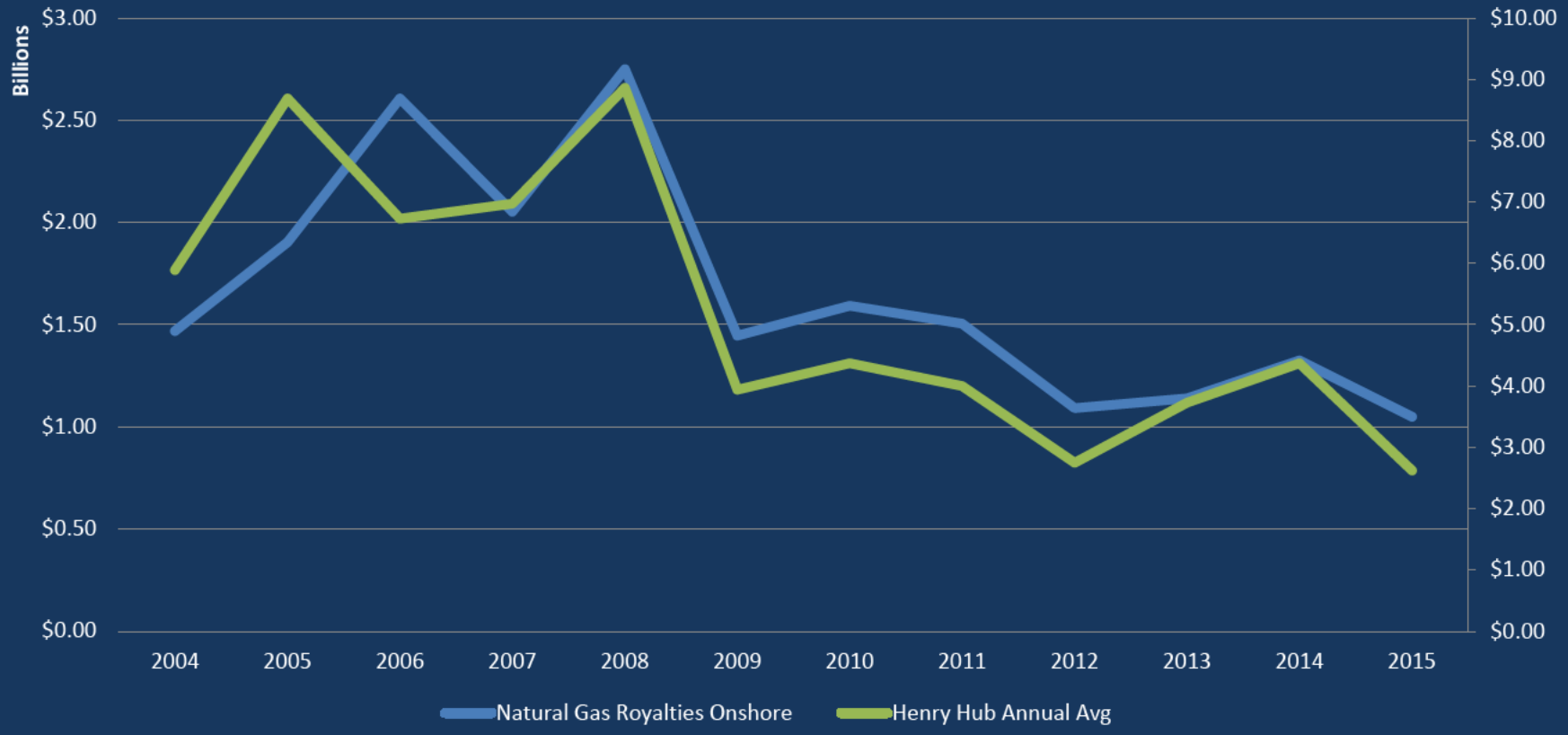
SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

Natural Gas Revenues and Annual Henry Hub Price



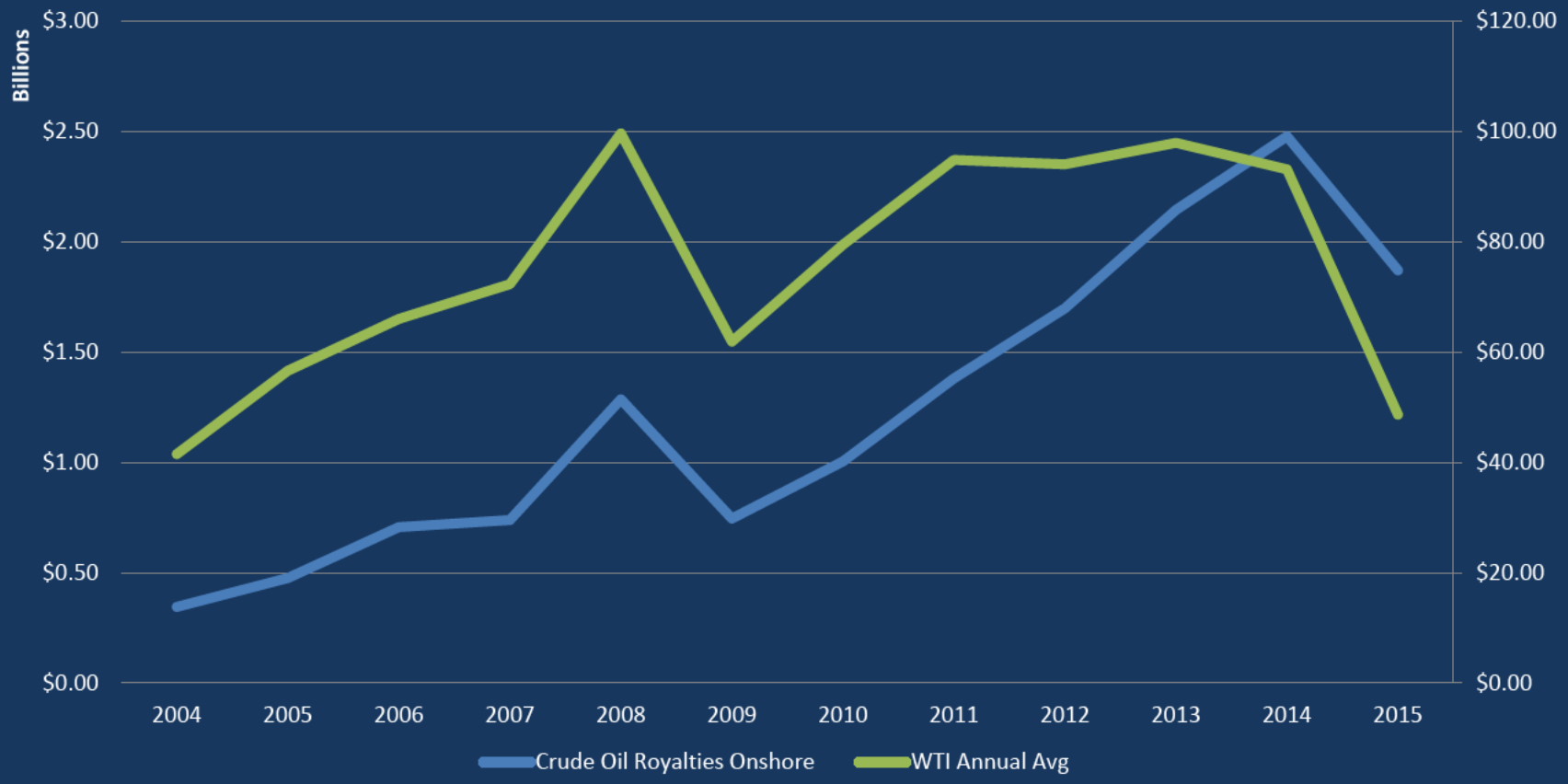
SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

Onshore Natural Gas Revenues and Annual Henry Hub Price



SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

Onshore Crude Oil Revenues and Annual WTI Price



SOURCE: DEPARTMENT OF INTERIOR, OFFICE OF NATURAL RESOURCES REVENUE
BUREAU OF LAND MANAGEMENT

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

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At □orst, the r□le co□ld cost a sta□□er□□□ $1.26 b□llo□ to □mpleme□t, accord□□□ to the D□□ham eco□om□c st□d□.

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□ar from a □rese□t for B□□ O□l, □as act□v□sts □ro□□s l□□e □r□e□ds of the □arth cla□m, el□m□at□□□ the BLM r□le □ll be a l□fel□□e for mar□□□al □rod□cers.

From: Ryan Ullman
To: Chambers, Micah
Subject: RE: V/F CRA
Date: Monday, March 06, 2017 12:04:12 PM

Yes we do have a request in.

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 6, 2017 12:00 PM
To: Ryan Ullman <rullman@ipaa.org>
Subject: Re: V/F CRA

Do you have a request to Portman's office though? Cause I can mention that and kindly remind them to make a meeting happen.

On Mon, Mar 6, 2017 at 11:40 AM, Ryan Ullman <rullman@ipaa.org> wrote:

> Micah,
>
> Below is a generic text body I've been using to craft messages to the Hill on this CRA. It links to all of the data and studies I've mention in the body. I've also attached the charts we put together along with a "Myth vs. Fact" document.
>
> We don't have a meeting scheduled with Portman for our fly-in as the schedules did not work out and Portman's LD is out of the office tomorrow. What I will do is see that IPAA schedules a meeting with Portman's office following the fly-in, perhaps early next week.
>
> Thanks Micah.
> Ryan
>
> ---
>
> Additionally, we did a point by point rebuttal to the justification of the v/f rule https://energyindepth.org/mtn-states/debunking-obama-administrations-justification-midnight-methane-rules-on-fracking-on-federal-lands/ with citations. This hits on all the points from cost/benefit to emissions and addresses each of them. Again, with citations.
>
> This link is to our Energy In Depth brief breakdown on the methane rule and what it would mean to small producers. It's not nearly as technical as the attached analysis. https://energyindepth.org/national/obama-administration-sides-with-activists-on-methane-rule-moves-to-put-small-producers-out-of-business/
>
> The short of it is that my guys, particularly in ND, have been playing catch up for years to build the infrastructure (gathering lines) to capture nat gas at the well site and then move that product to larger pipes for transportation to market. In terms of emissions reductions, we have made significant progress on this front. To that end I've included some data below for your review.
>
> 1. Data from EIA shows a dramatic decrease in the use of flaring in ND over the past 2 years while natural gas production went to a record level in March of 2016. From EIA

a. "The volume of North Dakota's natural gas production that is flared has fallen sharply in both absolute and percentage terms since 2014. In March 2016, 10% of North Dakota's total natural gas production was flared, less than one-third of the January 2014 flaring rate, which was at 36%. Flaring rates and volumes have significantly decreased as North Dakota's total natural gas production has continued to grow, setting a monthly total natural gas production record of 1.71 billion cubic feet per day in March 2016. The North Dakota Industrial Commission established targets in September 2015 to reduce natural gas flaring."

2. Studies continue to find very low emissions – well below the threshold (2.7 percent) which scientists say must be maintained for natural gas to have climate advantages. Most studies have found leakage rates ranging from 1.2% to 1.6%, well below the threshold mentioned above.

3. With respect to emissions reductions, a recent NOAA study found that microbial sources such as rice paddies and wetlands are the cause of global methane emissions increases. And while that study found that methane emissions from fossil fuels have been underestimated, global increases in methane since 2007 are "not responsible for the increase in total methane emissions observed since 2007" according to leader author Stefan Schwietzke of NOAA.

4. Another study by researchers at the University of London corroborated this point stating that the global increase had been largely driven by tropical wetlands and agriculture.

5. Another NOAA study, in conjunction with the National Institute of Water and Atmospheric Research in New Zealand, identified wetlands and ag as the driver for increased global emissions. *Climatewire* reported, "Greenhouse gas inventories from U.S. EPA show that emissions from fossil fuel extraction have increased in recent years. But this has apparently not registered on the global scale. This is possibly because the U.S. energy industry contributes little to the overall burden of global fossil fuel emissions, Schaever said."

Ryan Ullman
Director of Government Relations & Political Affairs
Independent Petroleum Association of America
Office: 202-857-4722
rullman@ipaa.org

--
Micah Chambers

Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Lane, Michelle (Energy)
To: Chambers, Micah
Subject: RE: BOEM Release today
Date: Monday, March 06, 2017 12:18:15 PM

Thank you!

I will send along!!

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 06, 2017 12:15 PM
To: Lane, Michelle (Energy)
Subject: Fwd: BOEM Release today

Thought you might want to share this with your relevant members particularly Cassidy and Strange offices. Release going out shortly. I know know who is best POC within those offices but thought you might.

Micah

All - here's final release going out shortly.

Date: March 6, 2017
Contact: Interior_Press@ios.doi.gov
Caryl Fagot BOEM (504) 736-2590

Secretary Zinke Announces Proposed 73-Million Acre Oil and Natural Gas Lease Sale for Gulf of Mexico

All available areas in federal waters will be offered in first region-wide sale under new Five Year Program

WASHINGTON -- U.S. Secretary of the Interior Ryan Zinke today announced that the Department will offer 73 million acres offshore Texas, Louisiana, Mississippi, Alabama and Florida for oil and gas exploration and development. The proposed region-wide lease sale scheduled for August 16, 2017 would include all available unleased areas in federal waters of the Gulf of Mexico.

"Opening more federal lands and waters to oil and gas drilling is a pillar of President Trump's plan to make the United States energy independent," Secretary Zinke said. "The Gulf is a vital part of that strategy to spur economic opportunities for industry, states and local communities, to create jobs and home-grown energy and to reduce our dependence on foreign oil."

Proposed Lease Sale 249, scheduled to be livestreamed from New Orleans, will be the first offshore sale under the new Outer Continental Shelf Oil and Gas Leasing Program for 2017-2022 (Five Year Program). Under this new program, ten region-wide lease sales are scheduled for the Gulf, where the resource potential and industry interest are high, and oil and gas infrastructure is well established. Two Gulf lease sales will be held each year and include

all available blocks in the combined Western, Central, and Eastern Gulf of Mexico Planning Areas.

The estimated amount of resources projected to be developed as a result of the proposed region-wide lease sale ranges from 0.211 to 1.118 billion barrels of oil and from 0.547 to 4.424 trillion cubic feet of gas. The sale could potentially result in 1.2 to 4.2 percent of the forecasted cumulative OCS oil and gas activity in the Gulf of Mexico. Most of the activity (up to 83% of future production) of the proposed lease sale is expected to occur in the Central Planning Area.

Lease Sale 249 will include about 13,725 unleased blocks, located from three to 230 miles offshore, in the Gulf's Western, Central and Eastern planning areas in water depths ranging from nine to more than 11,115 feet (three to 3,400 meters). Excluded from the lease sale are blocks subject to the Congressional moratorium established by the Gulf of Mexico Energy Security Act of 2006; blocks that are adjacent to or beyond the U.S. Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap; and whole blocks and partial blocks within the current boundary of the Flower Garden Banks National Marine Sanctuary.

"To promote responsible domestic energy production, the proposed terms of this sale have been carefully developed through extensive environmental analysis, public comment and consideration of the best scientific information available," said Walter Cruickshank, the acting director of Interior's Bureau of Ocean Energy Management (BOEM). "This will ensure both orderly resource development and protection of the environment."

The lease sale terms include stipulations to protect biologically sensitive resources, mitigate potential adverse effects on protected species and avoid potential conflicts associated with oil and gas development in the region. BOEM's proposed economic terms include a range of incentives to encourage diligent development and ensure a fair return to taxpayers. The terms and conditions for Sale 249 in the Proposed Notice of Sale are not final. Different terms and conditions may be employed in the Final Notice of Sale, which will be published at least 30 days before the sale.

BOEM estimates that the U.S. Outer Continental Shelf (OCS) contains about 90 billion barrels of undiscovered technically recoverable oil and 327 trillion cubic feet of undiscovered technically recoverable gas. The Gulf of Mexico OCS, covering about 160 million acres, has technically recoverable resources of 48.46 billion barrels of oil and 141.76 trillion cubic feet of gas.

Production from all OCS leases provided 550 million barrels of oil and 1.25 trillion cubic feet of natural gas in FY2016, accounting for 72 percent of the oil and 27 percent of the natural gas produced on federal lands. Energy production and development of new projects on the U.S. OCS supported an estimated 492,000 direct, indirect, and induced jobs in FY2015 and generated $5.1 billion in total revenue that was distributed to the Federal Treasury, state governments, Land and Water Conservation Fund, and Historic Preservation Fund.

As of March 1, 2017, about 16.9 million acres on the U.S. OCS are under lease for oil and gas development (3,194 active leases) and 4.6 million of those acres (929 leases) are producing oil and natural gas. More than 97 percent of these leases are in the Gulf of Mexico; about 3 percent are on the OCS off California and Alaska.

The current Five Year Program [2012-2017] has one final Gulf lease sale scheduled on March 22, 2017 for Central Planning Area Sale 247. The 2012-2017 Five Year Program has offered about 73 million acres, netted more than $3 billion in high bids for American taxpayers and awarded more than 2,000 leases.)

All terms and conditions for Gulf of Mexico Region-wide Sale 249 are detailed in the Proposed Notice of Sale (PNOS) information package, which is available at: http://www.boem.gov/Sale-249/. Copies of the PNOS maps can be requested from the Gulf of Mexico Region's Public Information Unit at 1201 Elmwood Park Boulevard, New Orleans, LA 70123, or at 800-200-GULF (4853).

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Marino Thacker, Meghan (Daines)
To: Chambers, Micah
Cc: Amanda Kaster
Subject: RE: BOEM Release today
Date: Monday, March 06, 2017 12:31:37 PM

Micah—here are LA office contacts:

Gillott, Chris (Cassidy) Chris_Gillott@cassidy.senate.gov Cassidy LD

Stanley, Chris (Kennedy) Chris_Stanley@kennedy.senate.gov Kennedy LD
Green, Geoffrey (Kennedy) Geoffrey_Green@kennedy.senate.gov Kennedy Natural Resources LA

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 6, 2017 12:13 PM
To: Marino Thacker, Meghan (Daines) <Meghan_Thacker@daines.senate.gov>
Cc: Amanda Kaster <amanda_kaster@ios.doi.gov>
Subject: Fwd: BOEM Release today

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Micah

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Contact: Interior_Press@ios.doi.gov
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"Opening more federal lands and waters to oil and gas drilling is a pillar of President Trump's plan to make the United States energy independent," Secretary Zinke said. "The Gulf is a vital

part of that strategy to spur economic opportunities for industry, states and local communities, to create jobs and home-grown energy and to reduce our dependence on foreign oil."

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Knox, Jason
To: "Chambers, Micah"; Schafle, Matt; Freeman, Mike
Subject: RE: BOEM Release today
Date: Monday, March 06, 2017 12:44:29 PM

Thank you

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 06, 2017 12:22 PM
To: Knox, Jason; Schafle, Matt; Freeman, Mike
Subject: Fwd: BOEM Release today

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Contact: Interior_Press@ios.doi.gov
Caryl Fagot BOEM (504) 736-2590

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Andrews, Mike (Indian Affairs)
To: Kaster, Amanda; Chambers, Micah
Subject: can you take a look for me
Date: Monday, March 06, 2017 3:53:24 PM
Attachments: Cmte Memo - Zinke Hg - 3-8-17-DRAFT.docx

Amanda and Micah,
We will be sending this out to the committee staff. I wanted you to take a look first. I also need help with the endorsements from his confirmation if you have them. If not, I will take them out.

Thanks…

This is for a quick turnaround.

T. Michael Andrews
United States Senate Committee on Indian Affairs
Majority Staff Director and Chief Counsel
Senator John Hoeven, Chairman
(202)224-1191

MEMORANDUM

TO **CHAIRMAN HOEVEN VICE CHAIRMAN UDALL AND MEMBERS OF THE COMMITTEE ON INDIAN AFFAIRS**

FROM **T. MICHAEL ANDREWS MA ORITY STAFF DIRECTOR AND CHIEF COUNSEL**

DATE **MONDAY MARCH 6 01**

RE **OVERSIGHT HEARING ON IDENTIFYING INDIAN AFFAIRS PRIORITIES FOR THE TRUMP ADMINISTRATION**

On **Wednesda March 01 at 30 p.m.** in Room 628 of the Senate Dirksen Office Building, the Committee will hold an oversight hearing on, Identifying Indian Affairs Priorities for the Trump Administration.

This hearing will be the first Congressional hearing for Secretary Zinke. The purpose of the hearing is to focus on priorities related only to Indian affairs for the new Administration.

Witnesses

The following witnesses have been invited to testify:

- **HONORABLE RYAN ZIN E**, Secretary, United States Department of the Interior, Washington, DC
- **HONORABLE ALVIN NOT AFRAID R.**, Chairman, Crow Nation, Crow Agency, MT
- **HONORABLE EFFERSON EEL**, Lt. Governor, Chickasaw Nation, Ada, OK
- **HONORABLE EITH ANDERSON**, Vice Chairman, Shakopee Mdewakanton Sioux Community, Prior Lake, MN
- **HONORABLE PAUL TORRES**, Chairman, All Pueblo Council of Governors, Albuquerque, NM

- **HONORABLE □AMI AZURE**, Councilman, Turtle Mountain Band of Chippewa Indians, Belcourt, ND

Biograph□ of Secretar□ R□an Zin□e

Secretary Ryan Zinke was nominated by President Donald Trump and confirmed by the Senate on March 1, 2017, by a vote of 68-31. Mr. Zinke is a fifth generation Montanan, former Congressman in the United States House of Representatives, and a former state senator. He also served the United States for 23 years in the Navy in which time he was a Navy SEAL veteran. He is an adopted member of the Fort Peck Assiniboine and Sioux Tribes.

Committee on Energ□ and Natural Resources Confirmation Hearing

On January 17, 2017, then-Congressman Zinke testified before the Senate Committee on Energy and Natural Resources. During his confirmation hearing, he indicated the need to work with and involve Indian tribes as he carried out his responsibilities as Secretary.

On January 31, 2017, the Committee on Energy and Natural Resources held a business meeting to consider the nomination of Ryan Zinke to be Secretary of the Interior. The Committee favorably reported his nomination by a vote of 16-6.

Department of the Interior

As Secretary of the Interior, Secretary Zinke will oversee the Department of the Interior. The Department was created in 1849 and is responsible for managing the nation□s natural resources.

While the entire federal government has a special government-to-government relationship and trust responsibility for Indian tribes, the Secretary of the Interior (Secretary) carries out the primary authorities for those responsibilities. That authority includes managing approximately 500 million acres of federal lands, including over 52 million acres belonging to Indian tribes.

That authority is administered principally through the following agencies:

- Bureau of Indian Affairs (BIA),
- National Indian Gaming Commission, and
- Office of the Special Trustee for American Indians.

The positions overseeing these agencies are nominated by the President and confirmed by the Senate (as recommended by the Committee). The Assistant Secretary for Indian Affairs manages both the BIA and the BIE. These nominations go through the Senate Committee on Indian Affairs.

The position of Under Secretary for Indian Affairs was authorized by the *Indian Trust Asset Reform Act* in 2016. This Under Secretary would report directly to the Secretary of the Interior. To the maximum extent practicable, the Under Secretary would, among other things, supervise and coordinate activities and policies of the BIA with activities and policies of the Bureau of Reclamation, Bureau of Land Management, Office of Natural Resources Revenue, National Park Service, and United States Fish and Wildlife Service.

Additionally, the Secretary oversees the following agencies, several of which also carry out responsibilities or activities which affect Indian tribes and their lands:

- National Park Service,
- U.S. Fish and Wildlife Service, the Bureau of Land Management,
- Bureau of Ocean Energy Management,
- Bureau of Safety and Environmental Enforcement,
- Office of Surface Mining, Reclamation and Enforcement,
- Bureau of Reclamation,
- U.S. Geological Survey, and
- Office of Insular Affairs.

The Department of the Interior receives approximately $13.3 billion in appropriations. The Bureau of Indian Affairs receives approximately $2.79 billion in appropriations. The Bureau of Indian Education (BIE) receives approximately $829.6 million, plus an additional $49.3 million for BIE Transformation.

Zin□e□s Legislative Histor□

In 2014, Mr. Zinke became the first Navy SEAL elected to the House. He served on the House Armed Services Committee and the House Natural Resources Committee. As a Member of Congress, he introduced 19 bills, 3 resolutions, and 4 amendments in the 114th Congress.

- The first bill Indian-related bill introduced by then-Congressman Zinke introduced in the 114th Congress was H.R. 286, the *Little Shell Tribe of Chippewa Indians Restoration Act of 2015*. This bill would have extended federal recognition to the Little Shell Tribe of Chippewa Indians of Montana. The House Committee on Natural Resources subcommittee on Indian, Insular and Alaska Native Affairs held a legislative hearing on the bill. The bill was then incorporated into H.R. 3764, the *Tribal Recognition Act of 2016*. On September 8, 2016, the House Committee on Natural Resources met to consider the bill. The bill, as amended, was agreed to by a vote of 23-13. No further action was taken on H.R. 3764.

- A second Indian-related bill introduced by then-Congressman Zinke was H.R. 1522, a bill to permanently extend the Indian Coal Production Tax Credit. This bill would have continued an expired tax credit that was designed to incentivize investment of coal production on Indian lands. The bill was referred to House Committee on Ways and Means, but no further action was taken.

- On May 7, 2016, then-Congressman Zinke introduced H.R. 5259, the *Certainty for States and Tribes Act*. This bill would have ensured that states and Indian tribes have a certain considerations when any changes to federal coal, oil, and gas royalties or leasing policies. The subcommittee on Energy and Mineral Resources held a hearing on the bill. On September 8, 2016, the House Committee on Natural Resources met to consider the measure. The bill, as amended, was agreed to by a vote of 22-13. No further action was taken on the bill.

- On July 7, 2016, then-Congressman Zinke introduced H.R. 5633, the *Blackfeet Water Rights Settlement Act*. This bill authorizes, ratifies, and confirms the Blackfeet-Montana water rights compact. Similar legislation was introduced by Senators Tester and Daines. The *Blackfeet Water Righst Settlement Act* was incorporated into S. 612, the Water Infrastructure Improvements for the Nation Act. It was signed into law on December 16, 2016.

- On July 5, 2016, then-Congressman Zinke introduced H.Res. 553, a resolution "Expressing support for designation of May 5, 2017, as "National Day of Awareness for Missing and Murdered Native Woman and Girls."

Endorsements

- National Congress of American Indians
- The Rocky Mountain Tribal Leaders Council (represents tribes from Montana, Wyoming, and Idaho)
- Oklahoma Indian Gaming Association
- Osage Nation
- Southern Ute Indian Tribe
- Quapaw
- Pala Band
- Ak-Chin□□□NEED TO CONFIRM
- Rincon Band□□□NEED TO CONFIRM

□ □ □

From:	Andrews, Mike (Indian Affairs)
To:	Kaster, Amanda
Cc:	Chambers, Micah
Subject:	RE: can you take a look for me
Date:	Monday, March 06, 2017 4:31:59 PM
Attachments:	Cmte Memo - Zinke Hg - 3-8-17-DRAFT.docx

Corrupted?? Try it again.

From: Kaster, Amanda [mailto:amanda_kaster@ios.doi.gov]
Sent: Monday, March 6, 2017 4:26 PM
To: Andrews, Mike (Indian Affairs) <Mike_Andrews@indian.senate.gov>
Cc: Chambers, Micah <micah_chambers@ios.doi.gov>
Subject: Re: can you take a look for me

Hi Mike, the document file is corrupted - can you resend? Thank you.

On Mon, Mar 6, 2017 at 3:49 PM, Andrews, Mike (Indian Affairs) <Mike_Andrews@indian.senate.gov> wrote:

> Amanda and Micah,
> We will be sending this out to the committee staff. I wanted you to take a look first. I also need help with the endorsements from his confirmation if you have them. If not, I will take them out.
>
> Thanks…
>
> This is for a quick turnaround.
>
> T. Michael Andrews
> United States Senate Committee on Indian Affairs
> Majority Staff Director and Chief Counsel
> Senator John Hoeven, Chairman
> (202)224-1191

--
Amanda Kaster-Averill
Special Assistant
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov

MEMORANDUM

TO **CHAIRMAN HOEVEN VICE CHAIRMAN UDALL AND MEMBERS OF THE COMMITTEE ON INDIAN AFFAIRS**

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- **HONORABLE PAUL TORRES**, Chairman, All Pueblo Council of Governors, Albuquerque, NM

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Secretary Ryan Zinke was nominated by President Donald Trump and confirmed by the Senate on March 1, 2017, by a vote of 68-31. Mr. Zinke is a fifth generation Montanan, former Congressman in the United States House of Representatives, and a former state senator. He also served the United States for 23 years in the Navy in which time he was a Navy SEAL veteran. He is an adopted member of the Fort Peck Assiniboine and Sioux Tribes.

Committee on Energ□ and Natural Resources Confirmation Hearing

On January 17, 2017, then-Congressman Zinke testified before the Senate Committee on Energy and Natural Resources. During his confirmation hearing, he indicated the need to work with and involve Indian tribes as he carried out his responsibilities as Secretary.

On January 31, 2017, the Committee on Energy and Natural Resources held a business meeting to consider the nomination of Ryan Zinke to be Secretary of the Interior. The Committee favorably reported his nomination by a vote of 16-6.

Department of the Interior

As Secretary of the Interior, Secretary Zinke will oversee the Department of the Interior. The Department was created in 1849 and is responsible for managing the nation□s natural resources.

While the entire federal government has a special government-to-government relationship and trust responsibility for Indian tribes, the Secretary of the Interior (Secretary) carries out the primary authorities for those responsibilities. That authority includes managing approximately 500 million acres of federal lands, including over 52 million acres belonging to Indian tribes.

That authority is administered principally through the following agencies:

- Bureau of Indian Affairs (BIA),
- National Indian Gaming Commission, and
- Office of the Special Trustee for American Indians.

The positions overseeing these agencies are nominated by the President and confirmed by the Senate (as recommended by the Committee). The Assistant Secretary for Indian Affairs manages both the BIA and the BIE. These nominations go through the Senate Committee on Indian Affairs.

The position of Under Secretary for Indian Affairs was authorized by the *Indian Trust Asset Reform Act* in 2016. This Under Secretary would report directly to the Secretary of the Interior. To the maximum extent practicable, the Under Secretary would, among other things, supervise and coordinate activities and policies of the BIA with activities and policies of the Bureau of Reclamation, Bureau of Land Management, Office of Natural Resources Revenue, National Park Service, and United States Fish and Wildlife Service.

Additionally, the Secretary oversees the following agencies, several of which also carry out responsibilities or activities which affect Indian tribes and their lands:

- National Park Service,
- U.S. Fish and Wildlife Service, the Bureau of Land Management,
- Bureau of Ocean Energy Management,
- Bureau of Safety and Environmental Enforcement,
- Office of Surface Mining, Reclamation and Enforcement,
- Bureau of Reclamation,
- U.S. Geological Survey, and
- Office of Insular Affairs.

The Department of the Interior receives approximately $13.3 billion in appropriations. The Bureau of Indian Affairs receives approximately $2.79 billion in appropriations. The Bureau of Indian Education (BIE) receives approximately $829.6 million, plus an additional $49.3 million for BIE Transformation.

Zin□e□s Legislative Histor□

In 2014, Mr. Zinke became the first Navy SEAL elected to the House. He served on the House Armed Services Committee and the House Natural Resources Committee. As a Member of Congress, he introduced 19 bills, 3 resolutions, and 4 amendments in the 114th Congress.

- The first bill Indian-related bill introduced by then-Congressman Zinke introduced in the 114th Congress was H.R. 286, the *Little Shell Tribe of Chippewa Indians Restoration Act of 2015*. This bill would have extended federal recognition to the Little Shell Tribe of Chippewa Indians of Montana. The House Committee on Natural Resources subcommittee on Indian, Insular and Alaska Native Affairs held a legislative hearing on the bill. The bill was then incorporated into H.R. 3764, the *Tribal Recognition Act of 2016*. On September 8, 2016, the House Committee on Natural Resources met to consider the bill. The bill, as amended, was agreed to by a vote of 23-13. No further action was taken on H.R. 3764.

- A second Indian-related bill introduced by then-Congressman Zinke was H.R. 1522, a bill to permanently extend the Indian Coal Production Tax Credit. This bill would have continued an expired tax credit that was designed to incentivize investment of coal production on Indian lands. The bill was referred to House Committee on Ways and Means, but no further action was taken.

- On May 7, 2016, then-Congressman Zinke introduced H.R. 5259, the *Certainty for States and Tribes Act*. This bill would have ensured that states and Indian tribes have a certain considerations when any changes to federal coal, oil, and gas royalties or leasing policies. The subcommittee on Energy and Mineral Resources held a hearing on the bill. On September 8, 2016, the House Committee on Natural Resources met to consider the measure. The bill, as amended, was agreed to by a vote of 22-13. No further action was taken on the bill.

- On July 7, 2016, then-Congressman Zinke introduced H.R. 5633, the *Blackfeet Water Rights Settlement Act*. This bill authorizes, ratifies, and confirms the Blackfeet-Montana water rights compact. Similar legislation was introduced by Senators Tester and Daines. The *Blackfeet Water Righst Settlement Act* was incorporated into S. 612, the Water Infrastructure Improvements for the Nation Act. It was signed into law on December 16, 2016.

- On July 5, 2016, then-Congressman Zinke introduced H.Res. 553, a resolution "Expressing support for designation of May 5, 2017, as "National Day of Awareness for Missing and Murdered Native Woman and Girls."

Endorsements

- National Congress of American Indians
- The Rocky Mountain Tribal Leaders Council (represents tribes from Montana, Wyoming, and Idaho)
- Oklahoma Indian Gaming Association
- Osage Nation
- Southern Ute Indian Tribe
- Quapaw
- Pala Band
- Ak-Chin□□□NEED TO CONFIRM
- Rincon Band□□□NEED TO CONFIRM

□ □ □

From: Ryan Ullman
To: Chambers, Micah
Subject: Re: V/F CRA
Date: Monday, March 06, 2017 4:43:00 PM

The head of the Ohio oil and gas association is meeting with Portman's energy la tomorrow.

Sent from my iPhone

On Mar 6, 2017, at 12:02 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> Do you have a request to Portman's office though? Cause I can mention that and kindly remind them to make a meeting happen.
>
> On Mon, Mar 6, 2017 at 11:40 AM, Ryan Ullman <rullman@ipaa.org> wrote:
>
> > Micah,
> >
> > Below is a generic text body I've been using to craft messages to the Hill on this CRA. It links to all of the data and studies I've mention in the body. I've also attached the charts we put together along with a "Myth vs. Fact" document.
> >
> > We don't have a meeting scheduled with Portman for our fly-in as the schedules did not work out and Portman's LD is out of the office tomorrow. What I will do is see that IPAA schedules a meeting with Portman's office following the fly-in, perhaps early next week.
> >
> > Thanks Micah.
> >
> > Ryan
> >
> > ---
> >
> > Additionally, we did a point by point rebuttal to the justification of the v/f rule https://energyindepth.org/mtn-states/debunking-obama-administrations-justification-midnight-methane-rules-on-fracking-on-federal-lands/ with citations. This hits on all the points from cost/benefit to emissions and addresses each of them. Again, with citations.
> >
> > This link is to our Energy In Depth brief breakdown on the methane rule and

what it would mean to small producers. It's not nearly as technical as the attached analysis. https://energyindepth.org/national/obama-administration-sides-with-activists-on-methane-rule-moves-to-put-small-producers-out-of-business/

The short of it is that my guys, particularly in ND, have been playing catch up for years to build the infrastructure (gathering lines) to capture nat gas at the well site and then move that product to larger pipes for transportation to market. In terms of emissions reductions, we have made significant progress on this front. To that end I've included some data below for your review.

1. Data from EIA shows a dramatic decrease in the use of flaring in ND over the past 2 years while natural gas production went to a record level in March of 2016. From EIA

> a. "The volume of North Dakota's natural gas production that is flared has fallen sharply in both absolute and percentage terms since 2014. In March 2016, 10% of North Dakota's total natural gas production was flared, less than one-third of the January 2014 flaring rate, which was at 36%. Flaring rates and volumes have significantly decreased as North Dakota's total natural gas production has continued to grow, setting a monthly total natural gas production record of 1.71 billion cubic feet per day in March 2016. The North Dakota Industrial Commission established targets in September 2015 to reduce natural gas flaring."

2. Studies continue to find very low emissions – well below the threshold (2.7 percent) which scientists say must be maintained for natural gas to have climate advantages. Most studies have found leakage rates ranging from 1.2% to 1.6%, well below the threshold mentioned above.

3. With respect to emissions reductions, a recent NOAA study found that microbial sources such as rice paddies and wetlands are the cause of global methane emissions increases. And while that study found that methane emissions from fossil fuels have been underestimated, global increases in methane since 2007 are "not responsible for the increase in total methane emissions observed since 2007" according to leader author Stefan Schwietzke of NOAA.

4. Another study by researchers at the University of London corroborated this point stating that the global increase had been largely driven by tropical wetlands and agriculture.

5. Another NOAA study, in conjunction with the National Institute of Water and Atmospheric Research in New Zealand, identified wetlands and ag as the driver for increased global emissions. *Climatewire* reported, "Greenhouse gas inventories from U.S. EPA show that emissions from fossil fuel extraction have increased in recent years. But this has apparently not registered on the global scale. This is possibly because the U.S. energy industry contributes little to the

overall burden of global fossil fuel emissions, Schaever said."

<image003.jpg>

Ryan Ullman

Director of Government Relations & Political Affairs

Independent Petroleum Association of America

Office: 202-857-4722

rullman@ipaa.org

--

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Rosemarie Calabro Tully
To: tracy_goodluck@ios.doi.gov
Subject: Cantwell: Interior Department's Postponement of Coal Royalty Valuation Rule Is 'Unlawful'
Date: Tuesday, March 07, 2017 3:37:53 PM

For Immediate Release
March 7, 2017
Contact: Rosemarie Calabro Tully
rct@energy.senate.gov
(202) 224-7556

Cantwell: Interior Department's Postponement of Coal Royalty Valuation Rule Is 'Unlawful'

Rule Would Have Ensured Taxpayers Get Fair Value for Resources Extracted from Public Lands

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Procedure Act as authority.

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Additionally, courts have made it clear that section 705 does not allow agencies to grant stays based on their own notions of what constitutes "justice;" the department may only grant stays under section 705 using a four-part test to determine whether to grant preliminary injunctions.

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Permalink: https://www.energy.senate.gov/public/index.cfm/2017/3/cantwell-postponement-of-coal-royalty-valuation-rule-is-unlawful

Please click here to unsubscribe.

From: Rosemarie Calabro Tully
To: kerry_rae@ios.doi.gov
Subject: Cantwell: Interior Department's Postponement of Coal Royalty Valuation Rule Is 'Unlawful'
Date: Tuesday, March 07, 2017 3:37:53 PM

For Immediate Release
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Contact: Rosemarie Calabro Tully
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Please click here to unsubscribe.

From: Rosemarie Calabro Tully
To: fain_gildea@ios.doi.gov
Subject: Cantwell: Interior Department's Postponement of Coal Royalty Valuation Rule Is 'Unlawful'
Date: Tuesday, March 07, 2017 3:37:56 PM

For Immediate Release
March 7, 2017
Contact: Rosemarie Calabro Tully
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From: Rosemarie Calabro Tully
To: joshua_mahan@ios.doi.gov
Subject: Cantwell: Interior Department's Postponement of Coal Royalty Valuation Rule Is 'Unlawful'
Date: Tuesday, March 07, 2017 3:38:09 PM

For Immediate Release
March 7, 2017
Contact: Rosemarie Calabro Tully
rct@energy.senate.gov
(202) 224-7556

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Please click here to unsubscribe.

From: Gillott, Chris (Cassidy)
To: "micah_chambers@ios.doi.gov"
Subject: FW: BOEM Release today
Date: Thursday, March 09, 2017 9:41:35 AM

You can add me to the list in the Cassidy office.

_____

Christopher D. Gillott
Legislative Director
Office of U.S. Senator Bill Cassidy, M.D.
202-224-6825

From: "Chambers, Micah" <micah_chambers@ios.doi.gov>
Date: March 6, 2017 at 12:12:41 PM EST
To: <Meghan_Thacker@daines.senate.gov>
Cc: Amanda Kaster <amanda_kaster@ios.doi.gov>
Subject: Fwd: BOEM Release today

Thought you might want to share this with your friends over in the Cassidy and Kennedy offices. Release going out shortly. I know know who is best POC within those offices but thought you might.

Micah

All - here's final release going out shortly.

Date: March 6, 2017
Contact: Interior_Press@ios.doi.gov
Caryl Fagot BOEM (504) 736-2590

Secretary Zinke Announces Proposed 73-Million Acre Oil and Natural Gas Lease Sale for Gulf of Mexico

All available areas in federal waters will be offered in first region-wide sale under new Five Year Program

WASHINGTON -- U.S. Secretary of the Interior Ryan Zinke today announced that the Department will offer 73 million acres offshore Texas, Louisiana, Mississippi, Alabama and Florida for oil and gas exploration and development. The proposed region-wide lease sale scheduled for August 16, 2017 would include all available unleased areas in federal waters of the Gulf of Mexico.

“Opening more federal lands and waters to oil and gas drilling is a pillar of President Trump’s plan to make the United States energy independent,” Secretary

Zinke said. “The Gulf is a vital part of that strategy to spur economic opportunities for industry, states and local communities, to create jobs and home-grown energy and to reduce our dependence on foreign oil.”

Proposed Lease Sale 249, scheduled to be livestreamed from New Orleans, will be the first offshore sale under the new Outer Continental Shelf Oil and Gas Leasing Program for 2017-2022 (Five Year Program). Under this new program, ten region-wide lease sales are scheduled for the Gulf, where the resource potential and industry interest are high, and oil and gas infrastructure is well established. Two Gulf lease sales will be held each year and include all available blocks in the combined Western, Central, and Eastern Gulf of Mexico Planning Areas.

The estimated amount of resources projected to be developed as a result of the proposed region-wide lease sale ranges from 0.211 to 1.118 billion barrels of oil and from 0.547 to 4.424 trillion cubic feet of gas. The sale could potentially result in 1.2 to 4.2 percent of the forecasted cumulative OCS oil and gas activity in the Gulf of Mexico. Most of the activity (up to 83% of future production) of the proposed lease sale is expected to occur in the Central Planning Area.

Lease Sale 249 will include about 13,725 unleased blocks, located from three to 230 miles offshore, in the Gulf’s Western, Central and Eastern planning areas in water depths ranging from nine to more than 11,115 feet (three to 3,400 meters). Excluded from the lease sale are blocks subject to the Congressional moratorium established by the Gulf of Mexico Energy Security Act of 2006; blocks that are adjacent to or beyond the U.S. Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap; and whole blocks and partial blocks within the current boundary of the Flower Garden Banks National Marine Sanctuary.

“To promote responsible domestic energy production, the proposed terms of this sale have been carefully developed through extensive environmental analysis, public comment and consideration of the best scientific information available,” said Walter Cruickshank, the acting director of Interior’s Bureau of Ocean Energy Management (BOEM). “This will ensure both orderly resource development and protection of the environment.”

The lease sale terms include stipulations to protect biologically sensitive resources, mitigate potential adverse effects on protected species and avoid potential conflicts associated with oil and gas development in the region. BOEM’s proposed economic terms include a range of incentives to encourage diligent development and ensure a fair return to taxpayers. The terms and conditions for Sale 249 in the Proposed Notice of Sale are not final. Different terms and conditions may be employed in the Final Notice of Sale, which will be published at least 30 days before the sale.

BOEM estimates that the U.S. Outer Continental Shelf (OCS) contains about 90 billion barrels of undiscovered technically recoverable oil and 327 trillion cubic feet of undiscovered technically recoverable gas. The Gulf of Mexico OCS, covering about 160 million acres, has technically recoverable resources of 48.46 billion barrels of oil and 141.76 trillion cubic feet of gas.

Production from all OCS leases provided 550 million barrels of oil and 1.25 trillion cubic feet of natural gas in FY2016, accounting for 72 percent of the oil and 27 percent of the natural gas produced on federal lands. Energy production and development of new projects on the U.S. OCS supported an estimated 492,000 direct, indirect, and induced jobs in FY2015 and generated $5.1 billion in total revenue that was distributed to the Federal Treasury, state governments, Land and Water Conservation Fund, and Historic Preservation Fund.

As of March 1, 2017, about 16.9 million acres on the U.S. OCS are under lease for oil and gas development (3,194 active leases) and 4.6 million of those acres (929 leases) are producing oil and natural gas. More than 97 percent of these leases are in the Gulf of Mexico; about 3 percent are on the OCS off California and Alaska.

The current Five Year Program [2012-2017] has one final Gulf lease sale scheduled on March 22, 2017 for Central Planning Area Sale 247. The 2012-2017 Five Year Program has offered about 73 million acres, netted more than $3 billion in high bids for American taxpayers and awarded more than 2,000 leases.)

All terms and conditions for Gulf of Mexico Region-wide Sale 249 are detailed in the Proposed Notice of Sale (PNOS) information package, which is available at: http://www.boem.gov/Sale-249/. Copies of the PNOS maps can be requested from the Gulf of Mexico Region's Public Information Unit at 1201 Elmwood Park Boulevard, New Orleans, LA 70123, or at 800-200-GULF (4853).

The Notice of Availability of the PNOS will be available today for inspection in the Federal Register at: http://www.archives.gov/federal-register/public-inspection/index.html and will be published in the March 7, 2017 *Federal Register*.

###

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Rimkunas, Matt (L. Graham)
To: "Chambers, Micah"
Subject: RE: Graham opposes CRA to block methane rule
Date: Thursday, March 09, 2017 5:34:08 PM

How's that for some hill outreach? This isn't a new position for him. Had you called us to ask where he was maybe you wouldn't be so shocked.

Matt Rimkunas
Legislative Director
Office of Senator Lindsey O. Graham

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Thursday, March 09, 2017 5:30 PM
To: Rimkunas, Matt (L. Graham) <Matt_Rimkunas@lgraham.senate.gov>
Subject: Fwd: Graham opposes CRA to block methane rule

Really, the night before the Secretary is calling the Senator in the morning? For what it's worth, there's definitely a different legal opinion than your boss's since there's zero precedent for defining what "substantially the same" means. Either way, more to follow I'm sure. Have a good one.

Micah

Begin forwarded message:

From: POLITICO Pro Energy Whiteboard <politicoemail@politicopro.com>
Date: March 9, 2017 at 3:47:09 PM EST
Subject: Graham opposes CRA to block methane rule
Reply-To: POLITICO subscriptions <reply-fe92127375650d7e72-553241_HTML-637931341-1376319-40785@politicoemail.com>

By Nick Juliano

03/09/2017 03:43 PM EDT

Sen. Lindsey Graham says he will not vote to kill an Obama-era rule aimed at reducing methane emissions from oil and gas drilling, putting Republicans another vote short of the majority they need to pass the Congressional Review Act resolution.

"I think the CRA approach to this particular issue is heavy-handed because if you do away with this regulation, you can't have a similar one," the South Carolina Republican told POLITICO today.

The law, which had been used only once before this year, allows lawmakers to overturn regulations without having to overcome a Senate filibuster, and it prevents federal agencies from enacting new rules that are "substantially the same" in the future. So far, Congress has used the CRA to block seven Obama-era rules.

The Bureau of Land Management's rule to reduce the venting and flaring of methane has proved to be a more difficult target.

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"I believe you can do a better regulation," he said. "This area of methane gas emissions I think can be dealt with without driving up major costs to business, but from a CO2 point of view is pretty toxic."

To view online:
https://www.politicopro.com/energy/whiteboard/2017/03/graham-opposes-using-cra-to-block-methane-rule-084728

Was this Pro content helpful? Tell us what you think in one click.

Yes, very
Somewhat
Neutral
Not really
Not at all

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Micah Chambers
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Office of the Secretary of the Interior

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Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Miller, Sophie (Daines)
To: Kaster, Amanda (amanda_kaster@ios.doi.gov)
Subject: RE: Bill we"re planning to drop next week
Date: Thursday, March 09, 2017 6:00:44 PM

Hi Amanda,

Just circling back on this.

Perhaps we could discuss tomorrow or Monday?

-Sophie

From: Miller, Sophie (Daines)
Sent: Tuesday, March 7, 2017 6:10 PM
To: Kaster, Amanda (amanda_kaster@ios.doi.gov) <amanda_kaster@ios.doi.gov>
Subject: Bill we're planning to drop next week

Hi Amanda,

We're planning to drop the attached bill next week.

We checked extensively with non-Indian stakeholders and the Independent Petroleum Association of America (IPAA), Montana Petroleum Association, Avista, NorthWestern Energy, Senate Committee on Indian Affairs, Lake County Attorney Wally Congdon, Lake County Commissioner Gale Decker, Flathead County Commissioners Phil Mitchell ad Gary Kreuger, Northern Cheyenne Tribe all provided neutral-to-positive feedback. Crow Tribe, CSKT, Fort Belknap Indian Community, Chippewa Cree Tribe, Blackfeet Tribe, Property and Environment Research Center (PERC), and Navajo Nation all support. Currently working out a kink with Fort Peck.

By way of brief background, the Helping Expedite and Advance Responsible Tribal Home Ownership (HEARTH) Act of 2012 created a voluntary, alternative land leasing process available to tribes by amending the Indian Long-Term Leasing Act of 1955. Under that statute, once a tribe has tribal leasing regulations approved by the Secretary of the Interior, the tribe is authorized to negotiate and enter into leases without further approvals by the Secretary. This authority currently exists only for business, residential, agricultural, wind, and solar leases.

The Energizing Tribal Economies Act would amend the Indian Long- Term Leasing Act to extend that leasing authority to subsurface minerals, oil, gas, geothermal, biomass, and hydrologic resources. This policy would help tribes with the obstacles and delays experienced by many tribes to have leases approved by the BIA as outlined in this GAO report.

The bill also extends the maximum initial terms of leasing to 75 years to give tribes more latitude for business and other leases.

Let me know if you have any questions. Would love your general thoughts.

-Sophie

--

Sophie Miller
Legislative Aide
U.S. Senator Steve Daines (MT)
202.224.2651 (o)
www.daines.senate.gov

From: Miller, Sophie (Daines)
To: Kaster, Amanda
Subject: RE: Bill we"re planning to drop next week
Date: Thursday, March 09, 2017 6:03:56 PM

No problem at all, I can only image.

Ooh could we do 4:30 instead?

-Sophie

From: Kaster, Amanda [mailto:amanda_kaster@ios.doi.gov]
Sent: Thursday, March 9, 2017 6:02 PM
To: Miller, Sophie (Daines) <Sophie_Miller@daines.senate.gov>
Subject: Re: Bill we're planning to drop next week

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--

Amanda Kaster-Averill
Special Assistant
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov

From: Ryan Ullman
To: Chambers, Micah
Subject: Re: Graham opposes CRA to block methane rule
Date: Thursday, March 09, 2017 6:19:46 PM

I'm disappointed to put it very politely

Sent from my iPhone

On Mar 9, 2017, at 5:31 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> really?
>
> Begin forwarded message:
>
> **From:** POLITICO Pro Energy Whiteboard <politicoemail@politicopro.com>
> **Date:** March 9, 2017 at 3:47:09 PM EST
> **Subject: Graham opposes CRA to block methane rule**
> **Reply-To:** POLITICO subscriptions <reply-fe92127375650d7e72-553241_HTML-637931341-1376319-40785@politicoemail.com>
>
> By Nick Juliano
>
> 03/09/2017 03:43 PM EDT
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“I believe you can do a better regulation,” he said. “This area of methane gas emissions I think can be dealt with without driving up major costs to business, but from a CO2 point of view is pretty toxic.”

To view online:
https://www.politicopro.com/energy/whiteboard/2017/03/graham-opposes-using-cra-to-block-methane-rule-084728

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Ryan Ullman
To: Chambers, Micah
Subject: Re: Graham opposes CRA to block methane rule
Date: Thursday, March 09, 2017 6:45:48 PM

Did the boss get a chance to talk to him today? Like I said, he was a pretty hard no but the secretary brings a little more to the table than I do.

Sent from my iPhone

On Mar 9, 2017, at 5:31 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

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Yes, very

Somewhat

Neutral

Not really

Not at all

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Office of the Secretary of the Interior

From: Ryan Ullman
To: Chambers, Micah
Subject: Re: Graham opposes CRA to block methane rule
Date: Thursday, March 09, 2017 6:58:36 PM

Yeah. It's bush league stuff. Industry is going to have to come to terms with either pushing this to the floor with 50 and risking the loss or not having a vote at all. At least the vote smokes Heitkamp out on the issue.

Sent from my iPhone

On Mar 9, 2017, at 6:54 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> No, they are scheduled to talk tomorrow morning. I wasn't too happy to see them publicly say this right before a call with the secretary.
>
> On Thu, Mar 9, 2017 at 6:45 PM, Ryan Ullman <rullman@ipaa.org> wrote:
> > Did the boss get a chance to talk to him today? Like I said, he was a pretty hard no but the secretary brings a little more to the table than I do.
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Yes, very

Somewhat

Neutral

Not really

Not at all

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
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Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Miller, Sophie (Daines)
To: Kaster, Amanda
Subject: RE: Bill we"re planning to drop next week
Date: Friday, March 10, 2017 1:38:42 PM

Yes, 10am works great.

I'll give you a call then, thank you.

-Sophie

From: Kaster, Amanda [mailto:amanda_kaster@ios.doi.gov]
Sent: Friday, March 10, 2017 9:23 AM
To: Miller, Sophie (Daines) <Sophie_Miller@daines.senate.gov>
Subject: Re: Bill we're planning to drop next week

I have a meeting then unfortunately. Would sometime Monday morning work around 10am or 11am?

On Thu, Mar 9, 2017 at 6:03 PM, Miller, Sophie (Daines) <Sophie_Miller@daines.senate.gov> wrote:

> No problem at all, I can only image.
>
> Ooh could we do 4:30 instead?
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> **From:** Kaster, Amanda [mailto:amanda_kaster@ios.doi.gov]
> **Sent:** Thursday, March 9, 2017 6:02 PM
> **To:** Miller, Sophie (Daines) <Sophie_Miller@daines.senate.gov>
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> > Sent: Tuesday, March 7, 2017 6:10 PM

To: Kaster, Amanda (amanda_kaster@ios.doi.gov) <amanda_kaster@ios.doi.gov>
Subject: Bill we're planning to drop next week

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Let me know if you have any questions. Would love your general thoughts.

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U.S. Senator Steve Daines (MT)
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Amanda Kaster-Averill
Special Assistant

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U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov

--

Amanda Kaster-Averill
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amanda_kaster@ios.doi.gov

From: Miller, Sophie (Daines)
To: Kaster, Amanda
Subject: RE: Bill we"re planning to drop next week
Date: Friday, March 10, 2017 2:49:52 PM

Yes, 10am works great.

I'll give you a call then.

-Sophie

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--
Amanda Kaster-Averill
Special Assistant

Office of Congressional and Legislative Affairs
U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov

--

Amanda Kaster-Averill
Special Assistant
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov

From: Office of Senator Ted Cruz
To: Lara_Levison@ios.doi.gov
Subject: Cruz News: March 10, 2017
Date: Saturday, March 11, 2017 5:13:51 AM

March 10, 2017

Greetings,

My continued prayers are with the farmers, ranchers, families, and communities across the Texas Panhandle who have suffered losses this week from the devastating wildfires. I commend our first responders for rushing to help all of those who have been in harm's way. Congressman Mac Thornberry has helpfully provided several links to resources for individuals who have been impacted by the fires. My staff and I stand ready to assist Congressman Thornberry and Panhandle communities in any way that would be helpful.

Texas communities from Midland to Houston have made substantial economic investment in the space industry, creating new manufacturing facilities and high-tech jobs. The importance of NASA and space exploration to Houston and the state of Texas cannot be underestimated, which is why I was gratified that this week the U.S. House of Represenatives passed the bi-partisan Cruz-Nelson NASA Transition Authorization Act of 2017. This legislation makes a serious commitment to the manned exploration of space and ensures that the Johnson Space Center remains the crown jewel of NASA's human spaceflight missions. I look forward to the President signing this legislation, which lays the groundwork for the mission to Mars and enables commercial space ventures to flourish, which will foster extraordinary economic growth and job creation throughout Texas.

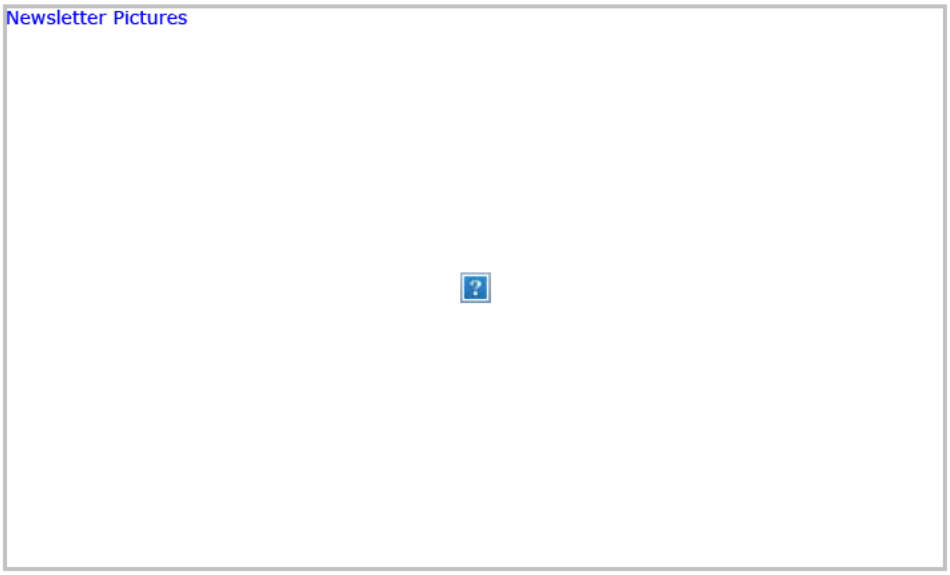
Early this week the House released its plan for health care reform. While I have serious concerns with the legislation in its existing form, I am working closely with members of the House, members of the Senate and the Administration to make the required fixes so we can pass a repeal bill that lowers health premium costs, that expands insurance choices and empowers patients.

Please read below for an update from this last week.

Keep Texas Strong,

TC Sig

Ted Cruz



Congress Sends Bipartisan Cruz-Nelson NASA Transition Authorization Act to the President's Desk

This week, Congress passed S. 442, The National Aeronautics and Space Administration (NASA) Transition Authorization Act of 2017, a bill originally introduced in the U.S. Senate by U.S. Sen. Ted Cruz (R-Texas), along with Sens. Bill Nelson (D-Fla.), Marco Rubio (R-Fla.), Gary Peters (D-Mich.), John Thune (R-S.D.), Tom Udall (D-N.M.), Patty Murray (D-Wash.), and John Cornyn (R-Texas). In the House, the chairmen with committees of jurisdiction for the bill are U.S. Rep. Lamar Smith (R-Texas), chairman of the House Science, Space, and Technology Committee, and Rep. Brian Babin (R-Texas), chairman of the House Space Subcommittee. The legislation provides stability for NASA to sustain and build upon existing national space investments designed to advance space exploration and science with an overall authorization level of $19.508 billion for fiscal year 2017. With the House's passage of the bill, the legislation now heads to the White House to await President Donald Trump's signature.

"The importance of NASA and space exploration to Houston and the state of Texas cannot be underestimated," said Sen. Cruz. "With the passage of this bipartisan legislation, the future of the U.S. space program is now more secure and stable, and we have provided much-needed certainty to the missions of the International Space Station and Johnson Space Center. We are also making a serious commitment to the manned exploration of space, laying the groundwork for the mission to Mars, and enabling commercial space ventures to flourish, all of which will foster extraordinary economic growth and job creation throughout Texas. I'm grateful for the hard work and collaboration of Senators Bill Nelson, John Thune, and Gary Peters, Congressmen Lamar Smith and Brian Babin, and organizations like the Bay Area Houston Economic Partnership, all of whom all helped forge this legislation to help ensure America continues to lead the way in space exploration."

Highlights of S. 442, The NASA Transition Authorization Act of 2017:

- Sustaining National Space Commitments and Utilizing the International Space Station
- Advancing Human Deep Space Exploration
- Medical Monitoring of Astronauts

Read the full details of the bill here.

ICYMI: Sen. Cruz and Reps. Smith and Babin Op-Ed in Houston Chronicle: 'A strong step for Texas, and one giant leap for space exploration'

Sen. Cruz and Reps. Lamar Smith (R-Texas) and Brian Babin (R-Texas) penned the following op-ed for the Houston Chronicle celebrating the passage of the bi-partisan Cruz-Nelson NASA Transition Authorization Act. This legislation ensures that the Johnson Space Center remains the crown jewel of NASA's human spaceflight missions. The Houston Chronicle also featured an article detailing the legislative ambitions of the bill, including exploration of the moon, Mars and beyond.

" Space exploration is also critical to the global competitiveness of the United States as our nation seeks to remain the leader in space. Unfortunately, in recent years, uncertainty and cancellations of core missions have clouded the future of NASA and the broader space industry. Cancellations to programs such as Constellation, which sought to return astronauts to the moon and beyond, have had lasting negative consequences not only on NASA but on the economy.

…

This legislation, supported broadly by Republicans and Democrats, advances the deep exploration of space by humans, ensures full utilization of the International Space Station and fosters the commercialization and economic development of low Earth orbit. In Texas, this legislation will ensure that the Johnson Space Center remains the crown jewel when it comes to providing mission support to NASA's human spaceflight missions."

Read the full op-ed here.

Sen. Cruz Re-Introduces Bill Naming Cuban Embassy's D.C. Address After Dissident Oswaldo Payá

Sen. Cruz reintroduced bipartisan legislation with Sens.Rubio and Menendez to rename the street in front of the Cuban Embassy in Washington, D.C. as "Oswaldo Payá Way," in honor of Cuba's late and celebrated dissident leader. The bill, S. 539, serves as a tribute to those who have contested the cruelty and oppression of the Castro regime and has been reintroduced following Cuba's recent attempt to stifle efforts to honor those who stand up for human rights across the globe.

Sen. Cruz denounced the regime for denying entry visas to recipients of an award ceremony organized in Havana by Payá's daughter, Rosa María. The ceremony was intended to honor her father's legacy and celebrate like-minded activists who have fought for democracy and human rights against authoritarian regimes.

"The Cuban Embassy stands as a testament to the prior Administration's relentless capitulation to oppressive dictatorships across the globe. Though Fidel Castro has died, his repressive legacy has not followed him to the grave," Sen. Cruz said. "Raúl is not a 'different' Castro; he shared Fidel's tyrannical reign, brutally imprisoning and torturing the people of Cuba. It is my hope and belief that President Trump's Administration will operate from a posture of strength to reassure those fighting for freedom in Cuba that America stands with them. I commend Rosa María Payá for her brave efforts to honor her father's fight for freedom by bestowing an award in his name. The Castro regime's cowardly actions to stifle the first awards ceremony only shines a brighter light on Oswaldo Payá's legacy and serves as an example for younger generations who seek change among brutal dictatorships."

Read the full press release here.

Sen. Cruz Issues Statement Regarding President Trump's Executive Order to Facilitate Stronger Vetting Procedures for Refugees

Sen. Cruz issued the following statement regarding President Trump's recent executive order to facilitate stronger vetting procedures for refugees:

"As I stated when President Trump's administration previously took the responsible step of acting to prevent terrorists from infiltrating our refugee programs, we live in a dangerous world. For eight long years the Obama administration remained willfully blind to the threat of radical Islamic terrorism, admitting tens of thousands of refugees whom the FBI expressly told Congress they could not be certain were not terrorists. That Obama policy made no sense, and it made America less safe. If we are serious about combating the threat of radical Islam, we must reform and strengthen our refugee programs to ensure proper vetting of those entering our country—especially when they are coming from nations that are hotbeds of terror. This is crucial to our national security and to protecting American lives, and it is a priority for which I have long advocated.

"I commend President Trump for rejecting Obama's willful blindness. In contrast to the hysteria and mistruths that are still being pushed by the media, President Trump's executive order implements a four-month pause in refugee admissions so that stronger vetting procedures can be put in place. This is a commonsense step that the American people overwhelmingly support. I am also pleased to see that lawful permanent residents will not be impacted by this order.

"I will continue to call on Congress to pass legislation to further assist in these efforts. For example, the executive order calls for greater influence from the states in this process, and the State Refugee Security Act that I introduced with Rep. Ted Poe (R-Texas) would do just that. This is a commonsense step to help keep us safe, and should be something that all senators and representatives, regardless of political party, can unite behind."

Read the full statement here.

Sen. Cruz Releases Statement Regarding Recent Threats Against Jewish Institutions

Sen. Cruz released the following statement regarding the recent rise in threats against Jewish Community Centers:

"Today, law enforcement arrested a man in St. Louis, charging him for at least eight bomb threats against Jewish institutions in recent weeks. I commend our law enforcement for their diligent investigative work.

"I categorically condemn all recent threats against Jewish Community Centers (JCCs), Jewish Day Schools, and Jewish institutions across the country. These along with other attacks including the desecration and vandalism of Jewish cemeteries in St. Louis, Philadelphia, and Rochester are reprehensible. There is no place in our society for such vicious hatred and anti-Semitism.

"More than 100 JCCs from California to Texas and New York have been the target of this deliberate and repeated effort to harass, intimidate, and instill fear within our communities. I stand with the American Jewish Community, and with all Texans who have been impacted by the specific threats targeting the Aaron Family Jewish Community Center of Dallas and the Evelyn Rubenstein Jewish Community Center in my hometown

of Houston that provide enormous contributions for our communities, friends, and families. We must put an end to these threats and attacks, ensure our Jewish institutions are secure and protected, and all of the perpetrators are brought to justice."

Read the full statement here.

Sen. Cruz Praises Nomination of Noel Francisco as U.S. Solicitor General

Sen. Ted Cruz praised the nomination of Noel Francisco as U.S. Solicitor General. Sen. Cruz and Francisco worked together as young lawyers at what is now the Cooper & Kirk law firm in Washington, D.C., and also on the legal team supporting former President George W. Bush during the 2000 Florida recount. Francisco also served as a law clerk to Judge J. Michael Luttig of the U.S. Court of Appeals for the Fourth Circuit, the same judge for whom Cruz clerked the previous year.

"I enthusiastically applaud President Trump's nomination of Noel Francisco to be Solicitor General of the United States," Sen. Cruz said. "Noel and I have been close friends for over two decades, and I know him personally to be a brilliant lawyer and a principled conservative. He has cemented his reputation as one of the best appellate advocates of our generation, including arguing and winning the landmark case of National Labor Relations Board v. Noel Canning, in which the U.S. Supreme Court unanimously rebuked President Obama's unlawful abuse of the President's recess appointments power. I am confident that Noel will be a tireless champion for the rule of law, and I look forward to his strong leadership at the Department of Justice and skilled advocacy for the United States before the Supreme Court."

Read the full statement here.

Texans in Washington D.C.

Newsletter Pictures

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To: tracy_goodluck@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, March 12, 2017 9:30:12 AM

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To: joshua_mahan@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, March 12, 2017 9:30:22 AM

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To: fain_gildea@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, March 12, 2017 9:30:26 AM

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To: kerry_rae@ios.doi.gov
Subject: This Week in ENR
Date: Sunday, March 12, 2017 9:30:32 AM

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COMING UP

Tuesday hearing on energy infrastructure. For the first time since nominations, the committee is holding a hearing on opportunities to improve U.S. energy infrastructure. The hearing begins at 10:00 a.m. ET, with testimony from seven (yes, seven!) witnesses: Stefan Bird (Pacific Power), Carl Imhoff (Pacific Northwest National Laboratory), Clay Koplin (Cordova Electric Cooperative), Jeffrey Leahy (National Hydropower Association), Diane Leopold (Dominion Energy), Terry O'Sullivan (Laborers' International Union of North America) and Ethan Zindler (Bloomberg New Energy Finance). Expect Sen. Cantwell to discuss the economic and jobs opportunities that come with updating our energy infrastructure, as well as the need to protect our electricity grid from the growing threat of cyberattacks from foreign actors.

The "skinny" budget could be released this week. Although nothing specific is confirmed yet, we are expecting a slimmed down budget of top-line priorities to be released sometime this week. Details have been hard to come by, so stay tuned for those numbers and Sen. Cantwell's reactions to those.

Congressional Review Act disapproval resolutions. No word on when the BLM Methane Waste Rule could come up, although POLITICO is reporting that a second Republican has stated they won't support it—Sen. Lindsay Graham. This

week, there could be activity on a disapproval resolution to overturn the National Wildlife Refuge Hunting and Fishing Rule—aka the Alaska Hunting Rule. Sen. Cantwell will oppose this effort, and we'll keep you posted on timing.

Other items outside our control. The Trump administration could issue executive orders on the federal coal program or the Climate Action Plan, and they could officially announce a new batch of nominees to DOE, DOI or FERC.

As always, feel free to reach out with questions, and check out @EnergyDems for up-to-date information and timely news clips.

Enjoy the rest of your weekend,

ROSEMARIE CALABRO TULLY
Democratic Press Secretary
U.S. Senate Committee on Energy & Natural Resources
rct@energy.senate.gov
Office: (202) 224-7556
Cell: (202) 329-7658
@EnergyDems

Please click here to unsubscribe.

From: Willens, Todd
To: "melissa_simpson@ios.doi.gov"
Subject: FW: Interior meetings request
Date: Monday, March 13, 2017 8:41:59 AM
Attachments: Artesia-Roswell Fly-in 2017 Attendees.pdf

Melissa,

Congressman Pearce has a fly-in group from Roswell/Artesia, NM region coming to DC on May 1st. They have been able to get in the last few years with FWS and BLM. Unfortunately, those meetings have not been very successful.

For this year's visit, the Congressman seeks the Secretary's assistance in confirming this year's group to meet with FWS, BLM and Department leadership, preferably the Secretary, on May 1st. Below is the request from their coordinator and attached is the attendee list.

We appreciate the Secretary and the Department's consideration of this request.

Todd D. Willens

From: Hayley Snow Klein [mailto:hklein@artesiachamber.com]
Sent: Monday, March 13, 2017 3:07 AM
To: Willens, Todd
Subject: Interior meetings request

Good morning, Todd,
As you know, Artesia and Roswell are planning our annual Washington Fly-in. Usually, we meet with FWS and BLM in separate meetings, but have had some difficulties in the last two years with BLM. This year, I am asking for assistance in setting up meetings that would be appropriate for the following issues, which are primarily focused on BLM and FWS, but may include others:

- APD processing and permitting for oil & gas production – the new computerized system was not ready for roll-out, which is causing confusion and delays; moreoever, we would like to discuss the unpredictable timelines for APDs which cause delays in production and tie up significant funding.
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- The Resource Management Plan, which is delayed
- Venting & Flaring rule – the rule is not ready for implementation; we hope for reconsideration of the rule altogether
- The anticipated decision on the Texas Horned Shell Mussel and the associated CCAs
- Other ESA listings that may be in the works

We will be in Washington May 1-3. We respectfully request a meeting or meetings at Interior on Monday, May 1. I have attached a list of our attendees. Please let me know if

you have questions or need additional information.

Thank you for your assistance and direction,
Hayley

Hayley Klein
Executive Director
Artesia Chamber of Commerce
107 North First Street
Artesia, NM 88210
O: 575.746.2744
www.artesiachamber.com

ARTESIA - ROSWELL WASHINGTON FLY-IN
MAY 1-3, 2017

ARTESIA

Phillip Burch
Mayor, City of Artesia

Jon Henry
Commissioner, Eddy County

Hayley Klein
Artesia Chamber of Commerce

Michael Bunt
Economic Development

Chuck Pinson
Central Valley Electric Co-op

Katie Parker
EOG Resources

John Bain
First American Bank

Bob O'Brien
HollyFrontier Corp

Claire Chase
Mack Energy Corp

Cooper Henderson
Artesia Public Schools

Kirk Irby
Lowell's Pharnacy

Scott Verhines
EC Consulting Engineers

ROSWELL

Dennis Kintigh
Mayor, City of Roswell

Robert Corn
Commissioner, Chaves County

James Duffey
Commissioner, Chaves County

Candace Lewis
Roswell Chamber of Commerce

Cristina Arnold
New Mexico Business Coalition

Mark Murphy
Strata Oil

Mitch Krakauskas
Strata Oil

Kaye Whitefoot
New Mexico Dairy Producers

Bernarr Treat
Xcel Energy

Gary Clark
Lovelace Hospital

Jessica Duncan
Coca-Cola

From: Miller, Sophie (Daines)
To: "Kaster, Amanda"
Subject: RE: Bill we"re planning to drop next week
Date: Monday, March 13, 2017 9:46:15 AM

Hi Amanda,

Would you be able to reschedule today's call for tomorrow at 10am instead?

Sorry for the inconvenience.

-Sophie

From: Miller, Sophie (Daines)
Sent: Friday, March 10, 2017 2:49 PM
To: Kaster, Amanda <amanda_kaster@ios.doi.gov>
Subject: RE: Bill we're planning to drop next week

Yes, 10am works great.

I'll give you a call then.

-Sophie

From: Kaster, Amanda [mailto:amanda_kaster@ios.doi.gov]
Sent: Friday, March 10, 2017 9:23 AM
To: Miller, Sophie (Daines) <Sophie_Miller@daines.senate.gov>
Subject: Re: Bill we're planning to drop next week

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On Thu, Mar 9, 2017 at 6:03 PM, Miller, Sophie (Daines) <Sophie_Miller@daines.senate.gov> wrote:

> No problem at all, I can only image.
>
> Ooh could we do 4:30 instead?
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> **From:** Kaster, Amanda [mailto:amanda_kaster@ios.doi.gov]
> **Sent:** Thursday, March 9, 2017 6:02 PM
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> Sent: Tuesday, March 7, 2017 6:10 PM
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> Subject: Bill we're planning to drop next week
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> We're planning to drop the attached bill next week.
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> We checked extensively with non-Indian stakeholders and the Independent Petroleum Association of America (IPAA), Montana Petroleum Association, Avista, NorthWestern Energy, Senate Committee on Indian Affairs, Lake County Attorney Wally Congdon, Lake County Commissioner Gale Decker, Flathead County Commissioners Phil Mitchell ad Gary Kreuger, Northern Cheyenne Tribe all provided neutral-to-positive feedback. Crow Tribe, CSKT, Fort Belknap Indian Community, Chippewa Cree Tribe, Blackfeet Tribe, Property and Environment Research Center (PERC), and Navajo Nation all support. Currently working out a kink with Fort Peck.
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> By way of brief background, the Helping Expedite and Advance Responsible Tribal Home Ownership (HEARTH) Act of 2012 created a voluntary, alternative land leasing process available to tribes by amending the Indian Long-Term Leasing Act of 1955. Under that statute, once a tribe has tribal leasing regulations approved by the Secretary of the Interior, the tribe is authorized to negotiate and enter into leases without further approvals by the Secretary. This authority currently exists only for business, residential, agricultural, wind, and solar leases.
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> The bill also extends the maximum initial terms of leasing to 75 years to give tribes more latitude for business and other leases.
>
> Let me know if you have any questions. Would love your general thoughts.
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> -Sophie

--

Sophie Miller
Legislative Aide
U.S. Senator Steve Daines (MT)
202.224.2651 (o)
www.daines.senate.gov<http://www.daines.senate.gov/>

--

Amanda Kaster-Averill
Special Assistant
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov

--

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Special Assistant
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov

From: Miller, Sophie (Daines)
To: Kaster, Amanda
Subject: RE: Bill we"re planning to drop next week
Date: Monday, March 13, 2017 10:05:41 AM

Thank you, sounds good.

-Sophie

From: Kaster, Amanda [mailto:amanda_kaster@ios.doi.gov]
Sent: Monday, March 13, 2017 9:49 AM
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amanda_kaster@ios.doi.gov

From: Willens, Todd
To: "Melissa Simpson"
Subject: RE: Interior meetings request
Date: Monday, March 13, 2017 10:39:05 AM

Thanks.

Todd D. Willens

From: Melissa Simpson [mailto:melissa_simpson@ios.doi.gov]
Sent: Monday, March 13, 2017 9:29 AM
To: Willens, Todd
Subject: Re: Interior meetings request

Thanks Todd. There is a meeting request form that the Secretary's scheduler requires. I will send that to you. I'm the next email. Please cc me when you send it to her.

Meanwhile, I will tee this up with Kathy.

Melissa

Melissa Simpson

Intergovernmental and External Affairs

Department of the Interior

1849 C Street, NW Room 6211

Washington, DC 20240

(202) 706 4983 cell

melissa_simpson@ios.doi.gov

Sent from my iPhone

On Mar 13, 2017, at 8:43 AM, Willens, Todd <Todd.Willens@mail.house.gov> wrote:

> Melissa,
>
> Congressman Pearce has a fly-in group from Roswell/Artesia, NM region coming to DC on May 1st. They have been able to get in the last few years with FWS and BLM. Unfortunately, those meetings have not been very successful.
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Todd D. Willens

From: Hayley Snow Klein [mailto:hklein@artesiachamber.com]
Sent: Monday, March 13, 2017 3:07 AM
To: Willens, Todd
Subject: Interior meetings request

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We will be in Washington May 1-3. We respectfully request a meeting or meetings at Interior on Monday, May 1. I have attached a list of our attendees. Please let me know if you have questions or need additional information.

Thank you for your assistance and direction,
Hayley

Hayley Klein
Executive Director
Artesia Chamber of Commerce

107 North First Street
Artesia, NM 88210
O: 575.746.2744
www.artesiachamber.com

<Artesia-Roswell Fly-in 2017 Attendees.pdf>

From: Willens, Todd
To: "Melissa Simpson"
Subject: RE: Interior meetings request
Date: Monday, March 13, 2017 10:40:41 AM

On second thought, to avoid the extra forms, lets keep it at staff level. Secretary not critical at this point. His staff is though. Can you get someone from his wing to do that then?

Todd D. Willens

From: Melissa Simpson [mailto:melissa_simpson@ios.doi.gov]
Sent: Monday, March 13, 2017 9:29 AM
To: Willens, Todd
Subject: Re: Interior meetings request

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<Artesia-Roswell Fly-in 2017 Attendees.pdf>

From: Marino Thacker, Meghan (Daines)
To: Amanda Kaster (amanda_kaster@ios.doi.gov)
Subject: RPC Bills
Date: Monday, March 13, 2017 5:53:27 PM
Attachments: image009.png
image010.png
image011.png
image012.png
BILLS-114s2938is.pdf

Amanda, Daines/Enzi/Barrasso bill text is attached. And a rundown of all the options below.

Salazar Charter:
5-states with mineral royalties
5-Indian tribes
7-industry
3- public interest groups

Daines/WY delegation bill:
5-states producing more than $10 million in mineral royalties
5-mineral producing Indian Tribes
Silent on other aspects of original charter so it defaults to:
7-industry
3-NGOs.

Tester bill:

> NON-FEDERAL MEMBERS- In appointing non-Federal members of the Committee, the Secretary shall appoint up to--
>
> (A) 5 members who represent States that receive over $10,000,000 annually in royalty revenues from Federal leases;
> (B) 5 members who represent Indian tribes;
> (C) 5 members who represent various mineral or energy interests, including at least 1 member who represents labor interests; and
> (D) 5 members who represent public interest groups, including groups representing taxpayers and groups with academic expertise.

Daines/Tester Appropriations Amendment (just reinstates original charter so membership stays the same):

royalty policy committee

> Sec. 126. (a) As soon as practicable after the date of enactment of this Act, the Secretary shall reestablish the Royalty Policy Committee in accordance with the charter of the Secretary dated March 26, 2010.
> (b) Not later than 180 days after the issuance of any proposed regulations or policy relating to royalty management issues or other mineral-related policies, the Royalty Policy Committee shall advise the Secretary of the

Interior on those issues or policies.

(c) The Royalty Policy Committee shall--

(1) meet not less frequently than once per year; and

(2) provide for robust participation of State Governors and Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

Meghan Thacker
Senior Policy Advisor
Senator Steve Daines (MT)
320 Hart Senate Office Building
Washington, DC 20510
D: (202)228-1176
www.daines.senate.gov

Security settings or invalid file format do not permit using 03-13-2017 17_53_27RPC Bills (1).pdf (258599 Bytes).

Attachment DTP_8.joboptions (48712 Bytes) cannot be converted to PDF format.

From: Miller, Sophie (Daines)
To: Amanda Kaster
Subject: RE: Bill we"re planning to drop next week
Date: Tuesday, March 14, 2017 9:52:37 AM

Sure thing.

Just let me know when's a good time or call whenever you'd like.

-Sophie

From: Amanda Kaster [mailto:amanda_kaster@ios.doi.gov]
Sent: Tuesday, March 14, 2017 9:51 AM
To: Miller, Sophie (Daines) <Sophie_Miller@daines.senate.gov>
Subject: Re: Bill we're planning to drop next week

Still in the process of trekking into work. Can we talk this afternoon?

Sent from my iPhone

On Mar 13, 2017, at 10:05 AM, Miller, Sophie (Daines) <Sophie_Miller@daines.senate.gov> wrote:

> Thank you, sounds good.
>
> -Sophie
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> **Sent:** Monday, March 13, 2017 9:49 AM
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> **Subject:** Re: Bill we're planning to drop next week
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> > **From:** Miller, Sophie (Daines)

Sent: Friday, March 10, 2017 2:49 PM
To: Kaster, Amanda <amanda_kaster@ios.doi.gov>
Subject: RE: Bill we're planning to drop next week

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The Energizing Tribal Economies Act would amend the Indian Long-Term Leasing Act to extend that leasing authority to subsurface minerals, oil, gas, geothermal, biomass, and hydrologic resources. This policy would help tribes with the obstacles and delays experienced by many tribes to have leases approved by the BIA as outlined in this<http://www.gao.gov/assets/680/670701.pdf> GAO report.

The bill also extends the maximum initial terms of leasing to 75 years to give tribes more latitude for business and other leases.

Let me know if you have any questions. Would love your general thoughts.

-Sophie

--

Sophie Miller
Legislative Aide
U.S. Senator Steve Daines (MT)
202.224.2651 (o)
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From: Feldgus, Steve
To: Kate MacGregor (katharine_macgregor@ios.doi.gov)
Subject: Q about the budget
Date: Thursday, March 16, 2017 9:14:31 AM

Happy Skinny Budget Day! I noticed in the bullet regarding energy it says “Combined with administrative reforms already in progress…”, and I was wondering if there was a list of those reforms. I can think of the delay of the valuation rule, the decision on the fracking rule, and the withdrawal of the BOEM bonding NTL. Anything else that you guys consider to be an administrative reform already in progress?

Thanks,

--Feldgus

From: Shelton, Ashley
To: micah_chambers@ios.doi.gov
Subject: Letter to Secretary Zinke
Date: Thursday, March 16, 2017 10:56:35 AM
Attachments: FHWRB_SecretaryZinkeLetter_3-1-17 (1) (1).pdf

Hi, Micah –

Attached is a letter addressed to Secretary Zinke from some constituents and state officials regarding a bridge in our district under the authority of Fish and Wildlife. They have asked us to pass it along. Their views do not necessarily reflect those of Rep. Crawford.

Are you who I should be sending this to? If not, can you point me to the right person?

Please let me know if you have questions.

Thank you,
Ashley

--
Ashley Shelton
Senior Legislative Assistant
Office of U.S. Rep. Rick Crawford (AR-01)
NEW OFFICE LOCATION
Rayburn 2422 | Washington, D.C. 20515
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FRIENDS OF THE HISTORIC WHITE RIVER BRIDGE AT CLARENDON
PO Box 141 ~ Clarendon, AR 72029 ~ info@whiteriverbridge.org ~ www.whiteriverbridge.org

February 22, 2017

The Honorable Ryan Zinke
1419 Longworth House Office Building
Washington, DC 20515

Dear Mr. Zinke:

The Friends of the White River Bridge at Clarendon is a local 501(c)3 non-profit working to preserve and adapt the historic White River Bridge at Clarendon (Arkansas) – all of which is listed on the National Register of Historic Places – into the longest elevated bicycling, pedestrian, and nature-watching platform in the world. Once adapted, the bridge will serve as the centerpiece of an effort to revitalize eastern Arkansas – which includes some of the poorest counties in the United States – through the development of outdoors-related tourism. Our efforts fit squarely into the statewide initiative being led by Governor Asa Hutchinson and supported by the Walton Family Foundation to establish Arkansas as the "Cycling Hub of the South" and will leverage substantial investments in cycling infrastructure in eastern Arkansas, including the recent development of the Harahan Bridge between Memphis and West Memphis (see enclosed articles).

Our efforts enjoy the support of a wide variety of public officials and advocacy organizations. Governor Hutchinson in particular has been an avid supporter of this project, having met last spring with the director of the U.S. Fish & Wildlife Service (USFWS), Dan Ashe, in his office in Washington for the sole purpose of advocating for the preservation of the bridge. Likewise, the commitment of one of Little Rock's major law firms, Gill Ragon Owen, PA, to provide all legal services associated with our ongoing litigation to save the bridge on a *pro bono* basis is a testament to the support this project enjoys.

In addition, a growing groundswell of public support for preserving the bridge has emerged in the past few months. On September 24, a rally was held at the foot of the historic White River Bridge in Clarendon that had robust attendance. An online petition launched a week prior has gathered signatures representing 40 states and 28 countries, and an online fundraising campaign launched in early October has raised almost $20,000 in small donations from local citizens invested in seeing the project to completion. We have also already secured pledges totaling $200,000 for a bridge maintenance endowment to provide funds in perpetuity to ensure responsible ongoing maintenance at no cost to the public.

Finally, our efforts to save the bridge have garnered substantial media coverage in the past few months alone, including being featured once on television, twice on the radio, and more than a half-dozen times in print, including an endorsement by the editorial board of the statewide paper of record (the Arkansas Democrat-Gazette) on September 30 and a multi-page feature on the cover of the "Perspectives" section on November 6. Samples of relevant media coverage are enclosed for your consideration.

FRIENDS OF THE HISTORIC WHITE RIVER BRIDGE AT CLARENDON
PO Box 141 ~ Clarendon, AR 72029 ~ info@whiteriverbridge.org ~ www.whiteriverbridge.org

We are pleased to report that the Arkansas Highway and Transportation Department (AHTD) and the Federal Highway Administration (FHWA) have recently initiated a series of productive conversations with us to explore a win-win resolution, including a due diligence process to ensure that we can fulfill all requirements of the Arkansas Historic Bridge program.

The primary obstacle preventing AHTD and FHWA from working with us to save the bridge **is an agreement made with USFWS** to demolish the historic bridge in order to secure the right-of-way through the adjoining national wildlife refuges for the replacement bridge (which opened this summer). If AHTD was relieved of this obligation to USFWS, we believe the matter would be settled in a manner satisfactory to all parties. Unfortunately, despite several efforts at outreach – including the high-profile effort by Governor Hutchinson – **USFWS has thus far been unwilling to explore <u>any</u> compromise** that might resolve the matter in a mutually beneficial manner.

We are writing to ask for your help on this matter. Specifically, we ask that once confirmed as Secretary of the Interior that you **urge USFWS to explore any and all means within the bounds of the law and their own regulations to release AHTD of their obligation to demolish the White River Bridge at Clarendon**, so that AHTD and FHWA may transfer responsibility for the bridge to us under the terms of the Arkansas Historic Bridge program. As the Compatibility Determination on the basis of which the historic bridge was obligated to be demolished is up for *mandatory* review in 2017 and FHWA has already undertaken an update of the NEPA review surrounding the bridge, **USFWS has a golden opportunity to revisit this issue at little to no additional cost to the agency or taxpayers**. In fact, as an amicable resolution **will save as much as $10 million-$15 million**, the estimated cost for demolition and remediation of the bridge. This is in addition to the savings that will come from resolving the matter outside of federal court.

If USFWS cannot find a way to preserve the bridge within the bounds of their regulations (which in actuality give substantial latitude and discretion to local refuge managers), **we ask for your assistance in getting USFWS to sit down in earnest with all involved parties to seek a reasonable compromise** through which the interests of all parties may be served. There are many options – including ones that USFWS proposed several years ago – that we have explicitly expressed a willingness to explore with them.

Thank you for your consideration of our request for assistance. If there is any further information we can provide, please contact us at 870.816.8421 or doug@whiteriverbridge.org.

Sincerely yours,

Doug Friedlander, Executive Director
Friends of the Historic White River Bridge at Clarendon

James Stinson III, Mayor
City of Clarendon

ADDENDUM

As an indication of the widespread support this project has garnered within the state of Arkansas, we have included the signatures of the following leaders that co-signed a related letter sent to members of our congressional delegation in December 2016.

(See attached letter)

Senator Jonathan Dismang
President Pro Tempore
Arkansas Senate

Keith M. Ingram

Senator Keith M. Ingram
Minority Leader
Arkansas Senate

(See attached letter)

Senator Ronald Caldwell
District 23
Arkansas Senate

Stacy Hurst

Stacy Hurst
Director and State Preservation Officer
Department of Arkansas Heritage

Joe St. Columbia, Chairman
Mississippi River Parkway Commission of Ark.

Terry Eastin

Terry Eastin, Executive Director
Big River Strategic Initiative

Toby Von Rembow, Chair
Arkansas Trails Council Executive Committee

Rachel Silva Patton

Rachel Silva Patton, Executive Director
Preserve Arkansas

Mason Ellis, President
Bicycle Advocacy of Central Arkansas

Bill Smith, Board Member
Northeast Arkansas Bicycle Coalition

Ruth A. Hawkins

Dr. Ruth Hawkins, Executive Director
Arkansas Delta Byways

Mark O'Mell, Executive Director
East Arkansas Crossroads Coalition

Lori A Hunt

Lori Hunt, President
Brinkley Chamber of Commerce

Susan Caplener

Susan Caplener, President
Clarendon Chamber of Commerce

Pat Audirsch, Chair
Marianna Economic Development Commission

Tracy Brick
Marion Chamber of Commerce

Chris Richey, Executive Director
Phillips County Chamber of Commerce

Holmes Hammett, Executive Director
West Memphis Chamber of Commerce

ATTACHMENTS

A. Letters of Support

- A.1: Senator Jonathan Dismang, President Pro Tempore, Arkansas Senate
- A.2: Senator Ronald Caldwell, District 23, Arkansas Senate

B. Recent articles highlighting and/or endorsing this project

- B.1: "Save this bridge." Editorial. *Arkansas Democrat-Gazette*, Sept. 30, 2016.
- B.2-3: "After the Harahan Bridge: Arkansas' next big opportunity comes riding on in." *Arkansas Democrat-Gazette*, Nov. 6, 2016.
- B.4: "Bridging the White River." Editorial. *Arkansas Democrat-Gazette*, Nov. 16, 2016.

C. Recent articles highlighting the broader initiative of which our work is a part

- C.1: "The cycling hub." Editorial. *Arkansas Democrat-Gazette*, Nov. 30, 2016.
- C.2-3: "Traveling the levee." *Arkansas Democrat-Gazette*, Dec. 12, 2016.

JONATHAN DISMANG
PRESIDENT PRO TEMPORE

SENATOR
28TH DISTRICT
OFFICE: 501-766-8220
dismang28@gmail.com

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THE SENATE
STATE OF ARKANSAS

VICE-CHAIR:
EFFICIENCY

MEMBER:
LEGISLATIVE COUNCIL
JOINT AUDIT
JOINT BUDGET
REVENUE & TAXATION
INSURANCE & COMMERCE
CHILDREN & YOUTH
LEGISLATIVE FACILITIES

December 15, 2016

The Honorable John Boozman
United States Senator

The Honorable Tom Cotton
United States Senator

Dear Senators:

Please accept this letter in support of the Friends of the Historic White River Bridge at Clarendon, which is working to preserve the White River Bridge and adapt it into a bicycling, pedestrian and nature-watching platform that would attract tourism to the region. I understand the Friends of the White River Bridge has contacted you to request assistance in working with the U.S. Fish and Wildlife Service regarding this goal.

Respectfully, I would ask you to give this organization's proposal every possible consideration. The White River Bridge project is a wonderful opportunity to create an outdoors attraction for cyclists, hikers and wildlife enthusiasts. Thank you for your time and attention in this matter. If I can be of further assistance in any way, please do not hesitate to contact me.

Sincerely,

Jonathan Dismang
President Pro Tempore
District 28

JD:lag

RONALD CALDWELL

SENATOR
23RD DISTRICT
OFFICE: 870-238-5421
ronald.caldwell@senate.ar.gov

120 CR 393
WYNNE, ARKANSAS 72396

THE SENATE
STATE OF ARKANSAS

CHAIR:
AGRICULTURE, FORESTRY & ECONOMIC DEVELOPMENT

VICE-CHAIR:
RULES, RESOLUTIONS & MEMORIALS

MEMBER:
LEGISLATIVE COUNCIL
JOINT ENERGY
JOINT BUDGET
TRANSPORTATION, TECHNOLOGY & LEGISLATIVE AFFAIRS

December 15, 2016

The Honorable John Boozman
United States Senator

The Honorable Tom Cotton
United States Senator

Dear Senators:

I am writing to express my support for the Friends of the Historic White River Bridge at Clarendon, as it endeavors to preserve the White River Bridge and adapt it into a bicycling, pedestrian and nature-watching platform. Once modified, the bridge will serve as the centerpiece of an effort to revitalize the region through the development of outdoors-related tourism in eastern Arkansas. I understand the organization has contacted you to request assistance in working with the United States Fish and Wildlife Service regarding this goal, and I hope you can offer your support.

Respectfully, I would ask you to give the Friends of the Historic White River Bridge's proposal every possible consideration. The success of this project could present a unique opportunity to facilitate economic development through tourism that is much needed in the eastern region of the state. Thank you for your time and attention in this matter. Please do not hesitate to contact me if I can be of further assistance in any way.

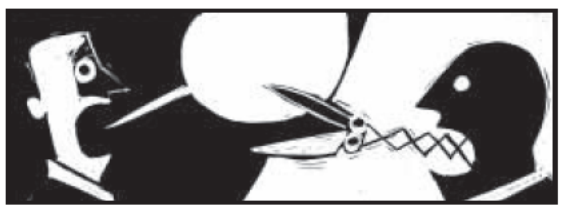
Sincerely,

Ronald Caldwell

Ronald Caldwell
State Senator
District 23

RC:em

EDITORIALS



Jeez it, the cops!

Word police have us surrounded

THE OTHER DAY a headline in your friendly statewide paper used the word "gypped" and the Internet fainted. Or at least one overly pure word cop called out the Paddy wagon. Such things happen when Internet critics spaz out.

Great Scott. So some honest-Injun headline writer Jerry-rigged a headline to fit a story about drillers and royalty money, and now all the natives are restless?

It reminds us of all the fuss when a certain coach for a certain football team in another state (the state rhymes with Salabama) used the word coonass—and it was caught on tape. After all, he was telling a coonass joke. Which are the best kind. This coach, whom we won't name but whose initials are Nick Saban, found himself in a real controversy when ESPN ran the tape, but bleeped the "coonass" part. As if it were a cuss word! We know nobody in South Louisiana who feels that way.

Now there's a Mexican standoff between those of us who'd like to use language to paint a certain picture, or many certain pictures, and those who'd rather reduce language to a series of colorless and unexciting phrases, like the ones you'd find in a modern boardroom. Complete with Language Coaches who'd like to integrate the company into the new normal and streamline survival strategy to sustain synergy by actioning a paradigm shift. And, at the end of the day, empower proactive associates to leverage key learnings with a holistic approach. (Trigger warning: Next sentence isn't meant to be literal.) Somebody shoot us.

So now gypped is supposedly forbidden. What next, Irish coffee? Indian giver?

The forces of political correctness will try to nibble away at the language, eliminating verve at every opportunity, however small. Until the language has been cleansed—of all meaning, and life. But then what will we have left? How long before all color is drained from the American language (close relative: English) and how long before that wild tapestry and ever-changing poem, that natural masterpiece, becomes reduced to Newspeak used by the kinds of politicians who live in mortal fear of offending anybody who might accidentally be listening?

Like the poor, we'll always have those with us who are just dying to be offended. And highly offended at that. (What, not just medium-offended?)

We'll not have it. Not as long as aging fingers can type. Long live our language! Long live the coonasses who tell their kids to raise dat window down, New Joisey Tough Guy-ese, Tex-Mex, California Laid Back-ery, and Boston Brahmin. And all the ways they use their words—and experiences—to convey their thoughts. We promise not to be offended the next time we hear the word redneck. In fact, it would be a promotion for some of us all too genteel types.

Let's make a deal: The word police allow us to use gyp on occasion, and we won't get upset when somebody mentions fish wrapper.

Deal? We promise we won't Welsh on it.

Save this bridge

AS THE week came to a close, all was set to go for the rally last Saturday at the base of the historic White River Bridge in Clarendon, and just about every dignitary in the state had signed on to support the fast-growing movement. And why not? What's not to like? For this ambitious project combines the attractions of history, nature and state and local pride.

To quote Mayor Jim Stimson III of Clarendon, "There is tremendous enthusiasm among our citizens to save this bridge." It had been scheduled for demolition, but even the state's highway department had the good sense to change its mind.

The 85-year-old bridge may get a whole new lease on life—and the prospect has drawn cheers from people around the state and the world, including Governor Asa Hutchinson and the state's Department of Arkansas Heritage. The result should be the longest pedestrian and bicycle bridge in the world over some of the most interesting bottomlands in the world.

"The world is watching," to quote Connie DePriest of the Friends of the Historic White River Bridge.

The western approaches to the bridge extend over the Cache River National Wildlife Refuge. The refuge includes some 56,000 acres spread over Jackson, Woodruff, Monroe and Prairie Counties, and is one of the few places in the Mississippi Flyway unchanged by canalization and drainage projects. Ducks galore!

This small, wonderful state has benefited by following through on visions before. This time they won't be dreams of industrialization but its opposite: a return to primeval times when the Indian tribes celebrated Arkansas' happy hunting grounds. And white explorers looked with wonder at the future state that awaited them in history. Lewis and Clark—and the president who dispatched them, Thomas Jefferson—would surely be pleased.

What a blessing it is once again to not just watch history being made but to make it. And without besmirching the natural environment. As with the economy, there's nothing like a good leaving-alone to benefit all, and not just in this generation but for generations to come. Or what used to be called posterity. As in the Preamble to the U.S. Constitution:

"We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

Just as today, by working with nature instead of exploiting it, Arkansas can proceed to save not just a bridge but an old vision of the state restored and refreshed. This used to be called conserving nature—as in conservation—and once again it can be practiced with a good conscience instead of a bad one.

OTHERS SAY

Put 'em up

PITTSBURGH POST-GAZETTE

For years, the U.S. Military Academy at West Point has required its male cadets to box in their first year. But women weren't allowed to join them. Now West Point has changed its rule: Plebe women, too, must box.

As long as boxing is a requirement for cadet men, that is what equality requires.

Some may argue that the risk of concussion outweighs the benefits. According to a *New York Times* story last year, nearly 1 in 5 West Point concussions came from boxing. But West Point's students, women as well as men, have chosen to enter a dangerous profession. Exempting women cadets was coddling, not a word anyone would expect in the same sentence as "West Point."

The U.S. Armed Forces have opened all combat roles to women, and five women from this year's West Point graduating class chose to pursue the responsibilities of infantry officers. In the U.S. Military Academy, too, women deserve to be treated equally. This boxing requirement is part of that equality.

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Arkansas Democrat Gazette

Arkansas' Newspaper

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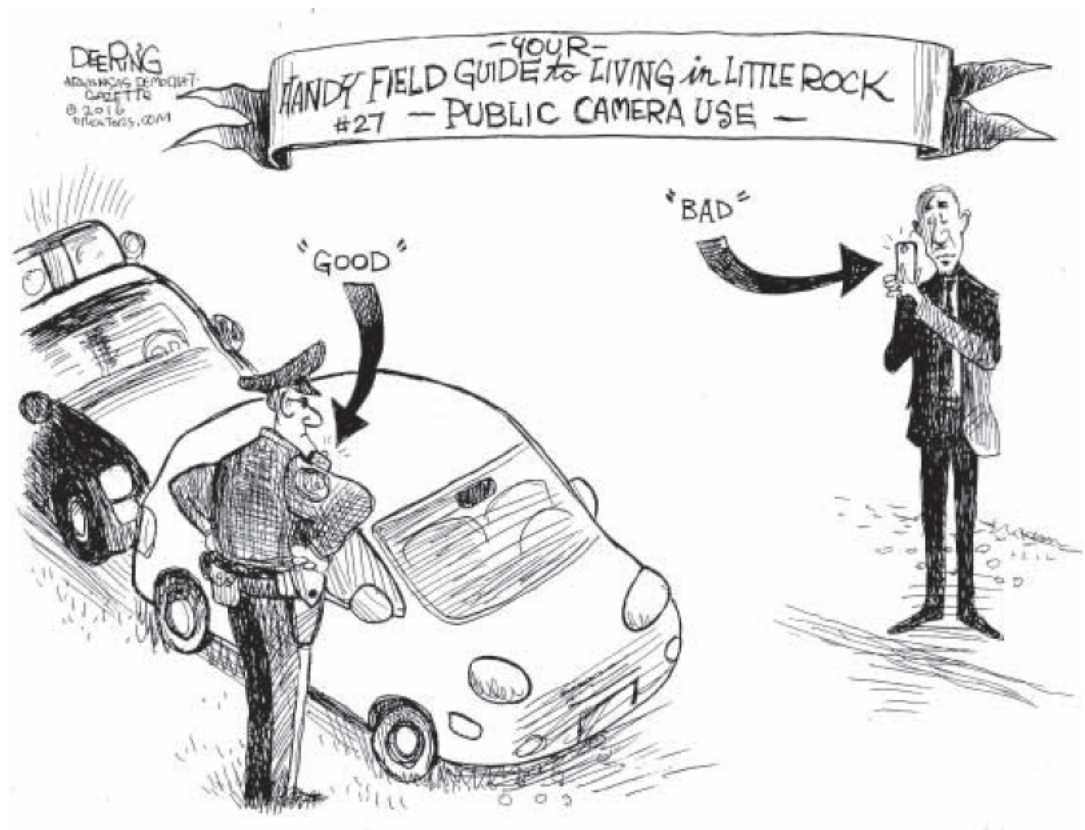

COLUMNISTS

The Clinton calendar

David Brooks

Hillary Clinton made a very pertinent comment last week: "'Why aren't I 50 points ahead?' you might ask." Indeed we might!

Clinton is running against a man whose approval ratings are under 40 percent and his disapproval rating is the highest of any candidate in American history. Only 38 percent of Americans think Donald Trump is even qualified to be president, according to a Quinnipiac survey.

Trump has practically no campaign to speak of while Clinton has a very professional one. Clinton is swamping Trump on the airwaves. Estimates vary by source, but according to *Advertising Age,* $145 million has been spent on pro-Clinton TV and radio ads while only $4 million has been spent on pro-Trump ads.

Meanwhile, the Trump scandals blow through like hurricanes in the tropics. Thanks to reporting by the *Washington Post,* we've learned that the Trump Foundation makes Trump University look like a model of moral rectitude. Donations Trump raised through that foundation went to pay his company's legal bills and to buy two portraits of himself.

Every week he manages to stain his character a deeper shade of black.

And still he is within 2 or 3 points of Clinton nationally and leading in a bunch of the key swing states. When you look at the secondary questions in the polls, Trump is doing miserably, but in the top-line "Who are you going to vote for?" question, he's doing decently.

What is going on here?

Tyler Cowen recently gathered some of the more interesting theories on his blog Marginal Revolution: America is not ready for a female president. The Democrats have a lot of policy proposals, but the Republicans are running on big ideas. A more diverse country is a more fractious and polarized country, and over the past few weeks white Republicans have been coming home to their candidate.

I see some truth in those theories, especially the last one. But my single explanation would be this: Clintonworld is a semi-closed system that operates according to its own calendar. Donald Trump is egregious, but at least he's living in the 21st century, as was Bernie Sanders. Clintonworld operates according to its own time-space continuum that is slightly akilter from our own.

In the 21st century, politics operates around a different axis. It's not left/right, big government/small government. It's openness and dynamism versus closedness and security. It's between those who see opportunity and excitement in the emerging globalized, multi-ethnic meritocracy against those who see their lives and communities threatened by it.

Clintonworld is a decades-old interlocking network of donors and friends that hasn't quite caught up to these fundamental shifts. That's because Clintonworld, in the Hillary iteration, is often defensive, distrusting and oriented around avoiding errors. In each of her national campaigns, Clinton has run against in-touch-with-the-times men who were more charismatic and generated more passion than she did. She's always been the duller, unfashionable foil.

Her donor base and fundraising style is out of another era. Obama and Sanders tapped into the energized populist base, but Clinton has Barbra Streisand, Cher and a cast of Wall Street plutocrats.

Her out-of-time style costs her big with millennials. If she loses this election it will be because younger voters just don't relate to her and flock to Gary Johnson instead.

We have an emerging global system, with relatively open trade, immigration, multilateral institutions and ethnic diversity. The critics of that system are screaming at full roar. The champions of that system—and Hillary Clinton is naturally one—are off in another world.

There is a strong case to be made for an open world order, and a huge majority coalition to be built in support of it. But she is disengaged.

Don't get me wrong. I still think she'll eke out a win. I just hope her administration is less fogyish than her campaign.

David Brooks is a columnist for the New York Times.

Two against one

JAY AMBROSE
TRIBUNE NEWS SERVICE

It was two against one in the Monday night presidential debate. We had moderator Lester Holt, who apparently assumed he was a candidate, too, and Hillary Clinton, well-equipped with policy malformations, against Donald Trump. Trump wasn't nearly as bad as I anticipated—much closer to reality on the economy, police, guns and Iran, for instance, if issues still count in this contest.

Again and again, the ill-informed, biased Holt asked Trump tough, personal questions and, when he didn't like the answers, interrupted him in a way that should have been left up to Clinton, who was spared an equivalent assault. They call it fact-checking, but this was a debate, not a reporter's interview, and he had some facts utterly confused.

The economy was issue number one, and Clinton espoused the usual, worsening federal interventions, the most absurd being President Barack Obama's global warming plan. Now before the Supreme Court, the clearly unconstitutional plan could cost all kinds of fossil fuel jobs, as Trump pointed out.

Trump had it right when he talked about a hefty reduction of the highest corporate tax rate in the developed world and otherwise arranging a means to bring home billions earned abroad. Clinton said he had no plan to do either, which is either a lie or ignorance. Holt, ever alert on Trumpian mishaps, said nary a word.

Trump went overboard as usual on his trade attacks, although reviewing some provisions in some treaties could make sense. Both are wrong on the Trans-Pacific Partnership deal that could be important economically as well as diplomatically. The difference is that Trump comes at it sincerely, while Clinton, who helped formulate it and praised it to the skies, is now against it as a matter of political convenience. In other words, deviousness remains her middle name.

Clinton was also wrong on thinking background checks are the answer to too many guns in criminal hands. Go ahead and expand them, but there is no evidence that they work, whereas there is plenty of evidence about the effectiveness of stop-and-frisk as recommended by Trump to save thousands of lives in Chicago. Both Clinton and Holt made it sound as if stop-and-frisk was now illegal, at least in New York City, when what we have had instead is an officially condemned ruling by a federal judge that it had been unconstitutionally applied in the city.

There was lots more to the debate, of course, and Trump repeated old stupidities along with too much self-defensive focus on himself. But that was caused in no small part by Holt hitting him with questions on such things as not turning over his tax returns, his long-term refusal to give his birther theory a funeral and his saying Clinton did not look like a president. If Holt thought that was a service to the American people, why didn't he think it a service to bring up the Clinton Foundation, the FBI's condemnation of how she handled classified material as secretary of state or her own ways of being hurtful to women?

Clinton, at the end, smashed Trump with things he should never have said about individual women, and—showing signs of needed self-control—he was gentlemanly enough not to bring up the way her husband ruined the lives of multiple women and she colluded in their defamation.

Just as Trump decided not to invite Gennifer Flowers to the debate, it's now his job to correct himself sufficiently to keep Clinton out of the White House. Impossible? We will see.

Guide to the Editorial Page

Only the editorials express the opinion of the *Arkansas Democrat-Gazette.* They almost always appear on the left side of the editorial page. The columnists—local and syndicated—express only their own opinions, as do the cartoonists whose work appears on this page.

Arkansas Democrat Gazette

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COLUMN ONE

PAUL **GREENBERG**

At the end of the day

The light shines bright on my old Arkansas home. It's been another brilliant October, something else we in Arkansas tend to take for granted about this small, wonderfully interwoven state. Let Texans brag about how big their state once was in comparison to all the others—before Alaska became an empire of its own based on the same claims Texans once made about their state: oil and sheer size. Size may make indeed make an empire but never a home.

It's all enough to give this old-timer a severe case of nostalgia, which someone once defined as homesickness for the past. Oh, for the glory that was Greece, the grandeur that was ... Grady. Yes, Texans might once have gloried in the oil derricks that sprouted from Midland in the west to Kilgore in the eastern part of their vast domain, but Arkies can take pride in simpler, better things, like our close ties. For if nobody you know may have gone to the same college or law school you did, then it's a safe bet he—or she—went to the same barber or beautician. ("Remember old Speed at the Town & Country shopping center? He could always squeeze you in at the last minute and throw in a good story on top of it as an extra added bonus. And that old .38 caliber Smith & Wesson he kept handy testified to his firm belief in the Second Amendment and all rights and privileges pertaining thereto.")

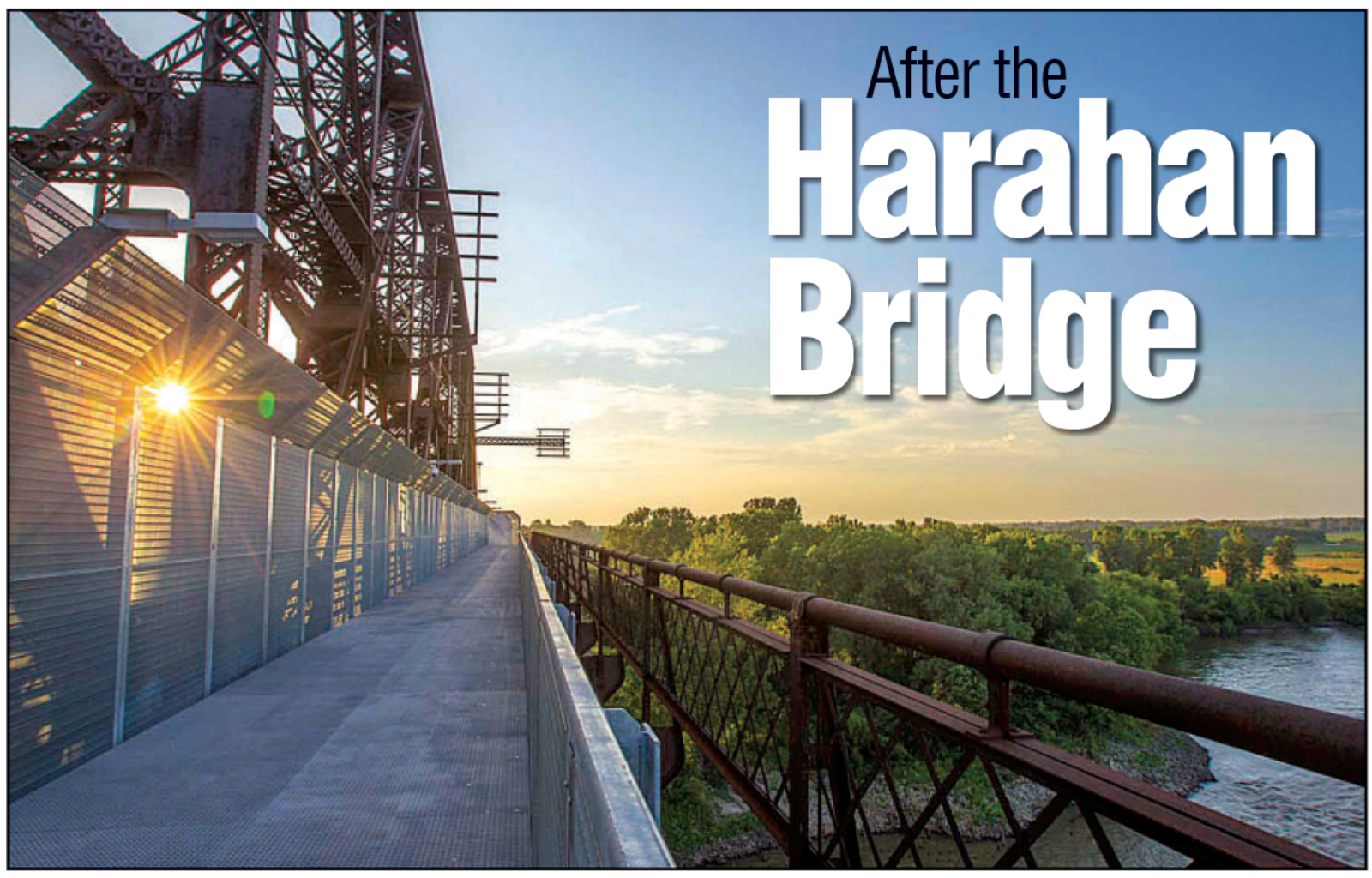
Me, the best I can do is carry my concealed weapon permit with me and prepare to wave it menacingly at anybody who dares confront me. Fat lot of good that should do. It's been better than half a century since I qualified with a .45 at Fort Sill and walked away with relief, my poncho draped over my fatigues. Serving in the U.S. Army may have been the second most educational experience of my life, the first being helping to rear teenagers, which doubtless hasn't become any easier since.

Even back then, helping to rear a teenager was enough to send me for a consultation with my friend, neighbor and spiritual counselor, the Venerable Reverend Richard Milwee. He just smiled understandingly. For he doubtless had heard the same sad story about the travails of what was then considered modern-day parenting from many of his congregants. They had no way of anticipating what concerns awaited today's post-modern, post-manners moms and dads. For each generation seems to operate under the delusion that theirs is the first to encounter such an experience.

I can still remember the only time my own father laid a hand on me, just as I remember the only time I gave my own son a firm kick to the backside for taunting his sister one too many times. The more things change, as the French say, the more they remain the same. From generation unto generation.

So hold on for still another trip on this carousel. The faster it goes, reducing time itself to just another blur, the sooner it will be before we all leap off into eternity. Even now I can see the assemblage of ghosts there awaiting for a happy reunion. As I'm sure you can, too, as you grow older. Everybody has his own favorite vision of the bucolic, beatific last day. And what a happy day that will be! See you there. You can count on me, if for nothing but memories and everlasting hopes.

Paul Greenberg is the Pulitzer Prize-winning editorial writer and columnist for the Arkansas Democrat-Gazette.



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The pedestrian-friendly and bicyclist-accommodating Big River Crossing, also known as the Harahan Bridge, stretches across the Mississippi River from West Memphis to Memphis.

Arkansas' next big opportunity comes riding on in

Photo courtesy of Jonesboro Police D.A.R.E.

Bicyclists join together in a ride across the White River Bridge.

DOUG FRIEDLANDER AND TERRY EASTIN
SPECIAL TO THE DEMOCRAT-GAZETTE

WEST MEMPHIS—It was a dramatic moment as delegations from Arkansas and Tennessee set out at high noon on Oct. 22 from the West Memphis and Memphis ends of the newly christened Big River Crossing—otherwise known as the Harahan Bridge—to meet in the middle, shake hands, and dedicate one of the longest bike-pedestrian bridges in the world.

Thanks to visionary leadership, this project has put Memphis and east Arkansas squarely on the map of a rapidly growing national passion for bicycling, walking, and other forms of outdoor recreation, eco-tourism, and physical fitness.

The development of this attraction was the impetus for the St. Francis Levee Board, which manages the levee from Mississippi County to Lee County, to approve the development of a bike trail atop the Mississippi River levee from the bridge's western terminus in West Memphis all the way to Marianna.

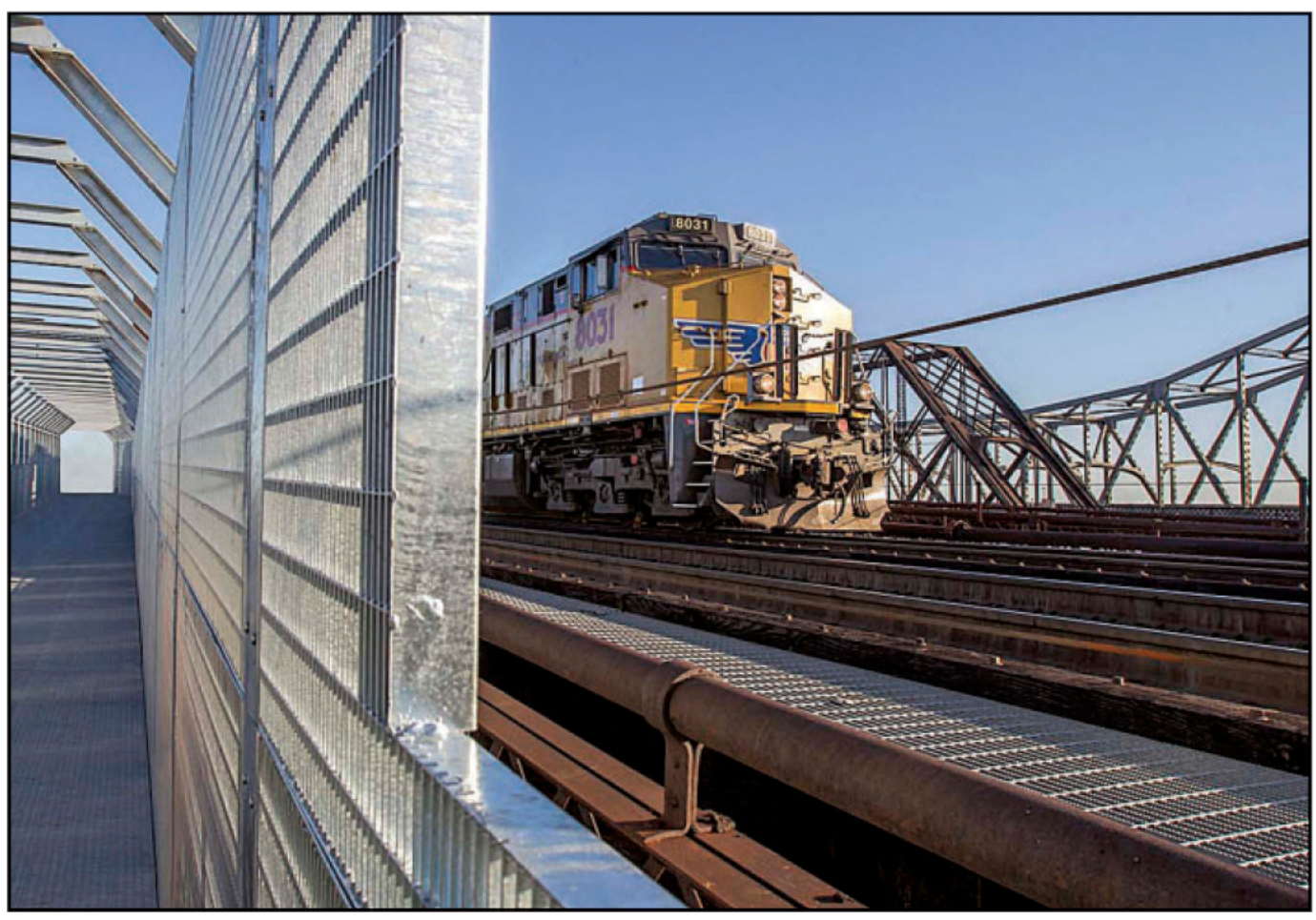
With the possibility of paving a road from Marianna to Helena through Mississippi River State Park being explored and the ongoing development of Delta Heritage Trail State Park—a rails-to-trails conversion that when completed will provide an 84.5-mile bicycle path from Helena to Arkansas City—Arkansas will be able to boast an extraordinary route that would allow avid bicyclists to traverse nearly the entire length of the Natural State on dedicated bicycle paths, an astonishing jewel of an attraction.

But what about a route connecting Memphis to Little Rock, which thanks to an array of developments of its own over the past decade has emerged as a favorite destination for bicyclists? The Arkansas Department of Parks and Tourism website lists as one of its Grand Tours a Little Rock-to-Memphis Tour which

See **BRIDGE** on Page 6H

Photo by Brandon Rush

The historic White River Bridge near Clarendon, constructed with traditional concrete barriers, could be part of an epic bicycling route that traverses nearly the entire length of Arkansas.



A train crosses the rail line of the Harahan Bridge between West Memphis and Memphis where a bike-pedestrian bridge was dedicated Oct. 22.

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Arkansas Democrat Gazette

Rectify: reeling through the wilderness

B.3

PHILIP MARTIN

I remember hearing a story about a man who was released from prison after more than 20 years. One of the hardest adjustments he had to an outside world that had attained an Internet and cell phones while he was inside was simply walking on the various uneven surfaces—broken sidewalks and sloping lawns—he encountered in the free world. Inside everything was smooth, flat-planed and predictable. His legs had gotten used to the rhythms of walking and standing a certain regular way; they went rubbery compensating for the variety of experience available in the streets. His equilibrium suffered and he staggered like a sailor trying to recover his sea legs.

That lasted only a few days at most. But it was what he remembered most about his release: the way the free world rocked and gave and unbalanced him.

This is the sort of thing most of us would have a hard time imagining, but it's the kind of detail that feels true. Most of us are familiar with the sense of dislocation that often accompanies a change in environment, even if it's only emerging into the daylight after spending a summer afternoon in a movie theater. If you're taken out of the world for a while, whether by your own design or by some compelling authority, it takes a little while to adjust. It takes a little while for our dreams to release us.

I've got the sense I'm doing this wrong. What I want to do is say something about a television series that is coming to an end, one that most of you haven't seen and that some of you probably haven't heard about. One that might not appeal to some of you. It is called *Rectify* and I believe that it deserves to be considered among the very finest shows that have ever played on television, mostly because it is not the sort of thing that we have been conditioned to expect of television.

Instead, *Rectify* has about it the feel of timeless fiction, an investigative interest in the way human beings court affection and seek to protect themselves in the clinches. It has a kind of moral integrity, an insistence on the primacy of private life; on first and final relationships. It is about a man released from prison and his struggle to re-integrate into the everydayness of grocery stores and coffee bars.

It is about a man who, having been trained to consider every breath, is suddenly thrust into an inconsiderate universe. It's about the ways we look for meaning in a violently random world. It's about figuring out how to live.

All that is vague on purpose. I don't want to review the show, to critique the actors' performances or encapsulate the arc. Either you know the show or you don't, and I don't imagine that my writing about it is likely to make anyone want to hunt down its previous seasons on DVD or tune into the Sundance Channel to watch the show's final few episodes. I hear from people all the time who tell me that they use movies and books and TV as entertainment, as a means to escape from the imperatives they feel pressing in on them from all sides. They contend they use stories as a kind of narcotic, a way of forgetting themselves.

And I don't guess there's anything wrong with that. I'm going to read the new Jack Reacher book. I kind of like James Bond.

Still, it's rare to find good art, and when you do it's worth spending a little time thinking about it. It's worth asking yourself why you think it affects you the way it does, why the words spoken by two actors pretending to be two characters sitting in a room surrounded by dozens of technicians working outside the frame can still somehow move you to the very brink of tears. It's worth thinking about what that means. Why do we buy the illusion? Why do these other-manufactured dreams have the same power—maybe more—than the ones that come to us unbidden?

I know how the trick is done. But I can't explain the magic.

Courtesy and convention require that I disclose that *Rectify* is the product of a friend of mine named Ray McKinnon, who is credited as the creator of the show. (It was maybe seven Christmas Days ago that we ran into Ray on the corner of Kavanaugh Boulevard and Ozark Street in Hillcrest and he spent the better part of an hour describing the series—he even had the title. I told him my story about the man who had trouble walking after he was released from prison; he listened but didn't incorporate it into the series. He had his own ideas.)

But the truth is television shows and movies are collaborations between people who may have competing interests and certainly have different ideas about what they feel is important to communicate. To say it is Ray's show is a shorthand way of suggesting its sensibilities—when I hear the characters speak I sometimes hear Ray's voice. But in this sort of art-making, everybody's talents and obsessions are comingled; with different actors, different folks in the writers' room, it would be a different show.

And maybe not as vital to our time as the present version, which has acquired a kind of soft-footed grace. *Rectify* seems like an antidote to some of the more toxic currents of our culture, to the thoughtless and nihilistic streak that consumes our politics and provides us with fit targets for snark.

It is the duty of the artist to be empathetic, to somehow make what is peculiar and personal resonate and universal. Our default is to tribalism, to taking up with others with whom we share certain attributes, less a skin color or a faith than a story about how we have arrived in the moment. We take comfort in a common history, we are reassured by our agreement with the consensus.

It is the artist's job to make us understand that we are all prisoners of our own experience, and that it's sometimes necessary to feel bereft and confused, staggering across unfamiliar terrain. For that is what it is like to be set free.

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Read more at

www.blooddirtangels.com

Bridge

• Continued from Page 1H

consists of a series of byways that roughly parallel Interstate 40 and passes through Des Arc and Forrest City on its way to West Memphis, where it crosses the Harahan Bridge.

But with all these developments, an excellent alternative with some of the state's best natural and cultural attractions suggests itself: a route that crosses the bridge from Memphis to West Memphis, then heads immediately south through Marianna, continuing through Mississippi River State Park to Helena, a path nestled between the mighty Mississippi on one side and Crowley's Ridge on the other.

From there, the route takes a turn toward agri-tourism as it heads west through some of the most fertile and productive land on the planet. With all manner of row crops (cotton, soy, corn, and—uniquely Arkansas—rice) on display, riders will get a veritable chef's tour of an industry that is central to the identity of the eastern half of the state.

If the dreams of an ever-growing number of grass-roots and statewide leaders are realized, the trail would then cross the historic White River Bridge at Clarendon, which at almost 2.5 miles in length will have been converted into the longest elevated bicycling, pedestrian, and nature-watching platform in the world.

After crossing the handsome steel span over the White River, the route is surrounded on both sides by a magnificent canopy of the Big Woods as the remaining elevated segments (adorned in classic 1930s-era stylized concrete barriers) follow the dividing line between the White River and Cache River National Wildlife Refuges.

From there it's on to Little Rock via the byways that snake through the classic hamlets and small towns of the Grand Prairie. Just imagine it: A river, ridge, row crops and refuges route—a snappy brand for marketing which does not even account for the historical and cultural heritage attractions it includes—connecting Memphis and Little Rock that would call out to visitors with a wide variety of interests, including eco-tourism (birding, wildlife watching, and those passionate about the state's diverse geography including hills, rivers, bayous, sloughs, and oxbow lakes), agri-tourism, music (blues, gospel, rockabilly, and rock 'n' roll), Civil War, and civil rights (especially a route that connects Memphis, Helena/Elaine/Lake View, and Little Rock). This would be an epic Great American Route that would attract visitors from all over the world.

Most of the elements of the aforementioned Great American River, Ridge, Row Crop, and Refuges Route (if you fancy the title) are already in the works. There's just one part that's in the wind: The historic White River Bridge at Clarendon has been on the demolishing block for some time. Only a lawsuit by the nonprofit Friends of the Historic White River Bridge at Clarendon and the cooperation of the Arkansas Highway and Transportation Department in temporarily delaying the letting of bids to demolish it stand in the way of a mistake that will long be rued if the demolition is allowed to proceed.

Aside from the loss of what could be the centerpiece of a world-class bicycle route between Memphis and Little Rock, there are ecological and fiscal arguments in favor of preserving rather than demolishing the historic bridge. Among these is the estimated $10 million-$15 million price tag for demolition and remediation, which will come out of state and federal highway coffers. At a time of substantial federal deficits and with our state exploring ways to increase highway revenues, it is hard to countenance an expenditure that would remove something that has a recipient willing to take ownership and which stands to provide significant tourism and quality-of-life benefits to the state.

Fortunately, the Friends of the Historic White River Bridge at Clarendon are not the only ones compelled by these arguments. Both Arkansas Governor Asa Hutchinson and Department of Arkansas Heritage Director Stacy Hurst have been avid supporters of the project, going so far as to advocate aggressively for the preservation of the bridge as far away as the halls of Washington, D.C.

In addition, numerous bicycle and outdoors advocacy organizations have added their voices in support of the project. On top of that, a growing groundswell of public support for preserving the bridge has emerged in the past few months. On Sept. 24, a rally was held at the foot of the historic White River Bridge in Clarendon that had robust attendance including bicycling enthusiasts from Little Rock and Helena. An online petition launched a week before that has already gathered more than 1,350 signatures representing 39 states and 28 countries (94.5 percent of all signatures were from the United States and 77 percent of all signatures were from Arkansans), while an online fundraising campaign launched in early October has raised over $15,000 to help cover legal and other costs associated with saving the bridge.

Finally, since the lawsuit to save the bridge was first filed in federal court in June, the effort to save the bridge has garnered substantial media coverage, including being featured once on television, twice on the radio, and more than a half-dozen times in print, including a Sept. 30 editorial in the *Arkansas Democrat-Gazette* titled "Save this bridge."

This brings us back to the recent grand dedication held in West Memphis and Memphis. The similarities between the celebrated efforts to preserve and adapt the Harahan Bridge for bicycle/pedestrian use and those to do the same for the historic White River Bridge at Clarendon are hard to miss.

Just like the Harahan Bridge development caused a cavalcade of dominoes (new developments like the bicycle path connecting West Memphis to Marianna) to fall, imagine the future developments that will make sense once the historic White River Bridge is established as the crowning jewel of the River, Ridge, Row Crop and Refuges trail.

We're not just talking about other tourism attractions that could be developed later because they're on the route, but also the cascade of economic development for the struggling communities of rural eastern Arkansas in the form of restaurants, convenience stores, bicycle repair services, and places for overnight accommodation both formal (like hotels and bed & breakfasts) and informal (like Airbnbs).

As we all start coming back down to earth after the thrill of dedicating the Harahan Bridge, some part of us naturally says, "That was amazing. When do we get to do something like this again?" The answer is right in front of us if we have the eyes to see it. If the White River Bridge is saved from demolition and successfully adapted for bicycling, pedestrian, and wildlife watching, it will surpass the Harahan Bridge and take its place among the longest dedicated bicycling-pedestrian bridges in the world. This, in many ways, will be the realization of a larger dream to make our region a national and international leader in outdoors and adventure tourism, of which the Harahan Bridge was simply the first part.

On that day, the celebration will surely rival the one that took place in 1931 when the bridge was first opened for vehicles.

A decade or so ago when conversations about the Harahan Bridge began, there were a few brave souls who had the foresight to see past the reasons why it wasn't a good idea or the safe thing in which to invest private funds. In boldly going forward, these people created something extraordinary in which many delight and of which everyone is proud.

It makes me think of the saying about how a success has many fathers, while a failure always seems to be an orphan. A success like the Harahan Bridge did indeed have many fathers by the time the ribbon was cut, but in its early days and in the many difficult days in between it probably had far fewer courageous supporters that claimed it, to whom we all owe a great debt of gratitude.

Likewise, as a small but determined group of people attempt to follow up the Harahan Bridge with a "Miracle on the White River," every one of us has the opportunity to decide whether we'll be one of those that step forward with vision and courage to be a father to the dream long before success is evident, or whether we'll remain on the sidelines and leave it an orphan. The choice is ours.

To learn more about how you can support the efforts to preserve and adapt the historic White River Bridge at Clarendon, visit whiteriverbridge.org.

Doug Friedlander is with Friends of the Historic White River Bridge at Clarendon. Terry Eastin is Executive Director of the Big River Strategic Initiative, a collection of projects including the Big River Crossing, the Delta Regional River Park and the Big River Trail designed to activate and celebrate the Mississippi River and its surrounding landscape.

Sunday Crossword Puzzle

Edited by Rich Norris and Joyce Nichols Lewis

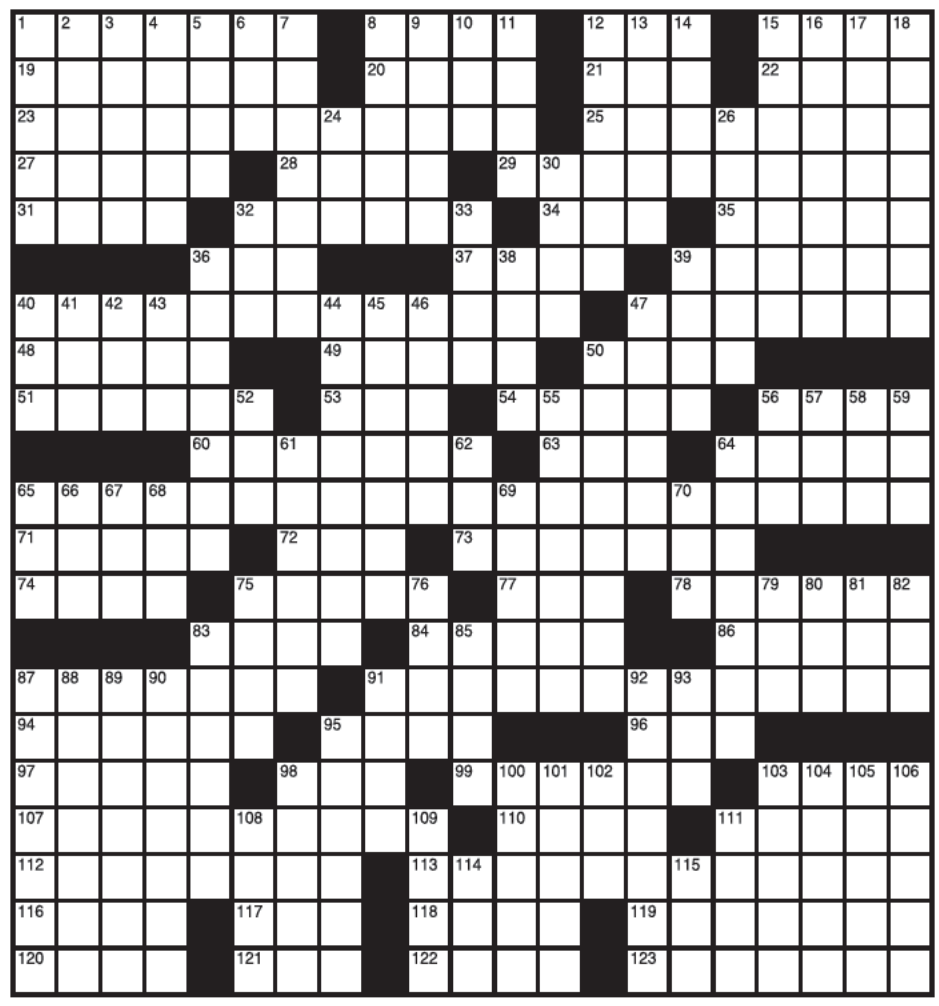
"FOLLOWING UP" By KEVIN DONOVAN

ACROSS

1 Manchester United rival
8 __ En-lai
12 Tool used in a box
15 Film add-on
19 Perform again
20 Next in line
21 U.N. workers' agcy.
22 The snakes in Indiana Jones' "Why do they have to be snakes?"
23 Profession for the principled?
25 Exit quietly, in a Dylan Thomas poem
27 Run ashore
28 Bill collector
29 Dr. Seuss, e.g.?
31 Sask. neighbor
32 Can't abide
34 Small cells
35 Jockey competitor
36 __ code
37 Get together on a ranch
39 Catlike
40 Promising market indicators?
47 Weather map depiction
48 It's not always easy to get into
49 Not a soul
50 Tries earnestly (for)
51 Piling on, say
5 3The Librarians" channel
54 More than just cooks
56 Challenge for Homer
60 Put down
63 ORD posting
64 Equipped
65 Toy trains for tycoons?
71 Phobias
72 __ de mer
73 Resonator for a jug band bass
74 No more than
75 Nissan Stadium player
77 "... 'tis not to me __ speaks": Romeo
78 Big name in Bible distribution
83 Delicate
84 Totally lost
86 Aquarium fish
87 Only NATO member with no standing army
91 What pillows may do, in a kids' room?
94 Newcomer
95 Nursery resident
96 Sun Tzu subject
97 Where to see stars
98 Pursue relentlessly
99 "The Piano" extras
103 Buck
107 Periods of distress?
110 Blew the whistle
111 What oaks may provide
112 Put back in
113 Outperform crew members in the ship play?
116 Love god
117 In the past
118 Biblical captain
119 Crown coatings
120 Holiday song closer
121 "Man on the Moon" group
122 Ring jinglers
123 Boxing's "Manassa Mauler"

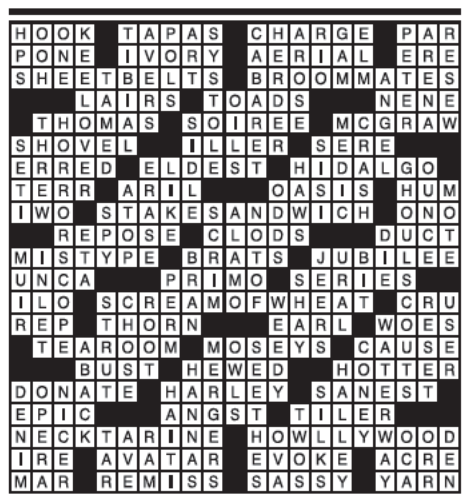
DOWN

1 First word in the Beach Boys' "Kokomo"
2 Drive off
3 Lean-eater Jack
4 "Fear of Flying" author Jong
5 Close at hand
6 Smoke remains
7 Mail
8 Easter Island's country
9 Pair for date night
10 It may be checked at the station
11 Pakistani language
12 Like a storied wolf
13 Medicinal plants
14 Senate garment
15 Tree that typically has paddle-shaped leaves
16 Baltic republic
17 Organs sometimes vented?
18 African menaces
24 Tailor's concern
26 Old anesthetics
30 Numbers to shoot for
32 "Forrest Gump" lieutenant
33 Compared to
36 Pop/country singer Lee and others
38 Juice for PCs
39 Features of many '50s-'60s cars
40 Ryder Cup team
41 Advanced deg.
42 Bit
43 Reuters competitor
44 Personal
45 Grand Canal traveler
46 Celebrated
47 Knowledgeable, in Nantes
50 Move up the corporate ladder
52 Come together
55 "The Walking Dead" veterinarian
56 Dude
57 Org. for physicians
58 Wine choice
59 QB stats
61 Leave a note for, maybe
62 Morning phenomenon
64 Settler?
65 Project Blue Book subj.
66 Presidential souvenir
67 Mineo of "Exodus"
68 Shout
69 It may be coiled on a saddle horn
70 Car nut
75 Pitchfork part
76 What a ponytail partly covers
79 OED info
80 Ike's WWII command
81 Friend of Yossarian in "Catch-22"
82 __ Geo: nature channel
83 Diamond surfaces
85 The bad guys
87 Gets coverage for
88 Penny-colored
89 Vague answer, say
90 Driving need
91 Drive
92 Suddenly caught on
93 Possesses
95 Hand-played drum
98 Sorrowful song
100 Test for purity, as gold
101 They're often taken orally
102 Cellular messenger
103 Titleholder
104 Guides for drivers
105 Confuse
106 Not at all in order
108 Fabric flaw
109 Finished
111 Piece of fiction
114 "The Tell-Tale Heart" author
115 Peoria-to-Gary dir.



11/6/2016

Answers to last week's puzzle



10/30/2016

The election's over!

Reality check

BRENDA LOOPER
ARKANSAS DEMOCRAT-GAZETTE

I apologize in advance: I won't be funny today, at least not intentionally. Instead, very seriously, I make this plea: Cut it out, and get a grip.

It's now a week later, and it seems the campaign is still going on. Some of us would really like to move on, thank you very much.

For everyone: Stop taking offense at everything that doesn't fall in line with your beliefs, and recognize the differences between emotion-backed opinion and facts. Differences of opinion are inevitable, and unless you live in a cave, you are among people with different beliefs than you every day. Respect those differences, don't paint all your opponents with the same brush, and try—just *try*—to get along without expecting everyone to give you a safe space from things that might possibly offend you.

For those who voted for Hillary Clinton, sorry. Spit out any sour grapes and don't let yourself get too down or be baited by those who can't let rationality or civility get in the way of some deserved gloating. When you respond in kind, it just perpetuates the cycle.

For those who voted for Donald Trump, congratulations, your guy won. However, realize that not everyone is happy with the results of the election, nor have they been happy with the entire campaign season that spent most of its time in the mud. People will protest what they don't like, and as long as they stay peaceful, they're well within their rights. If you don't like it, you don't have to pay attention to it; there is no right not to be offended. And don't forget history: There were indeed protests when Barack Obama was elected and re-elected, and the Tea Party movement is just one enduring example.

Accept that a large portion of the population is rightfully frightened of what the future has to hold, considering all the documented incidences of verbal and sometimes physical assaults on opponents, and the expressed views that place women, minorities, the LGBT community, immigrants and others in the cross-hairs of hateful rhetoric. This is what your candidate has advocated, and it has emboldened far too many people to continue the abuse past Election Day.

Reports of immigrant children being bullied, Muslim women's hijabs ripped from their heads and the like are not what we should be hearing in a civilized society. If someone is attacked primarily because of ethnicity, religious beliefs, or gender, it's discrimination. Pointing that out is not.

The media reports; that's what it's *supposed* to do. Reporting something you perceive as negative about your guy, or something positive about the opposition, isn't proof of bias. If you look for bias, that's all you will find. Objectively, most reputable news sources have little to no slant in overall content, and are not there to enable your confirmation bias.

For pollsters: Fix your antiquated polling techniques immediately or do as Gallup did and cease predictions on the presidential race.

For President-elect Trump: Please, please, *please* control yourself, and lay off Twitter. Seek the advice of wise counsel, especially in regards to the costs and constitutionality of much of what you have proposed. Understand that when you wind people up with the sort of rhetoric you've used, there will be ramifications that can be felt for years. Take responsibility for your actions. Most of all, surprise us by not being who you were on the campaign trail. Oh, and hire a fact-checker, please, for all our sanity; too many people believe everything you say, even when it's not the least bit true.

For Secretary Clinton: Sorry you lost, but keep fighting for women and children, because they need the help. Understand that even though you lost, some people can't let it go and will continue to attack you. Rise above.

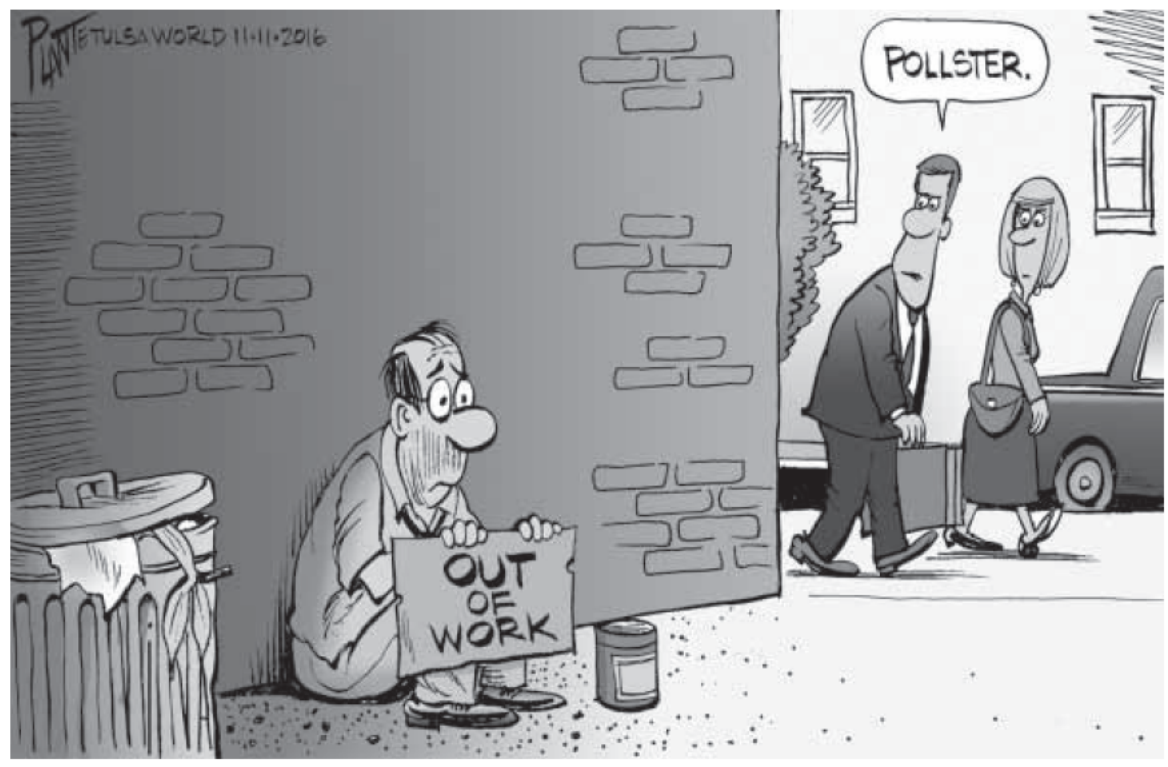
For all of us: Breathe. Keep calm. Be civil. Laugh. Pet a cat or a dog. Enjoy life, because it goes on.

I'm proud to work for a newspaper that takes its role seriously and keeps news and opinion separated. If only most of the cable news outlets were more interested in news than what accusations are being flung, especially when there's little to no evidence. (No, stories from hyperpartisan networks and websites with single sources and/or satire taken as truth don't count.) Having spent the bulk of my career on the news side of this newspaper, I know how hard it can be to create what you hold in your hands right now.

I'm also grateful, in the more than five years I've been on the opinion side, that we manage most of the time to keep an overall balance of opinions between the two pages. Yes, I'm tough on fact-checking, but wise readers have figured out that the way to get a letter in is to be factual and/or make opinion clear. It also helps to keep it clean, give proper attribution, refrain from convicting people in print, and not harass staff or other letter-writers.

I really shouldn't have to say that.

Assistant Editor Brenda Looper is editor of the Voices page. Read her blog at blooper0223.wordpress.com. Email her at blooper@arkansasonline.com.



Bridging the White River

Rex Nelson

French hunters and trappers constructed cabins on the White River at the mouth of Cache River in the late 1700s. By the 1820s, what was known as the Military Road between Memphis and Little Rock crossed the White River at Clarendon.

"By 1828, a ferry crossing and post office were established, likely attracting more settlers," W.R. Mayo writes for the Encyclopedia of Arkansas History & Culture. "Monroe County was created on Nov. 2, 1829, by the Territorial Legislature from portions of Arkansas and Phillips counties with Clarendon becoming its county seat. It remains so to this day. ... The White River served as an important byway for Union forces during the Civil War and was heavy with gunboat traffic, with Clarendon serving as a skirmish point. After the war, the town resumed its role as a port for cotton and other commodities."

The St. Louis Southwestern Railway (commonly known as the Cotton Belt) built a bridge at Clarendon in 1883. Meanwhile, highway traffic continued to use a ferry until 1931, when a bridge was constructed. That bridge has been the subject of a battle dating back several years. A nonprofit organization known as the Friends of the Historic White River Bridge at Clarendon was formed in 2014 to advocate saving the span (a new one recently opened for traffic on U.S. 79) for use by cyclists, hikers and wildlife watchers.

"Only a lawsuit by the Friends of the Historic White River Bridge at Clarendon and the cooperation of the Arkansas State Highway and Transportation Department in temporarily delaying the letting of bids to demolish it stand in the way of a mistake that will long be rued if the demolition is allowed to proceed," says Doug Friedlander of Helena, who's leading an Arkansas Delta tourism initiative. "Aside from the loss of what could be the centerpiece of a world-class bicycle route between Memphis and Little Rock, there are numerous ecological and fiscal arguments in favor of preserving rather than demolishing the historic bridge. Among these is the estimated $10 million to $15 million price tag for demolition and remediation, which will come out of both state and federal highway coffers. At a time of substantial federal deficits and with our state now exploring ways to increase highway revenues, it's hard to countenance this type of expenditure just to remove something that has a recipient willing to take ownership."

Friedlander left his job at a software company in the Research Triangle of North Carolina to come to the Arkansas Delta in 2004 to teach high school science as part of the Teach for America program. He says he wanted to make more of a difference in the world. A *New York Times* story from Helena in July 2013 began this way: "If you are from around here, you know Doug Friedlander is not. Born in New York City and reared on Long Island, Mr. Friedlander is Jewish and vegetarian and has a physics degree from Duke. But here he is, at 37, living in a roomy white house in this hard-luck Delta town of 12,000. Mr. Friedlander and his wife, Anna Skorupa, are part of a gradual flow of young, university-trained outsiders into the Delta's shrinking communities, many of whom arrived through Teach for America and stayed beyond their two-year commitment. Mr. Friedlander is now the ambitious director of the county's chamber of commerce. He frets over the kudzu that is devouring abandoned buildings. He attends Rotary Club meetings, where he sidesteps the lunch offerings for carnivores. He organizes workshops to modernize small businesses and pushes tourism and the development of a decimated downtown along the banks of the Mississippi. The mechanization of agriculture, lost manufacturing and a legacy of poverty and racism have taken their toll on the Delta, but Mr. Friedlander is thrilled to be here."

Across the Arkansas Delta, it sometimes takes those raised in other states to force natives to recognize assets such as the old bridge at Clarendon; assets that could be the building blocks for the region's future. A group of Delta natives has now joined forces with Friedlander to develop a regional plan centered on things such as bicycling, paddling, hiking, birdwatching, agricultural-based tourism and cultural heritage initiatives.

In a 2014 interview, Friedlander was asked to give advice to Delta newcomers. He said the first rule is to "have an attitude of respect and humility, not coming in like a superstar." He said the second rule is to "volunteer constantly and show up religiously. In any community, there's only a small subset of people who show up and do things, and when they see you showing up, they'll start to see you as a brother or sister." The third rule is to "share credit. Make other people look good." Though the young, talented newcomers are quick to share credit with the natives, they're the ones who have forced Delta residents to look at things in a new way. The fight to save the Clarendon bridge is an example of that. A decade ago, people would never have given the destruction of the bridge a second thought.

"The Arkansas Delta has fantastic assets for tourism that are largely unknown and underutilized," Friedlander says. "Like a keen investor, the trick is to identify an undervalued resource and invest in it before its value is obvious to everyone else."

Freelance columnist Rex Nelson is the director of corporate community relations for Simmons First National Corp. He's also the author of the Southern Fried blog at rexnelsonsouthernfried.com.

LETTERS

Something has to give

I have been struck by the call of unity, to come together and give Donald Trump a chance. I am more than willing to give him a chance, just as I gave Reagan and Bush a chance. However, I find this request disingenuous as I think back to when Barack Obama was elected and the Republicans' mission statement was to make Obama fail, not come together for the good of the country.

Where was the request to come together when the extreme right of the Republican Party refused to consider compromising with anyone from the other side of the aisle or even members of their own party?

Where was the protest and call to come together when John McCain stated that the Republicans were willing to filibuster *any* Supreme Court nomination that Hillary Clinton would put forth if she was elected?

For the good of the country, please tell Trump supporters to stop accosting women merely because they aren't white or are wearing a hijab. Tell the man who drove up to a black woman not to yell the n-word and declare that, "We just took back the country."

Please give us a reason to come together when the predicted acts of hate, as a result of a Trump win, are running rampant and so many Americans are living in genuine fear of their lives—not of their guns being taken away. Show your unity against these home-borne acts of terror and then, maybe, we will think about giving Trump a chance.

PHILIP ZWEIG
Fayetteville

Conversing with kids

Recently, *Good Morning America* had a segment with a child psychologist concerning how to talk to your children now that Donald Trump is president-elect.

After trying to set a good example for my grandchildren, teaching them right from wrong—cheating, not acceptable; lying, not acceptable, and so on—if Mrs. Clinton had won, I believe I would have to have the "talk" with them. Go ahead, lie, cheat, and rules won't apply to you. You are entitled.

Thank God we won't need to have that conversation.

SHARON DERDEN
Stuttgart

The world didn't end

Life goes on. The morning after the election, the leaves were still falling.

GEORGE W. McCLAIN
Little Rock

System needs update

Once again we have been shown that our system, which made sense at our country's beginnings, needs some tweaking to catch up with 2016.

The Electoral College is archaic. Hillary Clinton won the popular vote. The Electoral College says Trump won.

When you wonder why people don't vote and others who know their vote doesn't matter, all you have to do is look at the system that was set up when people used horseback for transportation. It made sense then to have representatives who could take the citizens' voices and make them heard through their vote. It no longer makes any sense at all.

If the governor can be given powers to run the state while he is out of state, which he should be able to do, then the citizens of our country should be able to vote directly for the presidency. And the person who gets the most votes should be the person who leads us. That is democracy. If Arkansas can catch up to current day, then surely our country can.

PAULA K. KOCH
Holiday Island

LETTERS

Test for Republicans

I am a life-long Republican, traitor to a family tradition of voting Democrat. My first campaign work was done while in college for Winthrop Rockefeller. Years later I was proud to help put George W. Bush in the White House.

But in recent years I have become increasingly unhappy with the Republicans I helped elect. Probably the beginning of my disillusionment began with Bush for his slap-happy way of throwing money at any problem. Then, many more Republicans seemed unable to ever say "no" to spending, while we went deeper into debt.

What has galled me the most has been the Republican leadership in both houses of Congress, which could not stand up to the first black president. I have been furious that they would campaign as great defenders of conservative ideals, but then cave time after time.

Now we have a new president who is Republican, but not in the sense I have always been. But he understands the concerns of people like me, such as terrorism coming to the U.S., God-knows-what coming across our practically undefended southern border, our catastrophic debt, the lack of justice from the Justice Department, and the unbelievable Supreme Court justices who believe the Constitution should be interpreted by the laws of the United Nations or current conditions.

We now have the power to control Washington. At least with Donald Trump, we have a little hope that what we hold dear about America has found a new champion.

I don't know what's going to happen to the Republican Party and that makes me sad. But I am one of the ones who wants elected Republicans to go out and fight. If the Republican establishment does not stand with Trump in this new era, then I am one who will be standing with Republicans no longer.

GERI ALLEN
Mountain Home

It was the candidate

I believe anyone claiming that Hillary Clinton lost because Americans would not vote for woman are wrong. I think the vast majority of Americans would vote for a woman ... just not *that* woman.

If the sex of the candidate is the only reason you support that candidate, then you should not be voting.

FRANK LATIMER
Sherwood

Fit for the deserving

Ah! America, where each of us may choose the most deserving candidate, assuring that all of us will choose the candidate we most deserve.

EDWARD HOWINGTON
Little Rock

Read John Brummett online

Repeal? Yeah. But replace?

http://www.arkansasonline.com/brummett

Where to send your letters

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True meanings lost

Ill-defined words

BRENDA LOOPER
ARKANSAS DEMOCRAT-GAZETTE

Like me, former U.S. Rep. Vic Snyder is concerned that some words have been shunted from their primary meanings. Regarding "elite" or "elites," Snyder said in an email, "I fear we've taken a word that used to mean top-notch, like an elite military unit, and turned it into a term of denigration."

He's not wrong; considering his Marine Corps past, I think he knows just what the word *should* mean.

It hasn't been just on one side, either. As Snyder told me, "It was a word clearly abused in a bipartisan manner."

"Elite" since the 18th century meant "the best," or as Oxford defines it, "a select part of a group that is superior to the rest in terms of ability or qualities." Now, however, a mid-20th century secondary meaning has crowded out the first definition in favor of one that more accurately describes "elitist" (one who believes he is superior to others and thus entitled, or who believes in government by the few), not the "elite." "Elite" is a status, "elitism" is an attitude, and someone can be a member of the elite without being an elitist.

"Elite" is far from the only word that, in the political realm, has become a dirty word. "Fact," especially as it relates to fact-checking, has come to mean whatever you believe to be true ... whether it actually is or not. "Mainstream," once thought of as being the prevailing current of thought, has now come to mean liberal and biased. "Liberal," of course, now means just about anything bad rather than "tending in favor of freedom and democracy," per the Online Etymology Dictionary. "Patriot" no longer means "fellow countryman," but someone who single-mindedly wants to defend his rights, especially against a government that he believes abandoned him.

And yep, even "moderate"—which describes most people, considering the growth of those identifying as independent—has devolved to mean "wishy-washy." Most moderates I know would say no, a moderate considers both sides and deliberates carefully before choosing the path to follow. Being cautious and open-minded about serious matters isn't a bad thing. Well, unless ideologues say it is.

Roger Baker wrote in Salt Lake City's *Deseret News* in 1994: "It may be that every word really has two meanings. One meaning is the denotation and carries no emotion. The other meaning is the connotation and carries the feeling. It is the connotation that charges a perfectly good word with invective, or spite, or envy, or affection and romance. This is why GM, Ford, and Chrysler don't just sell 'cars.' They use names that carry emotion and sell Cougars, Cadillacs and Stealths. These words are labels designed to make us feel."

That's sort of the point. We've taken to ignoring the denotation and placing all faith in the connotation; emotion thus carries the most weight. "Politician," for example, primarily means "one actively engaged in conducting the business of a government," according to Webster—a non-emotional definition. It's more often used now to mean a scheming someone more interested in his own well-being over others, and who delights in the machinations of modern politics. Not exactly unemotional there ... and also quite broad if you think about it.

One of the saddest examples I see far too often is "compromise." Back in 1850, Sen. Henry Clay said that life itself is a compromise, noting: "All legislation, all government, all society is formed upon the principle of mutual concession, politeness, comity, courtesy; upon these, everything is based. I bow to you today because you bow to me. You are respectful to me because I am respectful to you."

But now, giving any ground is seen as sacrilege by the hyper-partisan; it must be all or nothing. Except that's not how life works—at least not when you want society to work—and there's that whole "tyranny of the majority" thing to consider.

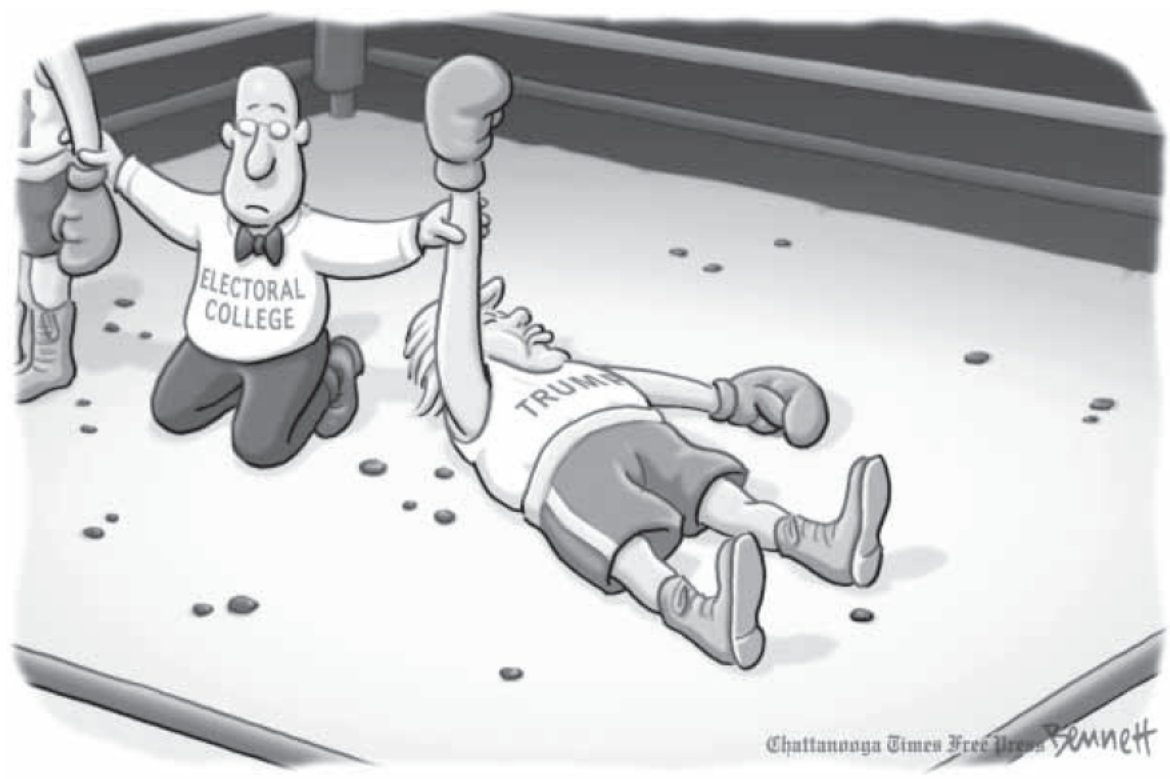
And mutual respect? Overrated. It's far more fun to treat everyone like dirt, then expect them to respect you for it. So I guess my mama was wrong in saying I should treat people as I want to be treated. Dang it.

Compromise is not a dirty word, nor is elite or many of the other words that have become so ingrained in our hurled political epithets (and "epithet" is another word that has morphed into a pejorative). So what can we do?

Stop being so prone to taking offense at every little thing. Read only what's in front of you rather than what your biases (we all have them) tell you is there. Be inquisitive and seek voices outside your bubble. Be skeptical and seek actual truth (not just what your favorite source tells you is true ... it might not be).

And please, calm down. I'm pretty sure the sun will come up tomorrow if you take words like "elite" at face value.

Assistant Editor Brenda Looper is editor of the Voices page. Read her blog at blooper0223.wordpress.com. Email her at blooper@arkansasonline.com.



The cycling hub

Rex Nelson

On a Saturday in late October, dignitaries from Arkansas and Tennessee gathered on the Harahan Bridge over the Mississippi River at Memphis to celebrate the opening of the Big River Crossing. The pedestrian boardwalk allows cyclists and walkers to cross the river. The $18 million boardwalk, the longest of its kind in the country, was funded by federal, state and local government grants along with private contributions. Cyclists and walkers will share the bridge with Union Pacific freight trains.

"Unless you've been a train conductor, it's a view that you've not seen of downtown Memphis since 1949," Memphis Mayor Jim Strickland said. "It's such a civic and cultural amenity for our current residents. I think it will draw tourists from all over the world."

"Thanks to visionary leadership, this project has put Memphis and east Arkansas squarely on the map of a rapidly growing national passion for bicycling, walking and other forms of outdoor recreation, ecotourism and physical fitness," says Doug Friedlander of Helena, who's leading a regional tourism initiative. "This unprecedented attraction was the impetus for the St. Francis Levee Board, which manages the levee from Mississippi County to Lee County, to approve the development of a bike trail atop the Mississippi River levee from the bridge's western terminus in West Memphis all the way to Marianna."

Three weeks after the event at Memphis, some of the world's best mountain bikers gathered on the other side of the state for the International Mountain Bicycling Association (IMBA) World Summit at Bentonville. The four-day summit, held every other year, began in 2004 and previous host cities include Whistler, British Columbia; and Steamboat Springs, Colo. With five mountain bike trails designated as "epic rides" by the IMBA, Arkansas and Colorado are tied behind only California in the number of trails. IMBA has listed Bentonville, Fayetteville and Hot Springs as "ride centers" and Northwest Arkansas has become the IMBA's first "regional ride center."

As one Arkansas cycling enthusiast put it, mountain biking and road cycling are "the new golf." Consider what Alabama did in creating the Robert Trent Jones Golf Trail, a collection of world-class courses, many of which have adjacent resort hotels. That effort put Alabama on the tourism map for thousands of wealthy Americans who never would have considered visiting the state otherwise. Arkansas wants to do that in the area of cycling. Gov. Asa Hutchinson and the Arkansas Department of Parks and Tourism are promoting the state as the "Cycling Hub of the South." Hutchinson created a Governor's Advisory Council on Cycling, and the Walton Family Foundation provided a $309,000 grant to IMBA to maintain the state's five "epic rides," which contain almost 200 miles of mountain biking trails. Arkansas is the only state to have full-time professional crews maintain such trails.

While the mountain biking focus is on areas in the Ozark and Ouachita Mountains, the Delta provides some of the greatest potential. There are ongoing efforts to pave a route through the St. Francis National Forest from where the levee route ends at Marianna all the way to Helena. Several years ago, the state entered into an agreement with the U.S. Forest Service to develop Mississippi River State Park in the St. Francis National Forest. The St. Francis is the only national forest that touches the Mississippi River.

There's also the ongoing development of Delta Heritage Trail State Park, which is being built in phases along 73 miles of right-of-way donated by Union Pacific to the state in 1992. This once was the route of the Missouri Pacific's Delta Eagle and passes through the most scenic areas of the Big Woods. This part of the state has the largest remaining segments of the Big Woods, a bottomland hardwood forest that once extended down both sides of the Mississippi River from Cairo, Ill., to New Orleans.

The Delta Heritage Trail starts one mile south of Lexa in Phillips County and extends to Cypress Bend in Desha County. The first hiking and biking segment opened in 2002 from Helena Junction near Lexa to Barton. Just more than 20 miles of the trail have been developed. Hutchinson and Kane Webb, the new director of the Department of Parks and Tourism, have ridden bikes on the trail and made its completion a priority. The southern terminus of the railroad right-of-way will connect with the Mississippi River levee, and the trail then will extend another 11 miles to historic Arkansas City.

Cyclists eventually should be able to cross the Mississippi River at Memphis and go all the way to Arkansas City. "Arkansas will be able to boast an extraordinary route that would allow the avid bicyclist to traverse nearly the entire length of Arkansas entirely on dedicated bicycle paths," says Friedlander. "It would be an astonishing jewel of an attraction truly worthy of the Natural State." Friedlander, who's also spearheading efforts to save the old U.S. 79 bridge over the White River at Clarendon for use by cyclists and hikers, envisions a "cascade of economic development for the struggling communities of rural eastern Arkansas in the form of restaurants, convenience stores, bicycle repair services and places for overnight accommodation."

With a popular governor and the Walton family on board, the effort to make Arkansas the "Cycling Hub of the South" just might succeed.

Freelance columnist Rex Nelson is the director of corporate community relations for Simmons First National Corp. He's also the author of the Southern Fried blog at rexnelsonsouthernfried.com.

LETTERS

The wisdom of Trump

I believe the event at Ohio State proves the wisdom of Donald Trump. There is no racism, hate or bigotry in protecting one's life, property, and liberty.

Electing wise leaders is a Christian duty. Let those hypocrites who say "work together" stop whining and unite to work with Donald Trump, the president-elect.

DON CROWSON
Benton

Milk's words relevant

Harvey Milk, civil rights leader and the first openly gay man elected to public office in the U.S., was assassinated 38 years ago this past Sunday.

I wasn't alive when the Briggs Initiative was proposed—a California law that would have facilitated the widespread banning of gay teachers (or anyone who supported LGBTQ rights). I know that the residents of California came together and firmly rejected it.

I am alive in 2016, a time where there are over 100 active anti-LGBTQ bills in 22 state legislatures. And soon, there will likely be a nationwide anti-LGBTQ law proposed with the words "religious freedom" slapped on the front to try to conceal the reality of its violent nature.

Harvey Milk always spoke on the importance of hope. It is my hope that Arkansans will recognize that these "religious freedom" bills contain the opposite of the promise of freedom. I believe they provide another avenue for discrimination against our neighbors. I suggest rereading Milk's words because they are just as relevant today as they were 40 years ago.

CAMILLE RICHOUX
Little Rock

An attempt to divide

After eight years of divisive and segregated policies, I believe the presidential recounts are not intended to flip the election; it's to undermine the Donald Trump administration and his attempt to unite it.

I think the people who call themselves Democrats today are not real Democrats. The old real Democrats loved this country and elections were battles on how to make it greater. It seems those who call themselves Democrats are out to destroy the Constitution of the United States and the rights within.

The Republican Party should monitor very close any recount because I believe these Democrats have earned no trust. I believe President-elect Trump is demonstrating the ability to select good people with hope of uniting our country and to truly make it great again.

FLOYD HOPSON
Hazen

Cost-effective at UA

The highest-paid state employee in Arkansas is our football coach, Bret Bielema, at $4 million-plus per year. We just struggled through another mediocre season, including a 56-3 thumping by Auburn and an embarrassing loss to Missouri, the worst team in the SEC this year.

In his four-year tenure, we have an overall record of 25 wins, 25 losses; conference record of 10 wins, 22 losses. These include losing the first 13 conference games we played under his leadership.

Recently they closed the printing office at the U of A, costing people their jobs and paychecks. The reason given was that it was not "cost-effective." Perhaps they should apply the same standard to our football program.

RON RICE
Hot Springs Village

LETTERS

Agreed on that point

Congratulations, Arkansas. You have voted to elect a narcissistic windbag.

Donald Trump said one thing during the campaign that I agree with: The election was rigged. Over and over on the campaign trail, he said it was rigged. So I must conclude that his election is not legitimate.

The combination of the words "Trump" and "president" will never cross my lips.

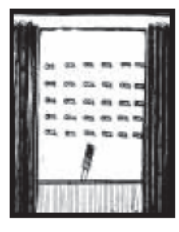
K.E. POLLOCK
Little Rock

System secures votes

Following the recent election there has been some criticism of the electoral college system of electing our president. Many of the complaints center around the fact that one candidate won the popular vote but lost the electoral college.

I would first point out that *neither* candidate got a majority of the votes, so a win based upon a plurality of the votes would also be subject to criticism, possibly requiring a costly runoff (the instant-runoff procedure advocated by some could solve that problem)

Second, I agree with those who say that the electoral college system preserves a say in the process for the states with lesser populations. Just by way of example, there was some speculation on election day that New Hampshire's four electoral votes might be the key to winning the election. Without the electoral college, candidates would campaign only in the most populous states, and probably only in the most populous metropolitan areas.



Third, consider the following admittedly extreme but not so far-fetched scenario: Candidate for president A is from the state of Wyoming, and candidate B is from California. Both candidates are popular nationwide, but because she is more popular, candidate A carries the other 48 states by an average of 50,000 votes per state. She carries her home state of Wyoming by an 80-20 percentage, giving her around 120,000 of that state's votes. At that point, not counting California, candidate A leads candidate B by 2,520,000 votes. Candidate B gets two-thirds of California's nine million votes, beating A in that state by three million votes. Candidate B therefore wins the popular vote by 480,000 votes, even though he carried only one state. I love my fellow citizens from California, but I would not want the wishes of 49 states to be subordinate to the wishes of any one state.

GRISHAM PHILLIPS
Benton

Read John Brummett online

What Asa wants on Obamacare.

http://www.arkansasonline.com/brummett

What's on your mind?

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OLD NEWS

Paper led dictatorial campaign to aid kids

CELIA STOREY
ARKANSAS DEMOCRAT-GAZETTE

A hundred years ago, the *Arkansas Gazette* counted down the days of December by badgering readers to buy gifts for poor children and deliver those gifts in person.

The newspaper exhorted readers to call its Goodfellows editor at phone number Main 4001 to sponsor one of the children listed in something called the Goodfellows Club of Little Rock's "kiddie book."

These weren't tiny stories tucked tidily into a bottom corner of Page 9 or 10. December 1916's *Gazettes* also made a daily march through the titles of 300 "Christmas books" to buy for boys ... uhhh ... and girls, as recommended by the public library, and that was slipped in wherever it fit, but the Goodfellows campaign appeared up front and center above the fold of the front page, every day.

And it didn't suggest. It grabbed heartstrings and yanked. Imagine that Pet of the Week were intended to make the reader feel guilty for not adopting the weekly cat.

Although no names were printed, the paper described pitiful children and their miserable families in privacy-threatening detail. Witness the kiddies of Dec. 12, 1916:

"The family is desperately poor, so poor that the little five-year-old girl is now wearing boy's clothing because her brother had more than he needed and she had none."

After the "club investigator" inspected their poverty and informed their mother the newspaper intended to publish their story in hope of inspiring a Samaritan to bring them gifts, the children followed him down the street for five blocks.

"The little girl went, too, unashamed of her boyish garb, and her mother's worn-out shoes that covered her feet. She was not ashamed because she did not know that little girls in her station of life may hope for anything better. Ragged shoes and makeshift clothes are a matter of course for her."

1916 was the newspaper's fifth year of Goodfellows appeals, and marketing lessons had been learned during the earlier efforts. Pity the blind man's family:

"Goodfellows, have you seen the little red-headed, cheery, bright-faced boy who leads the

See OLD NEWS on Page 3E

Special to the Democrat-Gazette/NANCY RANEY

Michelle Jackson of Lavaca greets a horse Nov. 26 along the Big River Trail about 12 miles from West Memphis. Planned to extend to the Gulf Coast, the trail includes 73 miles of gravel-topped levee.

Traveling the levee

Hike or bike scenic Big River Trail stretching from West Memphis to Marianna

BOB ROBINSON
SPECIAL TO THE DEMOCRAT-GAZETTE

WEST MEMPHIS — The Natural State has a spiffy new bicycle-tourist attraction, and I'm not talking about the refurbished Harahan Bridge, although that's attractive, new and part of it.

I'm talking about a 73-mile walking-and-biking trail on riverside levees from West Memphis to Marianna.

The Big River Trail was "five years in the making," as the press was reporting when a group of friends and I decided it was high time to check it out. So we loaded up the bicycles to set out on our "Big River Adventure."

The origin of the trail can be traced back even further, to 2009 in Memphis, when Charles McVean began manufacturing hybrid bicycles. McVean is chairman and chief executive officer of McVean Trading & Investment LLC and owner of Aerobic Cruisers Hybrid Cycles LC. Realizing that the Memphis area offered very little infrastructure to ride the bikes he was building, he came up with the idea of converting the Harahan Bridge, a 100-year-old railroad bridge over the Mississippi River, into a bicycle/pedestrian crossing.

SOURCE: bigrivertrail.com Arkansas Democrat-Gazette

The bridge conversion developed scope-creep when McVean began to consider where people would ride once they crossed the river and reached the Arkansas shore.

Not wanting it to be known as "the bridge to nowhere," he gave this issue much consideration before arriving at the obvious solution. Create the Big River Trail, a bicycle or walking path on top of the Mississippi River levee, which stands just a short distance from the west access for the bridge (off Interstate 55) and extends all the way to Marianna.

Obtaining permission to allow bicycles and pedestrians on top of the levee was no easy task. Sections of the levee in the St. Francis District had not been open to public use since 1893.

After five years of working with various associations in charge of the levee, he still lacked approval for a trail. Then McVean hired Terry Eastin of Fayetteville and formed the Big River Strategic Initiative to execute his vision.

Eastin, Arkansas Delta Byways' Delta Tourism Person of the Year for 2015, has been chief fundraiser and coordinator of the National Geographic Geotourism Initiative, executive director of the Mississippi River Trail Inc. and a core team member for the Walton Family Foundation-backed advocacy group Mississippi River Cities and Towns Initiative.

See LEVEE on Page 6E

Bollywood sitcom telecast in TriBeCa

WATCH YOUR LANGUAGE!

BERNADETTE KINLAW

A portmanteau is the smashing together of two words. The word "portmanteau" started as the name for a suitcase that opens into halves. George Bailey probably would have used a portmanteau on his trip around the world, had he ever made it out of Bedford Falls.

English writer Lewis Carroll seized it in *Through the Looking Glass*. His ovoid oracle, Humpty Dumpty, educated Alice on the meaning:

"Well, 'slithy' means 'lithe and slimy'... You see it's like a portmanteau — there are two meanings packed up into one word."

Some portmanteaus have been in the language for so long that you might not think of them as smashed. The words "smog" and "brunch" have been in use since the late 1800s. "Motel" has been used since the 1920s.

smoke + **fog** = smog
motor + **hotel** = motel
telephone + **marathon** = telethon
breakfast + **lunch** = brunch
parachute + **troops** = paratrooper
squeeze + **crunch** = scrunch
dumb + **confound** = dumbfound
television + **broadcast** = telecast
squirm + **wriggle** = squiggle
snort + **chuckle** = chortle (Another Lewis Carroll creation, from "Jabberwocky.")

Arkansas Democrat-Gazette/NIKKI DAWES

I never knew this was where "internet" was from:

international + **network** = internet

Manhattan is big on portmanteaus:

North of + **Little Italy** = NoLiTa
South of + **Houston** = SoHo
Triangle + **Below** + **Canal** = TriBeCa

The entertainment world has some examples:

situation + **comedy** = sitcom
Bombay + **Hollywood** = Bollywood
Brad Pitt + **Angelina Jolie** = Brangelina

I was relieved this week to see that "Brangelina" had not invaded the Merriam-Webster online dictionary. It may be even less likely to make it now. But "Bollywood" is in there.

Other smashed words are used casually:

channel + **tunnel** = chunnel. That train tube that runs from England to France.

bro + **romance** = bromance. A close friendship between men. Wow, this is in Merriam-Webster.

work + (a variation on) **alcoholic** = workaholic. A person who works compulsively.

gigantic + **enormous** = ginormous

email + **invitation** = evite. I need to see what Miss Manners thinks of evites.

I use the word "evite" in Scrabble all the time, and I thought it was an emailed invitation. Silly me. It's an archaic word for "avoid."

I wish I could fast forward a century or so to see whether these words have survived.

DESSERTS VS. DESERTS

If I were ever to open a restaurant, I would call it Just Desserts and serve only sweets. In other uses of the phrase, though, the proper spelling is "just deserts."

He had played Smashing Pumpkins, Nine Inch Nails and Nirvana CDs for 12 hours straight. He got his just deserts when she played just one song for 12 hours: "Call Me Maybe."

The phrase means one gets what one deserves. That's how you can remember the spelling. "Deserve" has one s, and, in this context, "deserts" also has one s.

And I am repeating myself from an earlier column, but to remember the spelling of "desserts," the way you end a proper dinner, think, "Desserts are super sweet." The "s" is in there twice.

Sources: wisegeek.com/what-are-portmanteau-words.htm, *The Careful Writer* by Theodore M. Bernstein, m-w.com, Washington State University's Common Errors in English Usage

Reach Bernadette at
bkwordmonger@gmail.com

Orange County Register

Birders will pack along their field guides for the 117th Christmas Bird Count, which begins Wednesday across the nation.

Annual tweet made for bird count help

CELIA STOREY
ARKANSAS DEMOCRAT-GAZETTE

Bird lovers have their 117th annual opportunity to help scientists track the rise and fall of species across the Western Hemisphere as the Christmas Bird Count begins this week.

From Wednesday through Jan. 5, anyone can take part in this mass bird-watching event, for free. The count is a chance to learn about birds from experts while enjoying a (quite likely chilly) outdoor adventure.

But for its results to "count" — to be comparable to the data collected in earlier years — they must be gathered in a certain area on a certain day and reported a certain way.

And so, unlike the Great

See COUNT on Page 3E

Arkansas Democrat Gazette

MASTER CLASS

C.3

Correcting 'anterior imbalance' easily achieved

MATT PARROTT
SPECIAL TO THE DEMOCRAT-GAZETTE

Arkansas Democrat-Gazette/CELIA STOREY

Beverly Lindberg makes the rather challenging Archer Row look easy at Little Rock Racquet Club.

In the 1980s and '90s, many fitness programs were developed with the specific purpose of improving the "mirror muscles" — that is, the muscles an individual is able to see when looking at a mirror. The biceps, chest, quadriceps and abdominals are among them.

As millions of exercisers spent hour after hour working solely on these muscle groups, they developed imbalances and as a result, musculoskeletal pain and dysfunction.

If you work mostly on what you see in the mirror and pain and dysfunction sound familiar, this week's column is for you. I'll present a few tips for addressing what I refer to as "anterior imbalance" and will also introduce an exercise that's designed to correct it.

"Anterior" refers to the front, as opposed to "posterior," the back. In general, a smoothly functioning human frame has balanced tension, strength and endurance between muscle sets on its anterior and posterior sides. If the mirror muscles become stronger and tighter than they need to be to cooperate well with posterior muscles, that's anterior imbalance.

For example, overemphasizing the biceps and chest in one's workout program will, over time, result in shoulders that roll forward slightly. This creates a very unstable environment for the rotator cuff muscle group and, eventually, can result in chronic pain or outright injury.

What to do? Begin working the muscles you can't see in the mirror.

Rotator cuff exercises should be an element of every strength program.

These small but supportive muscles provide the foundation from which the shoulder is able to function normally. I do rotator cuff exercises in nearly every workout, even if it's just as a short warmup.

Frequent, faithful efforts will help the rotator cuff develop better balance and better function.

The other key part of the body affected by anterior imbalance is the lower back. Too many leg presses and leg extensions can result in very strong quadriceps and hip flexors, but that lack of attention to the gluteals and hamstrings leaves them weak and tight, which will lead to lower back problems.

There are hundreds of exercises designed to address each of these muscle groups, so I won't spend time going through the list. However, stretching these muscle groups is as important as strengthening them (and potentially more important). Because so many of us sit most of the day, the hamstrings in particular are prone to becoming tight and short over time.

This week's exercise is fantastic because it addresses the posterior shoulder as well as the lower back and core. The Archer Row is a simple way to challenge these muscle groups in almost any setting and requires minimal equipment. Simple but not easy.

1. Select a light/medium-weight dumbbell and get into the "up" position of a pushup. Grasp the dumbbell with your right hand.

2. Perform a normal one-arm row while maintaining balance in the plank position. This will require balance, core strength and extreme focus.

3. Perform two sets of 12 with each arm while keeping the abdominals and lower back very firm.

For beginners, it makes sense to master the normal plank exercise before attempting this one. The core muscles need to be strong enough to provide a foundation from which you're able to balance on three points of contact.

When you lift the dumbbell off the floor, it will become evident whether more plank work is needed.

This is a great exercise for creating better balance and a stronger foundation.

Matt Parrott has a doctorate in education (sport studies) and a master's in kinesiology and is certified by the American College of Sports Medicine.

vballtop@aol.com

Levee

• Continued from Page 1E

We decided that our adventure should begin with bicycling across the Harahan railroad/bicycle/pedestrian bridge, which is now called Big River Crossing. The bridge serves as the connection point in a 10-mile, multi-modal Main Street to Main Street project linking Memphis to West Memphis.

At almost a mile, Big River Crossing is the longest pedestrian bridge across the great river. The bikeway piggybacks off the 1916 Harahan Bridge. This century-old bridge was constructed with two rail lines in the center and roadways cantilevered off each side to accommodate vehicles, which at that time consisted mainly of horse-drawn wagons. (The roadway was used until 1949.)

Big River Crossing gives pedestrians use of the former vehicle lane on the north side of the still active railway, for the great upriver views it offers. At the opening ceremony Oct. 22, a steady stream of pedestrians and bicyclists flooded the walkway all day and into the night, marveling at the Memphis skyline and the mighty river.

Special to the Democrat-Gazette/NANCY RANEY

The Big River Trail passes scenic oxbows including Horseshoe and Midway lakes as it travels the Mississippi River levee from West Memphis to Marianna.

SPEAKING OF TOURIST DOLLARS

Arriving in West Memphis the afternoon before our long ride, we decided to go ahead and bike the Big River Crossing. We were staying at Tom Sawyer Campground beside the levee and so had just a five-mile ride — on the trail — to reach the bridge.

Even weeks after the grand opening, when our group bicycled across, the bridge was still drawing a crowd. It appeared to be the most popular attraction along the riverfront.

At the Memphis entrance and before riding under the archway and onto the bridge, we hopped onto the adjoining Riverwalk Bike Path. A picturesque two miles beside the river later, we veered off the path onto Beale Street to sample some of Blues City Cafe's "world famous" juicy ribs and crispy catfish.

We then topped off the meal with a stroll along the street where music legends including Elvis and B.B. King once walked. A distinctive mix of blues and rock 'n' roll drifted from music venues' open doorways.

BIG VIEW

It is difficult to appreciate just how long the bridge is until you're on it.

When we reached the Arkansas shore, we looked down from our elevated position on the bridge at a grand prospect — the site of the planned Delta Regional River Park. Construction of the park is scheduled to begin in the spring or early summer. When finished, it will feature a serene natural setting for visitors to bicycle on a seven-mile paved path or just relax and enjoy closeup views of the Mississippi topped by the Memphis skyline.

Special to the Democrat-Gazette/NANCY RANEY

Bob Robinson (from left), Michelle Jackson and Randy Jackson take a snack break along the Big River Trail.

We exited via Big River Crossing's western access, and after coasting down a fun, corkscrew-banked turn that quickly descends from the bridge's elevation, our group pedaled along the paved path about a mile. Then we took a sharp left to reach the top of the levee.

As I mentioned, McVean had worked five years, to no avail, to open the levee. Just six weeks after Eastin's hiring, after meeting with the U.S. Army Corps of Engineers and receiving their endorsement, the Big River Strategic Initiative signed and presented to the St. Francis Levee District board a memorandum of understanding detailing the responsibilities of all the parties involved in the trail. The board then unanimously approved and signed it, thus opening the levee top to bicycles and pedestrians.

McVean calls her "Bulldog." But Eastin says that once she explained his vision of the economic development opportunities a Big River Trail would offer and how it could foster new enterprises compatible with the Delta's agriculture industry, opening the levee was an easy sell.

FAT TIRES

The levee is topped with fairly large gravel. Although we found it very ridable, I recommend using 2-inch or wider tires, such as those on a mountain bike.

According to Eastin, the Corps of Engineers has agreed to limit the size of gravel used in future maintenance projects to half an inch or smaller, which will make the surface suitable for bicycles sporting thinner tires.

One of the first things I noticed while biking atop the levee was how much higher we were than the vehicles on the highway that at times parallels the trail. I had picturesque views of either the Mississippi or the densely wooded ecosystem of its floodplains, whereas a motorist gets a fine view of a grass-covered hillside.

My vantage of more than 20 feet above the surrounding flat river bottoms afforded unobstructed infinite views, and I felt as though I had been granted a super power.

MEANDERING

During the first miles we encountered 36-inch-wide metal cattle guards through which cyclists and pedestrians can pass but cows can't. Here was the physical realization of a simple solution to one of the final obstacles that had blocked public access to the levee: ranchers' concerns that their livestock would escape if someone left a gate open. These cattle guards were funded by a grant from the Arkansas Economic Development Commission.

If you follow the trail on a map, you notice that the Mississippi River doesn't pay attention to human borders. Without crossing the river, you pass from Arkansas into Tennessee and back to Arkansas, then into and out of Mississippi.

Nowhere is the river's meander more evident than about 33 miles into the ride, where the water at one time made a 90-degree right turn and traveled approximately five miles northwest only to circle around and return to the main channel less than two miles down from where it exited. Over time, the river cut a direct route across these two points, thus sidelining the landlocked, U-shaped body of water now known as Horseshoe Lake. We passed several such oxbows.

During the first half of our tour from Memphis to Marianna, we were flanked by rich, dark soil to the right and thick, dense forest on our left. Isolated by the levee, these wooded environments offer great opportunities while bicycling for spotting deer, bobcats, armadillos and other wildlife, along with the waterfowl that follow the river on their annual migrations.

Through the middle section of the 73-mile ride, as we worked our way around Midway Lake, on the river-side of the levee we enjoyed enchanting views of ancient cypress trees protruding from the dark, motionless waters of the bordering wetlands.

With the later section of the levee trail open to motor vehicles, we saw camouflaged duck blinds and trotline jugs afloat on the water's surface — evidence of hunters and fishermen taking advantage of the easy access.

Having divided our Big River Adventure over two days, after a cumulative six hours in the saddle — and an equal amount of time off the saddle, checking out scenery and munching tasty snacks — we arrived at our destination, Marianna.

LONG-RANGE PLAN

Eastin describes the Big River Trail as a work in progress. The grand plan is a trail along the 2,500 miles from the Mississippi headwaters at Lake Itasca in Minnesota to the Gulf Coast, including 1,607 miles atop levees along the lower Mississippi.

Big River Strategic Initiative partners are already at work to extend the route to Arkansas' southern border.

Twenty miles south of Marianna, in the town of Lexa, is the trailhead for the Delta Heritage Trail. When completed, this former Union Pacific Railroad rail bed will contribute another 84 miles to the vision. En route to Arkansas City, the Delta Heritage Trail will cross long trestles through vast wetlands as well as the expansive White River.

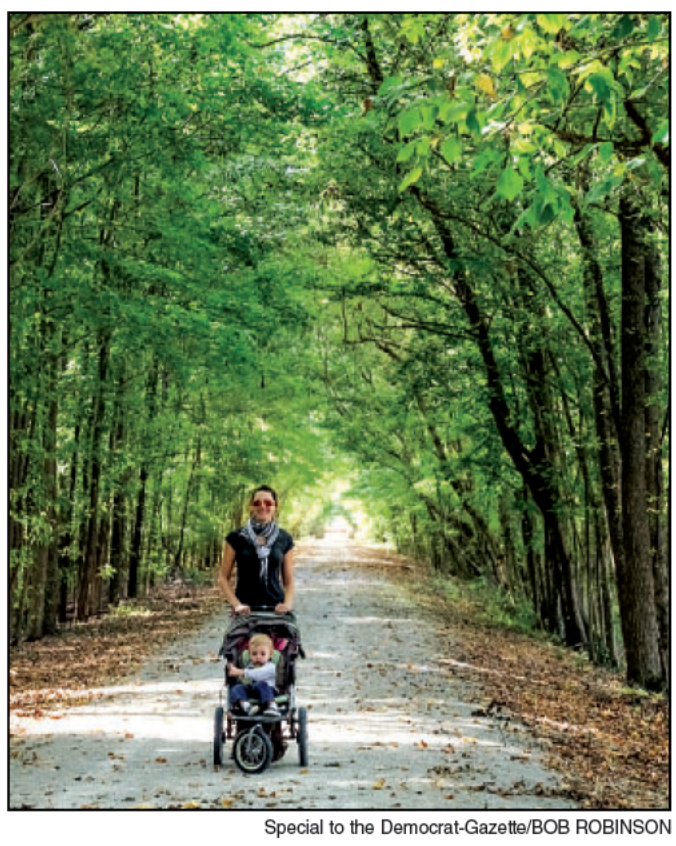
This historic rail-to-trail conversion is being developed in phases by Arkansas Department of Parks and Tourism, with work progressing inward from each end. Currently, at the northernmost extremity, they have completed 21 miles of compacted, crushed rock trail offering a smooth ride through Delta farm regions.

From the southernmost point in Arkansas City, 14 miles of paved surface paths head north.

Eastin's enthusiasm for these projects is monumental. The Mississippi River does not stop at Arkansas' southern border, and neither does she. Already she is working on plans to open the levee all the way to New Orleans.

Special to the Democrat-Gazette/BOB ROBINSON

Nancy Raney (left), Michelle Jackson and Randy Jackson take a leisurely tour of open countryside Nov. 26 between West Memphis and Marianna via the Big River Trail.



Special to the Democrat-Gazette/BOB ROBINSON

Maci Edwards strolls with son William on the Delta Heritage Trail on Oct. 23.

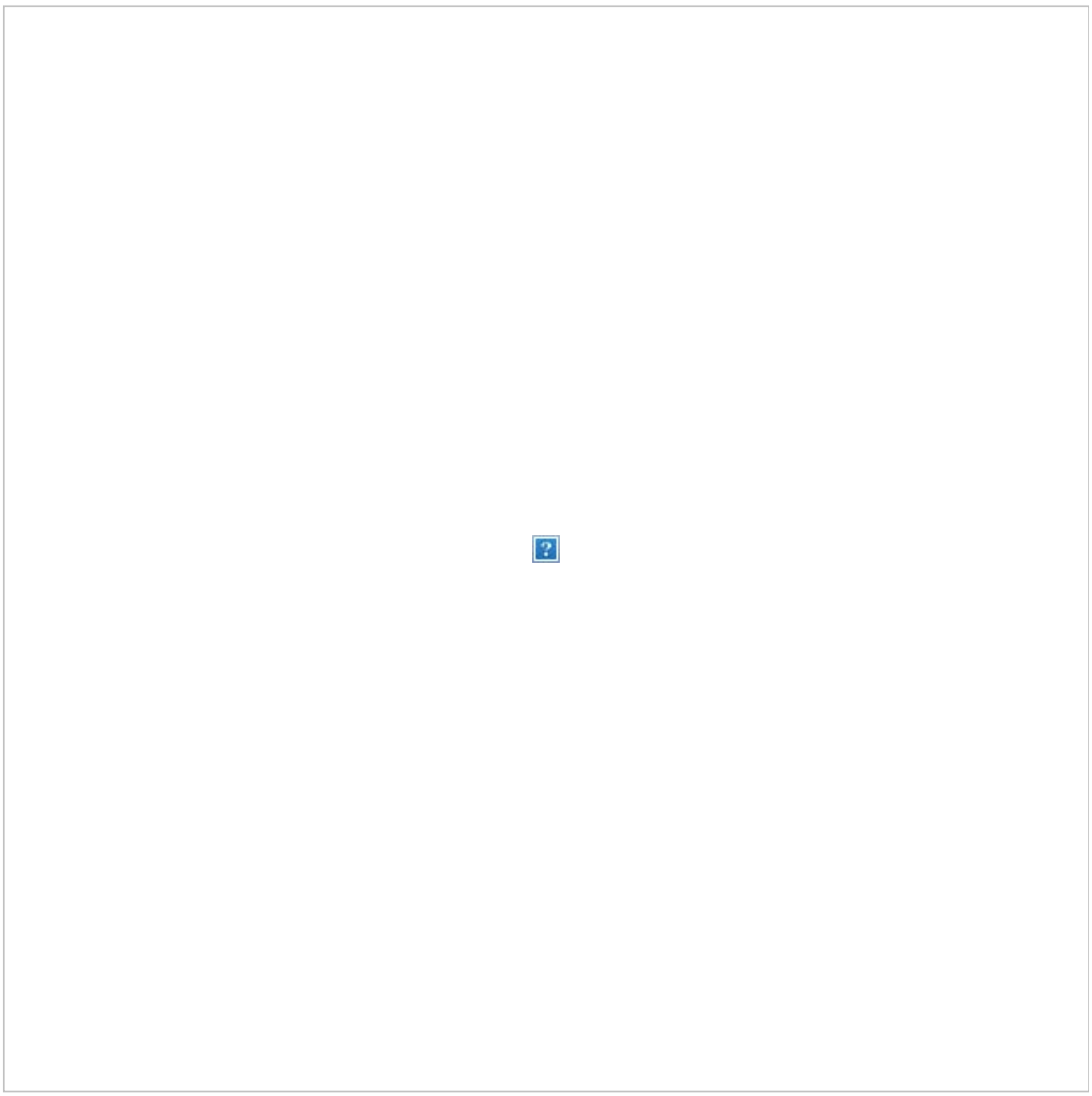
From: Small, Jeff
To: Katharine Macgregor
Subject: Re: Western Caucus Members Applaud Administration's Intent to Scrap Duplicative BLM Fracking Rule
Date: Thursday, March 16, 2017 10:21:20 PM

You bet! 202-226-8272.

Sent from my iPhone

On Mar 16, 2017, at 9:05 PM, Katharine Macgregor <katharine_macgregor@ios.doi.gov> wrote:

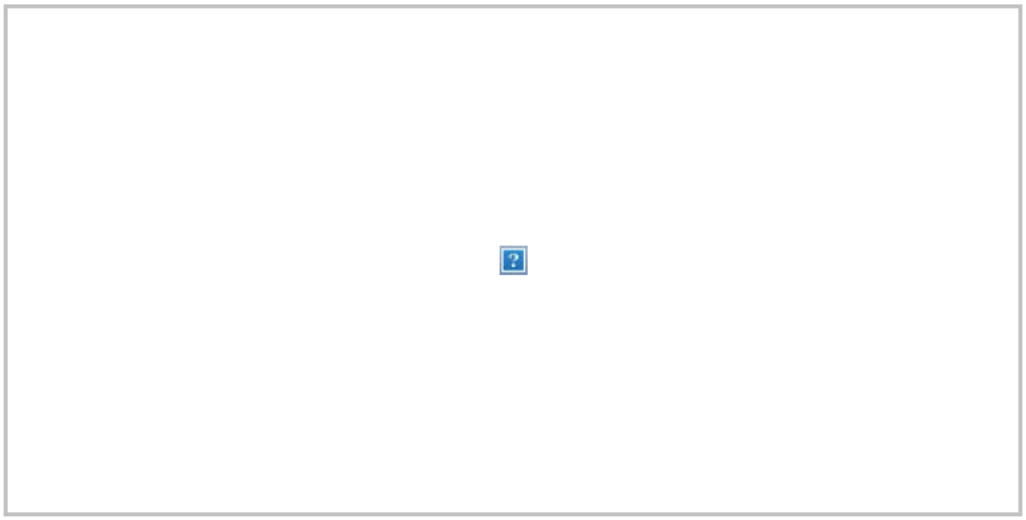
> Hey what's your direct? Can we chat tmrw?
>
> Sent from my iPhone
>
> On Mar 16, 2017, at 7:07 PM, Small, Jeff <Jeff.Small@mail house.gov> wrote:



For Immediate Release
Contact: Kelly Roberson

Date: March 16, 2017
Kelly.Roberson@mail house.gov

Western Caucus Members Applaud Administration's Intent to Scrap Duplicative BLM Fracking Rule



WASHINGTON, D.C. – Today, Congressional Western Caucus **Chairman Paul A. Gosar D.D.S. (AZ-04), Executive Vice-Chairman Rep. Scott Tipton (CO-03), Chairman Emeritus Rep. Steve Pearce (NM-02),** and Western Caucus member **Rep. Doug Lamborn (CO-05)** released the following statements after the Trump Administration said in a legal filing this week that it is taking action to rescind the Obama Administration's Bureau of Land Management (BLM) rule for hydraulic fracturing:

Chairman Gosar said, "Time and again the Obama Administration belittled and silenced the voices of local stakeholders, hampering responsible energy development, in favor of scoring cheap political points. I am pleased to see President Trump and Secretary Zinke's commitment to empowering states by taking action to roll back BLM's duplicative fracking rule. This unconstitutional regulation attempts to seize authority from states, would exasperate permitting delays and would add yet another layer of bureaucracy to an already well-oiled process."

"Western states, including Colorado, have done a good job of regulating and monitoring hydraulic fracturing and those efforts should be able to continue without heavy-handed federal bureaucratic regulations that prevent responsible energy development from moving forward. I welcome the Administration's action to encourage responsible energy development by removing unnecessary regulatory red tape," said **Congressman Tipton**.

"The increase in hydraulic fracturing regulations was just another attempt by the Obama Administration to choke out responsible domestic energy production that provides good-paying jobs across the nation. This regulation was blocked by multiple federal courts, which ruled that BLM lacked the authority to regulate hydraulic fracturing," said **Congressman Pearce**. "States understand what is needed for their lands and should be able to develop their resources responsibly without a 'one-size-fits-all' regulation from Washington. I am glad to see that the Trump Administration is taking action to cut the government red tape that is weakening our economy in New Mexico."

Congressman Lamborn remarked, "I am very pleased that the Trump Administration recognizes the wisdom of letting individual states manage and regulate the energy production taking place in their own backyards. Hydraulic fracturing, often used in combination with horizontal drilling, has unlocked vast new American energy resources, and it has allowed the United States to increase its

oil and gas production faster than at any time in our history. Restoring local control over energy production will allow the current energy renaissance to continue ensuring a stable supply of affordable, reliable energy, and driving down prices for gasoline, electricity, and home heating. This means more jobs and economic growth for Colorado and the rest of the country."

Background:

On March 26, 2015, the Obama Administration published new regulations for hydraulic fracturing on federal and Indian lands. The text of the final rule can be found HERE.

On June 24, 2015, U.S. District Judge Scott Skavdahl granted a stay of BLM's rule citing the fact that Congress never granted authority to the Department of Interior to regulate hydraulic fracturing.

On March 15, 2017, the Department of the Interior and the Department of Justice requested the 10th United States Circuit Court of Appeals delay oral arguments scheduled for Wednesday after a legal filing this week that indicated the Trump Administration is beginning work to rescind the 2015 rule.

The Obama Administration rule would create new burdensome requirements for well construction, wastewater management and chemical disclosure.

The Obama rule is also duplicative and extremely costly. It would increase regulatory burdens without yielding significant benefits to the environment.

State rules are specifically tailored to each state's unique geologic and hydrologic conditions to better protect the environment and groundwater than a one-size-fits-all federal rule. Companies must already obtain a state permit and comply with all state regulations when operating on federal lands, and state regulators continue to develop new rules collaboratively with the public.

This rule would impose an entirely redundant regulatory process that will only intensify existing permitting delays at the federal level. Most states process permits in 30 days or less. In December of 2016, the BLM reported that the agency's average processing time for permits was 220 days.

Hydraulic fracturing has played an important role in the development of America's oil and natural gas resources for more than 60 years. In the United States, it is estimated that over one million wells have been fracked since the 1940s. Studies estimate that up to 80 percent of natural gas wells drilled in the next decade will require hydraulic fracturing to properly complete well setup.

(Courtesy of the American Action Forum's Regulation Rodeo)

The rule is estimated to cost $49.9 million dollars to implement and creates more than 50,000 hours of paperwork for compliance.

###

WEBSITE | UNSUBSCRIBE

From: Gillott, Chris (Cassidy)
To: "katharine_macgregor@ios.doi.gov"
Subject: FW: Cassidy, Tillis, Kennedy Introduce the Unleashing American Energy Act of 2017
Date: Friday, March 17, 2017 11:48:56 AM

For Immediate Release
March 16, 2017

Contact: *John Cummins* 202-224-5824
Michelle Millhollon 225-205-2196
Daniel Keylin 202-224-6342

Cassidy, Tillis, Kennedy Introduce Unleashing American Energy Act of 2017

WASHINGTON—Yesterday, US Senators Bill Cassidy, MD (R-LA), Thom Tillis (R-NC) and John Kennedy (R-LA) introduced the *Unleashing American Energy Act of 2017.* After 8 years of significant restrictions on energy exploration and development, American workers and industry are eager to pursue American energy independence.

This legislation empowers the Secretary of the Interior to add additional lease sales to an existing 5-year leasing plan, allowing for more American energy investments that would pay dividends for decades to come. President Trump pledged to add millions of American jobs and make America energy dominant. The *Unleashing American Energy Act of 2017* would provide his administration the flexibility to do just that.

"This legislation creates better paying energy jobs with better benefits for working families," **said Dr. Cassidy**. "It unleashes domestic energy production which creates these jobs, generates revenue to balance our budget, and increases America's energy independence."

"This legislation is an important first step to cutting several layers of bureaucratic red tape that will allow for the responsible exploration of offshore energy," **said Senator Tillis.** I look forward to working with my colleagues to pursue a national energy policy that will put America on the path to energy independence and help lower utility bills for hardworking families in North Carolina."

"The energy sector is the lifeblood of the American and Louisiana economies," said **Senator Kennedy**. "The restrictions that have been placed on our energy sector from the previous administration have stunted our economy and cost us thousands of good paying jobs. This bill will provide more job opportunities for hardworking Americans and will help our country realize our goal of energy independence."

To read the full legislative text, click here.

Background:

Our nation's offshore areas hold at least 480 Trillion cubic feet of natural gas and 101 Billion barrels of oil. Currently only 6% of the Outer Continental Shelf is available for energy production. The former administration reversed plans to offer lease sales in the Atlantic and additional lease areas off of Alaska, which cost American jobs and denied potentially billions of dollars of investment in the U.S economy. A Quest Offshore Resources report projects that development in the Atlantic alone could create 279,562 jobs and trigger $194 billion of investments by 2035.

The arrival of the new administration has many in the offshore economy optimistic about the future. However, the administration faces a long process to create a new 5-year leasing plan, which typically takes 24-36 months to finalize. Americans should not need to wait to develop our own resources and delay job and economic growth. The *Unleashing American Energy Act of 2017* seeks to remedy this issue by empowering the Secretary of the Interior to add additional lease sales to an existing 5-year plan.

What this legislation achieves:

- Permits the Secretary of the Interior to add additional Outer Continental Shelf oil and gas lease sales to an existing 5-year plan
- Allows for new acreage to be made available years earlier than current process would allow
- Allows the Secretary to reverse the former administrations shortsighted decisions to remove Artic and Atlantic lease sales from the current 5-year plan
- Stimulate thousands of good paying jobs along with billions of dollars of investment
- Adds billions of revenue for federal, state and local governments
- Ensures continued considerations for: state preferences, environmental sensitivity, industry interest, fisheries, marine navigation and national energy markets.

For more info, click here.

###

From: Murfitt, Lucy (Energy)
To: "Hammond, Casey"
Subject: RE: where we"re going we don"t needs roads
Date: Monday, March 20, 2017 12:31:51 PM
Attachments: image001.png
image002.png
image003.png
image004.png
06182015 HDR report prepared for Army Corps Assessment of Non-Road Alternatives.pdf

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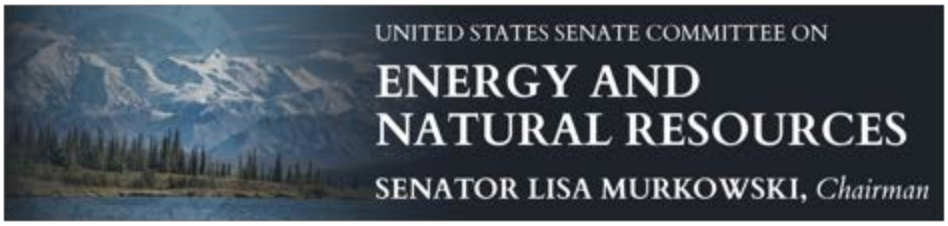
Hi Casey –

Attached is the report HDR (a contractor) prepared for the Army Corps of Engineers, Alaska District on the non-road alternatives. Below is Senator Murkowski's release about the contracted report. We can talk further about this report and why non-road alternatives are not really alternatives to the road and how the Corps became involved. I am providing a link to our website that includes additional information on the road including relevant documents. https://www.energy.senate.gov/public/index.cfm/king-cove-road-information

Best, Lucy
224-2878 direct



FOR IMMEDIATE RELEASE
March 29, 2016
Permalink

CONTACT: Michael Tadeo 202.224.5810

Murkowski Slams Interior for Wasting Time, Money on King Cove Study

Days After 40th Medevac Since December 2013, Chairman Announces Oversight Hearing

Washington, D.C. – U.S. Sen. Lisa Murkowski, R-Alaska, today criticized the Department of the Interior for wasting more than $100,000 on a study of "non-road alternatives" that will not adequately provide emergency medical transportation for the residents of King Cove, Alaska. Murkowski posted the study after Interior, despite a recent public commitment from Secretary Sally Jewell, only provided it to a small handful of King Cove officials.

“Interior has again made clear that help for King Cove is not on the way,” Murkowski said. “It is stunning the Department wasted taxpayer dollars on a narrow study while continuing to ignore the best way to protect the health and safety of local residents – a short, non-commercial, gravel road. I am also shocked that despite repeated promises, and despite this study being completed last summer, there is nothing in Interior’s $13.3 billion budget request to help King Cove. This is what you do, if your goal is to run out the clock without making the right decision.”

The Interior-commissioned, Army Corps-contracted study evaluates the potential for a marine vessel, a helicopter, and a new airport for King Cove – options that have previously been rejected, or that have been tried and failed. The study’s authors describe it as a “high-level overview” and note that its artificially limited scope “did not include local stakeholder input.”

“It is offensive that Interior would design a study that deliberately excludes the very people whose lives are at stake,” Murkowski said. “But I want to thank the company that undertook this study, which did its professional duty within the imposed constraints and highlighted the very serious challenges that the people of King Cove face. Anyone reading the study objectively can only wonder: why, again, did Interior ever take a life-saving road off the table?”

A 27-page appendix details the substantial risks and anticipated hurdles, ranging from potential impacts on wildlife to the likelihood that sufficient financing could be secured, associated with non-road alternatives. The study also confirms that non-road options are either more expensive or less reliable (or both) than a life-saving road, which Interior did not allow as a basis for comparison.

“While Interior’s current leadership may be content to study this problem until their time in office runs out, local residents are left to endure more pain and suffering,” Murkowski said. “I cannot allow that to continue, and I will redouble my efforts to secure a road by bringing this travesty to the attention of every member of our committee at a hearing next month.”

Last week, the U.S. Coast Guard was called in after a woman in her 50s was found unconscious in King Cove. The Coast Guard transported her to a Guardian flight waiting in nearby Cold Bay after its pilots were unable to land in King Cove, which faced winds that were gusting well above 50 miles per hour.

King Cove has now endured a total of 40 medevacs since Secretary Jewell’s decision of December 23, 2013 to reject a life-saving road. The U.S. Coast Guard has carried out 15 of those medevacs – risking additional lives, diverting vital resources from the service’s core mission, and incurring significant costs for U.S. taxpayers.

Murkowski has twice asked Jewell if she is aware of how many medevacs have occurred in King Cove since her decision. In 2015, Jewell was completely unaware; this year, she replied that she was “sure that it is dozens.”

Among the other recent medevacs were a man who dislocated both hips and fractured his pelvis after a 600-pound cod pot fell on him; an infant boy with RSV; a man in his 80s with sepsis; and multiple patients with heart problems or gastrointestinal bleeding. Many had to wait hours – if not overnight – before a medevac could safely arrive.

In 2009, Murkowski successfully legislated a nearly 300:1 land exchange to facilitate an 11-mile road corridor through a tiny sliver of the Izembek National Wildlife Refuge. The road corridor would cover a maximum of 206 acres in the 315,000-acre refuge (0.065%). The road – required by law to be one-lane, gravel, and used only for non-commercial purposes – would connect the roughly 1,000 residents of King Cove to the all-weather airport in neighboring Cold Bay. Jewell rejected the exchange, and the life-saving road.

For an excellent account of the peril that continues to face King Cove as a result of federal intransigence, please see "Deadly Environmentalism" by National Review's Ian Tuttle.

###

Energy.Senate.Gov

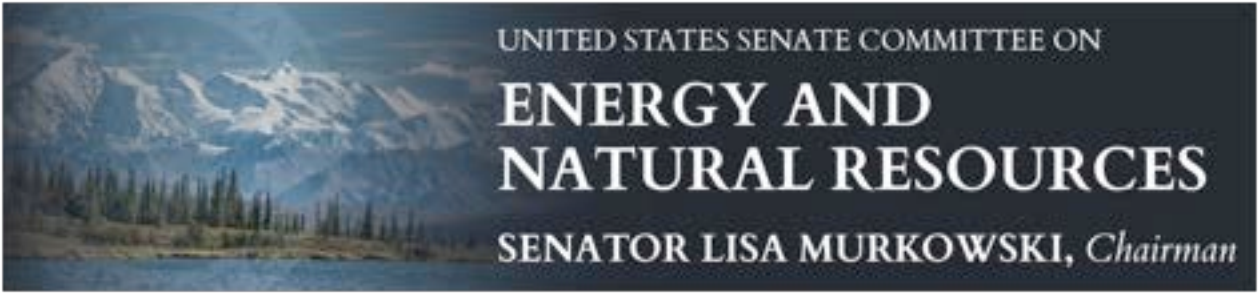
Note: Please do not reply to this email. This mailbox is unattended. For further information, please contact Michael Tadeo at 202-224-5810. Visit our website at http://energy.senate.gov

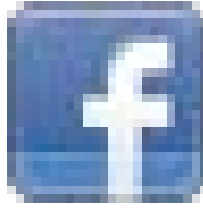
From: Hammond, Casey [mailto:casey_hammond@ios.doi.gov]
Sent: Friday, March 17, 2017 8:40 AM
To: Murfitt, Lucy (Energy)
Subject: where we're going we don't needs roads

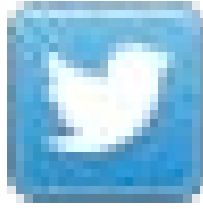
but in this case we do. Could you tell me a little more about the additional info provided by the Army Corp?

Thanks,

Casey


UNITED STATES SENATE COMMITTEE ON
ENERGY AND
NATURAL RESOURCES
SENATOR LISA MURKOWSKI, Chairman





You
Tube

Cover photo: City of King Cove
From Aleutians East Borough via Creative Commons online

King Cove-Cold Bay: Assessment of Non-Road Alternatives

Aleutians East Borough, Alaska

FINAL

June 18, 2015

Prepared for:

U.S. Army Corps of Engineers, Alaska District

Prepared by:

HDR
2525 C Street, Suite 305
Anchorage, Alaska 99503

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King Cove-Cold Bay
Assessment of Non-Road Alternatives

June 2015

Executive Summary

King Cove, Alaska, population 800, is located in the Aleutians East Borough (AEB) in southwest Alaska. The area is remote and located where the North Pacific Ocean meets the Bering Sea. The area is known for harsh weather; high winds, rough seas, and fog or persistent clouds occur frequently. These conditions are not necessarily unusual for other small, rural communities in Alaska, but King Cove is different in one key respect: it lies 18 miles from the Cold Bay Airport, which has a 10,000-foot jet-capable runway originally built by the military and now maintained as an emergency landing location on the great circle routes between North America and Asia. Several plane crashes, many harrowing tales, and near misses trying to get patients evacuated to Anchorage for medical emergencies by small plane or by boat from King Cove to Cold Bay have highlighted the difficulty of travel in the area, particularly under emergency circumstances. The Cold Bay Airport is close, but sometimes inaccessible. King Cove, the borough, and Alaska's Congressional delegation have pushed Congress for a road connection through the Izembek National Wildlife Refuge and Izembek Wilderness along a narrow isthmus that separates the rich tidal marshes of the Bering Sea and Pacific Ocean water. It is an area that is critical habitat for wildlife, including almost the entire global population of black brant. The U.S. Department of the Interior (DOI) has decided against the road option. This document reviewed past studies and the latest thinking on potential non-road alternatives. It is designed to filter past work on non-road-access alternatives and present the most promising in each of three non-road transportation modes: marine vessel, fixed-wing aircraft, and helicopter.

This *Assessment of Non-Road Alternatives* for medical evacuation (medevac) from King Cove to Cold Bay and on to Anchorage examines three modes of transportation as selected by DOI: (1) ice-capable marine vessel, (2) fixed-wing aircraft/new airport, and (3) helicopter/heliport. Variations within each alternative address the location of the facilities and, to a lesser extent, type of equipment and facilities. This assessment provides a high-level overview of the three non-road-access options and does not provide a recommendation, but presents conceptual information on the locations, costs, risks, and dependability of each. This report does not identify the actual steps needed for implementing a selected alternative such as additional analysis under the National Environmental Policy Act or similar regulation.

The proposed marine vessel is a 150-foot ferry capable of carrying vehicles and passengers year-round in expected seas (based on wave records over a 5-year time period), including capability of moving through bay ice 12 inches thick (OASIS Environmental, Inc. 2003). The vessel would require modifications at the Cold Bay dock and a new dock on the King Cove side, where it would reside. The vessel port could include a rock breakwater, depending on the location chosen. It is assumed the ferry would operate for general use, not just medevac use, and would transport passengers, cargo, and vehicles to and from Cold Bay but would be available for medevac trips to Cold Bay,

where patients would transfer to a medevac flight or commercial flight to Anchorage. This would be necessary when flights were not possible in and out of the King Cove Airport.

The identified airport location is north of King Cove and north of mountainous terrain in an area with few obstructions, at the end of the existing King Cove road system. It could be designed for service by small jet (longer, paved runway) or turbo-prop aircraft (shorter, gravel runway). Implementation of this alternative is assumed to mean closure of the existing King Cove Airport, which is located in mountainous area where turbulence is common and terrain hazards compound weather issues. Medevac flights would respond when called from Unalaska (190 miles away) or Anchorage (620 miles), and take patients from the new airport directly to Anchorage.

The helicopter option assumes a helicopter would be leased by a government entity and based at a new heliport, with hangar and lighting, located at King Cove, on the King Cove road system, or at a new location on the southern edge of Cold Bay (the water body). The helicopter would transport patients to the Cold Bay Airport, where they would transfer to a medevac flight or commercial flight to Anchorage.

The table below summarizes life-cycle costs and operating factors, such as medevac time, risks to the project, and dependability, for the alternatives addressed in this document. Capital and operations and maintenance costs assume a 75-year life cycle. The net present value (NPV) for each alternative incorporated conceptual-level construction cost estimates and 75-year operating costs in 2015 dollars. The document provides greater detail.

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	Marine *150-ft ice-capable monohull ferry*			**Airport** *New airport located NW of Mt. Dutton*		**Helicopter** *Leased helicopter and crew with dedicated heliport*			
	1a NE Cold Bay Ferry	**1b** Lenard Harbor Ferry	**1c** Direct Ferry (KC-CB)	**2a** 5,000-ft Runway (Learjet)	**2b** 3,500-ft Runway (King Air)	**3a** NE Cold Bay Heliport	**3b** Lenard Harbor Heliport	**3c** Peninsula Heliport	**3d** King Cove Heliport
Life-cycle Costs *(75 years)*									
Capital Cost *($ millions)*	41.8	29.9	39.0	84.0	47.0	2.8	2.8	28.3	2.8
Operations and Maintenance Cost ($)	872,300	925,600	1.14 M	674,700	223,300	2.34 M	2.25 M	2.28 M	2.19 M
Net Present Value *($ millions)*	65.7	56.7	71.9	97.0	49.3	78.3	75.3	99.1	73.6
Operating Factors									
Medevac Time *(hrs)*	3.5	3.7	5.0	2.4	3.0	3.1	2.6	2.7	2.1
Risk Score	2.4	2.4	2.5	2.5	2.6	2.5	2.5	2.5	2.2
Annual Dependability	99.9%	99.9%	99.6%	94.9%	94.9%	82.6%	67.5%	67.5%	70%

Notes:
All costs are shown in 2015 dollars. See main document for explanation of cost estimates.
Medevac time is the elapsed travel time between the City of King Cove and Ted Stevens Anchorage International Airport. See main document for further explanation.
Risk score compiles multiple risk factors on a 1–4 scale (1=low, 2=moderate, 3=serious, 4=high) and averages them. Risk assessment is qualitative. Scoring allows for deriving the average and is not meant to imply precision in quantifying risk. See main document for explanation of methods.
Dependability shown is based largely on wind data thresholds. Other factors affect dependability and may differ between modes of travel. See main document for explanation.

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Acronyms and Abbreviations

AEB	Aleutians East Borough
AIP	Airport Improvement Program
ANC	Ted Stevens Anchorage International Airport
DOT&PF	Alaska Department of Transportation and Public Facilities
EIS	Environmental impact statement
FAA	Federal Aviation Administration
IFR	Instrument Flight Rules
ILS	Instrument Landing System
KUCB	Unalaska Community Broadcasting
NPV	Net present value
NWR	National Wildlife Refuge
O&M	Operations and maintenance
RNAV	Area Navigation
SRE	Snow removal equipment
USCG	U.S. Coast Guard
VFR	Visual Flight Rules

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1 Introduction

1.1 Background

The cities of King Cove and Cold Bay in southwestern Alaska lie 18 miles apart; see Figure 1. King Cove's population is about 800 year-round and expands to approximately 1,300 when the Peter Pan Seafoods processing plant is operating at full capacity.[1] While King Cove has the larger population, Cold Bay has the larger airport—an instrument-capable airport with a paved runway more than 10,000 feet long (one of the longest in the state) and a crosswind runway. It is a former military airport kept in service primarily as an emergency landing location on the long-haul great circle route between North American airport hubs and Asian airport hubs.

The communities of King Cove and Cold Bay are separated not only by miles. They are also separated:

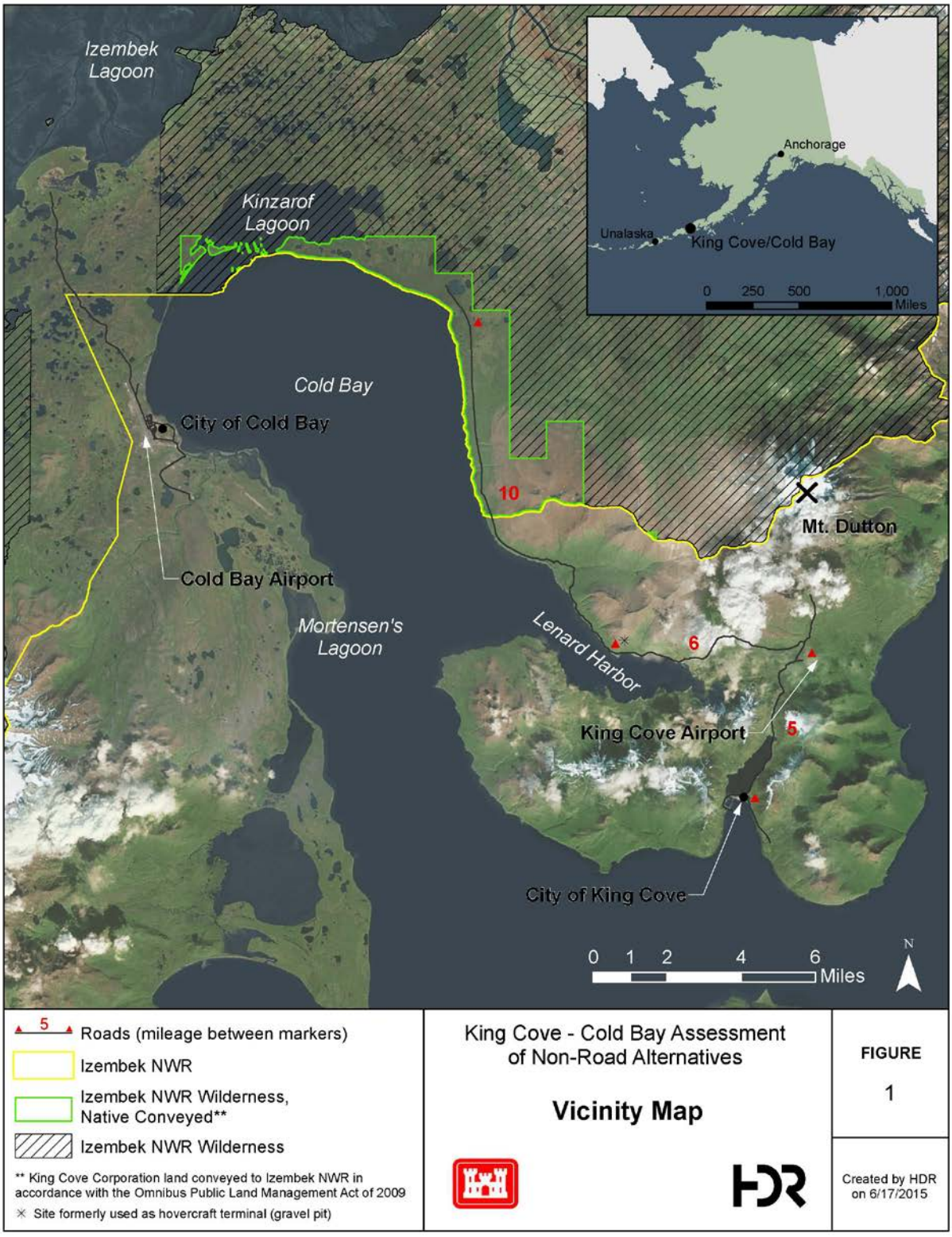
- By the water body of Cold Bay, which is more protected than the open ocean, but still known for severe winds and waves, and infrequently for ice.
- By mountainous terrain, particularly near the City of King Cove and its small airport.
- By an isthmus 3 miles wide separating the head of Cold Bay, which opens to the Pacific Ocean, from the Bering Sea.
- By protected lands of the Izembek National Wildlife Refuge (NWR) and Izembek Wilderness on the isthmus and by the Alaska Peninsula NWR along the shoreline, as established by Congress.

King Cove, the Aleutians East Borough (AEB), and Alaska's Congressional delegation have worked since the 1980s to convince Congress, the U.S. Department of the Interior, and USFWS to allow and fund a road between the communities, principally for medical evacuation (medevac).

Congress, in the Omnibus Land Management Act of 2009, directed that the Department of the Interior should examine a road in an Environmental Impact Statement (EIS) and use the EIS to determine whether a land exchange to allow road access would be in the public interest of the people of the United States. A December 23, 2013, Record of Decision signed by Secretary of the Interior Sally Jewell found it would not be in the overall public interest because "construction of a road through the Izembek National Wildlife Refuge would lead to significant degradation of irreplaceable ecological resources that would not be offset by the protection of other land to be received under an exchange…(and)… because reasonable and viable transportation alternatives exist to meet the important health and safety needs of the people of King Cove."[2] Secretary Jewell received a request for reconsideration of the decision. After further consultation and visiting the site, Secretary Jewell signed a letter dated August 13, 2014, stating the Department of Interior would stand by its decision and would not re-open the record of decision. At the same time, she reiterated commitment to continuing to work with Alaskans "to evaluate and develop other

[1] The Peter Pan Seafoods processing plant in King Cove is the largest capacity salmon processor in the state, and it processes Bering Sea crab catches and multiple other species.
[2] Record of Decision, December 23, 2013.

transportation improvements for the residents of King Cove and Cold Bay." This document is a result of that request.


Izembek Lagoon
Kinzarof Lagoon
Cold Bay
City of Cold Bay
Cold Bay Airport
Mortensen's Lagoon
Lenard Harbor
King Cove Airport
City of King Cove
Mt. Dutton
10
6
5
Anchorage
Unalaska
King Cove/Cold Bay
0 250 500 1,000 Miles
0 1 2 4 6 Miles
N
5 Roads (mileage between markers)
Izembek NWR
Izembek NWR Wilderness, Native Conveyed**
Izembek NWR Wilderness
** King Cove Corporation land conveyed to Izembek NWR in accordance with the Omnibus Public Land Management Act of 2009
Site formerly used as hovercraft terminal (gravel pit)
King Cove - Cold Bay Assessment of Non-Road Alternatives
Vicinity Map
FIGURE
1
Created by HDR on 6/17/2015

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Secretary Jewell requested assistance from the United States Army Corps of Engineers, Alaska District, to examine three non-road access alternatives in 2015. This document is the result of that request. It is designed to filter past work on non-road access alternatives and present the most promising in each of three non-road transportation modes:

- Marine vessel
- Fixed-wing aircraft
- Helicopter

1.2 Transportation Challenges

King Cove is an ocean-oriented community. However, there is no dependable and publicly available marine connection between King Cove and Cold Bay. The state-operated Alaska Marine Highway System ferry stops twice a month at King Cove and Cold Bay, May to October, with the only other marine connection consisting of fishing vessels that can sometimes be chartered between King Cove and Cold Bay. Fishing vessels can make the trip in most weather conditions but are not equipped to handle passengers, especially medevac passengers. Fishing vessels often are out of port on the fishing grounds or undergoing maintenance while in port. They must travel approximately 27 nautical miles from King Cove to Cold Bay, with roughly half that distance in open seas.

Another shortcoming in the marine connection between King Cove and Cold Bay is the inadequate infrastructure in place for passengers to disembark from vessels at the existing Cold Bay Dock. Passengers or medical evacuees must travel up a 20-foot ladder from the boat to reach the wharf deck. This can be dangerous, particularly for those who are not in good physical shape, especially when sea conditions cause the vessel to move with respect to the ladder used for disembarking. The state ferry that occasionally uses the dock during the summer has provisions for a ramp to allow vehicle and passenger transfer between the ferry and the dock. Sea and wind conditions at any time of year could preclude safe operation without a ramp similar to the state ferry at the Cold Bay Dock in its current configuration.

Regarding air transportation, the existing King Cove Airport lies north of town in a mountainous area. It has a single gravel runway 3,500 feet long. Terrain limits the available approaches and, in many wind conditions, creates turbulence that can cause unsafe flying conditions. Clouds also may form over or adjacent to the mountains, obscuring the runway. Scheduled air service to and from Cold Bay and other communities exists, but because of delays and cancellations due to wind, cloud cover, or snow and icing conditions compounded by winter darkness and mountainous terrain, scheduled air service is not considered to be as reliable as most air service elsewhere in the Lower 48. The scope of this assessment did not allow for analysis of other Alaska airports that have constraints similar to those attributed to King Cove.

Regarding the safety, reliability, and convenience of air travel, the Alaska Department of Transportation and Public Facilities (DOT&PF) published the 1994 *Alaska Intermodal Transportation Plan*, which noted:

1. A significant portion of the scheduled flights in and out of King Cove were cancelled due to unsafe flying conditions.
2. In addition to documented air crashes in King Cove, numerous incidents and near-misses occurred during operations around the airport, associated principally with weather.
3. Canceled flights due to unsafe flying conditions caused medical complications and fatalities for patients awaiting evacuation from King Cove.

Improvements to navigation aids installed at the airport or to the configuration of the existing airport would not adequately address these problems.

The AEB was the recipient of a $37.5 million federal appropriation for improving transportation between King Cove and Cold Bay and for improving medical care in King Cove. AEB purchased a $9 million hovercraft and constructed a landing for the hovercraft along the northeastern shore of Cold Bay. The vessel, the 93-foot *Suna-X*, operated from a landing site in Lenard Harbor while a road was under construction to the intended northeast landing site, and it had a landing site across the bay just south of the existing Cold Bay Dock. This allowed for a 14-mile hovercraft trip that could be completed in 17 minutes under favorable conditions. The hovercraft functioned as the primary marine connection between King Cove and Cold Bay and successfully evacuated 30 medical patients out of King Cove to the Cold Bay Airport from 2007 to 2010. Ultimately, however, local officials determined it was too costly to operate and could not operate in waves above 6 feet or winds above 30 miles per hour. The hovercraft was inoperable 30 percent of the time due to a combination of maintenance down-time and weather conditions beyond its operational capabilities.

The AEB moved the hovercraft to Akutan Island, where it ferried mail and seafood processing workers to a new airport on Akun Island about 6 miles away; however, the operation still required a large annual subsidy and was shut down in February 2014 to be replaced with helicopter service. In an April 2, 2014, article published by KUCB (Unalaska Community Broadcasting), AEB Administrator Rick Gifford was quoted as saying that the hovercraft service was unsustainable, costing about $3 million per year to operate. Further, he said that the helicopter service was cheaper, costing about $2 million per year, but not cheap enough. Gifford indicated that the AEB continues to look for access to the Akutan/Akun airport that it can support for the long term—perhaps via a ferry—but the capital costs of such an alternative are a major obstacle.

This document examines options for using the new road for access to a new marine terminal, a new airport, or a new heliport north of Mount Dutton, at the end of the road. Variations on these alternatives also are considered as ways to solve the long-standing problem of unreliable access across the bay or to Anchorage, primarily for medevac purposes.

2 Objectives, Scope of Work, and Methods

The U.S. Department of the Interior, through the U.S. Fish and Wildlife Service, has requested the U.S. Army Corps of Engineers, Alaska District, to assess three transportation modes that would not include a road through Izembek NWR. For each alternative, the assessment includes:

- **Description:** A narrative description of each alternative assessed, built off of multiple past studies but configured uniquely based on current conditions and understanding of the need, including a road that has been extended northward to a favorable airport and vessel launching area on the northeast side of the bay near the southern boundary of Izembek NWR.
- **Costs:** Costs of construction in projected 2015 dollars, and costs of maintaining the alternative over 75 years (standard annual operations and maintenance [O&M]). Replacement costs including major overhauls and replacement of system components are not included.
- **Risks:** Risks related to permitting, funding, and operating each alternative. Although each is given a numerical score, this is considered a qualitative risk assessment, a tool to help examine risks but not a determinant of which alternative is best overall.
- **Dependability:** The dependability of each alternative, defined as "the average percentage of time a minimum of four King Cove residents can successfully be transported to Cold Bay on a monthly basis for a one-year period." The document presents the amount of time in each month of a typical year that each alternative would be expected to operate as required, based primarily on monthly weather records.

Methods for assessing costs, risks, and dependability are further described below.

This document provides up-to-date information about marine, fixed- wing, and helicopter aircraft transportation modes. It specifically makes no recommendation regarding which mode might be most favorable, but presents high-level data to further the discussion.

2.1 Method Used to Assess Costs

Estimates of probable cost were developed for each alternative discussed in this document, assuming a 75-year life. These costs are considered Class 4 as defined by ASTM International (E2516-11), an organization that sets technical standards used globally. Class 4 costs, by definition, typically use stochastic methods and are used for projects that are in the conceptual phase of development. The alternatives herein fit into this conceptual category.

Many of the alternatives presented in this document use concepts (e.g., boats, helicopters) that have been evaluated in previous reports for transportation alternatives between King Cove and Cold Bay or in the region (e.g., Akutan). These earlier reports are more fully discussed below in Section 3. This report uses an analogous approach, which provides high-level estimates—not detailed estimates—by comparing costs for historical projects with similar features (e.g., Akutan Airport) to the project being estimated. Historical costs were brought forward to 2015 dollars using standard

cost indices. This technique, which is also known as top-down estimating, is often used to estimate costs when only conceptual details about the project are available.

Capital and operations (including maintenance) costs are provided. For purposes of this document, construction of any alternative is assumed to occur in 2020, although some alternatives likely would take more than one construction season to complete. To allow comparison between alternatives, net present values for capital and operating costs are provided using a discount rate of 5 percent and an inflation rate of 2.7 percent. All costs are reported as 2015 dollars.

2.2 Method Used to Assess Risk

Risks for marine and aviation alternatives were assessed qualitatively using a risk assessment method developed by the Federal Aviation Administration (FAA) and incorporated into a risk assessment workbook published by the U.S. Forest Service and Department of the Interior, Bureau of Land Management. This method uses a matrix to relate the likelihood of an outcome with its consequences to determine the level of risk it represents. The matrix, along with definitions, appears in Appendix A.

The matrix combines the likelihood of an event (frequent, probable, occasional, remote, improbable) with the anticipated severity of the outcome or event (catastrophic, critical, marginal, negligible). These result in a combined level of risk, each assigned a score:

1. Low
2. Medium
3. Serious
4. High

Scoring multiple risks for each alternative this way enables the calculation of an average score, allowing for easy comparison among alternatives. However, the process is necessarily subjective, and the risks are not weighted for relative importance. This can be misleading if the exercise is viewed as being more than mostly qualitative. The exercise is meant as a tool for evaluating alternatives but is not meant to produce a final, definitive answer about which alternative is best. Further, the scope of this assessment did not allow for additional evaluations of risk, such as weighting various risks, assessing risk by season, or creating separate risk assessments for different types of risk. Appendix A presents lists of key risks associated with the alternatives—both the risks of implementing each alternative and the risks of operating them once the project is complete.

2.3 Method Used to Assess Dependability

The definition of dependability presented near the beginning of this section calls for an assessment by month. Dependability of any of the alternatives was determined to be primarily a function of wind and weather in any given month. Wind speed and direction were identified as most critical to the dependability of both the marine and fixed-wing aviation alternatives. Wind and other weather information drove dependability for the helicopter alternative.

The alternatives presented were conceptually designed with the area's weather in mind, so dependability of many of the alternatives is relatively high, based primarily on weather. The following sections on each alternative indicate annual dependability ranging from about 70 percent to virtually 100 percent. Many other factors may contribute to dependability, including maintenance issues with the equipment used, human factors such as illness of a pilot or how quickly a vessel operator can reach the vessel, and snow and ice on the road between the clinic in King Cove and the vessel port, airport, or heliport.

Several of the marine and aviation alternatives make use of the existing road between King Cove and the northeast shore of Cold Bay. Anecdotal evidence suggests that there are snow and avalanche hazards that could make portions of the road impassable at times. While this has been identified as a potential risk and could impact dependability, further investigation would be necessary to more accurately quantify the impacts on road travel. This study assumes that regular maintenance of the road, together with an appropriate level of staffing and equipment, would reduce the risk of an impassable road on dependability of medevac access. Thus, these hazards, when compared to wind, are not assumed to be a primary driver of the dependability of the alternatives considered.

Appendix B presents wind data used for all of the marine, airport, and helicopter alternatives.

2.4 Method Used to Assess Medevac Travel Time

The calculation of travel time was based solely on travel for medevac purposes. It was assumed that most medical evacuations would start from the King Cove clinic or from the population center at King Cove. However, the alternatives would operate differently from each other. The marine and helicopter alternatives would cross the water body of Cold Bay to meet a medevac aircraft at the Cold Bay Airport, and the airport alternatives would provide for the medevac aircraft to meet a vehicle on the eastern shore of Cold Bay, without a need to cross the bay. Because the alternatives would operate in different ways, the travel time was calculated for all from the City of King Cove to Ted Stevens Anchorage International Airport (ANC). From ANC, a patient could be delivered to any of three hospitals, all approximately equidistant from the airport. This analysis did not try to determine travel time from ANC to an Anchorage hospital.

Travel time was calculated by adding together each leg of the journey. The calculations assumed average speeds for automobile, ferry, aircraft, and helicopter transportation, and multiplied those speeds by the distance to be traveled under each mode. No time was included for transfers; the calculations are based solely on the times needed for each mode once underway. For the airport alternatives, it is assumed that the time on the road (estimated at 1 hour) would be equal to or greater than the time required for the medevac aircraft to arrive from its home base.

Appendix C presents the estimated medevac times from the City of King Cove to ANC for each alternative.

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3 Existing Information and Past Studies

This document is built upon existing information and past studies, and presents updates to previous studies. Most of the critical engineering research regarding airport and docking locations, marine vessel types, and weather issues was completed previously.

The annotated bibliography at the end of this document (see Section 7) is a list of past studies completed on the topic of transportation alternatives between King Cove and Cold Bay. Most of these were examined in preparation of the current document, but a few studies provided key information. The primary documents referenced were the following:

- "King Cove-Cold Bay Transportation Improvement Assessment: Available Marine Technologies Technical Memorandum" (Glosten Associates 1998) provided important background for the marine ferry alternative.
- "Technical Memorandum, King Cove-Cold Bay Transportation Improvement Assessment: Two Selected Marine Options" (Glosten Associates 1998) provided important design information about the marine ferry alternative.
- "Cold Bay Ferry Study" (Glosten Associates 1999) provided additional information specific to the ferry alternative.
- "King Cove-Cold Bay Transportation Improvement Assessment: Facilities Concept Report" (HDR and Parson Brinckerhoff 2000) provided extensive information on air and marine alternatives, including five appendices listed separately in the bibliography for this *Assessment of Non-Road Alternatives*.
- *King Cove Access Project Final Environmental Impact Statement* (U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service 2003) provided extensive information regarding both air and marine alternatives.

Existing planning studies also inform the current effort. According to the 1994 *Alaska Intermodal Transportation Plan*, DOT&PF, the AEB, and the Cities of King Cove and Cold Bay identified the need for improved access between King Cove and Cold Bay to increase the safety, reliability, and convenience of travel to and from King Cove by eliminating dependence on the city's inadequate air facilities; to reduce redundant infrastructure and associated costs; and to strengthen the regional economy. Since that time, the focus has narrowed somewhat to safety and medevac capabilities for King Cove. The Omnibus Public Land Management Act of 2009 (Public Law 111-11), as well as the 2003 EIS related to this issue, focused on a road to be "used primarily for health and safety purposes… and only for noncommercial purposes."

Past Marine Vessel Work. Some of the critical selection criteria established by the AEB for the marine route alternative were identified in the *Project Description for the King Cove Access Project, 7th Revision* (OASIS Environmental, Inc. 2003), and are summarized as follows:

- Reliability 95 percent of the year
- Capability of travel year-round, during all anticipated weather conditions. This includes significant wind and wave heights.

- Ability to travel through up to 12 inches of solid bay ice.
- Suitable for carrying passengers, as well as vehicles with "roll-on/roll-off" capability.
- Cost-effective and sustainable acquisition, operation, and maintenance.

Previous studies identified several potential marine vessel alternatives, including hydrofoils, high-speed catamarans, and ground-effect-type crafts. Many of them offered advantages and quick traverse times in fair weather and calm, ice-free seas. However, the ability to operate year-round and under adverse weather conditions common in this area eliminated many of the marine alternatives under consideration. The studies provided to the AEB identified two viable marine alternatives based on the above criteria:

1. Large purpose-built hovercraft capable of transporting passengers and vehicles
2. Ice-capable monohull ferry suitable for all expected weather and sea conditions

As discussed in Section 1.2, the AEB purchased a purpose-built hovercraft. It operated successfully for approximately 3 years between Lenard Harbor, near King Cove (see Figure 1), and the City of Cold Bay. But ultimately it was taken out of operation because it was too costly to maintain and, in part, because it could not operate about 30 percent of the time. This document reexamines primarily Option 2, the ice-capable monohull ferry.

An ice-capable monohull ferry of sufficient size has been identified as a viable alternative that could meet the marine transportation criteria developed by the AEB. The "Cold Bay Ferry Study" (Glosten Associates 1999) identified a concept vessel that could meet these criteria with a stated 100 percent operability in the weather and ocean conditions of Cold Bay. It is further described in Section 4.

Past Aviation Work. DOT&PF's *King Cove – Cold Bay Facilities Concept Report and Assessment of Transportation Need*, published in 2000, found that flight operations by Pen Air, the only commercial air carrier serving King Cove at that time, were restricted to operating in daylight hours under Visual Flight Rules (VFR). Due to the frequency of bad weather (i.e., non-VFR conditions), flights in and out of King Cove were often delayed or canceled. The report cited a letter written by Pen Air President Orin Seybert which stated that "Due to terrain there will never be other than VFR daylight-only operations possible, with better than average weather necessary."

The 2000 DOT&PF report determined that the best available alternative site for a new airport was located on the northeastern shore of Cold Bay, northwest of Mount Dutton.

4 Marine Alternative

4.1 Introduction to Ferry Concept

The ferry concept includes a vessel capable of transporting people and vehicles in virtually all weather conditions and the terminal (dock) facilities needed on both ends of its route. Although the ferry has a longer traverse time than the hovercraft, it appears to be more reliable based on anecdotal information about the approximate 30 percent downtime experienced by the hovercraft during its operation in Cold Bay. Ferries are used widely as a primary means of marine transportation in Alaska, as evidenced by the 3,500 miles of ferry routes and more than 30 communities serviced that make up the Alaska Marine Highway System. Three alternative ferry routes have been identified as viable for marine travel between King Cove and Cold Bay:

- Alternative 1a, Northeast Ferry (with a terminal on the northeast shore of Cold Bay)
- Alternative 1b, Lenard Harbor Ferry (with a terminal on the northern shore of Lenard Harbor)
- Alternative 1c, Direct Ferry (with a terminal in the City of King Cove)

See Figure 2 for the locations of the ferry terminals.

Each alternative would have a dedicated terminal built onto the existing Cold Bay Dock. Each would include a similar ferry terminal, built new, on the King Cove side of the bay. It is assumed that the ferry would be typically moored at the ferry landing on the King Cove side, as this would be most expedient in the event of a medevac situation. These alternatives are described further below.

The three routes provide different combinations of ferry travel time versus driving time to reach the ferry, and exposure to different risks. For example, Alternative 1c has a longer overall travel time and higher exposure to rough sea conditions, but eliminates the risks associated with impassable roads due to heavy snow or avalanches.

All alternatives use the existing Cold Bay Dock. Based on preliminary analysis, there does not appear to be a site within practical distance of the Cold Bay Airport that provides significant advantages or more protection from wind and wave action than the existing dock location. Further investigation is warranted to validate the preliminary assumptions used in this document.

While the primary purpose of the ferry under consideration is medevac, the vessel likely would be used to establish a regular, year-round ferry service between King Cove and Cold Bay. While it is unlikely that the ferry would be used to its full capability, it could make up to three daily round trips between King Cove and Cold Bay. The fares collected from an established ferry schedule would help offset the annual operating expenses associated with the ferry transportation alternative. It is also worth noting that the King Cove Airport is assumed to continue to function under this alternative. This means that, under many conditions, a medevac flight could occur from the King Cove Airport. The ferry would be particularly useful in conditions that were too turbulent, too cloudy, or at night, when use of the King Cove Airport would not be recommended.

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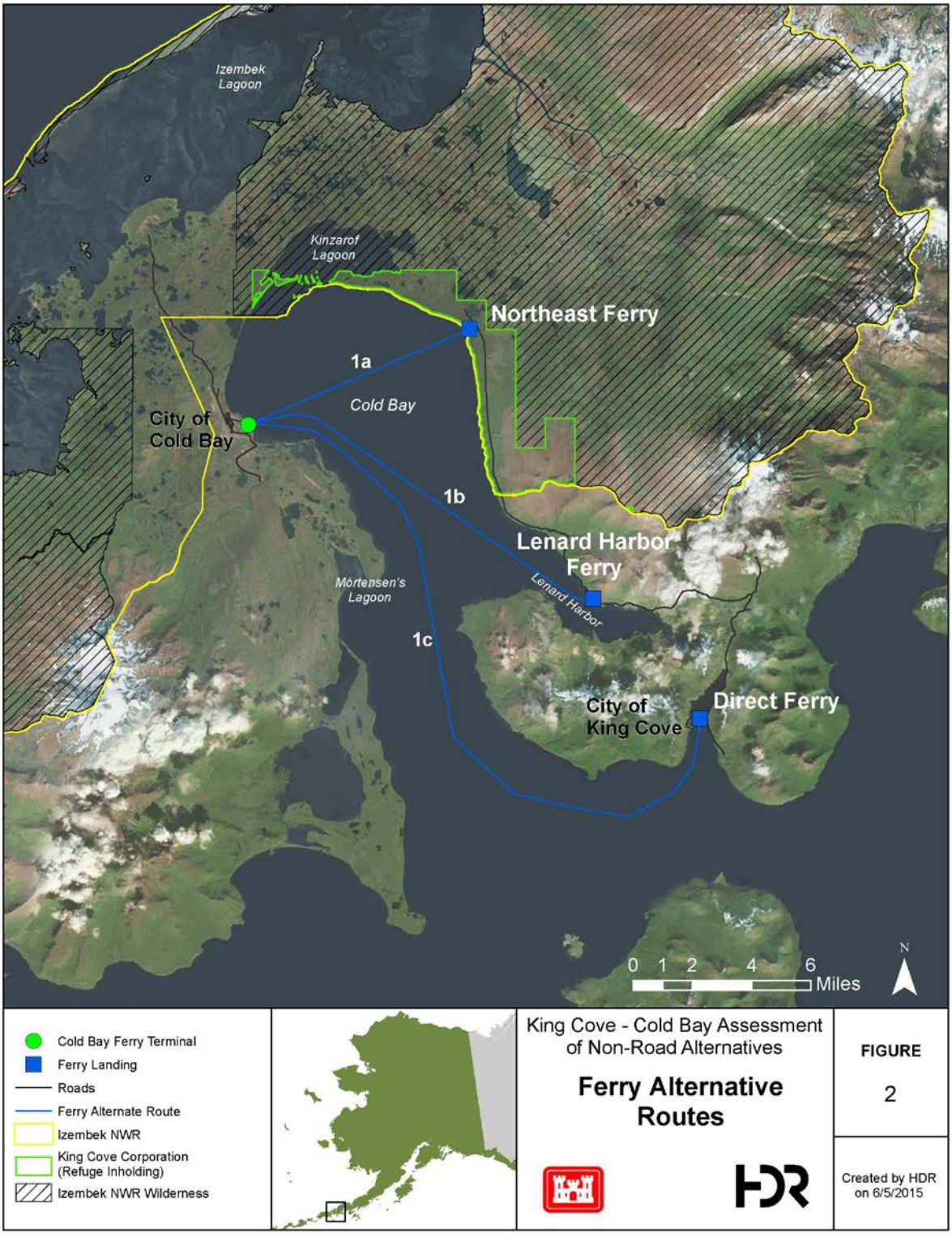
Izembek Lagoon
Kinzarof Lagoon
Northeast Ferry
1a
Cold Bay
City of Cold Bay
1b
Lenard Harbor Ferry
Lenard Harbor
Mortensen's Lagoon
1c
City of King Cove
Direct Ferry
0 1 2 4 6 Miles
N
Cold Bay Ferry Terminal
Ferry Landing
Roads
Ferry Alternate Route
Izembek NWR
King Cove Corporation (Refuge Inholding)
Izembek NWR Wilderness
King Cove - Cold Bay Assessment of Non-Road Alternatives
Ferry Alternative Routes
FIGURE
2
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4.2 Detailed Descriptions—Marine Alternatives

4.2.1 Facilities Common to all Marine Alternatives

The three alternative ferry routes are summarized in the following sections. Most components, including the vessel itself, Cold Bay dock modifications, and the basic mooring and terminal facilities on the King Cove side, would be the same.

The Vessel. The ferry vessel under consideration would have an approximate length of 150 feet, a beam of roughly 42 feet, and a draft of 12 to 14 feet. Sea conditions are the main driver in specifying a vessel of this size. The beam and length of the vessel were optimized based on the wave characteristics in Cold Bay to provide year-round capability and minimize passenger discomfort. The ferry could carry up to 150 passengers, in addition to 19 passenger vehicles and two large trucks. The hull would be strengthened to American Bureau of Shipping ice class A0 classification, capable of travelling through first-year sea ice up to 12 inches thick, and would be capable of operating in virtually all anticipated weather conditions within the waters of Cold Bay. It would likely have a dual-rudder/twin-screw configuration with engines producing approximately 1,200 horsepower. It would be an open deck design with a centrally located island to accommodate passengers and the pilothouse, as opposed to an enclosed ferry with overhead pilothouse. This would allow for ferrying over-height vehicles. Freeboard and bulwark height would be large to maintain the vessel's safe seakeeping capability in the expected sea conditions throughout the year, as well as to minimize shipping of green water and spray ice accumulation on the deck. This is the vessel described in the "Cold Bay Ferry Study" (Glosten Associates 1999).

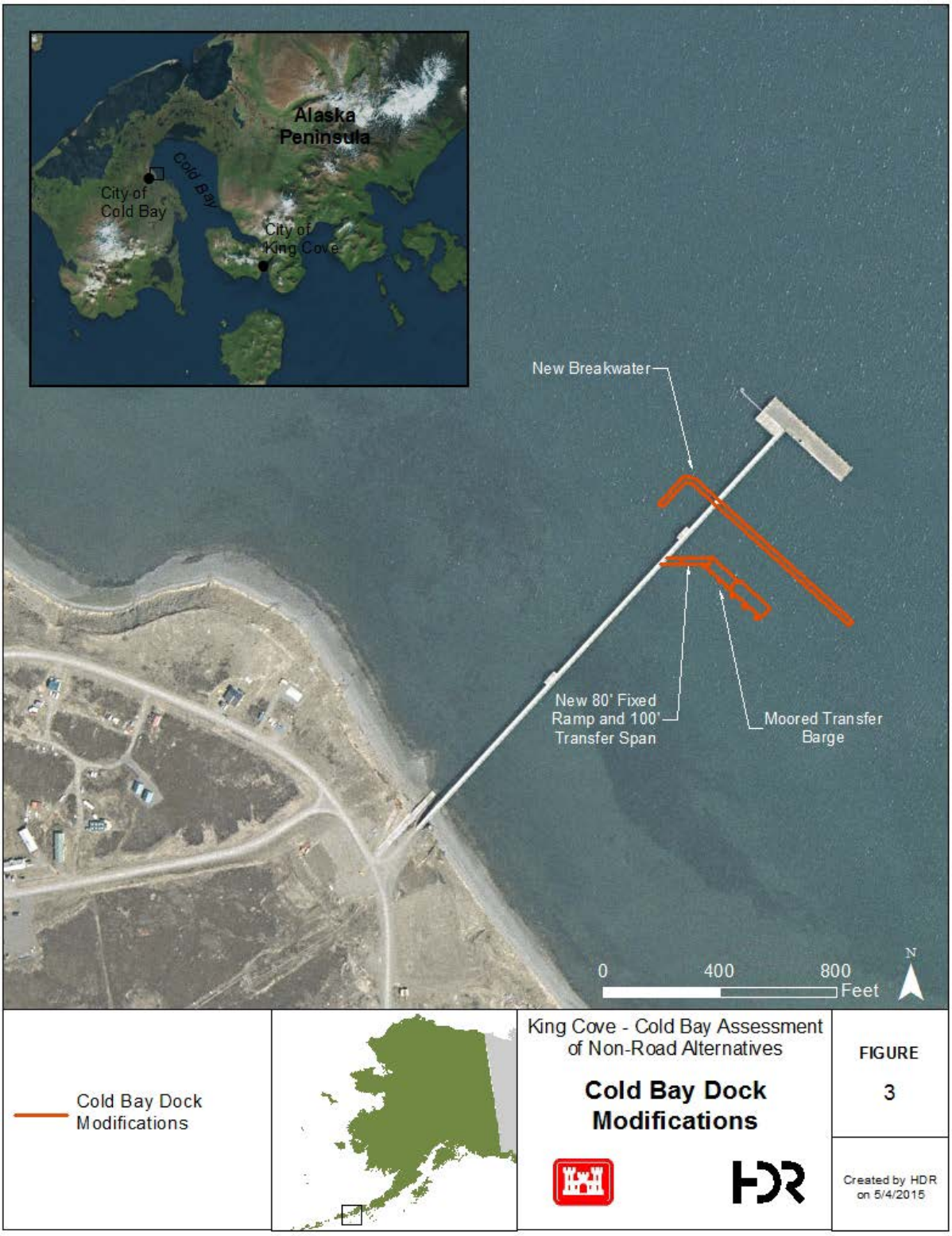
Cold Bay Ferry Terminal. Figure 3 illustrates a concept for the Cold Bay ferry terminal. The Cold Bay terminal would make use of the first 1,200 feet of the existing Cold Bay Dock to access a new transfer ramp that would branch off the existing trestle and provide access to a floating barge (transfer platform). The barge would function as the landing area for the ferry ramp. The ferry would breast against new dolphins (piling structures bedded in the sea floor, either monopole dolphins with floating donut fenders or five-pile breasting dolphins), and would power in to wingwalls near the moored transfer barge during loading and offloading operations. The mooring site would be located far enough offshore to take advantage of existing bathymetry and eliminate the need for dredging. A breakwater would be required to minimize wave exposure, and would be approximately 900 feet long with a crest elevation +15 feet. The side slopes of the breakwater would range between 1.5H:1V and 2H:1V. The ferry would have ramps off both the bow and stern that could be set down on the transfer platform to allow for vehicle and passenger transfer. This configuration would allow for forward drive-on and drive-off of transported vehicles. Although not currently the case, this analysis assumes that the Cold Bay terminal would have vessel refueling capabilities for the ferry. This would most likely consist of a mobile tanker truck that could drive aboard the ferry to fill the tanks. It is assumed that a tanker truck with refueling capabilities can be made available in Cold Bay.

Ferry Terminal near King Cove. A configuration similar to the one described above for Cold Bay would be used for all three marine alternatives for the ferry terminal providing access from King Cove, although a new trestle would also be required at these locations. In all cases, power would be

required for navigation and facility lights. It is assumed that power would be provided at outlying sites using a battery with light-emitting diode lights and provisions for small-scale solar and/or wind charging. Specifications and photographs of these systems are available online; see, for example, www.sealite.com.

It is also possible that a power line could be buried along the road from the existing King Cove Airport, but it is not included in the cost estimate due to the relatively high cost. For Alternative 1c, located at the City of King Cove, power is assumed to be readily available.

The following sections provide more detail on the terminal locations near King Cove, including figures showing conceptual layouts of marine terminal configurations.


Alaska Peninsula
Cold Bay
City of Cold Bay
City of King Cove
New Breakwater
New 80' Fixed Ramp and 100' Transfer Span
Moored Transfer Barge
0
400
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Cold Bay Dock Modifications
King Cove - Cold Bay Assessment of Non-Road Alternatives
Cold Bay Dock Modifications
FIGURE
3
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4.2.2 Northeast Ferry (Alternative 1a)

The Northeast Ferry alternative would include a ferry terminal on the northeast shore of Cold Bay, just south of the Izembek NWR boundary, and would include modifications to the existing dock at Cold Bay. The new dock/trestle is anticipated to be about 1,000 feet long to suit existing bathymetry and prevent the need for dredging. A breakwater would be required to minimize wave exposure, and would be approximately 850 feet long with a crest elevation +15 feet. The side slopes of the breakwater would range between 1.5H:1V and 2H:1V. See Figure 4.

Access to the Northeast Ferry terminal would be via the recently constructed road that provides access to the unused hovercraft landing site on the northeast shore of Cold Bay. The route would consist of approximately 21 miles of travel by road, followed by 6 miles of ferry travel to the Cold Bay ferry terminal.

This alternative has a longer road and more exposure to avalanche hazards and hazardous road conditions than the Lenard Harbor Ferry alternative, but it provides the shortest ferry travel time and slightly less severe wind and wave exposure than the other ferry alternatives.

Total travel time from King Cove to ANC Airport for medevac purposes is estimated to be 3.5 hours. Appendix C provides a complete look at medevac travel times for the marine, airport, and helicopter alternatives.

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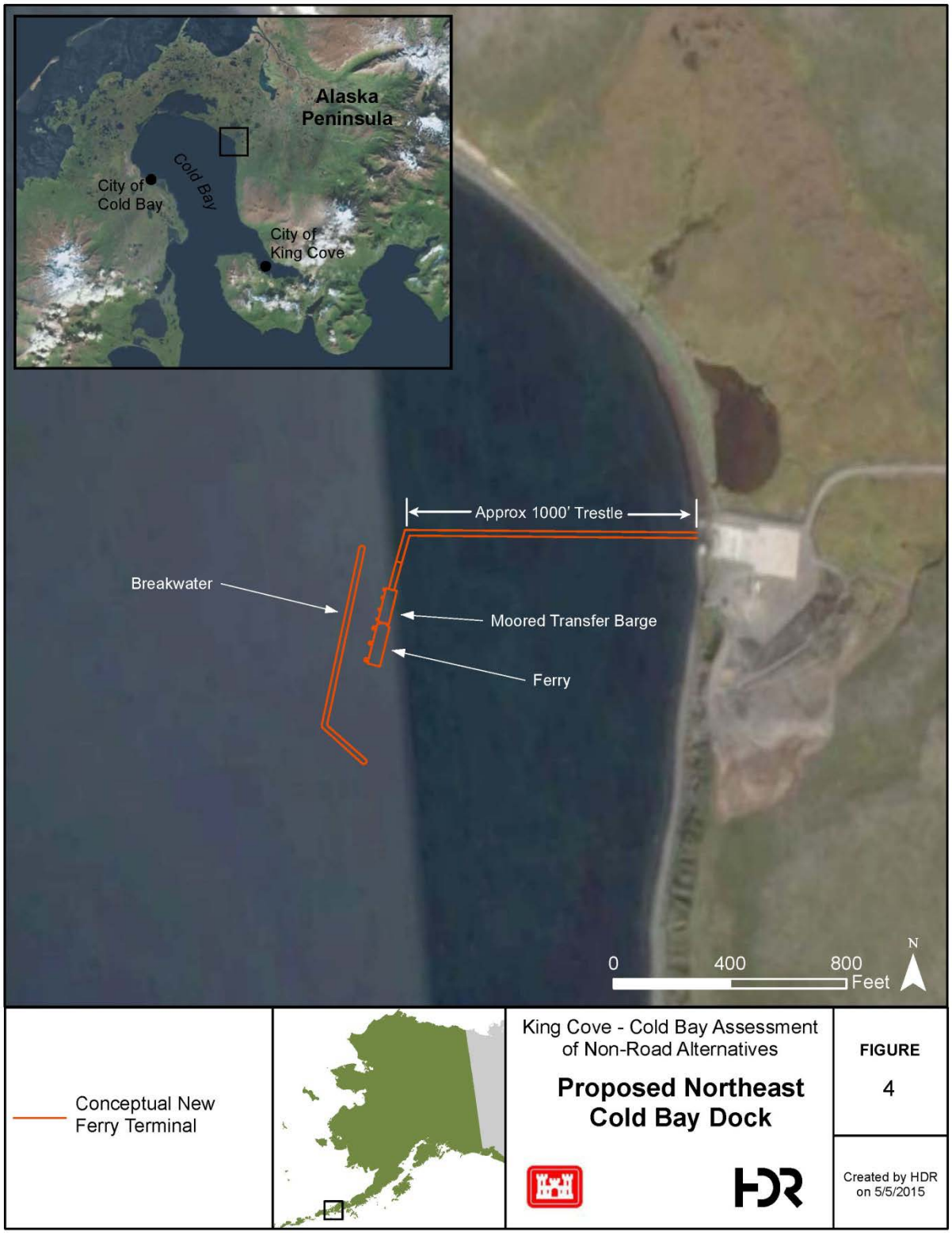
Alaska Peninsula
City of Cold Bay
Cold Bay
City of King Cove
Approx 1000' Trestle
Breakwater
Moored Transfer Barge
Ferry
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Conceptual New Ferry Terminal
King Cove - Cold Bay Assessment of Non-Road Alternatives
Proposed Northeast Cold Bay Dock
FIGURE
4
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4.2.3 Lenard Harbor Ferry (Alternative 1b)

The Lenard Harbor alternative would include a ferry terminal at Lenard Harbor and modifications to the dock at Cold Bay. The terminal at Lenard Harbor would be relatively protected from wind and wave exposure, and it is assumed it would not require a breakwater. The existing bathymetry is such that the new trestle would need to be approximately 300 feet long to eliminate the need for dredging. See Figure 5.

Access to the Lenard Harbor ferry terminal would be via the existing road between King Cove and Lenard Harbor. Travel from King Cove would include 11 miles on the road and a 14-mile ferry trip to Cold Bay.

Avalanche hazards and the potential for snow-covered roads exist along the road route between King Cove and Lenard Harbor, which could make the route impassable at times. However, it is assumed that the occurrence of avalanches is very infrequent. Most of the road is the same road used to access the existing King Cove Airport.

Total travel time from King Cove to ANC for medevac purposes is estimated to be 3.7 hours. Appendix C provides a complete look at medevac travel times for the marine, airport, and helicopter alternatives.

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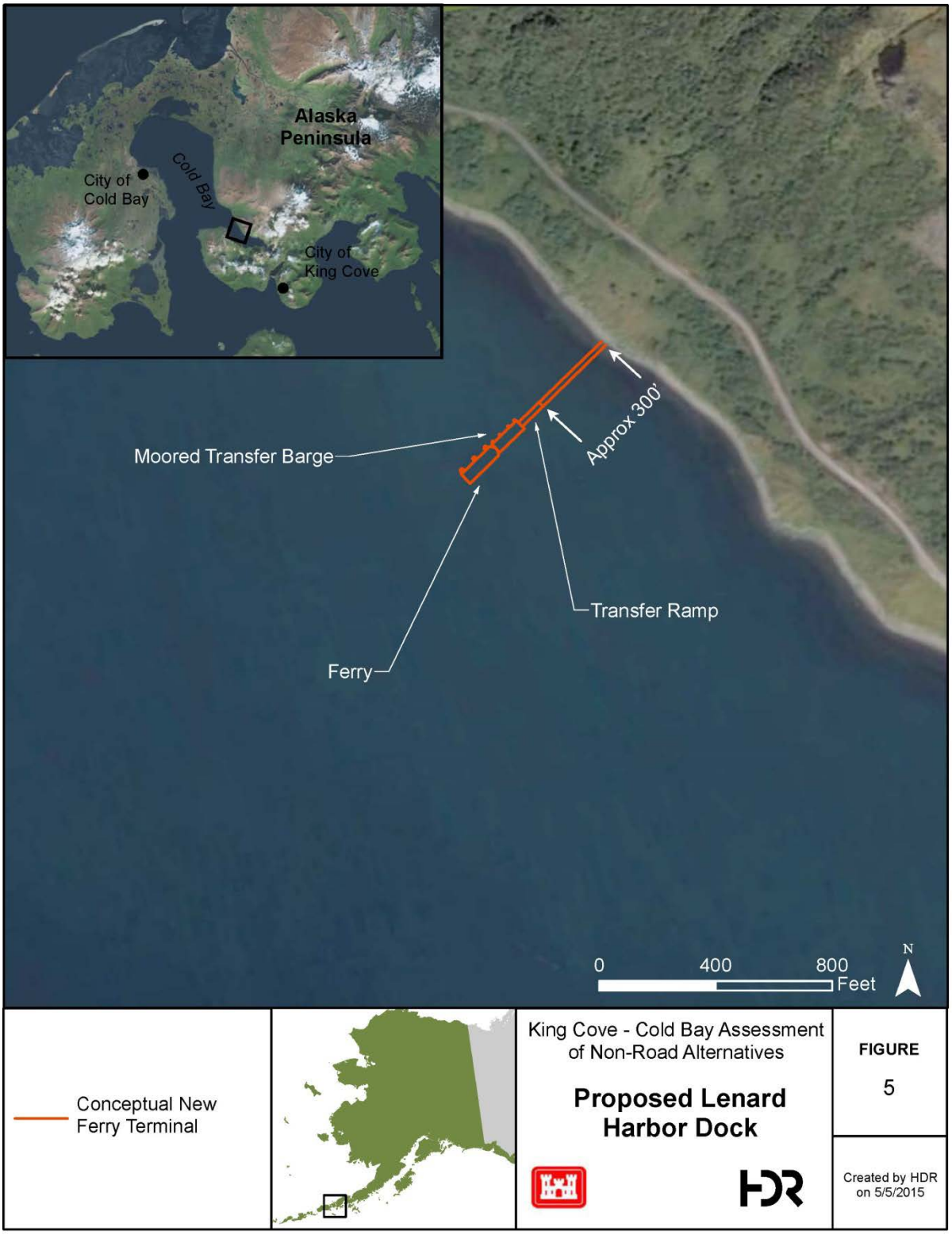
Alaska Peninsula
City of Cold Bay
Cold Bay
City of King Cove
Moored Transfer Barge
Approx 300'
Transfer Ramp
Ferry
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Feet
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Conceptual New Ferry Terminal
King Cove - Cold Bay Assessment of Non-Road Alternatives
Proposed Lenard Harbor Dock
FIGURE
5
Created by HDR on 5/5/2015

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4.2.4 Direct Ferry (Alternative 1c)

The Direct Ferry alternative would include a ferry terminal on the north shore of King Cove and modifications to the dock at Cold Bay. The existing bathymetry is such that the new trestle would need to be approximately 400 feet long to eliminate the need for dredging. A breakwater would be required to minimize wave exposure, and would be approximately 950 feet long with a crest elevation +15 feet. The side slopes of the breakwater would range between 1.5H:1V and 2H:1V. See Figure 6.

The terminal would be linked closely to existing King Cove infrastructure and would use existing roads, with virtually no road construction or road-based transportation time required. It would have immediate access to the existing electrical power supply in King Cove. The ferry route would include a stretch of approximately 13 miles in waters open to the Pacific Ocean between King Cove and Cold Bay, and it would have a the longest total transit time with more susceptibility to harsh sea conditions and passenger discomfort. The route would consist of approximately 27 miles total of ferry travel. The advantage to this alternative is the elimination of exposure to snow and ice, as well as to the avalanche risk for the road portion of the route that may be experienced in the other alternatives.

Total travel time from King Cove to ANC for medevac purposes is estimated to be 5 hours. Appendix C provides a complete look at medevac travel times for the marine, airport, and helicopter alternatives.

4.2.5 Comparison of Mode Options

Table 1 provides a comparative summary of the relative pros and cons of the three marine alternatives. This is meant to summarize the material above and to include relative information on the costs presented later in this document, but is not necessarily a complete list of criteria that should be used for selection of ferry terminal locations. Rather, it is a tool to present a quick snapshot of some relative advantages and disadvantages.

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Alt	Description	Comfort / Rough Seas	Road Hazards[a]	Medevac Travel Time	Operations and Maintenance Cost	Capital Cost	Sum
1a	Northeast Ferry	0	-1	0	0	-1	-2
1b	Lenard Harbor Ferry	0	0	0	0	0	0
1c	Direct Ferry	-1	1	-1	-1	-1	-3

1=Favorable; 0=Neutral; -1=Unfavorable

[a] Road hazards such as snow/avalanche

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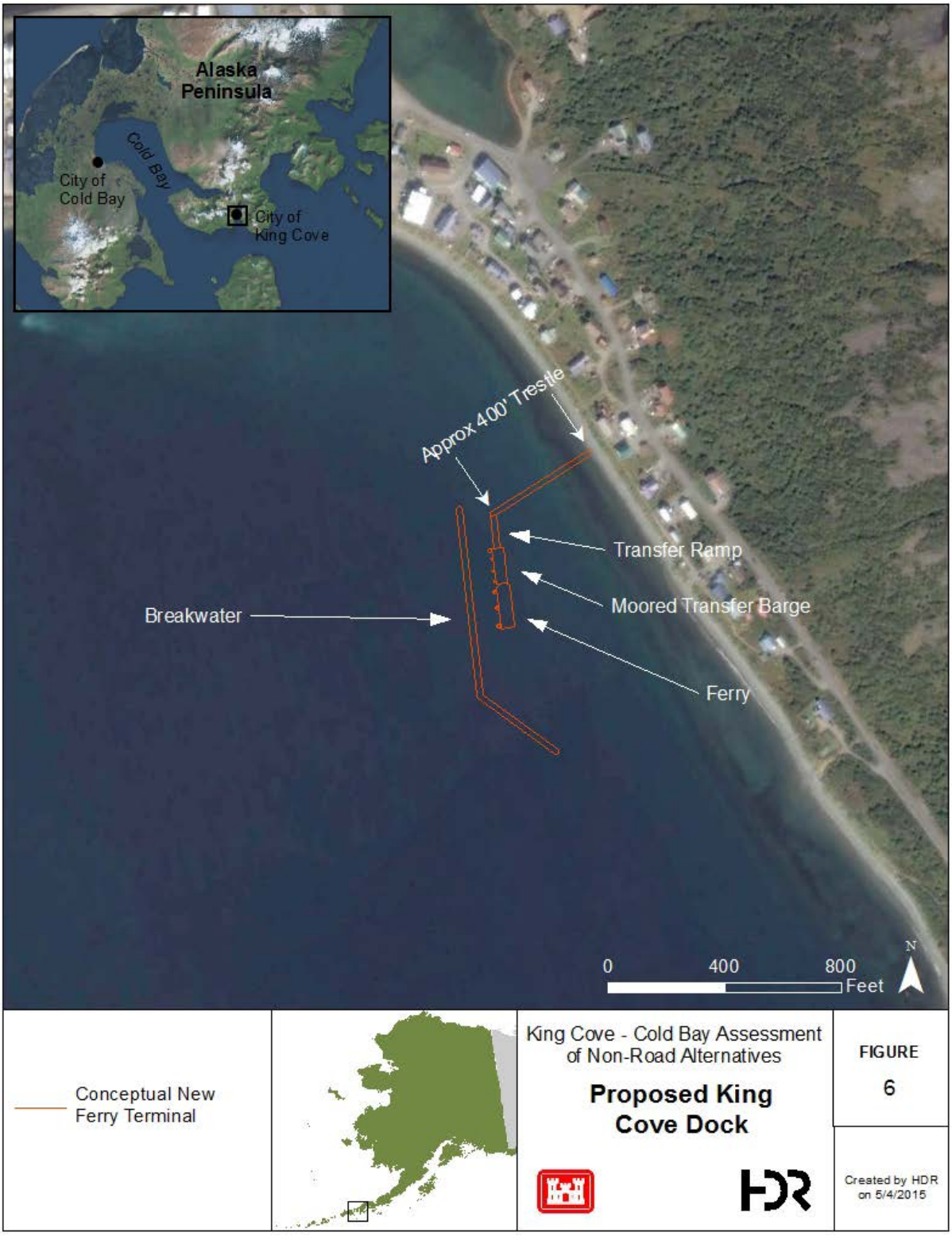
Alaska Peninsula
Cold Bay
City of Cold Bay
City of King Cove
Approx 400' Trestle
Transfer Ramp
Moored Transfer Barge
Breakwater
Ferry
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Conceptual New Ferry Terminal
King Cove - Cold Bay Assessment of Non-Road Alternatives
Proposed King Cove Dock
FIGURE
6
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4.3 Construction and 75-Year Life-Cycle Costs

Notes on methods used to determine costs for this document appear in Section 2. The capital costs are similar for all marine options, based on the assumption that the Direct (King Cove) and Northeast Ferry terminals would require a breakwater, while the Lenard Harbor Ferry terminal would be sufficiently protected to eliminate the need for a breakwater. The vessel type and modifications to the Cold Bay Dock are identical for all three options. It is assumed that existing roads would provide sufficient access without upgrades. Capital costs for the marine facilities and ferry vessel were based on the unit costs and quantities provided in the "King Cove Facilities Concept Report."

Table 2 summarizes the costs of the marine alternatives. The table reports capital costs in 2015 dollars and—for simplicity—uses the assumption that the ferry and docks would be built in 1 year, although vessel construction in reality would take longer. O&M costs shown are the costs projected for the first year of operations, in 2015 dollars. The O&M costs were bundled with the capital costs and applied over 75 years, accounting for inflation, and then brought back to 2015 dollars using a discount rate to provide a net present value (cost) of each alternative. Note that it is assumed the vessel life would be at least 75 years. The 75-year costs do not include provisions for periodic major replacements, such as engine replacement, as that level of analysis is beyond the scope of this study.

Table 2. Marine Alternatives Summary

Description	Alt 1a	Alt 1b	Alt 1c
Capital Costs (millions)	$41.8	$29.9	$39.0
Annual Operations and Maintenance Costs	$872,300	$925,600	$1.14 M
75-Year Life-Cycle Costs (2015 Net Present Value, millions)	$65.7	$56.7	$71.9

Notes:
All costs are presented in 2015 dollars. 75-year costs are escalated to 2095 and then brought back to 2015 dollars.
Capital costs include the ferry vessel and all dock/terminal components on both shores of Cold Bay, including provisions for electricity and (where applicable) a breakwater.
Vessel operating costs are based on an annual average of 1.5 round trips per day using a four-person crew. O&M costs also include (where applicable) road maintenance for any road dedicated to ferry access.

Annual O&M costs are based on the cost breakdowns provided in the "King Cove Facilities Concept Report" for the ice-strengthened ferry vessel, as well as maintenance costs for shoreside facilities. The additional wear and tear on the vessel associated with the Direct Alternative (Alternative 1c) has been captured by scaling up the hull and machinery maintenance costs based on the additional travel distance. Below is a list of items captured in the ongoing annual operating costs.

- Vessel hull maintenance costs, based on vessel weight
- Vessel machinery costs, based on propulsion and generator power output
- Crew costs to operate the vessel
- Fuel/lube oil costs as a function of travel distance and propulsion power
- Longshore/berthing costs
- Shoreside facilities maintenance

- Road maintenance (based on DOT&PF guidance and includes annual cost associated with grading, plowing, dust control, minor repairs, and similar activities necessary to keep the roads safe and operational).

4.4 Risks

Appendix A details key risks associated with the marine alternatives, including risks to implementing the alternative and risks of operating it once the project was complete.

Methods for assessing risk for all marine, airport, and helicopter alternatives are explained in Section 2. Multiple types of risks were identified and ranked using a matrix (shown in Appendix A). An average risk score was calculated. For the marine alternatives, the average risk scores were:

- Northeast Ferry (Alternative 1a): 2.4—medium-serious
- Lenard Harbor Ferry (Alternative 1b): 2.4—medium-serious
- Direct Ferry (Alternative 1c): 2.4—medium-serious

For all marine alternatives, the most important risks identified were related to operations at night and in extreme weather, permitting, and delays in getting the project built in an area with known important wildlife resources both on land and in the ocean. In addition, acquisition of the funding needed for construction and ability to financially sustain the operation in perpetuity are also important risks.

The principal risks to the marine alternatives are:

- Capital funding: This is critical to implementation of any of the marine alternatives.
- Operational funding: Annual O&M costs of the ferry system are unlikely to be offset by passenger fares. Inability to adequately fund annual operations was a primary factor in the AEB halt of the hovercraft marine connection in 2010.
- Regulatory permitting implications of installing a breakwater and construction of the ferry terminals: Effects to marine mammals and seabirds are an issue for the marine alternatives.
- No redundancy in the ferry system in the event of unplanned maintenance.

The most important risk *differences* among the marine alternatives are related to whether the ferry will be required to cross open water. Alternative 1c (Direct Ferry) has higher risk in a few key areas:

- Long travel time, which would put certain critical patients at greater risk of death or long-term complications. Recovering stroke victims, for example, have much better outcomes with prompt medical intervention at a hospital.
- Rough seas/open water travel, which could mean the vessel would not travel or could be at risk of capsizing if it did.

4.5 Dependability

Dependability of the marine alternatives would be based on:

- Wind speed (and related wave conditions) on the ferry route.
- Snow conditions, including snow and ice on the road and potential avalanche closure of the road (for Alternatives 1a and 1b).
- Downtime for maintenance of the ferry vessel, including maintenance of its ramps, and the trestles that allow vehicles and passengers to board.
- Unplanned maintenance and repair work that could take the ferry out of service

It is assumed the ferry would not operate in wind speeds exceeding 40 knots (46 MPH), based on operational restrictions and landing limitations in place at other ferry terminals in the region. Historic instantaneous wind data (see Appendix B) were examined to determine how often winds would exceed 40 knots (46 MPH). It is assumed that the vessel would be able to operate in any weather up to that speed, and this is the primary determinant of dependability. Table 3 indicates dependability by month based on wind speed.

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Alt	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
1a	99.9	99.5	99.6	100	99.9	99.7	100	100	99.9	99.6	99.9	99.7	99.9
1b	99.9	99.5	99.6	100	99.9	99.7	100	100	99.9	99.6	99.9	99.7	99.9
1c	99.8	99	99.2	100	99.8	99.4	100	100	99.8	99.2	99.8	99.4	99.6

Note: No wind data were obtained for the open water portion of Alternative 1c. However, it is assumed that the impact of more wind and wave exposure would increase the inoperable time period by a factor of 2 in comparison with Alternatives 1a and 1b.

Based on 3 years of historical wind data available (see Appendix B), the percentage of time during an average year that wind speeds exceed 40 knots (46 MPH) is 0.128 percent. On that basis, the ferry has 99.6 percent to 99.9 percent dependability based on historic wind data and the proposed ferry route. However, for medevac purposes, the dependability of all transportation modes in the medevac chain should be considered for total dependability. For example, there may be rare times when winds are below the operating threshold for ferry travel, but exceed the safe air travel threshold at Cold Bay Airport based on combined wind direction and speed.

For purposes of this conceptual document, based on 40-knot (46-MPH) wind speed, it is assumed that dependability for Alternative 1c (Direct Ferry) would be slightly less than dependability for the other two marine alternatives. While Glosten Associates' *Marine Alternative Study* indicated the proposed ferry vessel should provide 100 percent weather capability in the waters of Cold Bay, this may not be the case in the open water stretch. The potential for more severe sea conditions with the seafaring capability of the monohull ferry vessel should be investigated in more detail should this alternative be carried forth into a full feasibility study.

Alternatives 1a and 1b (Northeast Ferry and Lenard Harbor Ferry) have a slightly higher weather dependability for the ferry route portion, but the risk of heavy snow on the road and of avalanches reduces the dependability of the road portion of these alternatives. The Direct Ferry from King Cove (Alternative 1c) would not require driving out of the community. Although the scope of this study did not include local stakeholder input, further investigation into the expected frequency of

impassable road conditions on the access road from King Cove to the northeast shore of Cold Bay is recommended during more detailed studies to validate the assumptions used in this analysis and to determine with greater precision which route has the highest overall dependability. This could include gathering information from and possibly interviewing local residents based on their historical observations.

4.6 Other Marine Considerations

Ferry Revenue. It is likely that the ferry would not operate at capacity most of the time, and thus revenues would not cover the operating expenses. The "King Cove-Cold Bay Transportation Improvement Assessment: Facilities Concept Report" indicates that the ferry may be loaded to 16 percent of capacity on average, based on several trips per day and operating 5 days per week.

Smaller Landing Craft. There have been recent discussions about the possibility of using a much smaller landing craft to provide a marine link between King Cove and Cold Bay. This type of craft can land directly on the shore with minimal infrastructure needed, and can carry a vehicle as well as passengers. However, shore landings for this type of craft can often be carried out only in ideal conditions. Given the prevailing wind and sea conditions within Cold Bay, it is questionable how often the landing craft could be used in this fashion.

These smaller vessels typically are not ice-capable and thus would not be able to perform shore landings in ice conditions. While the vessel could be fitted with a deeper and heavier hull to accommodate light ice and heavier seas, it would then have a draft that prevented it from shore landings and would require some type of infrastructure on both ends of the route.

The landing craft would not meet the design criteria developed by AEB for the marine route alternative. At this time it appears that it would not be suitable for year-round medevac use. Further study of this option may be warranted, however, as a limited-purpose marine vessel for medevacs.

Special Purpose Medevac Boat. Another possible alternative that warrants further study is the use of a smaller, special purpose severe-duty rescue boat for the sole purpose of medevac. These rescue boats can come in a variety of configurations, such as self-righting or shore-landing-capable vessels. A vessel of this type would require significantly less capital investment in both the vessel and the terminal requirements, and lower maintenance costs.

There are, however, a few drawbacks to this alternative. The first is that these vessels are typically not ice-capable and thus not able to reach the shore in the event of bay ice. Another drawback to a smaller, special-purpose rescue boat is that passengers would be subjected to significantly more pitch and roll of the vessel and overall discomfort during inclement weather than with the larger monohull ferry vessel. Lastly, this alternative would have the sole purpose of medical evacuation. It would not be suitable for customary passenger travel and could not transport roll-on/roll-off cargo. Some rescue vessels have a bow ramp that could allow for transfer from the boat to a shore-based, ice-capable vehicle such as a small hovercraft or snowmobile in the event of significant bay ice. Specifications and photographs of this kind of boat and other specialty boats are available online; see, for example, www.safeboats.com or www.kvichak.com.

5 Airport Alternatives

5.1 Introduction to Airport Concept

The airport concept includes a new airport built for the City of King Cove that would function better in poor weather conditions, including instrument capability, than the existing airport. The one technically feasible site for a new airport that is away from mountain hazards and wind-channeling terrain and does not physically encroach into the Izembek NWR is located northwest of Mount Dutton and just east of the existing (abandoned) hovercraft landing. This site affords airspace with few obstructions on approaches from the north, west, or east. An approach from the south would be high over a mountain ridge west of Mount Dutton. Two airport alternatives, designed to accommodate two different medevac aircraft, are considered:

- Alternative 2a (5,000-foot paved runway)
- Alternative 2b (3,500-foot gravel runway)

These alternatives are further described below. See Figure 7.

The two airport alternative designs give specific consideration to accommodating aircraft used in the Aleutian Region for medevac operations. The typical destination for medevac flights from the Aleutian region is Anchorage. The primary medevac provider for the Aleutians, Guardian Flight, maintains a remote base at Unalaska. Guardian Flight would probably prefer to respond to medevac needs at King Cove from Unalaska. Guardian Flight uses both Learjet 35 aircraft (a small jet) and Beechcraft King Air aircraft (a twin-engine turboprop airplane), but because of the limited length of the runway at Unalaska (4,100 feet), Guardian Flight bases only the King Air there. A response with the Learjet 35 would come from Anchorage, possibly increasing costs for the medevac provider. Airport Alternative 2a is designed with the Learjet 35 in mind. Alternative 2b is designed for the Beechcraft King Air.

The Learjet 35 is a multi-role business jet that can carry eight passengers. It has a cruise speed of 480 mph. The Beechcraft King Air has two turboprop engines and can carry up to 13 passengers. It has a cruise speed of 330 mph. Each of the aircraft can be configured for use as an air ambulance.

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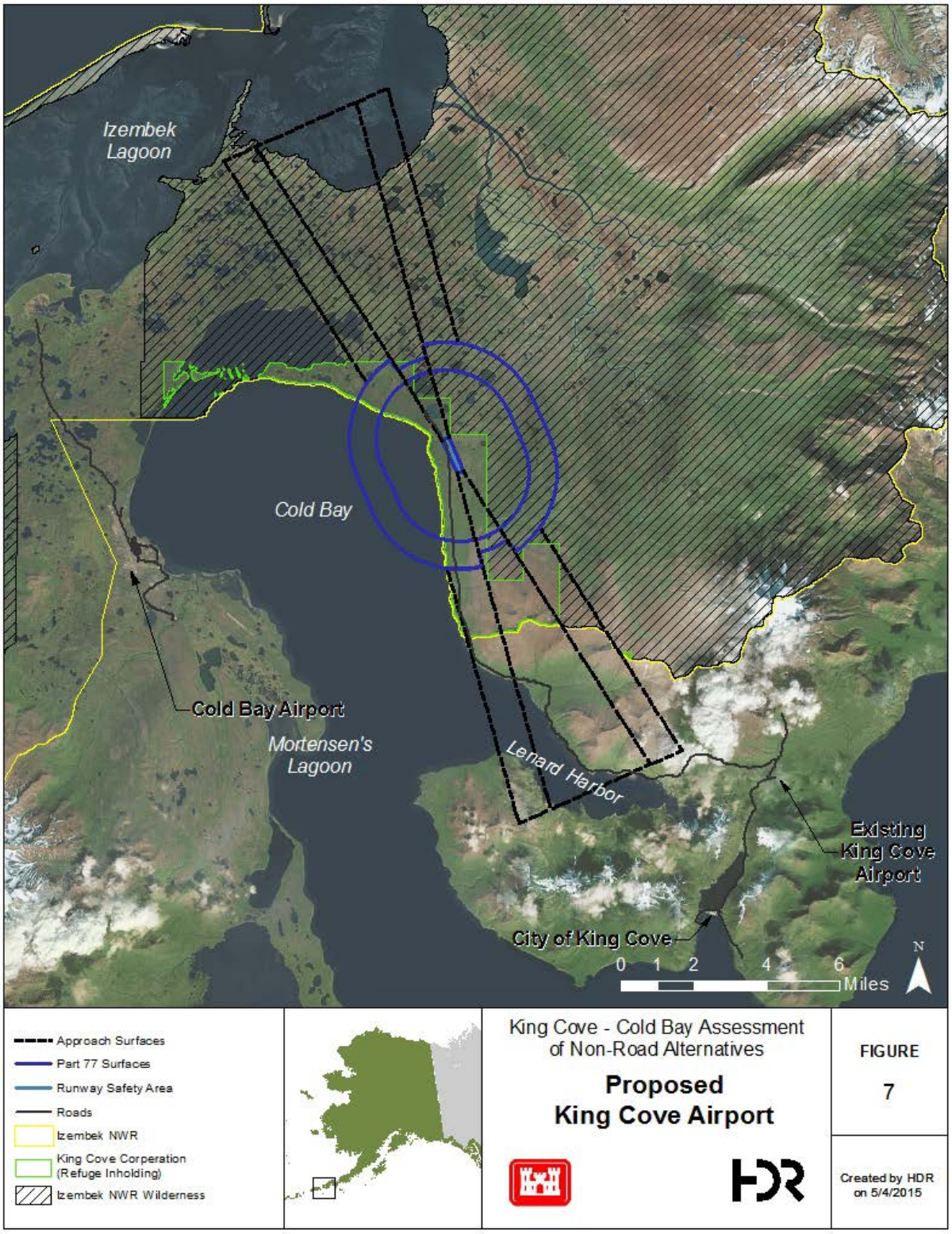
Izembek Lagoon
Cold Bay
Cold Bay Airport
Mortensen's Lagoon
Lenard Harbor
Existing King Cove Airport
City of King Cove
0 1 2 4 6
Miles
N
Approach Surfaces
Part 77 Surfaces
Runway Safety Area
Roads
Izembek NWR
King Cove Corperation (Refuge Inholding)
Izembek NWR Wilderness
King Cove - Cold Bay Assessment of Non-Road Alternatives
Proposed King Cove Airport
FIGURE
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The new airport would be close enough to the Cold Bay Airport that aircraft movement patterns could be coordinated between the two airports by the Cold Bay FAA Flight Service Station. Local reports are that wind and cloud conditions would still be severe at the proposed airport site, but—much like the Cold Bay Airport—there would be fewer obstructions to compound weather and visibility problems, and instrument-based flights would be more practical than at the existing King Cove Airport.

In accordance with the Statement of Work for this project, both airport alternatives include a Category 1 Instrument Landing System (ILS). However, the FAA is no longer installing ILSs; their preferred system is now RNAV (aRea NAVigation), a method of instrument flight rules (IFR) navigation based on a satellite-based Global Positioning System. Regardless, for design and estimating purposes for this project, ILS approach dimensional and clearance standards also apply to RNAV approaches.

The new airport would include a runway, an apron, and a connecting taxiway. The runway alignment is assumed to be the same as for Cold Bay Airport's primary runway, located approximately 9 miles directly west across the bay from that location. A site-specific wind study could alter this assumption or require the addition of a crosswind runway.

Power for the runway lighting system and navigation aids is assumed to be generated on-site. Snow removal for the road would be provided from King Cove. Snow Removal Equipment (SRE) dedicated for airport maintenance would be housed in an SRE Building located on the apron.

The airport site would be accessed by an existing gravel road extending 21 miles from the City of King Cove. Between King Cove and the existing airport, a distance of about 5 miles, the road is two lanes wide with a gravel surface. From the existing airport to the proposed airport site, a distance of about 16 miles, the road is a single-lane gravel road with inter-visible turnouts for passing. As described in this document, the road would not be widened. Given the low level of traffic expected on this route, one driving lane with turnouts is appropriate. It would also minimize maintenance costs.

5.2 Detailed Descriptions—Airport Alternatives

Both airport alternatives would be designed to the same FAA A/B II standard. The “Critical Aircraft” is defined by the FAA as the most demanding aircraft anticipated to operate at the airport more than 500 times per year—in this case, a Cessna 208, as defined by the DOT&PF *Alaska Transportation Plan* (2004). The Cessna 208 and Beechcraft King Air (the primary medevac aircraft serving the region) have similar runway requirements. For Alternative 2a, however, the runway is extended and paved to support occasional use by the more demanding Learjet 35. Figure 8 illustrates the standard airport layout and the relative length of the 3,500-foot runway versus the 5,000-foot runway.

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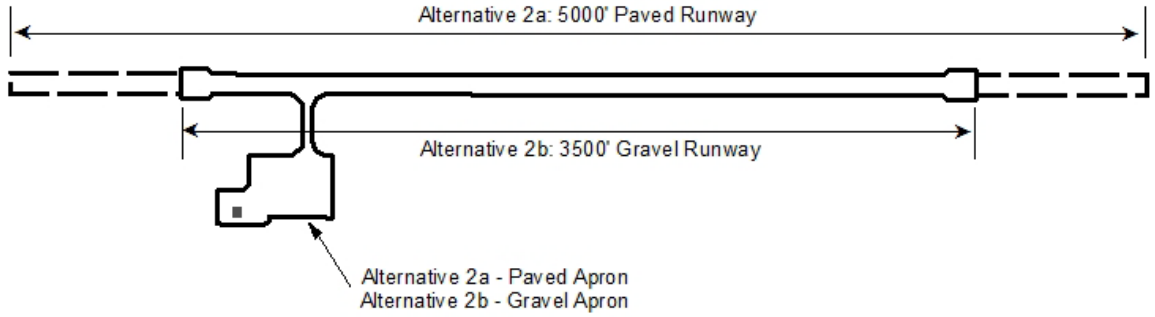

Runway
Runway Extension
Equipment Building

King Cove - Cold Bay Assessment
of Non-Road Alternatives

Proposed Airport

FIGURE
8

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Either alternative would include Object Free Areas around the runway (300 feet on the sides, 500 feet at each end) and Runway Safety Areas (150 feet on the sides, and 300 feet at each end of the runway), per FAA standards. The airport would be fenced.

The following sections detail the differences between the two alternatives.

5.2.1 Alternative 2a (5,000-foot runway/Learjet 35)

Alternative 2a would provide a runway 75 feet wide and 5,000 feet long, to accommodate occasional service by the Learjet 35. The difference between the "standard" length for an A/B II airport (3,500 feet) and the desired length would have to be approved by the FAA if federal Airport Improvement Program (AIP) funds were to be used to construct the airport.

The Learjet does not operate on a gravel surface, because gravel can cause catastrophic damage to jet engines. The runway therefore would be paved. In addition, to maintain adequate friction on the runway surface to permit safe operations in winter conditions, the runway would require a higher level of maintenance than is common at gravel surface airports. At minimum, this would require a grader, a mechanical broom, a broom truck, and a sand spreader. This equipment would be stored in a heated, three-bay snow removal equipment (SRE) building, and the airport would probably be staffed by an airport maintenance staff of three in the winter, and possibly fewer in summer.

Total medevac travel time from King Cove to ANC using the Learjet 35, inclusive of traveling the road between King Cove and the new airport, is estimated to be 2.4 hours.

5.2.2 Alternative 2b (3,500-foot runway/King Air)

Alternative 2b would provide a runway 75 feet wide and approximately 3,500 feet long. The runway surface would be gravel. This runway length, width, and surfacing are very similar to conditions at the existing King Cove Airport and are standard for the aircraft typically serving community airports in the region from the Unalaska Airport regional hub. The Beechcraft King Air is an appropriate aircraft to operate at the small gravel-surfaced community airports typical of the Aleutian Region. Airport-dedicated snow removal equipment typical for unpaved remote airports—a bulldozer, a grader, or both—would be sufficient for surface maintenance. Maintenance equipment would be stored in a heated, single-bay SRE building. Maintenance staff for the access road would share airport maintenance duties, but additional staff would be required.

The runway length proposed for this alternative (3,500 feet) is slightly longer than the 3,300-foot runway proposed for King Cove by the *Southwest Alaska Transportation Plan Revised* (DOT&PF 2004), but matches the runway length of the existing King Cove Airport.

Total travel time from King Cove to ANC using the King Air, inclusive of traveling the road between King Cove and the new airport, is estimated to be 3 hours.

5.2.3 Comparison of Airport Options

Table 4 provides a comparative summary of the relative pros and cons of the two airport alternatives. This is meant to summarize the material above and include relative information on costs presented later in this document, and is not necessarily a complete list of criteria that should

be used for alternative selection. Rather, it is a tool to present a snapshot of some relative advantages and disadvantages.

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Alt	Description	Medevac Travel Time	Operations and Maintenance Cost	Appropriate for Critical Aircraft	Sum
2a	5,000-ft Runway/Learjet 35	1	-1	-1	-1
2b	3,500-ft. Runway/Beechcraft King Air	-1	1	1	1

1=Favorable; 0=Neutral; -1=Unfavorable

5.3 Construction and 75-Year Life-Cycle Cost

Capital costs used in this document for construction of a new airport are based on recent construction of the Akutan Airport, on Akun Island. The lump sum total for the airport is the basis for figures used here, with adjustments for runway length and surface type, with allowance for inflation.

The capital costs would be higher for Alternative 1a because it would have a longer runway, it would be paved, and the runway would require a larger building to house SRE. The paved runway for jet service would require more maintenance at higher cost. Both would require maintenance of an additional 16 miles of road to reach the airport. Table 5 shows capital costs and O&M costs. This document presents the full costs of the alternatives. If the existing King Cove Airport were to be closed upon completion of the new airport, which is likely, the existing operating and maintenance costs accruing to the DOT&PF operating budget for the existing airport would be replaced by the costs of the new airport.

Table 5 reports capital costs in 2015 dollars and assumes that all airport alternatives would be built in 1 year. O&M costs shown are the costs projected for the first year of operations, in 2015 dollars. The O&M costs were bundled with the capital costs and applied over 75 years, accounting for inflation, and then brought back to 2015 dollars using a discount rate to provide a net present value (cost) of each alternative. Note that this does not include provisions for periodic replacement of snow removal equipment, the navigation system, or recurring tasks such as repaving (Alternative 2a only) the runway .

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Description	Alt 2a	Alt 2b
Capital Cost	$84 M	$47 M
Annual Operations and Maintenance Cost	$674,700	$223,300
75-Year Life-Cycle Cost (Net Present Value)	$97.0 M	$49.3 M

Notes:
All costs are in 2015 dollars. M = million.
Capital costs include a complete airport. Assumes no road construction necessary.
O&M costs include airport O&M and road O&M for the road segment dedicated to airport use.
The 75-year total cost is escalated to account for inflation over time and brought back to 2015 dollars.
This table presents the full costs of the alternative. Potential savings to the DOT&PF operating budget resulting from closure of the existing King Cove Airport are not included.

5.4 Risks

Methods for assessing risk for all marine, airport, and helicopter alternatives are explained in Section 2. Risk assessment tables for all of the alternatives appear in Appendix A. Multiple types of risks were identified and ranked using a matrix (shown in Appendix A). This qualitative assessment resulted in an average risk score. For the airport alternatives, the average risk scores were:

- Alternative 2a (5,000-foot runway): 2.4—medium-serious
- Alternative 2b (3,500-foot runway): 2.5—medium-serious

The risks identified in the assessment tables for each of the two airport alternatives are nearly identical. Those considered to be of the greatest concern are discussed below.

The risks of night operations and air travel in general for the King Cove-Cold Bay area, as well as for the Aleutian Island region, are significant. Various sources describe the Aleutian Islands as the windiest and rainiest region in the United States. The mountainous terrain can cause dangerous turbulence, increased wind speeds due to venturi effects, and accumulation of clouds. These factors, together with the remoteness of both communities, place a premium on the appropriate implementation and use of technology, pilot training for good decision-making, and timely weather data collection and reporting, particularly when night operations compound the regional weather effects.

The road between King Cove and the identified airport site passes through three possible avalanche areas, based upon a preliminary examination of aerial photography. Two of these areas are located along the road to the existing King Cove Airport. The third is located about 5 miles west of the existing airport. Further information on the frequency of avalanches should be collected, but anecdotal accounts indicate that avalanches are not annual occurrences. In addition to representing a risk to travelers on the road, an avalanche would effectively close the new airport until the avalanche debris could be cleared from the road.

Animal behaviors are a concern for the safe operation of the airport, due mainly to the potential for conflicts with animals on the runway and birds in the runway approach airspace. Fencing would

mitigate the danger from animals but not guarantee removal of all danger. Snow drifts, failure to close gates, and poor maintenance can facilitate animal passage over or through fences. Avoiding the creation of additional water bodies through the use of best management practices during construction and the revegetation of disturbed terrain near the airport would help reduce the concentration of birds near the airport.

The ability to secure construction funding would be critical to the success of either alternative. The most likely source of funding would be a grant from the FAA Airport Improvement Program (AIP). Acceptance of an AIP grant carries with it many obligations, including the ability to ensure the long-term support of the facility, which would include the maintenance of any associated single-purpose airport access road. In Alaska, DOT&PF is most often the owner/operator of rural public airports. In assuming responsibility for the cost of the proposed airport, DOT&PF could minimize the impact to their maintenance budget by closing the existing King Cove Airport. However, DOT&PF also would assume the cost of maintaining approximately 16 miles of roadway past the existing airport that they are not currently maintaining. Given recent reductions to the state operating budget, this could be problematic. In theory, these same ownership and maintenance responsibilities could be assumed by the AEB or the City of King Cove, but the cost and administrative burdens may be beyond the abilities of either entity to support.

5.5 Dependability

Weather is the chief determinant of dependability of access in the Aleutian Islands region. How weather affects the safety and operability of airports within the region is highly site-specific. On-site weather data were not collected for the proposed airport site, but data collected at Cold Bay Airport were evaluated as a reasonable proxy. It should be noted, however, that the topography differs at the two sites. About 5 miles to the southeast of the proposed airport site is a ridge (elevations less than 3,000 feet) off Mount Dutton. For the Cold Bay Airport, Mount Frosty is somewhat higher (6,300 feet) and lies about 9 miles to the southwest. Winds coming from the southeast at the proposed airport site likely would generate more turbulence than might be expected at Cold Bay Airport from that direction. The mountains may also tend to affect the accumulation or departure of cloud cover differently.

Cold Bay Airport has an ILS but, according to information compiled by the Medallion Foundation,[3] is not able to support safe operations 100 percent of the time.

Guidance provided by the Medallion Foundation also indicates that, at wind speeds above 35 knots (40 MPH), commercial pilots should consider not operating at Cold Bay Airport. Wind conditions are expected to be similar at the proposed site. An examination of monthly average wind speeds at the airport (see Appendix B) shows that higher wind speeds occur most often in the winter—October through March. There is not a strong seasonal trend in wind direction on an annual basis at Cold Bay (Weatherspark.com 2015). For this document, a wind speed of 40 knots (46 MPH) was used as a cutoff. Appendix B shows that wind speeds of 40 knots (46 MPH) are exceeded about

[3] The Medallion Foundation is an Alaska-based non-profit organization that promotes aviation safety. Medallion guidance, compiled from information submitted by its member commercial air carriers, identifies thresholds for safe wind speeds at Alaska's commercial airports, beyond which aircraft operations are not advised.

0.128 percent of the time on an annual basis. Note that the data set for June is probably an anomaly, possibly an issue with the data collection equipment.

Finally, the snow events and avalanche-prone areas on the 21-mile access road may reduce dependability an additional 5 percent, but only in the winter.

Wind data used for all marine, airport, and helicopter alternatives appear in Appendix B. Table 6 indicates dependability of Alternatives 2a and 2b by month based on wind speed.

[illegible] 6[illegible]r[illegible] 2[illegible]d 2[illegible], D[illegible]d[illegible] [illegible] M[illegible] ([illegible])

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
94.9	94.6	94.6	95.0	95.0	94.9	95.0	95.0	95.0	94.7	95.0	94.8	94.9

Notes: Based on 2012-2013 wind measurements at Cold Bay Airport. Dependability is based primarily on winds each month at greater than 40 knots (46 MPH). Data source: National Climatic Data Center.

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6 Helicopter Alternative

6.1 Introduction to Helicopter Concept and Common Design Features

The helicopter concept is modeled on the helicopter service AEB currently employs between the community of Akutan and the community's airport on Akun Island. This service would feature the following elements:

- A leased helicopter (Bell 212 or similar on floats) and crew. Minimum on-station crew would consist of one pilot and one mechanic.
- A lighted heliport facility with a pad of 100 feet by 100 feet.
- A hangar of 40 feet by 80 feet for sheltering the helicopter when not in use, providing space for performing helicopter maintenance, and storing spare parts and fuel. The hangar would accommodate a B 212 helicopter with the main rotor blades folded.
- Road access from King Cove.

This document examines four possible alternative locations on the King Cove side of the bay:

- Alternative 3a: Northeast Heliport (located on the northeast shore of Cold Bay)
- Alternative 3b: Lenard Harbor Heliport (located at the north shore of Lenard Harbor)
- Alternative 3c: Peninsula Heliport (located on the peninsula at the western end of Lenard Harbor)
- Alternative 3d: King Cove Heliport (located at the City of King Cove)

The features above would be common to all locations. See Figure 9 for heliport locations.

The Cold Bay Airport does not have a designated heliport, but it is assumed the helicopter would follow normal landing procedures and hover-taxi to and from an existing aircraft parking apron. It is assumed the helicopter and crew would be located on the King Cove side of the bay; however, see "Other Considerations" at the end of Section 6.

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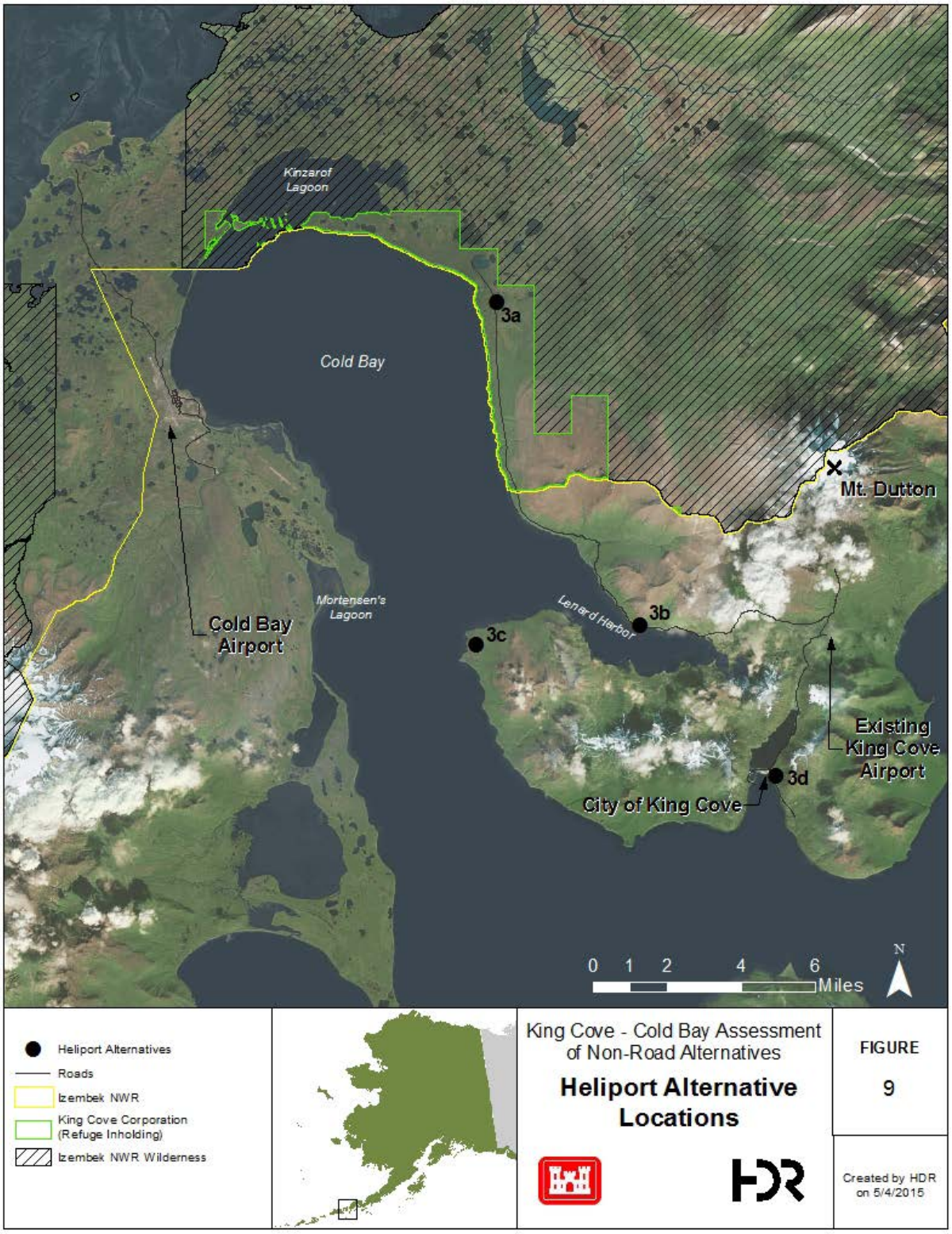
Kinzarof Lagoon
3a
Cold Bay
Mt. Dutton
Mortensen's Lagoon
Lenard Harbor
3b
3c
Cold Bay Airport
Existing King Cove Airport
3d
City of King Cove
0 1 2 4 6 Miles
N
Heliport Alternatives
Roads
Izembek NWR
King Cove Corporation (Refuge Inholding)
Izembek NWR Wilderness
King Cove - Cold Bay Assessment of Non-Road Alternatives
Heliport Alternative Locations
FIGURE
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6.2 Detailed Descriptions—Helicopter Alternatives

The new heliport would be designed in accordance with FAA Advisory Circular No. 150/5390-2C, *Heliport Design*, with lighting and navigation aids appropriate for operation in Visual Flight Rules (VFR) conditions. Figure 10 illustrates the basic layout. The dimensions of the heliport would be based on a Design Helicopter; i.e., the most demanding helicopter anticipated to use the facility. In this case, the Design Helicopter would be the U.S. Coast Guard (USCG) HH-60 (currently based in Kodiak). Although the Bell 212 (or similar) helicopter would provide routine service between King Cove and Cold Bay, it is anticipated that the USCG HH-60 would operate occasionally at King Cove in conjunction with search and rescue missions or if the Bell 212 (or similar) was out of service. The hangar to support helicopter service would be sized to accommodate the Bell 212, because there should be no need to shelter the USCG helicopter in King Cove.

The following sections describe the four alternative sites and outline the advantages and disadvantages of each.

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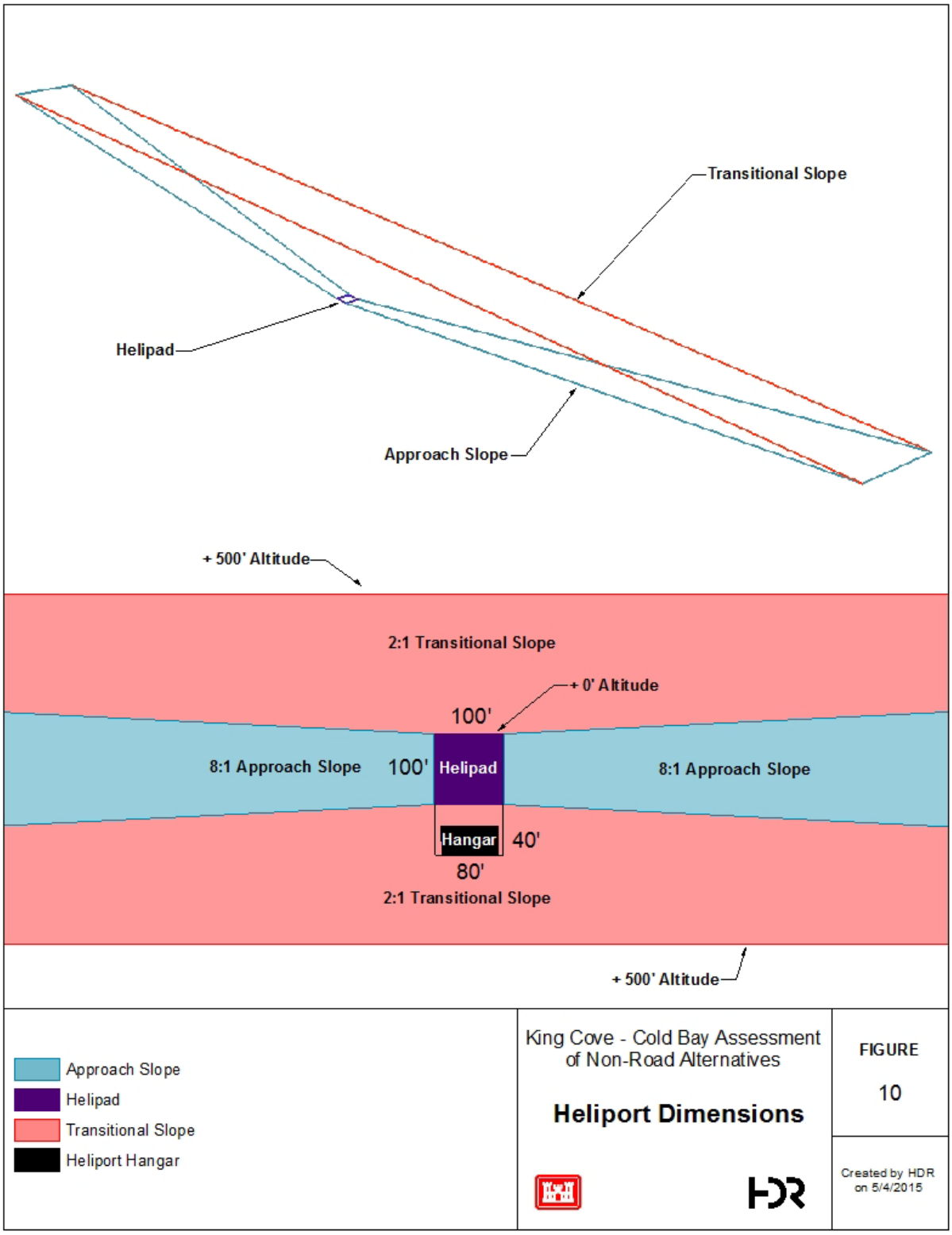
Transitional Slope
Helipad
Approach Slope
+ 500' Altitude
2:1 Transitional Slope
+ 0' Altitude
100'
8:1 Approach Slope
100'
Helipad
8:1 Approach Slope
Hangar
40'
80'
2:1 Transitional Slope
+ 500' Altitude
Approach Slope
Helipad
Transitional Slope
Heliport Hangar
King Cove - Cold Bay Assessment of Non-Road Alternatives
Heliport Dimensions
FIGURE
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6.2.1 Alternative 3a (Northeast Heliport)

This alternative provides a heliport at the existing (abandoned) hovercraft ramp on the northeast shore of Cold Bay. Passengers and crew would access the heliport via the existing 21-mile road from King Cove. Electricity for lighting and navigation aids is assumed to be generated on site.

This alternative may be able to incorporate the existing concrete hovercraft ramp into the design of the heliport, which could reduce construction costs. The cost estimate in this document does not reflect this potential cost reduction. A detailed verification of the usability of the existing concrete ramp for use in this alternative was beyond the scope of this assessment. However, this activity should be considered if this alternative is carried forward to a feasibility study. The approaches to this location are unobstructed. This site is accessible by an existing road.

Potential disadvantages of this site include its distance from King Cove. Access to this site requires maintenance of 16 miles of road beyond the existing King Cove Airport that are not currently maintained. The heliport owner would be required to ensure maintenance of the road if federal funds were used to construct the heliport.

Medevac travel time from King Cove to ANC from this location would require 3.1 hours, the longest time required for any heliport alternative. Appendix C provides a complete overview of medevac travel time for the marine, airport, and helicopter alternatives.

6.2.2 Alternative 3b (Lenard Harbor Heliport)

This alternative provides a heliport about 6 miles west of the existing King Cove Airport at an existing materials site near the head of Lenard Harbor. This is the heliport site identified in the *King Cove Access Project FEIS* (2003). Passengers and crew would access the heliport via an 11-mile road from King Cove, about half of which is currently maintained. Electricity for lighting and navigation aids is assumed to be generated on site.

This alternative would incorporate a cleared/filled area produced during construction of the existing road, possibly reducing construction costs. This site is accessible via the existing road.

Potential disadvantages of his site include a constrained location. The approaches to this location are partially obstructed. It is in terrain that could channel winds and trap clouds. Turbulence is likely to occur at this location whenever the prevailing north wind cascades over the mountainous terrain to the north. Access to this site would require the airport owner to ensure maintenance of about 6 additional miles of road if federal funds were used to construct the heliport.

Medevac travel time from King Cove to ANC from this location would require 2.6 hours. Appendix C provides a complete overview of medevac travel time for the marine, airport, and helicopter alternatives.

6.2.3 Alternative 3c (Peninsula Heliport)

This alternative provides a heliport on the west end of a peninsula directly east of Mortensen's Lagoon. Passengers and crew would access the heliport via a 22.5-mile drive from King Cove. Approximately 14 miles of the road currently exists. An additional 8.5 miles of new road would be

constructed through mountainous terrain. Electricity for lighting and navigation aids is assumed to be generated on site.

The approaches to this location are unobstructed. It is also free of terrain that could channel winds and trap clouds.

One disadvantage of this alternative is that access to the site would require construction of 8.5 miles of new road, which also would need to be maintained. The airport owner would be required to ensure maintenance of the road if federal funds were used to construct the heliport.

Medevac travel time from King Cove to ANC from this location would require 2.7 hours. Appendix C provides a complete overview of medevac travel time for the marine, airport, and helicopter alternatives.

6.2.4 Alternative 3d (King Cove Heliport)

This alternative provides a heliport in or adjacent to the community of King Cove. A site selection study would be necessary to determine the most appropriate location for the heliport. Passengers and crew would access the heliport by a relatively short access road of undetermined length.

Access to this location primarily would be via existing roads. Minimal road maintenance would be required to ensure access. Electricity is presumed available nearby.

Disadvantages of this site relate primarily to terrain. Approaches to this location are not unobstructed. It is located in terrain that could channel winds and trap clouds.

Medevac travel time from King Cove to ANC from this location would require 2.1 to 2.2 hours, depending upon whether the helicopter took a straight line route over the mountains or followed the coast west and then north to Cold Bay Airport. This is the least time required by any alternative, because there would be no road travel component. Appendix C provides a complete overview of medevac travel time for the marine, airport, and helicopter alternatives.

6.2.5 Comparison of Heliport Options

Table 7 provides a comparative summary of the relative pros and cons of the four heliport alternatives. This is meant to summarize the material above and include relative information on costs presented later in this document, but is not necessarily a complete list of criteria that should be used for selection of heliport locations. Rather, it is a tool to present a quick snapshot of some relative advantages and disadvantages.

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Alt.	Location	Use Existing Infra-structure	Un-obstructed Airspace	Weather Conditions	Use Existing Road	Travel Time for Medevac	M&O Cost	Available Electricity	Capital Cost	Sum
3a	Northeast	1	1	1	1	-1	-1	-1	1	2
3b	Lenard Harbor	1	-1	-1	1	0	0	-1	1	0
3c	Peninsula	-1	1	1	-1	-1	-1	-1	-1	-4
3d	King Cove	0	-1	-1	1	1	1	1	1	3

1=Favorable; 0=Neutral; -1=Unfavorable

6.3 Construction Cost and 75-Year Life-Cycle Cost

The construction cost at each alternative location, with hangar, would be approximately the same, at $2.5 million ($1.5 million for the heliport and $1 million for the hangar). There may be small savings for Alternatives 3a and 3b, because they would use existing developments (former hovercraft terminal and former gravel extraction area).

Construction of the heliport would cost about $150 per square foot. Construction of the hangar is estimated at $300 per square foot.

The cost of Alternative 3c (Peninsula Heliport) would include a substantial additional expense, the construction of approximately 8.5 miles of single-lane roadway with turnouts at $3,000,000 per mile, or $25 million.

Table 8 summarizes the costs of the heliport alternatives. The table reports capital costs in 2015 dollars and uses the assumption that any of the heliport alternatives would be built in 1 year. O&M costs shown are the costs projected for the first year of operations, in 2015 dollars. The O&M costs were bundled with the capital costs and applied over 75 years, accounting for inflation, and then brought back to 2015 dollars using a discount rate to provide a net present value (cost) of each alternative. Note that this does not include provisions for periodic maintenance tasks such as replacement of the hangar or navigation system or repaving the heliport.

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Description	Alt 3a	Alt 3b	Alt 3c	Alt 3d
Capital Cost	$2.8	$2.8	$28.3	$2.8
Annual Operations and Maintenance Cost	$2.34	$2.25	$2.28	$2.19
75-Year Life-Cycle Cost (Net Present Value)	$78.3	$75.3	$99.1	$73.5

Notes:
All costs are in 2015 dollars.
Capital costs include a complete heliport. Assumes no road construction necessary except under Alternative 3c; road construction accounts for the cost difference for Alternative 3c. Assumes electricity is generated on site.
O&M costs include heliport O&M (at 5% of heliport capital cost each year) and road O&M for the road segment dedicated to airport use.
The 75-year total cost is escalated to account for inflation over time and brought back to 2015 dollars.
This table presents the full costs of the alternative. It does not account for cost reductions that might be possible by using partially developed sites under Alternatives 3a and 3b.

Annual heliport operating and maintenance costs are based primarily on the assumption that the heliport owner would contract with a helicopter company for the helicopter, its pilot, and its mechanic at about $2 million per year. The cost of maintaining the access roads to Alternatives 3a, 3b, and 3c are assumed to be a separate cost (not part of the helicopter contract) at about $8,700 per lane mile per year.

6.4 Risks

Methods for assessing risk for all marine, airport, and helicopter alternatives are explained in Section 2. Risk assessment tables for all of the alternatives appear in Appendix A. Multiple types of risks were identified and ranked using a matrix (shown in Appendix A). This qualitative assessment resulted in an average risk level for each alternative. For the heliport alternatives, the average risk scores were:

- Alternative 3a (Northeast Heliport): 2.6—medium-serious
- Alternative 3b (Lenard Harbor Heliport): 2.5—medium-serious
- Alternative 3c (Peninsula Heliport): 2.6—medium-serious
- Alternative 3d (King Cove Heliport): 2.3—medium (+)

The risks identified in the assessment tables for each of the four heliport alternatives are nearly identical. Those considered to be of the greatest concern are discussed below.

As with the airport alternatives, the risks of night operations and air travel in general for the King Cove-Cold Bay area, as well as for the Aleutian Island region, are significant. Various sources describe the Aleutian Islands as the windiest and rainiest region in the United States. The mountainous terrain can cause dangerous turbulence, increased wind speeds due to venturi effects, and accumulation of clouds. These factors, together with the remoteness of both communities, place a premium on the appropriate implementation and use of technology, pilot training for good decision-making, and timely weather data collection and reporting.

The road between the City of King Cove and the heliport sites for Alternatives 3a and 3b passes through three possible avalanche areas, based upon a preliminary examination of aerial photography. Two of these areas are located along the road to the existing King Cove Airport. A possible third area is located about 5 miles west of the existing airport. Further information on the frequency of avalanches should be collected, but anecdotal accounts indicate that avalanches may not be annual occurrences. In addition to representing a risk to travelers on the road, an avalanche would effectively close the heliports until the debris could be cleared from the road. In addition to the two avalanche areas on the road to the existing King Cove Airport, about 8 miles of the unconstructed portion of the road needed for access to Alternative 3c would be susceptible to avalanches. Alternative 3d would be in or immediately adjacent to the community of King Cove and would be free of road risk and avalanche danger.

Animal behaviors are a concern for the safe operation of the heliports mainly due to the potential for conflicts with birds in the approach and departure airspace. Avoiding the creation of additional

water bodies through the use of best management practices during construction and the revegetation of disturbed terrain near the heliport would help reduce the concentration of birds near the heliport. In the case of Alternative 3d, care should be taken to locate the heliport in King Cove at least 10,000 feet from landfills, sewer lagoons, or waste from fish processing facilities (FAA AC 150/5200-33B).

Securing construction funding would be critical to the success of any alternative. The most likely source of funding for the heliport would be a grant from the FAA AIP. Eligible grant recipients would include DOT&PF, AEB, or the City of King Cove. Acceptance of an AIP grant carries with it many obligations, such as ensuring the long-term support of the facility, which would include the maintenance of any associated single-purpose heliport access roads. For Alternatives 3a, 3b, and 3c, this would include the cost of maintaining approximately 16, 6, and 9 miles, respectively, of roadway beyond the existing airport. Given recent reductions to the state operating budget, this could be problematic.

Although the distances from the heliports to Cold Bay Airport vary, the duration of the helicopter flight would be relatively brief. The time required for a passenger to travel from King Cove to Cold Bay Airport and on to Anchorage is determined in large part by the amount of road travel required. At an assumed speed of 20 miles per hour, the trip by road from King Cove to Alternative 3a would take about 1 hour. Road travel to Alternatives 3b and 3c would require traveling 30 and 40 minutes, respectively. Because Alternative 3d is in or very near the community of King Cove (exact location to be determined), road travel would be almost eliminated, and the length of time required to reach Anchorage would be the lowest of any alternative. The elimination of the road segment, including the time needed to drive it and the potential risk of avalanche, ice, or snow on it, is the primary reason for the slightly lower average risk determined for Alternative 3d when compared to other alternatives.

6.5 Dependability

As with the airport alternatives, weather is the chief determinant of dependability of helicopter access in the Aleutian Islands region. How weather affects the safety and operability of heliports within the region is highly site-specific. Because King Cove Airport does not have automated weather data collection equipment, weather data for Cold Bay Airport were used as a proxy for this project. As with the airport alternatives, wind speeds are an important consideration in determining dependability. Unlike the airport alternatives, however, the heliport alternatives and the leased helicopter service are assumed to operate under VFR only, as is the case with the existing helicopter contract AEB holds for access to the Akutan/Akun Island airport. It would not incorporate navigation aids to allow the helicopters to function in low- or “no”-visibility conditions. Cloud cover increases and visibility decreases in the Aleutian region in summer. Poor visibility is expected to have an adverse effect on dependability in both the winter (10 percent) and the summer (15 percent) at each of the alternative heliport sites. Further investigation may determine that appropriate electronic navigation aids are available and compatible with helicopters offered as part of a leased helicopter service.

Conditions at the Alternative 3a site are anticipated to be somewhat similar to those at Cold Bay, except that topography south and southeast of the new site may contribute to turbulence and wind gusts. Snow events and avalanche-prone areas on the 21-mile access road may reduce dependability an additional 5 percent, but only in winter. Average dependability of access via the Alternative 3a heliport throughout the year is expected to be about 82.6 percent, varying from a high of 85 percent in the summer to a low of about 79 percent in some of the winter months. These percentages are based on wind data, adjusted for summer cloud cover and winter avalanche or snow events.

The topography adjacent to heliport sites 3b, 3c, and 3d is mountainous, unlike the terrain near Cold Bay Airport. Wind in these locations is likely to be accelerated by venturi effects and generate considerably more turbulence than might be expected at Cold Bay Airport. The mountains may also affect the accumulation or departure of cloud cover differently. The chief executive officer for PenAir has been quoted as saying that, on an annual basis, up to 30 percent of scheduled PenAir flights have been cancelled due to weather considerations. PenAir provided the Medallion Foundation with guidance to help identify wind regimes that represent hazardous conditions at King Cove Airport. Given that Alternatives 3b and 3c have similar settings and are reached by traveling access roads of significant length, the dependability assessments for each are similar. The annual average dependability is estimated to be about 67.5 percent varying from a high of 75 percent in the summer to a low of about 60 percent in some of the winter months. Dependability for Alternative 3d is somewhat better, because the access road to the heliport is assumed to be very short. Estimates are based on the PenAir assessment of 70 percent, minus summer clouds and winter avalanche or snow events as appropriate. Dependability and wind data for all marine, airport, and helicopter alternatives appear in Appendix B.

Table 9 shows dependability of the heliport alternatives, by month.

□□□□ 9□□ □□□□r□□ □□r□□□□□, D□□□d□□□□ □□ M□□□ (□)

Alt	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg
3a	79.6	79.2	79.2	85	85	79.8	85	85	85	79.4	85	84.5	82.6
3b	60	60	60	75	75	75	75	75	75	60	60	60	67.5
3c	60	60	60	75	75	75	75	75	75	60	60	60	67.5
3d	65	65	65	75	75	75	75	75	75	65	65	65	70

6.6 Other Considerations

While this document generally assumes the new hangar, the helicopter, and the crew would be based on the King Cove side of the bay, it would be possible to locate them at the Cold Bay Airport. The location of the hangar would not affect the time required to medevac a patient to Anchorage unless the heliport and hangar were co-located in King Cove. For the other heliport locations, travel by the patient from King Cove to the heliport and the helicopter's flight from the hangar to the

heliport would occur at about the same time. The following sections present brief consideration of the pros and cons of the hangar location.

6.6.1 Helicopter Hangar on the King Cove Side of the Bay

This alternative does not require the helicopter to cross the open water of Cold Bay from Cold Bay Airport to pick up passengers/patients departing King Cove. The helicopter flight and maintenance crew would likely lodge in King Cove, regardless of whether the heliport were in King Cove or at one of the remote sites. This leads to the pros and cons of this option:

Pro: If the both the King Cove heliport and the hangar were located in King Cove, this alternative would achieve the lowest overall travel time required for medevac and would somewhat facilitate logistical considerations for the helicopter flight and maintenance crew, who would lodge in King Cove.

Con: If the hangar were located at one of the more remote sites on the King Cove side of the bay (i.e., not in King Cove), the helicopter flight and maintenance crew would need to travel to the heliport for flight preparations and helicopter maintenance, which would be more time-consuming overall and could delay medevac flights slightly.

6.6.2 Helicopter Hangar at Cold Bay Airport

Pro: If an existing hangar facility at Cold Bay Airport were available for the helicopter, capital costs could be reduced.

Con: Medevac flights would have to transit to King Cove before picking up a patient, increasing response time. If the King Cove heliport were located at one of the more remote sites, this disadvantage would be negated—the helicopter could easily cross the waterbody of Cold Bay in the time required for the patient to reach one of the remote heliport sites—but the response time still would be greater than if the hangar were in King Cove.

Table 10 summarizes the positive and negative aspects of the hangar locations of the heliport alternatives.

□□□□ 10□□r□□ □□d □ □□□ □□□ □□□□r □□□□□□□□□

Alt		Flying Time for Medevac	Facilitates Crew Logistics	Capital Costs	Sum
Located on King Cove Side of the Bay					
3a	Northeast Heliport	0	-1	-1	-2
3b	Lenard Harbor	0	-1	-1	-2
3c	Peninsula Heliport	0	-1	-1	-2
3d	King Cove Heliport	1	1	-1	1
Located at Cold Bay Airport					
	Cold Bay Airport	-1	1	1	1

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7 Annotated Bibliography

Alaska Department of Transportation and Public Facilities. No Date/Multiple Dates. *Alaska Aviation System Plan.* Components of the plan have different dates. The most current as of 2015 was used for this effort.

Alaska Department of Transportation and Public Facilities. 1994. *Alaska Intermodal Transportation Plan*.

Alaska Department of Transportation and Public Facilities. 2004. *Southwest Alaska Transportation Plan.*

Alaska Department of Transportation and Public Facilities. 2014. Maintenance and Operations Airport Expenses and Leasing Revenues for FY 2013.

Alaska Department of Transportation and Public Facilities. 2014. "Phase 1 Report of the 2014 Southwest Alaska Transportation Plan Update." Contains an inventory of existing conditions and forecasts of demand, part of an on-going update to the plan.

Federal Aviation Administration, Flight Standards Service. 2009. *Risk Management Handbook.*

Glosten Associates, Inc. April 1998. "King Cove-Cold Bay Transportation Improvement Assessment: Available Marine Technologies Technical Memorandum." Prepared for Alaska Dept. of Transportation and Public Facilities, Anchorage.

Glosten Associates, Inc. May 1998. "Technical Memorandum, King Cove-Cold Bay Transportation Improvement Assessment: Two Selected Marine Options." Seattle.

Glosten Associates, Inc. June 1999. "Cold Bay Ferry Study." Prepared for the Aleutians East Borough. Appendix M1 to 2003 *King Cove Access Project Final Environmental Impact Statement.*

Glosten Associates, Inc. June 1999. "Hovercraft Operability Report." Prepared for the Aleutians East Borough. Appendix M2 to 2003 *King Cove Access Project Final Environmental Impact Statement.*

Glosten Associates. March 24, 2014. Letter to Aleutians East Borough. "Operability and Suitability of Landing Craft for Regular Service across Cold Bay." Summarizes four previous studies from 1998-2001 (listed separately in this Bibliography).

HDR Alaska, Inc. August 1998. "King Cove-Cold Bay Transportation Improvement Assessment: Roadway Alternatives Technical Memorandum." Prepared for Alaska Dept. of Transportation and Public Facilities, Anchorage.

HDR Alaska, Inc. September 1998. "King Cove-Cold Bay Transportation Improvement Assessment: Environmental Issues and Environmental Process." Prepared for Alaska Dept. of Transportation and Public Facilities, Anchorage.

HDR Alaska (not formally attributed). 1998. "King Cove-Cold Bay Transportation Improvement Assessment: Airport Improvement Options—Aviation Considerations 7-23-98." No author listed. Appendix F to King Cove-Cold Bay Facilities Concept Report (Aug 2000).

HDR Alaska, Inc. and Northern Economics. August 1999. "King Cove-Cold Bay Assessment of Transportation Need." Prepared for Alaska Dept. of Transportation and Public Facilities, Anchorage.

HDR Alaska, Inc. and Parsons Brinkerhoff. August 2000. "King Cove-Cold Bay Transportation Improvement Assessment: Facilities Concept Report." Examined land, marine, and air alternatives. Included five appendices, A-F, listed separately in this Bibliography.

Johns Hopkins University Applied Physics Laboratory. April 2001. "Characteristics of the Wind Speed Distribution Over Cold Bay and Lenard Harbor."

OASIS Environmental, Inc. 2003. "Aleutians East Borough's Application for the King Cove Access Project: Project Description for the King Cove Access Project." 7th Revision, November 13, 2003; 5th Revision, April 24, 2003; 3rd Revision, January 17, 2003.

Ogden Beeman & Associates. June 1998. "King Cove-Cold Bay Transportation Improvement Assessment: Port & Shore Facility Requirements Technical Memorandum." Prepared for Parsons Brinckerhoff, Seattle.

Rowley, Dan. September 17, 2003. Email memorandum: "Ice Ridges in Cold Bay. Brief report of local knowledge of ice conditions in Cold Bay from Aleutians East Borough to US Army Corps of Engineers." Appendix M3 to 2003 *King Cove Access Project Final Environmental Impact Statement.*

U.S. Fish & Wildlife Service. December 2013. *Izembek National Wildlife Refuge Land Exchange/ Road Corridor, Final Environmental Impact Statement.* Appendix M "Operational Characteristics of Ferry and Hovercraft" included three documents regarding marine and hovercraft alternatives and Cold Bay ice conditions, listed separately in this Bibliography.

U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service. December 2003. *King Cove Access Project Final Environmental Impact Statement* . Examined improved transportation linkage between the communities of King Cove and Cold Bay. Included multiple appendices listed separate in this Annotated Bibliography.

U.S. Forest Service and Bureau of Land Management. April 2010. *Aviation Risk Management Workbook.* Provides risk assessment tool that is the basis for risk assessment in this document.

Washburn, Kevin K. October 28, 2013. "Report request from Secretary Salazar on March 21, 2013, on medical evacuation benefits of proposed road from King to Cold Bay, Alaska." A memorandum from Washburn, Assistant Secretary of the Department of the Interior for Indian Affairs, to Secretary of the Interior Sally Jewell. Washington.

Weatherspark.com. Accessed May 2015. Provides typical weather at the Cold Bay Airport weather station, Cold Bay, Alaska, based on 1974-2012 data.

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King Cove-Cold Bay Assessment of Non-Road Alternatives

Appendix A

Risk Matrix and Risk Assessment Tables

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Risk Assessment Matrix				
	Severity			
Likelihood	Negligible IV	Marginal III	Critical II	Catastrophic I
Frequent A				
Probable B				*High 4*
Occasional C			*Serious 3*	
Remote D		*Medium 2*		
Improbable E	*Low 1*			

Severity Scale Definitions	
Catastrophic	Results in fatalities and/or loss of the system.
Critical	Severe injury and/or major system damage.
Marginal	Minor injury and/or minor system damage.
Negligible	Less that minor injury and/or less than minor system damage.

Likelihood Scale Definitions		
Frequent	Individual Fleet	Likely to occur often. Continuously experienced.
Probable	Individual Fleet	Will occur several times. Will occur often.
Occasional	Individual Fleet	Likely to occur sometime. Will occur several times.
Remote	Individual Fleet	Unlikely to occur, but possible. Unlikely but can reasonably be expected to occur.
Improbable	Individual Fleet	So unlikely, it can be assumed it will not occur. Unlikely to occur, but possible.

Source:

U.S. Forest Service and Bureau of Land Management. April 2010.
Aviation Risk Management Workbook.

Qualitative Risk Assessment Alternative 1a - Northeast Ferry									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
1	Night Ops - Environmental risks	Life-Safety, Operations	Missing / damaged or power loss to navaids and dock lights	Emergency response plan; use of electronic chart plotting systems and GPS with hazards identified	Remote	Marginal	Medium	2	
2	Night Ops - Physiological hazards	Life-Safety, Operations	Incidents or errors caused by physiological challenges (circadian rhythm deviations, impaired vision, fatigue)	Education and training, implement crew management procedures and relief crew members	Occasional	Critical	Serious	3	Costs and availability of relief crew members questionable for this region.
3	Weather - Ferry travel	Life-Safety, Operations	High winds or extreme wave conditions that could blow the vessel off course or capsize the vessel	Restrict operations based on weather conditions	Remote	Catastrophic	Serious	3	Assume ferry can operate 99% of the time based on weather limitations.
4	Weather - Road travel	Life-Safety, Operations	Heavy snow and avalanches could make the road impassable or extremely hazardous between King Cove and the ferry terminal	Staffing, equipment, and operational funding for road maintenance	Occasional	Critical	Serious	3	Assume road is passable 95% of the time, with 5% downtime due to avalanches or heavy snow.
5	Sea Ice	Operations		Requires Ice Class A0 vessel to safely navigate Lenard Harbor	Occasional	Negligible	Low	1	

Qualitative Risk Assessment Alternative 1a - Northeast Ferry									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
6	Long-Term Operational Funding	Financial	Annual maintenance and operations expenses could exceed available funding	Annual ferry operating costs can be partially offset by passenger fares with scheduled ferry service, as well as usage fees for medevac	Probable	Catastrophic	High	4	Based on assumption that AEB would be responsible for subsidies needed and on recent AEB experience with hovercraft and helicopter.
7	Standard Permitting Process Required	Development/Permitting	Standard permitting process required	Keep in mind BMPs and construction techniques / design approaches with least amount of environmental impact	Probable	Negligible	Medium	2	Permitting for marine structures could take up to a year depending on permit requirements and regulatory hurdles.
8	Vessel Maintenance	Operations	Dry dock required every 2 years, 40-day planned downtime; no vessel redundancy for unplanned maintenance	Contract a backup vessel and plan dry dock and maintenance during mild weather seasons with no sea ice risk	Occasional	Negligible	Low	1	
9	Faunal Response to Construction and Operations	Environmental	Disruption and displacement of wildlife during construction and ferry operations	Marine mammal monitoring during construction; construction mitigation methods to reduce environmental impact such as bubble curtains for pile driving	Probable	Marginal	Serious	3	Presence of certain marine species present in construction area during in-water work period could cause construction delays. Ferry service could disrupt certain migratory patterns.

Qualitative Risk Assessment Alternative 1a - Northeast Ferry									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
10	Uncontrolled Use by Non-Medical Evac	Operations	Uncontrolled use by non-medical evac	Ferry terminals at each end of route likely to have security fencing; use of ferry terminals by unauthorized vessels is low	Remote	Negligible	Low	1	
11	Capital Funding	Financial	Lack of project sponsor; competing federal, State, or local priorities	In-kind contributions of surface and sub-surface holdings from stakeholders	Remote	Catastrophic	Serious	3	
12	Total Travel Time Required (King Cove to Anchorage Hospital)	Life-Safety, Operations	Time-sensitive medical conditions	Efficient transfer between modes; use of best medical technologies en route	Frequent	Marginal	Serious	3	
13	Liability	Other	Lapses in facility maintenance; delays in reporting conditions	Sufficient operational funding for staffing and equipment	Remote	Marginal	Medium	2	Could lead to unplanned maintenance and additional vessel downtime.
				Average Risk Score				2.4	

***Life-Safety, Life-Cycle, Development, Regulatory, Permitting, Environmental, Operations, Financial, Other**

Qualitative Risk Assessment Alternative 1b - Lenard Harbor Ferry									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
1	Night Ops - Environmental risks	Life-Safety, Operations	Missing / damaged or power loss to navaids and dock lights	Emergency response plan, use of electronic chart-plotting systems and GPS with hazards identified	Remote	Marginal	Medium	2	
2	Night Ops - Physiological hazards	Life-Safety, Operations	Incidents or errors caused by physiological challenges (circadian rhythm deviations, impaired vision, fatigue)	Education and training, implement crew management procedures and relief crew members	Occasional	Critical	Serious	3	Costs and availability of relief crew members questionable for this region.
3	Weather - Ferry travel	Life-Safety, Operations	High winds or extreme wave conditions that could blow the vessel off course or capsize the vessel	Restrict operations based on weather conditions	Remote	Catastrophic	Serious	3	Assume ferry can operate 99% of the time based on weather limitations.
4	Weather - Road travel	Life-Safety, Operations	Heavy snow and avalanches could make the road impassable or extremely hazardous between King Cove and the ferry terminal	Staffing, equipment, and operational funding for road maintenance	Occasional	Critical	Serious	3	Assume road is passable 95% of the time, with 5% downtime due to avalanches or heavy snow.
5	Sea Ice	Operations	Lenard Harbor historically known for icing over	Requires Ice Class A0 vessel to safely navigate Lenard Harbor	Occasional	Negligible	Low	1	Less chance of encountering sea ice with the avoidance of Lenard Harbor and terminals located sufficiently offshore to avoid most ice near shoreline.

Qualitative Risk Assessment Alternative 1b - Lenard Harbor Ferry									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
6	Long-Term Operational Funding	Financial	Annual maintenance and operations expenses could exceed available funding	Annual ferry operating costs can be partially offset by passenger fares with scheduled ferry service, as well as usage fees for medevac	Probable	Catastrophic	High	4	Based on assumption that AEB would be responsible for subsidies needed and on recent AEB experience with hovercraft and helicopter.
7	Standard Permitting Process Required	Development/Permitting	Standard permitting process required	Keep in mind BMPs and construction techniques / design approaches with least amount of environmental impact	Probable	Negligible	Medium	2	Permitting for marine structures could take up to a year depending on permit requirements and regulatory hurdles.
8	Vessel Maintenance	Operations	Dry dock required every 2 years, 40-day planned downtime; no vessel redundancy for unplanned maintenance	Contract a backup vessel and plan dry dock and maintenance during mild weather seasons with no sea ice risk	Occasional	Negligible	Low	1	
9	Faunal Response to Construction and Operations	Environmental	Disruption and displacement of wildlife during construction and ferry operations	Marine mammal monitoring during construction; construction mitigation methods to reduce environmental impact such as bubble curtains for pile driving	Probable	Marginal	Serious	3	Presence of certain marine species present in construction area during in-water work period could cause construction delays. Ferry service could disrupt certain migratory patterns.
10	Uncontrolled Use by Non-Medical Evac	Operations	Uncontrolled use by non-medical evac	Ferry terminals at each end of route likely to have security fencing; use of ferry terminals by unauthorized vessels is low	Remote	Negligible	Low	1	

Qualitative Risk Assessment Alternative 1b - Lenard Harbor Ferry									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
11	Capital Funding	Financial	Lack of project sponsor; competing federal, State, or local priorities	In-kind contributions of surface and sub-surface holdings from stakeholders	Remote	Catastrophic	Serious	3	
12	Total Travel Time Required (King Cove to Anchorage hospital)	Life-Safety, Operations	Time-sensitive medical conditions	Efficient transfer between modes; use of best medical technologies	Frequent	Marginal	Serious	3	
13	Liability	Other	Lapses in facility maintenance; delays in reporting conditions	Sufficient operational funding for staffing and equipment	Remote	Marginal	Medium	2	Could lead to unplanned maintenance and additional vessel downtime.
				Average Risk Score				2.4	

*Life-Safety, Life-Cycle, Development, Regulatory, Permitting, Environmental, Operations, Financial, Other

Qualitative Risk Assessment Alternative 1c: Direct Ferry									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
1	Night Ops	Life-Safety, Operations	Missing / damaged or power loss to navaids and dock lights	Emergency response plan; use of electronic chart plotting systems and GPS with hazards identified	Remote	Marginal	Medium	2	
2	Night Ops - Physiological hazards	Life-Safety, Operations	Incidents or errors caused by physiological challenges (circadian rhythm deviations, impaired vision, fatigue)	Education and training; implement crew management procedures and relief crew members	Occasional	Critical	Serious	3	Costs and availability of relief crew members questionable for this region.
3	Weather - Ferry travel	Life-Safety, Operations	High winds or extreme wave conditions that could blow the vessel off course or capsize the vessel	Restrict operations based on weather conditions	Occasional	Catastrophic	High	4	Assume ferry can operate 98% of the time based on weather limitations. More susceptible to rough seas between King Cove and Cold Bay.
4	Weather - Road travel	Life-Safety, Operations	Heavy snow and avalanches could make the road impassable or extremely hazardous within King Cove	Staffing, equipment, and operational funding for road maintenance	Occasional	Negligible	Low	1	This applies only to road between ferry landings and airport. Much shorter distances and likelihood of other on-land transportation alternatives for these areas.
5	Sea Ice	Operations	Shore ice may be present	Requires Ice Class A0 vessel to safely navigate Lenard Harbor	Occasional	Negligible	Low	1	Less chance of encountering sea ice with the avoidance of Lenard Harbor and terminals located sufficiently offshore to avoid most ice near shoreline.

Qualitative Risk Assessment Alternative 1c: Direct Ferry									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
6	Long-Term Operational Funding	Financial	Annual maintenance and operations expenses could exceed available funding	Annual ferry operating costs can be partially offset by passenger fares with scheduled ferry service, as well as usage fees for medevac	Probable	Catastrophic	High	4	Based on assumption that AEB would be responsible for subsidies needed and on recent AEB experience with hovercraft and helicopter.
7	Standard Permitting Process Required	Development/Permitting	Standard permitting process required	Keep in mind BMPs and construction techniques / design approaches with least amount of environmental impact	Probable	Negligible	Medium	2	Permitting for marine structures could take up to a year depending on permit requirements and regulatory hurdles.
8	Vessel Maintenance	Operations	Dry dock required every 2 years, 40-day planned downtime. No vessel redundancy for unplanned maintenance	Contract a backup vessel and plan dry dock and maintenance during mild weather seasons with no sea ice risk	Occasional	Negligible	Low	1	
9	Faunal Response to Construction and Operations	Environmental	Disruption and displacement of wildlife during construction and ferry operations	Marine mammal monitoring during construction; construction mitigation methods to reduce environmental impact such as bubble curtains for pile driving	Probable	Marginal	Serious	3	Presence of certain marine species present in construction area during in-water work period could cause construction delays. Ferry service could disrupt certain migratory patterns.
10	Uncontrolled Use by Non-Medical Evac	Operations	Uncontrolled use by non-medical evac	Ferry terminals at each end of route likely to have security fencing; use of ferry terminals by unauthorized vessels is low	Remote	Negligible	Low	1	

Qualitative Risk Assessment Alternative 1c: Direct Ferry									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
11	Capital Funding	Financial	Lack of project sponsor; competing federal, State, or local priorities	In-kind contributions of surface and sub-surface holdings from stakeholders	Remote	Catastrophic	Serious	3	
12	Total Travel Time Required (King Cove to Anchorage Hospital)	Life-Safety, Operations	Time-sensitive medical conditions	Efficient transfer between modes; use of best medical technologies	Frequent	Critical	High	4	Total medevac transit time over 5 hours, highest travel time of all alternatives.
13	Liability	Other	Lapses in facility maintenance; delays in reporting conditions	Sufficient operational funding for staffing and equipment	Remote	Marginal	Medium	2	Could lead to unplanned maintenance and additional vessel downtime.
				Average Risk Score				2.4	

***Life-Safety, Life-Cycle, Development, Regulatory, Permitting, Environmental, Operations, Financial, Other**

Qualitative Risk Assessment Alternative 2a - 5,000-foot Runway									
					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
1	Night Ops - Environmental risks	Life-Safety, Operations	Missing/damaged navaids and lighting; loss of electrical power	Emergency response plan, use of GPS / Capstone navigation systems	Occasional	Catastrophic	High	4	
2	Night Ops - Physiological hazards	Life-Safety, Operations	Incidents or errors caused by physiological challenges (circadian rhythm deviations, impaired vision, fatigue)	Education and training; implement crew management procedures and relief crew members	Occasional	Catastrophic	High	4	
3	Weather - Air travel	Life-Safety, Operations	Flight operations in conditions beyond recommended wind speeds or VFR operations in IFR conditions	Preflight planning; Just say NO (accept fact that mission cannot be completed); instrument flight and landing systems	Remote	Catastrophic	Serious	3	
4	Weather - Road travel	Life-Safety, Operations	Heavy snow and avalanches could make the road impassable or extremely hazardous between King Cove and Lenard Harbor	Staffing, equipment, and operational funding for road maintenance	Occasional	Critical	Serious	3	Assume road is passable 95% of the time, with 5% downtime due to avalanches or heavy snow.
5	Long-Term Operational Funding	Financial	State or local project sponsor could default on capital grant obligations	User fees; dedicated funds; close redundant facility (existing KC Airport)	Remote	Critical	Medium	2	

Qualitative Risk Assessment
Alternative 2a - 5,000-foot Runway

					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
6	Standard Permitting Process Required	Development/Permitting	Standard permitting process required	Keep in mind BMPs and construction techniques / design approaches with least amount of environmental impact	Probable	Negligible	Medium	2	Permitting could take up to 3 years depending on permit requirements and regulatory hurdles.
7	Long-Term Management Response	Regulatory	Refuge may need to update current plan		Occasional	Negligible	Low	1	
8	Faunal Response to Construction and Operations	Environmental	Animals on runway or in airspace; changes in nesting/feeding behaviors	Fencing; restrictions on aircraft operations; revegetation	Occasional	Critical	Serious	3	
9	Uncontrolled Use by Non-Medical Evac	Operations	Uncontrolled use by non-medical evac	Patrols by airport maintenance staff; pilot reporting	Remote	Negligible	Low	1	
10	Capital Funding	Financial	Lack of project sponsor; competing federal, State, or local priorities	In-kind contributions of surface and sub-surface holdings from stakeholders	Remote	Catastrophic	Serious	3	
11	Total Travel Time Required (King Cove to Anchorage Hospital)	Life-Safety, Operations	Time-sensitive medical conditions	Efficient transfer between modes; use of best medical technologies	Frequent	Marginal	Occaisional	2	Alt 2a delivers medevac patient to Anchorage about 40 minutes quicker than Alt 2b.
12	Liability	Other	Lapses in facility maintenance; delays in reporting conditions	Sufficient operational funding for staffing and equipment	Remote	Negligible	Low	1	Likely a State-owned facility.
				Average Risk Score				**2.4**	

***Life-Safety, Life-Cycle, Development, Regulatory, Permitting, Environmental, Operations, Financial, Other**

Qualitative Risk Assessment
Alternative 2b - 3,500-foot Runway

					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
1	Night Ops - Environmental risks	Life-Safety, Operations	Missing/damaged navaids and lighting; loss of electrical power	Emergency response plan, use of GPS / Capstone navigation systems	Occasional	Catastrophic	High	4	
2	Night Ops - Physiological hazards	Life-Safety, Operations	Incidents or errors caused by physiological challenges (circadian rhythm deviations, impaired vision, fatigue)	Education and training, implement crew management procedures and relief crew members	Occasional	Catastrophic	High	4	
3	Weather - Air travel	Life-Safety, Operations	Flight operations in conditions beyond recommended wind speeds or VFR operations in IFR conditions	Preflight planning; just say NO (accept fact that mission cannot be completed); instrument flight and landing systems	Remote	Catastrophic	Serious	3	
4	Weather - Road travel	Life-Safety, Operations	Heavy snow and avalanches could make the road impassable or extremely hazardous between King Cove and Lenard Harbor	Staffing, equipment, and operational funding for road maintenance	Occasional	Critical	Serious	3	Assume road is passable 95% of the time, with 5% downtime due to avalanches or heavy snow.
5	Long-Term Operational Funding	Financial	State or local project sponsor could default on capital grant obligations	User fees; dedicated funds; close redundant facility (existing KC Airport)	Remote	Critical	Medium	2	

Qualitative Risk Assessment Alternative 2b - 3,500-foot Runway									
					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
6	Standard Permitting Process Required	Development/Permitting	Standard permitting process required	Keep in mind BMPs and construction techniques / design approaches with least amount of environmental impact	Probable	Negligible	Medium	2	Permitting could take up to 3 years depending on permit requirements and regulatory hurdles.
7	Long-Term Management Response	Regulatory	Refuge may need to update current plan		Occasional	Negligible	Low	1	
8	Faunal Response to Construction and Operations	Environmental	Animals on runway or in airspace; changes in nesting/feeding behaviors	Fencing; restrictions on aircraft operations; revegetation	Occasional	Critical	Serious	3	
9	Uncontrolled Use by Non-Medical Evac	Operations	Uncontrolled use by non-medical evac	Patrols by airport maintenance staff; pilot reporting	Remote	Negligible	Low	1	
10	Capital Funding	Financial	Lack of project sponsor; competing federal, State, or local priorities	In-kind contributions of surface and sub-surface holdings from stakeholders	Remote	Catastrophic	Serious	3	
11	Total Travel Time Required (King Cove to Anchorage Hospital)	Life-Safety, Operations	Time-sensitive medical conditions	Efficient transfer between modes; use of best medical technologies	Frequent	Critical	Serious	3	Alt 2a delivers medevac patient to Anchorage about 40 minutes quicker than Alt 2b.

Qualitative Risk Assessment Alternative 2b - 3,500-foot Runway									
					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
12	Liability	Other	Lapses in facility maintenance; delays in reporting conditions	Sufficient operational funding for staffing and equipment	Remote	Negligible	Low	1	Likely a State-owned facility.
				Average Risk Score				2.5	

*Life-Safety, Life-Cycle, Development, Regulatory, Permitting, Environmental, Operations, Financial, Other

Qualitative Risk Assessment
Alternative 3a - Northeast Heliport

					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
1	Night Ops - Environmental risks	Life-Safety, Operations	Missing/damaged nave aids and lighting; loss of electrical power	Emergency response plan; use of GPS / Capstone navigation systems	Occasional	Catastrophic	High	4	
2	Night Ops - Physiological hazards	Life-Safety, Operations	Incidents or errors caused by physiological challenges (circadian rhythm deviations, impaired vision, fatigue)	Education and training[implement crew management procedures and relief crew members	Occasional	Catastrophic	High	4	
3	Weather - Air travel	Life-Safety, Operations	Flight operations in conditions beyond recommended wind speeds or VFR operations in IFR conditions	Preflight planning; just say NO (accept fact that mission cannot be completed); instrument flight and landing systems	Remote	Catastrophic	Serious	3	
4	Weather - Road travel	Life-Safety, Operations	Heavy snow and avalanches could make the road impassable or extremely hazardous between King Cove and Lenard Harbor	Staffing, equipment, and operational funding for road maintenance	Occasional	Critical	Serious	3	Assume road is passable 95% of the time, with 5% downtime due to avalanches or heavy snow.
5	Long-Term Operational Funding	Financial	State or local project sponsor could default on capital grant obligations	User fees; dedicated funds	Remote	Critical	Medium	2	

Qualitative Risk Assessment
Alternative 3a - Northeast Heliport

					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
6	Standard Permitting Process Required	Development/Permitting	Standard permitting process required	Keep in mind BMPs and construction techniques / design approaches with least amount of environmental impact	Probable	Negligible	Medium	2	Permitting could take a year depending on permit requirements and regulatory hurdles.
7	Long-Term Management Response	Regulatory	Refuge may need to update current plan		Occasional	Negligible	Low	1	
8	Faunal Response to Construction & Operations	Environmental	Animals on runway or in airspace; changes in nesting/feeding behaviors	Fencing; restrictions on aircraft operations; revegetation	Occasional	Negligible	Low	1	Heliport site is already disturbed (hovercraft ramp). Uses existing access road.
9	Uncontrolled Use by Non-Medical Evac	Operations	Uncontrolled use by non-medical evac	Patrols by airport maintenance staff; pilot reporting	Remote	Negligible	Low	1	
10	Capital Funding	Financial	Lack of project sponsor; competing federal, State, or local priorities	In-kind contributions of surface and sub-surface holdings from stakeholders	Remote	Catastrophic	Serious	3	
11	Total Travel Time Required (King Cove to Anchorage Hospital)	Life-Safety, Operations	Time-sensitive medical conditions	Efficient transfer between modes; use of best medical technologies	Frequent	Critical	Serious	3	Longest total travel time (road + helicopter) to Cold Bay Airport required of all heliport alternatives.

Qualitative Risk Assessment
Alternative 3a - Northeast Heliport

					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
12	Liability	Other	Lapses in facility maintenance; delays in reporting conditions	Sufficient operational funding for staffing and equipment	Remote	Negligible	Low	1	Heliport could be State, AEB, or city owned/operated.
13	Helicopter Contractor Performance	Operations	Lapses in staffing availability, training, and certification; absent or poorly maintained equipment and supplies	Contract oversight and periodic inspections	Remote	Catastrophic	Serious	3	
				Average Risk Score				**2.4**	

***Life-Safety, Life-Cycle, Development, Regulatory, Permitting, Environmental, Operations, Financial, Other**

Qualitative Risk Assessment
Alternative 3b - Lenard Harbor Heliport

					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
1	Night Ops - Environmental risks	Life-Safety, Operations	Missing/damaged navaids and lighting; loss of electrical power	Emergency response plan, use of GPS / Capstone navigation systems	Occasional	Catastrophic	High	4	
2	Night Ops - Physiological hazards	Life-Safety, Operations	Incidents or errors caused by physiological challenges (circadian rhythm deviations, impaired vision, fatigue)	Education and training; implement crew management procedures and relief crew members	Occasional	Catastrophic	High	4	
3	Weather - Air travel	Life-Safety, Operations	Flight operations in conditions beyond recommended wind speeds or VFR operations in IFR conditions	Preflight planning; just say NO (accept fact that mission cannot be completed); instrument flight and landing systems	Remote	Catastrophic	Serious	3	
4	Weather - Road travel	Life-Safety, Operations	Heavy snow and avalanches could make the road impassable or extremely hazardous between King Cove and Lenard Harbor	Staffing, equipment, and operational funding for road maintenance	Occasional	Critical	Serious	3	Assume road is passable 95% of the time, with 5% downtime due to avalanches or heavy snow.
5	Long-Term Operational Funding	Financial	State or local project sponsor could default on capital grant obligations	User fees; dedicated funds	Remote	Critical	Medium	2	

Qualitative Risk Assessment
Alternative 3b - Lenard Harbor Heliport

					Post-mitigation				
	Risk	Categories *	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
6	Standard Permitting Process Required	Development/Permitting	Standard permitting process required	Keep in mind BMPs and construction techniques / design approaches with least amount of environmental impact	Probable	Negligible	Medium	2	Permitting could take a year depending on permit requirements and regulatory hurdles.
7	Long-Term Management Response	Regulatory	Refuge may need to update current plan		Occasional	Negligible	Low	1	
8	Faunal Response to Construction and Operations	Environmental	Animals on runway or in airspace; changes in nesting/feeding behaviors	Fencing; restrictions on aircraft operations; revegetation	Occasional	Negligible	Low	1	Heliport site is already disturbed (material site). Uses existing access road.
9	Uncontrolled Use by Non-Medical Evac	Operations	Uncontrolled use by non-medical evac	Patrols by airport maintenance staff; pilot reporting	Remote	Negligible	Low	1	
10	Capital Funding	Financial	Lack of project sponsor; competing federal, State, or local priorities	In-kind contributions of surface and sub-surface holdings from stakeholders	Remote	Catastrophic	Serious	3	

Qualitative Risk Assessment
Alternative 3b - Lenard Harbor Heliport

					Post-mitigation				
	Risk	**Categories ***	**Hazards**	**Mitigation**	**Likelihood**	**Severity**	**Outcome**	**Score**	**Comments**
11	Total Travel Time Required (King Cove to Anchorage Hospital)	Life-Safety, Operations	Time-sensitive medical conditions	Efficient transfer between modes; use of best medical technologies	Probable	Negligible	Medium	2	Third longest total travel time (road + helicopter) to Cold Bay Airport of all heliport alternatives.
12	Liability	Other	Lapses in facility maintenance; delays in reporting conditions	Sufficient operational funding for staffing and equipment	Remote	Negligible	Low	1	Heliport could be State, AEB, or city owned/operated.
13	Helicopter Contractor Performance	Operations	Lapses in staffing availability, training, and certification; absent or poorly maintained equipment and supplies	Contract oversight and periodic inspections	Remote	Catastrophic	Serious	3	
				Average Risk Score				**2.3**	

*** Life-Safety, Life-Cycle, Development, Regulatory, Permitting, Environmental, Operations, Financial, Other**

Qualitative Risk Assessment
Alternative 3c - Peninsula Heliport

					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
1	Night Ops - Environmental risks	Life-Safety, Operations	Missing/damaged navaids and lighting; loss of electrical power	Emergency response plan, use of GPS / Capstone navigation systems	Occasional	Catastrophic	High	4	
2	Night Ops - Physiological hazards	Life-Safety, Operations	Incidents or errors caused by physiological challenges (circadian rhythm deviations, impaired vision, fatigue)	Education and training; implement crew management procedures and relief crew members	Occasional	Catastrophic	High	4	
3	Weather - Air travel	Life-Safety, Operations	Flight operations in conditions beyond recommended wind speeds or VFR operations in IFR conditions	Preflight planning; just say NO (accept fact that mission cannot be completed); instrument flight and landing systems	Remote	Catastrophic	Serious	3	
4	Weather - Road travel	Life-Safety, Operations	Heavy snow and avalanches could make the road impassable or extremely hazardous between King Cove and Lenard Harbor	Staffing, equipment, and operational funding for road maintenance	Probable	Critical	High	4	Unconstructed portion of road corridor has considerable avalanche potential.
5	Long-Term Operational Funding	Financial	State or local project sponsor could default on capital grant obligations	User fees; dedicated funds	Remote	Critical	Medium	2	

Qualitative Risk Assessment
Alternative 3c - Peninsula Heliport

					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
6	Standard Permitting Process Required	Development/Permitting	Standard permitting process required	Keep in mind BMPs and construction techniques / design approaches with least amount of environmental impact	Probable	Negligible	Medium	2	Permitting could take a year depending on permit requirements and regulatory hurdles.
7	Long-Term Management Response	Regulatory	Refuge may need to update current plan		Occasional	Negligible	Low	1	
8	Faunal Response to Construction and Operations	Environmental	Animals on runway or in airspace; changes in nesting/feeding behaviors	Fencing; restrictions on aircraft operations; revegetation	Occasional	Negligible	Low	1	Site is most environmentally sensitive of all heliport alternatives. Greenfield site. Requires construction of 8.5 miles of new access road.
9	Uncontrolled Use by Non-Medical Evac	Operations	Uncontrolled use by non-medical evac	Patrols by airport maintenance staff; pilot reporting	Remote	Negligible	Low	1	
10	Capital Funding	Financial	Lack of project sponsor; competing federal, State, or local priorities	In-kind contributions of surface and sub-surface holdings from stakeholders	Remote	Catastrophic	Serious	3	

Qualitative Risk Assessment Alternative 3c - Peninsula Heliport									
					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
11	Total Travel Time Required (King Cove to Anchorage Hospital)	Life-Safety, Operations	Time-sensitive medical conditions	Efficient transfer between modes; use of best medical technologies	Probable	Negligible	Medium	2	Second longest total travel time (road + helicopter) to Cold Bay Airport of all heliport alternatives.
12	Liability	Other	Lapses in facility maintenance; delays in reporting conditions	Sufficient operational funding for staffing and equipment	Remote	Negligible	Low	1	Heliport could be State, AEB, or city owned/operated.
13	Helicopter Contractor Performance	Operations	Lapses in staffing availability, training, and certification; absent or poorly maintained equipment and supplies	Contract oversight and periodic inspections	Remote	Catastrophic	Serious	3	
				Average Risk Score				2.4	

***Life-Safety, Life-Cycle, Development, Regulatory, Permitting, Environmental, Operations, Financial, Other**

Qualitative Risk Assessment
Alternative 3d - King Cove Heliport

					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
1	Night Ops - Environmental risks	Life-Safety, Operations	Missing/damaged navaids and lighting; loss of electrical power	Emergency response plan; use of GPS / Capstone navigation systems	Occasional	Catastrophic	High	4	
2	Night Ops - Physiological hazards	Life-Safety, Operations	Incidents or errors caused by physiological challenges (circadian rhythm deviations, impaired vision, fatigue)	Education and training; implement crew management procedures and relief crew members	Occasional	Catastrophic	High	4	
3	Weather - Air travel	Life-Safety, Operations	Flight operations in conditions beyond recommended wind speeds or VFR operations in IFR conditions	Preflight planning; just say NO (accept fact that mission cannot be completed); instrument flight and landing systems	Remote	Catastrophic	Serious	3	
4	Weather - Road travel	Life-Safety, Operations	Heavy snow and avalanches could make the road impassable or extremely hazardous between King Cove and Lenard Harbor	Staffing, equipment, and operational funding for road maintenance	Remote	Marginal	Medium	2	Heliport located in community at site TBD; avalanche danger negligible unless heliport located at existing airport.
5	Long-Term Operational Funding	Financial	State or local project sponsor could default on capital grant obligations	User fees; dedicated funds	Remote	Critical	Medium	2	

Qualitative Risk Assessment Alternative 3d - King Cove Heliport									
					Post-mitigation				
	Risk	Categories*	Hazards	Mitigation	Likelihood	Severity	Outcome	Score	Comments
6	Standard Permitting Process Required	Development/Permitting	Standard permitting process required	Keep in mind BMPs and construction techniques / design approaches with least amount of environmental impact	Remote	Negligible	Low	1	NEPA documentation likely would be Categorical Exclusion.
7	Long-Term Management Response	Regulatory	Refuge may need to update current plan		Occasional	Negligible	Low	1	
8	Faunal Response to Construction and Operations	Environmental	Animals on runway or in airspace; changes in nesting/feeding behaviors	Fencing; restrictions on aircraft operations; revegetation	Occasional	Negligible	Low	1	Heliport site is already disturbed - in community core area. Uses existing access road.
9	Uncontrolled Use by Non-Medical Evac	Operations	Uncontrolled use by non-medical evac	Patrols by airport maintenance staff; pilot reporting	Remote	Negligible	Low	1	
10	Capital Funding	Financial	Lack of project sponsor; competing federal, State, or local priorities	In-kind contributions of surface and sub-surface holdings from stakeholders	Remote	Catastrophic	Serious	3	
11	Total Travel Time Required (King Cove to Anchorage Hospital)	Life-Safety, Operations	Time-sensitive medical conditions	Efficient transfer between modes; use of best medical technologies	Probable	Negligible	Medium	2	Shortest total travel time (road + helicopter) to Cold Bay Airport of all heliport alternatives.

Qualitative Risk Assessment
Alternative 3d - King Cove Heliport

					Post-mitigation				
	Risk	**Categories***	**Hazards**	**Mitigation**	**Likelihood**	**Severity**	**Outcome**	**Score**	**Comments**
12	Liability	Other	Lapses in facility maintenance; delays in reporting conditions	Sufficient operational funding for staffing and equipment	Remote	Negligible	Low	1	Heliport could be State, AEB, or city owned/operated.
13	Helicopter Contractor Performance	Operations	Lapses in staffing availability, training, and certification; absent or poorly maintained equipment and supplies	Contract oversight and periodic inspections	Remote	Catastrophic	Serious	3	
				Average Risk Score				**2.2**	

***Life-Safety, Life-Cycle, Development, Regulatory, Permitting, Environmental, Operations, Financial, Other**

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King Cove-Cold Bay Assessment of Non-Road Alternatives

Appendix B

Wind Data

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Cold Bay Hazardous Wind

2012	January	February	March	April	May	June	July	August	September	October	November	December
Perfect Number of Readings	744	696	744	720	744	720	744	744	720	744	720	744
Actual Number of Readings	735	687	743	720	743	720	743	743	718	743	717	741
Number of Non-Recorded Data Points	9	9	1	0	1	0	1	1	2	1	3	3
> 40 knots any direction	0.136%	0.908%	0.135%	0.000%	0.000%	0.000%	0.000%	0.000%	0.139%	0.404%	0.000%	0.405%
> 60 knots any direction	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%

2013	January	February	March	April	May	June	July	August	September	October	November	December
Perfect Number of Readings	744	672	744	720	744	720	744	744	720	744	720	744
Actual Number of Readings	742	667	741	718	728	707	733	732	717	744	717	743
Number of Non-Recorded Data Points	2	5	3	2	16	13	11	12	3	0	3	1
> 40 knots any direction	0.000%	0.000%	0.675%	0.000%	0.138%	0.424%	0.000%	0.000%	0.000%	0.403%	0.000%	0.135%
> 60 knots any direction	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%

2014	January	February	March	April	May	June	July	August	September	October	November	December
Perfect Number of Readings	744	672	744	720	744	720	744	744	720	744	720	744
Actual Number of Readings	741	664	733	719	741	713	735	742	718	737	710	740
Number of Non-Recorded Data Points	3	8	11	1	3	7	9	2	2	7	10	4
> 40 knots any direction	0.135%	0.155%	0.273%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.141%	0.000%
> 60 knots any direction	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%

Combined Monthly Average **2012 - 2014**	January	February	March	April	May	June	July	August	September	October	November	December	Average
> 40 knots any direction	*0.090%*	*0.354%*	*0.361%*	*0.000%*	*0.046%*	*0.141%*	*0.000%*	*0.000%*	*0.046%*	*0.269%*	*0.047%*	*0.180%*	*0.128%*
> 60 knots any direction	*0.000%*	*0.000%*	*0.000%*	*0.000%*	*0.000%*	*0.000%*	*0.000%*	*0.000%*	*0.000%*	*0.000%*	*0.000%*	*0.000%*	*0.000%*

Note: Table reflects hourly readings recorded by Automated Weather Observing System equipment at Cold Bay Airport.

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Appendix C

Medevac Elapsed-Time Tables

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Estimated Medevac Travel Times, City of King Cove to Ted Stevens Anchorage International Airport (ANC)

		Distance (miles)	Speed (mph)	Time Required (hours)*	
Alternative 1a: Northeast Ferry					
	King Cove to NE Boat Landing	21	20	1.1	
	NE Boat Landing to CB Dock	6	11.5	0.5	Assumes 10-knot average cruising speed per Glosten report in EIS appendix
	CB Dock to Cold Bay Airport	1	20	0.1	
	Cold Bay Airport to ANC (King Air)	630	330	1.9	
Total Time Required				**3.5**	
Alternative 1b: Lenard Harbor Ferry					
	King Cove to Lenard Harbor Boat Landing	11	20	0.6	
	Lenard Harbor Boat Landing to CB Dock	14	11.5	1.2	Assumes 10-knot average cruising speed per Glosten report in EIS appendix
	CB Dock to Cold Bay Airport	1	20	0.1	
	Cold Bay Airport to ANC (King Air)	630	330	1.9	
Total Time Required				**3.7**	
Alternative 1c: Direct Ferry					
	King Cove to KC Boat Landing	1	20	0.1	
	KC Boat Landing to CB Dock	27	9	3.0	Assumes 8-knot average cruising speed based on half of trip at 6 knots in open water
	CB Dock to Cold Bay Airport	1	20	0.1	
	Cold Bay Airport to ANC (King Air)	630	330	1.9	
Total Time Required				**5.0**	
Alternative 2a: 5,000-foot Runway					
	King Cove to New Airport	21	20	1.1	
	New Airport to ANC	630	480	1.3	
Total Time Required				**2.4**	

		Distance (miles)	Speed (mph)	Time Required (hours)*
Alternative 2b: 3,500-foot Runway				
	King Cove to New Airport	21	20	1.1
	New Airport to ANC	630	330	1.9
Total Time Required				**3.0**
Alternative 3a: Northeast Heliport				
	King Cove to Heliport	21	20	1.1
	Heliport to Cold Bay Airport	9	80	0.1
	Cold Bay Airport to ANC (King Air)	630	330	1.9
Total Time Required				**3.1**
Alternative 3b: Lenard Harbor Heliport				
	King Cove to Heliport	11	20	0.6
	Heliport to Cold Bay Airport	14	80	0.2
	Cold Bay Airport to ANC (King Air)	630	330	1.9
Total Time Required				**2.6**
Alternative 3c: Peninsula Heliport				
	King Cove to Heliport	14	20	0.7
	Heliport to Cold Bay Airport	10.5	80	0.1
	Cold Bay Airport to ANC (King Air)	630	330	1.9
Total Time Required				**2.7**
Alternative 3d: King Cove Heliport - Direct Flight Path				
	King Cove to Heliport	0	20	0.0
	Heliport to Cold Bay Airport	19	80	0.2
	Cold Bay Airport to ANC (King Air)	630	330	1.9
Total Time Required				**2.1**

	Distance (miles)	Speed (mph)	Time Required (hours)*
Alternative 3d: King Cove Heliport - Coastal Flight Path			
King Cove to Heliport	0	20	0.0
Heliport to Cold Bay Airport	23	80	0.3
Cold Bay Airport to ANC (King Air)	630	330	1.9
Total Time Required			**2.2**

*Some totals may not be exact, due to rounding.

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From:	Orth, Patrick (Portman)
To:	Micah Chambers; Pearce, Sarah (Portman)
Subject:	Fwd: Venting and Flaring ideas
Date:	Monday, March 20, 2017 5:35:30 PM
Attachments:	BLM Venting +Flaring Outreach Presentation - May 15 2004.pdf

Micah - see below for the ideas I mentioned. Let us know if you have any questions.

Sent from my Verizon, Samsung Galaxy smartphone

-------- Original message --------
From: Patrick Orth (b) (6) >
Date: 3/20/17 5:29 PM (GMT-05:00)
To: "Orth, Patrick (Portman)" <patrick_orth@portman.senate.gov>
Subject: Venting and Flaring ideas

Micah - thanks for taking the time today.

Below is a matrix of some of the ideas I offered this afternoon. I've been told that these changes could be made quickly by means of a "Notice to Lessees" that supersedes the 1974-era NTL-4A.

Here is a link to the EIA blog post on how North Dakota's flaring rules using flaring targets. EIA describes how flaring rules have helped to sharply curtail the practice of flaring gas in North Dakota: https://www.eia.gov/todayinenergy/detail.php?id=26632

Here's an article about Colorado that has EDF praising their regulations as a standard for the country: https://www.scientificamerican.com/article/colorado-first-state-to-limit-methane-pollution-from-oil-and-gas-wells/

Here's a factsheet about the regulation: https://www.colorado.gov/pacific/sites/default/files/AP_Regulation-3-6-7-FactSheet.pdf Page 3 has a table that shows the tiered inspection schedules for existing marginal wells that I was talking about. As you'll see LDAR surveys are only required for the first inspection and then depending on the leakage they are not required to do LDAR surveys again. If BLM is willing to keep any of the rule on existing wells I think this would be a change that industry and EDF could support.

Finally, attached is slide deck that the BLM used in their initial public outreach on Venting & Flaring back in May 2014. As you will see, their initial proposals are basically what I suggested as 'rational middle ground' solutions.

Let me know if you have any questions and thanks again.

Pat

Well Development Phase	Current Practice under NTL-4a	Practice Under November 2016 BLM Rule	Middle Ground
Venting & Flaring during Well Completion (Casing & Cementing, Perforation, Fracturing – usually 7-10 days)	Venting & Flaring is royalty-free with BLM approval.	If there is no pipeline in place, flared volumes are subject caps stated below.	Royalty could be charged in order to incentivize waste-reduction.
Venting & Flaring during Initial Production Test (1st 30 days or 1st 50,000 mcf of production)	Vented/flared gas is royalty-free for 1st 30 days or 1st 50 MMCF of production – whichever comes first.	If there is no pipeline in place, flared volumes are subject caps stated below.	Require operator to be on site during all tests; limit performance tests to the time needed to validate performance. Charge royalty to incentivize waste-reduction.
Flaring with Gas Conservation Plan (BLM allowed operators to flare gas for up to 1 year if they had a Gas Conservation Plan –typically a plan to build a gas pipeline—that would be active after 1 year.	BLM required permit applications to explain the specific economic and technical reasons for the flaring, including estimates of total flared volumes and ultimate production expected from wells	Total "flaring allowable" volumes are imposed. These phase down from 2018-2025 from 5,400 Mcf/per well to 750 Mcf/per well, on average across operations in a state.	Flaring is authorized only during the time it takes to construct a pipeline. –Restrict number of extensions allowed for approval of flaring.
Flaring during "Force Majeure" Events (Pipeline maintenance, pressure relief, safety)	Royalty is not charged for vented/flared volumes during	Royalty is charged during Force Majeure events BLM deems should have been	Royalty may be charged for flared volumes associated with

	Force Majeure events.	predictable. Also certain flared volumes contribute to the cap above.	maintenance events, but these events would not contribute to a ‘cap’ on flared volumes.

Bureau of Land Management

Venting & Flaring

Public Outreach

May 15, 2014

Bureau of Land Management

Venting & Flaring

Public Outreach

Tim Spisak

Senior Advisor – Conventional Energy

BLM – Washington Office

May 15, 2014

Venting & Flaring Public Outreach

Reasons for Considering the Various Options

- NTL-4A doesn't reflect current best management practices.
- Recent OIG/GAO Reports suggest progress can be made to minimize waste and promote conservation of produced gas through better management of venting and flaring.
- EPA New Source Performance Standards (NSPS) require new actions to minimize venting and flaring.

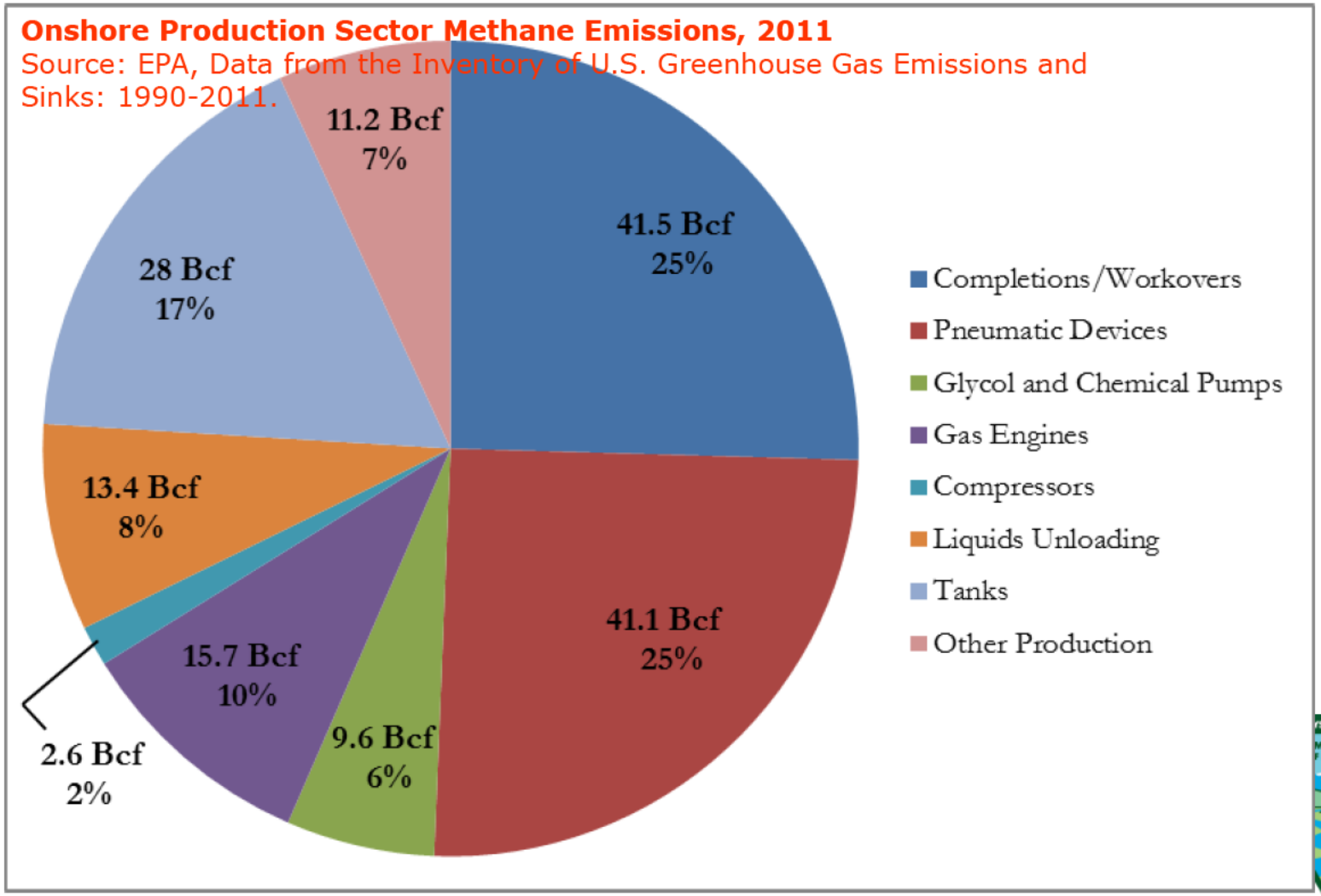
Venting & Flaring Public Outreach

Process and Application

1. Public Outreach designed to begin the dialog with interested parties.
2. More public sessions planned for this month in North Dakota, New Mexico and Washington, DC.
3. The BLM will consider existing Federal, tribal, and state rules and industry best practices.

Venting & Flaring Public Outreach

EPA Analysis of Emissions (from all onshore production--not limited to Federal leases)



Venting & Flaring Public Outreach

Major Topics

- Well completions
- Production tests
- Liquids unloading – Well Purging
- Casing head and associated gases
- Gas conservation plans
- Storage vessel/tank emissions
- Pneumatic devices
- Leak detection and repair

Venting & Flaring Tribal Outreach
Ground Rules

- Purpose of the Outreach
  - Solicit views on how to address major topics
  - Not intended to be complete list
  - Keep in mind:
    - Are there others that should be considered?
    - Are some of these unrealistic?
  - We welcome your input (comment period)

Venting & Flaring Public Outreach
Well Completions

- Defined as:
  - The process to establish production from a well after the production-casing string has been set, cemented, and pressure-tested until the permanent wellhead is installed for production.
- Current BLM policy:
  - "No royalty obligation shall accrue on any produced gas which … is vented or flared with the [Area Oil and Gas] Supervisor's prior authorization or approval during drilling, completing, or producing operations …"

Venting & Flaring Public Outreach
Well Completions

- Potential options:
  - Place no new requirements on well completions.
  - In certain situations in addition to HF gas wells, consider requirement to:
    - Capture
    - Inject
    - Use
    - Combust
    - Flare

Venting & Flaring Public Outreach
Production Tests

- Defined as:
  - Tests on an oil or gas well to determine its flow capacity at specific conditions of reservoir and flowing pressures.
- Current BLM policy:
  - Initial Production Test: Venting & flaring authorized up to 30 days or 50 million cubic feet (MMcf) of gas.
  - Evaluation test: Not to exceed 24 hours.

Venting & Flaring Public Outreach
Production Tests

- Potential options:
  - Extend well completion requirements to production tests.
  - Gas wells: Limit initial well evaluation tests to XX (30) days or XX (20) MMcf of gas and require the use of Best Available Control Technology (BACT).
  - Oil wells: Limit initial well evaluation tests to XX (30) days or XX (10) MMcf of gas.
  - Require operator to be on site during all tests; limit performance tests to the time needed to validate performance.

Venting & Flaring Public Outreach
Liquids Unloading – Well Purging

- Defined as:
  - Process of opening the well bore to the atmosphere and allowing the reservoir pressure to push the accumulated liquids out of the well bore.
- Current BLM policy:
  - Limits events to 24 hours but does not set cumulative duration limits, i.e., monthly.

Venting & Flaring Public Outreach
Liquids Unloading – Well Purging

- Potential options:
  - Operator must first attempt to unload liquids without venting.
  - Requiring operator to be on site during the treatment.
  - Must record cause, date, time and duration of the event.
  - Opening well bore to atmosphere as a last resort.
  - For new wells, if and when liquids unloading is necessary, a method other than well purging must be employed.
  - Establish lower cumulative duration limits.

Venting & Flaring Public Outreach
Casinghead and Associated Gases

- Defined as:
  - The natural gas that is produced from an oil well and is either sold, re-injected, used for production purposes, vented (rarely), or flared, depending on whether the well is connected to a gathering line.
- Current BLM policy:
  - Require operators to receive approval to flare casinghead gas.
  - The BLM considers the total leasehold production (including both oil and gas) as well as the economics of the field-wide plan.

Venting & Flaring Public Outreach
Casinghead and Associated Gases (1 of 2)

- Potential options:
  - Establish a clear and rigorous economic test that *may* include:
    - Specific rate of return and/or discount rate;
    - Define specific pay-out criteria;
    - Field-wide economics for gas capture and transportation regardless of operator;
  - Consider gas combustion efficiency standard.

Venting & Flaring Public Outreach
Casinghead and Associated Gases (2 of 2)

- Potential options:
  - If gas conservation is not economic:
    - An operator may only flare with an approved Application to Flare
    - Consider whether the approvals should be valid for a fixed time period and/or consider limitations to the approval term.
    - If valid for a fixed time, subsequent Applications to Flare must have a revised economic analysis that reflects any changes in conditions.
    - When new wells are added to a field that the economics are re-evaluated.

Venting & Flaring Public Outreach
Gas Conservation Plan

- Defined as:
  - An action plan that eliminates or minimizes venting or flaring of the gas from oil wells.
- Current BLM policy:
  - An action plan that will eliminate venting or flaring of the gas within one year from the date of application.
  - Royalty free during implementation of plan

Venting & Flaring Public Outreach
Gas Conservation Plan (1 of 2)

- Potential options:
  - With an operator's commitment to install gas gathering infrastructure, then flaring is authorized during the construction time.
  - Restrict number of extensions allowed for approval of flaring.
  - If gas conservation is economic and the infrastructure is not in place, an operator may only flare under an approved Gas Conservation Plan.

Venting & Flaring Public Outreach
Gas Conservation Plan (2 of 2)

- Potential options:
  - In cases where gas recovery is clearly economic, refine definition of unavoidably lost gas to a fixed time period (causing gas to become royalty bearing thereafter).
  - Conditionally approve APDs if it is clear there will be gas, but infrastructure will be ready 'soon' (i.e. 90 days, 180 days, one year).

Venting & Flaring Public Outreach
Storage Vessel/Tank Emissions

- Defined as:
  - Gas vapors lost from storage tanks on lease.
- Current BLM policy:
  - Gas vapors released from storage tanks to be unavoidably lost and not royalty-bearing unless the Authorized Officer requires recovery.

Venting & Flaring Public Outreach
Storage Vessel/Tank Emissions

- Potential options:
  - New wells: Require the capture or combustion of gas vapors from certain tanks.
  - Existing wells: Install combustors or equivalent device for storage vessels with emissions potential greater than X(?) tons per year of volatile organic compounds.
  - Is there another threshold or throughput equivalent that might work better? Safety-related threshold?

Venting & Flaring Public Outreach
Pneumatic Devices

- Defined as:
  - Devices powered by pressurized natural gas as liquid level controllers, pressure regulators, and valve controllers and other similar devices.
- Current BLM policy:
  - Gas used to power pneumatic devices (regardless of bleed rate) is considered used on lease and not royalty-bearing.

Venting & Flaring Public Outreach
Pneumatic Devices

- Potential options:
  - New (or replacement) devices: NSPS controls.
  - Existing devices: Requiring replacement of existing pneumatic devices if the cost of replacement, when considering the following, is consistent with economic operation:
    - (a) the reduction in bleed rate,
    - (b) cost of replacement equipment/installation
    - (c) the price of natural gas and
    - (d) the rate and extent of recovery of cost through additional gas capture.
  - How would this be administered?

Venting & Flaring Public Outreach
Leak Detection and Repair

- Defined as:
  - Programs to identify and repair leaks to reduce gas loss from lease operations.
- Current BLM policy:
  - Does not have a leak detection/monitoring standard.

Venting & Flaring Public Outreach
Leak Detection and Repair

- Potential options:
  - Operators' periodic inspection of facilities to identify and repair leaks.
  - What threshold might be used to determine which leaks require repair?

Venting & Flaring Public Outreach
Next Steps

- Comments from Session accepted until May 30
  - Email comments to: BLM_WO_OG_Comments@blm.gov
- Additional Outreach Sessions
  - Three planned
    - Albuquerque, NM on May 7 (complete)
    - Dickinson, ND on May 9 (complete)
    - Washington, DC on May 15 (Live streamed)
- See website: *Public Events on Oil and Gas*
  - Under the **Energy** or **Oil & Gas** tabs
  - www.blm.gov/wo/st/en/prog/energy/public_events_on_oil.html

Venting & Flaring Public Outreach

Questions?

Email comments to:
BLM_WO_OG_Comments@blm.gov

tspisak@blm.gov – 202-912-7311

From: Small, Jeff
To: amanda_kaster@ios.doi.gov; "katharine_macgregor@ios.doi.gov"; Ronk, Joshua
Subject: OGR Hearing Tomorrow
Date: Monday, March 20, 2017 7:26:30 PM
Attachments: image001.png
image002.png
image003.png

Amanda, Kate and Josh,

Wanted to connect you all.

Kate and Amanda are former House staffers who now work for DOI. They are wonderful.

Josh Ronk is our Legislative Assistant who is handling the OGR hearing tomorrow and handles OGR Committee work. He is great too. We have had a lot going on but he is finishing up questions now.

Josh, Amanda and Kate both reached out. Please send them our draft questions for Richard Cardinale when you have them.

Josh, here are some possible questions for Frank Rusco:

1. Director Rusco, how does your agency determine what it studies?

   1a. In GAO report 16-607, entitled "Interior Could Do More to Account for and Manage Natural Gas Emissions, you state "GAO was asked to review Interior's management of natural gas emissions onshore?"

   2a. Who specifically asked you to review Interior's management of natural gas emissions onshore?

   3a. Are you at all concerned that this report led to a very political rule that was rejected by the House with bipartisan support?

   4a. I am normally a big fan of GAO, but this report had some conclusions that encouraged the terrible BLM Venting and Flaring rule implemented by the Obama Administration. This new mandate seeks to allow BLM the ability to exceed its statutory authority and regulate air quality. Given that methane emissions from oil and natural gas have significantly declined in recent decades and that the final rule would destroy responsible energy production, I am still trying to understand your contribution here and why you all decided to spend taxpayer money commissioning this report that contributed to this extremely political rule?

2. Director Rusco. Here's another example. GAO report 15-39 from April of 2015 entitled "Interior's Production Verification Efforts and Royalty Data Have Improved, but Further Actions Needed." Again this reported contributed to another very political rule from the Obama Administration in the form of ONRR's Valuation Rule. This flawed rule is essentially a new tax that will stifle oil, gas, and coal production on federal and Indian lands.

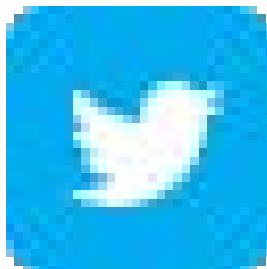
   2a. You stated in the report "GAO was asked to review Interior's efforts to improve verification of oil and gas produced from federal leases and the accuracy of royalty data."

   2b. Again, who specifically asked you to commission this report?

3b. Does it cause you any heartburn that the Obama Administration would twist your words and then put out very political, job-killing rules and claim they did so in part because GAO recommended it?

Thanks all!

Jeff Small
Executive Director | *Congressional Western Caucus*
Senior Advisor | *Congressman Paul A. Gosar, D.D.S.*
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov



You
Tube

From: Willens, Todd
To: "Melissa Simpson"
Subject: RE: Interior meetings request
Date: Tuesday, March 21, 2017 9:41:25 AM

Melissa,

I have not heard from anyone at MIB in response to this request.

Todd D. Willens

From: Willens, Todd
Sent: Monday, March 13, 2017 10:40 AM
To: 'Melissa Simpson'
Subject: RE: Interior meetings request

On second thought, to avoid the extra forms, lets keep it at staff level. Secretary not critical at this point. His staff is though. Can you get someone from his wing to do that then?

Todd D. Willens

From: Melissa Simpson [mailto:melissa_simpson@ios.doi.gov]
Sent: Monday, March 13, 2017 9:29 AM
To: Willens, Todd
Subject: Re: Interior meetings request

Thanks Todd. There is a meeting request form that the Secretary's scheduler requires. I will send that to you. I'm the next email. Please cc me when you send it to her.

Meanwhile, I will tee this up with Kathy.

Melissa

Melissa Simpson

Intergovernmental and External Affairs

Department of the Interior

1849 C Street, NW Room 6211

Washington, DC 20240

(202) 706 4983 cell

melissa_simpson@ios.doi.gov

Sent from my iPhone

On Mar 13, 2017, at 8:43 AM, Willens, Todd <Todd.Willens@mail.house.gov> wrote:

Melissa,

Congressman Pearce has a fly-in group from Roswell/Artesia, NM region coming to DC on May 1st. They have been able to get in the last few years with FWS and BLM. Unfortunately, those meetings have not been very successful.

For this year's visit, the Congressman seeks the Secretary's assistance in confirming this year's group to meet with FWS, BLM and Department leadership, preferably the Secretary, on May 1st. Below is the request from their coordinator and attached is the attendee list.

We appreciate the Secretary and the Department's consideration of this request.

Todd D. Willens

From: Hayley Snow Klein [mailto:hklein@artesiachamber.com]
Sent: Monday, March 13, 2017 3:07 AM
To: Willens, Todd
Subject: Interior meetings request

Good morning, Todd,
As you know, Artesia and Roswell are planning our annual Washington Fly-in. Usually, we meet with FWS and BLM in separate meetings, but have had some difficulties in the last two years with BLM. This year, I am asking for assistance in setting up meetings that would be appropriate for the following issues, which are primarily focused on BLM and FWS, but may include others:

APD processing and permitting for oil & gas production – the new computerized system was not ready for roll-out, which is causing confusion and delays; moreoever, we would like to discuss the unpredictable timelines for APDs which cause delays in production and tie up significant funding.
State BLM sale – we would like to see the BLM return to quarterly sales in New Mexico.
The Resource Management Plan, which is delayed
Venting & Flaring rule – the rule is not ready for implementation; we hope for reconsideration of the

rule altogether
The anticipated decision on the Texas Horned Shell Mussel and the associated CCAs
Other ESA listings that may be in the works

We will be in Washington May 1-3. We respectfully request a meeting or meetings at Interior on Monday, May 1. I have attached a list of our attendees. Please let me know if you have questions or need additional information.

Thank you for your assistance and direction,
Hayley

Hayley Klein
Executive Director
Artesia Chamber of Commerce
107 North First Street
Artesia, NM 88210
O: 575.746.2744
www.artesiachamber.com

<Artesia-Roswell Fly-in 2017 Attendees.pdf>

From:	Bolen, Brittany (RPC)
To:	Magallanes, Downey
Subject:	FW: H.J. Res 69, Resolution of disapproval regarding FWS Alaska fish and wildlife management rule
Date:	Tuesday, March 21, 2017 10:18:47 AM

FYI –

From: Bolen, Brittany (RPC)
Sent: Monday, March 20, 2017 4:42 PM
Subject: H.J. Res 69, Resolution of disapproval regarding FWS Alaska fish and wildlife management rule

The Senate is expected to consider H.J. Res. 69, a resolution of disapproval under the Congressional Review Act to overturn the Fish and Wildlife Service rule regarding Alaska fish and wildlife management in national wildlife refuges.

H.J. Res. 69, Resolution of disapproval regarding FWS AK fish and wildlife management rule

Summary

The resolution provides for congressional disapproval under the Congressional Review Act of the U.S. Department of the Interior Fish and Wildlife Service final rule relating to "Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska."

On February 16, the House passed H.J. Res. 69 by a bipartisan vote of 225 to 193. Senate consideration is expected to follow.

Text of the resolution is available here.

Background

FWS' proposed Alaska wildlife management rule was published on January 8, 2016. On August 3, 2016, FWS issued its final rule, which was published in the Federal Register on August 5 and went into effect on September 6.

On February 1, 2017, Sen. Dan Sullivan introduced S.J. Res. 18, and on February 7, Rep. Don Young introduced H.J. Res. 69, which provide for congressional disapproval of the rule under the Congressional Review Act.

Considerations

Congress granted management authority over fish and wildlife on all lands in Alaska, including refuges, to the state. Specifically, fish and wildlife management in Alaska is governed by the following statutes: the 1958 Alaska Statehood Act; the 1964 Wilderness Act; the 1980 Alaska National Interest Lands Conservation Act (ANILCA); and the 1997 National Wildlife Refuge System Improvement Act (amending the 1966 National Wildlife Refuge System Administration Act). If there is a conflict between the statutes, ANILCA takes precedence.

ANILCA provides the primary direction for management of wildlife refuges in Alaska, yet the FWS cites the other statues as its authority to issue the final rule and amend regulations regarding the management of fish, wildlife and habitats within Alaska's 16 National Wildlife Refuges. Alaska's NWRs contain more than 76 million acres of land, which is roughly 20 percent of the state's land.

According to the FWS, "the rule defines the process that will be used for considering predator control, prohibits certain methods and means for non-subsistence harvest of predators, and updates the procedures for closing an area or restricting an activity on refuges in Alaska." However, Alaska does not practice predator control in NWRs.

These provisions also usurp Alaska's authority to manage its fish and wildlife and further deprive the state of its ability to provide Alaskans certain social and economic opportunities, such as sustainable harvest of subsistence resources for food, which is critically important for residents of a state with some of the highest prices for commercial food goods in the nation. The rule also significantly limits opportunities for the public to participate in refuge management decisions.

The final rule unilaterally gives the federal government tighter control over managing animal populations in NWRs. Alaska regulates wildlife harvest on all lands, including in NWRs, to ensure stable populations and healthy ecosystems. Yet, the FWS in the final rule imposed unjustified, value-based restrictions to preempt those state regulations, which were enacted by the state, based on sound science, conservation needs, and a robust public process. More than that, it reserves an unaccountable veto power over future state regulations. While state regulation must follow an open and accessible public process, the final rule completely upends the process that must be followed for refuge management, closing out the public, especially those most impacted by FWS decision-making.

The rule illustrates another example of Washington, D.C., preempting state authority and circumventing federalism requirements. All states have the authority to manage fish and wildlife within their borders. Thus, while the final rule only applies to Alaska, the FWS' flawed interpretation of its authority could be unilaterally applied in other states or subsequently imposed on other states as a result of litigation. Overall, the rule sets a dangerous precedent for the FWS to commandeer state authority to manage fish and

wildlife populations, without any accountability to science, conservation, or the public.

Repealing this rule through the CRA is a necessary oversight tool for Congress to hold the FWS accountable to its prescribed statutory function. Not only does the rule violate ANILCA and principles of cooperative federalism, litigation over the rule has argued that it also contravenes the Administrative Procedure Act, the National Environmental Policy Act, and due process under the U.S. Constitution.

Congressional efforts to repeal the final rule through the CRA have received overwhelming support from dozens of sportsmen's groups, as well as the state of Alaska, Native Alaskans, hunting and angling communities, and wildlife associations. A list of support letters can be accessed on the House Natural Resources Committee website here.

Brittany Bolen
Policy Counsel
Energy, Environment, and Agriculture
(202) 224-2393
--
U.S. Senate Republican Policy Committee
Chairman John Barrasso

From: Gruman, Mark
To: micah_chambers@ios.doi.gov
Date: Tuesday, March 21, 2017 5:04:10 PM
Attachments: 1703 - BisMan Chamber letter to HH on BLM Rule.pdf
ATT00001.txt

THE CHAMBER
www.bismarckmandan.com
P.O. Box 1675 • Bismarck, North Dakota 58502-1675

March 21, 2017

Dear Senators Hoeven and Heitkamp:

On behalf of the Bismarck-Mandan Chamber of Commerce, I am writing to ask that you vote in support of the Congressional Review Act that will repeal the Obama administration's BLM Venting and Flaring Rule.

The development of the Bakken resource has benefited all businesses in our State, not just those directly associated with oil and gas development. The industry is consistently ranked across all data sources as the top employer in North Dakota, the most recently release numbers showing that the industry employs 73,000 North Dakotans, a figure representing 20 percent of private sector jobs and 30 percent of private sector wages.

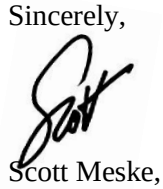
The impact of these jobs flows throughout our communities and rules negatively affecting the oil and gas industry will cause a continuation of the impact of the industry's slowdown, just as a recovery has begun. Likewise, the tax base created by the industry has benefited the State of North Dakota, and its people and small businesses. Despite the downturn, the industry will pay $3.2 billion in severance taxes in the 2017-2019 biennium:

- More than $500 million and nearly $240 million will be shared with local and tribal governments, respectively. These funds are vital for these entities; for instance, the taxes paid to the MHA nation total nearly $44,000 per resident in the biennium
- $300 million will be used in the state's general fund for current priorities
- $2.1 billion will be saved to the state's many long-term funds, including nearly $900 million in the Legacy Fund and $132 million to each the Foundation Aid Stabilization Fund and the Common Schools Trust Fund, ensuring education funding for education through any future economic climate

As the voice of more than 1,400 local businesses, we continue to support the primary sector industries that funnel dollars into our community, and contribute to the success of our other residents such as main street businesses, builders, and other local entrepreneurs. We want a healthy environment and support reasonable regulations that protect it. However, this rule answers a problem already solved by the state government, does not create any meaningful benefit to the environment, and hinders energy development.

Thus, we strongly urge you to support the North Dakota energy industry, its workers, and our local businesses with a vote to repeal the Obama administration's BLM Venting and Flaring Rule.

Sincerely,



Scott Meske, President
Bismarck Mandan Chamber of Commerce

Sent from my iPhone

From:	Small, Jeff
To:	micah_chambers@ios.doi.gov; amanda_kaster@ios.doi.gov; "katharine_macgregor@ios.doi.gov"
Cc:	Roberson, Kelly
Subject:	Timely Appropriations Questions
Date:	Wednesday, March 22, 2017 6:05:28 PM
Attachments:	Actual language from fiscal year 2017 Interior bill on key policy matters.docx FY18 Interior and Environment Approps Ideas.docx

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Micah, Amanda and Kate,

We wanted to reach out as House Interior Appropriations requests are due on March 30th. There haven't been a lot of requests circulated by our members to date or Republicans in general so we are trying to get them going. We sent the below email this morning along with the second attachment that includes a bunch of ideas.

We held a briefing with Interior Appropriations staff last week. In the meeting staff made the comment that because of all the executive actions you all are taking, their negotiations and bills are going to be a lot easier, implying they are going to take a lot of our riders out of last year's bill.

My boss and several of our members have concerns with this approach. We are thrilled with all the actions the Administration is taking. However, our members believe we still need to submit a lot of these big ticket requests as litigation and/or future administrations could undermine these executive actions.

For instance, the WOTUS review could take a while to resolve. Further, while we know something is likely coming, there has been no action yet on the Social Cost of Carbon, Clean Power Plan, Coal Moratorium, ONRR Valuation rule etc.

Accordingly, many of our members believe we should seek to include these requests in the base appropriations bill, especially if they were in the bill last year.

Having said that, we wanted to coordinate with you all to ensure that by putting in/retaining some of these riders we don't mess things up on your end and prevent you from being able to do a rulemaking or rescind a bad Obama rule.

Anyway, the first attachment has most of the actual language that was in last year's Interior bill. Can you all review and let us know if the agency would recommend any tweaks to any of these provisions or if we should definitely not submit any of these again this year.

Your timely review and general feedback would be appreciated as we need to get the rest of these circulating so we can gather signatures and submit by the Appropriations deadline next Thursday.

Sincerely,

Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.

Western Caucus Staff —

Attached are lots of member request ideas for the fiscal year 2018 Interior and Environment Appropriations bill.

The deadline for submissions for this bill is **3/30/17 COB**. Western Caucus recommends that you email your boss's final signed letters for this bill to other cosigning offices no later than **3/29/17 COB** to ensure all these offices submit them.

If your boss would like to lead any of the member request ideas, let Kelly or me know. We are happy to help write letters and short dear colleagues (See third attachment for a good example from last year). Please give deference to members that have led on issues previously. Members are encouraged to have any language requests drafted by leg. counsel. This is not necessary for programmatic requests.

Thank you to all of you that attended our Appropriations meeting last week with Darren Benjamin from the Interior Subcommittee Appropriations Staff. Darren referenced a CRS report which has a lot of good info about the Appropriations process (See second attachment). Darren's big take away was that if you are working on a member request or amendment and have questions, please call or email Appropriations staff. Please also call or email us if you have questions or if we can be helpful. Instructions for submitting these requests can be found HERE.

Please also send us any Interior and Environment or Energy and Water member request letters your boss is circulating so we can help get cosigners. We will have several appropriations items blasts going out over the next couple weeks.

We will be sending a similar Energy and Water Member Request Ideas email in the near future.

Jeff Small
Executive Director | Congressional Western Caucus
(202) 225-2315 main

Actual language from fiscal □ear □01□Interior bill on □e□polic□matters

SEC. 114. GREATER SAGE-GROUSE. (a) None of the funds made available by this or any other Act may be used□

(1) to review the status of or determine whether the greater sage-grouse is an endangered species or a threatened species pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or to issue a regulation with respect thereto that applies to any State with a State management plan;

(2) to make, modify, or extend any withdrawal pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) within any Sagebrush Focal Area published in the Federal Register on September 24, 2015 (80 Fed. Reg. 57635 et seq.), in a manner inconsistent with a State management plan; or

(3) to implement, amend, or otherwise modify any Federal resource management plan applicable to Federal land in a State with a State management plan, in a manner inconsistent with such State management plan.

(b) For the purposes of this section□

(1) the term □Federal resource management plan□means□

(A) a land use plan prepared by the Bureau of Land Management for public lands pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

(B) a land and resource management plan prepared by the Forest Service for National Forest System lands pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(2) the term □greater sage-grouse□means the species Centrocercus urophasianus or the Columbia Basin distinct population segment of greater sage-grouse; and

(3) the term □State management plan□means a State-wide plan for the protection and recovery of greater sage-grouse that has been approved by the Governor of such State.

SEC. 115. WATER CONVEYANCES. None of the funds made available by this or any other Act may be used by the Secretary of the Interior to review, require approval of, or withhold approval for use of a right-of-way granted pursuant to the General Railroad Right-of-Way Act of 1875 (43 U.S.C. 934-939) if authorization of the use would have been considered under Department policy to be within the scope of a railroad□s authority as of the day before the effective date of the Department□s Solicitor□s Opinion M-37025, issued on November 4, 2011.

SEC. 4□□. WATERS OF THE UNITED STATES. None of the funds made available in this Act or any other Act for any fiscal year may be used to develop, adopt, implement, administer, or enforce any change to the regulations and guidance in effect on October 1, 2012, pertaining to the definition of waters under the jurisdiction of the Federal Water Pollution Control Act (33

Actual language from fiscal □ear □01□Interior bill on □e□polic□matters

U.S.C. 1251, et seq.), including the provisions of the rules dated November 13, 1986, and August 25, 1993, relating to said jurisdiction, and the guidance documents dated January 15, 2003, and December 2, 2008, relating to said jurisdiction.

SEC. 430. FINANCIAL ASSURANCE. None of the funds made available by this Act may be used to develop, propose, finalize, implement, enforce, or administer any regulation that would establish new financial responsibility requirements pursuant to section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9608(b)).

SEC. 431. GHG NSPS. None of the funds made available by this Act shall be used to propose, finalize, implement, or enforce□

(1) any standard of performance under section 111(b) of the Clean Air Act (42 U.S.C. 7411(b)) for any new fossil fuel-fired electricity utility generating unit if the Administrator of the Environmental Protection Agency□s determination that a technology is adequately demonstrated includes consideration of one or more facilities for which assistance is provided (including any tax credit) under subtitle A of title IV of the Energy Policy Act of 2005 (42 U.S.C. 15961 et seq.) or section 48A of the Internal Revenue Code of 1986;

(2) any regulation or guidance under section 111(b) of the Clean Air Act (42 U.S.C. 7411(b)) establishing any standard of performance for emissions of any greenhouse gas from any modified or reconstructed source that is a fossil fuel-fired electric utility generating unit; or

(3) any regulation or guidance under section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)) that applies to the emission of any greenhouse gas by an existing source that is a fossil fuel-fired electric utility generating unit.

SEC. 436. SOCIAL COST OF CARBON.
None of the funds made available by this or any other Act shall be used for the social cost of carbon (SCC) to be incorporated into any rulemaking or guidance document until a new Interagency Working Group (IWG) revises the estimates using the discount rates and the domestic-only limitation on benefits estimates in accordance with Executive Order No. 12866 and OMB Circular A-4 as of January 1, 2015: *Provided, That such IWG shall provide to the public all documents, models, and assumptions used in developing the SCC and solicit public comment prior to finalizing any revised estimates.*

SEC. 43□ METHANE EMISSIONS. None of the funds made available by this Act shall be used to develop, propose, finalize, implement or enforce□

(1) any rule or guideline to address methane emissions from sources in the oil and natural gas sector under Sections 111(b) or (d) of the Clean Air Act (42 U.S.C. 7411(b), 7411(d));

Actual language from fiscal □ear □01□Interior bill on □e□polic□matters

(2) any rule changing the term □adjacent□for purposes of defining □stationary source□ and □major source□as applied to the oil and gas sector under the Clean Air Act; and

(3) proposed Draft Control Techniques Guidelines for the Oil and Natural Gas Industry released September 18, 2015 (80 Fed. Reg. 56577).

SEC. 440. ROYALTY RATES.
None of the funds made available by this Act may be used to implement any changes to royalty rates or product valuation regulations under Federal coal, oil, and gas leasing programs.

SEC. 441. PROGRAM REVIEW. (a) Termination.□ Secretarial Order 3338, issued by the Secretary of the Interior on January 15, 2016, shall have no force or effect on and after the earlier of□

(1) September 30, 2017; or

(2) the date of publication of notice under subsection (b).

(b) PUBLICATION OF NOTICE.□ The Secretary of the Interior shall promptly publish notice of the completion of the Programmatic Environmental Impact Statement directed to be prepared under that order.

SEC. 453. None of the funds made available by this Act may be used to make a Presidential declaration by public proclamation of a national monument under chapter 3203 of title 54, United States Code in the counties of Coconino, Maricopa, Mohave and Yavapai in the State of Arizona, in the counties of Modoc and Siskiyou in the State of California, in the counties of Chaffee, Conejos, Dolores, Moffat, Montezuma, and Park in the State of Colorado, in the counties of Carson City, Churchill, Clark, Douglas, Elko, Eureka, Humboldt, Lander, Lincoln, Lyon, Nye, Pershing, Storey and Washoe in the State of Nevada, in the county of Otero in the State of New Mexico, in the counties of Jackson, Josephine and, Malheur in the State of Oregon, in the counties of Beaver, Carbon, Duchesne, Emery, Garfield, Iron, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Tooele, Uintah, Washington, and Wayne in the State of Utah, or in the county of Penobscot in the State of Maine.

SEC. 464. None of the funds made available by this Act may be used to implement, administer, or enforce the draft technical report entitled □Protecting Aquatic Life from Effects of Hydrologic Alteration□published by the Environmental Protection Agency and the United States Geological Survey on March 1, 2016 (81 Fed. Reg. 10620).

SEC. 466. None of the funds made available by this Act may be used to implement, administer, or enforce the final rule entitled □Hydraulic Fracturing on Federal and Indian Lands□as published in the Federal Register on March 26, 2015 and March 30, 2015 (80 Fed. Reg. 16127 and 16577, respectively).

Actual language from fiscal □ear □01□Interior bill on □e□polic□matters

SEC. 46□. None of the funds made available by this Act may be used to finalize, implement, administer, or enforce the proposed rule entitled □Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings□published by the Environmental Protection Agency in the Federal Register on January 26, 2015 (80 Fed. Reg. 4156 et seq.), or any rule of the same substance.

SEC. 4□0. None of the funds made available by this Act may be used by the Administrator of the Environmental Protection Agency to issue any regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that applies to an animal feeding operation, including a concentrated animal feeding operation and a large concentrated animal feeding operation, as such terms are defined in section 122.23 of title 40, Code of Federal Regulations.

SEC. 4□□. None of the funds made available by this Act may used by the Secretary of the Interior to implement, administer, or enforce any rule of the same substance as the proposed rule entitled □Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control□and published April 17, 2015 (80 Fed. Reg. 21504), the final rule issued by the Bureau of Safety and Environmental Enforcement with that title (Docket ID: BSEE-2015-0002; 15XE1700DX EEEE500000 EX1SF0000.DAQ000), or any rule of the same substance as such proposed or final rule.

SEC. 4□5. None of the funds made available by this Act may be used to implement or enforce the threatened species or endangered species listing of any plant or wildlife that has not undergone a review as required by section 4(c)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(2) et seq.).

SEC. 4□6. None of the funds made available by this Act may be used to implement or enforce the threatened species listing of the Preble□s meadow jumping mouse under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 4□□. None of the funds made available by this Act may be used to treat the New Mexico Meadow Jumping Mouse as an endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 4□0. None of the funds made available by this Act may be used to finalize, implement, administer, or enforce the proposed rule entitled □Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act□published by the Environmental Protection Agency in the Federal Register on March 14, 2016 (81 Fed. Reg. 13638 et seq.).

SEC. 4□□. None of the funds made available by this Act may be used to finalize, implement, or enforce the proposed rule entitled □Oil and Gas and Sulphur Operations on the Outer Continental Shelf-Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf□as published February 24, 2015 (80 Fed. Reg. 9916).

SEC. 4□4. None of the funds made available by this Act may be used to treat the Mexican wolf (Canis lupus baileyi) as an endangered species or threatened species under the Endangered

Actual language from fiscal □ear □01 □Interior bill on □e□polic□matters

Species Act of 1973 (16 U.S.C. 1531 et seq.) or to implement a recovery plan for such species that applies in any area outside the historic range of such species.

SEC. 4□6. None of the funds made available by this Act may be used to pay legal fees pursuant to a settlement in any case, in which the Federal Government is a party, that arises under□

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); or

(3) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 4□□. None of the funds made available by this Act may be used to declare a national monument under section 320301 of title 54, United States Code, in the exclusive economic zone of the United States established by Proclamation Numbered 5030, dated March 10, 1983.

Fiscal Year □01□ Interior□Environment□and Related Agencies Appropriations Bill

Member Request Ideas

The bill will provide appropriations for the Department of Interior (including the Fish and Wildlife Service, the Bureau of Land Management, the National Park Service, the Indian Health Service, the Office of Surface Mining Reclamation and Enforcement, and the Bureau of Ocean Energy Management), the Environmental Protection Agency (EPA), the Forest Service, and a number of independent agencies such as the Smithsonian Institution, the Council on Environmental Quality, the Woodrow Wilson International Center for Scholars, the Eisenhower Commission, the Kennedy Center, the National Gallery of Art, and the National Endowments of the Arts and Humanities. Previous bills have also included significant levels of funding for the Payments In Lieu of Taxes (PILT) program and the Land and Water Conservation Fund.

Potential Re□uest Opportunities that □ere Included in Base Bill for FY□01□

- **Reissue litigation-bloc□ed rules delisting the gra□□olf in W□oming and the Western Great La□es.** A U.S. Appeals Court recently issued a favorable ruling but this delisting has been pending for more than a decade. (An appropriations letter was submitted last year by former Chairman Lummis.)

- **Protect private □ater rights in the federal permitting processes.** (An appropriations letter was submitted last year by Congressman Scott Tipton and 16 other members.) Congressman Scott Tipton is circulating the letter again this year.

- **Prohibit funds for an□federal coal lease moratorium.** While an executive order to unwind could occur, Congress still needs to take action to provide certainty. (An appropriations letter was submitted last year by Congressman Ryan Zinke and 12 other members.) Section 441

- **Prohibit funds for ne□ methane regulations from the EPA and BLM.** As the BLM Venting and Flaring CRA is still pending in the Senate, Congress still needs to take action. (An appropriations letter was submitted last year by Congressman Kevin Cramer and 41 other members to block both these regulations.) Section 439

- **Prohibit funds for the implementation of the Clean Po□er Plan.** While an executive order to unwind could occur and there is a temporary stay, Congress still needs to take action to provide certainty. (An appropriations letter was submitted last year by Congressman John Ratcliffe and 84 other members.) Section 431

- **Prohibit funds for implementing the Social Cost of Carbon rule.** While an executive order to unwind could occur, Congress still needs to take action to provide certainty. (An appropriations letter was submitted last year by Chairman Paul Gosar and 11 other members. Gosar also passed an amendment.) Section 436

- **Prohibit funds for e□pansion of the Clean Water Act□effectivel□bloc□ing EPA□s Waters of the United States (WOTUS) rule.** While an executive order to unwind has been issued and there is a temporary stay, Congress still needs to take action to provide certainty as the executive order review will take time and could be litigated. (An appropriations letter was submitted last year by Chairman Paul Gosar and 119 other bipartisan members.) Section 427

- **Re□uest full-funding for the Pa□ment In Lieu of Ta□es (PILT) program.** (An appropriations letter was submitted last year by Chairman Paul Gosar and 79 other members.)

- **Prohibit funds for the Secretar□of the Interior to revie□ □re□uire approval of□or □ithhold approval for use of a railroad right-of-□a□.** (An appropriations letter was submitted last year by Congressman Tom McClintock and 22 other members.) Section 115

- **Prohibit funds for the ONRR Valuation rule that □ould increase the ro□alt□rates for coal□oil and gas on federal and tribal lands.** (An appropriations letter was submitted last year by Congressmen Steve Pearce, Ryan Zinke and seven other members.) While executive action is being pursued, Congress still needs to take action to provide certainty. Section 440

- **Prohibit funds to finali□e the CERCLA rule.** While executive action is being pursued, Congress still needs to take action to provide certainty. Section 430

- **Re□uest dela□of the Obama Administration□s EPA O□one Rule.** (An appropriations letter was submitted last year by Rep. Olson and 27 members.) Congressman Pete Olson is circulating the letter again this year.

- **Include hunting□fishing□and recreational shooting access provision.** NRA request.

- **Include ste□ardship contract authori□ation provision.**

- **Include gra□ing permits e□tension provision.**

- **Prohibit funds to implement the Obama Administration□s Arctic Rule.** Similar to Congressman Don Young□s CRA bill, H.J. Res. 70. Section 487

- **Prohibit funds to implement to designate a National Marine Monument in federal □aters through presidential proclamation. Section 4□□**

- **Re□uest and redirect resources to□ard more effective □ildland fire prevention and the Forest Service Ha□ardous Fuels Account.**

- **Re□uest funds for State and Local Wildlife Conservation Programs** Congressmen Mike Thompson and Don Young are already circulating this letter again. More than 100 signers. Current deadline is March 24th.

Trump Priorities in S□inn□Budget

- **Re□uest □11.6 billion for DOI□a □1.5 billion cut from the □01□annuali□ed CR level.**
- **Prohibit funds for the Green Climate Fund and other UN climate programs.**
- **Prohibit funds for the Clean Po□er Plan and other EPA climate programs.**
- **Cut EPA□s enforcement budget b□ □0□ .**
- **Prohibit funds for National Heritage Areas.**
- **Prohibit duplicative National Wildlife Refuge pa□ments.**
- **Cut land ac□uisition funding b□more than □1□0 million from the □01□annuali□ed CR level.**
- **Redirect funding to the National Par□Service□s deferred maintenance pro□ects.**
- **Re□uest funding for the Pa□ments in Lieu of Ta□es program.**
- **Re□uest □1 billion for □safe□reliable□and efficient management of □ater resources throughout the Western United States.□**

Potential Re□uest Opportunities that Passed as an Amendment in FY□01□

- **Provision similar to Congressmen Gosar and Pearce□s amendment for the Me□ican □olf.** (An appropriations letter was submitted last year by Chairman Gosar and five other members.) Section 494
- **Provision similar to Congressman Ste□art amendment on national monuments. Section 453**
- **Provision similar to Congressman Amodei□s sage grouse management amendment. Section 114**

- **Provision similar to Congressmen Ste□art□Israel amendment for □ild horse and burro management.**

- **Provision similar to Chairman Gosar□s amendment limiting funds for enforcing the EPA□s □Protecting A□uatic Life from Effects of H□drologic Alteration□report. Section 464**

- **Provision similar to Congressman Ne□house□s amendment limiting funds b□the EPA to issue or e□pand ne□ regulations under the Resource Conservation and Recover□Act as it pertains to Animal Feeding Operations. Section 4□0**

- **Provision similar to Congressman Lamborn□s amendment prohibiting funds to enforce the listing of the Preble meado□ □umping mouse. Section 4□6**

- **Provision similar to Forman Chairman Lummis□amendment prohibiting funds to implement the EPA rule regarding in situ uranium production. Section 46□**

- **Provision similar to Congressman Lamborn□s amendment prohibiting funds to list an□ species as endangered that has not undergone a full revie□ as re□uired b□section 4(c)(□) of the Endangered Species Act. 4□5**

- **Provision similar to Congressman Lamborn□s amendment prohibiting funds to implement the □H□draulic Fracturing on Federal and Indian Lands□.** While the court case is being litigated, Congress still needs to take action to provide certainty. (An appropriations letter was submitted last year by former Chairman Cynthia Lummis and seven other members.) Section 466

- **Provision similar to Congressman Weber□s amendment re□uiring the EPA to evaluate the economic impact of regulations on American □obs.**

- **Provision similar to Congressman Pompeo□s amendment prohibiting funds from being used to enforce the EPA□s proposed rule on Accidental Release Prevention Re□uirements□Ris□ Management Program under the Clean Air Act.** Similar to Congressman Markwayne Mullin□s CRA bill, H.J. Res. 59. While executive action is being pursued, Congress still needs to take action to provide certainty. Section 480

- **Provision similar to Rep. □ason Smith□s amendment restricting federal agenc□funds from being used to pa□legal fees from an□la□suit that arises under the Clean Air Act□ Clean Water Act□and the Endangered Species Act. Section 4□6**

- **Provision similar to Rep. Lummis and Pearce's amendment removing protections for the New Mexico Meadow Jumping Mouse. Section 4**

- **Provision similar to Rep. Boustany's amendment prohibiting funds from being used to implement the Well Control Rule.** (An appropriations letter was also submitted last year by Rep. Graves and 25 members.) Section 472

Other Ideas

- **Prohibit funds for BLM Onshore Orders 3, 4, and 5.** (An appropriations letter was submitted last year by Congressmen Steve Pearce and Doug Lamborn as well as four other members.)

- **Request funds for the Bureau of Indian Education.** (An appropriations letter was submitted last year by Congressman Jeff Denham and 17 other members.)

- **Prohibit funds for the EPA to regulate the lead content of ammunition, ammunition components, or fishing tackle under the Toxic Substances Control Act.** NRA request.

- **Prohibit funds for ONRR's Amendment to Civil Penalty Regulations.** Similar to Congressman Chris Stewart's CRA bill, H.J. Res. 55.

- **Prohibit funds for USFWS Compensatory Mitigation Policy.** Similar to Congressman Newhouse's CRA bill, H.J. Res. 60.

- **Prohibit funds for data utilized in ESA decisions that is not made publicly available.**

- **Prohibit funds for CEQ guidance on factoring climate into NEPA reviews.** While an executive order to unwind could occur, Congress still needs to take action to provide certainty.

- **Prohibit funds for the Greenhouse Gas Reporting Program.**

- **Prohibit funds for the Climate Resilience Fund.**

- **Prohibit funds for the Energy Star Program.**

- **Prohibit funds to pay attorney's fees under sue and settle actions.**

- **Prohibit funds appropriated under the ESA from being used for designations of critical habitat.**

- **Re□uest or redirect funding for recover□planning in order to secure firm recover□ goals for species in order to trigger ESA delistings.**

- **Prohibit funds for the UN Intergovernmental Panel on Climate Change.**

- **Prohibit funds for surveillance cameras in national par□s.**

- **Prohibit funds for EPA Environmental Education grants li□e □Crafting the Landscape.□This program s□uandered ta□pa□er mone□having □ids pla□the video game Minecraft in order to become better ste□ards of the environment.**

- **Prohibit funds for EPA grants that □provide green □ob training in Puerto Rico.□**

- **Prohibit funds for EPA Beach Act grants.**

- **Re□uire reporting on climate impacts of catastrophic □ildfires.**

- **Re□uire reporting on bird deaths caused b□□ind po□er.**

- **Re□uire responsible state management of the Northern Spotted O□l.**

- **Reduce funds for the National Landscape Conservation S□stem.**

- **Reduce funds for Public Lands La□ Enforcement Agencies.**

- **Reduce funds for the National Galler□of Art.**

- **Reduce funds for the Diesel Emissions Reduction Act (DERA) grants.**

- **Reduce funds for the National Endo□ment for the Humanities.**

Items presented are for informational purposes only and do not signify endorsement by the Congressional Western Caucus.

From: Lesofski, Emy (Appropriations)
To: Hall, Tricia
Date: Thursday, March 23, 2017 1:59:18 PM
Attachments: BLM Foundation 23 March 17.rtf

Emy Lesofski
Professional Staff
U.S. Senate Committee on Appropriations
Subcommittee on Interior
202.224.7238

B□rea□ of La□d Ma□a□eme□t □o□□dat□o□ Act

□□C□ION 1 .□HO□□ □I□L□.
□h□s Act ma□ be c□ted as the "B□rea□ of La□d Ma□a□eme□t □o□□dat□o□ Act".

□□C. 2. □□□ABLI□HM□N□ AND □□□□O□□□.

(a) □stabl□shme□t□□here □s establ□shed the B□rea□ of La□d Ma□a□eme□t □o□□dat□o□ ("□o□□dat□o□") as a char□table a□d □o□□rof□t cor□orat□o□ □□der sect□o□ 501(c)(3) of the I□ter□al □eve□□e Code of 1986 □h□ch shall □ot be co□s□dered a□ a□e□c□or establ□shme□t of the □□□ted □tates.

(b) □□r□oses. □□he □□r□oses of the □o□□dat□o□ are to□

(1) e□co□ra□e, acce□t, a□d adm□□ster □r□vate □fts of mo□e□a□d of real a□d □erso□al □ro□ert□ for the be□ef□t of, or □□ co□□ect□o□ □□th the act□v□t□es a□d serv□ces of, the B□rea□ of La□d Ma□a□eme□t;

(2) □□derta□e a□d co□d□ct act□v□t□es that f□rther the □□r□oses for □h□ch □□bl□c la□ds are adm□□stered;

(3) □□derta□e, co□d□ct, a□d e□co□ra□e ed□cat□o□al, tech□□cal, sc□e□t□f□c, a□d other ass□sta□ce or act□v□t□es that s□□□ort the m□ss□o□ of the B□rea□ of La□d Ma□a□eme□t; a□d

(4) ass□st the B□rea□ of La□d Ma□a□eme□t □□th challe□□es that co□ld be better addressed □□th the s□□□ort of a fo□□dat□o□, □□cl□d□□□: reclamat□o□ a□d co□servat□o□ act□v□t□es, □ld horses a□d b□rros; a□d ste□ardsh□□ of c□lt□ral a□d archeolo□□cal treas□res o□ □□bl□c la□ds.

□□C. 3. BOA□D O□ Dl□□C□O□□.

(a) □stabl□shme□t a□d Membersh□□. □(1) □he □o□□dat□o□ shall have a □over□□□□ Board of D□rectors ("Board"), □h□ch shall co□s□st of □o more tha□ □□□e members, each of □hom shall be a □□□ted □tates c□□□e□.

(2) At all t□mes, a ma□or□t□ of members of the Board shall have ed□cat□o□ or ex□er□e□ce □□ □at□ral, c□lt□ral, co□servat□o□, or other reso□rce ma□a□eme□t, la□, or research a□d, to the exte□t □ract□cable, members of the Board shall re□rese□t d□verse □o□□ts of v□e□.

(3) □he D□rector of the B□rea□ of La□d Ma□a□eme□t shall be a□ ex□off□c□o □o□□vot□□□ member of the Board.

(b) A□□o□□tme□t a□d □erms. (1) □ th□□ o□e □ear from the date of e□actme□t of th□s Act, the □ecretar□ of the I□ter□or ("□ecretar□") shall a□□o□□t the members of the Board, □ho, exce□t as other□se □rov□ded □□ □ara□ra□h (2), shall be a□□o□□ted for terms of s□x □ears.

(2) The Secretary shall stagger the initial appointments to the Board, as determined to be appropriate by the Secretary, so that

(A) one-third of the members serve a term of two years;

(A) the f□a□c□al □terests of the member of the Board, off□cer, or em□lo□ee; or

(B) the □terests of a□□cor□orat□o□ □art□ersh□, e□t□, or or□a□□at□o□ □□ □h□ch s□ch member of the Board, off□cer, or em□lo□ee□

(i) □s a□ off□cer, d□rector, or tr□stee; or

(ii) has a□□ d□rect or □d□rect f□a□c□al □terest.

□□C. 4. □O□ □□□ AND OBLI□A□ION□.

(a) I□ □e□eral□□he □o□□dat□o□□

(1) shall have □er□et□al s□ccess□o□; a□d

(2) ma□ co□d□ct b□s□ess thro□□ho□t the several states, terr□tor□es, a□d □ossess□o□s of the □□ted □tates.

(b) Not□ce a□d □erv□ce of □rocess. □(1) □he □o□□dat□o□ shall at all t□mes ma□□ta□□ a des□□ated a□e□t □□the D□str□ct of Col□mb□a a□thor□□ed to acce□t serv□ce of □rocess for the fo□□dat□o□.

(2) □he serv□□□ of □ot□ce to, or serv□ce of □rocess □□o□, the a□e□t re□□□red □□der th□s s□bsect□o□, or mailed to the b□s□ess address of s□ch a□e□t, shall be deemed as serv□ce □□o□ or □ot□ce to the □o□□dat□o□.

(c) □eal. I□□he □o□□dat□o□ shall have a□ off□c□al seal selected b□ the Board □h□ch shall be □d□c all□ □ot□ced.

(d) □o□ers. □□o carr□o□t □ts □□r□oses, the □o□□dat□o□ shall have, □□ add□t□o□ to □o□ers other□ □se a□thor□□ed □□der th□s Act, the □s□al □o□ers of a □ot□for□□rof□t cor□orat□o□ □□the D□str□ct of Col□mb□a, □□cl□d□□□ the □o□er to□

(1) acce□t, rece□ve, sol□c□t, hold, adm□□ster a□d □se a□□ □ft, dev□se, or be□□est, e□ther absol□te□ or □□ tr□st, of real or □erso□al □ro□ert□ or a□□ □□come therefrom or other □terest there□;

(2) ac□□re b□ do□at□o□, □ft, dev□se, □□rchase or excha□□e a□d d□s□ose of a□□ real or □erso□al □ro□ert□ or □terest there□;

(3) sell, do□ate, lease, □vest, re□vest, reta□□ or other□ □se d□s□ose of a□□ □ro□ert□ or □come therefrom □□less l□m□ted b□ the □str□me□t of tra□sfer;

(4) borro□ mo□e□ a□d □ss□e bo□ds, debe□t□res, or other debt □str□me□ts;

(5) s□e a□d be s□ed, a□d com□la□□ a□d defe□d □tself □□ a□□ co□rt of com□ete□t □□rsd□ct□□, exce□t that the D□rectors of the Board shall □ot be □erso□all□ l□able, exce□tfor □ross □e□l□e□ce;

(6) e□ter □□to co□tracts or other arra□□eme□ts □th □□bl□c a□e□c□es, □r□vate or□a□□at□□s, a□d □erso□s a□d to ma□e s□ch □a□me□ts as ma□be □ecessar□ to carr□o□t the □□r□oses thereof; a□d

(7) do a□□ a□d all acts □ecessar□ a□d □ro□er to carr□o□t the □□r□oses of the □o□□dat□□.

(e) □eal □ro□ert□. [□□□□]

(1) □or the □□r□oses of th□s t□tle, a□ □□terest □□ real □ro□ert□ shall □□cl□de, b□t □ot be l□m□ted to, m□□eral a□d □ater r□□hts, r□□hts of □a□, a□d easeme□ts, a□□□rte□a□t or □□ □ross.

(2) A □ft, dev□se, or be□□est of real □ro□ert□ ma□ be acce□ted b□ the □o□□dat□□ eve□ tho□□h t□s e□c□mbered, restr□cted, or s□b□ect to be□ef□c□al □□terests of □r□vate □erso□s f□a□□ c□rre□t or f□t□re □□terest there□□ □s for the be□ef□t of the □o□□dat□□.

(3) □he □o□□dat□□ ma□, □□ □ts d□scret□□, decl□□e a□□ □ft, dev□se, or be□□est of real □ro□ert□.

(4) No la□ds or □aters, or □□terests there□□, that are o□□ed b□ the □o□□dat□□ shall be s□b□ect to co□dem□at□□ b□ a□□ □tate or □ol□t□cal s□bd□v□s□□, or a□□a□e□t of □str□me□tal□t□ thereof.

□□C. 5. ADMINI□□□A□IV□ □□□VIC□□ AND □□□□O□□.

(a) □stabl□shme□t □□□□ort. □□□or the □□r□oses of ass□st□□ the □o□□dat□□ □□ establ□sh□□ a□ off□ce a□d meet□□ □□tal adm□□strat□v□, □ro□ect, a□d other ex□e□ses, the □ecretar□ □s a□thor□□ed to □rov□de to the □o□□dat□□ s□ch s□ms as are □ecessar□ from f□□ds a□□ro□r□ated □□rs□a□t to sect□□ 10 of th□s Act, for the f□scal □ear be□□□□□□ October 1, 2014. □□ch f□□ds shall rema□□ ava□lable to the □o□□dat□□ □□t□l the□ are ex□e□ded for a□thor□□ed □□r□oses.

(b) Adm□□strat□v□ □x□e□ses. □□(1) □he □ecretar□ ma□ □rov□de □erso□□el, fac□l□t□es, e□□□□me□t, a□d other adm□□strat□v□ serv□ces to the □o□□dat□□ □th s□ch l□m□tat□□s a□d o□ s□ch terms a□d co□d□t□□s as the □ecretar□ shall establ□sh.

(2) □he □o□□dat□□ ma□ re□mb□rse the □ecretar□ for a□□ s□□□ort □rov□ded □□der □ara□ra□h (1), □□ □hole or □□ □art, a□d a□□ re□mb□rseme□t rece□ved b□ the □ecretar□ □□der th□s s□bsect□□ shall be de□os□ted □□to the □reas□r□ to the cred□t of the a□□ro□r□at□□s the□ c□rre□t a□d char□eable for the cost of □rov□d□□ the serv□ces.

□□C. 6. VOL□N□□□□□.

□he □ecretar□ ma□ acce□t, □ tho□t re□ard to the c□v□l serv□ce class□f□cat□o□ la□s, r□les, a□d re□□lat□o□s, the serv□ces of the □o□□dat□o□, the Board, a□d the off□cers or em□lo□ees or a□e□ts of the □o□□dat□o□, □ tho□t com□e□sat□o□ from the De□artme□t of the I□ter□or, as vol□□teers for the □erforma□ce of the f□□ct□o□s □□der the □ederal La□d □ol□c□a□d Ma□a□eme□t Act of 1976, □ect□o□ 307 (d) (43 □.□.C. 1737(d)).

□□C. 7. A□DI□□ AND □□□O□□ □□□□I□□M□N□□

(a) A□d□ts. I□□or □□r□oses of the act e□t□tled "A□ Act for a□d□t of acco□□ts of □r□vate cor□orat□o□s establ□shed □□der □ederal la□," a□□roved A□□□st 30, 1964 (36 □.□.C. 1101 thro□□h 1103), the □o□□dat□o□ shall be treated as a □r□vate cor□orat□o□ establ□shed □□der □ederal la□.

(b) A□□□al □e□orts. I□□he □o□□dat□o□ shall tra□sm□t at the e□d of each f□scal □ear a re□ort to Co□□ress of □ts □roceed□□□s a□d act□v□t□es d□r□□□ that □ear, □□cl□d□□□ a f□ll a□d com□lete stateme□t of □ts rece□□ts, ex□e□d□t□res, a□d □nvestme□ts.

□□C. 8. □NI□□D □□A□□□ □□L□A□□ □□OM LIABILI□□.

□he □□□ted □tates shall □ot be l□able for a□□ debts, defa□lts, acts, or om□ss□o□s of the □o□□dat□o□, □or shall the f□ll fa□th a□d cred□t of the □□□ted □tates exte□d to a□□ obl□□at□o□s of the □o□□dat□o□.

□□C. 9. LIMI□A□ION ON A□□HO□I□□

Noth□□□ □□ th□s Act a□thor□□es the □o□□dat□o□ to □erform a□□f□□ct□o□ the a□thor□t□ for □h□ch □s □rov□ded to the B□rea□ of La□d Ma□a□eme□t □□der a□□other □rov□s□o□ of la□.

□□C. 10. A□□HO□I□A□ION O□ A□□□O□□IA□ION□

(a) I□ □e□eral. □□here are a□thor□□ed to be a□□ro□r□ated s□ch s□ms as ma□ be □ecessar□ to carr□o□t the □□r□oses of th□s Act.

B□rea□ of La□d Ma□a□eme□t □o□□dat□o□ Act □ect□o□ b□□ect□o□ □□mmar□

□□C□ION 1. □HO□□ □I□L□
□h□s sect□o□ □rov□des the b□ll t□tle as the "B□rea□ of La□d Ma□a□eme□t □o□□dat□o□ Act".

□□C. 2. □□□ABLI□HM□N□ AND □□□□O□□□
□h□s sect□o□ establ□shes the B□rea□ of La□d Ma□a□eme□t □o□□dat□o□ (□o□□dat□o□) as a char□table a□d □o□□rof□t cor□orat□o□ □□th the □□r□oses of e□co□ra□□□, acce□t□□□, a□d adm□□ster□□□ □fts for the be□ef□t of the act□v□t□es a□d serv□ces of the B□rea□ of La□d Ma□a□eme□t (BLM); □□derta□□□□ a□d co□d□ct□□□ act□v□t□es that f□rther the □□r□oses for □h□ch the □□bl□c la□ds are adm□□stered; a□d s□□□ort□□□ the m□ss□o□ of the BLM.

□□C. 3. BOA□D O□ Dl□□C□O□□
□h□s sect□o□ establ□shes a Board of D□rectors (Board) to co□s□st of □ot more tha□ □□□e members a□d co□ta□□s □□al□f□cat□o□ re□□□reme□ts, □roced□res for a□□o□□tme□t, a□d terms of serv□ce for D□rectors; □rov□des for select□o□ of a Cha□rma□ establ□shes □□or□m a□d meet□□□ re□□□reme□ts; a□thor□□es re□mb□rseme□t of ex□e□ses of D□rectors; □rov□des the Board □th □e□eral □o□ers; a□d □rov□des l□m□tat□o□ of co□fl□cts of □□terest.

□□C. 4. □O□ □□□ AND OBLI□A□ION□.
□h□s sect□o□ def□□es the □o□ers a□d obl□□at□o□s of the □o□□dat□o□.

□□C. 5. ADMINI□□□A□IV□ □□□VIC□□ AND □□□□O□□.
□h□s sect□o□ a□thor□□es the □ecretar□ to □rov□de f□□ds to the □o□□dat□o□ for establ□shme□t a□d adm□□strat□ve ex□e□ses, a□d a□thor□□es the □o□□dat□o□ to re□mb□rse the □ecretar□ for a□□s□□□ort □rov□ded.

□□C. 6. VOL□N□□□□□.
□h□s sect□o□ a□thor□□es the □ecretar□ to acce□t the serv□ces of the □o□□dat□o□, the Board, a□d the off□cers or em□lo□ees or a□e□ts of the □o□□dat□o□, □tho□t com□e□sat□o□ from the De□artme□t of the I□ter□or, as vol□□teers.

□□C. 7. A□Dl□□ AND □□□O□□ □□□□I□□M□N□□
□h□s sect□o□ □rov□des for a□d□ts a□d re□□res the □o□□dat□o□ to □rov□de a□□□al re□orts to Co□□ress.

□□C. 8. □NI□□D □□A□□□ □□L□A□□ □□OM LIABILI□□.
□h□s sect□o□ releases the □□ted □tates from l□ab□l□t□ for a□□ debts, defa□lts, acts, or om□ss□o□s of the □o□□dat□o□.

□□C. 9. LIMI□A□ION ON A□□HO□I□□.
□h□s sect□o□ ma□es clear that □oth□□□ □□ the Act a□thor□□es the □o□□dat□o□ to □erform a□□ f□□ct□o□ the a□thor□t□ for □h□ch □s □rov□ded to the B□rea□ of La□d Ma□a□eme□t □□der other □rov□s□o□s of la□.

□□C. 10. A□□HO□I□A□ION O□ A□□□O□□IA□ION□.
□h□s sect□o□ a□thor□□es the a□□ro□r□at□o□ of s□ch s□ms as ma□be □ecessar□.

From: Neill, Andrew
To: Magallanes, Downey
Subject: Bishop Language
Date: Friday, March 24, 2017 11:24:13 AM

Here is the skinny:

Simpson wants the sage grouse language to reflect state plans with tangible targets if there is (and they'd like) a Secretarial order to rewrite the sage grouse plan. The thinking there is the new Secretary would have to show the birds are not recovering to rewrite the plans in the future.

Approps would like to have the order before the omni to insert the highlighted language below protect Interior from lawsuits.

Let me know how we can be helpful. We have been trying to highlight the need for language to Speaker/Leader as a leader in the West. We don't actually have sage grouse in the district so we are pretty unbiased. We just want the best fix so I never have to hear sage grouse again.

SECTION 1. SHORT TITLE.

This Act may be cited as the `Greater Sage Grouse Protection and Recovery Act of 2017'.

SEC. 2. PROTECTION AND RECOVERY OF GREATER SAGE GROUSE.

(a) Definitions- In this section:

(1) The term `Federal resource management plan' means--

(A) a land use plan prepared by the Bureau of Land Management for public lands pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

(B) a land and resource management plan prepared by the Forest Service for National Forest System lands pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(2) The term `Greater Sage Grouse' means a sage grouse of the species Centrocercus urophasianus.

(3) The term `State management plan' means a State-approved plan for the protection and recovery of the Greater Sage Grouse.

(b) Purpose- The purpose of this section is--

(1) to facilitate implementation of State management plans over a period of multiple, consecutive sage grouse life cycles; and

(2) to demonstrate the efficacy of the State management plans for the protection and recovery of the Greater Sage Grouse.

(c) Endangered Species Act of 1973 Findings-

(1) DELAY REQUIRED- During the period beginning on the date of the enactment of this Act and ending on September 30, 2027, the Secretary of the Interior may not alter or invalidate the finding made by United States Fish and Wildlife Service on October 2, 2015, under section 4(b)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)) with respect to the Greater Sage Grouse (80 Fed. Reg. 59857 et seq.).

(2) EFFECT ON OTHER LAWS- Paragraph (1) shall apply without regard to any other statute, regulation, court order, legal settlement, or any other

provision of law or in equity.

(3) EFFECT ON CONSERVATION STATUS- Until September 30, 2027, the conservation status of the Greater Sage Grouse under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall remain not warranted for listing under such Act.

(d) Coordination of Federal Land Management and State Conservation and Management Plans-

(1) PROHIBITION ON WITHDRAWALS AND MODIFICATION OF FEDERAL RESOURCE MANAGEMENT PLANS- Effective upon notification by the Governor of a State with a State management plan, neither the Secretary of the Interior nor the Secretary of Agriculture may exercise authority under section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) to make, modify, or extend any withdrawal of, nor amend, revise, or otherwise modify any Federal resource management plan applicable to, Federal lands in the State in a manner inconsistent with the State management plan for a period, to be specified by the Governor in the notification, of at least five years beginning on the date of the notification.

(2) RETROACTIVE EFFECT- In the case of any State that provides notification under paragraph (1), if any amendment, revision, or modification of a Federal resource management plan applicable to Federal lands in the State was issued after June 1, 2014, and the amendment, revision, or modification altered management of the Greater Sage Grouse or its habitat, implementation and operation of the amendment, revision, or modification shall be stayed to the extent that the amendment, revision, or modification is inconsistent with the State management plan. The Federal resource management plan, as in effect immediately before the withdrawal, amendment, revision, or modification, shall apply instead with respect to management of the Greater Sage Grouse and its habitat, to the extent consistent with the State management plan.

(3) DETERMINATION OF INCONSISTENCY- Any disagreement regarding whether an amendment, revision, or other modification of a Federal resource management plan is inconsistent with a State management plan shall be resolved by the Governor of the affected State.

(e) Relation to National Environmental Policy Act of 1969- With regard to any Federal action consistent with a State management plan, any findings, analyses, or conclusions regarding the Greater Sage Grouse or its habitat under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) shall not have a preclusive effect on the approval or implementation of the Federal action in that State.

(f) Reporting Requirement- Not later than one year after the date of the enactment of this Act and annually thereafter through 2027, the Secretary of the Interior and the Secretary of Agriculture shall jointly submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report on the Secretaries' implementation and effectiveness of systems to monitor the status of Greater Sage Grouse on Federal lands under their jurisdiction.

(g) Judicial Review- Notwithstanding any other provision of statute or regulation, this section, including determinations made under this section, shall not be subject to judicial review.

Andrew Neill

Legislative Assistant
@HouseGOP | Chair Cathy McMorris Rodgers (WA-5)
B-245 Longworth House Office Building
(202) 225-2006 (o)

From: Neill, James
To: Kaster, Amanda
Subject: Leg. text
Date: Friday, March 24, 2017 4:32:16 PM
Attachments: SIMPSO_007_xml.pdf

Hey Amanda,

Attached is legislative text for Gateway West. Planned to be dropped Monday.

Have a great weekend,

Jamie Neill
Legislative Assistant
Congressman Mike Simpson (ID-02)
2084 Rayburn House Office Building
James.Neill@mail.house.gov
202.225.5531 | www.simpson.house.gov

To receive weekly e-newsletters from Congressman Simpson click here.
Follow on Facebook and Twitter

.....

(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R.

To modify the boundaries of the Morley Nelson Snake River Birds of Prey National Conservation Area, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SIMPSON introduced the following bill; which was referred to the Committee on

---

A BILL

To modify the boundaries of the Morley Nelson Snake River Birds of Prey National Conservation Area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY MODIFICATION, MORLEY NELSON SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA, IDAHO.

(a) DEFINITIONS.—In this section:

(1) CONSERVATION AREA.—The term ''Conservation Area'' means the Morley Nelson Snake River Birds of Prey National Conservation Area.

(2) GATEWAY WEST.—The term ''Gateway West'' means the high-voltage transmission line project in Idaho and Wyoming jointly proposed by the entities Idaho Power Company, incorporated in the State of Idaho, and Rocky Mountain Power, a division of PacifiCorp, an Oregon Corporation.

(3) MAP.—The term ''map'' means the map titled ''Proposed Snake River Birds of Prey NCA Boundary Adjustment'' and dated October 13, 2016.

(4) SAGE-GROUSE SPECIES.—The term ''sage-grouse species'' means the greater sage-grouse (Centrocercus urophasianus) (including all distinct population segments).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) AREAS TO BE ADDED TO AND REMOVED FROM MORLEY NELSON SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA.—The boundary of the Conservation Area is hereby modified—

(1) to include—

(A) the approximately 4726 acres of land generally depicted as ''BLM Administered

Lands'' on the map, to the extent such lands are part of the Lower Saylor Creek Allotment those lands would continue to be managed by the BLM Jarbidge Field Office until terms of the No. CV–04–181–S–BLW Stipulated Settlement Agreement are fully met, after which the lands would be managed by the Morley Nelson Snake River Birds of Prey National Conservation Area office; and

(B) the approximately 86 acres of land generally depicted as ''BOR Administered Lands'' on the map; and

(2) to exclude—

(A) the approximately 761 acres land generally depicted as ''Segment 8 Revised Proposed Route'' on the map, including 125 feet on either side of the center line of the Gateway West Transmission line, the Gateway West Transmission Line shall be sited so that the center line of Segment 8 is no more than 500 feet from the center line of the existing Summer Lake Transmission Line as described in the Summer Lake Transmission Line Right of Way Grant per FLPMA, IDI–008875; and

(B) the approximately 1,845 acres land generally depicted as ''Segment 9 Revised Proposed Route'' on the map including 125 feet on either side of the center line of the Gateway West Transmission line.

(c) RIGHT-OF -WAY AND CONDITIONS.—

(1) RIGHT-OF-WAY.—Notwithstanding any other provision of law, not later than 90 days after the date of the enactment of this section, the Secretary shall issue to Gateway West a right-of-way for the lands described in subsection (b)(2) to be used for the construction and maintenance of transmission lines, including access roads and activities related to fire prevention and suppression. The right-of-way issued under this paragraph shall contain the conditions described in subsection (c)(2)), and be in alignment with the revised proposed routes for segments 8 and 9 identified as Alternative 1 in the Supplementary Final Environmental Impact Analysis released October 5, 2016.

(2) CONDITIONS.—The conditions that the Secretary shall include in the right-of-way described in paragraph (1) shall be in accordance with section 505 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1765) and are as follows:

(A) MITIGATION.—During the time of construction of each respective line segment, Gateway West shall mitigate for the impacts related to the transmission lines in accordance with the Compensatory Mitigation and Enhancement framework described in the final Supplemental Environmental Impact Statement with the stipulation that Compensatory Mitigation and Enhancement costs shall not exceed $8,543,440.

(B) CONSERVATION.—Gateway West shall contribute $2,000 per acre of right-of-way in the Conservation Area during the time of construction of Segment 8 Revised Proposed Route (comprising 761 acres) and during the construction of Segment 9 Revised Proposed Route (comprising 1,845 acres) to the Bureau of Land Management Foundation that shall be used for the purpose of conservation, including enhancing National Landscape Conservation System Units in Idaho, also known as National Conservation Lands.

(C) COSTS.—Gateway West shall pay all costs associated with the boundary modification, including the costs of any surveys, recording costs, and other reasonable costs.

(D) OTHER.—Standard terms and conditions in accordance with section 505 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1765).

(d) ADMINISTRATION.—The Secretary shall—

(1) administer the lands described in subsection (b)(1) as part of the Conservation Area in accordance with Public Law 103–64 and as part of the National Landscape Conservation System; and

(2) continue to administer lands described in subsection (b)(2), but as lands that are not included in a Conservation Area or subject to Public Law 103–64.

(e) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the approximately 86 acres of land depicted as ''BOR Administered Lands'' on the map is hereby transferred from the Bureau of Reclamation to the Bureau of Land Management.

(f) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(g) MANAGEMENT PLAN AMENDMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall amend the management plan for the Conservation Area to address the long-term manage-

ment of the lands described in subsection (b)(1) in order to—

(1) determine appropriate management activities and uses of the lands described in subsection (b)(1) consistent with Public Law 103–64 and this section;

(2) continue managing the grazing of livestock on the lands described in subsection (b)(1) in which grazing is established as of the date of the enactment of this section such that the grazing shall be allowed to continue, subject to such reasonable regulations, policies, and practices that the Secretary considers necessary;

(3) allow motorized access on roads existing on the lands described in subsection (b)(1) on the date of the enactment of this section, subject to such reasonable regulations, policies, and practices that the Secretary considers necessary; and

(4) allow hunting and fishing on the lands described in subsection (b)(1) consistent with applicable laws and regulations.

SEC. 2. COTTEREL WIND POWER PROJECT.

The approximately 203 acres of Federal land identified as ''Project Area'' on the map titled ''Cotterel Wind

Power Project'' and dated March 1, 2006, may not be used for the production of electricity from wind.

SEC. 3. BUREAU OF LAND MANAGEMENT FOUNDATION.

The Secretary of the Interior shall—

(1) establish a Bureau of Land Management Foundation as a charitable and non-profit corporation under section 501(c)(3) of the Internal Revenue Code of 1986; and

(2) grant to such Foundation the same authorities granted to the National Park Foundation for its activities to benefit the National Park Service under subchapter II of chapter 1011 of title 54, United States Code, for the purpose of providing opportunities for the Bureau of Land Management to address a variety of specific challenges that could be better addressed with the support of a foundation, including—

(A) reclamation of legacy wells, contaminated native lands, and abandoned mine land sites;

(B) sustainable management of wild horses and burros;

(C) expanded scientific understanding of responsible development techniques;

(D) voluntary conservation activities; and

(E) proper identification and cataloging of cultural and historical treasure on public lands.

Attachment 032217.086.xml (14347 Bytes) cannot be converted to PDF format.

From: Office of Senator Ted Cruz
To: Lara_Levison@ios.doi.gov
Subject: Cruz News: March 24, 2017
Date: Friday, March 24, 2017 10:04:10 PM

March 24, 2017

Greetings,

Justice Antonin Scalia, who passed away last year, was one of the greatest justices to ever sit on the Court. He was a trailblazing advocate for the original meaning of the Constitution, and a shining example of judicial humility.

This week the Senate Judiciary Committee, of which I am a member, convened the confirmation hearing for President Trump's Supreme Court nominee Judge Neil Gorsuch. Like the renowned justice he is set to replace, Judge Gorsuch is brilliant and immensely talented. His record demonstrates a faithful commitment to the Constitution and the rule of law. He has refused to legislate his own policy preferences from the bench, while recognizing the pivotal role the judiciary plays in defending the fundamental liberties recognized in the Bill of Rights. I have every confidence that Judge Gorsuch will be confirmed as the next associate justice of the Supreme Court.

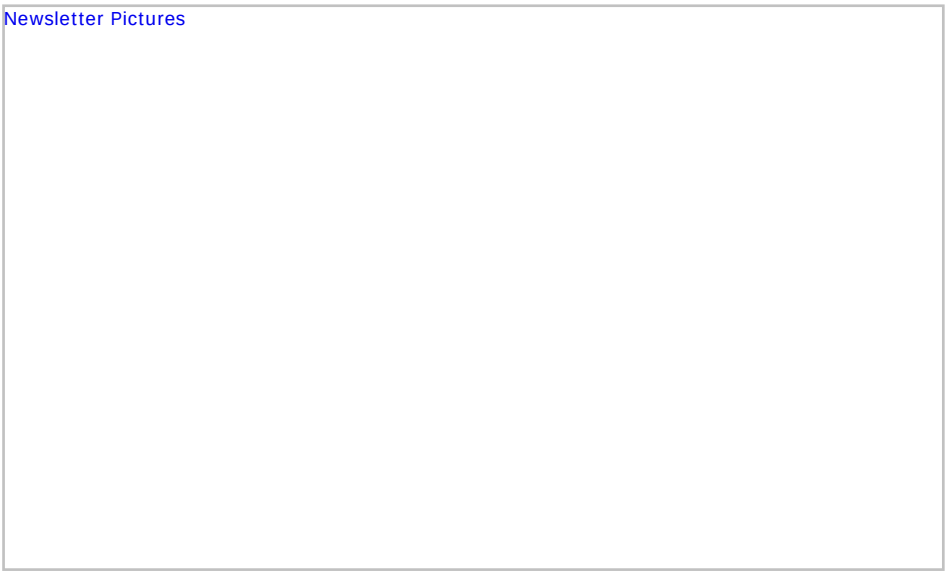
Also this week, we saw a major victory for Houston and the entire space community in Texas. Space exploration has fostered extraordinary economic growth and job creation for the State of Texas and the entire nation. This week the President signed the Cruz-Nelson NASA Transition Authorization Act of 2017, which enables commercial space ventures to flourish and ensures NASA has the clarity of purpose and confidence it needs to continue to grow and improve upon what it does best: lead the world in space exploration. I am grateful for the President's action which will restore stability and certainty to NASA and the U.S. space program, and continue to create jobs in Texas.

Please read below for an update from this last week.

Keep Texas Strong,

TC Sig

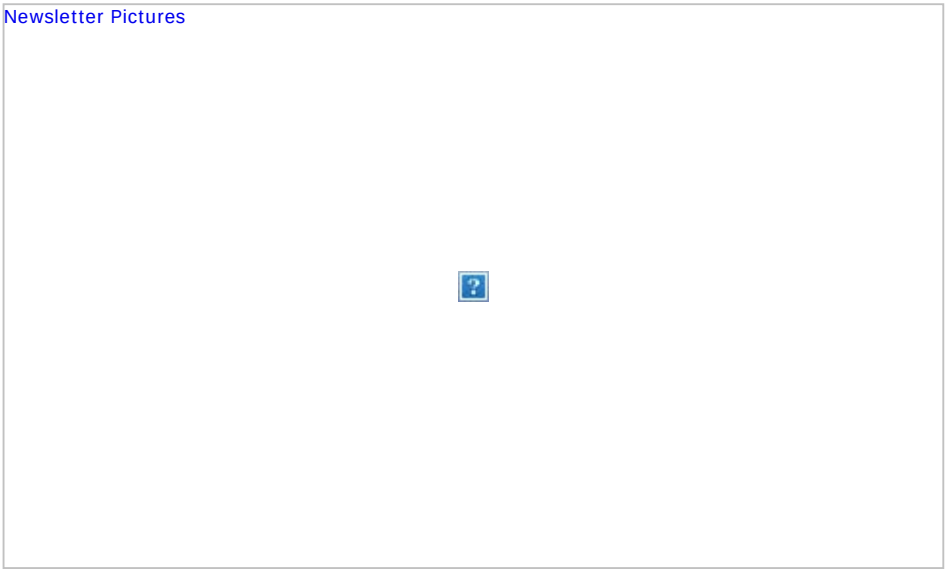
Ted Cruz



Sen. Cruz: Just a Decade Ago, Not a Single Democrat Spoke a Word of Opposition to Judge Gorsuch When Confirmed as Federal Judge

This week, Sen. Cruz spoke in support of the nomination of Judge Neil Gorsuch to replace Justice Antonin Scalia on the Supreme Court. In the first day of confirmation hearings before the Senate Judiciary Committee, of which Sen. Cruz is a member, the senator praised Judge Gorsuch's experience and commitment to the rule of law. He also noted that in Gorsuch's confirmation hearings to be a federal judge ten years ago, not one Democrat spoke against him, indicating the bipartisan respect and support of his record and experience.

Read the full press release here.

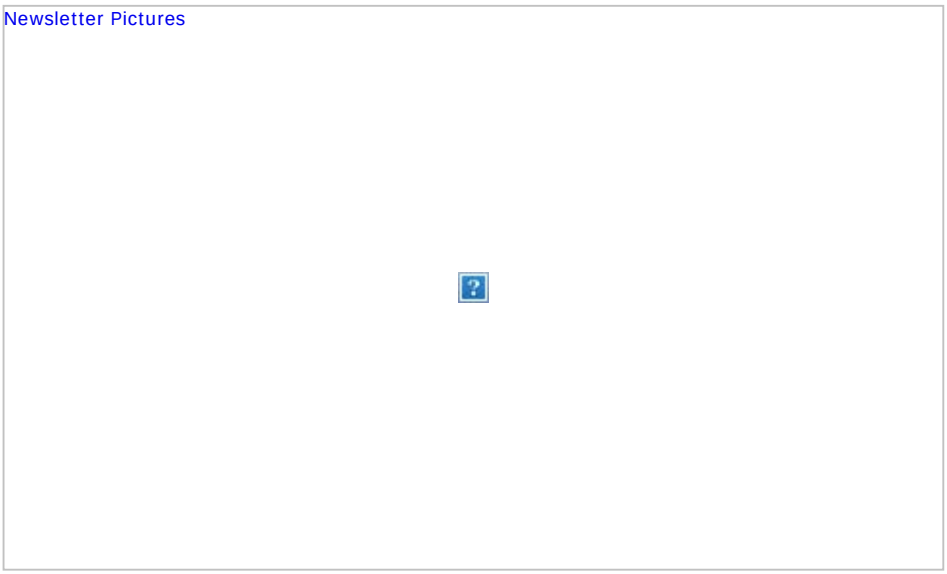


Sen. Cruz: The Future of American Leadership and Exploration in Space is Secure

On Tuesday, Sen.Cruz joined President Donald Trump and Sen. Bill Nelson (D-Fla.) at a White House ceremony where the president signed the bipartisan Cruz-Nelson NASA Transition Authorization Act of 2017 into law.

“I am grateful for the President’s action today which will restore stability and certainty to NASA and the future of the U.S. space program,” Sen. Cruz said. “Space exploration has fostered extraordinary economic growth and job creation for the State of Texas and the entire nation. Drafted and passed in a bipartisan manner, this legislation enables commercial space ventures to flourish and ensures NASA has the clarity of purpose and confidence it needs to continue to grow and improve upon what it does best: lead the world in space exploration. By charting an ambitious course for the manned exploration of the moon, Mars and beyond, this legislation champions America’s leadership in space, and ensures the Johnson Space Center remains the crown jewel of NASA’s human spaceflight missions. I am grateful for my colleagues’ dedication to the future of our nation’s leadership in space, and commend the President for signing this legislation into law.”

Video of the bill signing ceremony may be viewed here.

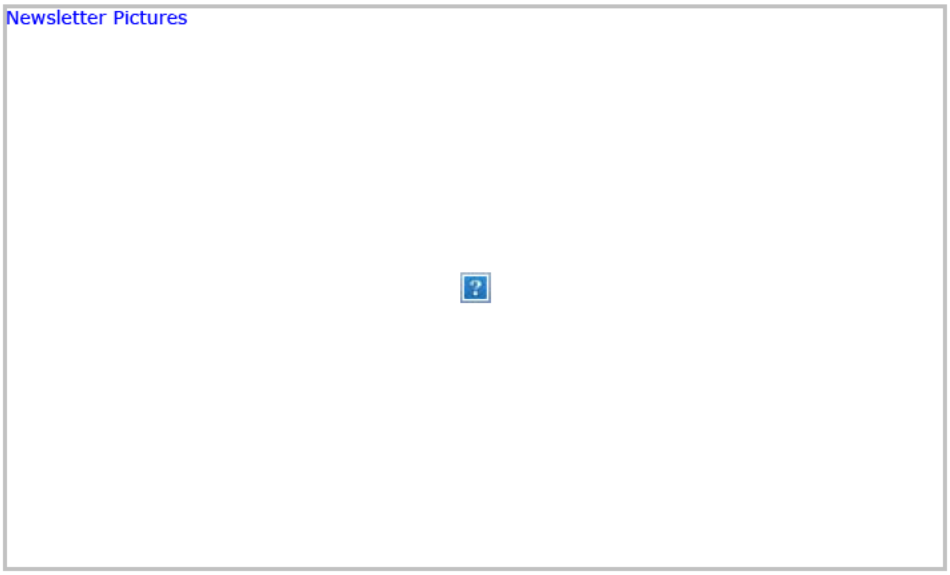


U.S. Chamber of Commerce Recognizes Sen. Cruz with ‘Spirit of Enterprise’ Award

This week, Sen. Cruz attended a reception hosted by the U.S. Chamber of Commerce. There, Sen. Cruz received the “Spirit of Enterprise” award in recognition of the pro-growth, pro-jobs policies he has advanced during his time in the Senate.

“Businesses of all shapes and sizes need sound, commonsense policy in place in order to get off the ground, grow, and succeed,” said Thomas J. Donohue, president and CEO of the U.S. Chamber of Commerce. “The Spirit of Enterprise Award recognizes those members of Congress who have done what’s right for our friends, family, and neighbors running businesses across the country. We applaud Sen. Cruz for his commitment to free enterprise and economic growth.”

Read the full press release here.



Sen. Cruz Introduces Secretary of Labor Nominee Alex Acosta: 'A Champion for Working Men and Women Who Want Jobs, Higher Wages and More Opportunity'

On Wednesday, Sen. Cruz introduced Secretary of Labor nominee Alexander Acosta at his confirmation hearing before the Senate Committee on Health, Education, Labor and Pensions.

"Alex is a man of character. A man who take very seriously fidelity to the law, fidelity to the Constitution and a man who has a passion for justice," said Sen. Cruz. "I've known Alex for 25 years. He and I went to law school together. We've been friends a long time. There's a lot you can know about Alex from looking at his resume, looking at his bio. You could know that he's smart, that he's academically accomplished, that he's led a life of public service, making a difference in the lives of others."

Read full press release here.

Sen. Cruz: 'We Now Have the Chance to Think Bigger and Bolder'

Sen. Cruz delivered remarks at a breakfast forum hosted by the Commercial Spaceflight Federation. He discussed his legislative efforts including the Cruz-Nelson NASA Transition Authorization Act and the U.S. Commercial Space Launch Competitiveness Act to ensure America's continued leadership in space.

"Commercial space is a new frontier," Sen. Cruz said. "Space as we famously know is the final frontier but commercial space - using commercial capital to access space, to explore space, to leverage our abilities that is an even newer frontier and it is one where the men and women in this room are at the bleeding edge so I thank you for your vision and commitment to the country. Yesterday's bill signing was an important victory for the men and women here and demonstrated clear bipartisan support for American leadership in space. In a new year, we now have the chance to think bigger and bolder. In this coming Congress, I hope to take up another commercial space launch piece of legislation and a longer term NASA Authorization bill. We are going to have, hopefully soon, a new NASA administrator. When that happens, I look forward to working closely with the administration to laying out a long term authorization for NASA, long term goals, long term structures. From my perspective, I want to see the commercial space sector flourishing with robust competition, with innovation, and with NASA as an active and invested partner. I think the potentials are endless."

Read the full release here.

Sen. Cruz Issues Statement on Attacks in London and Antwerp

Yesterday's terror attack in London – committed by a radical Islamic terrorist and claimed by ISIS – was an act of barbarism. Our thoughts and prayers are with the victims, their families and the brave law enforcement members who brought the terrorist down – particularly with the family of Kurt Cochran, a fellow American from Utah who was killed, and his wife, Melissa, who was seriously injured. The British people and the British government should know that America stands shoulder to shoulder with them.

This week, a man in the Belgian port city of Antwerp was arrested after driving his car at high speed through a busy pedestrian shopping street. Fortunately, there are no reports of injuries, despite police reportedly having found rifles, knives and a gas can in his car. Had local authorities not acted swiftly and decisively to stop the suspected attacker, countless innocent people could have been killed or injured.

It is past time for us to get serious, smart, and decisive in dealing with the global threat of radical Islamic terrorism. Fortunately, we no longer have an administration in the White House that refuses to call these terrorists by their name and make clear that, rather than acting in the name of an amorphous violent extremism, they are setting off bombs, stabbing people with knives, shooting people in cafes and concert halls and running people down on promenades and shopping streets in the name of their Islamist ideology.

This is why I reintroduced the Expatriate Terrorist Act last month, so that American citizens who join foreign terrorist organizations like ISIS and commit acts of terror against the United States forfeit their citizenship. I have also supported the Trump administration's executive order to suspend immigration from at risk countries until we have an improved vetting system in place to check for Islamist terrorists attempting to enter the United States. We know that ISIS is using migrant routes to smuggle its fighters into Europe and the United States. What is equally disturbing from the murderous attack in London is that the terrorist appears to have been a homegrown jihadist who was known to authorities. Beyond executing a strategy to utterly destroy ISIS and closing pathways for Islamist terrorists to enter our free societies, we need a comprehensive, bold and effective strategy to address radicalism here at home and I am committed to working with my colleagues and the administration to continue making this a priority.

Read full statement here.

Texans in Washington D.C.

Newsletter Pictures

Central Texas Office
300 E. 8th St,
Suite #961
Austin, TX 78701
Phone: (512) 916-5834

North Texas Office
Lee Park Tower II,
3626 N. Hall St., Suite #410
Dallas, TX 75219
Phone: (214) 599-8749

Southeast Texas Office
808 Travis St.,
Suite #1420
Houston, TX 77002
Phone: (713) 718-3057

South/Central Texas Office
9901 IH-10W,
Suite # 950
San Antonio, TX 78230

East Texas Office
305 S. Broadway,
Suite 501
Tyler, TX 75702

South Texas Office
200 S. 10th St,
Suite 1603
McAllen, TX 78501

Phone: (210) 340-2885 Phone: (903) 593-5130 Phone: (956) 686-7339

Washington Office
404 Russell Senate Office Building
Washington, DC 20510
Phone: (202) 224-5922

If you no longer wish to receive these emails click here to unsubscribe.

From: Willens, Todd
To: Melissa Simpson
Subject: Re: Interior meetings request
Date: Monday, March 27, 2017 8:49:54 AM

Than you.

Todd Willens
Chief of Staff
United States Congressman Steve Pearce
New Mexico's Second Congressional District

On Mar 27, 2017, at 7:56 AM, Melissa Simpson <melissa_simpson@ios.doi.gov> wrote:

> You should hear from Linda or Yolando in Kathy's office today.
>
> Melissa
>
> Melissa Simpson
> Intergovernmental and External Affairs
> Department of the Interior
> 1849 C Street, NW Room 6211
> Washington, DC 20240
> (202) 706 4983 cell
> melissa_simpson@ios.doi.gov
>
> Sent from my iPhone
>
> On Mar 21, 2017, at 9:59 AM, Melissa Simpson <melissa_simpson@ios.doi.gov> wrote:
>
> > Thanks. I will check on the status. Stay tuned.
> >
> > Melissa
> >
> > Melissa Simpson
> > Intergovernmental and External Affairs
> > Department of the Interior
> > 1849 C Street, NW Room 6211
> > Washington, DC 20240
> > (202) 706 4983 cell
> > melissa_simpson@ios.doi.gov
> >
> > Sent from my iPhone
> >
> > On Mar 21, 2017, at 9:41 AM, Willens, Todd <Todd.Willens@mail.house.gov> wrote:

Melissa,

I have not heard from anyone at MIB in response to this request.

Todd D. Willens

From: Willens, Todd
Sent: Monday, March 13, 2017 10:40 AM
To: 'Melissa Simpson'
Subject: RE: Interior meetings request

On second thought, to avoid the extra forms, lets keep it at staff level. Secretary not critical at this point. His staff is though. Can you get someone from his wing to do that then?

Todd D. Willens

From: Melissa Simpson [mailto:melissa_simpson@ios.doi.gov]
Sent: Monday, March 13, 2017 9:29 AM
To: Willens, Todd
Subject: Re: Interior meetings request

Thanks Todd. There is a meeting request form that the Secretary's scheduler requires. I will send that to you. I'm the next email. Please cc me when you send it to her.

Meanwhile, I will tee this up with Kathy.

Melissa

Melissa Simpson

Intergovernmental and External Affairs

Department of the Interior

1849 C Street, NW Room 6211

Washington, DC 20240

(202) 706 4983 cell

melissa_simpson@ios.doi.gov

Sent from my iPhone

On Mar 13, 2017, at 8:43 AM, Willens, Todd <Todd.Willens@mail.house.gov> wrote:

> Melissa,
>
> Congressman Pearce has a fly-in group from Roswell/Artesia, NM region coming to DC on May 1st. They have been able to get in the last few years with FWS and BLM. Unfortunately, those meetings have not been very successful.
>
> For this year's visit, the Congressman seeks the Secretary's assistance in confirming this year's group to meet with FWS, BLM and Department leadership, preferably the Secretary, on May 1st. Below is the request from their coordinator and attached is the attendee list.
>
> We appreciate the Secretary and the Department's consideration of this request.
>
> *Todd D. Willens*
>
> ---
>
> **From:** Hayley Snow Klein [mailto:hklein@artesiachamber.com]
>
> **Sent:** Monday, March 13, 2017 3:07 AM
> **To:** Willens, Todd
> **Subject:** Interior meetings request
>
> Good morning, Todd,
> As you know, Artesia and Roswell are

planning our annual Washington Fly-in. Usually, we meet with FWS and BLM in separate meetings, but have had some difficulties in the last two years with BLM. This year, I am asking for assistance in setting up meetings that would be appropriate for the following issues, which are primarily focused on BLM and FWS, but may include others:

- APD processing and permitting for oil & gas production – the new computerized system was not ready for roll-out, which is causing confusion and delays; moreoever, we would like to discuss the unpredictable timelines for APDs which cause delays in production and tie up significant funding.
- State BLM sale – we would like to see the BLM return to quarterly sales

in New Mexico.
The Resource Management Plan, which is delayed
Venting & Flaring rule – the rule is not ready for implementation; we hope for reconsideration of the rule altogether
The anticipated decision on the Texas Horned Shell Mussel and the associated CCAs
Other ESA listings that may be in the works

We will be in Washington May 1-3. We respectfully request a meeting or meetings at Interior on Monday, May 1. I have attached a list of our attendees. Please let me know if you have questions or need additional information.

Thank you for your assistance and direction,
Hayley

Hayley Klein
Executive Director

Artesia Chamber of
Commerce
107 North First Street
Artesia, NM 88210
O: 575.746.2744
www.artesiachamber.com

<Artesia-Roswell Fly-in
2017 Attendees.pdf>

From: Ward, Jimmy
To: Chambers, Micah
Subject: Technical Assistance
Date: Monday, March 27, 2017 1:52:29 PM
Attachments: Heli language.doc

Hi Micah,

Could you provide technical assistance on the attached language to ensure it will allow for increased access days as its intention?

I appreciate you keeping this confidential. My direct is 202-226-7254 and work cell is 202-807-8885.

Thanks,

Jimmy Ward
Senior Legislative Assistant
Rep. Liz Cheney (WY – AL)

W□oming Wilderness Stud□Areas and
Historic Winter Motori□ed Recreation

January 10, 2017

Bill Language

Sec._____. Notwithstanding any other provision of law, motorized recreational winter uses, including commercial uses, shall be authorized or permitted immediately in the area designated by section 301(a)(1) of P.L. 98-550 at no less than the level of permitted use in 2000-2001. Such uses and use levels are consistent with the duties set forth in section 301(c) of P.L. 98-550.

Report Language

The Committee recognizes that Congress intended the Forest Service to ensure that existing and historic motorized recreational uses were to continue in wilderness study areas designated in the 1984 Wyoming Wilderness Act. The Committee further recognizes that winter motorized uses including snowmobiles and commercial helisking have short term ephemeral effects that do not adversely affect the maintenance of wilderness character and do not preclude Congress from designating these areas as Wilderness. Recent decisions have misconstrued this intent, and the policy regarding ephemeral effects, and severely limited previously established winter motorized uses. This provision clarifies and reiterates Congressional intent and ensures that important historic and existing uses be allowed to continue on Wilderness Study Areas at commercially sustainable levels of use.

From:	Hayes, Colin (Energy)
To:	"Chambers, Micah"
Cc:	Daimler-Nothdurft, Kristen (Murkowski)
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Monday, March 27, 2017 5:57:18 PM

Micah –

Thank you for thinking of us. Adding Kristen to see if it can fit on the Chairman's schedule.

Colin

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 5:49 PM
To: Hayes, Colin (Energy)
Subject: Wednesday Morning Secretarial Orders

Colin. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.

If she can attend, we'd appreciate it. We'd ask for the Senator and two staff max.

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Bernstein, Ryan (Hoeven)
To:	Chambers, Micah
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Monday, March 27, 2017 6:25:45 PM

We will likely make this work.

Ryan Bernstein
U.S. Senator John Hoeven
202-224-2551

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 6:04 PM
To: Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>
Subject: Fwd: Wednesday Morning Secretarial Orders

Ryan. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.

If he can attend, we'd appreciate it. We'd ask for the Senator and two staff max.

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Glover, Kaitlynn (Barrasso)
To: Chambers, Micah
Subject: RE: Wednesday Morning Secretarial Orders
Date: Monday, March 27, 2017 6:27:58 PM

Thanks for sending this, Micah. I'll pass along to the appropriate folks in my office who will get back to you.

Kaitlynn Glover
Legislative Assistant
Senator John Barrasso, M.D.
Chairman, Republican Policy Committee
202-224-6441 (office)
202-224-1724 (fax)
www.barrasso.senate.gov

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 6:18 PM
To: Glover, Kaitlynn (Barrasso) <Kaitlynn_Glover@Barrasso.senate.gov>
Subject: Fwd: Wednesday Morning Secretarial Orders

Kaitlynn. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.

If he can attend, we'd appreciate it. We'd ask for the Senator and two staff max. Let me know you got this pls

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Gruman, Mark
To:	Chambers, Micah
Cc:	Buening, Rachel; Marohl, Chris
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Monday, March 27, 2017 6:30:36 PM

Absolutely – the Congressman will be there. I have copied in the Congressman's DC scheduler for logistics.

Thanks Micah!

Mark

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 6:22 PM
To: Gruman, Mark
Subject: Fwd: Wednesday Morning Secretarial Orders

Mark. Just left you a voicemail about an event Wednesday. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.

If your boss can attend, we'd appreciate it. We'd ask for the Senator and two staff max. My apologies it's last minute, but we can't pull the trigger til the WH moves forward.
202.706.9093

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Ward, Jimmy
To: Chambers, Micah
Subject: Re: Wednesday Morning Secretarial Orders
Date: Monday, March 27, 2017 6:37:21 PM

202-228-6731 landon_stropko@enzi.senate.gov

Again, number didn't come from me... will let you know about Wed.

On Mar 27, 2017, at 6:20 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> Jimmy. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.
>
> If she can attend, we'd appreciate it. We'd ask for the Congresswoman and two staff max. Let me know you got this and shoot me Landon's number and I'll reach out. Thanks
>
> --
> Micah Chambers
> Special Assistant / Acting Director
> Office of Congressional & Legislative Affairs
> Office of the Secretary of the Interior

From:	Gruman, Mark
To:	Micah Chambers
Cc:	Buening, Rachel; Marohl, Chris
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Monday, March 27, 2017 6:41:16 PM

Excellent – thanks Micah.

Mark

From: Micah Chambers [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 6:37 PM
To: Gruman, Mark
Cc: Buening, Rachel; Marohl, Chris
Subject: Re: Wednesday Morning Secretarial Orders

You're all awesome. Once I get more details, they'll be all yours

Sent from my iPhone

On Mar 27, 2017, at 6:30 PM, Gruman, Mark <Mark.Gruman@mail.house.gov> wrote:

> Absolutely – the Congressman will be there. I have copied in the Congressman's DC scheduler for logistics.
>
> Thanks Micah!
>
> Mark
>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Monday, March 27, 2017 6:22 PM
> **To:** Gruman, Mark
> **Subject:** Fwd: Wednesday Morning Secretarial Orders
>
> Mark. Just left you a voicemail about an event Wednesday. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.
>
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>
> --
> Micah Chambers
> Special Assistant / Acting Director
> Office of Congressional & Legislative Affairs
> Office of the Secretary of the Interior

From:	Buening, Rachel
To:	"Micah Chambers"; Gruman, Mark
Cc:	Marohl, Chris
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Monday, March 27, 2017 6:42:24 PM

Thank you.

From: Micah Chambers [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 6:37 PM
To: Gruman, Mark
Cc: Buening, Rachel; Marohl, Chris
Subject: Re: Wednesday Morning Secretarial Orders

You're all awesome. Once I get more details, they'll be all yours

Sent from my iPhone

On Mar 27, 2017, at 6:30 PM, Gruman, Mark <Mark.Gruman@mail.house.gov> wrote:

> Absolutely – the Congressman will be there. I have copied in the Congressman's DC scheduler for logistics.
>
> Thanks Micah!
>
> Mark
>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Monday, March 27, 2017 6:22 PM
> **To:** Gruman, Mark
> **Subject:** Fwd: Wednesday Morning Secretarial Orders
>
> Mark. Just left you a voicemail about an event Wednesday. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.
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>
> --
> Micah Chambers
> Special Assistant / Acting Director
> Office of Congressional & Legislative Affairs
> Office of the Secretary of the Interior

From: Daimler-Nothdurft, Kristen (Murkowski)
To: Hayes, Colin (Energy); "Chambers, Micah"
Subject: Re: Wednesday Morning Secretarial Orders
Date: Monday, March 27, 2017 6:51:22 PM

The Senator thanks for you the thoughtful gesture but must attend a hearing during that time and thus sends her regrets.

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 709
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

Sent from my blackberry.

From: Hayes, Colin (Energy)
Sent: Monday, March 27, 2017 5:57 PM
To: 'Chambers, Micah'
Cc: Daimler-Nothdurft, Kristen (Murkowski)
Subject: RE: Wednesday Morning Secretarial Orders

Micah –

Thank you for thinking of us. Adding Kristen to see if it can fit on the Chairman's schedule.

Colin

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 5:49 PM
To: Hayes, Colin (Energy)
Subject: Wednesday Morning Secretarial Orders

Colin. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.

If she can attend, we'd appreciate it. We'd ask for the Senator and two staff max.

--

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Daimler-Nothdurft, Kristen (Murkowski)
To: Hayes, Colin (Energy); "Chambers, Micah"
Subject: RE: Wednesday Morning Secretarial Orders
Date: Tuesday, March 28, 2017 10:16:57 AM
Importance: High

Micah – I can now get her there in the morning if that is possible but I have to have her back on hill by 10:30 for a hearing and thus I'd have to get her out of there by 10:20. Would that work? Also can she bring her Staff Director and Deputy Staff Director? Thank you!!!!!

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

From: Daimler-Nothdurft, Kristen (Murkowski)
Sent: Monday, March 27, 2017 6:51 PM
To: Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>; 'Chambers, Micah' <micah_chambers@ios.doi.gov>
Subject: Re: Wednesday Morning Secretarial Orders

The Senator thanks for you the thoughtful gesture but must attend a hearing during that time and thus sends her regrets.

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 709
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

Sent from my blackberry.

From: Hayes, Colin (Energy)
Sent: Monday, March 27, 2017 5:57 PM
To: 'Chambers, Micah'
Cc: Daimler-Nothdurft, Kristen (Murkowski)
Subject: RE: Wednesday Morning Secretarial Orders

Micah –

Thank you for thinking of us. Adding Kristen to see if it can fit on the Chairman's schedule.

Colin

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 5:49 PM
To: Hayes, Colin (Energy)
Subject: Wednesday Morning Secretarial Orders

Colin. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.

If she can attend, we'd appreciate it. We'd ask for the Senator and two staff max.

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Bernstein, Ryan (Hoeven)
To: Chambers, Micah
Subject: RE: Wednesday Morning Secretarial Orders
Date: Tuesday, March 28, 2017 10:21:42 AM

Micah,
You can confirm us attending. Also, do you know if methane will be included in the orders? Are we giving up on a CRA for it?

Ryan Bernstein
U.S. Senator John Hoeven
202-224-2551

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 6:27 PM
To: Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Thank you. Hopefully we'll have more specifics for attendees tomorrow than the blurb I just sent you. Appreciate you working with us last minute. If you'll be at the signing tomorrow, I might see you there.

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> We will likely make this work.
>
> Ryan Bernstein
> U.S. Senator John Hoeven
> 202-224-2551
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> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Monday, March 27, 2017 6:04 PM
> **To:** Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>
> **Subject:** Fwd: Wednesday Morning Secretarial Orders
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Micah Chambers
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From: Bernstein, Ryan (Hoeven)
To: Chambers, Micah
Subject: RE: Wednesday Morning Secretarial Orders
Date: Tuesday, March 28, 2017 10:26:18 AM

Thanks.

Ryan Bernstein
U.S. Senator John Hoeven
202-224-2551

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Sent: Tuesday, March 28, 2017 10:24 AM
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Subject: Re: Wednesday Morning Secretarial Orders

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Micah Chambers
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Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Hayes, Colin (Energy)
To:	"Chambers, Micah"; Daimler-Nothdurft, Kristen (Murkowski)
Cc:	Hughes, Brian (Energy)
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Tuesday, March 28, 2017 11:12:57 AM

LAM, Brian and me.
We'll get there at 945.
Thanks!

Colin

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 11:10 AM
To: Daimler-Nothdurft, Kristen (Murkowski)
Cc: Hayes, Colin (Energy)
Subject: Re: Wednesday Morning Secretarial Orders

Hi Kristen. We'll make it work for the Senator. We'll most likely ask people to show up at 945 for a prompt 10 am start time. We have space for two staffers, so we'll plan on Colin and Brian being here, unless you all meant someone different.

Thanks again.

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Micah – I can now get her there in the morning if that is possible but I have to have her back on hill by 10:30 for a hearing and thus I'd have to get her out of there by 10:20. Would that work? Also can she bring her Staff Director and Deputy Staff Director? Thank you!!!!!

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

From: Daimler-Nothdurft, Kristen (Murkowski)
Sent: Monday, March 27, 2017 6:51 PM
To: Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>; 'Chambers, Micah' <micah_chambers@ios.doi.gov>
Subject: Re: Wednesday Morning Secretarial Orders

The Senator thanks for you the thoughtful gesture but must attend a hearing during that time and thus sends her regrets.

Kristen Daimler Nothdurft

Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 709
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

Sent from my blackberry.

From: Hayes, Colin (Energy)
Sent: Monday, March 27, 2017 5:57 PM
To: 'Chambers, Micah'
Cc: Daimler-Nothdurft, Kristen (Murkowski)
Subject: RE: Wednesday Morning Secretarial Orders

Micah –

Thank you for thinking of us. Adding Kristen to see if it can fit on the Chairman's schedule.

Colin

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 5:49 PM
To: Hayes, Colin (Energy)
Subject: Wednesday Morning Secretarial Orders

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Micah Chambers
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Office of the Secretary of the Interior

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Hunn, Jocelyn
To: adrianne moss (adrianne_moss@ios.doi.gov)
Cc: Culp, Rita
Subject: Energy Independence Executive Order
Date: Tuesday, March 28, 2017 11:13:22 AM

Good Morning:

Can you please tell me if the Energy Independence Executive Order will have any impact on the following provisions:

House Sec. 122—Oil and Gas Royalties
House Sec. 436—Social Cost of Carbon
House Sec. 440—Royalty Rates on Coal, Oil, Gas Leases (Interior has already informed coal, oil and gas companies they do not have to comply with new ONRR method of calculating royalties for mineral extraction on federal land, delaying the rule's effective date to allow the administration to conduct a detailed review. Does the E.O. just memorialize this action?)
House Sec. 441—Coal PEIS
House Sec. 460—Management Non-Federal Oil and Gas
House Sec. 466—BLM Hydraulic Fracturing Rule

Any additional information you can provide on the E.O., lifting the coal leasing moratorium, the impact of the rescission of the Climate Action Plan on your current operating procedures and conservation management decisions, timeline for Interior revision of rules (in accordance with APA), etc. would be helpful.

Thank you,

Jocelyn Buck Hunn
U.S. House of Representatives
Committee on Appropriations Democrats
1016 Longworth
202-225-3481

From:	Daimler-Nothdurft, Kristen (Murkowski)
To:	Chambers, Micah
Cc:	Hayes, Colin (Energy)
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Tuesday, March 28, 2017 11:13:34 AM

That's the two – thank you!

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 11:10 AM
To: Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
Cc: Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Hi Kristen. We'll make it work for the Senator. We'll most likely ask people to show up at 945 for a prompt 10 am start time. We have space for two staffers, so we'll plan on Colin and Brian being here, unless you all meant someone different.

Thanks again.

On Tue, Mar 28, 2017 at 10:16 AM, Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov> wrote:

> Micah – I can now get her there in the morning if that is possible but I have to have her back on hill by 10:30 for a hearing and thus I'd have to get her out of there by 10:20. Would that work? Also can she bring her Staff Director and Deputy Staff Director? Thank you!!!!!
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> Washington, DC 20510
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> 202-224-4349 scheduling fax
>
> **From:** Daimler-Nothdurft, Kristen (Murkowski)
> **Sent:** Monday, March 27, 2017 6:51 PM
> **To:** Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>; 'Chambers, Micah' <micah_chambers@ios.doi.gov>

Subject: Re: Wednesday Morning Secretarial Orders

The Senator thanks for you the thoughtful gesture but must attend a hearing during that time and thus sends her regrets.

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 709
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

Sent from my blackberry.

From: Hayes, Colin (Energy)
Sent: Monday, March 27, 2017 5:57 PM
To: 'Chambers, Micah'
Cc: Daimler-Nothdurft, Kristen (Murkowski)
Subject: RE: Wednesday Morning Secretarial Orders

Micah –

Thank you for thinking of us. Adding Kristen to see if it can fit on the Chairman's schedule.

Colin

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Office of Congressional & Legislative Affairs
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From:	Bernstein, Ryan (Hoeven)
To:	Chambers, Micah
Cc:	Newman, Jennifer (Hoeven)
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Tuesday, March 28, 2017 11:13:37 AM

Looping in Jen. She can provide you the names and then she can get the logistical details from you.

Ryan Bernstein
U.S. Senator John Hoeven
202-224-2551

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 11:08 AM
To: Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Ryan. If you can send the names of the staff that will be coming with the Senator by 3 pm it'd be appreciated. Thanks again.

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From:	Daimler-Nothdurft, Kristen (Murkowski)
To:	Chambers, Micah
Cc:	Hayes, Colin (Energy)
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Tuesday, March 28, 2017 11:14:18 AM

Let me know where I should send her for address/door. Is it possible to have parking – if not I will have the driver circle – no issue

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

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Sent: Tuesday, March 28, 2017 11:10 AM
To: Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
Cc: Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Hi Kristen. We'll make it work for the Senator. We'll most likely ask people to show up at 945 for a prompt 10 am start time. We have space for two staffers, so we'll plan on Colin and Brian being here, unless you all meant someone different.

Thanks again.

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<micah_chambers@ios.doi.gov>
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Cc: Daimler-Nothdurft, Kristen (Murkowski)
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Micah –

Thank you for thinking of us. Adding Kristen to see if it can fit on the Chairman's schedule.

Colin

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Buening, Rachel
To:	"Chambers, Micah"
Cc:	Gruman, Mark; Marohl, Chris; Jorde, Adam
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Tuesday, March 28, 2017 11:15:36 AM

Hi Micah – The staff will be Chris Marohl and Adam Jorde. Can you also provide the location details? Thanks!

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 11:11 AM
To: Buening, Rachel
Cc: Gruman, Mark; Marohl, Chris
Subject: Re: Wednesday Morning Secretarial Orders

Rachel. Can you please tell me which staff plan on attending with the Congressman? Two max, just need their names.

Thank you

On Mon, Mar 27, 2017 at 6:42 PM, Buening, Rachel <Rachel.Buening@mail.house.gov> wrote:
Thank you.

From: Micah Chambers [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 6:37 PM
To: Gruman, Mark
Cc: Buening, Rachel; Marohl, Chris
Subject: Re: Wednesday Morning Secretarial Orders

You're all awesome. Once I get more details, they'll be all yours

Sent from my iPhone

On Mar 27, 2017, at 6:30 PM, Gruman, Mark <Mark.Gruman@mail.house.gov> wrote:

> Absolutely – the Congressman will be there. I have copied in the Congressman's DC scheduler for logistics.
>
> Thanks Micah!
>
> Mark
>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Monday, March 27, 2017 6:22 PM
> **To:** Gruman, Mark
> **Subject:** Fwd: Wednesday Morning Secretarial Orders
>
> Mark. Just left you a voicemail about an event Wednesday. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory

Mitigation for pipelines.

If your boss can attend, we'd appreciate it. We'd ask for the Senator and two staff max. My apologies it's last minute, but we can't pull the trigger til the WH moves forward. 202.706.9093

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Newman, Jennifer (Hoeven)
To:	Chambers, Micah
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Tuesday, March 28, 2017 11:22:38 AM
Attachments:	image001.png image002.png image003.png image004.png

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Micah,

Shawn Affolter and the Senator will attend tomorrow morning. Will there be parking?

Thanks,

Jen Newman
Senator John Hoeven (R-ND)
338 Russell Senate Office Building | (202) 224-2551 | www.hoeven.senate.gov

---

From: Bernstein, Ryan (Hoeven)
Sent: Tuesday, March 28, 2017 11:13 AM
To: Chambers, Micah <micah_chambers@ios.doi.gov>
Cc: Newman, Jennifer (Hoeven) <Jennifer_Newman@hoeven.senate.gov>
Subject: RE: Wednesday Morning Secretarial Orders

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Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

You
Tube

From: Daimler-Nothdurft, Kristen (Murkowski)
To: Chambers, Micah
Cc: Hayes, Colin (Energy)
Subject: RE: Wednesday Morning Secretarial Orders
Date: Tuesday, March 28, 2017 11:57:57 AM

Not a worry!

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 11:54 AM
To: Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
Cc: Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Parking will be an issue. Half our garage is under construction right now and it requires extra coordination to get it through security. If it's a necessity to being on time though, let us know and we'll sort it out.

Location: 1849 C St, NW

Timing--
Arrive NLT 9:45AM - Members/Senators arrive at the C Street Entrance

Greeted by: Wadi, Caroline (TBD), Micah or Amanda

10:00AM Hard Start - Signing Ceremony Begins

Reminder: we must have the list of all staff by COB today for Security. And for the schedule.

Garage parking isn't available except under certain circumstances.

On Tue, Mar 28, 2017 at 11:14 AM, Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov> wrote:

> Let me know where I should send her for address/door. Is it possible to have parking – if not I will have the driver circle – no issue
>
> Kristen Daimler Nothdurft
> Executive Assistant/Scheduler

Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 11:10 AM
To: Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
Cc: Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Hi Kristen. We'll make it work for the Senator. We'll most likely ask people to show up at 945 for a prompt 10 am start time. We have space for two staffers, so we'll plan on Colin and Brian being here, unless you all meant someone different.

Thanks again.

On Tue, Mar 28, 2017 at 10:16 AM, Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov> wrote:

> Micah – I can now get her there in the morning if that is possible but I have to have her back on hill by 10:30 for a hearing and thus I'd have to get her out of there by 10:20. Would that work? Also can she bring her Staff Director and Deputy Staff Director? Thank you!!!!!
>
> Kristen Daimler Nothdurft
> Executive Assistant/Scheduler
> Office of Senator Lisa Murkowski
> Hart Senate Office Building, room 522
> Washington, DC 20510
> 202-224-6665 phone
> 202-224-4349 scheduling fax
>
> ---
>
> **From:** Daimler-Nothdurft, Kristen (Murkowski)
> **Sent:** Monday, March 27, 2017 6:51 PM
> **To:** Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>; 'Chambers, Micah' <micah_chambers@ios.doi.gov>
> **Subject:** Re: Wednesday Morning Secretarial Orders
>
> The Senator thanks for you the thoughtful gesture but must attend a hearing during that time and thus sends her regrets.
>
> Kristen Daimler Nothdurft
> Executive Assistant/Scheduler
> Office of Senator Lisa Murkowski
> Hart Senate Office Building, room 709

Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

Sent from my blackberry.

From: Hayes, Colin (Energy)
Sent: Monday, March 27, 2017 5:57 PM
To: 'Chambers, Micah'
Cc: Daimler-Nothdurft, Kristen (Murkowski)
Subject: RE: Wednesday Morning Secretarial Orders

Micah –

Thank you for thinking of us. Adding Kristen to see if it can fit on the Chairman's schedule.

Colin

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 5:49 PM
To: Hayes, Colin (Energy)
Subject: Wednesday Morning Secretarial Orders

Colin. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.

If she can attend, we'd appreciate it. We'd ask for the Senator and two staff max.

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: McCarthy Press Shop
To: Kristen_Sarri@ios.doi.gov
Subject: Environmental Protection and Economic Growth Should go Together
Date: Tuesday, March 28, 2017 2:33:15 PM

Press Office
March 28, 2017

Mike Long, Matt Sparks
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Environmental Protection and Economic Growth Should go Together

Washington, D.C. – House Majority Leader Kevin McCarthy (CA-23) released the following statement on President Trump's executive order to rewrite the Clean Power rule:

"President Trump is taking action to keep the lights on in our homes, our factories, and throughout our economy's supply chain. America will have a stronger future by developing, not neglecting, the abundant energy resources our land offers. The rationale behind this action is what Republicans have been arguing for years: environmental protections and economic growth are not mutually exclusive. Innovation and technological changes have proven our ability to advance energy development in a cleaner and safer way. We are a resilient people who power a resilient economy. Unleashing our energy potential will strongly support jobs and healthier lives for everyone."

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From: McCarthy Press Shop
To: wendy_clerinx@ios.doi.gov
Subject: Environmental Protection and Economic Growth Should go Together
Date: Tuesday, March 28, 2017 2:33:31 PM

Press Office
March 28, 2017

Mike Long, Matt Sparks
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Environmental Protection and Economic Growth Should go Together

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"President Trump is taking action to keep the lights on in our homes, our factories, and throughout our economy's supply chain. America will have a stronger future by developing, not neglecting, the abundant energy resources our land offers. The rationale behind this action is what Republicans have been arguing for years: environmental protections and economic growth are not mutually exclusive. Innovation and technological changes have proven our ability to advance energy development in a cleaner and safer way. We are a resilient people who power a resilient economy. Unleashing our energy potential will strongly support jobs and healthier lives for everyone."

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From: McCarthy Press Shop
To: jason_powell@ios.doi.gov
Subject: Environmental Protection and Economic Growth Should go Together
Date: Tuesday, March 28, 2017 2:33:34 PM

Press Office
March 28, 2017

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Environmental Protection and Economic Growth Should go Together

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From: McCarthy Press Shop
To: amanda_kaster@ios.doi.gov
Subject: Environmental Protection and Economic Growth Should go Together
Date: Tuesday, March 28, 2017 2:34:32 PM

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March 28, 2017

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Environmental Protection and Economic Growth Should go Together

Washington, D.C. – House Majority Leader Kevin McCarthy (CA-23) released the following statement on President Trump's executive order to rewrite the Clean Power rule:

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From: McCarthy Press Shop
To: micah_chambers@ios.doi.gov
Subject: Environmental Protection and Economic Growth Should go Together
Date: Tuesday, March 28, 2017 2:34:36 PM

Press Office
March 28, 2017

Mike Long, Matt Sparks
View Online

Environmental Protection and Economic Growth Should go Together

Washington, D.C. – House Majority Leader Kevin McCarthy (CA-23) released the following statement on President Trump's executive order to rewrite the Clean Power rule:

"President Trump is taking action to keep the lights on in our homes, our factories, and throughout our economy's supply chain. America will have a stronger future by developing, not neglecting, the abundant energy resources our land offers. The rationale behind this action is what Republicans have been arguing for years: environmental protections and economic growth are not mutually exclusive. Innovation and technological changes have proven our ability to advance energy development in a cleaner and safer way. We are a resilient people who power a resilient economy. Unleashing our energy potential will strongly support jobs and healthier lives for everyone."

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From:	Neill, Andrew
To:	Cameron, Scott
Subject:	RE: Contact BOR
Date:	Tuesday, March 28, 2017 2:49:11 PM
Attachments:	2190_Order (2).pdf

Thanks Scott. Judge Simon's opinion is attached. The ruling was on an injunction request from Earthjustice following the same Judge's rejection of the biological opinion (under Obama's Interior/NOAA).

http://www.tri-cityherald.com/news/local/article141154428.html

I also linked his opinion on the BiOp and a link to the NOAA's landing page on the BiOp.

http://www.westcoast.fisheries.noaa.gov/fish_passage/fcrps_opinion/federal_columbia_river_power_system.html

https://assets.documentcloud.org/documents/2823619/1404-2065-Opinion-and-Order.pdf

All bad and billions of dollars wasted. Let me know if you have any questions.

Thanks again!

From: Cameron, Scott [mailto:scott_cameron@ios.doi.gov]
Sent: Tuesday, March 28, 2017 2:03 PM
To: Neill, Andrew
Subject: Re: Contact BOR

Andrew,
Go ahead and send the article and the opinion. I'll read them.

Thanks,
Scott
Scott J. Cameron
Special Assistant
Office of the Secretary of the Interior
Desk 202 208 0969
Cell 202 706 9031

On Tue, Mar 28, 2017 at 1:59 PM, Neill, Andrew <Andrew.Neill@mail.house.gov> wrote:

> Hey Scott,
>
> I don't know if you saw Judge Simon's ruling yesterday but I read through the opinion last night. We I have a link to the story and am happy to send the opinion (if your mailbox is anything like the Hill's then you also hate large pdf's sent on a whim).
>
> It would be great if you had a second to talk but we are very concerned of the process. This has been an ongoing issue since the early 90s costing billions of dollars.
>
> Best,
>
> -Andrew

From: Magallanes, Downey [mailto:downey_magallanes@ios.doi.gov]
Sent: Tuesday, March 28, 2017 1:53 PM
To: Neill, Andrew; Scott Cameron
Subject: Re: Contact BOR

Meet Scott

On Tue, Mar 28, 2017 at 1:40 PM, Neill, Andrew <Andrew.Neill@mail.house.gov> wrote:

> Hey! Do you have a political handling BOR yet? I'd like to coordinate on the biological opinion on the Federal Columbia River power System. We just had another terrible ruling and think the feds will appeal to the 9th circuit. We are looking at legislative options.
>
> http://www.tri-cityherald.com/news/local/article141154428.html
>
> Something very concerning to our constituents and has flown relatively under the radar.
>
> **Andrew Neill**
> *Legislative Assistant*
> @HouseGOP | Chair Cathy McMorris Rodgers (WA-5)
> B-245 Longworth House Office Building
> (202) 225-2006 (o)

--
Downey Magallanes
Office of the Secretary
downey_magallanes@ios.doi.gov
202-501-0654 (desk)
202-706-9199 (cell)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

NATIONAL WILDLIFE FEDERATION, *et al.*,

Plaintiffs,

v.

NATIONAL MARINE FISHERIES SERVICE, *et al.*,

Defendants.

Case No. 3:01-cv-0640-SI

OPINION AND ORDER

Todd D. True and Stephen D. Mashuda, EARTHJUSTICE, 705 Second Avenue, Suite 203, Seattle, WA 98104; Daniel J. Rohlf, EARTHRISE LAW CENTER, Lewis & Clark Law School, 10015 S.W. Terwilliger Boulevard, MSC 51, Portland, OR 97219. Of Attorneys for Plaintiffs.

Ellen F. Rosenblum, Attorney General, and Nina R. Englander and Sarah Weston, Assistant Attorneys General, OREGON DEPARTMENT OF JUSTICE, 1515 S.W. Fifth Avenue, Suite 410, Portland, OR 97201. Of Attorneys for Intervenor-Plaintiff State of Oregon.

David J. Cummings and Geoffrey M. Whiting, NEZ PERCE TRIBE, OFFICE OF LEGAL COUNSEL, P.O. Box 305, Lapwai, ID 83540. Of Attorneys for *Amicus Curiae* Nez Perce Tribe.

Billy J. Williams, United States Attorney, and Coby Howell, Senior Trial Attorney, UNITED STATES DEPARTMENT OF JUSTICE, UNITED STATES ATTORNEY'S OFFICE, 1000 S.W. Third Avenue, Portland, OR 97204; John C. Cruden, Assistant Attorney General, Seth M. Barsky, Section Chief, and Michael R. Eitel and Andrea Gelatt, Trial Attorneys, UNITED STATES DEPARTMENT OF JUSTICE, ENVIRONMENT & NATURAL RESOURCES DIVISION, WILDLIFE & MARINE RESOURCES SECTION, 999 18th Street, South Terrace, Suite 370, Denver, CO 80202; Romney S. Philpott, Trial Attorney, UNITED STATES DEPARTMENT OF JUSTICE, ENVIRONMENT & NATURAL RESOURCES DIVISION, NATURAL RESOURCES SECTION, 601 D Street NW, Washington, DC 20004. Of Attorneys for Federal Defendants.

Lawrence G. Wasden, Attorney General, OFFICE OF THE ATTORNEY GENERAL, STATE OF IDAHO; Clive J. Strong, Division Chief, and Clay R. Smith and Steven W. Strack, Deputy Attorneys General, NATURAL RESOURCES DIVISION, P.O. Box 83720, Boise, ID 83720. Of Attorneys for Intervenor-Defendant State of Idaho.

Timothy C. Fox, Attorney General, and Jeremiah D. Weiner, Assistant Attorney General, MONTANA DEPARTMENT OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL, 215 North Sanders Street, P.O. Box 201401, Helena, MT 59620; Mark L. Stermitz, CROWLEY FLECK, PLLP, 305 South Fourth Street East, Suite 100, Missoula, MT 59801. Of Attorneys for Intervenor-Defendant State of Montana.

Michael S. Grossmann, Senior Counsel, STATE OF WASHINGTON, OFFICE OF THE ATTORNEY GENERAL, P.O. Box 40100, Olympia, WA 98504. Of Attorneys for Intervenor-Defendant State of Washington.

Julie A. Weis, HAGLUND KELLEY LLP, 200 S.W. Market Street, Suite 1777, Portland, OR 97201; William K. Barquin, TRIBAL LEGAL DEPARTMENT, KOOTENAI TRIBE OF IDAHO, Portland Office, 1000 S.W. Broadway, Suite 1060, Portland, OR 97205. Of Attorneys for Intervenor-Defendant Kootenai Tribe of Idaho.

Stuart M. Levit and John Harrison, CONFEDERATED SALISH AND KOOTENAI TRIBES, 42487 Complex Boulevard, P.O. Box 278, Pablo, MT 59855. Of Attorneys for Intervenor-Defendant Confederated Salish and Kootenai Tribes.

Jay T. Waldron, Walter H. Evans, III, and Carson Bowler, SCHWABE, WILLIAMSON & WYATT, P.C., Pacwest Center, 1211 S.W. Fifth Avenue, Suite 1900, Portland, OR 97204. Of Attorneys for Intervenor-Defendant Inland Ports and Navigation Group.

Beth S. Ginsberg and Jason T. Morgan, STOEL RIVES LLP, 600 University Street, Suite 3600, Seattle, WA 98101. Of Attorneys for Intervenor-Defendant Northwest RiverPartners.

James L. Buchal, MURPHY & BUCHAL LLP, 3425 S.E. Yamhill Street, Suite 100, Portland, OR 97214. Of Attorneys for Intervenor-Defendant Columbia Snake River Irrigators Association.

John W. Ogan, KARNOPP PETERSEN LLP, 1201 N.W. Wall Street, Suite 200, Bend, OR 97701. Of Attorneys for *Amicus Curiae* Confederated Tribes of the Warm Springs Reservation of Oregon.

Brent H. Hall, Office of Legal Counsel, CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION, 46411 Timíne Way, Pendleton, OR 97801. Of Attorneys for *Amicus Curiae* Confederated Tribes of the Umatilla Indian Reservation.

Patrick D. Spurgin, 411 North Second Street, Yakima, WA 98901. Of Attorneys for *Amicus Curiae* Yakama Nation.

Brian C. Gruber and Beth Baldwin, ZIONTZ CHESTNUT, 2101 Fourth Avenue, Suite 1230, Seattle, WA 98121. Of Attorneys for *Amicus Curiae* Confederated Tribes of the Colville Reservation.

James Waddell, P.E., 289 Ocean Cove Lane, Port Angeles, WA 98363. *Amicus Curiae, pro se*.

Michael H. Simon, District Judge.

Intervenor-Plaintiff State of Oregon ("Oregon") and Plaintiffs (collectively, "Spill Plaintiffs") move under the Endangered Species Act ("ESA") for an injunction requiring the Federal Defendants to provide spring spill beginning in 2017 for each remaining year of the remand period at the maximum spill level that meets, but does not exceed, total dissolved gas ("TDG") criteria allowed under state law ("spill cap") as follows: (1) from April 3 through June 20 at Ice Harbor, Lower Monumental, Little Goose, and Lower Granite dams; and (2) from April 10 through June 15 at Bonneville, The Dalles, John Day, and McNary dams. The Spill Plaintiffs request this spill be on a 24-hour basis using the most advantageous pattern to reduce TDG. The requested injunction, however, would allow for reductions in spill below the spill cap by the Army Corps of Engineers ("Corps") under certain involuntary spill conditions or to address specific biological constraints, provided there is no objection from any member of the Fish Passage Advisory Committee ("FPAC"). The Spill Plaintiffs also move for an injunction requiring the Federal Defendants to operate the juvenile bypass and related Passive Integrated Transponder ("PIT") tag detection system beginning March 1 of each year, commencing in 2017. Currently, this system begins in mid- to late March. The Nez Perce Tribe supports both motions.

Plaintiffs also move under the National Environmental Procedure Act ("NEPA") for an injunction prohibiting the Corps from expending any additional funds on: (1) two planned projects at Ice Harbor Dam, expected to cost approximately $37 million; and (2) any new capital improvement projects or expansion of existing projects at any of the four Lower Snake River dams that would cost more than one million dollars, in the absence of prior approval from the Court. Oregon and the Nez Perce Tribe also support this motion. For the following reasons, both motions are granted in part and denied in part.

STANDARDS

A. Permanent or Preliminary Injunction

Plaintiffs and Oregon explain that they seek "permanent" injunctions until the Federal Defendants comply with the ESA and NEPA. The Federal Defendants, Intervenor-Defendants, and the *Amici Curiae* who oppose the requested injunctions (collectively, "Defendants") variously discuss both preliminary and permanent injunction standards.

A plaintiff seeking a permanent injunction must show:

> "(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction."

Cottonwood Envt'l Law Ctr v. U.S. Forest Svc., 789 F.3d 1075, 1088 (9th Cir. 2015) (quoting *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006)).

When seeking a preliminary injunction, a plaintiff must show that: (1) he or she is likely to succeed on the merits; (2) he or she is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his or her favor; and (4) that an injunction is in the public interest. *Winter v. Nat. Res. Defense Council, Inc.*, 555 U.S. 7, 20 (2008). In the Ninth Circuit, a plaintiff seeking a preliminary injunction alternatively may show "'serious questions going to the merits' and a hardship balance that tips sharply toward the plaintiff, assuming the other two elements of the *Winter* test are also met." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011). The standard for a permanent injunction is similar, but not identical, to the standard required for a preliminary injunction. *See Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 546 n. 12 (1987) ("The standard for a preliminary injunction is

essentially the same as for a permanent injunction with the exception that the plaintiff must show a likelihood of success on the merits rather than actual success.").

Injunctions, such as those sought by Plaintiffs and Oregon, are not preliminary in the conventional sense because the Court has already decided the merits of this case. The relief now being sought, however, also is not permanent in the conventional sense because it may be lifted after the Federal Defendants comply with the Court's remand order by preparing a new biological opinion and following NEPA. *See S. Yuba River Citizens League v. Nat'l Marine Fisheries Serv.*, 804 F. Supp. 2d 1045, 1052 (E.D. Cal. 2011). Thus, in practical effect, Plaintiffs seek "interim injunctive measures." *Id.* Because the Court has already decided the merits of the ESA and NEPA claims in this case, the Court finds the factors for granting permanent injunctive relief to be more appropriate in considering the pending motions, but notes that the requested injunctions will be in place only for a limited duration.[1]

B. Injunction Under the ESA

When considering a motion for an injunction under the ESA, "the ESA strips courts of at least some of their equitable discretion in determining whether injunctive relief is warranted." *Cottonwood*, 789 F.3d at 1090. In *Cottonwood*, the Ninth Circuit discussed the Supreme Court's decision in *Tennessee Valley Authority v. Hill*, 437 U.S. 153 (1978), and explained how Congress in that case "remove[d] several factors in the four-factor test from a court's equitable jurisdiction." The Ninth Circuit stated:

[1] Many Defendants also argue that the Court should apply the heightened standard for a "mandatory" injunction because the Spill Plaintiffs request the Corps to take affirmative action that is different from the "status quo." The states of Idaho and Montana, however, concede that the "law of the case" requires application of the regular, or "prohibitory," injunction standard because that is the standard that Judge Redden and the Ninth Circuit previously used in this case. In addition, it is the "status quo" that is alleged to be harming the listed species, which is the harm to be mitigated. *See Wash. Toxics Coal. v. Envtl. Prot. Agency*, 413 F.3d 1024, 1035 (9th Cir. 2005).

> *Hill* held that courts do not have discretion to balance the parties' competing interests in ESA cases because Congress "afford[ed] first priority to the declared national policy of saving endangered species." 437 U.S. at 185. *Hill* also held that Congress established an unparalleled public interest in the "incalculable" value of preserving endangered species. *Id.* at 187-88. It is the incalculability of the injury that renders the "remedies available at law, such as monetary damages . . . inadequate." *See eBay*, 547 U.S. at 391.

Cottonwood, 789 F.3d at 1090 (alterations in original). The Ninth Circuit concluded that although three of the four injunction factors are presumed in an ESA case, "there is no presumption of irreparable injury where there has been a procedural violation in ESA cases." *Id.* at 1091. The Ninth Circuit noted, however, that "in light of the stated purposes of the ESA in conserving endangered and threatened species and the ecosystems that support them, establishing irreparable injury should not be an onerous task for plaintiffs." *Id.*

If a court determines that injunctive relief is warranted, such relief must be tailored to remedy the specific harm. *Melendres v. Arpaio*, 784 F.3d 1254, 1265 (9th Cir. 2015) ("We have long held that injunctive relief must be tailored to remedy the specific harm alleged." (quotation marks omitted)). "Nevertheless, the district court has broad discretion in fashioning a remedy." *Id.* Further, an "enjoined party's history of noncompliance with prior orders can justify greater court involvement than is ordinarily permitted." *Id*. (quotation marks omitted).

C. Injunction Under NEPA

In considering injunctions under NEPA, a court applies the normal four-factor test. The Supreme Court has clarified, however, that courts may not put their "thumb on the scales" in considering injunctive relief under NEPA and may not presume any factor as being met or that an injunction is the proper remedy. *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 157 (2010).

BACKGROUND

This case has a long history.[2] Its background is well known to the parties and was discussed in the Court's most recent Opinion and Order, which resolved the parties' cross-motions for summary judgment ("2016 Opinion"). *See NMFS V*, 184 F. Supp. 3d at 869-72, 879-83. Six biological opinions and supplemental biological opinions[3] relating to the operation of the Federal Columbia River Power System ("FCRPS") have been invalidated in this case by three different federal district judges. Throughout the history of this litigation, the Court has expressed significant concern regarding the harm caused to ESA-listed species of salmonids by the operation of the dams on the lower Columbia and Snake rivers.

As relevant here, in its 2016 Opinion, the Court concluded that NOAA Fisheries violated the ESA by adopting the 2014 Biological Opinion ("2014 BiOp"), in part because the 2014 BiOp: (1) relied on an unsound methodology for evaluating whether operations of the FCRPS would jeopardize the continued existence of the listed species; (2) did not adequately take into account ongoing low abundance levels; (3) did not rationally address recovery; (4) did not adequately consider declining recruits-per-spawner (or returns-per-spawner); (5) relied on immediate, specific numeric survival improvements from uncertain habitat improvement actions with uncertain benefits, without allowing any "cushion" in case all of the actions or their

[2] Several previous court opinions from this case will be discussed in this Opinion and Order. They are: *Nat'l Wildlife Fed. v. Nat'l Marine Fisheries Serv.*, 2005 WL 1398223, at *3 (D. Or. June 10, 2005) (granting in part preliminary injunction regarding spill) ("*NMFS I*"), *aff'd in part by* 422 F.3d 782, 788-93 (9th Cir. 2005) ("*NMFS II*"); *Nat'l Wildlife Fed. v. Nat'l Marine Fisheries Serv.*, 524 F.3d 917, 924 (9th Cir. 2007) (invalidating 2004 BiOp) ("*NMFS III*"); *Nat'l Wildlife Fed. v. Nat'l Marine Fisheries Serv.*, 839 F. Supp. 2d 1117 (D. Or. 2011) (invalidating 2008 and 2010 BiOps) ("*NMFS IV*"); *Nat'l Wildlife Fed. v. Nat'l Marine Fisheries Serv.*, 184 F. Supp. 3d 861, 869-72, 879-83 (D. Or. 2016) (invaliding 2014 BiOp) ("*NMFS V*").

[3] These biological and supplemental biological opinions were issued in 1993, 2000, 2004, 2008, 2010, and 2014.

expected benefits were not realized during the BiOp period; and (6) did not adequately consider the effects of climate change. *Id.* at 898-923. The Court also concluded that the Corps and the Bureau of Reclamation ("BOR") violated NEPA by failing to prepare a single (or comprehensive) environmental impact statement ("EIS"). The Court sought further briefing on the appropriate timing for NEPA compliance and ultimately ordered a five-year schedule, as requested by the Federal Defendants.

DISCUSSION

A. Federal Rule of Civil Procedure 60(b)

Defendants argue that Plaintiffs' and Oregon's motions must be denied because they fail to meet the requirements of Federal Rule of Civil Procedure Rule 60(b). Plaintiffs and Oregon dispute that Rule 60(b) even applies. The Court need not determine whether Rule 60(b) applies because even if it does, the Court would allow Plaintiffs and Oregon to proceed with their motions under Rule 60(b)(6).

In the 2016 Opinion, the Court invited supplemental briefing on "proposed timing for a reasonable NEPA process and other arguments regarding the scope of appropriate injunctive relief relating to NEPA." *NMFS V*, 184 F. Supp. 3d at 948. Although the Court was aware that in the past there had been allegations that the Federal Defendants had not complied with agreed-upon spill, no issue related to spill was before the Court, and to the Court's knowledge no such problems had occurred in recent years. Thus, the Court was not immediately concerned with crafting an injunction relating to spill, but was instead focused on an appropriate NEPA injunction and its timing.

In responding to the Federal Defendants' proposal regarding the timing of NEPA compliance, Plaintiffs and Oregon (in a joint brief) raised the possibility of requesting the

injunctions they seek in the pending motions. ECF 2074 at 23-26. In response, the Federal Defendants stated:

> Plaintiffs devote over three pages to pondering whether injunctive relief may be appropriate. *Plaintiffs are free to move the Court for relief if at some future point they deem it necessary.* But they have not done so now, and the Court should not delay entering an order providing a deadline for completing the NEPA process so that the parties and region can move forward in addressing the Court's May 4, 2016 Opinion.

ECF 2078 at 34-35 (emphasis added).

The Court and the parties then focused their immediate efforts on finalizing a remand order that established the timing for NEPA compliance, instead of briefing the additional injunctions now sought by Plaintiffs and Oregon. The Federal Defendants expressly acknowledged that Plaintiffs and Oregon could move the Court at a later time for such injunctions rather than slowing down the process of completing the Court's order establishing the NEPA deadlines.

Additionally, the Court expressly retained jurisdiction over this case to ensure that the Federal Defendants: (1) develop appropriate mitigation measures to avoid jeopardy (which could potentially include additional spill); (2) produce and file a biological opinion that complies with the ESA and APA; and (3) prepare an EIS that complies with NEPA (which could potentially include requiring that the agencies avoid limiting the choice of reasonable alternatives and committing resources that prejudice the selection of alternatives). *NMFS V*, 184 F. Supp. 3d at 950. Accordingly, assuming without deciding that Rule 60(b) applies, the Court finds that these reasons constitute "other reason[s] that justif[y] relief." Fed. R. Civ. P. 60(b)(6).

B. Whether the Corps and BOR violated the ESA

In the 2016 Opinion, the Court did not expressly address Plaintiffs' Second Claim for Relief in their Seventh Amended Complaint, which alleges that the Corps and BOR violated

Section 7 of the ESA by relying on the 2008, 2010, and 2014 BiOps without conducting an independent analysis to ensure that their activities did not jeopardize the listed species. Defendants argue that this means that Plaintiffs did not prevail on this claim.[4] Plaintiffs argue that it can be implied that they did prevail because these BiOps have been invalidated by the Court, and if it cannot be so implied, the Court should now so find.

In the conclusion of the 2016 Opinion, the Court stated that Defendants' "motions are granted with respect to the claims that NOAA Fisheries did not violate the ESA and the APA in determining in the 2014 BiOp that the RPA does not adversely modify critical habitat and is not likely adversely to affect endangered Southern Resident Killer Whales, *and are denied in all other respects*." *NMFS V*, 184 F. Supp. 3d at 950 (emphasis added). Thus, it cannot reasonably be interpreted that in the 2016 Opinion, the Court ruled for the Federal Defendants on this claim and found that the Corps and BOR did not violate the ESA.

In the 2016 Opinion, the Court invalidated the 2014 BiOp, on which the Corps and BOR relied in issuing their 2014 Records of Decision. Notably, in granting Plaintiffs' motions for summary judgment, the Court did not include any similar limitation as it did in granting the Defendants' motions. The Court described the motions it was granting without denying Plaintiffs' motions in all other respects. Thus, even though the Court did not expressly grant Plaintiffs' motion that the Corps and BOR violated the ESA, that conclusion is reasonably implied from the 2016 Opinion.

To the extent it cannot reasonably be implied from the 2016 Opinion, the Court now so finds. The evidence shows that in reaching their 2014 Records of Decision, the Corps and BOR did not conduct any independent analysis but solely relied on the now-invalidated 2014 BiOp.

[4] The Court focused on the arguments emphasized by the parties in their summary judgment briefs. Any failure specifically to address this claim was inadvertent.

This is a violation of the ESA, for the same reasons previously described by Judge Redden regarding an earlier biological opinion:

> In my May 2005 opinion, I found the 2004 BiOp violates the ESA. I now conclude that, in light of their reliance on the 2004 BiOp, the Record of Consultation and Statement of Decision (ROD) issued by the Corps on January 3, 2005, and the ROD issued by the BOR on January 12, 2005, also violate the ESA . . . . The RODs provide no specific analysis nor point to any record evidence to support the assertion that the action agencies conducted independent assessments and reached independent and rational conclusions in adopting them. The RODs reveal that these agencies embraced the same fundamental legal flaws that NOAA attempted to use to justify its circumscription of the action subject to jeopardy analysis. I find, therefore, that in substance the RODs relied on the no-jeopardy finding of the 2004 BiOp without an independent rational basis for doing so.

NMFS I, 2005 WL 1398223, at *3.

C. Spill Injunction

1. Irreparable Harm

The Federal Defendants repeatedly have concluded that the operations of the FCRPS jeopardize the listed species—thus the need for reasonable and prudent alternatives ("RPA") in the biological opinions. In the 2016 Opinion, the Court emphasized that despite the 73 RPAs from the 2008 and 2014 BiOps, the most recent data shows that the listed species remain in a "precarious," "imperiled," and "perilous" state. *See NMFS V*, 184 F. Supp. 3d at 872, 876, 879, 890, 892, 918, 947 (citing relevant data); *see also NMFS III*, 524 F.3d at 933 (emphasizing the "highly precarious status" of the species at issue in this case).

In light of the ongoing imperiled status of the listed species, the Court does not find any reason to disturb the following finding of Judge Redden in his 2011 Opinion and Order:

> As I have previously found, there is ample evidence in the record that indicates that the operation of the FCRPS causes substantial harm to listed salmonids. . . . NOAA Fisheries acknowledges that the existence and operation of the dams accounts for most of the

> mortality of juveniles migrating through the FCRPS. As in the past, I find that irreparable harm will result to listed species as a result of the operation of the FCRPS.

NMFS IV, 839 F. Supp. 2d at 1131. Accordingly, continuation of the status quo is likely to result in irreparable harm to the listed species.[5]

The Federal Defendants and some intervenors argue that the Spill Plaintiffs must prove that operating with Court-ordered spill during the next two years will pose an imminent threat at the species level. This is not the appropriate standard. As the Ninth Circuit discussed in affirming Judge Redden's previous spill order, after the Court has found that the operation of the FCRPS causes irreparable harm to the species and has invalidated the governing biological opinion, the Court is faced with the choice of either allowing an operation that violates the ESA to continue or ordering modifications. *NMFS II*, 422 F.3d at 796. The Ninth Circuit gave no indication that to order modifications would require a separate finding that during the time remaining in the remand period the species is in imminent danger of becoming extinct or that only the operations relating to the proposed modification (*e.g.*, spill) must be causing the irreparable harm.[6] To do so runs contrary to the ESA. *See Nat'l Wildlife Fed. v. Burlington N. R.R.*, 23 F.3d 1508, 1512 n. 8

[5] Defendant-Intervenor RiverPartners argues that the Spill Plaintiffs must connect any harm to the species to themselves and that they have failed to do so. RiverPartners cites in their brief, and relied on at oral argument, *Idaho Rivers United v. United States Army Corps of Engineers*, 156 F. Supp. 3d 1252 (W.D. Wash. 2015), for this proposition. *Idaho Rivers*, however, is inapposite. In that case, the court found that the plaintiffs had adequately shown that harm to the species, the lamprey, would affect the Nez Perce Tribe. *Id.* at 1260-61. What the plaintiffs did not show was that the lamprey was at risk of irreparable harm. *Id.* at 1261-62. Thus, because the plaintiffs' harm was derivative of the lamprey's harm, and harm to the lamprey was not shown, harm to the plaintiffs was not shown. *Id.* Here, the Court has found harm to the listed species. Thus, *Idaho Rivers* is distinguishable. The Court also finds that the Spill Plaintiffs have adequately shown how harm to the listed species will affect the Spill Plaintiffs.

[6] To the contrary, even though the injunction at issue involved only spill, Judge Redden and the Ninth Circuit considered the harm caused by the full operation of the FCRPS, not just spill or lack thereof.

(9th Cir. 1994) ("We are not saying that a threat of extinction to the species is required before an injunction may issue under the ESA. This would be contrary to the spirit of the statute, whose goal of preserving threatened and endangered species can be achieved through incremental steps."). Additionally, as the Court has already found, operation of the FCRPS jeopardizes the listed species at a species level—the dams are the largest source of mortality of juveniles. Moreover, even if the operation of the FCRPS did not jeopardize the species, proving harm to the entire species is not necessary for an injunction under ESA Section 7, rather "[e]vidence that the [listed] salmon will suffer imminent harm of any magnitude is sufficient to warrant injunctive relief." *Yurok Tribe v. United States Bureau of Reclamation*, 2017 WL 512845, at *24 (N.D. Cal. Feb. 8, 2017) (citing *Big Country Foods, Inc. v. Bd. of Educ.*, 868 F.2d 1085, 1088 (9th Cir. 1989); *Nat'l Wildlife Fed. v. Burlington N. R.R.*, 23 F.3d 1508, 1512 n.8 (9th Cir. 1994); *Marbled Murrelet v. Babbitt*, 83 F.3d 1060, 1066 (9th Cir. 1996)). This is not a case where the court is considering the loss of only a small number of animals within the listed species. *See, e.g.*, *Defenders of Wildlife v. Salazar*, 812 F. Supp. 2d 1205, 1209-10 (D. Mont. 2009) (concluding that the loss of a few individual wolves did not constitute irreparable harm when there was no evidence that the loss "would be significant for the species as a whole").

2. Other Injunction Factors

The ESA "strips" the Court of the equitable discretion to weigh the other traditional factors relating to injunctive relief. *Cottonwood*, 789 F.3d at 1090. The Court does, however, consider Defendants' arguments relating to the potential harm to the listed species and to human life versus the benefits asserted by the Spill Plaintiffs in evaluating the appropriate injunctive relief. As instructed by the Supreme Court and the Ninth Circuit, however, the Court does not weigh the public interest or balance the equities, for example by weighing any potential

implications on the power system or costs to the Federal Defendants. *Id.* And the Court presumes that monetary damages are insufficient. *Id.*

3. Whether Injunctive Relief is Appropriate

The current situation is similar to the situation that was before the Ninth Circuit when it affirmed in part Judge Redden's previous injunction in this case relating to spill. *See NMFS II*, 422 F.3d at 795-99. The Court has invalidated the 2014 BiOp, found that the listed species remain in an imperiled state, and concluded that continued operation of the FCRPS is likely to result in irreparable harm to the listed species. The question now before the Court is "what interim remedy [is] appropriate to redress the ESA violations." *Id.* at 795. As before, one of the "primary complications of this case is that the operations in question are, by necessity, ongoing." *Id.* This means that the Court is

> faced with a continuing operation that it had concluded would cause irreparable harm to threatened species. Thus, the district court [is] confronted with two choices: (1) continue the status quo, the foundation of which the court had rejected as violative of the ESA and the continuation of which it had concluded [is likely to] irreparably harm listed species, or (2) order modifications.

Id. at 796.

The Court intends to order modifications. As discussed in the 2016 Opinion, the listed species are highly vulnerable for many reasons, including because they have precariously remained at low abundance for some time, are susceptible to devastating effects from climactic events, such as occurred in 2015, and are without any survival "cushion" in the 2014 BiOp and its RPAs.

4. Whether Additional Spill is Supported

All parties agree that previously-ordered spill has generated survival benefits and has been good for salmonid survival. The current dispute lies in whether the benefits of *additional*

spill has undergone sufficient study and is sufficiently supported. The parties, intervenors, and *amici* provide competing expert declarations discussing the purported benefits and potential downsides of additional spill. Additionally, the Spill Plaintiffs primarily rely on the Comparative Survival Study ("CSS") annual reports, workshops, and other analyses that study and hypothesize that additional spill will provide significant increased juvenile survival and adult returns, and Defendants primarily rely on the Independent Scientific Advisory Board's ("ISAB")[7] February 20, 2014, review of a spill experiment proposal based on a 2013 CSS study.

The spill experiment proposal reviewed by ISAB involved spill at higher levels than requested in the current injunction—125 percent of TDG in the tailrace of each dam. The current request is for 115 percent in the forebay and 120 percent in the tailrace. As the Spill Plaintiffs point out, the Corps itself has explained that spill at this level is safe:

> The GBT monitoring program has consistently shown over the years of implementation that signs of GBT are minimal when TDG is managed to the criteria levels of 115/120 percent TDG. Historically signs of GBT do not approach the action criteria until TDG levels are near 130 percent supersaturation levels in the tailraces, or forebays, of dams. The 2013 TDG was managed close to the 115/120 percent criteria, and the low incidence of signs of GBT observed this year reflects that management.

ECF 2165-4 at 14 (Bowles Reply Decl. Ex. 8 at 14).

Additionally, a close review of ISAB's critique shows that ISAB's primary concern was that the spill experiment proposal was not a detailed study with a hypothesis, study design, consideration of various approaches, updated data, monitoring, and adaptive management. *See* ECF 2146 (ISAB report). ISAB concluded that it lacked sufficient information to answer basic questions regarding the study, such as whether it had an adequately researched hypothesis. *Id.*

[7] ISAB serves NOAA Fisheries and others by providing independent scientific advice and recommendations regarding relevant scientific issues.

at 97 (report at 4). The underlying concept that increased spill may well benefit salmonids, however, was not rejected. To the contrary, ISAB noted:

> Despite these concerns with the statistical analyses used to support implementation of the spill test, it appears that the increased spill hypothesis stands as a possible candidate for testing. Other changes to hydrosystem operations have so far been inadequate to meet SAR targets required to conserve endangered salmon populations, even with structural changes that have been made at the dams such as surface spill weirs. It appears that increasing the amount of water spilled at lower Columbia and Snake River dams has merit as a hypothesis to test, but additional review of literature and analysis of data would be worthwhile.
>
> Increasing spill is expected to allow a greater proportion of migrants to avoid the powerhouse intakes and speed their migration through forebays.

Id. at 98 (ISAB report at 5). ISAB also stressed the importance of monitoring and adaptive management in this type of experiment. *Id.* at 100-101 (ISAB report at 7-8).

Thus, ISAB concluded that additional spill appears to have merit and is worth testing. ISAB is not alone in this conclusion. Others, in addition to the CSS, have similarly called for increasing spill, or at least for testing increased spill. *See* Howard A. Schaller, *et al.*, *Evaluating River Management During Seaward Migration to Recover Columbia River Stream-type Chinook Salmon Considering the Variation in Marine Conditions*, Can. J. Fish. Aquat. Sci. Vol. 71 (2014) ("Our study highlights the importance of considering river management options in face of variable ocean conditions for Snake River Chinook salmon. In particular, our retrospective SRI [survival rate index] regression results, and those of Petrosky and Schaller (2010) and Haeseker et al. (2012) suggest that hydrosystem-related direct and delayed mortality may be reduced substantially through actions (e.g. spill, surface passage, increases in water velocity through drawdown, or dam removal) that reduce the number of powerhouse passages, speed water velocity, and juvenile migrations, as well as reduce reliance on juvenile collection and

transportation. . . . A practical management experiment would be to evaluate increasing managed spill levels at the dams during the spring migration period and evaluate the population responses on the results of empirical survival estimates (Haeseker et al. 2012).") (NMFS037802); Steven L. Haeseker, *et al*., *Assessing Freshwater and Marine Environmental Influences on Life-Stage-Specific Survival Rates of Snake River Spring-Summer Chinook Salmon and Steelhead*, Transactions of the American Fisheries Society, 141:1, 121-38 (2012) ("In conclusion, the models that were developed for characterizing variation in overall life cycle morality rates indicate that increases in spill levels and reductions in water transit times are expected to increase stage-specific survival rates . . . as well as cumulative smolt-to-adult survival rates. Across a range of ocean conditions, higher spill levels and reductions in water transit time are expected to result in higher SARs than would occur with lower spill levels and higher water transit times. . . . These predictions would provide quantitative, testable hypotheses on the predicted survival responses that could occur under a true adaptive management experiment conducted within the FCRPS, where spill and water transit times are extended beyond the range of available data and the resulting survival rates are monitored to determine whether the expected increases are realized.") (NMFS012460); C.E. Petrosky and H.A. Schaller, *Influence of River Conditions During Seaward Migration and Ocean Conditions on Survival Rates of Snake River Chinook Salmon and Steelhead*, Ecology of Freshwater Fish 19:520-36 (2010) ("Given projections for degrading ocean conditions (i.e., global warming), our analysis suggests that a precautionary management approach would focus on improving in-river migration conditions by reducing WTT [water travel time], relying on increased spill to reduce passage through powerhouse turbines and collection/bypass systems, or other actions that would increase water

velocity, reduce delay at dams and substantially reduce FTT [fish travel time] through the FCRPS.") (NMFS035961).

Despite these widespread calls for testing increased spill, the Federal Defendants do not appear to have crafted any such experiment. At oral argument, counsel for the Federal Defendants indicated that in response to the 2016 Opinion, they "heard the Court," are moving forward to "solve these issues," have been "prodded" in the direction of additional spill, and thus additional spill may be considered as an action for the next biological opinion. But, as the Court has repeatedly found over the last 20 years, the listed species are in need of additional survival protections now. "Kicking the can down the road" after invalidating each of the FCRPS biological opinions, although necessary under the circumstances of this case, provides little protection to the listed species that are in an ongoing state of peril. As Judge Redden found in 2005, however,—over the Federal Defendants, intervenors, and *amici's* vigorous objections—spill is something that can offer immediate survival benefit and is worth trying. That conclusion by Judge Redden has proven accurate, as all parties now agree. The Court finds it similarly applicable today, if implemented appropriately.

The Court also finds particularly instructive the Declaration of Bill Tweit, submitted in support of the State of Washington's *opposition* to the requested injunction. Mr. Tweit states that "there is a growing scientific body of evidence from the decades of data on the beneficial value of spill at the higher levels seen in recent in years in promoting juvenile survivals and subsequent adult returns." ECF 2137 at 2 (Decl. ¶ 2). He continues, noting that "[c]onducting effective scientific investigations, while also allowing operators and fish managers the latitude to make in-season modifications as necessary to protect out-migrating and returning salmonids from unforeseen circumstances, is complex and requires flexibility." *Id.* (Decl. ¶ 3). Mr. Tweit

recognizes the "increasing consensus among federal, state, and tribal researchers and fish managers that increased spill has the *potential* to appreciably increase the probability that Snake River spring/summer Chinook and steelhead" will attain significant survival improvement. *Id.* at 10 (Decl. ¶ 15). He notes that Oregon's proposal of additional spring spill "is credible, and deserving of further scientific investigation." *Id.* at 10 (Decl. ¶ 16). He adds, however, that it is problematic in "that it treats spill as a uniform variable at each of the FCRPS dams, but it is well known that each dam must also be considered individually in designing spill operations, particularly at the higher levels of spill proposed by Oregon." *Id.* He concludes by stating that "[i]t is prudent to take the time necessary to craft a spill experiment . . . to maximize benefits [and] minimize costs and impacts" and that "[i]deally, the work to develop a new spill regime would be scheduled with a goal to implement by the 2018 migration season and carried forward into a the new bridge biological opinion beginning in 2019[.]" *Id.* at 13 (Decl. ¶ 23). Thus, Mr. Tweit (and the State of Washington) did not dispute the science behind the Spill Plaintiffs' request, only the timing and specific method of implementation.

The concerns expressed by Mr. Tweit are not unique to him. In reviewing the voluminous record relating to this motion, the Court notes that much of the opposition to the injunction is not based on a concern that increased spill at the requested level will necessarily harm salmonids, but instead on "rushing" the process, treating spill at all eight dams the same, and changing the adaptive management process to one that allows Oregon an operational "veto." As Ritchie J. Graves, Chief of the Columbia Hydropower Branch for the NMFS West Coast Region (Interior Columbia Basin Office) states in his Reply Declaration, he is not opposed to operational studies to reduce mortality; he is "opposed to 'rushing' into an action that could be detrimental to fish or that would provide no ability to scientifically assess the effectiveness of the action." ECF 2181

at 2 (Reply Decl. ¶ 2); *see also* ECF 2139 at 31 (Graves Decl. ¶ 71) (noting that NMFS is "prepared to engage our partners through the regional forum process" and others as needed regarding testing increased spill in a "rigorous" and "thoroughly vetted" manner).

There is nothing in the record to indicate that the current spill level is the precise or "magic" level that achieves all the possible survival benefits with the minimum of risk. The CSS analyses support that there will be beneficial effects of increasing spill to the spill caps. Defendants do not offer similarly scientific studies showing that the CSS analyses are wrong. Rather they challenge whether the proof relied on by CSS is good enough, properly vetted, or in the correct format. As the court in *Yurok Tribe* concluded, however, in response to similar arguments that evidence of flushing flows was not certain to reduce harm to listed salmon in the Klamath River and had not been "properly tested through a comprehensive scientific process," the ESA does not require perfect knowledge to support an injunction to protect a listed species, rather it requires action to protect a species consistent with the best available scientific information. *Yurok Tribe*, 2017 WL 512845, at *29.

The CSS has studied and described the benefits of increased spill. ISAB and others have encouraged testing of increased spill. Oregon's experts describe the benefits of increased spill. Further, as the State of Washington has acknowledged, there is a growing scientific body of evidence and growing consensus supporting higher levels of spill. Although Defendants provide expert testimony expressing concerns regarding increased spill, most of these concerns can be addressed with an appropriately-tailored injunction. Other expressed concerns are not appropriate in the context of an injunction under the ESA or the Court finds not as compelling as the evidence supporting additional spill. Accordingly, the Court concludes that there is sufficient scientific support for a limited injunction requiring increased spill to benefit the listed species.

5. Tailored Injunctive Relief

a. Timing for additional spill

The Court has found that the ongoing operation of the FCRPS is likely to cause irreparable harm to the listed species. This weighs in favor of granting an immediate injunction. The Court, however, shares many of the concerns raised by Defendants that implementing increased spill beginning April 3, 2017, is too rushed and does not provide sufficient time to ensure that the increased spill will not cause unintended negative consequences.

The Court recognizes that concerns for both human safety and the listed species require calculating appropriate spill patterns in advance of increasing spill. As Defendants describe, the Corps implements spill using particular spill patterns at each dam, and any change to spill can change the spill pattern and result in eddies or other flow issues that might delay or preclude juveniles from downstream migration, prevent adults from upstream migration, and negatively affect navigation through the lock systems.

The Corps has a testing facility in Vicksburg, Mississippi—the Engineer Research and Development Center ("ERDC"). This facility contains scale models of all eight dams and provides the ability to test spill patterns resulting from increased spill. These models also allow testing of spill patterns and flow to determine effects on navigation and the lock systems of the dams, particularly with regard to tug and barge tows. *See* ECF 2154 at 5-6 (Decl. of Robert Rich ¶ 16). Testing at the ERDC can be time-consuming because there are other agencies that use the facility, so one has to get "in the queue;" further, the models have to be repaired or rebuilt, and there are trial-and-error periods of testing spill patterns to find the pattern that is most advantageous. *See id.* at 6 (¶¶ 18-19). Delaying the increase in spill until the 2018 spring migration season provides time for testing and development of appropriate spill patterns that will maximize juvenile migration, minimize harm to juveniles, minimize harm to adult migration, and

protect human life in the navigation system.[8] Intervenor-Defendant Inland Ports and Navigation conceded at oral argument that delaying the increased spill injunction until 2018 would resolve its concerns regarding human safety. The Federal Defendants conceded that delaying until 2018 would resolve concerns regarding having enough time to test for appropriate spill patterns.

The Court also recognizes that each dam is unique and an "across-the-board" approach to spill is likely not the most effective means to increase salmonid survival at each dam. There are specific considerations at each dam that affect both juvenile and adult migration, and providing time to study and prepare for the increase in spill will allow proper analyses on the best methodology for each dam. Additionally, it also allows sufficient time to consider whether there may be other unintended negative consequences unrelated to salmonid survival, such as the concern expressed with erosion relating to Bonneville Dam.

The Spill Plaintiffs have shown a willingness for spill to be tailored to the needs of each dam as Defendants have raised specific concerns (*e.g.*, offering to reduce requested spill at Bonneville to avoid erosion and at John Day to avoid causing an eddy). The problem with this approach is that Defendants have been raising these concerns in a rushed period while briefing the pending motion. There needs to be sufficient time to identify, test, and address the dam-specific spill needs and issues. Although the Court intends to provide for a robust adaptive management program to allow flexibility to respond to such unintended consequences, having adequate time to prepare beforehand should reduce the number and extent of unintended negative consequences and thus will reduce the number of fish that die while awaiting changes to be implemented under adaptive management.

[8] The Court notes that there must be a way safely to handle navigation during increased spill because there have been times when involuntary spill has been required at levels equal to or greater than those requested by the Spill Plaintiffs.

b. Adaptive management

The Spill Plaintiffs request a new system of adaptive management in which the Corps may make unilateral adjustments to spill under certain involuntary spill conditions and can only make spill adjustment for biological conditions if no member of the FPAC objects. The Court is not inclined at this time to order a new system for implementation, monitoring, and adaptive management of additional court-ordered spill. As explained by Juliet H. Ammann, Chief, Reservoir Control Center, Northwestern Division of the Corps, there is a system currently in place that has been implementing existing court-ordered spill. *See* ECF 2140 at 7-9 (Decl. ¶¶ 16-22). This system includes the Fish Passage Operations and Maintenance group, Technical Management Team ("TMT"), and Regional Implementation Oversight Group ("RIOG"). Specifically, TMT is tasked with recommending real-time operations through monitoring river conditions and provides opportunities for making adjustments. *Id.* at 8 (Decl. ¶ 20). TMT can submit requests to consider changes to planned operations, and if consensus is not reached, RIOG will resolve the issue. *Id.* at 9 (Decl. ¶ 21). The Court also remains available to the parties.

The Spill Plaintiffs offer no evidence that the current system is not sufficiently working to be able to implement additional spill. The Spill Plaintiffs express concern that minority voices need the opportunity to be heard and that current decisionmakers are more policy-focused than science-driven. This latter concern was also echoed by Defendant-Intervenor CSRIA. The Court appreciates that there may be a different system that could be implemented that would include more scientists. But the Court leaves such decisions in the first instance to be made by the experts in the region. Accordingly, at this time, the Court declines to mandate that adaptive management be through a system requiring unanimity among the members of the FPAC. The parties shall confer on an appropriate adaptive management system. If agreement is not reached, the Court will leave the current system (using TMT and RIOG) in place. If, after additional spill

begins, the Spill Plaintiffs or any other party has evidence that the current system is not working, that party may then file a motion with the Court.

c. Spill implementation plan and injunction order

Because the Court is not ordering increased spill to begin until the spring 2018 migration season, the parties and experts in the region have sufficient time to consider an appropriate protocol and methodology for spill at each dam, incorporating the most beneficial spill patterns. Moreover, the Federal Defendants argue that the Spill Plaintiffs' proposed injunction is inappropriate because no shorter-term, within season tests have been performed on any of the dams using increased spill. Now the Federal Defendants have the 2017 spring migration season to conduct short-term tests to consider at least the immediate effects of increased spill. They can evaluate whether unexpected eddies or other problems arise and make immediate adjustments without worrying about being in violation of a court order. These types of tests should inform the experts in the region as they develop appropriate protocols for increased spill in 2018.

The Court will set periodic status conferences to ensure that the parties are making sufficient progress toward a spill implementation plan and proposed injunction order. The Court expects the parties, *amici*, and other regional experts to work together to reach consensus. If the parties cannot reach agreement, the Court will set a briefing schedule and further hearings to resolve any outstanding issues before the 2018 spring migration season.

6. PIT Tag Monitoring

The Spill Plaintiffs assert that there are some indicators that certain listed species are migrating early. The Spill Plaintiffs request that the Federal Defendants begin PIT tag monitoring on March 1 of each year, using established smolt monitoring protocols. The Spill Plaintiffs argue that early monitoring will provide data regarding the important early "tail" of the salmon and steelhead runs, which will help inform future management decisions. The Spill

Plaintiffs offer expert testimony that early monitoring will provide a biological benefit by providing an alternative to turbine passage for outmigrating fish during the pre-spill period and that the early and late tails of a run are particularly important for species diversity. The State of Washington, through its expert Mr. Tweit, agrees that the proposal for earlier PIT tag monitoring "should be considered for immediate implementation. There is strong scientific evidence that the tails of salmon and steelhead runs contain a disproportionate amount of the population traits that support adaptation to environmental changes, such as the conditions witnessed in 2015. Collection of this additional data should begin now . . . ." ECF 2137 at 11 (Decl. ¶ 17).

Defendants do not dispute that early and late tails of a run are important for diversity. Nor do they dispute that there is some evidence that fish are migrating earlier, although they do question the volume of fish that may be migrating early. The primary objections to early PIT tag monitoring are that it is not feasible to begin in 2017 and that Oregon should have made this request through the regional process and not through the Court.

The Court agrees that it is too late this year to begin earlier PIT tag monitoring in 2017. But in light of the importance of the tails of a run for diversity and species adaptation, the Court orders that PIT tag monitoring begin on March 1 of each year of the remand period, beginning in 2018.

D. NEPA Injunction

Plaintiffs argue that the Court should enjoin large capital expenditures at the four Lower Snake River dams because to allow significant sums of money to be spent in long-term investments at the dams for the remaining 4.5 years of the NEPA remand period may result in biased analyses that essentially foreclose the reasonable alternative of breaching, bypassing, or removing dams. Plaintiffs rely primarily on two provisions in NEPA's implementing regulations, 40 C.F.R. §§ 1502.2(f) and 1506.1(a). Section 1502.2(f) provides that: "Agencies shall not

commit resources prejudicing selection of alternatives before making a final decision." Section 1506.1(a) provides that: "Until an agency issues a record of decision as provided in § 1505.2 . . . no action concerning the proposal shall be taken which would: (1) Have an adverse environmental impact; or (2) Limit the choice of reasonable alternatives."

The Court will not enjoin any spending that is necessary for the safe operation of any dam. Regardless of the NEPA process, the Federal Defendants are currently under a statutory obligation to operate the dams and must be allowed to operate them safely. The Court finds that any benefit to the NEPA process in enjoining spending may be outweighed by the risk to human health and safety if dams are not allowed to continue operating in a safe manner. With regard to projects and expenditures that are not required for safe dam operations, however, the Court considers the factors for interim injunctive relief.

1. Success on the Merits

In the 2016 Opinion, the Court found that the Corps and BOR violated NEPA and remanded the case for the agencies to create a single EIS covering FCRPS operations. Thus, Plaintiffs have already succeeded on their underlying NEPA claim.

2. Irreparable Harm

The harm that Plaintiffs seek to redress with this injunction is a biased NEPA process. The Court agrees that generally speaking, this type of harm can be irreparable harm for purposes of a NEPA injunction. The Court is persuaded by the reasoning in *Sierra Club v. Marsh*, 872 F.2d 497, 500 (1st Cir. 1989), which discusses what is sometimes described as the "bureaucratic steamroller" or "bureaucratic momentum" theory, as follows:

> NEPA is not designed to prevent all possible harm to the environment; it foresees that decisionmakers may choose to inflict such harm, for perfectly good reasons. Rather, NEPA is designed to influence the decisionmaking process; its aim is to make government officials notice environmental considerations and take

> them into account. Thus, *when a decision to which NEPA obligations attach is made without the informed environmental consideration that NEPA requires, the harm that NEPA intends to prevent has been suffered*. . . . Moreover, to set aside the agency's action at a later date will not necessarily undo the harm. The agency as well as private parties may well have become committed to the previously chosen course of action, and new information—a new EIS—may bring about a *new* decision, but it is that much less likely to bring about a *different* one. It is far easier to influence an initial choice than to change a mind already made up.
>
> It is appropriate for the courts to recognize this type of injury in a NEPA case, for it reflects the very theory upon which NEPA is based—a theory aimed at presenting governmental decision-makers with relevant environmental data *before* they commit themselves to a course of action. This is not to say that a likely NEPA violation automatically calls for an injunction; the *balance* of harms may point the other way. It is simply to say that a plaintiff seeking an injunction cannot be stopped at the *threshold* by pointing to additional steps between the governmental decision and environmental harm.
>
> In the present case plaintiffs would suffer harm if they were denied an injunction, if the lease sale took place, and if the court *then* held that a supplemental EIS was required. In that event, the successful oil companies would have committed time and effort to planning the development of the blocks they had leased, and the Department of the Interior and the relevant state agencies would have begun to make plans based upon the leased tracts. Each of these events represents a link in a chain of bureaucratic commitment that will become progressively harder to undo the longer it continues. Once large bureaucracies are committed to a course of action, it is difficult to change that course—even if new, or more thorough, NEPA statements are prepared and the agency is told to "redecide." It is this type of harm that plaintiffs seek to avoid, and it is the presence of this type of harm that courts have said can merit an injunction in an appropriate case.

Id. at 500 (quoting *Commonwealth of Massachusetts v. Watt*, 716 F.2d 946, 952-53 (1st Cir. 1983) (emphasis added in *Marsh*)); *see also Friends of the Earth v. Hall*, 693 F. Supp. 904, 913 (W.D. Wash. 1988) (noting that "the risk of bias resulting from the commitment of resources prior to a required thorough environmental review is the type of irreparable harm that results from a NEPA violation"); *cf. Calvert Cliffs' Coordinating Comm. v. Atomic Energy*

Comm'n, 449 F.2d 1109, 1128 (D.C. Cir. 1971) (noting that where large investments affect the NEPA analysis, the NEPA process becomes a "hollow exercise").

Although the Ninth Circuit has not yet expressly adopted the "bureaucratic steamroller" theory, other district courts in this circuit have found it persuasive. For example, in *Protecting Arizona's Res. & Children ("PARC") v. Fed. Highway Admin.*, 2015 WL 12618411 (D. Ariz. July 28, 2015), the court concluded that "under *Marsh*, the Court may consider bureaucratic momentum as a factor in assessing whether environmental harm is likely to occur based on failure to comply with NEPA procedures." *Id.* at *5.

Moreover, the Ninth Circuit has found that financial commitment can constitute an irretrievable commitment of resources for purposes of NEPA. *See Wildwest Inst. v. Bull*, 547 F.3d 1162, 1169 (9th Cir. 2008). In *Wildwest*, the Ninth Circuit analyzed what it means for an agency to take an action that limits the agency's choice of alternatives, which is prohibited under 40 C.F.R. § 1506.1(a). *Id.* at 1168-69. The court analogized this provision to the provisions that trigger when an EIS must be completed. *Id.* at 1168. In those cases, the court had interpreted an EIS as being required only when an agency has "irreversibly and irretrievably" committed resources. *Id.* (citing *Metcalf v. Daley*, 214 F.3d at 1143 (9th Cir. 2000).

In *Wildwest*, the Ninth Circuit discussed how, in cases analyzing when the need for an EIS has been triggered, the commitment of resources was generally natural resources. *Id.* at 1168-69 (discussing *Metcalf*, 214 F.3d at 1144; *Friends of Southeast's Future v. Morrison*, 153 F.3d 1059, 1063-64 (9th Cir. 1998); *Conner v. Burford*, 848 F.2d 1441, 1446, 1449 (9th Cir. 1988)). It is not surprising that, in cases addressing when an EIS is triggered, the primary issue would often involve a commitment relating to natural resources. NEPA requires an EIS for major federal actions that significantly affect the quality of the human environment. 42 U.S.C.

§ 4332(2)(C). The Ninth Circuit in *Wildwest* extended this line of reasoning from the cases discussing when an agency commitment is sufficient to trigger the need for an EIS to when an agency commitment is sufficient to limit its alternatives under 40 C.F.R. § 1506.1(a). 547 F.3d at 1168-69. Thus, the Ninth Circuit held that an agency's "irreversible and irretrievable" commitment of resources may limit its alternatives under Section 1506.1(a). *Id.* In doing so, the court concluded that financial investment alone can, in some circumstances, be an irreversible and irretrievable commitment of resources. *Id.* at 1169.

Defendants argue that tens of millions of dollars cannot rise to the level of commitment required by *Wildwest* because the Ninth Circuit mentioned, by way of example, a commitment of all or most of an agency's limited budget in preparation for only one alternative. That is unavailing for two reasons. First, the Ninth Circuit was providing only one example of when a financial commitment may be considered limiting an agency's alternatives, and there is no indication that example was meant to be exclusive.

Second, the discussion by the Ninth Circuit in *Wildwest* does not mean that a similar level of commitment is required under 40 C.F.R. § 1502.2(f), which prohibits agencies from "prejudicing" the selection of alternatives. The Court must give meaning to the fact that the agency used the term "prejudicing" in § 1502.2(f) and "limiting" in § 1506.1(a). *Cf. Nat'l Fed'n of Indep. Business v. Sebelius*, 132 S. Ct. 2566, 2583 (2012) (noting in the context of statutory interpretation that "[w]here Congress uses certain language in one part of a statute and different language in another, it is generally presumed that Congress acts intentionally"). If "prejudicing" alternatives is construed identically as "limiting" alternatives in § 1506.1(a), then § 1502.2(f) would be superfluous. This is contrary to "the canon of construction that courts interpret statutes so as not to render any section meaningless." *Meng Li v. Eddy*, 324 F.3d 1109, 1110 (9th

Cir. 2003) (citing *Beck v. Prupis*, 529 U.S. 494, 506 (2000)); *see also United States v. Harrell*, 637 F.3d 1008, 1010-11 (9th Cir. 2011) (noting that courts must give effect to each word and "must 'mak[e] every effort not to interpret a provision in a manner that renders other provisions of the same statute inconsistent, meaningless or superfluous'" (alteration in original) (quoting *United States v. Cabaccang*, 332 F.3d 622, 627 (9th Cir. 2003) (en banc))).

The term "limiting" connotes a more definitive restriction than does "prejudicing." *See* BLACK'S LAW DICTIONARY (10th ed. 2014) (defining "limit" as: "1. A restriction or restraint. 2. A boundary or defining line. 3. The extent of power, right, or authority." and defining "prejudice" as "1. Damage or detriment to one's legal rights or claims. . . . 2. A preconceived judgment or opinion formed with little or no factual basis; a strong and unreasonable dislike or distrust. — Also termed *preconception*." (emphasis in original)). Thus, the level of commitment required to "limit" an agency's alternatives is higher than the level commitment required to "prejudice" an agency's alternatives. Accordingly, even if it were required for an agency to spend most or all of its budget on one alternative before it could be found to violate § 1506.1(a) (which the Court does not find is necessitated by the holding in *Wildwest*), the Court holds that a lesser commitment may nonetheless violate § 1502.2(f).

The Court noted in the 2016 Opinion that a compliant NEPA analysis in this case "may well require consideration of the reasonable alternative of breaching, bypassing, or removing one or more of the four Lower Snake River Dams." *NMFS V*, 184 F. Supp. 3d at 942. The "touchstone" of NEPA's alternatives analysis is whether the EIS's "selection and discussion of alternatives fosters informed decision-making and informed public participation." *Headwaters, Inc. v. Bureau of Land Mgmt., Medford Dist.*, 914 F.2d 1174, 1180 (9th Cir. 1990) (quotation marks omitted). The reality is that economic considerations are part of that decisionmaking. In

weighing the environmental benefits of removing, breaching, or bypassing the dams, the costs of such actions also likely will be weighed, as well as the costs of operating the dams. That analysis will be affected if the dams require hundreds of millions in expenditures versus having just had hundreds of millions spent in improvements and maintenance. Considering this fact, the "bureaucratic momentum" theory, the constraints on the Corps dictated by § 1506.1(a), and the limitations on the Corps' actions placed by § 1502.2(f), the Court finds that spending hundreds, tens, or even millions of dollars on the four Lower Snake River Dams during the NEPA remand period is likely to cause irreparable harm by creating a significant risk of bias in the NEPA process. *See, e.g.*, *Wildwest*, 547 F.3d at 1169; *Marsh*, 872 F.2d at 500; *Calvert Cliffs'*, 449 F.2d at 1128; *Hall*, 693 F. Supp. at 913.

3. Balancing the Harms and Considering the Public Interest

a. Current Ice Harbor Projects

Plaintiffs challenge two projects at Ice Harbor Dam: Ice Harbor Turbine Runner Design and Replacement and Ice Harbor Stator Winding Replacement. These projects are estimated to cost $37 million in fiscal years 2018 and 2019. Plaintiffs challenge the replacements at two turbines, Units 1 and 3. Plaintiffs do not challenge improvements being made to Unit 2.

Unit 2, which is not being challenged, is being improved with state-of-the-art nonadjustable blades that are designed to improve fish survival. This design, however, is not suitable at all hydraulic flow levels. Thus, at certain hydraulic flows, Unit 2 cannot operate. Currently, Unit 3 also has nonadjustable blades, due to interim repairs that were previously required. Unit 3 thus cannot be the backup unit when hydraulic flows do not allow Unit 2 to operate.

Unit 1 is the operative adjustable blade unit. Unit 1, however, has had failures in recent years. Thus, if it is not replaced, as currently scheduled, it will at a minimum need repair. The

replacement, however, is with an improved adjustable blade design that is intended to increase juvenile fish survival. If the expected improved fish passage is realized, the Corps intends to implement the new design in other FCRPS dams.

Unit 3 also has had failures in recent years. The interim repairs done to keep the turbine operating potentially increase the harm to fish passage and result in less efficient operation. Additionally, even with interim repairs, the turbine performs poorly and needs replacement.

The Court recognizes the importance of an unbiased NEPA process and the chance for all reasonable alternatives to be considered without undue economic influence. These specific Ice Harbor Dam projects, however, have a primary benefit of increasing fish survival. As the Court has repeatedly noted, including in this Opinion and Order in discussing increased spill, the fish are in need of improved survival now. Improvements at Ice Harbor Dam that result in immediate increased survival of listed species are given great weight in balancing the harms and considering the public interest. *Cottonwood*, 789 F.3d at 1090 (noting that saving endangered species is given the highest priority and is of incalculable public interest). Although the Court has found likely irreparable harm from significant expenditures, in considering these specific projects, the Court finds that the balance of harms and public interest weighs against the specific injunction being requested. *See Marsh*, 872 F.2d at 500 (noting that even when irreparable harm is found, it does not necessitate an injunction because "the *balance* of harms may point the other way" (emphasis in original)).

b. Future Projects

The Court cannot evaluate the balance of harms or public interest in unknown future projects. As the Court has noted, it will not enjoin projects that are needed for the safe operation of the dams. The Court also is not inclined to enjoin projects that provide substantial immediate

survival improvement for the listed species. Thus, the Court does not find a blanket injunction against all future projects of more than $ 1 million to be appropriate.

The Court, however, is concerned with the potential for the irreparable harm that the Court has found likely. Accordingly, the Court will require the Federal Defendants to disclose sufficient information to Plaintiffs regarding the planned projects at each dam during the NEPA remand period, at appropriate and regular intervals. If Plaintiffs believe that a project is not needed for safe operation of the dams and substantially may bias the NEPA process, Plaintiffs may file a new motion with the Court to enjoin any such project.

Within 14 days from the date of this Opinion and Order, the Federal Defendants, after conferring with Plaintiffs, shall submit their proposal for a reasonable process and schedule for providing Plaintiffs the information, including timing (quarterly, annually, etc.) and what information should be included in their disclosure to Plaintiffs. Plaintiffs may, at their discretion, file any response or objection within 14 days. Defendants may then have 14 days to reply.

CONCLUSION

The motions for injunctive relief requested by Plaintiffs, including Oregon, (ECF 2112 and 2114) are GRANTED IN PART, as set forth in this Opinion and Order. The Court intends to hold periodic status conferences regarding the increased spill that must take place in 2018 and its related planning before then. Within 28 days, the parties shall confer and file with the Court their joint or separate recommendations for a schedule of periodic status conferences.

IT IS SO ORDERED.

DATED this 27th day of March, 2017.

/s/ *Michael H. Simon*
Michael H. Simon
United States District Judge

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To: "Chambers, Micah"
Subject: RE: Wednesday Morning Secretarial Orders
Date: Tuesday, March 28, 2017 4:07:52 PM
Attachments: image001.png
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> My understanding is that CRA is still in play. It was just mentioned in the call that venting/flaring was on the table in the EO. That would be new as of this morning, so we certainly still prefer a CRA and it's not in our list of Secretarial orders for tomorrow.
>
> On Tue, Mar 28, 2017 at 10:21 AM, Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov> wrote:
>
> > Micah,
> > You can confirm us attending. Also, do you know if methane will be included in the orders? Are we giving up on a CRA for it?
> >
> > Ryan Bernstein
> > U.S. Senator John Hoeven
> > 202-224-2551
> >
> > **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> > **Sent:** Monday, March 27, 2017 6:27 PM

To: Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Thank you. Hopefully we'll have more specifics for attendees tomorrow than the blurb I just sent you. Appreciate you working with us last minute. If you'll be at the signing tomorrow, I might see you there.

On Mon, Mar 27, 2017 at 6:25 PM, Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov> wrote:

> We will likely make this work.
>
> Ryan Bernstein
> U.S. Senator John Hoeven
> 202-224-2551
>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Monday, March 27, 2017 6:04 PM
> **To:** Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>
> **Subject:** Fwd: Wednesday Morning Secretarial Orders
>
> Ryan. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.
>
> If he can attend, we'd appreciate it. We'd ask for the Senator and two staff max.
>
> --
> Micah Chambers
> Special Assistant / Acting Director
> Office of Congressional & Legislative Affairs
> Office of the Secretary of the Interior

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You
Tube

From: Daimler-Nothdurft, Kristen (Murkowski)
To: Chambers, Micah
Subject: RE: Wednesday Morning Secretarial Orders
Date: Tuesday, March 28, 2017 5:13:39 PM

Thanks for trying! ☺

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 5:10 PM
To: Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

NVM. Security just nixed that possible plan. My bad.

On Tue, Mar 28, 2017 at 5:07 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> Kristen. If you want, we may be able to reserve a street spot for the Senator. If you send me the Driver, Car's Make, Model, Color, Year and Plates asap, we'll try and get that done. Just let me know.
>
> Micah
>
> On Tue, Mar 28, 2017 at 11:57 AM, Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov> wrote:
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> > Not a worry!
> >
> > Kristen Daimler Nothdurft
> > Executive Assistant/Scheduler
> > Office of Senator Lisa Murkowski
> > Hart Senate Office Building, room 522
> > Washington, DC 20510
> > 202-224-6665 phone
> > 202-224-4349 scheduling fax
> >
> > **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> > **Sent:** Tuesday, March 28, 2017 11:54 AM
> >
> > **To:** Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>

Cc: Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Parking will be an issue. Half our garage is under construction right now and it requires extra coordination to get it through security. If it's a necessity to being on time though, let us know and we'll sort it out.

Location: 1849 C St, NW

Timing--
Arrive NLT 9:45AM - Members/Senators arrive at the C Street Entrance

Greeted by: Wadi, Caroline (TBD), Micah or Amanda

10:00AM Hard Start - Signing Ceremony Begins

Reminder: we must have the list of all staff by COB today for Security. And for the schedule.

Garage parking isn't available except under certain circumstances.

On Tue, Mar 28, 2017 at 11:14 AM, Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov> wrote:

> Let me know where I should send her for address/door. Is it possible to have parking – if not I will have the driver circle – no issue
>
> Kristen Daimler Nothdurft
> Executive Assistant/Scheduler
> Office of Senator Lisa Murkowski
> Hart Senate Office Building, room 522
> Washington, DC 20510
> 202-224-6665 phone
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>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Tuesday, March 28, 2017 11:10 AM
> **To:** Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
> **Cc:** Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>
> **Subject:** Re: Wednesday Morning Secretarial Orders
>
> Hi Kristen. We'll make it work for the Senator. We'll most likely ask people to show up at 945 for a prompt 10 am start time. We have space for two staffers, so we'll plan on Colin and Brian being here, unless you all meant someone different.
>
> Thanks again.
>
> On Tue, Mar 28, 2017 at 10:16 AM, Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov> wrote:

Micah – I can now get her there in the morning if that is possible but I have to have her back on hill by 10:30 for a hearing and thus I'd have to get her out of there by 10:20. Would that work? Also can she bring her Staff Director and Deputy Staff Director? Thank you!!!!!

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

From: Daimler-Nothdurft, Kristen (Murkowski)
Sent: Monday, March 27, 2017 6:51 PM
To: Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>; 'Chambers, Micah' <micah_chambers@ios.doi.gov>
Subject: Re: Wednesday Morning Secretarial Orders

The Senator thanks for you the thoughtful gesture but must attend a hearing during that time and thus sends her regrets.

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 709
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

Sent from my blackberry.

From: Hayes, Colin (Energy)
Sent: Monday, March 27, 2017 5:57 PM
To: 'Chambers, Micah'
Cc: Daimler-Nothdurft, Kristen (Murkowski)
Subject: RE: Wednesday Morning Secretarial Orders

Micah –

Thank you for thinking of us. Adding Kristen to see if it can fit on the Chairman's schedule.

Colin

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 5:49 PM

To: Hayes, Colin (Energy)
Subject: Wednesday Morning Secretarial Orders

Colin. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.

If she can attend, we'd appreciate it. We'd ask for the Senator and two staff max.

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Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Newman, Jennifer (Hoeven)
To: "Chambers, Micah"
Subject: RE: Wednesday Morning Secretarial Orders
Date: Tuesday, March 28, 2017 5:14:12 PM
Attachments: image001.png
image002.png
image003.png
image004.png

Wonderful, thanks!

Jen Newman
Senator John Hoeven (R-ND)
338 Russell Senate Office Building | (202) 224-2551 | www.hoeven.senate.gov

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 4:32 PM
To: Newman, Jennifer (Hoeven) <Jennifer_Newman@hoeven.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

I've forwarded it on. I will confirm bf the end of the night if parking is set up. along with the directions.

On Tue, Mar 28, 2017 at 4:29 PM, Newman, Jennifer (Hoeven) <Jennifer_Newman@hoeven.senate.gov> wrote:

> Also, the plates are from (b) (6) .
>
> **Jen Newman**
> Senator John Hoeven (R-ND)
> 338 Russell Senate Office Building | (202) 224-2551 | www.hoeven.senate.gov
>
>
>
> ---
>
> **From:** Newman, Jennifer (Hoeven)
> **Sent:** Tuesday, March 28, 2017 4:29 PM
> **To:** 'Chambers, Micah' <micah_chambers@ios.doi.gov>
>
> **Subject:** RE: Wednesday Morning Secretarial Orders
>
> Chevrolet, Suburban, 2011, Black, (b) (6) and Senator Hoeven will drive himself. Shawn Affolter will accompany him in the car.
>
> Thanks!
>
> **Jen Newman**
> Senator John Hoeven (R-ND)

338 Russell Senate Office Building | (202) 224-2551 | www.hoeven.senate.gov

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 4:26 PM
To: Newman, Jennifer (Hoeven) <Jennifer_Newman@hoeven.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Let me see what we can do. I know I will need the Make, Model, Year, Color, Plates and Driver's info asap, cause it has to be submitted to security before COB.

On Tue, Mar 28, 2017 at 4:07 PM, Newman, Jennifer (Hoeven) <Jennifer_Newman@hoeven.senate.gov> wrote:

> If he could park there, it would be much appreciated. He drives himself, which could cause him to be late if he can't find a spot.
>
> Thank you!
>
> **Jen Newman**
> Senator John Hoeven (R-ND)
> 338 Russell Senate Office Building | (202) 224-2551 | www.hoeven.senate.gov
>
>
>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Tuesday, March 28, 2017 3:32 PM
> **To:** Newman, Jennifer (Hoeven) <Jennifer_Newman@hoeven.senate.gov>
>
> **Subject:** Re: Wednesday Morning Secretarial Orders
>
> Jen. I'm sorry, I thought I sent this to you.
>
> Parking will be an issue. Half our garage is under construction right now and it requires extra coordination to get it through security. If it's a necessity to being on time though, let us know and we'll try to sort it out.
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> Location: 1849 C St, NW
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> Timing--
> Arrive NLT 9:45AM - Members/Senators arrive at the C Street Entrance
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> Greeted by: Wadi, Caroline (TBD), Micah or Amanda
>
> 10:00AM Hard Start - Signing Ceremony Begins
>
> Garage parking isn't available except under certain circumstances.
>
> On Tue, Mar 28, 2017 at 11:22 AM, Newman, Jennifer (Hoeven) <Jennifer_Newman@hoeven.senate.gov> wrote:
>
> > Micah,

Shawn Affolter and the Senator will attend tomorrow morning. Will there be parking?

Thanks,

Jen Newman
Senator John Hoeven (R-ND)
338 Russell Senate Office Building | (202) 224-2551 | www.hoeven.senate.gov

---

From: Bernstein, Ryan (Hoeven)
Sent: Tuesday, March 28, 2017 11:13 AM
To: Chambers, Micah <micah_chambers@ios.doi.gov>
Cc: Newman, Jennifer (Hoeven) <Jennifer_Newman@hoeven.senate.gov>
Subject: RE: Wednesday Morning Secretarial Orders

Looping in Jen. She can provide you the names and then she can get the logistical details from you.

Ryan Bernstein
U.S. Senator John Hoeven
202-224-2551

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 11:08 AM
To: Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

Ryan. If you can send the names of the staff that will be coming with the Senator by 3 pm it'd be appreciated. Thanks again.

Micah

On Tue, Mar 28, 2017 at 10:25 AM, Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov> wrote:

> Thanks.
>
> Ryan Bernstein
> U.S. Senator John Hoeven
> 202-224-2551
>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Tuesday, March 28, 2017 10:24 AM
>
> **To:** Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>

Subject: Re: Wednesday Morning Secretarial Orders

My understanding is that CRA is still in play. It was just mentioned in the call that venting/flaring was on the table in the EO. That would be new as of this morning, so we certainly still prefer a CRA and it's not in our list of Secretarial orders for tomorrow.

On Tue, Mar 28, 2017 at 10:21 AM, Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov> wrote:

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> You can confirm us attending. Also, do you know if methane will be included in the orders? Are we giving up on a CRA for it?
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> U.S. Senator John Hoeven
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> **To:** Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>
> **Subject:** Re: Wednesday Morning Secretarial Orders
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> > We will likely make this work.
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> > U.S. Senator John Hoeven
> > 202-224-2551
> >
> > **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> > **Sent:** Monday, March 27, 2017 6:04 PM
> > **To:** Bernstein, Ryan (Hoeven) <Ryan_Bernstein@hoeven.senate.gov>
> > **Subject:** Fwd: Wednesday Morning Secretarial Orders
> >
> > Ryan. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.
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> > If he can attend, we'd appreciate it. We'd ask for the Senator and two staff max.
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Micah Chambers
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Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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From: Hunn, Jocelyn
To: "Freihage, Jason"
Subject: RE: call
Date: Tuesday, March 28, 2017 5:51:21 PM

Jason,

When you called in they gave out a new number to call into! You really didn't miss anything as it was less factual and more of a pep rally about how wonderful the E.O. was. They would not release any advance copies and have now posted the E.O. on whitehouse.gov so the details can be compared to the information contained in the Post and E&E. I a number of DOI riders may be affected and sent the following list to Adrianne to confirm if my assumptions are correct:

House Sec. 122—Oil and Gas Royalties
House Sec. 436—Social Cost of Carbon
House Sec. 440—Royalty Rates on Coal, Oil, Gas Leases (Interior has already informed coal, oil and gas companies they do not have to comply with new ONRR method of calculating royalties for mineral extraction on federal land, delaying the rule's effective date to allow the administration to conduct a detailed review. Does the E.O. just memorialize this action?)
House Sec. 441—Coal PEIS
House Sec. 460—Management Non-Federal Oil and Gas
House Sec. 466—BLM Hydraulic Fracturing Rule

Thanks and hope to talk to you again soon.
Best,
Jocelyn Buck Hunn
U.S. House of Representatives
Committee on Appropriations Democrats
1016 Longworth
202-225-3481

From: Freihage, Jason [mailto:jason_freihage@ios.doi.gov]
Sent: Tuesday, March 28, 2017 10:41 AM
To: Hunn, Jocelyn <Jocelyn.Hunn@mail.house.gov>
Subject: call

Thanks for the heads up on the call. I did get the call in information but the conference line was full by the time I called in. Let me know if there were any points of interest.

Cheers,

JF

--
Jason Freihage

Chief, Division of Budget and Program Review

DOI Office of Budget
desk: 202.513.0737
cell: 202.531.7799

From:	Daimler-Nothdurft, Kristen (Murkowski)
To:	Chambers, Micah
Cc:	Dodd, Phillip (Murkowski)
Subject:	RE: Wednesday Morning Secretarial Orders
Date:	Tuesday, March 28, 2017 6:22:34 PM
Attachments:	car.xlsx

Here you go! I have it on file for White House requests ☺
Phillip will be driving her so I added him so he knows theres parking tomorrow.

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 6:18 PM
To: Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
Subject: Re: Wednesday Morning Secretarial Orders

You're gonna think I've gone insane. Our security guy got back to us and will have a street spot available for you now, but I still need the info from you to make that happen. I'm really sorry for the back and forth. At least we're trying...a lot. haha

On Tue, Mar 28, 2017 at 5:13 PM, Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov> wrote:

> Thanks for trying! ☺
>
> Kristen Daimler Nothdurft
> Executive Assistant/Scheduler
> Office of Senator Lisa Murkowski
> Hart Senate Office Building, room 522
> Washington, DC 20510
> 202-224-6665 phone
> 202-224-4349 scheduling fax
>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Tuesday, March 28, 2017 5:10 PM
> **To:** Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
> **Subject:** Re: Wednesday Morning Secretarial Orders
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> NVM. Security just nixed that possible plan. My bad.
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wrote:

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> > **To:** Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
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> > **Subject:** Re: Wednesday Morning Secretarial Orders
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> > Location: 1849 C St, NW
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> > Greeted by: Wadi, Caroline (TBD), Micah or Amanda
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> > > Let me know where I should send her for address/door. Is it possible to have parking – if

not I will have the driver circle – no issue

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Executive Assistant/Scheduler
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Sent: Tuesday, March 28, 2017 11:10 AM
To: Daimler-Nothdurft, Kristen (Murkowski) <Kristen_Daimler-Nothdurft@murkowski.senate.gov>
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> ---
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> **From:** Daimler-Nothdurft, Kristen (Murkowski)
> **Sent:** Monday, March 27, 2017 6:51 PM
> **To:** Hayes, Colin (Energy) <Colin_Hayes@energy.senate.gov>; 'Chambers, Micah' <micah_chambers@ios.doi.gov>
> **Subject:** Re: Wednesday Morning Secretarial Orders
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> The Senator thanks for you the thoughtful gesture but must attend a hearing during that time and thus sends her regrets.

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Executive Assistant/Scheduler
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Hart Senate Office Building, room 709
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Sent from my blackberry.

From: Hayes, Colin (Energy)
Sent: Monday, March 27, 2017 5:57 PM
To: 'Chambers, Micah'
Cc: Daimler-Nothdurft, Kristen (Murkowski)
Subject: RE: Wednesday Morning Secretarial Orders

Micah –

Thank you for thinking of us. Adding Kristen to see if it can fit on the Chairman's schedule.

Colin

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, March 27, 2017 5:49 PM
To: Hayes, Colin (Energy)
Subject: Wednesday Morning Secretarial Orders

Colin. Thanks for chatting. We'd be looking at a Sec. Orders Signing Wednesday morning at 10-1030 am. We're focusing on reestablishing the Royalty Policy Committee, Federal Coal Moratorium, Fracking rule and other Oil/Gas on Federal Land issues along with Compensatory Mitigation for pipelines.

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From:	Christianson, Andrew
To:	Chambers, Micah
Subject:	RE: Zinke Signing Ceremony - 3.28.17
Date:	Tuesday, March 28, 2017 6:36:01 PM
Attachments:	image002.png image003.png

Thanks Micah,
Do you have a quick roster of other members that will be in attendance? See you tomorrow.

Andrew Christianson
Deputy Chief of Staff
Congresswoman Kristi Noem (SD-AL)
We've moved 2457 Rayburn House Office Building
Washington, DC 20515
202-225-2801
Connect with Congresswoman Noem

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 6:33 PM
To: Micah Chambers
Cc: Amanda Kaster; Caroline Boulton
Subject: Zinke Signing Ceremony - 3.28.17

All.

Thank you for being willing to attend tomorrow's ceremony, especially with such short notice. Details are all below. A press release/top line summary will be released tomorrow morning prior to the event.

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You will need photo ID

Topline Issues: the Secretary will sign several Secretarial Orders to reflect POTUS action on energy. These include:

- Lifting the Federal Coal Leasing Moratorium.
- Withdrawing previous Secretary's Orders on Mitigation and oil & gas prohibitions.

- Announcing the reestablishing of the Royal Policy Committee.

Press: YES

Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

--

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

fr

From:	Newman, Jennifer (Hoeven)
To:	"Chambers, Micah"
Subject:	RE: Zinke Signing Ceremony - 3.28.17
Date:	Tuesday, March 28, 2017 6:41:23 PM
Attachments:	image001.png image002.png image003.png image004.png

---

Hi Micah,

Were you able to figure out parking for my boss?

Thanks,

Jen Newman
Senator John Hoeven (R-ND)
338 Russell Senate Office Building | (202) 224-2551 | www.hoeven.senate.gov

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Tuesday, March 28, 2017 6:33 PM
To: Micah Chambers <micah_chambers@ios.doi.gov>
Cc: Amanda Kaster <amanda_kaster@ios.doi.gov>; Caroline Boulton <caroline_boulton@ios.doi.gov>
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Press: YES

Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

--

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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Tube

From:	Newman, Jennifer (Hoeven)
To:	Chambers, Micah
Cc:	Daimler-Nothdurft, Kristen (Murkowski)
Subject:	Re: Zinke Signing Ceremony - 3.28.17
Date:	Tuesday, March 28, 2017 7:00:17 PM
Attachments:	image001.png image002.png image003.png image004.png image001.png image003.png image004.png

---

That's perfect, thank you!

Sent from my iPhone

On Mar 28, 2017, at 6:46 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> Parking. We will have reserved street parking on c street right in front of the building at the address given. No garage. Either someone will direct you or you'll see the spots blocked off.
>
> Micah
>
> On Tue, Mar 28, 2017 at 6:41 PM, Newman, Jennifer (Hoeven) <Jennifer_Newman@hoeven.senate.gov> wrote:
>
> > Hi Micah,
> >
> > Were you able to figure out parking for my boss?
> >
> > Thanks,
> >
> > **Jen Newman**
> >
> > Senator John Hoeven (R-ND)
> >
> > 338 Russell Senate Office Building | (202) 224-2551 | www.hoeven.senate.gov
> >
> > <image002.png>
> >
> > **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]

Sent: Tuesday, March 28, 2017 6:33 PM
To: Micah Chambers <micah_chambers@ios.doi.gov>
Cc: Amanda Kaster <amanda_kaster@ios.doi.gov>; Caroline Boulton <caroline_boulton@ios.doi.gov>
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- Announcing the reestablishing of the Royal Policy Committee.

Press: YES

Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

--

Micah Chambers

Special Assistant / Acting Director

Office of Congressional & Legislative Affairs

Office of the Secretary of the Interior

--

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

You
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From: Marohl, Chris
To: Chambers, Micah
Cc: Jorde, Adam
Subject: Re: Zinke Signing Ceremony - 3.28.17
Date: Tuesday, March 28, 2017 7:48:36 PM

Hey Micah, do you have more info on bullet 2? Thanks. Chris

Sent from my iPhone

On Mar 28, 2017, at 6:07 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> *Royalty Policy Committee
>
> I'm allowed at least one mistake. See you all tomorrow.
>
> On Tue, Mar 28, 2017 at 6:32 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:
>
> All.
>
> Thank you for being willing to attend tomorrow's ceremony, especially with such short notice. Details are all below. A press release/top line summary will be released tomorrow morning prior to the event.
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> - Announcing the reestablishing of the Royal Policy Committee.
>
> **Press:** YES
>
> **Industry:** YES
>
> **POC:** Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508
>
> --

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Marohl, Chris
To: Chambers, Micah
Cc: Jorde, Adam
Subject: Re: Zinke Signing Ceremony - 3.28.17
Date: Tuesday, March 28, 2017 8:57:40 PM

Never mind. I assume it's everything applicable to the Secretary from the President's EO today?

Sent from my iPhone

On Mar 28, 2017, at 6:48 PM, Marohl, Chris <Chris.Marohl@mail.house.gov> wrote:

> Hey Micah, do you have more info on bullet 2? Thanks. Chris
>
> Sent from my iPhone
>
> On Mar 28, 2017, at 6:07 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:
>
> > *Royalty Policy Committee
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> > I'm allowed at least one mistake. See you all tomorrow.
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- Withdrawing previous Secretary's Orders on Mitigation and oil & gas prohibitions.
- Announcing the reestablishing of the Royal Policy Committee.

Press: YES

Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Turner, Carolyn
To: Kaster, Amanda
Subject: Re: Zinke Signing Ceremony - 3.28.17
Date: Wednesday, March 29, 2017 7:13:56 AM

Hi Amanda,

A quick update--the Chairman will be accompanied today by staffer Adam Stewart and myself. Please let me know if you have any questions.
Thank you,

Carolyn

On Mar 28, 2017, at 6:41 PM, Kaster, Amanda <amanda_kaster@ios.doi.gov> wrote:

> FYI.
>
> ---------- Forwarded message ----------
> From: **Chambers, Micah** <micah_chambers@ios.doi.gov>
> Date: Tue, Mar 28, 2017 at 6:32 PM
> Subject: Zinke Signing Ceremony - 3.28.17
> To: Micah Chambers <micah_chambers@ios.doi.gov>
> Cc: Amanda Kaster <amanda_kaster@ios.doi.gov>, Caroline Boulton <caroline_boulton@ios.doi.gov>
>
> All.
>
> Thank you for being willing to attend tomorrow's ceremony, especially with such short notice. Details are all below. A press release/top line summary will be released tomorrow morning prior to the event.
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- Announcing the reestablishing of the Royal Policy Committee.

Press: YES

Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Amanda Kaster-Averill
Special Assistant
Office of Congressional and Legislative Affairs
U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov

From:	Marino Thacker, Meghan (Daines)
To:	Amanda Kaster (amanda_kaster@ios.doi.gov); Micah Chambers (micah_chambers@ios.doi.gov)
Subject:	FW: Bloomberg: U.S. Review to Weigh Higher Royalties for Energy on Federal Land
Date:	Wednesday, March 29, 2017 7:57:05 AM

What is this 2 year review?

Subject: Bloomberg: U.S. Review to Weigh Higher Royalties for Energy on Federal Land

NOTE: *Zinke pushed a similar idea while serving in the House of Representatives alongside Senator Steve Daines, a fellow Republican from Montana.*

U.S. Review to Weigh Higher Royalties for Energy on Federal Land
Bloomberg
https://www.bloomberg.com/politics/articles/2017-03-29/u-s-review-to-weigh-higher-royalties-for-energy-on-federal-land

U.S. Interior Secretary Ryan Zinke is kick-starting a process that could lead to companies paying higher royalties for oil, gas and other energy resources they extract from federal land.

The two-year review, to be formally authorized Wednesday, is designed to determine whether Americans are getting a fair return for those natural resources, he said in an interview.

"We're going to re-evaluate royalty rates across the board," Zinke said, stressing that the analysis will touch on the price developers pay for generating renewable power as well as unearthing fossil fuels. His approach is rooted in the idea that "what we do on public lands is in the best interest of the taxpayer. I want to make sure the taxpayer gets value out of it," Zinke said.

The move will coincide with action by Zinke to resume selling new leases to mine coal from federal land, following a directive issued by President Donald Trump on Tuesday. Zinke will revoke an order from his predecessor that halted those sales in January 2015 and end a broad environmental review of the coal leasing program that the Obama administration launched at the same time.

That environmental assessment was designed to evaluate ways to modernize how the U.S. sells coal on federal land -- including whether it should happen in the first place. The Obama administration issued a blueprint for possible changes in January, such as tacking a carbon fee onto coal leases to account for climate change and requiring payments into a fund that could

help out-of-work miners.

Years of Analysis

Zinke said that with at least two more years of analysis to go, that process would take too long and be too costly -- and is an unnecessary formality for making any potential improvements to the coal leasing program. Proposed coal leases already go through separate tailored environmental reviews, he said.

Conservationists have argued those discrete assessments of individual sales aren't sufficient to solve various problems with the current coal program, including how to guarantee the reclamation of old sites, boost competition and ensure taxpayers get a fair return.

The new advisory committee, focused on just one of those concerns, could recommend a suite of changes. Zinke said he would not prejudge the outcome, which could include recommendations for lower or higher royalty rates as well as other modifications.

Previous Effort

When former Interior Secretary Ken Salazar raised the prospect of higher royalty rates for onshore oil and gas development, energy companies cried foul. Industry trade groups said a hike in rates would discourage developers from drilling on federal land. Across-the-board changes were never adopted, though a Bureau of Land Management regulation imposed last year gives the agency the discretion to boost rates in some cases. That measure, which chiefly aims to reduce the venting and flaring of natural gas on federal land, is the target of repeal legislation in Congress.

In the long run, Zinke said, energy companies will be more interested in bidding on territory -- and maybe pay a higher price -- if they have better chances of development, as the Interior Department reviews Obama-era regulations, including mandates on the hydraulic fracturing process used to stimulate the production of oil and gas.

"We think that by reducing some of this uncertainty, at least on the regulatory environment, that we will be able to get a better price-point for that," Zinke said. "The taxpayer wins, and the industry will win by having a clearer choice based on market conditions whether they should go forward and invest or not."

Committee Membership

The group Zinke is set to authorize Wednesday will have as many as 28 members representing Indian tribes, states that contain federal lands with significant energy development, public

interest groups, academia and other stakeholders. Zinke said it will exclude members who have dealings with the Interior Department to avoid potential ethical conflicts.

Zinke pushed a similar idea while serving in the House of Representatives alongside Senator Steve Daines, a fellow Republican from Montana.

While Zinke emphasized that he isn't prejudging the outcome of the committee's review, it follows a series of reports suggesting the U.S. isn't getting a fair return for oil and gas extracted from its public lands. The Government Accountability Office has blamed Interior Department regulations that fix the royalty rate at 12.5 percent of the value of oil and gas pulled from onshore federal territory -- generally lower than the amount charged by Wyoming, New Mexico, Colorado, Utah and other Western states.

That 12.5 percent rate for onshore production hasn't been updated in nearly a century, though the administration of former President George W. Bush boosted the royalty charged for offshore oil and gas development to 18.75 percent.

'Studied to Death'

The nonpartisan Congressional Budget Office estimated last year that the federal government would net an extra $200 million in income if onshore oil and gas royalties also were increased to 18.75 percent.

"This is an area that has already been studied to death and could be fixed immediately by bringing royalty rates more in line with what states and private landowners charge," said Matt Lee-Ashley, a senior fellow with the Center for American Progress. "There is hardly a need for yet another committee, but hopefully Secretary Zinke is serious about being fair to taxpayers, doesn't just stack the deck with oil industry allies and takes some action within months -- not years."

The Interior Department generally would have to propose and adopt new rules to revise royalties for wind and solar production as well as oil, gas and coal development. Zinke said he would follow up on the committee's eventual recommendations "and put rules forth that are appropriate."

Zinke stressed safeguards are necessary.

"As a lifetime conservationist, and one who loves Teddy Roosevelt, industry does not regulate themselves," he said. "And our public land is for the benefit and enjoyment of the people -- with a big emphasis on benefit."

From:	Small, Jeff
To:	"katharine_macgregor@ios.doi.gov"; kathleen_benedetto@ios.doi.gov
Subject:	Timely Sage Grouse Approps Langauge Request
Date:	Wednesday, March 29, 2017 9:18:29 AM
Attachments:	image001.png image002.png image003.png Sage Grouse Dear Colleague and Letter.docx CRS Sage Grouse Report.pdf

---

Hi Kate and Kathy,

Hope you are doing well.

No one was leading a Sage Grouse Appropriations s request this year. Chairman Gosar thought we really need to do one and since no one else would, he decided to take the lead.

Here is our current short summary:

FY18 Approps: Western Caucus Chairman Gosar seeks signers for language request to reverse overly restrictive Resource Management Plan Amendments (RMPs) and Land and Resource Management Plan (LRMPs) amendments under the guise of protecting Sage Grouse. DEADLINE NOON WEDNESDAY, MARCH 29.

Current Signers: Rob Bishop, Gosar, Pearce, Tipton, Yoho

The Department of Interior under the Obama Administration found in 2015 that a listing of the Sage Grouse under the Endangered Species Act (ESA) was not warranted. However, the agency unilaterally chose to implement a de facto listing through overly restrictive Resource Management Plan (RMPs) Amendments and Land and Resource Management Plan (LRMPs) Amendments. These RMPs and LRMPs are in many cases as restrictive as a critical habitat designation would be under an ESA listing. These amendments were not warranted and sought to prevent responsible mineral production and other activities across 11 Western states. The Obama Administration also sought to withdraw 10 million acres of the bird's habitat from future mining activity. Congress must act to prevent severe economic losses to the U.S. economy and to ensure military readiness on affected military ranges is not compromised.

Please contact Jeff Small at Jeff.Small@mail.house.gov to sign.

Draft letter and longer dear colleague are attached.

Here is the actual language that was included in last fiscal year's engrossed Interior Approps bill as a result of Mr. Amodei's amendment. We have been working with Amodei and Chairman Bishop's staff on this request this year. We have this language from last fiscal year in the draft letter currently. However, Jason in Amodei's office correctly pointed out that we needed to update this language since the ROD's were issued as well as the RMPs and LRMPs after last year's language.

(a) None of the funds made available by this or any other Act may be used—

(1) to review the status of or determine whether the greater sage-grouse is an endangered species or a threatened species pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or to issue a regulation with respect thereto that

applies to any State with a State management plan;

(2) to makeor extend any withdrawal pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) within any Sagebrush Focal Area published in the Federal Register on September 24, 2015 (80 Fed. Reg. 57635 et seq.), in a manner inconsistent with a State management plan; or

(3) to implement, amend, or otherwise modify any Federal resource management plan applicable to Federal land in a State with a State management plan, in a manner inconsistent with such State management plan.
(b) For the purposes of this section—

(1) the term "Federal resource management plan" means—

(A) a land use plan prepared by the Bureau of Land Management for public lands pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

(B) a land and resource management plan prepared by the Forest Service for National Forest System lands pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(2) the term "greater sage-grouse" means the species Centrocercus urophasianus or the Columbia Basin distinct population segment of greater sage-grouse; and

(3) the term "State management plan" means a State-wide plan for the protection and recovery of greater sage-grouse that has been approved by the Governor of such State.

We are under as tight timeframe as this letter needs to be submitted to the Approps Committee tomorrow.

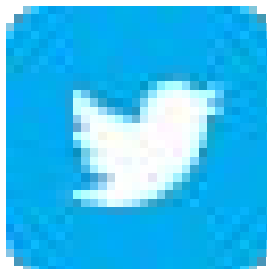
Can you all possibly help update the actual language request that we are trying to get into the base bill to reflect the ROD's that were issued as well as the RMPs and LRMPs after last year's language? Also open to doing something about the mineral withdraw.

My direct is 202-226-8272 if you have questions.

Let me know if you would.

Sincerely,

Jeff Small
Executive Director | *Congressional Western Caucus*
Senior Advisor | *Congressman Paul A. Gosar, D.D.S.*
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov



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Support a viable State-Based Approach for Sage Grouse Recover Efforts

THIS IS A LANGUAGE RE UEST
Members are re uired to submit the re uest online.
Deadline to sign on is NOON on Wednesday, March 29.

Dear Colleague:

The Department of Interior under the Obama Administration found in 2015 that a listing of the Sage Grouse under the Endangered Species Act (ESA) was not warranted. However, the agency unilaterally chose to implement a de facto listing through overly restrictive Resource Management Plan (RMPs) Amendments and Land and Resource Management Plan (LRMPs) Amendments. These RMPs and LRMPs are in many cases as restrictive as a critical habitat designation would be under an ESA listing. These misguided amendments were not warranted and sought to prevent responsible mineral production and other activities across 11 Western states.

The Obama Administration also sought to withdraw 10 million acres of the bird s habitat from future mining activity. The Obama Administration s scheme to use the Sage Grouse as an excuse to shut down virtually all development on large swaths of public lands in the West, particularly oil, gas, and mineral development, has resulted in devastating impacts for local economies. These unlawful amendments are already having a negative impact for our nation s energy and natural resource independence. Congress must act to prevent severe economic losses to the U.S. economy and to ensure military readiness on affected military ranges is not compromised.

This language request is identical to Section 114 of the engrossed version of H.R. 5538 that passed the House last Congress. We must retain this important provision.

The text of the letter is below. Please contact Jeff Small at jeff.small mail.house.gov if your boss would like to lead or sign this letter. Instructions will be sent along with the final signed letter for submitting this request.

Sincerely,

Paul A. Gosar, D.D.S
Member of Congress

March XX, 2017

The Honorable Ken Calvert
Chairman
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
U.S. House of Representatives
2007 Rayburn HOB
Washington, DC 20515

The Honorable Betty McCollum
Ranking Member
Committee on Appropriations

Subcommittee on Interior, Environment, and Related Agencies
U.S. House of Representatives

1016 Longworth HOB
Washington, DC 20515

Dear Chairman Calvert and Ranking Member McCollum:

As you begin crafting the Fiscal Year 2018 Interior, Environment, and Related Agencies Appropriations bill, we encourage the subcommittee to reject the Obama Administration's unilateral actions on the Greater Sage Grouse.

The Department of Interior under the Obama Administration found in 2015 that a listing of the Sage Grouse under the Endangered Species Act (ESA) was not warranted. However, the agency unilaterally chose to implement a de facto listing through overly restrictive Resource Management Plan (RMPs) Amendments and Land and Resource Management Plan (LRMPs) Amendments. These RMPs and LRMPs are in many cases as restrictive as a critical habitat designation would be under an ESA listing. These misguided amendments were not warranted and sought to prevent responsible mineral production and other activities across 11 Western states.

The Obama Administration also sought to withdraw 10 million acres of the bird's habitat from future mining activity. The Obama Administration's scheme to use the Sage Grouse as an excuse to shut down virtually all development on large swaths of public lands in the West, particularly oil, gas, and mineral development, has resulted in devastating impacts for local economies. These unlawful amendments are already having a negative impact for our nation's energy and natural resource independence.

To make matter worse, the Greater Sage Grouse is not endangered. The population is greater today than it has been in recent years thanks to the concerned efforts of several states which implemented at their own expense comprehensive Sage Grouse recovery plans. The Obama restrictions defy commonsense. Further, they are inconsistent with Greater Sage Grouse conservation planning efforts at the state and local level.

Congress must act to prevent severe economic losses to the U.S. economy and to ensure military readiness on affected military ranges is not compromised.

Section 114 of the engrossed version of the FY 2017 Interior, Environment and Related Agencies Appropriations bill contained language which aimed to block this report. Accordingly, we ask that you include language similar to the following again this fiscal year:

(a) None of the funds made available by this or any other Act may be used—

(1) to review the status of or determine whether the greater sage-grouse is an endangered species or a threatened species pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or to issue a regulation with respect thereto that applies to any State with a State management plan;

(2) to makeor extend any withdrawal pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) within any Sagebrush Focal Area

published in the Federal Register on September 24, 2015 (80 Fed. Reg. 57635 et seq.), in a manner inconsistent with a State management plan; or

(3) to implement, amend, or otherwise modify any Federal resource management plan applicable to Federal land in a State with a State management plan, in a manner inconsistent with such State management plan.

(b) For the purposes of this section—

(1) the term "Federal resource management plan" means—

(A) a land use plan prepared by the Bureau of Land Management for public lands pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

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(3) the term "State management plan" means a State-wide plan for the protection and recovery of greater sage-grouse that has been approved by the Governor of such State.

We thank you for your consideration of this request, and for your leadership on the committee.

Sincerely,

Congressional Research Service
Informing the legislative debate since 1914

Sage-Grouse Conservation: Background and Issues

M. Lynne Corn
Specialist in Natural Resources Policy

Katie Hoover
Specialist in Natural Resources Policy

Carol Hardy Vincent
Specialist in Natural Resources Policy

August 15, 2016

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Summary

The greater sage-grouse (*Centrocercus urophasianus*) is a squat, feathered, chicken-like bird that is currently found in 11 western states. For more than 25 years, there has been considerable controversy concerning whether to list sage-grouse for protection under the Endangered Species Act (ESA; P.L. 93-205).

On October 2, 2015, the Fish and Wildlife Service (FWS, Department of the Interior) published its decision not to list the greater sage-grouse as threatened or endangered under ESA. Under the act, one of the factors that can lead to a listing is the inadequacy of existing regulatory mechanisms. However, FWS concluded that existing regulatory mechanisms for lands under federal, tribal, state, or local control were adequate to avoid the need to list the species. Before the listing decision, federal, state, and local governments, as well as other stakeholders in the states where sage-grouse are still found had undertaken extensive efforts to develop conservation plans, monitoring, and other actions to obviate the need for listing sage-grouse. These efforts included collaboration across levels of government, action plans by state governments, voluntary federal programs to assist private landowners in conserving sage-grouse habitat, and revisions in the land management plans of federal agencies.

To be considered adequate regulatory mechanisms, various courts held that these efforts had to meet certain tests. Prior court cases meant that FWS had to determine, in order to reach its conclusion not to list the species, that the regulatory mechanisms of these various levels of government were (1) in effect at the time, (2) not discretionary, and (3) adequate to avoid the need to list the species.

After FWS decided not to list sage-grouse, it fell to other federal agencies and other levels of government to carry out the commitments that had served to avoid listing. All 11 states have plans and programs to address the varying threats to the species in each state. For private lands, the Natural Resources Conservation Service (NRCS, Department of Agriculture) has led voluntary conservation efforts. NRCS uses existing federal conservation programs to help farmers and ranchers benefit sage-grouse.

On federal lands, the Bureau of Land Management (BLM, Department of the Interior) and the Forest Service (FS, Department of Agriculture) have had the greatest role in conserving sage-grouse because more than half of the bird's remaining habitat is found on BLM and FS lands. In September 2015, after a review process including public notice and comment, the two agencies signed records of decision amending 98 land and resource management plans covering the range of the sage-grouse. Lands identified as the most valuable habitat will be given the highest level of protection. The plans have three goals: (1) to improve sage-grouse habitat condition; (2) to minimize new or additional surface disturbance; and (3) to reduce the threat of rangeland fire to sage-grouse and sage-grouse habitat.

Controversy after the FWS decision has focused particularly on the revised land management and conservation strictures adopted on federal lands. The amended plans are proving controversial with various industries, including energy developers, which argue that the development restrictions on high-value habitat under the plans are placing a burden on their activities that is as restrictive as a decision to list the species.

A number of bills and amendments have been introduced in the 114th Congress to address aspects of sage-grouse conservation on specific lands. A common theme in the bills and amendments is a greater role for states in species conservation, with varying amounts of state preemption of federal land management plans. Some measures would provide exemptions from judicial review.

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Introduction

There has been controversy for more than 25 years concerning whether to list sage-grouse for protection under the Endangered Species Act (ESA).[1] As with many controversies over rare species, a theme in the sage-grouse controversy is the use of dwindling resources by both humans and sage-grouse—in this case, broad, unfragmented expanses of sagebrush lands. Loss of habitat is the most common factor leading to species' decline.[2] Sagebrush habitat in the western United States is diminishing and becoming fragmented due to energy development, infrastructure, agricultural conversion, wildfire, invasive plants, and other factors.[3] Although the total remaining sagebrush habitat is vast, its fragmentation is problematic for sage-grouse, which need large treeless areas to discourage the roosting of avian predators and to permit travel between breeding and nesting sites. Thus, fences, roads, drilling rigs, and utility poles can produce a substantial change in available sagebrush habitat, even when the actual surface disturbance is minimal.

The sage-grouse (*Centrocercus urophasianus*) is found in 11 western states. The species first appeared as a candidate for listing under ESA in 1991,[4] and its subsequent history with regard to the act has included various petitions, missed deadlines, and lawsuits. Multiple petitions were filed under ESA to ask the Fish and Wildlife Service (FWS, Department of the Interior) to protect the sage-grouse. (See "Chronology of Petitions and FWS Sage-Grouse Action," below.)

Most recently, on September 22, 2015, FWS announced its decision not to list the sage-grouse under ESA, based on the adequacy of existing regulatory mechanisms to protect the species. Some have praised the decision as affording the proper protection through state, local, and private conservation efforts. Others have opposed the decision for varying reasons, including assertions that the existing regulatory mechanisms are not sufficiently protective or that the regulatory mechanisms result in excessive restrictions on land uses. (See "Implementation and Other Issues," below.)

[1] Endangered Species Act (ESA; P.L. 93-205, 87 Stat. 884; 16 U.S.C. §§1531 et seq.). For background on ESA, see CRS Report RL31654, *The Endangered Species Act: A Primer*, by M. Lynne Corn. This report uses the term *sage-grouse*, rather than the nearly equally common *sage grouse*, because the hyphen is used in documents and databases of the Fish and Wildlife Service (FWS) Endangered Species Program. Exceptions are made for quoted material using the alternative form. When the term *sage-grouse* is used in the remainder of the report, it is understood to mean greater sage-grouse (the focus of this report), unless otherwise specified. Moreover, at times various distinct population segments and subspecies of *C. urophasianus* have been proposed, both for taxonomic recognition and for protection under ESA, but that recognition has not been upheld. (See CRS Report R40865, *Sage Grouse and the Endangered Species Act (ESA)*, by M. Lynne Corn.) In addition, a related species called the Gunnison sage-grouse (*Centrocercus minimus*), found in parts of Colorado and Utah, was listed as threatened in 2014.

[2] Estimating population levels of widely scattered animals is exceedingly difficult. In the case of sage-grouse, estimates are usually based on models rating number, size, and distribution of breeding areas to extrapolate total population sizes. More critically, available data show clear downward trends, though the extent of decline varies in time and from area to area. See "Sage-Grouse Breeding and Biology," and "Threats to Sage-Grouse Habitat," below.

[3] For an analysis of these and other factors affecting sage-grouse populations, see FWS, "Endangered and Threatened Wildlife and Plants: 12-Month Finding on a Petition to List Greater Sage-Grouse (*Centrocercus urophasianus*) as an Endangered or Threatened Species," 80 *Federal Register* 59858-59941, October 2, 2015.

[4] Technically, only a portion of the species was considered at that time. See FWS, "Endangered and Threatened Wildlife and Plants; Animal Candidate Review for Listing as Endangered and Threatened Species," 56 *Federal Register* 58804-58836, November 21, 1991.

Sage-Grouse Breeding and Biology

The sage-grouse is a squat, feathered, chicken-like bird, grayish with a black belly and spiked tail feathers; it is highly prized by hunters. (See **Figure 1**.) Sage-grouse have one of the lowest reproductive rates of any North American game bird. Because of this, "its populations are not able to recover from low numbers as quickly as many other upland game bird species."[5]

A particular issue has been conservation of the locations where male sage-grouse gather in the spring year after year—areas called *leks*. The leks are found in open sagebrush areas, usually on broad ridges or valley floors where visibility is excellent and noise will travel well. There, the males strut, raise and lower their wings, fan their tail feathers, and make loud booming noises with the aid of bright yellow inflatable air sacs in their necks. Under optimal conditions, these sounds carry for hundreds of yards. Dozens or even hundreds of males attract the attention of resident females, who survey the offerings of the displaying males, make their choices, and mate. Once mating has occurred, females leave the lek to nest, sometimes at a distance of several miles.[6] Females raise their offspring alone, without help from males. Due to the importance of leks in the breeding cycle, maintenance and protection of traditional lek areas are key concerns for species conservation.

Threats to Sage-Grouse Habitat

The sage-grouse is vulnerable to multiple interrelated changes in its habitat. The construction of a road in sagebrush habitat, for example, may have diverse effects. Sage-grouse hens may hesitate to cross a road with their chicks. A road can also provide ingress for invasive species such as cheatgrass, which is the primary invasive species threat to sagebrush habitat. The plant tends to appear after an area has been grazed or when roads are developed. The nonnative grass spreads quickly, is disliked as forage by grazing mammals and sage-grouse, and burns more readily than native plants. Moreover, the fire threat posed by cheatgrass could be exacerbated by pervasive drought and climate change. Both the number of fires and the total area burned in sage-grouse habitat have increased in the last 100 years.[7] This example illustrates the links among a range of threats to sage-grouse.

Additionally, certain types of development, such as coal-bed methane production and oil wells, introduce standing pools of water into an environment where none existed previously. These pools provide habitat for mosquitoes, and mosquitoes can carry the West Nile Virus. According to the U.S. Geological Survey, the federal agency responsible for tracking wildlife disease, the West Nile Virus is always fatal for the sage-grouse. By 2006, West Nile Virus had been reported among sage-grouse in every state of the sage-grouse's range except for Washington.[8]

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[5] Western Watersheds Project v. Dyer, 2009 WL 484438, *5 (D. Idaho February 26, 2009).

[6] Female sage-grouse typically travel 0.8 miles to 3.2 miles to nest after mating (FWS, "Endangered and Threatened Wildlife and Plants: 12-Month Finding on a Petition to List Greater Sage-Grouse (*Centrocercus urophasianus*) as an Endangered or Threatened Species," 80 *Federal Register* 59887, October 2, 2015), but some have been documented to travel more than 13 miles to their nest site after mating. (See FWS, "Endangered and Threatened Wildlife and Plants; Final Listing Determination for the Gunnison Sage-Grouse as Threatened or Endangered; Final Rule," 71 *Federal Register* 19956, April 18, 2006.)

[7] See "Altered Fire Cycle" in FWS, "Endangered and Threatened Wildlife and Plants: 12-Month Finding on a Petition to List Greater Sage-Grouse (*Centrocercus urophasianus*) as an Endangered or Threatened Species," 80 *Federal Register* 59896-59897, October 2, 2015.

[8] U.S. Geological Survey, "West Nile Virus in Greater Sage-Grouse," Wildlife Health Bulletin #06-08, November 6, (continued...)

The various threats cited above also sum to form a larger threat: fragmentation of the sagebrush landscape. Although much of the West is still dominated by sagebrush, much of this habitat is no longer intact. As a result, such areas have become unsuitable for successful breeding. Moreover, because habitats are becoming fragmented, sage-grouse populations are becoming genetically isolated, leaving them more vulnerable. Habitat fragmentation, along with lek protection, is a key concern in species conservation.

According to a team assembled by FWS to study the sage-grouse, habitat fragmentation is severely affecting the viability of the species:

> The primary threat to greater sage grouse is fragmentation. Large expanses of intact sagebrush habitat are necessary to maintain viable sage grouse populations. Only two areas in the 11-state range currently provide such expanses and both are already heavily fragmented and are projected to experience additional significant fragmentation in the foreseeable future. Dramatic population declines and local extirpations have already occurred and future fragmentation and habitat degradation is expected to result in remnant, isolated, and dysfunctional populations of greater sage grouse that are in danger of extinction in the foreseeable future.[9]

The sage-grouse was once abundant in 16 western states. Its current range includes portions of 11 states: California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Wyoming, and Washington.[10] Multiple sources point to a severe decline in the number of sage-grouse; FWS estimates that sage-grouse population numbers may have declined between 69% and 99% from historic to more recent times.[11] FWS also cites data from the Western States Sage and Columbia Sharp-Tailed Grouse Technical Committee, which estimated the decline between historic times and 1999 to have been about 86%.[12]

The increasing threats and declining sage-grouse populations eventually led to eight proposals to list the species or portions of the species under ESA. (See "Chronology of Petitions and FWS Sage-Grouse Action," below.) In making its decision, FWS was required to consider the general requirements for listing a species (see "How Does ESA Work?" below) and the minimum requirements for conservation agreements to be considered adequate to avoid listing. The specific decision not to list the sage-grouse is discussed below in "Why Did FWS Decide Not to List Sage-Grouse?"

(...continued)

2006, at http://www nwhc.usgs.gov/publications/wildlife_health_bulletins/WHB_06_08.jsp.

[9] As quoted in Western Watersheds Project v. U.S. Fish and Wildlife Service, No. 4:10-CV-229, *14 (D. Idaho February 2, 2012).

[10] The sage-grouse is no longer found in Arizona, Kansas, Nebraska, New Mexico, or Oklahoma, or in the Canadian province of British Columbia.

[11] FWS, "Endangered and Threatened Wildlife and Plants; 90-day Finding and Commencement of Status Review for a Petition To List the Western Sage Grouse in Washington as Threatened or Endangered," 65 *Federal Register* 51578, August 24, 2000. (Reference is to range-wide statistics.) FWS further states, "Little substantiated information is available regarding the historic abundance of sage grouse throughout their range. However, within the literature, the general consensus is that considerable declines have occurred from historic population levels, and much of the overall decline occurred from the late 1800s to the mid 1900s.... " (p. 51580.)

[12] FWS, "Endangered and Threatened Wildlife and Plants; 90-day Finding for Petitions To List the Greater Sage-grouse as Threatened or Endangered," 69 *Federal Register* 21486, April 21, 2004.

Figure 1. Male Sage-Grouse: Lek Display

Source: U.S. Fish and Wildlife Service. Photo available at https://www.flickr.com/photos/usfws_pacificsw/6948199942/. Used under license https://creativecommons.org/licenses/by/2.0/.

How Does ESA Work?

ESA is intended to protect plants and animals from becoming extinct. It authorizes creating a list of protected species, either *endangered* (defined as being in danger of extinction) or *threatened* (defined as likely to become endangered in the foreseeable future).[13] ESA prohibits taking these species, with limited exceptions. In addition, it prohibits federal agencies from jeopardizing the continued existence of listed species and from destroying or adversely modifying listed species' designated critical habitats.

FWS is the federal agency that manages most species under ESA.[14] The Secretary of the Interior, acting through FWS, is charged with deciding whether to list a species. ESA specifies that a listing decision is to be based on five criteria:

[13] 16 U.S.C. §§1532(6), 1532(20). This section is intended to be a brief overview of ESA. For a more detailed analysis of the act, see CRS Report RL31654, *The Endangered Species Act: A Primer*, by M. Lynne Corn.

[14] The National Marine Fisheries Service (Department of Commerce) supervises most marine mammals and oceanic species.

1. The present or threatened destruction, modification, or curtailment of a species' habitat or range.
2. Overutilization for commercial, recreational, scientific, or educational purposes.
3. Disease or predation.
4. Inadequacy of existing regulatory mechanisms.
5. Other natural or man-made factors affecting a species' continued existence.[15]

In making a listing determination, FWS is charged with relying "solely on the basis of the best scientific and commercial data available."[16]

FWS may list a species independently, or citizens may petition the agency to make a listing. When a petition is filed, certain deadlines are imposed by statute. FWS must determine and publish a decision in the *Federal Register* within 90 days of the filing of the petition on whether the petition presents substantial evidence in support of a listing.[17] Within 12 months of filing the petition, FWS must publish a notice on whether listing is warranted.[18] A final decision must be made one year after the 12-month notice.[19] FWS has the option of publishing a determination at the time of a 12-month finding that a listing is "warranted but precluded" due to limited FWS resources.[20] If the adequacy of existing regulatory mechanisms provides the rationale not to list a species, those mechanisms must meet certain criteria, described below.

How Do Different Types of Conservation Agreements Qualify to Avoid Listing?

Under a candidate conservation agreement with assurances (CCAA), FWS provides incentives to nonfederal property owners to carry out voluntary conservation measures that may help to make listing unnecessary. In return, the property owner receives a permit "containing assurances that if they engage in certain conservation actions for the species included in the CCAA, the owner will not be required to implement additional measures beyond those in the CCAA."[21] Moreover, there will be no additional obligations imposed if the species is listed later, unless the owner agrees. Courts have looked at three criteria in determining the adequacy of existing regulatory mechanisms:

1. Courts have found that *voluntary* actions are not *regulatory*; the protections must be enforceable.
2. Courts define *adequate* as sufficient to keep populations at a level such that listing will not prove necessary.
3. *Existing* means the plans for protection must be in place and are not future or speculative.

[15] 16 U.S.C. §1533(a)(1). (Between the fourth and fifth criteria, neither *and* nor *or* appears; in the case of sage-grouse, it appears that the adequacy of existing regulatory mechanisms was the focus, because the mechanisms addressed other threats.)

[16] 16 U.S.C. §1533(b)(1)(A).

[17] 16 U.S.C. §1533(b)(3)(A).

[18] 16 U.S.C. §1533(b)(3)(B).

[19] 16 U.S.C. §1533(b)(6)(A).

[20] 16 U.S.C. §1533(b)(3)(B)(iii).

[21] FWS, "Candidate Conservation Agreements," fact sheet, March 2011, at https://www.fws.gov/endangered/esa-library/pdf/CCAs.pdf.

Regarding the first criterion, no court has deemed a voluntary state action as a *regulatory* action sufficient to avoid federal listing. Even the Ninth Circuit, which found there were adequate regulatory measures to remove the grizzly bear from the threatened species list, expressly ignored the state voluntary actions: "For the purposes of the [existing adequate regulatory mechanisms] determination, however, we need not, and do not consider those [state] measures, some or all of which may not be binding."[22]

The second criterion is whether the measures are *adequate*—that is, sufficient to keep populations at a level such that listing will not prove necessary. Courts have typically looked at the types of measures being taken, in addition to the size of areas being protected, as a way of finding adequacy.

For example, in the case of listing steelhead trout, the Northern District of California found that the state protection plans of Oregon and California for this species were voluntary and thus did not count as a regulatory measure. The court also found that a federal plan for protecting the species would cover only 64% of habitat, which was not enough to prevent species' further decline.[23] Therefore, the regulatory measure affecting federal habitat was not adequate to prevent the need for listing. By contrast, in the previously cited case on grizzly bears, the Ninth Circuit held that a plan that would have the force of law on federal lands but would be voluntary on other lands was adequate to protect the grizzly bear because federal lands constituted 98% of the grizzly's primary conservation area.[24]

The third criterion is that the regulatory mechanisms be in place—*existing*—and not future or speculative. One court said it would not consider a new agreement to be an adequate regulatory mechanism and would require a conservation agreement to have a record of two years to be sufficient.[25]

Chronology of Petitions and FWS Sage-Grouse Action[26]

This section provides a brief chronology of major sage-grouse protection actions, beginning with petitions filed in 1999 to list the sage-grouse for protection under ESA and ending with the FWS decision in 2015 not to list the species. Major events are listed below and followed by discussion.

- Between 1999 and 2005, eight petitions were filed to protect sage-grouse in all or portions of the species' range. Some petitions were rejected because they were not considered substantive enough to be eligible. In 2004, FWS found that three of the petitions (received from 2002 to 2003) were substantive—that is, the petitions presented substantial evidence in support of the listing.[27]

[22] Greater Yellowstone Coalition, Inc. v. Servheen, 665 F.3d 1015, 1032 (9th Cir. 2011).

[23] Federation of Fly Fishers v. Daley, 131 F. Supp. 2d 1158 (N.D. Cal. 2000). The measures did not include a CCAA.

[24] Greater Yellowstone Coalition, Inc. v. Servheen, 665 F.3d 1015, 1021 (9th Cir. 2011).

[25] Save Our Springs v. Babbitt, 27 F. Supp. 2d 739 (W.D. Texas 1997).

[26] For a more comprehensive history of actions discussed in this section, see FWS, "Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to List Greater Sage-Grouse (*Centrocercus urophasianus*) as an Endangered or Threatened Species Proposed Rule," 80 *Federal Register* 59858-59860, October 2, 2015.

[27] FWS, "Endangered and Threatened Wildlife and Plants; 90-day Finding for Petitions To List the Greater Sage-grouse as Threatened or Endangered," 69 *Federal Register* 21486, April 21, 2004.

- In 2005, FWS determined that listing was not warranted.[28] This determination was challenged, questioning the scientific basis for the decision not to list the species. In a 2007 court decision, the District Court for the District of Idaho held that the Deputy Assistant Secretary of the Department of the Interior wrongfully interfered with the listing decision and that FWS did not use the best science as required by ESA.[29] The case was remanded to the agency, and in 2008 FWS issued a notice of status review for the species.[30]
- In 2010, FWS found that "that the inadequacy of existing regulatory mechanisms is a significant threat to the greater sage-grouse now and in the foreseeable future" and announced that "listing the greater sage-grouse (rangewide) is warranted, but precluded by higher priority listing actions. We will develop a proposed rule to list the greater sage-grouse as our priorities allow."[31] FWS assigned the species a listing priority number of 8 (out of 12, with 1 being the highest priority).
- In a separate court settlement in 2011, FWS agreed to make a decision on whether to list the sage-grouse by the end of FY2015.[32] A plaintiff not involved in that settlement sued, arguing that FWS was not making expeditious progress in listing the species, as required under ESA,[33] but the court held otherwise.[34] That plaintiff, Western Watersheds Project, had sued to force listing of the sage-grouse prior to the compromise deadline, but the court held that "despite troubling aspects of the FWS decision process," the warranted but precluded finding was not arbitrary or capricious.[35]
- As part of a court-ordered settlement agreement concerning prior decisions on sage-grouse,[36] FWS filed a work plan in 2011 that committed either to publish proposed rules to list the species or to find that listing was not warranted for sage-grouse by September 30, 2015.
- On December 16, 2014, the President signed the Consolidated and Further Appropriations Act, 2015,[37] which included a provision to prohibit funding to issue a proposed rule for sage-grouse before September 30, 2015.
- On September 22, 2015, FWS announced its decision not to list the sage-grouse under ESA, based on the adequacy of existing regulatory mechanisms to protect

[28] FWS, "Endangered and Threatened Wildlife and Plants; 12-Month Finding for Petitions To List the Greater Sage-Grouse as Threatened or Endangered; Proposed Rule," 70 *Federal Register* 2243-2282, January 12, 2005.

[29] Western Watersheds Project v. Fish and Wildlife Service, 535 F. Supp. 2d 1173 (D. Idaho 2007).

[30] FWS, "Endangered and Threatened Wildlife and Plants; Initiation of Status Review for the Greater Sage-Grouse (*Centrocercus urophasianus*) as Threatened or Endangered," 73 *Federal Register* 10218-10219, February 26, 2008.

[31] FWS, "Endangered and Threatened Wildlife and Plants; 12-Month Findings for Petitions to List the Greater Sage-Grouse (*Centrocercus urophasianus*) as Threatened or Endangered; Proposed Rule," 75 *Federal Register* 13909-14014, March 23, 2010.

[32] In Re: Endangered Species Act Section 4 Deadline Litigation, No. 10-377 (D.D.C. July 12, 2011).

[33] 16 U.S.C. §1533(b)(3)(B)(iii)(II).

[34] Western Watersheds Project v. U.S. Fish and Wildlife Service, No. 4:10-CV-229 (D. Idaho September 26, 2012).

[35] Ibid. at *7 (D. Idaho February 2, 2012).

[36] In Re: Endangered Species Act Section 4 Deadline Litigation, No. 10-377 (D.D.C. July 12, 2011).

[37] P.L. 113-235.

the species. This decision was published in the *Federal Register* on October 2, 2015.[38]

Why Did FWS Decide Not to List Sage-Grouse?

In response to the 2010 FWS finding that sage-grouse warranted ESA listing, federal, state, and private landowners undertook many and varied actions to conserve the species and prevent listing. Secretary of the Interior Sally Jewell later referred to the federal, state, and private collaborative actions to preserve sage-grouse as the most comprehensive conservation effort in the nation's history.[39] As a result, in September 2015, FWS concluded that sage-grouse met the ESA standard of having adequate existing regulatory mechanisms, at several levels. These collaborative, governmental, and nongovernmental efforts are discussed below.

Collaborative Mechanisms to Protect Sage-Grouse

Many efforts involved multiple agencies and landowners. In 2011, several federal agencies signed a memorandum of understanding to coordinate and cooperate in management of sage-grouse habitat.[40] Also in 2011, Wyoming Governor Matt Mead and then-secretary of the Interior Ken Salazar cohosted a meeting to coordinate a multistate effort to protect sage-grouse across land ownerships. As a result of the meeting, two entities were established: a Sage-Grouse Task Force, chaired by the governor of Wyoming, governor of Colorado, and director of the Bureau of Land Management (BLM), and a Conservation Objectives Team (COT), consisting of FWS and state representatives. The COT team issued a report setting out objectives for the conservation and survival of the sage-grouse.[41] FWS Director Dan Ashe indicated that the report was not only for his use in making decisions regarding the sage-grouse but also for guiding other federal land management agencies, state sage-grouse teams, and others in conserving the species.[42]

State and Private Actions

Many western states were concerned about the prospect of listing the sage-grouse on the grounds that listing might affect land use through potential restrictions on energy development, grazing, urban development, and other activities. In particular, states were concerned that listing would affect management of BLM and FS lands, where economic uses such as mining, fossil and alternative fuel development, grazing, hunting, fishing, and outdoor recreation may all be important to local and regional economies.

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[38] FWS, "Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to List Greater Sage-Grouse (*Centrocercus urophasianus*) as an Endangered or Threatened Species Proposed Rule," 80 *Federal Register* 59858-59942, October 2, 2015.

[39] Department of the Interior (DOI), "Historic Conservation Campaign Protects Greater Sage-Grouse," press release, September 22, 2015, at https://www fws.gov/news/ShowNews.cfm?ID=F5B7455D-0824-997C-47667F8ABBFFBA86.

[40] "Interagency Agreement Between the United States Department of Agriculture Natural Resources Conservation Service, and the USDA Forest Service, and the United States Department of the Interior Bureau of Land Management and the Fish and Wildlife Service," Forest Service (FS) Agreement Number: 11-IA-11132400-104, 2011, at http://www.blm.gov/style/medialib/blm/wo/Planning_and_Renewable_Resources/fish__wildlife_and/sage-grouse.Par.6386.File.dat/MOU%20on%20Greater%20Sage-Grouse.pdf.

[41] FWS, *Greater Sage-grouse Conservation Objectives Team Final Report*, March 2013, http://www.fws.gov/greatersagegrouse/documents/COT-Report-with-Dear-Interested-Reader-Letter.pdf.

[42] Ibid., see preface (p. ii).

To avoid potential adverse impacts on these sectors, states took diverse steps to conserve the species and to avoid a listing. For example, the Western Association of Fish and Wildlife Agencies (WAFWA) developed guidelines for best practices to assist states in managing sage-grouse habitat; WAFWA also signed memoranda of understanding with federal agencies.[43] Some states acted to protect sage-grouse and its habitat to avoid further reductions in numbers.[44] California, Colorado, Idaho, Montana, Nevada, and Wyoming all issued conservation plans whose measures varied but included bag limits;[45] where, when, and whether hunting was allowed; control of nonnative predators; limits on placement of utility lines; vegetative treatments to reduce invading juniper trees; habitat restoration after energy development; and other actions.[46]

For private lands, the Natural Resources Conservation Service (NRCS, U.S. Department of Agriculture) has led voluntary conservation efforts through its Sage-Grouse Initiative (SGI), which began in 2010.[47] The SGI uses existing federal conservation programs, namely the Environmental Quality Incentives Program (EQIP) and the Agricultural Conservation Easement Program (ACEP), to provide technical and financial assistance to help farmers and ranchers accelerate installation of conservation practices beneficial to sage-grouse. Examples of approved conservation practices include implementing grazing systems to improve cover for birds, removing invasive conifers from grasslands to improve habitat and increase forage for livestock, and marking or moving fences near breeding sites to reduce bird collisions. The initiative is

[43] John W. Connelly et al., "Guidelines to Manage Sage Grouse Populations and Their Habitats," *Wildlife Society Bulletin*, vol. 28, no. 4 (2000), pp. 967-985.

[44] Washington lists the sage-grouse as a threatened species (Wash. Admin. Code §232-12-011) but also includes the species in its list of game birds (Wash. Admin. Code §232-12-004).

[45] A bag limit is a limit on the number of birds that may be taken by a hunter during a hunting season. Limits may specify different limits on male or female sage-grouse.

[46] California and Nevada: Nevada Department of Wildlife, *Greater Sage-Grouse Conservation Plan for Nevada and Eastern California*, June 30, 2004, at http://www ndow.org/wild/conservation/sg/plan/SGPlan063004.pdf.

Colorado: Colorado Parks and & Wildlife, *Colorado Greater Sage-Grouse Conservation Plan*, January 2008, at http://cpw.state.co.us/learn/Pages/GreaterSagegrouseConservationPlan2.aspx.

Idaho: Idaho Fish and Game, *Conservation Plan for the Greater Sage-grouse in Idaho*, July 2006, at http://fishandgame.idaho.gov/public/wildlife/sageGrouse/conservPlan.pdf.

Montana: Montana Fish, Wildlife, & Parks, *Management Plan and Conservation Strategies for Sage Grouse in Montana-Final*, February 2005, at http://fwp mt.gov/fishAndWildlife/management/sageGrouse/mgmtPlan html.

Nevada: Nevada Department of Wildlife, "Sage Grouse Conservation Plans" (variously divided, with most recent portion dated 2012), at http://www ndow.org/Nevada_Wildlife/Sage_Grouse/Conservation_Plans/.

North Dakota: North Dakota Game and Fish Department, *Management Plan and Conservation Strategies for Greater Sage-Grouse in North Dakota*, 2014, at https://gf nd.gov/publications/535.

Oregon: SageCon Partnership, *Oregon Sage-Grouse Action Plan*, 2015, at http://oregonexplorer.info/content/oregon-sage-grouse-action-plan?topic=203&ptopic=179.

South Dakota: South Dakota Wildlife Division, Department of Game, Fish, and Parks, *Greater Sage-Grouse Management Plan South Dakota, 2008-2017*, at http://gfp.sd.gov/wildlife/docs/sage-grouse-management-plan.pdf.

Utah: Utah Division of Wildlife Resources, *Conservation Plan for Greater Sage-Grouse in Utah*, 2013, at http://wildlife.utah.gov/uplandgame/sage-grouse/pdf/greater_sage_grouse_plan.pdf.

Washington: Washington Department of Fish and Wildlife, Wildlife Program, *Sage-Grouse Conservation in Washington: 2013*, at http://wdfw.wa.gov/publications/01602/wdfw01602.pdf.

Wyoming: State of Wyoming, Office of the Governor, Executive Order 2010-4, "Sage-Grouse Core Area Protection," 2010, at http://www nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_026366.pdf.

[47] For additional information on the Sage-Grouse Initiative (SGI), see U.S. Department of Agriculture (USDA). Natural Resources Conservation Service (NRCS), "Sage Grouse Initiative," at http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/programs/initiatives/?cid=steldevb1027671.

offered in the 11 western states with areas of high sage-grouse populations.[48] Between FY2010 and FY2015, NRCS through the SGI obligated more than $296 million through 1,289 contracts on more than 5 million acres. In August 2015, NRCS expanded the initiative (referred to as *SGI 2.0*), committing approximately $211 million through FY2018 to bring the total to more than 8 million acres conserved.[49]

SGI is part of a larger Working Lands for Wildlife (WLFW) initiative at NRCS.[50] In addition to financial and technical assistance, the WLFW initiative ensures that participating producers who continue to maintain NRCS conservation practices to benefit the targeted species will be considered compliant with ESA for periods as long as 30 years, even if the species is subsequently listed under ESA.[51]

BLM and FS Sage-Grouse Strategy and Conservation Plans[52]

An estimated 271,604 square miles of sage-grouse habitat remain; of this total, two federal agencies manage more than half: BLM manages 45%, and FS manages 6%.[53] In response to the FWS 2010 finding that sage-grouse warranted ESA listing, BLM and FS began a coordinated and cooperative effort to develop and implement a joint conservation strategy to "protect, enhance, and restore sage-grouse and its habitat and to provide sufficient regulatory certainty" to warrant FWS not listing the species.[54] In 2011, both agencies published a notice of intent to prepare environmental impact statements (EISs) to incorporate sage-grouse conservation measures into the agencies' land and resource management plans across the range of the species.[55] The final COT report, mentioned above, other research efforts,[56] WAFWA, state conservation plans, and conservation activities on private lands all contributed to the development of the federal conservation strategy.

[48] A map illustrating the SGI boundary is at http://www nrcs.usda.gov/Internet/FSE_MEDIA/nrcsdev11_023999.png.

[49] USDA, NRCS, *Sage Grouse Initiative 2.0*, Investment Strategy, FY2015-FY2018, August 2015, at http://www nrcs.usda.gov/wps/PA_NRCSConsumption/download?cid=nrcseprd391816&ext=pdf.

[50] Seven species are eligible under the Working Lands for Wildlife (WLFW) initiative: lesser prairie-chicken, New England cottontail, southwestern willow flycatcher, greater sage-grouse, gopher tortoise, bog turtle, and golden-winged warbler. For additional information, see USDA, NRCS, "Working Lands for Wildlife," at http://www nrcs.usda.gov/wps/portal/nrcs/detailfull/national/programs/initiatives/?cid=stelprdb1046975.

[51] Conservation practices under the WLFW were developed in partnership by NRCS and FWS. Landowners who voluntarily enroll in WLFW and carry out recommended conservation practices will be allowed to obtain incidental take permits valid through July 30, 2040. See USDA and FWS, Working Lands for Wildlife Greater Sage-Grouse, "ESA Predictability: Frequently Asked Questions," August 2014, at http://www nrcs.usda.gov/wps/PA_NRCSConsumption/download?cid=nrcseprd334450&ext=pdf.

[52] This section was prepared by Carol Hardy Vincent and Katie Hoover. For additional information on Bureau of Land Management (BLM) activities pertaining to sage-grouse, contact Carol Hardy Vincent at chvincent@crs.loc.gov or 7-8651. For additional information on Forest Service (FS) activities pertaining to sage-grouse, contact Katie Hoover at khoover@crs.loc.gov or 7-9008.

[53] FWS, "Endangered and Threatened Wildlife and plants; 12-Month Finding on a Petition to List Greater Sage-Grouse (*Centrocercus urophasianus*) as an Endangered or Threatened Species; Proposed Rule," 80 *Federal Register* 59866, October 2, 2015. Table 2. Other federal agencies (including the National Park Service) manage 2% of remaining sage-grouse habitat, tribes manage 3%, states manage 5%, and private owners manage 39%.

[54] FS, *Greater Sage-grouse Record of Decision for Idaho and Southwest Montana, Nevada, and Utah*, September 2015, p. 12, at http://www.fs fed.us/sites/default/files/great-basinROD-package-.pdf.

[55] BLM, "Notice of Intent to Prepare Environmental Impact Statements and Supplemental Environmental Impact Statements to Incorporate Greater Sage-Grouse Conservation Measures into Land Use Plans and Land Management Plans," 76 *Federal Register* 77008-77011, December 9, 2011.

[56] For example, U.S. Geological Survey, *Conservation Buffer Distance Estimates for GRSG - A Review*, 2014.

In 2013, BLM and FS released for public comment and review draft EISs to amend 98 land and resource management plans covering the range of the sage-grouse in 10 states.[57] The final EISs were published in May 2015, and the records of decision were signed in September 2015.[58] These plans establish management goals, objectives, and direction for sage-grouse habitat and conservation on FS and BLM lands but do not require specific on-the-ground activities. However, any FS or BLM project or on-the-ground activity planned within these areas must comply with the management direction established by the plans.

The plans build on the multitiered approach identified by WAFWA and state conservation plans and establish different land allocations, with different land management prescriptions, based on habitat conditions. Lands identified as the most valuable habitat will be afforded the highest levels of protection, whereas other lands may permit more flexible management and resource development. The land allocations are identified as follows:

- Priority Habitat Management Areas (PHMAs): Lands identified as having the highest habitat value for maintaining sustainable sage-grouse populations.
    - Sagebrush Focal Areas (SFAs): Subsets of PHMAs, these lands were identified as having the highest densities of sage-grouse and other criteria important for the persistence of the species. These areas include the highest protections from new surface disturbances, such as mining activities, to protect sensitive habitats.
- General Habitat Management Areas (GHMAs): Lands that are seasonal or year-round habitat outside of PHMA where some special management would apply to sustain sage-grouse populations.[59]

The FS and BLM plans are based on three objectives for conserving and protecting sage-grouse habitat as identified by the final COT report: improve habitat condition, minimize new or additional surface disturbance, and reduce the threat of rangeland fire to sage-grouse and sagebrush habitat.[60] Each of these objectives is briefly summarized below.

Improve Sage-Grouse Habitat Condition

The plans seek to enhance sage-grouse habitat through varied means. One such means pertains to mitigation by avoiding, minimizing, and compensating for impacts of development. Another relates to consideration for sage-grouse habitat management during the permitting and monitoring processes for livestock grazing, for example. A third involves monitoring and evaluation of

[57] The 10 states are California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, Utah, South Dakota, and Wyoming. Washington was not included in the BLM-FS planning effort because sage-grouse habitat in that state is primarily located on state and private lands, according to BLM. See the BLM's sage-grouse website, Frequently Asked Questions, under "How many states are involved in the greater sage-grouse conservation effort?" at http://www.blm.gov/wo/st/en/prog/more/sagegrouse/frequently_asked_questions html.

[58] The records of decision, together with other documents and resources related to sage-grouse conservation on federal, state, and private lands, are on the Documents and Resources page of the BLM website at http://www.blm.gov/wo/st/en/prog/more/sagegrouse/documents_and_resources.html.

[59] This description of the layered management approach is drawn in part from BLM's sage-grouse website, Frequently Asked Questions, under "How do the plans achieve conservation?" at http://www.blm.gov/wo/st/en/prog/more/sagegrouse/frequently_asked_questions html.

[60] BLM and FS, "Fact Sheet: BLM, USFS Greater Sage-Grouse Conservation Effort," September 22, 2015, at http://www fs fed.us/sites/default/files/fact-sheet-greater-sage-grouse.pdf. The discussion that follows is drawn from this fact sheet.

population changes, habitat condition, and mitigation efforts. A fourth provides for adjustment of plans to correct for declines in population or habitat.

Minimize Surface Disturbances

The plans describe several strategies to minimize surface disturbances in sage-grouse habitat, including capping surface disturbances at different levels for different habitat areas. One strategy involves reducing surface disturbances from mineral and energy resource uses, such as locating renewable energy and other projects outside of priority habitat areas. As part of that strategy, the Secretary of the Interior has proposed to withdraw from location and entry under the U.S. mining laws approximately 10 million acres of BLM and National Forest System land in specified sage-grouse habitat in six states,[61] subject to valid existing rights.[62] During the ongoing segregation period, which can last up to two years while the Secretary decides whether to make the withdrawal, the location and entry of new mining claims in these areas are prohibited. During the segregation, BLM is coordinating the National Environmental Policy Act (NEPA) process, including conducting environmental surveys and analyses and inviting public input on the proposed withdrawal.[63]

Reduce Wildfire Threat

The COT report identified fire, and the post-fire spread of invasive grasses, as one of the most immediate threats to sage-grouse habitat. The FS and BLM plans provide guidance and strategies to address this threat, including positioning wildland fire management resources to maximize response capacity, managing vegetation to reduce fire risk, and promoting the post-fire restoration of native grassland species.[64]

Conflicting Views on BLM and FS Plans

The BLM and FS plans have received both support and opposition. Supporters have commended the collaborative process that generated the protections on federal and other lands. Some conservationists and others have praised the plans as containing the necessary safeguards for sage-grouse to recover. However, other environmental organizations have objected to the plans as not protective enough of sensitive sage-grouse habitat and called for an ESA listing or more stringent conservation provisions in the plans. Some states, industries, and others have argued that

[61] Provisions of the Federal Land Policy and Management Act (codified at 43 U.S.C. §1714) authorize the Secretary of the Interior to withdraw lands. The provisions define withdrawal as "withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land.... " (43 U.S.C. §1702(j)). Except in emergency situations, the Secretary is authorized to withdraw lands outside the Department of the Interior only with the consent of the head of the agency or department (43 U.S.C. §1714(i)).

[62] BLM, "Notice of Proposed Withdrawal; Sagebrush Focal Areas; Idaho, Montana, Nevada, Oregon, Utah, and Wyoming and Notice of Intent to Prepare an Environmental Impact Statement," 80 *Federal Register* 57635-57637, September 24, 2015. A correction notice was subsequently issued, See 80 *Federal Register* 63583, October 20, 2015.

[63] National Environmental Policy Act (NEPA; 42 U.S.C. §§4321-4347). This and other information on the proposed withdrawal is contained in BLM, Documents and Resources, "Withdrawal Order Fact Sheet," at http://www.blm.gov/wo/st/en/prog/more/sagegrouse/documents_and_resources.html.

[64] For more information, see DOI, *Rangeland Fire Prevention, Management, and Restoration*, Secretarial Order No. 3336, January 5, 2015, and DOI, *Implementation Plan for Secretarial Order 3336*, January 30, 2015, at https://www.forestsandrangelands.gov/rangeland/documents/ImplementationPlan_SecretarialOrder3336.pdf.

the plans could unnecessarily restrict uses of federal land, including energy and mineral development, livestock grazing, hunting, and recreation. Other questions have centered on whether the federal government or states should take the lead in conserving the sage-grouse. Some states that had adopted conservation plans disputed the need for federal plans or opposed provisions of those plans as in conflict with their own. Some critics questioned whether the plans were based on adequate science.

More broadly, other concerns have been raised about the overall protection afforded through federal, state, and local efforts. These efforts eliminated only the ESA listing per se, because they formed the basis for the FWS decision not to list the species. However, some conflated an FWS decision not to list with the opportunity to avoid strong conservation measures. For such individuals, the FWS decision seemed like a "bait and switch" because the effects of the federal, state, and local efforts seemed similar to effects that would have been expected from an ESA listing.[65]

Implementation and Other Issues

Although controversy over sage-grouse conservation began decades ago with the question of whether the species was depleted enough to need protection, the current debate has turned to the validity of the FWS decision not to list the species and the impacts of the protections that avoided ESA listing, especially the revised BLM and FS land management plans. Among the issues that have been raised by various parties are the following:

- the efficacy of state management and whether management of federal lands for sage-grouse conservation should be made subordinate to state management;
- the variation among states in protecting the species from recurring threats, and in some cases the failure to limit activities that pose the greatest risk in a given state, such as energy development in Wyoming or geothermal development in Nevada;
- whether restrictions on grazing will be implemented soon enough to reduce nest trampling from cattle;
- whether the decision not to list the species was predicated on the best available science;
- whether federal land management plans to protect sage-grouse habitat disregard the mandates of BLM and FS for multiple use and sustained yield; and
- whether any relaxation of land management plans in a manner to favor economic development might increase the possibility that FWS would revisit its decision not to list the species.

For these and other reasons, states and interest groups have filed lawsuits. In addition, a number of bills have been introduced in the 114th Congress to address aspects of sage-grouse conservation on specific lands.[66] Provisions in various bills overlap considerably but include

[65] For example, see "The Sage Grouse Switcheroo," *Wall Street Journal*, September 27, 2015.

[66] These bills include H.R. 1793/S. 468; H.R. 1997/S. 1036, H.R. 4739; H.R. 4909 (§2864)/S. 2943 (§2864); H.R. 5538 (§114)/S. 3068 (§115); S. 2132 (§119); and P.L. 114-113 (Division G, §117). In some cases, certain versions of these bills may lack provisions on sage-grouse.

- preventing delay of a future listing of the species (e.g., H.R. 4739; H.R. 4909 (§2864)/S. 2943 (§2864));
- exempting certain vegetative management practices designed to benefit sage-grouse from the NEPA (e.g., H.R. 1793 / S. 468);
- allowing states to develop their own sage-grouse management plans (e.g., H.R. 1997/S. 1036);
- allowing state preemption of federal land management plans regarding sage-grouse (e.g., H.R. 1997/S. 1036);
- reversing prior land withdrawals made to protect sage-grouse (e.g., H.R. 4739; H.R. 4909 (§2864)/S. 2943 (§2864)); and
- exempting sage-grouse provisions from judicial review (e.g., H.R. 4739).

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Acknowledgments

Kristina Alexander, former CRS legislative attorney, contributed to an earlier version of this report.

From: Roberson, Kelly
To: Chambers, Micah
Cc: Amanda Kaster; Caroline Boulton; Small, Jeff
Subject: Re: Zinke Signing Ceremony - 3.28.17
Date: Wednesday, March 29, 2017 9:34:14 AM

Hi guys-

We're en route to you. You might have heard there was an altercation with Capitol police. We were right in the middle of it and are headed your way now.

Apologies for our delay,
Kelly

Please excuse any typos - Siri has a mind of her own

On Mar 29, 2017, at 9:30 AM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> Talking Points for Today's Signing. This is meant to craft your individual office press releases, please do not share. Draft Press Release to follow shortly. See you all soon.
>
> Note: We will not have order numbers until AFTER the orders are signed and processed by exec sec.
>
> **SO #TBD: Repealing the 2016 Coal Moratorium - Ending the PEIS**
>
> Rescind SO 3338 signed by Sally Jewell and direct BLM to process lease applications
>
> Federal coal leasing is important to the U.S. economy and roughly 40% of U.S. coal is produced on federal lands.
>
> The Department determined the public interest not served by halting leases for several years and that the PEIS is not needed to improve the program.
>
> > Note: In 2013, both the OIG and the GAO audited BLM's coal leasing program Between The OIG and GAO there were 21 recommendations made to improve transparency in the leasing program to ensure that the American taxpayer was receiving a fair return from the coal program. BLM has addressed all 21 recommendations and works closely with the Office of Valuation Services to ensure that bonus bids are calculated appropriately. In addition, the Federal Royalty Policy Committee has been reestablished.
>
> Mining companies are held accountable and expected to comply with strict environmental standards and present reclamation plans. Every year the "best

of" reclaimed mine lands are highlighted by the Office of Surface Mining and Reclamation and Enforcement.

Charter Signed: Establish Royalty Policy Committee

Secretary Zinke is committed to ensuring state, local and tribal governments have a say in energy development within their borders and that taxpayers are getting a fair return on investment. To that end, he is establishing a new Royalty Policy Committee to include renewable energy in addition to mineral resources.

The primary goal is to ensure public continues to receive the full value of all energy produced on federal lands. The Secretary will seek their input on how we determine fair market value, collect revenues and how future policies could impact revenue collection.

Membership

- The charter would establish a 28 member committee to provide the Secretary with advice
- No member may have financial interest/business with us
- Members will be both federal and non-federal partners. They will hail from energy producing states, tribes, the energy industry, academia/interest groups
- Each member will serve a two year term

Signed SO #TBD: American Energy Independence

Following the bold executive order signed by President Trump yesterday, Secretarial Order XXXX, "American Energy Indepenedence," takes numerous steps to unleash the power of American energy on public lands.

- Revokes Secretarial Order 3330 regarding Compensatory Mitigation and launches a review of the program
- Launches a review of all climate change policies within the department
- Launches a review of the National Parks Service and Fish and Wildlife Service oil and gas regulations
- Launches a review of Bureau of Land Management's venting & flaring (methane) rule
- Confirms that Bureau of Land Management is withdrawing the hydraulic fracking rule

On Tue, Mar 28, 2017 at 6:32 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> All.
>
> Thank you for being willing to attend tomorrow's ceremony, especially with such short notice. Details are all below. A press release/top line summary will

be released tomorrow morning prior to the event.

Time: Arrive NLT 945 (preferably closer to 930) for a hard start time of 10 am. Some members have to leave by 1020 so we need to start on time.

Location: Dept. of Interior / 1849 C. St. NW / DOI has two entrances, come to C Street Entrance

Arrival: Members and RSVP'd staff will be on Security list at C Street entrance. You will be greeted in lobby by DOI Staff and escorted up to the Secretary's office for the ceremony

You will need photo ID

Topline Issues: the Secretary will sign several Secretarial Orders to reflect POTUS action on energy. These include:

- Lifting the Federal Coal Leasing Moratorium.
- Withdrawing previous Secretary's Orders on Mitigation and oil & gas prohibitions.
- Announcing the reestablishing of the Royal Policy Committee.

Press: YES

Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Daimler-Nothdurft, Kristen (Murkowski)
To:	Chambers, Micah
Cc:	Hayes, Colin (Energy); Hughes, Brian (Energy)
Subject:	RE: Zinke Signing Ceremony - 3.28.17
Date:	Wednesday, March 29, 2017 9:34:48 AM

Murkowski on the way

Kristen Daimler Nothdurft
Executive Assistant/Scheduler
Office of Senator Lisa Murkowski
Hart Senate Office Building, room 522
Washington, DC 20510
202-224-6665 phone
202-224-4349 scheduling fax

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Wednesday, March 29, 2017 9:29 AM
To: Micah Chambers <micah_chambers@ios.doi.gov>
Cc: Amanda Kaster <amanda_kaster@ios.doi.gov>; Caroline Boulton <caroline_boulton@ios.doi.gov>
Subject: Re: Zinke Signing Ceremony - 3.28.17

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Rescind SO 3338 signed by Sally Jewell and direct BLM to process lease applications

Federal coal leasing is important to the U.S. economy and roughly 40% of U.S. coal is produced on federal lands.

The Department determined the public interest not served by halting leases for several years and that the PEIS is not needed to improve the program.

Note: In 2013, both the OIG and the GAO audited BLM's coal leasing program Between The OIG and GAO there were 21 recommendations made to improve transparency in the leasing program to ensure that the American taxpayer was receiving a fair return from the coal program. BLM has addressed all 21 recommendations and works closely with the Office of Valuation Services to ensure that bonus bids are calculated appropriately. In

addition, the Federal Royalty Policy Committee has been reestablished.

Mining companies are held accountable and expected to comply with strict environmental standards and present reclamation plans. Every year the "best of" reclaimed mine lands are highlighted by the Office of Surface Mining and Reclamation and Enforcement.

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Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Ahern, Kara
To: Chambers, Micah
Subject: Re: Zinke Signing Ceremony - 3.28.17
Date: Wednesday, March 29, 2017 9:36:58 AM

Just leaving hill now. Won't get there until 950.

Sent from my iPhone

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Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Tanner, John (Hatch)
To: Downey Magallanes
Subject: FW: CRS Follow-Up on National Monument Request
Date: Wednesday, March 29, 2017 9:45:30 AM
Attachments: AZ Gov Hull - news articles.PDF
ATT00001.htm
Canyons of the Ancients.pdf
ATT00002.htm
Upper Missouri River Breaks.pdf
ATT00003.htm
Grand Staircase-Escalante - 1.pdf
ATT00004.htm
Grand Staircase-Escalante - 2.pdf
ATT00005.htm

From: Ed Cox <Ed_Cox@hatch.senate.gov>
Date: Tuesday, March 28, 2017 at 7:41 PM
To: John Tanner <John_Tanner@hatch.senate.gov>
Subject: Fwd: CRS Follow-Up on National Monument Request

Sent from my iPhone

Begin forwarded message:

From: "Hanson, Laura" <LHANSON@crs.loc.gov>
Date: March 28, 2017 at 6:12:19 PM EDT
To: "'ed_cox@hatch.senate.gov'" <ed_cox@hatch.senate.gov>
Cc: "Hardy-Vincent, Carol" <CHVINCENT@crs.loc.gov>, "Gomez, Lena" <LAGOMEZ@crs.loc.gov>
Subject: FW: CRS Follow-Up on National Monument Request

Hi Ed,

This email responds to your request for statements made by governors about national monument designations with areas over 100k acres. Please see the table below and the accompanying attachments for the statements that we were able to identify. We searched subscription news databases, including Nexis and Factiva, as well as state and general websites.

Note that we couldn't find a statement for every monument designation. For those statements that we did identify, some statements appear to support the designation, while others appear to oppose the designation. We didn't identify any statements by CA governors on designations, but did find some statements made by the CA Secretary of Natural Resources. Some of the attached PDFs include more than one monument (relevant portions have been highlighted).

Statements Made by Governors or Other State Officials on Selected National Monument Designations

State	Monument	Date	Acres	Governor / Time in Office	Notes
Arizona	Grand Canyon-Parashant	01/11/2000	1,014,000	Hull, Jane Dee (Sept 5, 1997-Jan 6, 2003)	See attached PDF
	Ironwood Forest	06/09/2000	128,917		
	Sonoran Desert	01/17/2001	486,149		
	Vermilion Cliffs	11/09/2000	293,000		
California	Carrizo Plain	01/17/2001	204,107	Davis, Gray (Jan 4, 1999-Nov 17, 2003)	No statements identified
	Giant Sequoia	04/15/2000	327,769		
	Berryessa Snow Mountain	07/10/2015	330,780	Brown, Jerry (Jan 3, 2011-)	CA Sec. Laird statement on Berryessa CA Sec. Laird statement on Mojave Trails and Sand to Snow No San Gabriel Mountains statements identified
	Mojave Trails	02/12/2016	1,600,000		
	San Gabriel Mountains	10/10/2014	346,177		
	Sand to Snow	02/12/2016	154,000		
Colorado	Canyons of the Ancients	06/09/2000	164,000	Owens, Bill (Jan 12, 1999-Jan 9, 2007)	See attached PDF
Hawaii - Alaska - California	World War II Valor in the Pacific	12/05/2008	4,038,400	HI - Lingle, Linda (Dec 2, 2002-Dec 6, 2010) AK - Palin, Sarah (Dec 4, 2006-Jul 26, 2009) CA - Schwarzenegger, Arnold (Nov 17, 2003-Jan 3, 2011)	No statements identified
Montana	Upper Missouri River Breaks	01/17/2001	377,346	Martz, Judy (Jan 1, 2001-Jan 3, 2005)	See attached PDF
Nevada	Basin and Range	07/10/2015	704,000	Sandoval, Brian (Jan 3, 2011-)	Governor statement on Basin and Range Governor statement on Gold Butte
	Gold Butte	12/28/2016	296,937		
New Mexico	Organ Mountains-Desert Peaks	05/21/2014	496,330	Martinez, Susana (Jan 1, 2011-)	News article: Governor did not respond to request for comment on OMDP; No Rio Grande del Norte statements identified
	Rio Grande del Norte	03/25/2013	242,555		
Utah	Grand Staircase-Escalante	09/18/1996	1,700,000	Leavitt, Mike (Jan 4, 1993-Nov 5, 2003)	See 2 attachments
	Bears Ears	12/28/2016	1,350,000	Herbert, Gary (Aug 11, 2009-)	Governor statement on Bears Ears
Washington	Hanford Reach	06/09/2000	195,000	Locke, Gary (Jan 15, 1997-Jan 12, 2005)	News article: Governor position on Hanford Reach

Please let us know if you have any questions or if you need further assistance

Thanks,
Laura

Laura Hanson
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From: Cox, Ed (Hatch) [mailto:Ed_Cox@hatch.senate.gov]
Sent: Tuesday, March 28, 2017 9:28 AM
To: Hardy-Vincent, Carol
Cc: Mages, Lisa
Subject: Re: CRS Folow-Up on National Monument Request

Over 100k acres is just fine Keep me posted! I think this is a great plan

---

From: Carol Hardy-Vincent <CHVINCENT@crs loc gov>
Date: Monday, March 27, 2017 at 7:50 PM
To: "Cox, Ed (Hatch)" <Ed_Cox@hatch senate gov>
Cc: "Mages, Lisa" <LMAGES@crs loc gov>
Subject: CRS Folow-Up on National Monument Request

Hello Ed This email is a follow-up to our phone conversation this morning on your request for information on state support of presidentially proclaimed national monuments since 1995 It conveys additional information on the CRS approach to researching this question, following consultation with CRS colleagues First, we are researching post-1995 monuments that exceed 100,000 acres, a size larger than we discussed (10,000 acres) The larger size was chosen to reduce the number of eligible monuments in the interest of expediting this research We have identified 20 monuments in excess of 100,000 acres, listed below by state Second, this list excludes marine national monuments, as generally not affiliated with a particular state Third, we are seeking expressions of support/opposition by state governors at the time of monument designation, and in a short period thereafter We may undertake research on support/opposition by state legislatures if possible under your deadline You had stated a preference for information by COB today, but we were not able to complete the research by this deadline This is because the information is not aggregated in one place, thus requiring 19 separate searches You had also stated that it would nevertheless be helpful to receive information by COB Tuesday, and we are endeavoring to provide information by that time In the meantime, please do not hesitate to let us know if you have questions I am copying Lisa Mages, manager of the librarian section that is conducting the research to respond to your question

Arizona
Grand Canyon-Parashant; 01/11/2000; 1,014,000 acres
Ironwood Forest; 06/09/2000; 128,917 acres
Sonoran Desert; 01/17/2001; 486,149 acres
Vermilion Cliffs; 11/09/2000; 293,000 acres

California
Berryessa Snow Mountain; 07/10/2015; 330,780 acres
Carrizo Plain; 01/17/2001; 204,107 acres
Giant Sequoia; 04/15,2000; 327,769 acres
Mojave Trails; 02/12/2016; 1,600,000 acres
San Gabriel Mountains; 10/10/2014; 346,177 acres
Sand to Snow; 02/12/2016; 154,000 acres

Colorado
Canyons of the Ancients; 06/09/2000; 164,000 acres

Hawaii (also Alaska and California)
World War II Valor in the Pacific; 12/05/2008; 4,038,400 acres

Montana
Upper Missouri River Breaks; 01/17/2001; 377,346 acres

Nevada
Basin and Range; 07/10/2015; 704,000 acres
Gold Butte; 12/28/2016; 296,937 acres

New Mexico
Oregon Mountains-Desert Peaks; 05/21/2014; 496,330 acres
Rio Grande del Norte; 03/25/2013; 242,555 acres

Utah
Grand Staircase-Escalante; 09/18/1996; 1,700,000 acres
Bears Ears; 12/28/2016; 1,350,000 acres

Washington
Hanford Reach; 06/09/2000; 195,000 acres

With Best Regards,
Carol Hardy Vincent
Congressional Research Service
7-8651

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	Results
1.	Court upholds Clinton creation of 7 monuments, 3 in Arizona *Arizona Daily Star (Tucson),* October 19, 2002 Saturday, TUCSON/REGION; Pg. B8, (660 words), Howard Fischer, Capitol Media Services
2.	Arizona has much at stake when Interior Secretary makes decisions *The Associated Press State & Local Wire,* State and Regional, (575 words), By GIOVANNA DELL'ORTO, Associated Press Writer
3.	Hull wants to alter new monuments *Arizona Daily Star (Tucson),* May 22, 2001 Tuesday, NEWS; Pg. A4, (830 words), Tony Davis
4.	The Washington Post Clinton Creates, Expands Four National Monuments; Arizona Officials Complain About Federal Government Controls on Use of Land in Western States, Charles Babington, Washington Post Staff Writer, January 12, 2000, Wednesday, Final Edition, A SECTION; Pg. A03, (875 words)
5.	GOP TELLS CLINTON TO BUTTE OUT OF NATIONAL MONUMENTS *Congressional Quarterly Daily Monitor,* January 7, 2000, (639 words), Mary Dalrymple, CQ Staff Writer
6.	WESTERN LAWMAKERS WARY OF CLINTON PLAN ON MONUMENTS *Congressional Quarterly Daily Monitor,* December 14, 1999, (601 words), Suzanne Dougherty, CQ Staff Writer

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Arizona Daily Star (Tucson)

October 19, 2002 Saturday
Final Edition

Court upholds Clinton creation of 7 monuments, 3 in Arizona

BYLINE: Howard Fischer, Capitol Media Services

SECTION: TUCSON/REGION; Pg. B8

LENGTH: 660 words

Former President Clinton did not exceed his legal authority in creating a host of new national monuments in Arizona and elsewhere in the West, a federal appeals court ruled Friday.

In a unanimous decision, the District of Columbia Circuit Court of Appeals threw out two separate challenges to Clinton's actions. The judges said the president has broad authority under the law.

Among the monuments that were challenged was the Ironwood Forest National Monument, about 25 miles northwest of Tucson. Ironwood has one of the richest stands of Ironwood trees in the Sonoran Desert and has several mountain ranges including the Silver Bell, Waterman and Sawtooth, according to the Arizona Bureau of Land Management Web site.

Friday's rulings say that those who want to challenge presidential proclamations to create national monuments have a difficult legal burden.

Friday's ruling provides no relief to Gov. Jane Hull, who objected to Clinton's creation of the Arizona monuments and has been working to redraw the boundaries and lift some restrictions.

Clinton created 18 national monuments and expanded two others before leaving office.

Mountain States Legal Foundation challenged six of them, including the Desert Sonoran National Monument southwest of Phoenix, Ironwood and the Grand Canyon-Parashant National Monument in northwest Arizona. Attorneys for the Denver-based organization charged that the proclamations exceeded any legal authority Congress gave the president.

A separate lawsuit was filed by Tulare County, Calif., challenging the creation of the Sequoia National Forest in south-central California.

At the heart of the dispute is the Antiquities Act, approved by Congress in 1906. That law allows the president "in his discretion" to declare "historic landmarks; and other objects of historic or scientific interest; situated upon (federal) lands; to be national monuments." The statute also requires the monuments to be the "smallest area compatible with the proper care and management of the objects to be protected."

Mountain States attorneys said Congress intended only to preserve ruins, artifacts and other man-made objects situated on public lands, with only minimal acreage included in the monuments.

The three Arizona monuments constitute more than 2 million acres.

Judge Judith Rogers said Clinton's actions appear to meet all legal conditions.

"Each proclamation identifies particular objects or sites of historic or scientific interest and recites grounds for the designation," she wrote. For example, Rogers said, the proclamation for Ironwood Forest states it holds "abundant rock sites and other archeological objects of scientific interest."

Rogers also rejected arguments that the proclamations must include a certain level of detail.

"No such requirement exists," she wrote. Rogers also said the president is entitled to ecosystems and scenic vistas in the list of things that qualify land for

protection.

The judge also rejected arguments that too much land was included in the monuments. Rogers said that, in both cases, the challengers made only general assertions without spelling out which lands they believed were inappropriate for inclusion.

Last year Hull wrote to Interior Secretary Gale Norton, seeking a change in the boundaries of the new national monuments Clinton created.

The governor said she was not trying to repeal the proclamations nor even reduce the size of the monuments. She said, though, the boundaries threaten future use of rights of way for roads and power lines as well as tie up a potential $100 million in mineral rights.

Hull also wants permission for certain activities within monument boundaries, including chaining or burning of vegetation for wildlife management, research or ecological restoration. She has proposed giving the state the authority to manage wildlife within the monuments.

Nick Simonetta, a spokesman for the state Land Department, said negotiations have been ongoing with the Bush administration.

LOAD-DATE: June 6, 2007

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newspaper

JOURNAL-CODE: TUCS

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The Associated Press State & Local Wire

August 7, 2001, Tuesday, BC cycle

Arizona has much at stake when Interior Secretary makes decisions

BYLINE: By GIOVANNA DELL'ORTO, Associated Press Writer

SECTION: State and Regional

LENGTH: 575 words

DATELINE: PHOENIX

Environmentalists have a list of issues they plan to spotlight Wednesday when U.S. Interior Secretary Gale Norton visits Arizona.

Norton plans to tour a forest health rehabilitation project near Flagstaff and dedicate a new section of trail at the Grand Canyon. She will be in Phoenix Thursday to meet state water officials.

The Sierra Club in Phoenix and other groups said Tuesday they want Norton to take a stand on the new national monuments that former President Bill Clinton created in Arizona.

The Bush administration has suggested it might scale back the more than 3 million acres that Clinton put under protection to explore public lands for energy resources. In March, Norton, whose agency oversees the National Park Service, asked officials from several states to suggest boundary and other changes to the new national monuments.

Environmentalists, however, worry that might open the door to logging, mining and development on lands where even power lines should not be placed, said Phoenix Sierra Club spokesman Rob Smith.

Three out of four Arizonans support the monuments, according to a poll released Tuesday by the Behavior Research Center. The poll was commissioned by the Sierra Club and other environmental groups. It surveyed 602 registered voters last month and had a margin of error is 4.1 percent.

Gov. Jane Hull, however, suggested that some boundaries should be redrawn.

In an April letter to Norton, Hull said the monuments created problems with energy transmission, cut into the state's long-term water supply, prohibited essential roads and diminished the use of thousand of acres of private property.

"National monuments are a great opportunity, not a problem," Smith countered on Tuesday.

The five monuments, covering nearly 2 million acres, are: Grand Canyon Parashant, on the canyon's northern rim; Agua Fria, off I-17 near Black Canyon City; Ironwood Forest, near Tucson; Sonoran Desert, west of Phoenix; Vermilion Cliffs, near Lake Powell.

Public land management is also within Norton's discretion and some environmentalists have pledged to protest various thinning and burning treatments employed in a forest experiment near Flagstaff.

Proponents of the Fort Valley Restoration Project say the forest needs some thinning because years of wildfire suppression have left it too prone to large fires. Critics, including the Southwest Forest Alliance, argue that the project only amounts to extensive logging.

"It causes such a drastic reduction in the number of trees that the current ecosystem is being sacrificed," said Southwest Forest Alliance spokesman Brian Nowicki.

Norton also has a say on Arizona wildlife because she oversees the U.S. Fish & Wildlife Service, which is involved in determining where development should be restricted to protect endangered or threatened species.

Last month, a federal appeals court directed Norton to reconsider her decision not to list the flat-tailed

horned lizard for protection as a threatened species. Its habitat is in southwestern Arizona.

Norton and Hull also will discuss negotiations with tribes about water rights, Hull's spokeswoman Francie Noyes said.

On the Net:

Interior Secretary: http://www.doi.gov/

National Park Service: http://www.nps.gov/parks.html

Ecological Restoration Institute: http://www.eri.nau.edu/gpnar.htm

Sierra Club: http://www.sierraclub.org/

Southwest Forest Alliance: http://www.swfa.org

LOAD-DATE: August 8, 2001

LANGUAGE: ENGLISH

GRAPHIC: AP Photos UTSG501 and PN102

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Arizona Daily Star (Tucson)

May 22, 2001 Tuesday

Hull wants to alter new monuments

BYLINE: Tony Davis

SECTION: NEWS; Pg. A4

LENGTH: 830 words

Republican Gov. Jane Hull has asked the Bush administration to redraw the boundaries of Arizona's five newest national monuments and to delay both the Sonoran Desert Conservation Plan and the federal pygmy owl recovery plan.

Pima County supervisors and environmentalists contend that the governor's actions are escalating conflicts between the state and county over growth and the environment.

While the governor says she wants the state to have more say over these plans, county supervisors say they've given the state many chances to cooperate with them.

"We've always had an open door. Maybe it wasn't always the most welcome, but it's unfortunate to try to circumvent local government rather than to try to deal directly with the people who are working and voting here," Republican Supervisor Ray Carroll said.

Last month the governor wrote separate letters to Interior Secretary and fellow Republican Gale Norton asking for:

* New boundaries for the Ironwood Forest National Monument and four other monuments that ex-President Bill Clinton and former Interior Secretary Bruce Babbitt approved for the state before Clinton left office on Jan. 20.

Hull also proposed that the Interior Department allow certain kinds of vegetation disturbance such as chaining or burning that's needed to maintain wildlife management, research and ecological restoration on the monuments. Her proposal would give Arizona authority to manage the monuments' wildlife and require that the state Game and Fish Department sign off on road closures, travel restrictions and other transportation plans for the monuments.

* A delay in decisions on Pima County's million-acre Desert Conservation Plan and the new owl recovery plan. She asked the Interior Department to provide an "appropriate state role" in shaping them.

Norton's office didn't reply Monday to questions about the governor's letters. Her department must approve the county's conservation plan and is currently reviewing the owl recovery plan, now more than 2 1/2 years behind its federally required release date. The plan would bring 175,000 acres of private and state-owned land under federal development limits to protect the endangered bird.

Hull wrote that she wasn't trying to repeal or downsize the monuments but did want to change their boundaries. The Ironwood Monument threatens future use of up to 14 rights of way for roads or power lines and up to $100 million in mineral rights, Hull wrote.

"We have monuments with boundaries that do not protect the best of the terrain, do not give due consideration to wildlife management, do not allow vital energy transmission to cross into regions of the state, prohibit essential roads, create uncertainty in the state's long-term water supply and diminish the use of thousands of acres of private property," Hull's April 6 letter said.

The Ironwood monument spans the Silver Bell, Waterman and Roskruge mountains north of the Avra Valley. The Sonoran Desert National Monument covers a rugged, hilly area 30 miles southwest of Phoenix. The Vermilion Cliffs Monument contains the Paria Plateau and Paria River Canyon in Northern Arizona. The Grand

Canyon-Parashant Monument lies on the Shivwits Plateau near the Canyon's North Rim. The Agua Fria monument, 40 miles north of Phoenix, includes an extensive area of Indian ruins dating back to 1250 to 1450.

Julie Sherman, a Sierra Club activist in Phoenix, said the various monument areas have long been considered for protection and pointed out that Ironwood and two of the other new monuments will be "much more permissive" than typical national monuments. Existing grazing, hunting, road and trail use, and existing mineral leases will be protected, she said.

"We don't understand her concerns that they can't be used," Sherman said.

Francie Noyes, Hull's press secretary, said the governor's staff has recently tried to improve communications with Pima County by holding a meeting with two county supervisors.

"The fact is that state agencies already, by statute and the constitution, have these responsibilities," Noyes said. "We simply want to be able to do our jobs."

Environmentalists and county officials said that state officials have had plenty of opportunities to participate. Officials from two state agencies sit on two committees involved in advising the federal government on drafting the pygmy owl recovery plan.

"What Hull really wants is veto power over anything to do with protecting the pygmy owl and the Sonoran Desert," said Kieran Suckling, science director of the environmentalist Center for Biological Diversity.

Democratic Supervisors Raul Grijalva and Sharon Bronson and Republican Carroll disagreed with the governor's stance. Grijalva said the conservation plan is fighting one hurdle after another: "It's not only private interests that will be a bone of contention: We now have the state with Hull's access to the Interior Department that makes it a much bigger issue."

* Contact Tony Davis at 807-7790 or at verdin@azstarnet.com

LOAD-DATE: June 6, 2007

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newspaper

JOURNAL-CODE: TUCS

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The Washington Post
washingtonpost.com
The Washington Post

January 12, 2000, Wednesday, Final Edition

Clinton Creates, Expands Four National Monuments; Arizona Officials Complain About Federal Government Controls on Use of Land in Western States

Charles Babington, Washington Post Staff Writer

SECTION: A SECTION; Pg. A03

LENGTH: 875 words

DATELINE: GRAND CANYON NATIONAL PARK, Ariz., Jan. 11

With this panoramic canyon as a backdrop, President Clinton today vigorously defended his decision to broaden federal protections for more than a million acres in the West as necessary to preserve scenic areas for generations to come.

After touring the Grand Canyon's northern rim by helicopter, the president signed documents creating two new national monuments in Arizona and one in California, and expanding an existing monument in California. Then, speaking to a few hundred supporters at Hopi Point on the south rim, he repeatedly invoked the name of Theodore Roosevelt, the president who gave federal protection to the Grand Canyon on this date in 1908.

He noted that Roosevelt used the federal Antiquities Act to protect the canyon, the same law that several other presidents have invoked and the one Clinton used today to create the new monuments.

"This is not about locking lands up; it is about freeing them from the pressures of development and the threat of sprawl, for all Americans, for all time," said Clinton, who wore a leather jacket in the clear but chilly and breezy late morning. Addressing a frequent criticism, Clinton said local authorities and residents will have a voice in the uses of the lands, which generally will allow for recreation such as hiking and fishing but will limit amenities such as roads.

"In managing the new monuments," he said, "we will continue to work closely with the local communities to ensure that their views are heard and their interests are respected."

Several Arizona Republicans, including Gov. Jane Hull, declined to join Clinton today, complaining that the federal government uses too heavy a hand in western states in controlling the rights to mining, grazing, road-building and water use. Today's ceremonies, and the criticisms by those who did not attend, are but the latest example of long-running tensions regarding the extent to which this part of the country should be protected and controlled by politicians who see it only on occasional vacations.

In many ways, today's debate centers more on process and pride than on any likelihood that the newly declared monuments would fall prey to development. Nearly all the land in question is already federally owned, and the White House said existing mining and water rights "will be maintained." But no new mining claims will be allowed, and "the current prohibition on off-road vehicles will be made permanent" at the two new Arizona monuments, according to the White House.

Hull and other Arizona Republicans have been careful to criticize Clinton's procedures without attacking the notion of preserving scenic lands.

"The governor is not opposed to protecting this land," said Hull's press secretary, Francie Noyes. "She's disappointed that the people of Arizona were completely bypassed in making this decision." She said Hull is not "trying to protect business interests" because few business enterprises are practical in the rugged and remote areas in question.

Speaking with reporters before his speech, Clinton said administration officials consulted closely with local citizens and officials before making his decision. "We've tried to be, and will always be, sensitive to the concerns and the legitimate interests of local people, but I think we've done a good job with this," he said.

He also pointed to a recent statewide poll that found most Arizona voters support federal protection of scenic or historic sites. Still marked by vast open and arid tracts, Arizona nonetheless has gained 1.3 million new residents in the past decade, creating pressures for new developments and sprawl. Only 17 percent of Arizona land is privately owned. The federal government owns 42 percent, the state owns 13 percent, and Indian reservations cover the remaining 28 percent.

Clinton's actions added 7,900 acres to the Pinnacles National Monument south of San Jose. He also created these three monuments:

* Grand Canyon-Parashant National Monument, more than a million acres on the northern rim of the Grand Canyon.

* Agua Fria National Monument, a 71,100-acre site 40 miles north of Phoenix. It includes rock pueblos that were inhabited centuries ago.

* California Coastal National Monument, which comprises thousands of islands, rocks and reefs along 840 miles of California coast.

Clinton was joined today by Interior Secretary Bruce Babbitt, a former Arizona governor who long has championed expanding the zone of protection around the Grand Canyon. Speaking before the president, Babbitt said Clinton "has written a full, final chapter to the protection of this canyon."

Protected Land

President Clinton today declared three new national monuments and expanded a fourth.

1. Coastal National Monument

Thousands of small islands, reefs and rocks off the California Coast.

2. Pinnacles National Monument

To be expanded.

3. Grand Canyon-Parashant National Monument

1,500 square miles of desert.

4. Agua Fria National Monument

71,000 acres filled with Indian ruins.

SOURCE: White House Council on Environmental Quality

President Clinton, with hiker Ann Weiler Walka, speaks at Grand Canyon, Ariz., after signing proclamations creating national monuments.

LOAD-DATE: January 12, 2000

LANGUAGE: ENGLISH

GRAPHIC: IG,,TWP; MAP,,TWP

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Congressional Quarterly Daily Monitor

January 7, 2000

GOP TELLS CLINTON TO BUTTE OUT OF NATIONAL MONUMENTS

BYLINE: Mary Dalrymple, CQ Staff Writer

LENGTH: 639 words

Amid expectations that President Clinton will establish three new national monuments and expand one during a visit to the Grand Canyon on Tuesday, Arizona Republicans have already begun to express their irritation.

"They have not even told us what the areas are, what the boundaries are, what the limits will be. It's basically a decree," said Sen. Jon Kyl, R-Ariz.

Interior Secretary Bruce Babbitt recommended last month that Clinton establish two new monuments in Arizona -- a million-acre Grand Canyon Parashant National Monument north of Grand Canyon National Park to protect remote canyons and buttes; and a 71,000-acre Agua Fria National Monument to protect prehistoric American Indian ruins.

In addition, Babbitt proposed a new California Coastal National Monument, incorporating thousands of small islands, rocks and reefs that serve as a wildlife habitat, and expanding the Pinnacles National Monument south of San Jose by 8,000 acres. The federal government already owns the land that would be protected, but the new designation would block mining, grazing, hunting and commercial development.

Arizona Republicans objected to the creation of new national monuments, saying the Clinton administration should work with state officials and local citizens to carve out new protected lands.

"There have not been public hearings," Kyl said. "There have been a couple of meetings where there was no transcript, with an informal exchange of ideas."

The expected announcement also faces opposition from Arizona's Republican governor, Jane Dee Hull.

"The governor does not like it when Washington dictates to the state of Arizona," said spokeswoman Fancie Noyes.

In particular, the governor and lawmakers prefer using legislation to protect land north of the Grand Canyon. Sens. Kyl and John McCain, R-Ariz., have drawn up a bill (S 1560) that would set aside 380,000 acres of land in a proposed Shivwits Plateau National Conservation Area, considerably less than Babbitt's proposed million-acre park.

On Friday, the state's Republican congressional delegation and Hull sent Clinton a letter asking him to forgo the declaration.

"Once again, we are writing to ask you to refrain from this unilateral action and instead work with us to develop a solution reflecting the wishes of the people of Arizona," they wrote.

Other Republicans suggested that the declaration could be timed to boost Vice President Al Gore's presidential candidacy.

"These lands are our sacred trust and should not be used for election-year politicking or personal legacies," said Utah Republican James V. Hansen, chairman of the House Resources Subcommittee on National Parks and Public Lands.

The president has the power to designate new national monuments under the 1906 Antiquities Act. Clinton provoked Western Republicans after he used the law to create the 1.7 million-acre Grand Staircase-Escalante National Monument in southern Utah in 1996.

In response, Hansen authored legislation that would amend the 1906 law to require the federal government to consult with local officials and hold public hearings before establishing new monuments.

The House passed the bill (HR 1487) in September, and the Senate Energy and Natural Resources Committee approved it in October but has not yet reported it to the Senate.

After Babbitt's December recommendations to establish more national monuments, panel chairman Frank H. Murkowski, R-Alaska, said he would revisit the issue as soon as Congress reconvened. He suggested the committee might add new provisions to the bill requiring the federal government to draft environmental impact statements for all proposed new monuments.

Source: CQ Daily Monitor
Round-the-clock coverage of news from Capitol Hill.
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LOAD-DATE: April 15, 2002

LANGUAGE: ENGLISH

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Congressional Quarterly Daily Monitor

December 14, 1999

WESTERN LAWMAKERS WARY OF CLINTON PLAN ON MONUMENTS

BYLINE: Suzanne Dougherty, CQ Staff Writer

LENGTH: 601 words

With President Clinton's announcement Tuesday that three new national monuments could be designated within the next year, Western Republicans are on the warpath.

Heading the charge is the congressional delegation from Arizona, which would be home to two of the new monuments. A spokeswoman for Republican Bob Stump, who represents the district where the monuments would be located, said the delegation is writing the president to urge him to hold off on the designations.

"Artificial time constraints do not make good policy. There are no urgent threats to the area that we can't take the time to go through a public comment period and spend the necessary time to work with people who have an interest in the areas," said Lisa Atkins, Stump's chief of staff.

Recommendations submitted to President Clinton by Interior Secretary Bruce Babbitt would create national monuments in Arizona and California, and expand another in California. Clinton indicated in a speech on Tuesday that he will probably act on the recommendations within a year.

Babbitt proposed designating 1 million acres along the north rim of the Grand Canyon as the Grand Canyon-Parashant National Monument; 71,100 acres of federal land north of Phoenix as the Agua Fria National Monument; thousands of small federally owned islands, reefs and rocks along the California Coast as the Coastal National Monument; and adding 8,000 acres to the Pinnacles National Monument near San Jose, Calif.

Arizona Gov. Jane Dee Hull, R, is displeased with the recommendations of Babbitt, a former Arizona governor. While some of the parcels fit the federal government's criteria for land preservation, a governor's spokesman said other areas are not threatened.

"The governor believes that the federal government is coming in and running roughshod over the process without any input from the public," said Scott Celley, the governor's assistant.

Clinton has come under fire for his use of the powers granted to him under the little-used 1906 Antiquities Act. The law allows the president to unilaterally set aside threatened federal lands as national monuments.

Critics say the monument designation has become a political tool with little accountability, citing Clinton's September 1996 designation of 1.8 million acres in southern Utah as the Grand Staircase-Escalante National Monument.

Environmental groups praised the possible designations and urged the administration to do more to protect the environment. "Bravo to the administration for making some national monuments, but that is not going to take away from the fact that they have not addressed some of the major environmental problems we are facing today," said Mark Whiteis-Helm, a spokesman for Friends of the Earth.

Legislation that would allow more public participation in monument designations has strong support from Western lawmakers. One measure (HR 1487) introduced by Utah Republican James V. Hansen was passed by the House in September and approved by the Senate Energy and Natural Resources Committee on Oct. 20.

In light of the president's announcement Tuesday, however, Senate Energy Chairman Frank H. Murkowksi, R-Alaska, indicated that he would take another look at the legislation before reporting it out of the committee. "Early in the next session, the

committee will probably take the bill up again in an effort to strengthen the provisions," said Tina Kreisher, the committee's press secretary.

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The Denver Post

July 12, 2000 Wednesday 2D EDITION

Owens axes federal land swap Cites Clinton's high-handed tactics in creating national monuments

BYLINE: By Mike Soraghan, Denver Post Washington Bureau,

SECTION: DENVER & THE WEST; Pg. B-01

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WASHINGTON - Gov. Bill Owens, angered by what he considers the high-handed tactics of President Clinton in his drive for a 'lands legacy,' has called off a land swap involving 180,000 acres in 20 counties.

Owens' top lieutenant for public lands, Department of Natural Resources head Greg Walcher, put the kibosh on the swap that state and federal managers had been working on for more than six months.

The Owens administration said that Clinton and Interior Secretary Bruce Babbitt created the Canyons of the Ancients National Monument in southwest Colorado without regard for what local residents thought of it.

And Owens is worried that Clinton will do the same thing in northwest Colorado near Craig. Some environmental groups have proposed creating a Vermillion National Monument there.

'We're concerned that they're kind of having their way with us without any consent or any public input,' said Susan Wadhams, spokeswoman for Walcher.

Officials with the state Land Board and the U.S. Bureau of Land Management had been working on the massive exchange.

State officials say Babbitt had suggested the swap to streamline ownership, eliminating 'inholdings' on each other's lands.

The land that would have been exchanged is scattered across the state, but much of it is in northwest Colorado, Grand County and the San Luis Valley. It didn't involve land in the new Canyons monument or the proposed Vermillion.

But after Clinton designated Canyon of the Ancients in June, Walcher sent a memo to the Land Board saying the administration did not want to proceed with the land bartering. A spokesman for Owens said the governor has not been directly involved in the land swap, but wholeheartedly approves of what Walcher is doing.

'We don't want to deal with someone who's not dealing with the public,' Susan Wadhams said.

That's fine with Babbitt, according to his spokeswoman.

'The Bureau of Land Management is continuing to do technical work on this proposal,' said Stephanie Hanna of the Department of the Interior. 'It will continue to work with the state at whatever pace the state chooses.'

It was to have been done as a 'legislative land exchange,' which bypasses some of the usual federal appraisal procedures by having a member of Congress get it passed.

Some environmentalists have bitterly fought such deals in other states, saying they're a bad deal for federal taxpayers. They say that state land boards in the West, which manage their land to raise money for schools, usually get a sweetheart deal. So they're surprised to see a state blocking such a swap.

'I can't understand why Owens would oppose it,' said Janine Blaeloch, director of the Western Land Exchange Project. 'The states are making out so well.'

A General Accounting Office report critical of such land exchanges, including some in Colorado, is expected to be released next week in Washington.

But in Colorado, environmentalists support land exchanges as a way to separate state land, which generally must be managed to raise the most money for schools, from federal land, which can be used purely for conservation purposes. Pam Eaton, the Denver-based regional director for the Wilderness Society, expressed some disappointment that Owens is stopping the swap.

'It's unfortunate that this process would be scuttled for political reasons,' Eaton said. 'These exchanges can be very productive.'

In his drive to create a federal lands legacy before he leaves office in January, Clinton has designated eight new monuments this year.

Monument status can restrict mining and oil and gas exploration at a site, along with other activities, depending on how the government's management plan is drafted.

Owens says he fears that Clinton will create another monument, Vermillion, in northwestern Colorado near Craig and Dinosaur National Monument, because the National Wildlife Federation and other environmental groups have proposed it to Babbitt. But Babbitt has expressed no support for the proposal.

Owens also showed his dislike for Clinton's tactics by pulling together nine other Republican governors in the West to demand that the administration seek public input before creating any new monuments.

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Mont. may sit tight on exchange of lands

FAITH BREMNER
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WASHINGTON -- As private landowners clamor to have their property removed from the Upper Missouri River Breaks National Monument, the state of Montana is in no hurry to yank its land from the controversial new monument.

The House Resources Committee approved a bill Wednesday that would remove 81,000 acres of privately owned land from the monument and redraw its boundaries. The bill, introduced by Rep. Dennis Rehberg, R-Mont., says nothing about the 39,000 acres of land in the monument that belongs to the Montana Division of School Trust Lands.

President Clinton created the 377,000-acre monument shortly before leaving office. Although Gov. Judy Martz has been one of the monument's loudest critics, she hasn't asked Congress or the federal government to have the state's lands removed from its boundaries.

That's a position the state land board would have to take, and it has not yet discussed the issue, said Todd O'Hair, Martz's natural resource policy adviser. The state land board is made up of three Democrats and two Republicans -- the governor, attorney general, auditor, secretary of state and superintendent of public instruction. The board's job is to manage the state's 5.1 million acres of trust lands in a way that generates the most money for the state's schools.

"It's a very controversial issue, and a lot of time these issues have a tendency to fall along party lines," O'Hair said. "If Congressman Rehberg can get the legislation through for the private landowners, that will be good."

The state will gain more financially by leaving the land in the monument, for now, and then trading it for other federal land later, said Janine Blaeloch, a Seattle-based critic of federal land exchange programs. That's because the Bureau of Land Management has a history of giving away the store when it exchanges its land for state lands in national monuments and wilderness areas, especially when development is mentioned, she said.

"The state is going to make out like crazy," said Blaeloch, director of the Western Land Exchange Project. "Montana must be rubbing their hands knowing they own this valuable historic land. All they have to do is threaten to build a road, and everybody will go nuts."

The BLM would not be interested in doing a land exchange with the state if its lands are removed from the monument's boundaries, Monument Manager Gary Slagel said.

"We can't enlarge the monument; only Congress can," Slagel said.

The state of Utah is making a ton of money off BLM lands it received in exchange for a lot of low-value land it owned in the Grand Staircase-Escalante National Monument, Blaeloch said.

In 1999, Utah received 200,000 acres of BLM land, which included the Ferron Coalbed Methane Trend in central Utah, plus $50 million cash. In exchange, the federal government received 177,000 acres of state land in the national monument plus an additional 200,000 acres of state lands that were scattered around wilderness areas, national forests, parks and reservations in Utah.

Before the exchange, Utah received about $100,000 a year off the land it owned in the national monument. Since the exchange, it has earned $10 million off the land it received from the BLM on its coal- bed methane leases, according to the Utah Trust Lands' Web site. Within two years, Utah expects to receive $10 million a year for 20 years on this land with residual revenues continuing for a century.

Dave Hebertson, spokesman for Utah Trust Lands, said the state gave up very valuable coal deposits in the national monument. The coal is low in sulfur and would be easy to mine. Even though it's in a national monument, he predicted that it will be mined someday, "five days after the hot tubs in California go cold."

"(The exchange) has been very lucrative for us," Hebertson said. "It's really wrong to believe the federal government got hoodwinked.

"They're smart people. They drove as hard a bargain as anyone."

BLM spokeswoman Celia Boddington said her agency does a good job of appraising lands involved in exchanges, and that taxpayers get good value for lands they get in exchange. BLM appraisers are licensed and certified and follow professional standards, she said. In Las Vegas, where the BLM has congressional authority to auction its lands rather than exchange them, the agency's appraised values come in very close to the actual selling prices, she said.

"Clearly, it's a very different market in Las Vegas, but if we can get it right in Las Vegas, we can get it right in most places," Boddington said.

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Features
Montana's Missouri Breaks: Undaunted Stewards

By Clint Peck Senior Editor
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The area is known simply as "the breaks." It's a rugged, remote slice of north-central Montana cradling the upper reaches of the Missouri River as it zig zags through the badlands. By most assessments, the breaks have changed little since Lewis and Clark ventured into this frontier nearly 200 years ago.

By design, their journey (see sidebar on page 19) opened a growing country's eyes to the vast potential this and other places in the West held for American expansion.

Over the decades, scores of ranching families have grown into the fabric of the breaks. They have stewarded the land, water and wildlife -- working with government land managers assigned to oversee the public resources that characterize the area. For nearly 20 years though, there's been an undercurrent of resentment over the designation of a 149-mile stretch of the Missouri River as "Wild and Scenic."

Public interest in the breaks intensified after publication of historian Stephen Ambrose's book "Undaunted Courage" -- one of the more popular chronicles of the Lewis and Clark expedition. Then in 1999, Interior Secretary Bruce Babbitt floated through the river breaks with Ambrose, Montana Sen. Max Baucus and a cadre of environmental activists. There was no question Babbitt wanted the area preserved.

So last January, President Clinton, using his powers under the U.S. Antiquities Act, created the Upper Missouri River Breaks National Monument.

Now, this designation and attention to the Lewis and Clark expedition's upcoming bicentennial is haunting people and communities that have become dependent on the resources in and around the breaks. Comprised mainly of land managed by the Bureau of Land Management (BLM), the nearly half-million-acre monument also includes 40,000 acres of state land and 81,000 acres of privately owned land. It's estimated that ranchers graze nearly 10,000 head of cattle on land they own and/or lease within the monument boundaries.

So Where's My Hug?

"There's no question that, in time, this designation is going to affect our grazing uses as well as the value of our ranches," says rancher Matt Knox, Winifred, MT. He and his wife Karla feel their lives will change in what is now designated as national monument area.

"It happened when we got the Wild and Scenic designation, and it will happen again," Matt Knox says. "We think it's the next step in phasing out ranching in this area."

The Knoxs have demonstrated that grazing systems on both their private land and leased allotments have helped protect the environment. But, they now feel they'll be held to a higher standard with the monument.

Wendy Whitehorn, Dutton, MT, is a member of Friends of the Missouri Breaks Monument. She emphasizes that the vast majority of land in the monument is public land, and the designation will not affect ranchers' private property.

"The BLM will continue to manage the public land as it always has," Whitehorn says. "And, the public has every right to know what is happening on public land."

Knox, though, gets a little tired of people telling him what a great thing monument status will be for ranchers.

"We'll see more interference into our lifestyles. It won't happen overnight -- but it will happen," he says. "They say there's good 'karma' coming with this designation. And, they think we'll all have a big group hug when it's finished -- well that's just not going to happen."

In Neon Lights

While the Knoxs look down the road at long-term threats to the livestock business, they and others are also keeping an eye on what monument status means in the short run. And they shake their heads at what Clinton and Babbitt thought they were accomplishing.

"This remote location retains unspoiled, natural settings that form a backdrop for outstanding recreational and cultural tourism opportunities," stated Babbitt after his trip down the river. He noted the "remote location offers opportunities for solitude not commonly found today."

"Babbitt effectively built a giant neon sign saying the breaks are 'open for business' -- so to speak," says outdoor enthusiast Ron Poertner of Winifred. He's a retired military officer with family ties in central Montana.

He says Babbitt supported his arguments for monument designation by predicting as many as 2,000 people/day would float portions of the breaks during the height of the Lewis and Clark bicentennial set to begin in 2003.

"Monument designation is a death wish for the preservation of the breaks," Poertner explains. "Now there is potential for resource damage in the breaks."

Whitehorn says this is exactly the reason for monument status.

"We all believe the monument needs to stay intact," she says. "We're not thrilled about seeing millions of visitors, but we need to be prepared for them when they come." She says monument designation is the best way to prepare for the inevitable attention to the breaks.

Whitehorn explains that monument status gives the BLM "line-item" budgets for the breaks. And funding will come in time to for monument managers to plan ahead.

Poertner believes ranchers should be given more credit for preserving the breaks -- and not be penalized for living there. He says ranchers have the most to lose with monument designation.

"I just can't see what the upside is here. You can't tell me traditional uses won't be affected," Poertner says. "This country is in better shape than it's ever been because these ranchers have figured out how to live here. They certainly can't do it by abusing the land."

Promises, Promises...

Last winter the Bush administration, through Interior Secretary Gale Norton, promised to assess the impact of monument designation. Norton criticized Clinton and Babbitt for fostering conflict and hardship -- instead of environmental stewardship.

"They didn't work with local property owners, elected officials and other people whose lives were affected," Norton said in a March 2001 statement. "We're committed to building on the principle of respect for property rights."

Whitehorn argues, though, that there was an extensive public process that occurred prior to designation.

"The BLM held many public hearings and took hundreds of comments," she explains. "Babbitt gave our congressional delegation a chance to come up with their own plan to protect the breaks. They didn't do it."

Nevertheless, Norton looked for alternatives to undo what she called an "11th-hour action by the Clinton administration." She sent letters last summer asking Montana Gov. Judy Martz and other local officials for input into monument boundaries and an interim management plan. Martz appointed a task force charged with soliciting input on those two points.

But with the events of Sept. 11, national priorities changed. Attention to things like monument designations eroded. Some believe it's a convenient excuse to sidestep controversy and cop-out on the issue.

"I think the secretary reneged on her earlier commitment -- saying she really doesn't have the authority to make these changes," says Steve Pilcher, executive secretary of the Montana Stockgrowers Association. "I think it's

unfortunate Secretary Norton put Gov. Martz and a lot of other Montanans through all that agony -- and let me tell you, the arguments were very brutal."

Others think Martz could have been more insistent with Norton. There was consensus during one task force meeting that the governor failed to give her full support to task force recommendations.

"From the very beginning she had steadfastly opposed monument designation," adds Pilcher. "Personally, I'm surprised she's taking the secretary's change in direction as well as she is."

A Legislative Approach?

So, with executive branch attention to the breaks shut down -- monument opponents are looking into the legislative arena for help.

Even as early as July, legislation (H.R. 2114, the National Monument Fairness Act) was drafted recognizing there was virtually no time for opposing sides to negotiate a compromise over monument land use or boundaries. But, H.R. 2114 was also shelved after Sept. 11.

Now it appears the ranchers' best hope for relief is legislation that would exclude private property from the monument boundaries. With Gov. Martz's blessing, Rep. Denny Rehberg (R-MT) says he'll draft legislation removing private land from monument boundaries.

Whitehorn is not sure this legislation is necessary, though. She says access to private property and traditional grazing uses are already protected by Clinton's proclamation.

"I don't know what the purpose would be to take the private property out of the monument," she says, adding that no one is telling anyone what can or cannot be done with private property.

"We want to keep those guys on the land," Whitehorn explains. "The proclamation and the Interim Management Plan both state that grazing can continue."

Welcome To The Breaks

Some ranchers aren't so sure about Rehberg's legislation -- but for different reasons. They feel it only scratches the surface of the problems they're facing.

"There's a lot spelled out in the monument resolution and the Antiquities Act that really bothers us," says Knox. "It just leaves too much room for interpretation. These things will come back to haunt us."

Wording of particular concern is over water rights. Monument status assures, "a quantity of water... sufficient to fulfill the purposes for which this monument is established."

"That's a Trojan Horse for government water rights," says Poertner. "Who's going to decide how much water is needed from the river's tributaries 'for the purposes' of the monument?"

Consideration for species thought to be potentials for the Endangered Species list -- like sage grouse and prairie dogs -- also concerns ranchers. They fear perching and nesting habitat for many species of falcons, eagles, hawks and shore birds could become the next spotted owl issue.

The coulees and breaks contain archeological and historical sites, from teepee rings and remnants of historic trails to abandoned homesteads. Warning has already been given by the BLM to all "unauthorized" persons not to injure, destroy or remove any feature of the monument.

An Old Story

"Monument designation changes the way the government looks at all the animals, features and all uses in the breaks," says Karla Knox. "We just can't say where they will draw the line."

For example, predator control will be left in the hands of the monument manager. And a "transportation plan," including road closures or travel restrictions, will be implemented by the BLM to protect the "objects" identified in the monument proclamation.

And Poertner says the designation opens the door for more government land grabs.

"The proclamation states that lands within the proposed monument not owned by the government shall be reserved as a part of the monument upon acquisition of title by the U.S.," he says.

But, the BLM has no hidden agenda for the private lands within this boundary, says Dave Mari, Lewistown, MT, field manager for the BLM. However, he says if a willing landowner approaches the BLM about an acquisition, easement or an exchange, the BLM would manage the acquired lands just as other public land within the monument.

Poertner doesn't buy it. And he wonders aloud why, with all the local opposition to monument designation, so much land had to be set aside.

"I just can't see why they need so much land," he says. "There's just more to this then meets the eye."

Whitehorn says there's tremendous public support for the monument, and boundaries were carefully drawn.

"Several opinion polls showed support for the monument. All the major Montana newspapers and some of the smaller ones came out in support of the monument," she points out. "So, how can the designation be 'haunting' Montana?"

For Pilcher, it's the fear of the unwritten.

"It isn't the changes implemented today that the people fear as much the 'vehicle' monument designation provides for future changes," explains Pilcher. "The agencies and their supporters are smart enough not to make dramatic changes immediately, as the backlash would be overwhelming. It's an old story to say there will be no change."

But, the proclamation clearly states that the designation applies only to public land, emphasizes Mari.

Knox isn't being swayed by what he thinks are hollow promises.

"Everyone is telling us this is something we're going to have to live with," he concludes. "I don't know about that -- I guess we'll see. If it is, it's a tough pill to swallow."

The History Of "The Breaks"

On April 30, 1803, a single pen stroke by President Thomas Jefferson doubled the geographical area of the U.S.

Napoleon Bonaparte, preparing for another war with England, had announced he'd sell the port of New Orleans to the U.S. if Jefferson would also take the entire 820,000-square-mile Louisiana Territory for $15 million or about 3cents/acre.

While New Orleans was strategically important to Jefferson, he viewed westward expansion equally key to the future of the young country. He convinced Congress the commercial and agricultural possibilities of the region were crucial to the nation's growth.

First, the Louisiana Purchase had to be explored and charted. On July 5, 1803, the president's aide, Meriwether Lewis, left Washington, D.C., to begin assembling an expedition to survey the headwaters of the Missouri River and to search for a waterway connecting it with the Pacific Ocean.

Over the next four years, Lewis and his friend William Clark would lead the Corps of Discovery. They explored lands and rivers and experienced peoples previously enigmatic to 19th Century Americans. They spent three weeks -- May 24 through June 13, 1805 -- exploring what is now the Upper Missouri National Wild and Scenic River. Today, this portion is considered to be the premier component of the Lewis and Clark National Historic Trail.

Earlier depictions of the land and creatures in the West had often come from the imaginations of people who had never been there. Many reports told of Western terrain spotted with unicorns, woolly mastodons, seven-foot-tall beavers, Peruvian llamas and blue-eyed, Welsh-speaking Indians.

Lewis and Clark dispelled many of those myths and made numerous assessments of the region's potential.

Of the Missouri Breaks, or "badlands," Captain Clark wrote: "This country may with propriety, I think, be termed the Deserts of America, as I do not conceive any part can ever be settled, as it is deficient in water, timber, and too steep to be tilled." History has shown, of course, that Clark was only partly correct in his appraisal of the region's agrarian potential.

But, he knew that as a route of Western expansion, the Missouri River would have few equals. The fur trade era stimulated the first extensive use of the river as an avenue of transportation. Then, steamboats began braving the treacherous Missouri in 1859, arriving just in time to supply the gold camps in southwest Montana and northern Idaho. Supplies unloaded in Fort Benton, MT, were freighted as far west as Washington and north to Canada's Northwest Territories.

The railroad reached Fort Benton in 1887. The last commercial steamboat arrived there in 1890. By then, the buffalo had disappeared from the Plains -- replaced by livestock. Fort Benton changed from a river port to an agricultural supply center, and homesteaders began arriving in large numbers around 1910.

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JOURNAL SENTINEL

ANews
Montana panel backs smaller monument

Associated Press
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The Milwaukee Journal Sentinel
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A task force appointed by Republican Gov. Judy Martz has recommended scaling back the size of the Upper Missouri River Breaks National Monument, established by then President Bill Clinton.

The panel recommended shrinking the 497,000-acre monument by more than 80% by removing 81,000 acres of private property and a significant chunk of public land. The move was praised by landowners but condemned by environmentalists.

"It basically just makes the monument (status) meaningless," said Mark Good, field organizer for the Montana Wilderness Association.

National monument status protects areas from new natural gas leases and mining but keeps existing rights. Off-road vehicle travel also is forbidden.

Clinton created the monument during his final year in office. Martz appointed the task force after Interior Secretary Gale Norton asked state officials to suggest boundary and other changes to national monuments.

Task force members on Tuesday recommended trimming the monument designation to 90,000 acres. Martz is expected to send her recommendation to Norton before Sept. 1.

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Federal News Service

APRIL 29, 1997, TUESDAY

PREPARED STATEMENT OF MICHAEL O. LEAVITT GOVERNOR, UTAH BEFORE THE HOUSE RESOURCES COMMITTEE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS

SECTION: IN THE NEWS

LENGTH: 2357 words

Thank you for allowing me the opportunity to speak to you today about the recently designated Grand Staircase - Escalante National Monument in Southern Utah.

The protection of public lands in the State of Utah is a familiar issue. The federal government administers more than 65% of the land in the State, and we are continually pursuing new and better ways to work with the federal government in the planning and administration of these lands. We have worked hard to build relationships, forge partnerships, and lay the groundwork for interagency cooperation unmatched by other public lands states. For these reasons, the chain of events surrounding the establishment of the Grand Staircase - Escalante National Monument have caused me great concern, and created a greater distrust of governmental processes by many people in the State of Utah.

On September 18, 1996, President Clinton invoked a provision of the 1906 Antiquities Act to designate 1.7 million acres in southern Utah as the Grand Staircase - Escalante National Monument. The first reports of this that I, or any other elected official in the State of Utah, had received were from a story in the Washington Post only 9 days prior to Mr. Clinton's public proclamation.

I would like to share with you a day-by-day account, from my perspective, of the events leading up to President Clinton's announcement:

Monday, September 9, 1996: Upon reading of the new National Monument in the Washington Post, I placed a call to Secretary of the Interior Bruce Babbitt. I asked Secretary Babbitt about the article in the Post and was told that Interior was not involved and that I should call the White House.

When I called the White House, I spoke with Director of Intergovernmental Affairs, Marcia Hales. She had seen the story and told me that they weren't certain were it came from. She committed to get back to me relative to how serious the proposal was.

Wednesday, September 11, 1996: Two days later, Ms. Hales reported that a monument was being discussed but "no decision had been made." I asked, "what is the timing on this?" "That's what we are trying to decide," she replied. I asked Ms. Hales for an appointment with the President Clinton or his Chief of Staff, Leon Panetta. Later that week an appointment was confirmed with Mr. Panetta for the following Tuesday.

Friday, September 13, 1996: My office became aware through the news media that an important environmental announcement was planned by the President at the Grand Canyon the following week. Preparations were being made by environmental organizations to transport groups from Utah. When we inquired directly of the Administration about the time, place and subject of an event they were not willing to even confirm the event would occur. Local governments in Utah were becoming more and more concerned. On two other occasions during the week I had conversations with Mr. Babbitt or his office. They continued to indicate that they had no information, insisting that this matter was being handled by the White House. When we called the White House we were referred to the Interior Department.

Late Friday afternoon, Secretary Babbitt called an emergency meeting in his office for the next day, Saturday. The Congressional delegation was invited. I was not able to attend the meeting, but the fact that meetings were being called on a weekend added to the sense of inevitability. However, we were still being told that "no decision had been made."

Monday, September 16, 1996: The weekend was a

blur of phone calls, and meetings with local officials. Despite the fact that buses where being organized to take Utahan's to Arizona for the announcement, the Governors office could still not get confirmation of where or what the official announcement would be. I traveled to Washington for my meeting with Mr. Panetta.Tuesday, September 17, 1996: Tuesday afternoon, I met with Mr. Panetta. I was told that Mr. Panetta had the responsibility of making a recommendation to the President. Mr. Panetta said that he had set aside the afternoon to prepare that recommendation. Kathleen McGinty, Chair of the President's Council on Environmental Quality, Marcia Hale, Director of Intergovernmental Affairs and another member of the white house staff.

My presentation focused on the problems caused by this complete abandonment of public process. I explained that it was our desire to protect the spectacular lands of this region but that this was the wrong way to go about it. I detailed for them a proposal ironically called, Canyons of the Escalante: A National EcoRegion that resulted from an intergovernmental public planning process I initiated three years earlier to protect the area. This concept was developed by state, local and federal land managers working together for over a year. It would have provided flexibility and yet gave even more stringent protection for the most pristine areas. I also spent a considerable amount of time discussing our school trust lands. Mr. Panetta asked me to explain the status of those lands.

Prior to our discussion he was unaware of their existence or the importance they hold to the school children of our state.

Our meeting lasted just under an hour. Mr. Panetta told me that this was the first time he had been able to focus on this issue. He reiterated that he would make a recommendation to the President that afternoon. To Mr. Panetta's credit, he was very thoughtful in the questions he asked. He told me that he didn't like making decisions in a vacuum like this. At the conclusion of the presentation, Mr. Panetta said, "you make a very compelling case." To which I replied, "If this is compelling to you, then before the President sets aside part a piece of land equal to Rhode Island, Delaware and Washington, D.C. combined, he needs to hear the same information, directly from the Governor of the State." I was told Mr. Clinton was campaigning in Illinois and Michigan, but he would call me later in the evening.

Wednesday, September 18, 1996: At 1:58 a.m., my telephone rang, it was the President. The President told me that he was just then beginning to review this matter. I restated in short form the material I discussed with Mr. Panetta.

The call lasted for nearly 30 minutes. At 2:30 a.m. we were both very tired. I offered to write a memo that the President could read when he woke in the morning. He asked that I write the memo. I sat at the desk in my room and prepared a handwritten two plus page memo to the President. It was faxed to him at 4:00 a.m. that morning. The memo, told the President that if a monument was going to be created he should create a commission that included state and local government officials to recommend boundaries and to solve a number of management questions. I told him that it should work toward a policy that protects the land, preserves the assets and maintains the integrity of the public process. I knew the local government leaders in this area would welcome such a process. At 7:30 a.m. I spoke with Mr. Panetta. He had reviewed the memo that was written for the President and again indicated he felt my ideas had merit. He said he would be reviewing the matter again with the President. Later in the morning Mr. Panetta called to inform me that the monument would be announced. He detailed the conditions of the action, which gratefully, incorporated some of my suggestions on water, wildlife access and a planning process with local and state participation.

At 2 p.m. Eastern time, President Clinton stood on the north rim of the Grand Canyon to announce the creation of the Grand Staircase- Escalante National Monument, a 1.7 million acre expanse in Utah's Garfield and Kane counties. No member of Congress, local official or the Governor were ever consulted, nor was the public. As the Governor, I had not seen a map, read the proclamation or for that matter even been invited. This is not about courtesy, it is about process and public trust. A major land decision, the biggest in the last two decades, was being made. Obviously, this is not the way public land decisions should, nor were ever intended to be made.

In 1976 this nation made an important public policy decision. Congress passed landmark legislation in the Federal Land Policy and Management Act (FLPMA), requiring great deliberation and careful process in determining how public lands would be used. That act, and other related legislation, contains protections for states and local communities. It is the policy of my administration to assure that our state is not denied those protections. We will defend Utah's interest against abuses of our existing protections and we will seek additional protections where they are currently

inadequate.

The President's use of the Antiquities Act to create the monument was a clear example of inadequate protection. Our system of government was constructed to prevent one person from having that much power without checks or balances from another source. This law was originally intended to provide emergency power to protect Indian ruins and other matters of historic importance. Over the past ninety years the federal courts have allowed a gradual expansion of the powers. The President's recent proclamation was a classic demonstration of why the founders of this nation divided power. Power unchecked is power abused. Utah and other states need protection from further abuses of the 1906 Antiquities Act. My administration will join other states in support of appropriate amendments.

Land preservation decisions must consider the relationship between the land and the local economy. The State of Utah intends to intensify our efforts in assisting in the promotion of new economic opportunities for the region and will challenge the national government to be responsive to the needs that its actions in Southern Utah have created. Historically, whenever the federal government has determined that a local interest is subordinate to the national interest, then some form of federal assistance is provided. We should all focus on developing real economic opportunities for rural Utah counties in order to build a more diversified and sustainable economy.

There are many issues surrounding the creation of this monument apart from the designation process. One of the most controversial and most complicated are the school trust lands located within the boundaries of the monument. Approximately 176,000 acres of school trust lands were included within the monument.

The school trust lands are managed by the Utah School and Institutional Trust Lands Administration, an independent state agency. The Trust Lands Administration is governed directly by a separate Board of Trustees, and is required to optimize the value of the lands for both the short and long term.

The Chairman of the Board of Trustees will testify later today and will give more details. However, I want to emphasize that not only did the declaration of the monument possibly affect the use and value of the trust lands in the long term, but also that several sources of revenue from the lands, including an imminent multi-million dollar deal involving coal, have been eliminated as a result of the declaration.

The Board of Trustees, the Trust Lands Administration and myself are united in protecting the value of the trust lands within the monument and in protecting the purposes of the trust. We will work together to see that either the landscan be used for their purpose as the national economy permits or that other federal assets will be available as compensation for the trust lands.

I appreciate the President's remarks concerning the trust lands at the time he signed the declaration and appreciate his decision to resolve any reasonable differences in value in favor of the school children as part of any land exchange proposal. However, I must express some healthy skepticism about the efficiency of the federal exchange or compensation process and the ability to bring such processes to conclusion at all. The problem of school trust lands within federal reservations like the monument is both an old problem and a constantly recurring one. Currently, Trust Lands and the federal government are negotiating several different exchange packages, including the statutorily authorized process mentioned by the President in his remarks (P.L. 103-93). These exchange processes are complex, heavily laden with federal rule-driven procedures and very costly to the trust. The Trust Lands Administration estimates that an exchange process for the monument lands, similar to that in P.L. 103-93, could cost 5 to 10 million dollars; a cost which, in all fairness, should be covered by the federal government.

I would hope that we can learn from past experience and begin to take advantage of new ideas or approaches which are more expeditious, yet fair to both parties. The Trust Lands Administration intends to propose solutions for the trust lands within the monument in the near future. I will ask Congress to give these proposals serious consideration and to consider appropriating funds to the Trust Lands Administration to offset any costs resulting from the declaration of the monument.

The State of Utah is committed to being a full partner in the planning process for the Grand Staircase - Escalante National Monument. Promises were made by both President Clinton and Secretary Babbitt which ensured the State a prominent role in the plan development and implementation process. The State of Utah intends to take full advantage of those commitments and has, in fact, already appointed five members of the planning team who will represent the State and its issues and concerns. We have every intention of being active participants in the process and committing the necessary resources to see that the Grand Staircase - Escalante National Monument best meets the needs of the citizens of the State of Utah. We intend to use every mechanism available to ensure that the federal government keeps its commitments to this

end. We would appreciate your help in assuring that this happens.
END

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Deseret News

GOVERNOR SAYS UTAH WON'T SUE OVER MONUMENT

By Lucinda Dillon, Staff Writer
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Utah will not sue the federal government over President Clinton's designation of the Grand Staircase-Escalante National Monument, Gov. Mike Leavitt said Thursday at his monthly press conference.

Leavitt used the taped KUED event to reinforce his outlook for Utah's wilderness and to tell how he expects to pay for an enormous transportation project that will take place during the next several years.

State highway improvements scheduled in the next decade will cost more than $3.5 billion, and gasoline taxes must increase by 1 cent per gallon each year during the next 10 years to help pay the bill, Leavitt said.

The state has 20 years of road and highway improvements ahead, and people are going to disagree over how to pay the costs.

``Is this going to be without pain legislatively? No. Will we get it done? Yes,'' he said.The $3.5 billion price tag is much more than the roughly $2 billion figure Leavitt has used in recent months.

Gas-tax hikes will provide $500 million toward the project during the next 10 years. Utahns now pay a 19-cent tax on each gallon of gas they buy.

Although Leavitt said he endorses a long-term approach in which gas-tax increases are aligned with inflation, some lawmakers don't want to phase-in the gas tax over several years. There may be a move to implement it all at once when lawmakers convene in January, he said.

As he outlined sources of the $3.5 billion, Leavitt defended accusations by Democratic gubernatorial opponent Jim Bradley and other candidates who say he's done little to plan for or deal with the insufficient infrastructure along the Wasatch Front.

A billboard purchased by the Utah Democratic Party alongside I-15 about 3900 South tells southbound drivers their traffic jam is brought to them by 20 years of Republican leadership.

But Leavitt points out that lawmakers last year set aside nearly $100 million in general-fund cash - on top of normal highway funding. Similar amounts are built into the base of future budgets for the next 10 years.

``That money, about $1 billion over the course of 10 years, will be added to another $1 billion already dedicated to transportation needs over the next 10 years. Much of that money comes from the federal government.

The remainder of the money comes from the gasoline tax, $500 million in anticipated additional federal money, $300 million to $500 million culled from reduced administration and waste and roughly $500 million in bonds.

But Leavitt acknowledges that none of the $1 billion in resources is guaranteed. ``I'm probably being optimistic about the amount of new federal money,'' he said.

Federal funds will make up a substantially lower amount than previously believed. ``It's a new world,'' Leavitt said. The federal funds just aren't available.

Leavitt said his ``Growth Summit'' last December helped lay groundwork for deliberations about transportation projects. For example, all parties were able to agree on changes that allowed a nine-year transportation plan to be streamlined to 41/2 years, he said.

He hopes the same kind of cooperation can be applied to the wilderness issue.

The process by which President Clinton dedicated 1.7 million acres to the monument was inadequate and political, Leavitt told reporters. ``But it's time to turn our attention away from what happened in the past and toward what happens in the future.''

Instead, Leavitt wants Utah to help create a vision for the monument. ``This is not entirely negative,'' he told reporters.

Those who govern Utah's land - county officials, residents, environmentalists and state leaders - all must come together to decide which parts and how much of the state's land will stay wild.

Leavitt supports a mixed use for the monument: some protected wilderness, where visitors stations and roads aren't allowed; some traditional national monument areas and some land designated for multiple use.

During the news conference, he also hammered a plan by Interior Secretary Bruce Babbitt to reinventory Utah's lands. Officials say the reinventory is based on a new criteria for what constitutes wilderness, which doesn't conform to existing federal law. The criteria only applies to Utah lands.

It is ``illogical'' that Babbitt is using special criteria for Utah, he said. ``There is a disturbing pattern of executive branch using unique means of distributing power in Utah,'' he said.

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Deseret News

LEAVITT HOPES GOOD WILL EMERGE FROM BAD MONUMENT DEAL

By Jerry Spangler, Staff Writer
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In a twist on the adage, ``when life gives you lemons, make lemonade,'' Gov. Mike Leavitt is hoping something positive will come from the truckload of political lemons dumped on the state by President Bill Clinton's designation of the 1.7 million-acre GrandStaircase-Escalante National Monument.

``My desire now is to try and asses the impact of what has occurred and then find ways to make the very best possible outcome from this,'' Leavitt said Thursday during his monthly KUED news conference. ``We now need to take what's been dealt us and do the best we can to turn to the future.''

Leavitt confirmed that Clinton specifically promised him that state and local governments would have a meaningful role in the development of management plans for the new monument. If that participation is, in fact, meaningful then the state would even be willing to contribute resources to the management plan, which is expected to take three years to complete.

The governor downplayed the possibility of a lawsuit against the federal government over the national monument designation, saying the state should ``evaluate for awhile'' the potential impacts of the designation.

That does not preclude the possibility of a lawsuit, he said, adding he first wants to meet with legislative leaders and school trust lands officials about the prospects.

The governor's comments came eight days after Clinton used the Grand Canyon as a backdrop for the Grand Staircase-Escalante National Monument announcement. The move was seen by Western states leaders as election-year pandering to environmental interests and a political swipe at conservative lawmakers who have attempted to stymie Secretary of the Interior Bruce Babbitt's conservation agenda.

The move was also targeted at stopping the development of a coal mine in the Kaiparowits Plateau, a region considered to hold the nation's largest untapped coal reserves.

The national monument designation does not categorically exclude coal mining. But it does impose a more rigorous standard by which that development could occur. ``It is clear where the administration is headed,'' Leavitt said.

Leavitt flew to Washington, D.C., the day before the announcement to convince Clinton's staff that the state was also interested in protecting the region, but there were other ways to protect the Kai- parowits from unwanted development. The ``sad part,'' he said, is that ``everyone could have come out feeling a lot better'' about the monument designation.

But Leavitt said it was clear within the first 10 or 15 minutes that the decision to designate the monument had already been made without comment or discussions with Utah officials.

``I've made a lot of statements and I think strong statements about how wrong I think it was for the president to proceed the way he did. He got his photo-op, but we are left with decades of policy to untangle.''

The issue now is whether Clinton will fulfill his promise that school trust lands will be traded for other lands or resources. The monument designation effectively isolates approximately 200,000 acres of trust lands, which were given to the state at the time of statehood for the support of public schools. The state has another 200,000 acres of trust lands isolated inside other national parks, national forests and Indian reservations.

Leavitt acknowledged there was a lot of political symbolism in how Clinton designated the monument, including the fact the president made the announcement in Arizona, the fact that Utah officials were not invited and the fact Clinton consulted with Colorado Gov. Roy Romer but not with Leavitt. It is obvious, he added, that all of Utah's elected officials have little influence with the White House.

Leavitt used the press conference to reiterate his endorsement of Republican attorney general candidate Scott Burns, who is challenging Democratic incumbent Jan Graham. Burns has made it an issue that if he is elected he would sue the federal government over the national monument designation.

On the issue of transportation, Leavitt said Utah motorists should see a slight gasoline tax increase to help fund the renovation of I-15. That increase, which Leavitt prefers to refer to as ``indexing for inflation,'' would amount to less than a penny per gallon to begin with.

That tax increase has been part of the governor's transportation finance package all along, he said.

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Utah Gov. Considers Legal Challenge To National Monument

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(Copyright (c) 1996, Dow Jones & Company, Inc.)

SALT LAKE CITY (Dow Jones)--Utah Gov. Mike Leavitt isn't ruling out a legal challenge to President Clinton's creation of a new national monument in the southern part of the state.

"We now need to take what's been dealt us and do the best we can to turn to the future," Leavitt said on Thursday at his monthly KUED-TV news conference. "That doesn't preclude us from challenging parts of this action based on what I think to be the misuse of executive power."

Leavitt was referring to Clinton's use of the 90-year-old Antiquities Act to declare the monument without congressional approval. The president designated the 1.7-million-acre Grand Staircase-Escalante National Monument last week during a campaign stop at the Grand Canyon.

The election-year move effectively blocks development of part of America's largest known coal reserve by Dutch-based Andalex Resources, Inc. And it forces the state to trade out 200,000 acres of trust lands that could have earned coal royalties for public schools.

In the next few weeks, Leavitt plans to talk to legislative leaders, school trust lands officials, southern Utah communities and the U.S. Interior Department before making a decision on any legal action.

"My desire now is to try and assess the impact of what has occurred and then to find ways to make the very best possible outcome from this."

Right now, Leavitt said, it is impossible to know what effect the designation will have, including whether Andalex will be allowed to mine the area or what kind of return Utah schools will get for their lands.

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Nation-World
MAKING OF A MONUMENT; The Present; What Led to Clinton's Grand Staircase Decision?; Monument Decision Tied To Insiders

JIM WOOLF THE SALT LAKE TRIBUNE
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22 September 1996
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Utah Gov. Mike Leavitt claims national environmental groups were behind President Clinton's decision to create the 1.7 million-acre Grand Staircase-Escalante National Monument.

``This was packaged outside of government and taken to the White House. I know that to be true,'' says the governor. ``It was confirmed to me by several people as we went through this process at the White House.''

But Western environmental leaders deny any involvement in the monument deliberations, and there is strong evidence the idea came directly from the White House's Council on Environmental Quality (CEQ) -- Clinton's inner circle of environmental advisers.

Tom Jensen, CEQ's associate director for natural resources, is intimately familiar with the Escalante area and the battle over the Kaiparowits Plateau's coal. Before working for Clinton, Jensen was a well-known environmental attorney who worked as a senior Senate staffer on natural-resources issues and served as executive director of the Flagstaff, Ariz.-based Grand Canyon Trust. The trust's area of interest is the Colorado Plateau.

And CEQ Director Kathleen McGinty visited Utah about two years ago to hike the Kaiparowits and see firsthand some of the areas that wilderness advocates want included in their 5.7 million-acre proposal. She has been involved in behind-the-scenes discussions on the wilderness issue.

Jensen and McGinty ``have asked us at various points about a national monument,'' said Mike Matz, executive director of the Southern Utah Wilderness Alliance (SUWA).

But he said SUWA has been focused on the wilderness debate and did not know the administration was giving serious consideration to the monument idea until The Washington Post ran a story Sept. 7 saying Clinton was preparing to create it.

SUWA never was consulted on the size or management of the monument, Matz said.

``They have done a stupendous job,'' said Matz of McGinty's and Jensen's efforts to persuade Clinton to create the monument.

All calls to McGinty and Jensen were referred to a CEQ spokesman who said the monument was a Clinton administration initiative and it would be wrong to focus on one or two individuals.

Another probable advocate for the monument within the administration was Harold Ickes, Clinton's deputy chief of staff. Ickes' father, also named Harold, was President Franklin D. Roosevelt's interior secretary in 1936 when he advocated the creation of a 4.5 million-acre Escalante National Monument.

Much of the land Ickes wanted to protect in the 1930s already has been incorporated into Canyonlands and Capitol Reef national parks and Glen Canyon National Recreation Area. But the core of Ickes' vision -- the Escalante River canyon -- had no special protection until this week.

``I'm sorry he never got a chance to see his dream become a reality, but I'm very glad that his son and namesake is my deputy chief of staff and is here today,'' Clinton said proudly at a Grand Canyon ceremony Wednesday before creating the monument.

An administration source, who asked not to be identified, said ``it was at least a couple of months ago'' when Clinton first asked for a ``legal and scientific analysis of a monument option.''

It was just an information request at the time, and staffers did not know whether the president would follow through on the idea.

The Interior Department prepared the requested analysis, but nothing happened while the campaign staff was preoccupied with such things as the Democratic National Convention and Clinton's train trip through the Midwest. Then, suddenly, the president showed a renewed interest in the idea, said the source.

Tom Robinson, director of conservation policy for the Grand Canyon Trust, said he heard that campaign officials included the monument idea in opinion polls and found it was ``one of the most popular things the administration could do.''

Robinson stressed that his group was not consulted about the monument proposal and had heard only rumors about it before the story in The Post. ``It was definitely not our initiative,'' he said.

Sen. Bob Bennett, R-Utah, offered this analysis of the president's decision-making process during a recent news conference:

``I've had folks within the administration tell me that the primary drive behind doing this came from Dick Morris, who looked at his polls and said you need to shore up your environmental credentials. What better way to do it than to create a splashy new national monument or national park? And then they told the Interior Department to come up with something we can create. . . . I think the decision was made months ago.''

Morris is the former Clinton campaign adviser who resigned when a tabloid published reports of his long-term relationship with a prostitute.

But the administration source put a different spin on Clinton's decision.

He said the president was tired of simply blocking the ``anti-environmental'' initiatives coming out of the Republican-dominated Congress and wanted to advance his own policy objectives. Creation of the monument allowed him to make progress toward a long-term goal of protecting more public land in southern Utah.

Greg Gibson/The Associated Press Utah Rep. Jim Hansen contends 14 trees were cut down for this photo, but Grand Canyon National Park employees deny it. See story on Page C-1. Al Hartmann/The Salt Lake Tribune Western writers fear a backlash from the creation of the Grand Staircase-Escalante National Monument, and Gov. Mike Leavitt urged miners to "turn to the future" as mining opponents celebrated in southern Utah. See stories on C-1 and C-2. Jump pg A13: Al Hartmann/The Salt Lake Tribune Clinton's contentious national monument includes souther Utah's Escalante River Canyon.

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NEWS
Utah officials up in arms about the new monument

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21 September 1996
The Arizona Daily Star
TUCS
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Associated Press

SALT LAKE CITY (AP) - From senators and congressmen to a state attorney general candidate, foes of a 1.7 million-acre southern Utah national monument are gathering their forces.

Meantime, Conoco Inc. issued a statement late yesterday calling on the White House to work with the company to "develop a plant where prudent oil and gas development of the area can coexist with . . . environmental protection and preservation ideals."

In a statement issued from Midland, Texas, by Bob Irelan, regional manager for exploration and development, Conoco estimated up to 5 billion or more barrels of untapped oil could be in the monument area, already known for its huge coal reserves.

Conoco, in partnership with Rangeland Petroleum, is involved in exploratory leasing and drilling in and near the designated monument site, Irelan said.

At a news conference earlier yesterday, Republican Utah Attorney General candidate Scott Burns said if elected, he would go to court to fight creation of the new Grand Staircase-Escalante National Monument.

President Clinton invoked his authority under the federal Antiquities Act in making the monument declaration Wednesday, but Burns believes there's room in the statute to challenge the decision.

"It is my belief that the Antiquities Act can be interpreted to require the smallest amount of land compatible with other interests, and 1.7 million acres is the biggest land grab in the lower 48 states," he said.

Sens. Orrin Hatch and Bob Bennett, R-Utah, supported Burns' call for a lawsuit. The two lawmakers also co-chair Burns' campaign to unseat Democratic Utah Attorney General Jan Graham.

Hatch has said he feels Clinton may have violated environmental laws passed in the 1970s by not obtaining more public comment and studies before acting.

Hatch and Bennett said numerous options for legislation are also under review in the Senate to ensure, as Hatch said, "that the Antiquities Act is not abused again."

Thursday, Rep. Jim Hansen, R-Utah, introduced a bill seeking to ensure that any future monuments would be no larger than 5,000 acres. Congress is not expected to act on it before adjournment, but Hansen said he would reintroduce it next year.

Locally, political candidates were nudging Graham toward a lawsuit.

In a letter to Graham, Rep. Grant Protzman, D-North Ogden, said Clinton's designation of the monument was a "terrible manifestation of unrighteous dominion on the part of the federal government."

He wants Graham to see if the state or school officials can sue to recover lost trust lands revenue.

In a statement Thursday, Gov. Michael O. Leavitt said the president had the legal power to designate the monument but now is obligated to have meaningful talks with Utahns as he carries out the plan.

Protzman said it may be a long shot to sue, "but I think it has better potential than letting the federal government fix this out of the goodness of their hearts."

Only once, in 1944, has Congress tried to rescind a presidential proclamation, after Franklin Roosevelt declared Wyoming's Grand Teton Mountains a national monument.

Roosevelt vetoed the congressional action. In 1950, Congress authorized Grand Teton as a national park but forbade any future president to name any more national monuments in Wyoming.

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Nation-World
Taking Swipes at Clinton, Utahns Vow to Fight Back

LAURIE SULLIVAN MADDOX THE SALT LAKE TRIBUNE
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19 September 1996
The Salt Lake Tribune
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English
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President Clinton's establishment of the Grand Staircase-Escalante National Monument in southern Utah was met with blistering denunciations from the state's governor and congressional representatives.

``In all my 20 years in the U.S. Senate, I have never seen a clearer example of the arrogance of federal power,'' GOP Sen. Orrin Hatch fumed at a delegation news conference held just after the president's announcement Wednesday.

``Indeed, this is the mother of all land grabs.''

Democratic Rep. Bill Orton, walking a tightrope between comradeship with his Democratic president and the concerns of constituents, called the action a ``monumental blunder -- pun intended.''

Government figures from other Western states joined the Utahns in a show of support. Sen. Conrad Burns, R-Mont., described Clinton's designation as the act of a ``tyrant,'' while Sen. Larry Craig, R-Idaho, labeled it a ``phenomenal misuse of power.''

The solidarity was not accidental, Hatch said, since other states with public-land issues to be settled now may find themselves affected by a unilateral decision that bypasses the public debate required by federal laws such as the National Environmental Policy Act.

``What should be made clear to everyone in a state with public land is that if they can do this to Utah, they can do it to you,'' Hatch warned.

As the rebukes flew, the Utah politicians also were looking for ways to undo the executive order creating the largest monument in the lower 48 states.

There was uncertainty about whether Congress has the authority to rescind Clinton's directive, which was made under the 1906 Antiquities Act.

Some congressional offices said lawmakers could not revoke the executive order, although a future president could. But Hatch said since it was Congress that established the law giving the president the power, it also could take away that power. The option will be studied further, Hatch said.

Otherwise, the delegation was discussing three more likely possibilities: a lawsuit filed by Kane and Garfield counties challenging the way the decision was made; congressional action to cut off Interior Department funding for the monument; and legislation that would narrow the sweep of the Antiquities Act.

Orton said he anticipated all three responses -- sooner than later.

Indeed, Craig intended to file legislation today that would ``prevent President Clinton and {Interior Secretary} Bruce Babbitt from doing to Idaho and other states what it did to Utah. No more midnight land grabs.''

The bill would require that the public and Congress be involved and give approval before such an administrative act could take effect, Craig said.

Rep. Jim Hansen, R-Utah -- who would handle companion legislation in the House as head of the House Subcommittee on National Parks, Forests and Lands -- is looking at ways to circumvent the president using the appropriations process.

In Democratic circles, Clinton's move was seen as a shrewd way to bolster his environmental standing and give the nation a warm fuzzy while taking heat from a small state that probably will not vote for him anyway.

From other vantage points, it was characterized as a blatant political ploy carried out on a beautiful stage: the sweeping panorama of the Grand Canyon with orchestra music playing in the background.

Some also saw it as ruthless.

Talk among the Utah delegation was that administration officials had acknowledged the move may cost Democrats their only House seat in the state -- Orton's -- but that they considered him expendable.

Orton acknowledged that the administration did him no favors by keeping him in the dark -- along with the rest of the state -- until just a week ago.

But he said the president phoned him at 1:45 a.m. Wednesday to consult on the matter and that seven important concerns were brainstormed by the two.

As outlined in Clinton's speech, those included:

-- The president's commitment that the Bureau of Land Management, rather than the National Park Service, will manage the monument.

-- Hunting, fishing, hiking, camping and grazing will continue.

-- The federal government will not pre-empt or reserve water rights.

-- Monument boundaries will exclude all developed areas, state-park lands and timber and forest lands.

-- School-trust lands contained within the boundaries would be swapped for holdings of comparable value, or the government will compensate the difference.

-- Communities in the area would not be frozen out of the decision-making. A three-year process of public hearings was announced to develop a management plan.

-- Coal leases for the Kaiparowits would not be terminated and the environmental-impact statement for the Andalex Resources mine would continue -- although Clinton expressed his personal desire that Andalex trade the leases.

Given those concessions, Orton said, the president is left with a ``hollow monument'' motivated purely by political considerations.

Asked if he trusted the president to honor the commitments, Orton replied, ``What choice do I have?

``He's the president. He has the statutory authority to do this. I can either try to work with him and make my constituents' interests known and ensure that my constituents are involved, or I can just get mad and pick up my marbles and go home and yell at him. I don't think that resolves the problem.''

For Orton and the rest of the delegation, the hardest aspects to swallow were the school-trust-lands issue and the shadowy move to terminate the coal mine.

GOP Sen. Bob Bennett griped that the designation will lock up the nation's largest reserve of clean, environmentally beneficial coal -- and potential revenues it would bring Utah schoolchildren through the 200,000 acres of trust lands located within the monument.

``The president is asking us to trust him that Utah's schoolchildren will be made whole. Is he prepared to approve $1 billion in federal funding? . . . Of course he isn't.''

Republican Rep. Enid Greene charged that the president ``doesn't know or doesn't care that there aren't sufficient coal leases in other areas'' to swap for the Andalex holdings.

But what Utahns object to most, she said, is the ``autocratic process'' by which Clinton sidestepped the Federal Land Policy and Management Act, the National Environmental Policy Act, the state's elected representatives and its people.

GOP Gov. Mike Leavitt, the only state leader from southern Utah, said he grew up one mountain over from the new monument and loves the land.

But as an outspoken advocate of a more equitable federal-state balance of power, the governor was incensed about the executive branch's imposition of its will on the state with no public debate.

``I would just say to the president of the United States, `You chose to ignore a high public trust with the almost unilateral power that you were granted through the course of this act, power that was not intended by the founders of this nation.'

``From this point forward he has a higher standard of duty to deal in fairness with those of us in the state who have been disadvantaged by his lack of concern. The state will step forward, we'll follow the process at this point, but it is up to him and to his administration to make this right.''

Al Hartmann/The Salt Lake Tribune Hikers make their way down a canyon south of Kodachrome Basin State Park. The spot is at the western end of the newly designated Grand Staircase-Escalante National Monument.

Document sltr000020011015ds9j00w67

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Deseret News

CLINTON MAKES IT OFFICIAL: MONUMENT NOW A REALITY

By Lee Davidson and Jerry Spangler, Staff Writers
1,297 words
18 September 1996
Deseret News
DN
A1
English
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GRAND CANYON -- Despite repeated pleas - including some in the middle of the night - from Utah officials to defer it, President Clinton announced plans Wednesday for a vast new Grand Staircase-Escalante National Monument in southern Utah's Kane County.

The only surprise in the announcement was the change in name. As proposed in the past several days, the monument would have been named Canyons of the Escalante.

Clinton's action was purely political, Utah leaders say.

Clinton, who has not set foot in the state since he finished third in Utah in the 1992 presidential race, announced the creation of the new monument from south of Utah's border - at the Grand Canyon. Aides said that site was chosen because it has facilities needed to hold a press con-ference.

``I think it's pretty clear this is a straight political move on the part of the Clinton administration. It will be a good photo op in the middle of a presidential campaign, and they'll worry about the real impact later,'' said Utah GOP Sen. Bob Bennett said.

``The fact that it happens on the eve of an election cannot be ignored,'' said Utah Gov. Mike Leavitt.

Even Democratic Rep. Bill Orton, in whose district the monument lies, said, ``This is more a political issue than a policy issue.''

Actor Robert Redford, author Terry Tempest Williams and former Utah first lady Norma Matheson were the only Utahns on stage with President Clinton. Redford, who has fought for years to protect Utah lands and specifically the Kaiparowits Plateau, made a speech. Williams gave a reading.

Democrats Jim Bradley and Ross Anderson, both currently candidates for office in Utah, were in the audience at the Grand Canyon gathering, which drew thousands of people, many sporting ``5.7 Wild'' buttons.

The buttons refer to an environmentalist-backed proposal that 5.7 million acres of southern Utah be designated wilderness.

Redford told the Deseret News that the region belongs to all Americans, not ``in the pockets of politicians.'' He called the 1.8 million-acre designation better than no monument at all. The designation ``puts it right where it belongs,'' Redford said.

Is there a sense of satisfaction now that the area has protection?

``It will be when I hear the final results,'' Redford said before the event began.

Orton and Bennett conceded the administration promised several steps to address local concerns. That came after Orton and Leavitt had personal phone calls with Clinton in the middle of the night Wednesday.

But, Bennett said, this is essentially a ``trust us'' kind of offer from the administration, ``and I would continue to be critical until we got everything nailed down.''

And despite the concessions, Orton said, ``Let me make clear that I still oppose it. I think it is a monument to political blunders and is unwise, unneeded and premature.''

Among the steps Clinton promised are:

- An ongoing environmental impact statement on a proposal by Andalex Resources to mine coal on the Kaiparowits Plateau will continue, and if a way is found to environmentally mine and transport coal, it will be allowed.

- To protect Utah schools from loss of mineral revenues on 200,000 acres of school trust lands with coal that may be surrounded by the monument, he also promised to either trade them for other federal coal leases or ask Congress to find another direct funding mechanism in exchange value of the lands.

Bennett said those two proposals taken together show him ``they don't intend to let Andalex proceed.'' He adds that he told White House chief of staff Leon Panetta that ``no other comparable coal reserves exist anywhere in the country, and he replied, `I'm beginning to find that out.' ''

- The administration will establish a three-year process of public hearings to identify and define management processes for the national monument.

Bennett complained, ``In other words, they've turned the process completely backward. . . . They declare first and look for facts afterward.''

- The U.S. Bureau of Land Management will continue to manage the area, not the National Park Service.

Some local residents view the park service as heavy-handed. Orton said, ``It makes sense to use the people who already know the areas.'' It would be the first national monument overseen by the BLM.

- Hunting, fishing and grazing will continue under existing laws.

- Water rights will remain under state law, and the monument ``should not affect any water-rights issues at all,'' Orton said.

- The boundaries will specifically exclude any developed areas such as towns in the area. Orton said it will also exclude all forested lands and state parks.

However, Orton said if it is to proceed, the steps taken by the administration mean ``we've gotten about as good as we could get.''

Not all Utahns were unhappy with the president's decision. Democratic candidates Jim Bradley, who's running for governor, and Ross Anderson, a candidate in the 2nd Congressional District, were expected to join Clinton in the Grand Canyon in support the new national monument.

And envirnomental groups that have long sought federal protection for the region, including the Southern Utah Wilderness Alliance, also praised the proposal. Even actor and Utah resident Robert Redford was expected to be by the president's side at the announcement.

Despite everything, Orton said when he looked at the proposal, it essentially amounted to the national conservation area idea he had been promoting - except that his would have had a public process to decide boundaries.

Leavitt also had pushed Clinton and Panetta in meetings and phone calls to consider his idea of managing ecosystems regardless of political boundaries and to have more local input on management plans, which was one of the concessions won.

Still, Utah officials made it clear they were unhappy with the process leading to the announcement, including making it in Arizona and not Utah.

Utah members also didn't like a quote reported in the press from White House press secretary Mike McCurry, who said that when it came to opponents of the monument, ``We've gone to great lengths to try to take their views into consideration.''

Utah officials begged to differ, noting they had not been given specifics on any plans until the last second, had little input and had been misled as late as last week by the White House, which then said repeatedly it had no imminent plans for the monument.

Orton said the White House told him that Utahns had been consulted so late because ``environmental counselors urged the presi-dent to take this step as part of the campaign," but that had not been communicated to the administration's land managers - and caused delays in speaking to Utahns.

``It's extremely frustrating, but that's politics," Orton said.

Rep. Jim Hansen, R-Utah, complained the administration has insisted that congressional Republicans follow lengthy study and hearing processes on public-lands issues they pursue - for example, delaying for more public input a relatively small 1,320-acre land trade for Snowbasin ski resort ``even though we've been talking about it for 10 years."

But Hansen complained the administration had no public input and little consultation from Utah officials on a monument that may include a whopping 2 million acres - or almost 4 percent of all land in Utah.

And Hansen added, ``No one's seen a map. I doubt there is a map" of the proposal.

Orton also said White House officials were surprised at his figures on how economically devastating the monument could be to southern Utah and said they were surprised to learn its coal reserves are "the largest untapped energy resource left in the continental United States."

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Search Summary

Text	"grand staircase*escalante" AND leavitt
Date	01/01/1996 to 12/31/1996
Source	All Sources
Author	All Authors
Company	All Companies
Subject	All Subjects
Industry	All Industries
Region	All Regions
Language	English
Results Found	80
Timestamp	28 March 2017 15:21

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From: Small, Jeff
To: Benedetto, Kathleen
Cc: katharine_macgregor@ios.doi.gov
Subject: Re: Timely Sage Grouse Approps Langauge Request
Date: Wednesday, March 29, 2017 9:55:27 AM
Attachments: image002.png
image001.png
image003.png
image002.png

Sounds good. 202-226-8272 when you get out of your meeting.

I reached out to a few other folks as well on language.

Or my boss and I literally just drove through a gunfight to be here for the DOI signing.

Sent from my iPhone

On Mar 29, 2017, at 9:31 AM, Benedetto, Kathleen <kathleen_benedetto@ios.doi.gov> wrote:

> I have meetings until noon. We need to discuss. KB
>
> On Wed, Mar 29, 2017 at 9:16 AM, Small, Jeff <Jeff.Small@mail.house.gov> wrote:
>
> > Hi Kate and Kathy,
> >
> > Hope you are doing well.
> >
> > No one was leading a Sage Grouse Appropriations s request this year. Chairman Gosar thought we really need to do one and since no one else would, he decided to take the lead.
> >
> > Here is our current short summary:
> >
> > **FY18 Approps: Western Caucus Chairman Gosar seeks signers for language request to reverse overly restrictive Resource Management Plan Amendments (RMPs) and Land and Resource Management Plan (LRMPs) amendments under the guise of protecting Sage Grouse. DEADLINE NOON WEDNESDAY, MARCH 29.**
> > **Current Signers:** Rob Bishop, Gosar, Pearce, Tipton, Yoho
> >
> > The Department of Interior under the Obama Administration found in 2015 that a listing of the Sage Grouse under the Endangered Species Act (ESA) was not warranted. However, the agency unilaterally chose to implement a de facto listing through overly restrictive Resource Management Plan (RMPs)

Amendments and Land and Resource Management Plan (LRMPs) Amendments. These RMPs and LRMPs are in many cases as restrictive as a critical habitat designation would be under an ESA listing. These amendments were not warranted and sought to prevent responsible mineral production and other activities across 11 Western states. The Obama Administration also sought to withdraw 10 million acres of the bird's habitat from future mining activity. Congress must act to prevent severe economic losses to the U.S. economy and to ensure military readiness on affected military ranges is not compromised.

Please contact Jeff Small at Jeff.Small@mail.house.gov to sign.

Draft letter and longer dear colleague are attached.

Here is the actual language that was included in last fiscal year's engrossed Interior Approps bill as a result of Mr. Amodei's amendment. We have been working with Amodei and Chairman Bishop's staff on this request this year. We have this language from last fiscal year in the draft letter currently. However, Jason in Amodei's office correctly pointed out that we needed to update this language since the ROD's were issued as well as the RMPs and LRMPs after last year's language.

(a) None of the funds made available by this or any other Act may be used —

(1) to review the status of or determine whether the greater sage-grouse is an endangered species or a threatened species pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or to issue a regulation with respect thereto that applies to any State with a State management plan;

(2) to makeor extend any withdrawal pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) within any Sagebrush Focal Area published in the Federal Register on September 24, 2015 (80 Fed. Reg. 57635 et seq.), in a manner inconsistent with a State management plan; or

(3) to implement, amend, or otherwise modify any Federal resource management plan applicable to Federal land in a State with a State management plan, in a manner inconsistent with such State management plan.

(b) For the purposes of this section—

(1) the term "Federal resource management plan" means—

(A) a land use plan prepared by the Bureau of Land Management for public lands pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

(B) a land and resource management plan prepared by the Forest

Service for National Forest System lands pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(2) the term "greater sage-grouse" means the species Centrocercus urophasianus or the Columbia Basin distinct population segment of greater sage-grouse; and

(3) the term "State management plan" means a State-wide plan for the protection and recovery of greater sage-grouse that has been approved by the Governor of such State.

We are under as tight timeframe as this letter needs to be submitted to the Approps Committee tomorrow.

Can you all possibly help update the actual language request that we are trying to get into the base bill to reflect the ROD's that were issued as well as the RMPs and LRMPs after last year's language? Also open to doing something about the mineral withdraw.

My direct is 202-226-8272 if you have questions.

Let me know if you would.

Sincerely,

Jeff Small

Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.

2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov

<image001.png> <image003.png>

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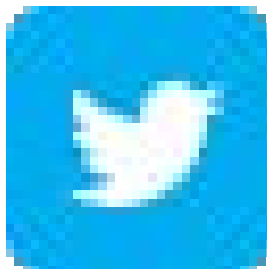
Kathleen Benedetto
Special Assistant to the Secretary

Department of the Interior
Bureau of Land Management
(202) 208-5934



You
Tube

From: MacGregor, Robert
To: "Chambers, Micah"
Subject: RE: Zinke Signing Ceremony - 3.28.17
Date: Wednesday, March 29, 2017 11:50:38 AM

Thanks for this Micah – just wanted to confirm that venting and flaring and the hf rule were in the final order that was signed. Just wanted to clarify before we send out our release.

Thanks again,

Rob

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Wednesday, March 29, 2017 9:29 AM
To: Micah Chambers
Cc: Amanda Kaster; Caroline Boulton
Subject: Re: Zinke Signing Ceremony - 3.28.17

Talking Points for Today's Signing. This is meant to craft your individual office press releases, please do not share. Draft Press Release to follow shortly. See you all soon.

Note: We will not have order numbers until AFTER the orders are signed and processed by exec sec.

SO #TBD: Repealing the 2016 Coal Moratorium - Ending the PEIS

Rescind SO 3338 signed by Sally Jewell and direct BLM to process lease applications

Federal coal leasing is important to the U.S. economy and roughly 40% of U.S. coal is produced on federal lands.

The Department determined the public interest not served by halting leases for several years and that the PEIS is not needed to improve the program.

Note: In 2013, both the OIG and the GAO audited BLM's coal leasing program Between The OIG and GAO there were 21 recommendations made to improve transparency in the leasing program to ensure that the American taxpayer was receiving a fair return from the coal program. BLM has addressed all 21 recommendations and works closely with the Office of Valuation Services to ensure that bonus bids are calculated appropriately. In addition, the Federal Royalty Policy Committee has been reestablished.

Mining companies are held accountable and expected to comply with strict environmental standards and present reclamation plans. Every year the "best of" reclaimed mine lands are highlighted by the Office of Surface

Mining and Reclamation and Enforcement.

Charter Signed: Establish Royalty Policy Committee

Secretary Zinke is committed to ensuring state, local and tribal governments have a say in energy development within their borders and that taxpayers are getting a fair return on investment. To that end, he is establishing a new Royalty Policy Committee to include renewable energy in addition to mineral resources.

The primary goal is to ensure public continues to receive the full value of all energy produced on federal lands. The Secretary will seek their input on how we determine fair market value, collect revenues and how future policies could impact revenue collection.

Membership

- The charter would establish a 28 member committee to provide the Secretary with advice
- No member may have financial interest/business with us
- Members will be both federal and non-federal partners. They will hail from energy producing states, tribes, the energy industry, academia/interest groups
- Each member will serve a two year term

Signed SO #TBD: American Energy Independence

Following the bold executive order signed by President Trump yesterday, Secretarial Order XXXX, "American Energy Indepenedence," takes numerous steps to unleash the power of American energy on public lands.

- Revokes Secretarial Order 3330 regarding Compensatory Mitigation and launches a review of the program
- Launches a review of all climate change policies within the department
- Launches a review of the National Parks Service and Fish and Wildlife Service oil and gas regulations
- Launches a review of Bureau of Land Management's venting & flaring (methane) rule
- Confirms that Bureau of Land Management is withdrawing the hydraulic fracking rule

On Tue, Mar 28, 2017 at 6:32 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:
All.

Thank you for being willing to attend tomorrow's ceremony, especially with such short notice. Details are all below. A press release/top line summary will be released tomorrow morning prior to the event.

Time: Arrive NLT 945 (preferably closer to 930) for a hard start time of 10 am. Some members have to leave by 1020 so we need to start on time.

Location: Dept. of Interior / 1849 C. St. NW / DOI has two entrances, come to C Street

Entrance

Arrival: Members and RSVP'd staff will be on Security list at C Street entrance. You will be greeted in lobby by DOI Staff and escorted up to the Secretary's office for the ceremony

You will need photo ID

Topline Issues: the Secretary will sign several Secretarial Orders to reflect POTUS action on energy. These include:

- Lifting the Federal Coal Leasing Moratorium.
- Withdrawing previous Secretary's Orders on Mitigation and oil & gas prohibitions.
- Announcing the reestablishing of the Royal Policy Committee.

Press: YES

Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Roberson, Kelly
To: "Chambers, Micah"
Cc: Amanda Kaster; Caroline Boulton
Subject: RE: Zinke Signing Ceremony - 3.28.17
Date: Wednesday, March 29, 2017 12:05:03 PM

Thank you all. What a great morning – despite the speedbumps in getting there!

We'll be sure to send you our press release when it goes out.

-Kelly

Kelly Roberson
Policy Analyst | Communications Director
Congressional Western Caucus
202-225-2315

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Wednesday, March 29, 2017 11:45 AM
To: Micah Chambers <micah_chambers@ios.doi.gov>
Cc: Amanda Kaster <amanda_kaster@ios.doi.gov>; Caroline Boulton <caroline_boulton@ios.doi.gov>
Subject: Re: Zinke Signing Ceremony - 3.28.17

Link to Secretarial Orders: https://www.flickr.com/photos/usinterior/sets/72157679511700702/

Micah

On Tue, Mar 28, 2017 at 6:32 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

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Press: YES

Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Marino Thacker, Meghan (Daines)
To:	Chambers, Micah
Subject:	RE: Zinke Signing Ceremony - 3.28.17
Date:	Wednesday, March 29, 2017 12:14:04 PM

Micah—these are photos. Or am I missing the text somewhere?

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Wednesday, March 29, 2017 11:45 AM
To: Micah Chambers <micah_chambers@ios.doi.gov>
Cc: Amanda Kaster <amanda_kaster@ios.doi.gov>; Caroline Boulton <caroline_boulton@ios.doi.gov>
Subject: Re: Zinke Signing Ceremony - 3.28.17

Link to Secretarial Orders: https://www.flickr.com/photos/usinterior/sets/72157679511700702/

Micah

On Tue, Mar 28, 2017 at 6:32 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

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> - Announcing the reestablishing of the Royal Policy Committee.
>
> **Press:** YES

Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

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Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Marino Thacker, Meghan (Daines)
To:	Chambers, Micah
Subject:	RE: Zinke Signing Ceremony - 3.28.17
Date:	Wednesday, March 29, 2017 12:21:58 PM

Got it. Ok! Thx.

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Wednesday, March 29, 2017 12:18 PM
To: Marino Thacker, Meghan (Daines) <Meghan_Thacker@daines.senate.gov>
Subject: Re: Zinke Signing Ceremony - 3.28.17

Sorry, I forgot to type the word photos when I sent it. PR still isn't out yet.

On Wed, Mar 29, 2017 at 12:13 PM, Marino Thacker, Meghan (Daines) <Meghan_Thacker@daines.senate.gov> wrote:

> Micah—these are photos. Or am I missing the text somewhere?
>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Wednesday, March 29, 2017 11:45 AM
> **To:** Micah Chambers <micah_chambers@ios.doi.gov>
> **Cc:** Amanda Kaster <amanda_kaster@ios.doi.gov>; Caroline Boulton <caroline_boulton@ios.doi.gov>
> **Subject:** Re: Zinke Signing Ceremony - 3.28.17
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Industry: YES

POC: Caroline Boulton 202.706.9300 / Micah Chambers 202.706.9093 / Amanda Kaster Averill 202.230.9508

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Special Assistant / Acting Director
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Office of the Secretary of the Interior

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Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Small, Jeff
To:	"katharine_macgregor@ios.doi.gov"; kathleen_benedetto@ios.doi.gov
Subject:	Timely Sage Grouse Approps Langauge Request
Date:	Wednesday, March 29, 2017 2:41:43 PM
Attachments:	image001.png image002.png image003.png Revised Sage Grouse Dear Colleague and Letter AEMA edits.docx

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After much discussion, Laura Skaer and I settled on this language:

Sec.___. None of the funds made available by this or any other Act may be used—

(1) to review the status of or determine whether the greater sage-grouse is an endangered species or a threatened species pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); or

(2) to make or extend any withdrawal pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) within any Sagebrush Focal Area published in the Federal Register on September 24, 2015 (80 Fed. Reg. 57635 et seq.).

Let me know if you all have any concerns or other thoughts but think this gets us something in the bill and doesn't restrict the Secretary.

Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov

From: Small, Jeff
Sent: Wednesday, March 29, 2017 2:32 PM
To: 'Laura Skaer'
Cc: Matt Ellsworth
Subject: RE: Timely Sage Grouse Approps Langauge Request

Thank you!

Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov

From: Laura Skaer [mailto:lskaer@miningamerica.org]

Sent: Wednesday, March 29, 2017 2:32 PM
To: Small, Jeff
Cc: Matt Ellsworth
Subject: RE: Timely Sage Grouse Approps Langauge Request

Yes

Laura Skaer
Executive Director
American Exploration & Mining Association
lskaer@miningamerica.org

From: Small, Jeff [mailto:Jeff.Small@mail.house.gov]
Sent: Wednesday, March 29, 2017 11:31 AM
To: Laura Skaer
Cc: Matt Ellsworth
Subject: RE: Timely Sage Grouse Approps Langauge Request

Thanks again Laura! After thinking a little bit more about it, I think we need probably need to cut point #2 as he may want to issue a rule we like.

I think we are probably safe just going with this. Thoughts?

Sec.___. None of the funds made available by this or any other Act may be used—
(1) to review the status of or determine whether the greater sage-grouse is an endangered species or a threatened species pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); or
~~*(2) to issue a rule for the greater sage-grouse (Centrocercus urophasianus) or the Columbia Basin distinct population segment of greater sage-grouse; or*~~

(3) to make or extend any withdrawal pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) within any Sagebrush Focal Area published in the Federal Register on September 24, 2015 (80 Fed. Reg. 57635 et seq.).

From: Small, Jeff
Sent: Wednesday, March 29, 2017 2:15 PM
To: 'Laura Skaer'
Cc: Matt Ellsworth
Subject: RE: Timely Sage Grouse Approps Langauge Request

Thoughts on merging the two and going with this?

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From: Laura Skaer [mailto:lskaer@miningamerica.org]
Sent: Wednesday, March 29, 2017 1:39 PM
To: Small, Jeff
Cc: Matt Ellsworth
Subject: RE: Timely Sage Grouse Approps Langauge Request

Jeff,

I'm assuming this is for FY 2018. Given the new administration and changes at DOI coupled with what Sec. Zinke has told Gov. Otter and the Public Lands Council, we believe the language should be narrowed to prevent a listing and the withdrawal. Sec. Zinke needs flexibility to address the sage grouse LUPAs. We believe this should be viewed as a placeholder as we believe the political landscape with respect to sage grouse is going to evolve in a good way over the next 30-45 days. We also believe it needs to be "slow walked" so that it can be tweaked/modified as necessary pending the outcome of what the Sec. does with the LUPAs and what happens with the litigation.

Our suggestions are attached. We also think consideration should be given to the language in the FY2016 Consolidated Approps. Act:

SAGE -GROUSE

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I'll call you in a few to explain and discuss a couple of issues.

Thank you for reaching out.

Laura Skaer
Executive Director
American Exploration & Mining Association
lskaer@miningamerica.org

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Sent: Wednesday, March 29, 2017 6:09 AM
To: Laura Skaer
Subject: Timely Sage Grouse Approps Langauge Request

Hi Laura,

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Please contact Jeff Small at Jeff.Small@mail.house.gov to sign.

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We are under as tight timeframe as this letter needs to be submitted to the Approps Committee tomorrow.

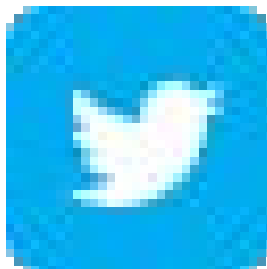
Can you all possibly help update the actual language request that we are trying to get into the base bill to reflect the ROD's that were issued as well as the RMPs and LRMPs after last year's language.

My direct is 202-226-8272 if you have questions.

Let me know if you would.

Sincerely,

Jeff Small
Executive Director | *Congressional Western Caucus*
Senior Advisor | *Congressman Paul A. Gosar, D.D.S.*
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov



You
Tube

Support a viable State-Based Approach for Sage Grouse Recover Efforts

THIS IS A LANGUAGE RE UEST
Members are re uired to submit the re uest online.
Deadline to sign on is NOON on Wednesday, March 29.

Dear Colleague:

The Department of Interior under the Obama Administration found in 2015 that a listing of the Sage Grouse under the Endangered Species Act (ESA) was not warranted. However, the agency unilaterally chose to implement a de facto listing through overly restrictive Resource Management Plan (RMPs) Amendments and Land and Resource Management Plan (LRMPs) Amendments. These RMPs and LRMPs are in many cases more restrictive than a critical habitat designation would be under an ESA listing. These misguided amendments were not warranted and sought to prevent responsible mineral production, grazing and other activities across 11 Western states.

The Obama Administration also sought to withdraw 10 million acres of the bird s habitat from future mining activity. The Obama Administration s scheme to use the Sage Grouse as an excuse to shut down virtually all development on large swaths of public lands in the West, particularly oil, gas, and mineral development, has resulted in devastating impacts for local economies. These unlawful amendments are already having a negative impact for our nation s energy and natural resource independence. Congress must act to prevent severe economic losses to the U.S. economy and to ensure military readiness on affected military ranges is not compromised.

This language request is similar to Section 114 of the engrossed version of H.R. 5538 that passed the House last Congress. We must retain this important provision.

The text of the letter is below. Please contact Jeff Small at jeff.small mail.house.gov if your boss would like to lead or sign this letter. Instructions will be sent along with the final signed letter for submitting this request.

Sincerely,

Paul A. Gosar, D.D.S
Member of Congress

March XX, 2017

The Honorable Ken Calvert
Chairman
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
U.S. House of Representatives
2007 Rayburn HOB
Washington, DC 20515

The Honorable Betty McCollum
Ranking Member
Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
U.S. House of Representatives
1016 Longworth HOB
Washington, DC 20515

Dear Chairman Calvert and Ranking Member McCollum:

As you begin crafting the Fiscal Year 2018 Interior, Environment, and Related Agencies Appropriations bill, we encourage the subcommittee to reject the Obama Administration's unilateral actions on the Greater Sage Grouse.

The Department of Interior under the Obama Administration found in 2015 that a listing of the Sage Grouse under the Endangered Species Act (ESA) was not warranted. However, the agency unilaterally chose to implement a de facto listing through overly restrictive Resource Management Plan (RMPs) Amendments and Land and Resource Management Plan (LRMPs) Amendments. These RMPs and LRMPs are in many cases more restrictive than a critical habitat designation would be under an ESA listing. These misguided amendments were not warranted and sought to prevent responsible mineral production and other activities across 11 Western states.

The Obama Administration also sought to withdraw 10 million acres of the bird's habitat from future mining activity. The Obama Administration's scheme to use the Sage Grouse as an excuse to shut down virtually all development on large swaths of public lands in the West, particularly oil, gas, and mineral development, has resulted in devastating impacts for local economies. These unlawful amendments are already having a negative impact for our nation's energy and natural resource independence.

To make matter worse, the Greater Sage Grouse is not endangered. The population is greater today than it has been in recent years thanks to the concerted efforts of several states which implemented at their own expense comprehensive Sage Grouse recovery plans. The Obama restrictions defy commonsense. Further, they are inconsistent with the Federal Land Policy and Management Act (FLPMA) and Greater Sage Grouse conservation planning efforts at the state and local level.

Congress must act to prevent severe economic losses to the U.S. economy and to ensure military readiness on affected military ranges is not compromised.

Section 114 of the engrossed version of the FY 2017 Interior, Environment and Related Agencies Appropriations bill contained language which aimed to block this report. Accordingly, we ask that you include language similar to the following again this fiscal year:

Sec.___. None of the funds made available by this or any other Act may be used—

(1) to review the status of or determine whether the greater sage-grouse is an endangered species or a threatened species pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); or

(2) to make or extend any withdrawal pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) within any Sagebrush Focal Area published in the Federal Register on September 24, 2015 (80 Fed. Reg. 57635 et seq.).

We thank you for your consideration of this request, and for your leadership on the committee.

Sincerely,

From: Small, Jeff
To: "Kathleen Benedetto"
Cc: katharine_macgregor@ios.doi.gov
Subject: RE: Timely Sage Grouse Approps Langauge Request
Date: Wednesday, March 29, 2017 3:17:19 PM

Thanks Kathy. Let us know if you have additional thoughts on how.

if anything, we think submit as a placeholder and then we can send staff the really language we want when we have it.

From: Kathleen Benedetto [mailto:kathleen_benedetto@ios.doi.gov]
Sent: Wednesday, March 29, 2017 3:11 PM
To: Small, Jeff
Cc: katharine_macgregor@ios.doi.gov
Subject: Re: Timely Sage Grouse Approps Langauge Request

It will need to be modified

Sent from my iPhone

On Mar 29, 2017, at 2:43 PM, Small, Jeff <Jeff.Small@mail.house.gov> wrote:

> After much discussion, Laura Skaer and I settled on this language:
>
> *Sec.___. None of the funds made available by this or any other Act may be used—*
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>
> Let me know if you all have any concerns or other thoughts but think this gets us something in the bill and doesn't restrict the Secretary.
>
> **Jeff Small**
> *Executive Director | Congressional Western Caucus*
> *Senior Advisor | Congressman Paul A. Gosar, D.D.S.*
> 2057 Rayburn HOB | Washington, DC 20515
> (202) 225-2315 main
> jeff.small@mail.house.gov
> <image001.png><image002.png><image003.png>

From: Small, Jeff
Sent: Wednesday, March 29, 2017 2:32 PM
To: 'Laura Skaer'
Cc: Matt Ellsworth
Subject: RE: Timely Sage Grouse Approps Langauge Request

Thank you!

Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
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Sent: Wednesday, March 29, 2017 2:32 PM
To: Small, Jeff
Cc: Matt Ellsworth
Subject: RE: Timely Sage Grouse Approps Langauge Request

Yes

Laura Skaer
Executive Director
American Exploration & Mining Association
lskaer@miningamerica.org

From: Small, Jeff [mailto:Jeff.Small@mail.house.gov]
Sent: Wednesday, March 29, 2017 11:31 AM
To: Laura Skaer
Cc: Matt Ellsworth
Subject: RE: Timely Sage Grouse Approps Langauge Request

Thanks again Laura! After thinking a little bit more about it, I think we need probably need to cut point #2 as he may want to issue a rule we like.

I think we are probably safe just going with this. Thoughts?

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To: 'Laura Skaer'
Cc: Matt Ellsworth
Subject: RE: Timely Sage Grouse Approps Langauge Request

Thoughts on merging the two and going with this?

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Senior Advisor | *Congressman Paul A. Gosar, D.D.S.*
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail.house.gov

<Revised Sage Grouse Dear Colleague and Letter AEMA edits.docx>

From: Hunn, Jocelyn
To: adrianne moss (adrianne_moss@ios.doi.gov)
Subject: Energy Independence Executive Order
Date: Thursday, March 30, 2017 8:47:31 AM

Good Morning Adrianne,

I am checking to see if there is anything you can send me this morning.

Thank you,

Jocelyn Buck Hunn
U.S. House of Representatives
Committee on Appropriations Democrats
1016 Longworth
202-225-3481

From: Hunn, Jocelyn
Sent: Tuesday, March 28, 2017 11:13 AM
To: adrianne moss (adrianne_moss@ios.doi.gov) <adrianne_moss@ios.doi.gov>
Cc: Culp, Rita <Rita.Culp@mail.house.gov>
Subject: Energy Independence Executive Order

Good Morning:

Can you please tell me if the Energy Independence Executive Order will have any impact on the following provisions:

House Sec. 122—Oil and Gas Royalties
House Sec. 436—Social Cost of Carbon
House Sec. 440—Royalty Rates on Coal, Oil, Gas Leases (Interior has already informed coal, oil and gas companies they do not have to comply with new ONRR method of calculating royalties for mineral extraction on federal land, delaying the rule's effective date to allow the administration to conduct a detailed review. Does the E.O. just memorialize this action?)
House Sec. 441—Coal PEIS
House Sec. 460—Management Non-Federal Oil and Gas
House Sec. 466—BLM Hydraulic Fracturing Rule

Any additional information you can provide on the E.O., lifting the coal leasing moratorium, the impact of the rescission of the Climate Action Plan on your current operating procedures and conservation management decisions, timeline for Interior revision of rules (in accordance with APA), etc. would be helpful.

Thank you,

Jocelyn Buck Hunn
U.S. House of Representatives
Committee on Appropriations Democrats
1016 Longworth
202-225-3481

From: Memmott, Justin (EPW)
To: Chambers, Micah (micah_chambers@ios.doi.gov)
Subject: BLM methane rule
Date: Thursday, March 30, 2017 9:12:04 AM

Take a look at the Earthjustice attorney's quote. Highlighted below.

METHANE

What Trump's order means for CRA, litigation on BLM rule

Pamela King and Ellen M. Gilmer, E&E News reporters
Published: Thursday, March 30, 2017

Efforts to repeal the Bureau of Land Management's methane rule under the **Congressional Review Act** are not dead following President Trump's "energy independence" executive order, the American Council for Capital Formation said yesterday.
As the CRA resolution stalled in the Senate, ACCF this month launched a campaign to strike from the books BLM's regulation curbing natural gas venting, flaring and leakage from production sites on public lands. If the upper chamber were to vote in support of the CRA resolution, the Methane and Waste Prevention Rule would quickly disappear, along with any possibility that BLM would reintroduce a substantially similar regulation.

Trump's direction to the Interior Department to suspend, revise or rescind four rules, including the methane rule, is a much lengthier process, ACCF said.

"Unraveling the methane rule at the agency level would require months of staff work and would undoubtedly face vigorous legal challenges from environmental groups, which could delay its repeal for up to two years," ACCF wrote in a statement yesterday. "On the other hand, Senate passage of a disapproval resolution under the CRA — something the House has already accomplished — would be quick and efficient, saving the agency both time and resources."

In a legal sense, rescinding a rule under the CRA is a far cleaner process, said Mark Barron, a partner at the law firm BakerHostetler.

"If they get 51 votes to repeal the regulation, then the regulation goes away, and that's the end of it," he said.

The order did little to move the needle, particularly with respect to the methane rule's future, Barron said.

"It was already widely known that the Trump Administration did not support the venting and flaring rule and I think most folks anticipated that, if the CRA did not pass, BLM would move to rescind the rule through the regulatory process," he wrote in an email to E&E News. "The debate since the election has never been whether the rule would be discarded, but whether it would be discarded quickly and easily in Congress or through the time consuming and expensive process of administrative rulemaking (and subsequent litigation). The Executive Order doesn't do anything to change that analysis."

Hogan Lovells attorney Hilary Tompkins, the former solicitor for President Obama's Interior, read the executive order as a change in strategy.

"It does provide an alternative approach, and I think they were reading the tea leaves in Congress and the Senate on that CRA, and they've kicked it back to the executive branch to find an alternative approach," she said.

A revised rule could keep the elements of the regulation that strengthen BLM's royalty collection process, said Ryan Alexander, president of Taxpayers for Common Sense.

"That's much more productive than CRA," she said.

Environmental lawyers saw a silver lining in the White House's direction. Groups that opposed CRA repeal have asked BLM to tweak the rule, rather than allowing Congress to eliminate it.

"The fact that this executive order shows that President Trump himself wants the Bureau of Land Management to use a scalpel to change the methane waste prevention rule is yet another sign that the oil and gas lobbyists who are asking Congress to use a sledgehammer to get rid of the rule using the Congressional Review Act are just too extreme," said Joel Minor, an Earthjustice attorney representing environmental intervenors in litigation over the methane rule.

The regulation went through years of comment and technical review and is therefore deserving of a more thorough examination before it is killed, said Erik Schlenker-Goodrich, executive director of the Western Environmental Law Center.

"The current administration might not like it, but it does have the authority to go through a new rulemaking process," he said.

A window of opportunity to pass the CRA resolution through the Senate could open up after the chamber votes on Supreme Court justice nominee Neil Gorsuch, ACCF said.

The Senate has until the week of May 8 to nullify the rule with a simple majority vote, the group said.

In the courtroom

This week's executive order creates a wave of uncertainty for litigation over the methane rule.

Industry groups and states challenged the regulation immediately after BLM finalized it last year. The U.S. District Court for the District of Wyoming declined their request to freeze the rule, and it took effect in January, gradually phasing in compliance requirements.

Environmental defenders of the rule are now monitoring the court docket to see if the Justice Department seeks to pause the case. DOJ lawyers have already asked courts to pause proceedings in litigation over U.S. EPA's Clean Power Plan and BLM's hydraulic fracturing rule, which were also targeted by the executive order. As in those cases, environmental lawyers have vowed to oppose any attempt to halt the methane litigation.

"We don't see any reason to put the litigation on hold until there is a firm and final decision revoking the rule from the Bureau of Land Management, and that will require notice-and-comment rulemaking, and that's a process that is likely to take far longer than resolving the litigation in court," Minor said.

Earthjustice and other environmental groups will argue that the issues in the litigation must be resolved to inform Interior's reconsideration of the rule, as challengers contend that the methane rule is essentially an air quality regulation that falls on EPA's and states' turf. Minor noted that BLM "at least in theory needs to know what it has legal authority to do before it takes action."

Tompkins, the former Interior solicitor, said it's "a big question mark" whether the district court would agree with environmental groups and allow litigation to move forward in either the methane

case or the fracking case.

"I think the court will want to know: Is this an issue that could likely be capable of repetition and recur?" she said. "Or are we truly mooting out all the issues in these cases? It's really going to depend on the vantage point of those judges."

Courts have previously allowed environmental intervenors to continue pressing litigation after the federal government has retreated in some cases, including litigation over the Clinton administration's "roadless rule" and an enforcement case against Duke Energy Corp. initiated by the Clinton administration just before George W. Bush took office.

Another wrinkle from Trump's executive order is its erasure of the Obama administration's metric for weighing the "social cost" of greenhouse gases. The social cost of methane was incorporated into the cost-benefit analysis for the methane rule and faced deep skepticism from the federal judge handling the case (***Energywire***, Jan. 17).
Minor said the new administration's rejection of the metric should not affect legal arguments surrounding the rule.

"The fact that the executive order effectively rescinds the use of the social cost of methane in the future doesn't retroactively change the use of the social cost of methane in the past," he said. "An agency's regulation has to stand based on the record and the decision that the agency made when it issued the rule, not post hoc developments that perhaps the agency changed its mind about something."

Legal briefs in the case are due in April and May.

And as Interior moves forward with a rulemaking process to reconsider the rule, supporters of increased regulation are also preparing for new opportunities to hold the agency accountable along the way and challenge a final decision if needed. Minor noted that any attempt to weaken the Obama administration's effort to prevent methane waste "could well be grounds for litigation over that choice."

"They are going to have to provide a robust rebuttal of all the vast administrative record that exists for [the methane and fracking rules]," Tompkins said. "There was extensive public comment, analysis and research, and if the new administration is going to rescind or significantly change those Interior regulations and policies, they're going to have to provide a counterpoint to why and address all those issues in the records that support the prior administration's actions."

Justin J. Memmott
Majority Senior Counsel
Senate Environment and Public Works Committee
(d) 202-224-6389

From: Hunn, Jocelyn
To: "Moss, Adrianne"
Subject: RE: Additional information on impacts of Energy E.O. and recent Secretarial Orders
Date: Thursday, March 30, 2017 11:40:40 AM

Adrianne,
Thank you very much for this information.
Jocelyn Buck Hunn
U.S. House of Representatives
Committee on Appropriations Democrats
1016 Longworth
202-225-3481

From: Moss, Adrianne [mailto:adrianne_moss@ios.doi.gov]
Sent: Thursday, March 30, 2017 10:48 AM
To: LesStrang, Dave <Dave.LesStrang@mail.house.gov>; Culp, Rita <Rita.Culp@mail.house.gov>; Leif Fonnesbeck <Leif_Fonnesbeck@appro.senate.gov>; Rachael Taylor <Rachael_Taylor@appro.senate.gov>; Bina, Betsy <Betsy.Bina@mail.house.gov>; Hunn, Jocelyn <Jocelyn.Hunn@mail.house.gov>; Gray, Jason <Jason.Gray@mail.house.gov>; Lesofski, Emy (Appropriations) <Emy_Lesofski@appro.senate.gov>; Hunt, Ryan (Appropriations) <ryan_hunt@appro.senate.gov>
Subject: Additional information on impacts of Energy E.O. and recent Secretarial Orders

All,

In response to the President's Executive Order on Energy Independence, we were asked how it might impact several pending riders up for discussion in conference:

- House Sec. 122- Oil and Gas Royalties
- House Sec. 436 - Social Cost of Carbon
- House Sec. 440 - Royalty Rates on Coal, Oil and Gas Leases
- House Sec. 441 - Coal PEIS
- House Sec. 460 - Management Non-Federal Oil and Gas
- House Sec. 466 - BLM Hydraulic Fracturing Rule

As indicated in the attached cleared response, most of the specific rules in the legislative proposals above, were called out for review or elimination in either the President's E.O or Secretarial Order 3349.

Consistent with the President's E.O, the Secretary's Order directs the Department to review all existing regulations, orders, guidance documents, policies, and "any other similar actions that potentially burden the development or utilization of domestically produced energy resources."

To that end, the Department is undertaking a comprehensive review and urges caution in considering language which could be construed to limit the Administration's flexibility to review or implement changes to existing policies.

Let me know if you have questions. Thank you.

From:	Prandoni, Chris (Lee)
To:	Chambers, Micah
Subject:	Re: Event 3/29: Can President Trump Revoke or Reduce National Monument Designations?
Date:	Thursday, March 30, 2017 1:34:15 PM
Attachments:	Presidential Authority to Revoke or Reduce National Monument Designations.pdf

Hey Micah,

Thanks for checking in! The event was awesome; standing room only. We had to turn people away. Very interesting discussion since we found a speaker to oppose Yoo and Gaziano.

Here's a link: https://www.youtube.com/watch?v=Ic_voqhS2ho&feature=youtu.be.

I also attached the report if you find yourself with a few min to spare — ha!

Chris

From: "Chambers, Micah" <micah_chambers@ios.doi.gov>
Date: Thursday, March 30, 2017 at 12:14 PM
To: Chris Prandoni <chris_prandoni@lee.senate.gov>
Subject: Re: FW: Event 3/29: Can President Trump Revoke or Reduce National Monument Designations?

Chris. Just wanted to see how this event went. We ended up having a secretarial order ceremony here yesterday and I couldn't leave, but am still interested in the results of this. Thanks

On Fri, Mar 24, 2017 at 11:36 AM, Prandoni, Chris (Lee) <Chris_Prandoni@lee.senate.gov> wrote:

> Hey Micah,
>
> Here is info for the event. Thanks for your interest!
>
> ---
>
> **From:** Chris Prandoni <chris_prandoni@lee.senate.gov>
> **Date:** Thursday, March 23, 2017 at 1:38 PM
> **To:** Chris Prandoni <chris_prandoni@lee.senate.gov>
> **Subject:** Event 3/29: Can President Trump Revoke or Reduce National Monument Designations?
>
> Friends,
>
> Hope to see you all next week. It should be fun!

Senator Mike Lee Cordially Invites You to Attend a Program on

Presidential Authority to Revoke or Reduce National Monument Designations

Wednesday, March 29, 2017

4:00 – 5:00 p.m.

Dirksen Senate Office Building, Room 366

Reception to follow sponsored by the Pacific Legal Foundation

and American Enterprise Institute with Honorary Co-host Sen. Lee

This is a widely attended event

Opening Remarks:

U.S. Senator Mike Lee (R-UT)

House Natural Resources Committee Chair Rob Bishop (R-UT)

Panel Discussion on the Release of their New AEI Paper:

John Yoo

Emanuel S. Heller Professor, University of California Berkeley School of Law

Visiting Scholar, American Enterprise Institute

Todd Gaziano

Senior Fellow in Constitutional Law & Executive Director of Pacific Legal Foundation's DC Center

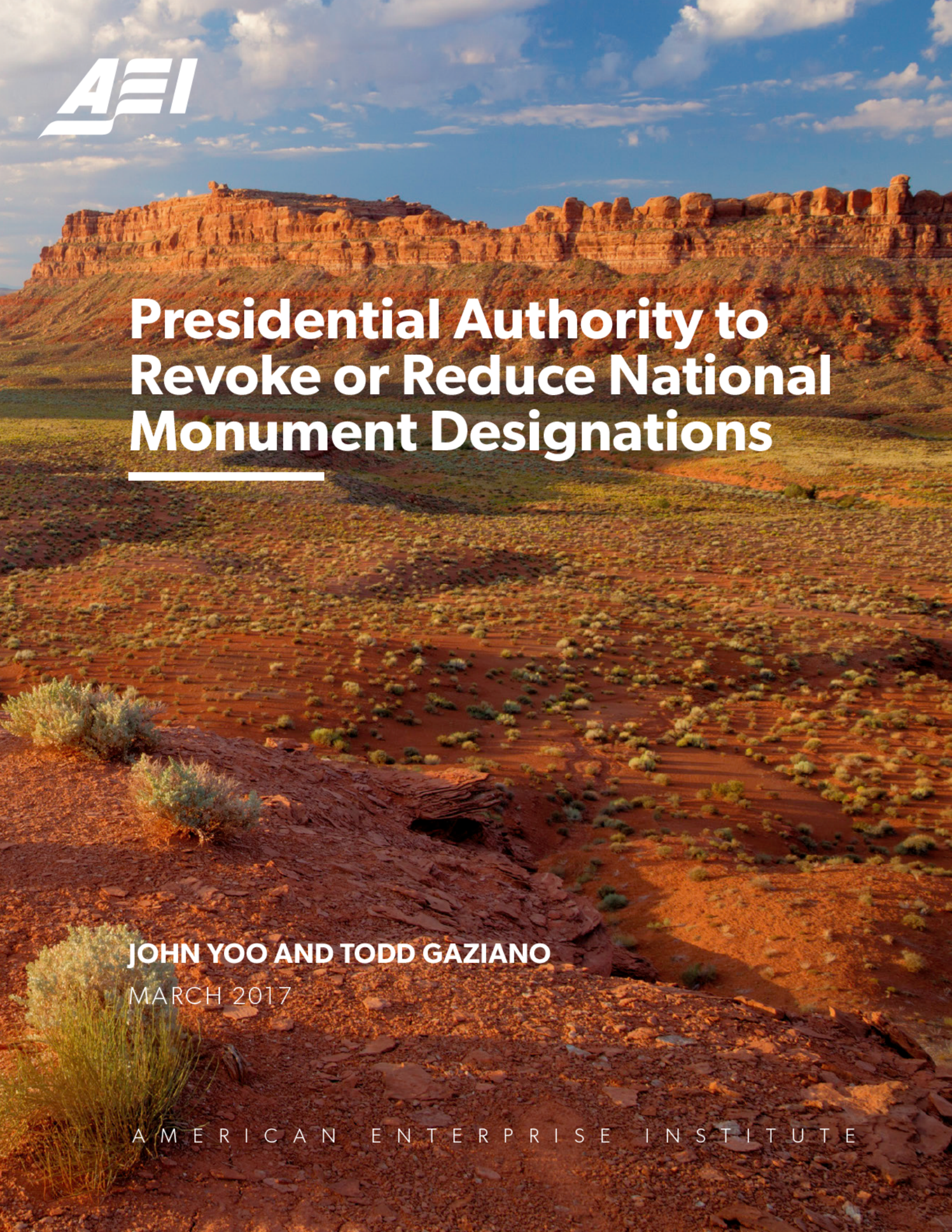
President Obama set the record for the number of national monument proclamations he issued and the millions of acres of public lands he designated for such monuments. A few weeks before he left office, President Obama used the Antiquities Act of 1906 again to proclaim 1.35 million acres in Utah and 300,000 acres in Nevada to be new national monuments. White House officials claimed that both actions were “permanent” because there was no express authority to reverse them. In a new AEI paper to be released on March 29, Yoo and Gaziano argue that such claims of permanence get the constitutional principles and legal presumptions exactly backwards. The text, history, and executive practice under the Antiquities Act, as well as foundational constitutional principles, provides for presidential discretion in the creation and revocation of national monuments. Moreover, his discretion to significantly change monument boundaries, including substantial reductions in a monument’s size, is strongly supported by the text of the Act, its legislative history and purposes, and unbroken presidential practice going back to the early years of the act’s history. In support of these conclusions, the new AEI paper makes news by questioning a 1938 Attorney General opinion with new insights into an 1862 AG opinion and by revealing new historical research not covered in prior scholarship on the Antiquities Act. Please join us to ask your questions.

RSVP to Collin Callahan at CBC@pacificlegal.org or call (703) 647-2112.

Following the event, please join us for a reception to continue the conversation.

--

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior



Presidential Authority to Revoke or Reduce National Monument Designations

JOHN YOO AND TODD GAZIANO

MARCH 2017

AMERICAN ENTERPRISE INSTITUTE

Executive Summary

The Antiquities Act of 1906 grants the president the power to designate national monuments in order to protect archeological sites, historic and prehistoric structures, and historic landmarks, such as battlegrounds. We are confident that, pursuant to this power to designate, a president has the corresponding power to revoke prior national monument designations, although there is no controlling judicial authority on this question. Based on the text of the act, historical practice, and constitutional principles, we have even more confidence that he can reduce the size of prior designations that cover vast areas of land and ocean habitat, although his power of reduction may in some instances be related to his implicit power of revocation.

An attorney general opinion in 1938 concluded that the statutory power granted to the president to create national monuments does not include the power to revoke prior designations. The opinion has been cited a few times in government documents, including by the solicitor of the Interior Department in 1947 (although for a different proposition) and in legal commentary, but the courts have never relied on it. We think this opinion is poorly reasoned; misconstrued a prior opinion, which came to the opposite result; and is inconsistent with constitutional, statutory, and case law governing the president's exercise of analogous grants of power. Based on a more careful legal analysis, we believe that a general discretionary revocation power exists.

Apart from a general discretionary power to revoke monuments that were lawfully designated, we think the president has the constitutional power to declare invalid prior monuments if they were illegal from their inception. In the first instance, there is no reason why a president should give effect to an illegal act of his predecessor pending a judicial ruling. Beyond this, we think the president may also have a limited power to revoke individual monument designations based on earlier factual error or changed circumstances, even if he does not possess a general discretionary revocation power.

In addition to the above powers, almost all commentators concede that some boundary adjustments can be made to monument designations, and many have been made over the years. In 2005, the Supreme Court of the United States implicitly recognized that such adjustments can be made. The only serious question is over their scope. No court has ruled on this question. Some commenters claim this is because no president has attempted to significantly reduce the size of an existing monument, but that is simply inaccurate. In the act's early years alone, some monuments were reduced by half or more.

Regardless of past practice, arguments that limit the president's authority to significantly reduce prior designations are largely conclusory—and based on the erroneous premise that the president lacks authority to revoke monuments—or driven by a selective reading of the act's purpose rather than its text. We believe a president's discretion to change monument boundaries is without limit, but even if that is not so, his power to significantly change monument boundaries is at its height if the original designation was unreasonably large under the facts as they existed then or based on changed circumstances.

Presidential Authority to Revoke or Reduce National Monument Designations

BY JOHN YOO AND TODD GAZIANO

As he left the Oval Office, President Barack Obama tried to exempt his environmental policies from the effects of the November 2016 elections. Five days before Christmas, the White House announced the withdrawal of millions of acres of Atlantic and Arctic territory from petroleum development. Obama continued his midnight orders by proclaiming 1.35 million acres in Utah and 300,000 acres in Nevada to be new national monuments. White House officials claimed that both types of actions were "permanent" because there was no express authority to reverse them. But that gets the constitutional principles and legal presumptions exactly backward. All the ex-president will prove is the fleeting nature of executive power.

These actions, like many others taken by the Obama administration, will remain vulnerable to reversal by President Donald Trump. In our constitutional system, no policy can long endure without the cooperation of both the executive and legislative branches. Under Article I of the Constitution, only Congress can enact domestic statutes with any degree of permanence. And because of the Constitution's separation of powers, no policy will survive for long without securing and retaining a consensus well beyond a simple majority. Our nation's most enduring policies—antitrust, Social Security, and civil rights—emerged as the product of compromise and deliberation between the political parties.

President Obama's refusal to compromise with his political opponents will guarantee that his achievements will have all the lasting significance of Shelley's King Ozymandias.[1] The president's only substantial legislative victories, Obamacare and Dodd-Frank, never gained bipartisan input or broad support. Trump executive appointees can begin unraveling both laws with executive actions, with legislation to significantly alter them to follow. President Obama's refusal to yield an inch to Republicans intensified their opposition over many years and created a powerful electoral consensus to reverse these alleged reforms. The coming fight over public lands shows, in microcosm, the constitutional dynamics that render Obama's legacy so hollow.

Background on Antiquities Act National Monument Designations

The original motive for the Antiquities Act of 1906 was to protect ancient and prehistoric American Indian archeological sites on federal lands in the southwest from looting. The Antiquities Act was passed during the same month (June 1906) as the act creating Mesa Verde National Park, and the problems that arose in protecting the Mesa Verde ruins inform the Antiquities Act's central focus. In a report to the secretary of the interior, Smithsonian Institution archeologist Jesse Walter Fewkes described vandalism at Mesa Verde's Cliff Palace:

> Parties of "curio seekers" camped on the ruin for several winters, and it is reported that many hundred specimens there have been carried down the mesa and sold to private individuals. Some of these objects

> are now in museums, but many are forever lost to sci ence. In order to secure this valuable archaeological material, walls were broken down . . . often simply to let light into the darker rooms; floors were invari ably opened and buried kivas mutilated. To facilitate this work and get rid of the dust, great openings were broken through the five walls which form the front of the ruin. Beams were used for firewood to so great an extent that not a single roof now remains. This work of destruction, added to that resulting from erosion due to rain, left Cliff Palace in a sad condition.[2]

The legislative history of the Antiquities Act on the Department of Interior website provides additional historical detail,[3] but the act's text confirms that its primary purpose was to "preserve the works of man."[4] Section 1 of the original act made it a crime to "appropriate, excavate, injure, or destroy any historic or prehistoric object of antiquity" on federal land without permission. Section 3 provided for permits for the examination of "ruins, the excavation of archeological sites, and the gathering of object of antiquity upon" federal land. Section 4 provided the authority to the relevant department secretaries who managed federal land to issue uniform regulations to carry out the act's provisions. Section 2, which allows for the designation of national monuments and the reservation of such federal land as is necessary to protect the objects at issue, also focuses primarily on "historic and prehistoric *structures*, and other *objects* of historic or scientific interest" (emphasis added).

The addition of only two words, "historic landmarks," in that sequence in Section 2 (see below) denotes something broader than preserving human artifacts. In prior proposals to protect antiquities, the Department of Interior had sought authority for scenic monuments and additional national parks, but Congress repeatedly rejected that authority.[5] Congress was annoyed by large forest designations and guarded its authority over western lands jealously.[6] Yet the final language has been used and abused for such purposes, or effectively for such purposes—since the official designation of national parks is still left to Congress.

As previously mentioned, Section 2 of the Antiquities Act not only allows protection for small areas around human archeological sites but also authorizes the president:

> in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric struc tures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and maintenance of the objects to be protected.

There are three steps to land being reserved and protected under the Antiquities Act, the first two of which are delineated in the section above. First, the monument must be declared for a protective purpose upon lands owned or controlled by the United States. Second, a reservation of certain parcels of land that constitute a "part thereof" may be made, but such parcels of land may not exceed what is necessary to protect the "objects" at issue. And third, the president may specify certain restrictions or other protections that apply to the land thus reserved for the monument in the initial proclamation, or the relevant department secretary who has responsibility to manage the monument may issue regulations consistent with such protections.[7]

Although the act's final language covered more than antiquities, and there is evidence that small scenic landmarks were contemplated, the statute's title, drafting history, and historical context may still be valuable to presidents who want to follow the text and spirit of the original law. For example, earlier and contemporaneous bills for the same purpose limited monument designation to 320 or 640 acres.[8] The final bill replaced that with the (now seemingly open-ended) requirement that such monuments "shall be confined to the smallest area compatible with the proper care and management of the objects to be protected," but that was added to provide flexibility for special situations and not to allow a million-acre designation. Such

background also helps illuminate earlier presidential abuses, whether such abuses rise to the level of a statutory violation or are just garden-variety political acts that offend individual due process rights and separation of powers principles.

Besides Mesa Verde National Park, only a handful of other national parks existed in 1906. Congress did not create the National Park Service to manage them until 1916. The Grand Canyon, for example, was not a national park in 1906 and was open to mining claims and other federal program leases.

President Theodore Roosevelt initially used his new Antiquities Act authority to protect some relatively small landmarks (e.g., Devils Tower) and Native American ruins (e.g., El Morro and Montezuma Castle), but his abuses were not long in coming. In 1908, he proclaimed the Grand Canyon National Monument, reserving more than 808,000 acres for its protection. Although later Congresses converted some national monuments covering large geological formations into national parks, including the Grand Canyon National Park in 1919, the Congress that enacted the Antiquities Act did not intend monuments of that size to be established by presidential designation.

Nevertheless, the Supreme Court relied on the validity of the 1908 reservation that created the Grand Canyon National Monument in rejecting a private mining claim in *Cameron v. United States*.[9] There is no indication that the size of the original monument designation was at issue, perhaps because Congress had recently converted the monument into a national park. Yet the Supreme Court also has considered issues relating to two other large monuments or former monuments.[10] While the original monuments' sizes were not challenged in any of these cases, it is unclear whether the courts will invalidate large geological monument designations due to their size alone.[11]

Even so, the Antiquities Act's primary motivation and historical context is still legally relevant to refute the arguments of those who would limit a president's revocation power based on a selective and misleading statement about its purpose. Moreover, other interpretive questions remain open, such as the meaning of the textual requirement that the lands being reserved under the monument designations are "owned or controlled" by the United States.

Three of the most important Indian lands where prehistoric artifacts might be looted were not even states in 1906; Arizona, New Mexico, and Oklahoma were then federal territories. Hawaii was only recently annexed and organized as a territory, and Alaska was still a sparsely settled American "district" after the gold rushes of the 1890s—not yet an official federal territory. These were areas of exclusive federal ownership *and* control.

The Congress that enacted the Antiquities Act did not intend monuments of [such massive] size to be established by presidential designation.

Other areas of the West that included early national monument designations were owned by the national government, so an issue of control short of ownership was not at play in any of those designations. That may be relevant to the type of control Congress intended as a predicate to the exercise of authority under the Antiquities Act. (See later discussion regarding marine areas, especially those not owned by the United States and subject to limited regulation or control.)

A General Discretionary Power to Revoke Prior Designations

Attorney General Homer Cummings advised President Franklin Roosevelt in 1938 that he lacked the authority to revoke President Calvin Coolidge's

designation of the Castle Pinckney National Monument because he concluded that no power existed to revoke a prior monument designation.[12] Although the opinion has been cited in some later government documents[13] and by legal commentators, no court has ruled on the president's revocation power or cited the opinion, in part because no president has attempted to revoke a prior designation. In all events, the 1938 attorney general opinion is poorly reasoned, and we think it is erroneous as a matter of law.

The attorney general was first authorized to issue legal opinions to the president under the Judiciary Act of 1789, now codified at 28 U.S.C. §§ 511-513, and to other agency heads by that act and other delegations of authority from the president. Attorney general opinions, and those that now are issued by the Department of Justice (DOJ) Office of Legal Counsel (OLC), are binding on executive branch agencies. In contrast, a president is free to disregard them—especially if he concludes that his oath to take care that the laws are faithfully executed conflicts with such an opinion.

Nevertheless, prudence dictates that the next president request that his own attorney general reexamine such opinion, perhaps with the assistance of OLC, which became an independent division of the DOJ in 1951 and is commissioned to provide serious legal analysis on such matters. The existence of Cummings' 1938 published opinion is an internal hurdle that any administration should address, preferably with another published opinion, either affirming, qualifying, or overruling Cummings' advice.

In 1938, Cummings addressed the question of whether the secretary of the interior could abolish the Castle Pinckney National Monument in Charleston, South Carolina, and transfer the land to the War Department. Under the Antiquities Act, President Coolidge had formed the monument in 1924 from a US fort that had existed in the Charleston harbor since the early 19th century. As Cummings observed, the Antiquities Act contained no clear textual authorization to "abolish" national monuments. "If the President has such authority, therefore, it exists by implication."[14]

Cummings concluded that without clear authorization from Congress, President Roosevelt could not reverse the designation of Castle Pinckney as a national monument. In a brief opinion, he relied on two grounds. First, he believed Attorney General Edward Bates had settled the issue in an 1862 opinion that found that the president could not return a military reservation to the pool of general public lands available for sale. Second, he compared the Antiquities Act to other federal laws governing temporary withdrawals of federal land or forests, which explicitly provide for presidential modification of past designations. In addressing past practice, which he conceded supported a right to reduce the size of national monuments, Cummings argued that "it does not follow from power so to confine that area that he has the power to abolish a monument entirely."[15]

We believe the 1938 opinion is wrong in some obvious respects and too cursory to be persuasive, even if its errors were excised. One major flaw is Cummings' misreading of Bates' opinion,[16] 44 years before the enactment of the Antiquities Act. Bates' opinion discusses whether an administration in the 1840s could rescind a military reservation in Illinois for which Congress had appropriated money and on which a fort had been constructed. He found that the statute delegating to the president the power to designate land for military purposes did not include a power to withdraw the designation. Bates seemed to believe that delegated power, once used, could not be activated to reverse the decision—that the president had effectively exhausted the delegation of power. "A duty properly performed by the Executive under statutory authority has the validity and sanctity which belong to the statute itself, and, unless it be within the terms of the power conferred by that statute, the Executive can no more destroy his own authorized work, without some other legislative sanction, than any other person can."[17]

But the original 1862 opinion contains many factual and legal distinctions that Cummings does not address. For example, Bates states that he is interpreting military reservation authority under "early acts of Congress" and an "act of 1809," which provided appropriations for constructing forts "for the protection of the northern and western frontiers." Perhaps most importantly, the 1862 opinion acknowledges that the

military reservation itself could be abandoned by the War Department, which is the equivalent of revoking a land reservation under the Antiquities Act. It also relies on the fact that in 1858, Congress had specifically repealed any statutes that authorized the sale or transfer of military sites to the public. Of course, no such express statutory prohibition on the presidential withdrawal of national monument status exists in the Antiquities Act.

Instead, Bates' opinion focuses on whether an abandoned military reservation and its buildings would be subject to "entry or preemption by settlers." This refers to the Preemption Act of 1841, which allowed squatters on federal land during the 1840s and 1850s to secure title to it at a low price (preempting a general public sale) if they also worked it for a number of years.[18] To conclude that squatters could not simply enter the military reservation and secure title to it "by preemption," Bates' opinion relies on a combination of factors that are distinguishable from revoking a monument designation under the Antiquities Act, including: the unnamed "early acts of Congress," which authorized its initial selection as a military reservation; the 1809 appropriation for military forts on the frontier; that Fort Armstrong had been constructed and occupied for more than two decades; that its buildings were still in good order; that other laws governed the sale of abandoned military property; and more recent acts of Congress relating to the particular piece of property, which assumed it was not subject to preemption by settlers.

Cummings did not acknowledge these and other potential distinctions. Bates found that separate laws governed the management and disposal of military property from the homesteading or preemption laws that had populated Kansas and Nebraska. It is not surprising that interpreting different statutes yields different results, but even so, Bates conceded that an improved military reservation could be abandoned and sold, just not pursuant to the Preemption Act of 1841. Cummings mistakenly read the 1862 opinion for the proposition that once land is reserved under any act of Congress, that reservation can never be rescinded.

In contrast to the question Bates addressed, revoking a monument designation under the Antiquities Act would not change the federal ownership of the land at issue. For this and other reasons, the portion of the 1862 opinion that Cummings quoted is especially questionable as applied to land reservations under the Antiquities Act. The quoted language also contains several inapt analogies and question-begging propositions of law.

For example, Cummings quotes the proposition that the "power to execute a trust, even discretionarily, *by no means* implies the further power to undo it when it has been completed" (emphasis supplied). The italicized phrase is misleading. Not every grant of a power to create something must include the power to abolish it, but many do. Special circumstances might make revoking certain acts impossible, or that power might be withheld, but a presumption of revocability is often implied if the grant is silent.[19]

Not every grant of a power to create something must include the power to abolish it, but many do.

Indeed, reliance on trust law should have led to the opposite conclusion, at least under the Antiquities Act. Under general trust principles, at least in the 20th and 21st centuries, the power to create a trust includes the power to revoke it when the settler retains an interest in it, unless the trust is expressly irrevocable under the original grant of authority.[20] If a court applied trust law principles to the Antiquities Act, we think it would conclude that the president retains an interest in the monument designations he or a predecessor creates, including that he has the duty to manage them, issue and enforce regulations to protect them, and adjust their borders from time to time with subsequent presidential proclamations. Moreover, the broader principle of trust law is that

the party creating the trust has the power to decide whether it is revocable; the discretionary nature of the president's power under the Antiquities Act and certain textual cues suggest Congress did not intend to make all monument reservations permanent.

Cummings' reliance on Bates' constitutional-statutory analysis fares no better than his reliance on trust law. It is true that a president has no general constitutional authority to manage federal land, although he may have some limited powers as commander in chief or under other statutory grants of authority. That, however, does not answer whether Congress' grant of authority in "early acts of Congress" or the Antiquities Act of 1906 to make reservations includes the power to rescind or revoke them. Indeed, Bates conceded that military reservations could be abandoned; he just believed the land would not be subject to "preemption by settlers." In the context of the Antiquities Act that Cummings was supposed to interpret, a president could rescind or amend the parcels of land reserved for a given monument without repealing the underlying monument designation. There is no evidence that Congress intended to withhold either revocation power in the Antiquities Act, let alone both of them.

Bates' final constitutional-statutory proposition is equally circular as applied to the Antiquities Act. He asserts that reading the unnamed "early acts of Congress" and especially the 1809 appropriation to allow "preemption by settlers" would effect a repeal of the underlying laws: "To assert such a principle is to claim for the Executive the power to repeal or alter an act of Congress at will." That presidents cannot unilaterally repeal statutes does not answer whether Congress included the power both to make and revoke reservations in the original grant of authority under the Antiquities Act.

Cummings' only attempt at an original argument starts and ends with one of the Antiquities Act's purposes: "to preserve . . . objects of national significance for the inspiration and benefit of the people of the United States." Cummings then immediately concludes, in *ipse dixit* fashion (without making a coherent argument), that: "For the reasons stated above, I am of the opinion that the President is without authority" to issue a proclamation revoking the Castle Pinckney National Monument.

Such casual reliance on one of the act's purposes, and one that was not set forth in the act itself, adds nothing of weight, since it does not explain why revoking the monument at issue was inconsistent with that general purpose of preserving objects of national significance. What if the president determined, for example, that no objects of national significance remained at a given site?

Cummings also does not fairly consider other purposes. If a textual ambiguity justified a resort to legislative materials, the full record would show that the act's primary purpose was to provide a power to the president to prevent the destruction and looting of artifacts until they were excavated and safeguarded or until Congress could consider long-term measures regarding the site. This more complete statement of purposes highlights that the passage of time matters and that a later president could reasonably conclude that Congress declined the opportunity to legislate on the land or objects in an earlier monument designation or that they were now safeguarded, such as by excavation and display in a museum.

A proper analysis of the revocation power under the Antiquities Act would also consider other grants of authority to the president in the Constitution and other statutes and how the courts and constitutional practice have treated them. Cummings made no effort to do that in 1938, and the range of presidential action the courts have upheld, even under older delegations dating to the post–Civil War era, is now more muscular than in early-20th-century jurisprudence.

Although our research is limited on analogous delegations, we believe the general principle would prevail that the authority to execute a discretionary government power usually includes the power to revoke it—unless the original grant expressly limits the power of revocation. One particularly relevant statutory example is the executive's power to issue regulations pursuant to statutory authority. When Congress gives an agency the discretionary authority to issue regulations, it is presumed to also have the authority to repeal them.[21] This is especially true when the regulation has shown to be contrary to the

purposes underlying the statute.[22] Section 4 of the Antiquities Act grants three department secretaries the power to publish "from time to time uniform rules and regulations for the purpose of carrying out this Act." Although Congress did not expressly state that the officials can repeal or significantly alter their regulations once they are published "from time to time," that is presumed by law. The broader power of revocation by the president should also be presumed.

Constitutional law axioms are even more relevant in undermining Cummings' view. A basic principle of the Constitution is that a branch of government can reverse its earlier actions using the same process originally used. Thus, Article I, Section 7, of the Constitution describes only the process for enacting a federal law. A statute must pass through both bicameralism (approval of both Houses of Congress) and presentment (presidential approval). But the Constitution describes no process for repealing a statute.

Under the Obama administration's logic, Congress could not repeal previous statutes because of the Constitution's silence. Since the adoption of the Constitution, however, our governmental practice is that Congress may eliminate an existing statute simply by enacting a new measure through bicameralism and presentment. While passage of an earlier law may make its repeal politically difficult, due to the need to assemble majorities in both Houses and presidential agreement, no Congress can bind later Congresses from using their legislative power as they choose.

This principle applies to all three branches of the federal government. The Supreme Court effectively repeals past opinions simply by overruling the earlier case, as most famously occurred in *Brown v. Board of Education*,[23] which overruled *Plessy v. Ferguson*.[24] While the Court may follow past precedent out of *stare decisis*, it also employs the same procedure to reverse the holding of past cases, as Congress does to reverse an earlier statute. Both a precedent and its subsequent overruling decision require only a simple majority of the justices. No Supreme Court can bind future Supreme Courts.

This rule also applies to the Constitution as a whole. In Article V, the Constitution creates an additional process for amending its own text, which requires two-thirds approval by the House and the Senate and then the agreement of three-quarters of the states. Without this additional option in Article V, the Constitution would require the same or a similar process for its amendment as for its enactment, which would have impractically required a new constitutional convention. Reinforcing our point, the framers decided to set out explicit mechanisms for repealing part of the original constitutional text when they wanted to provide a means that did not mirror the original enacting process.

No president can bind future presidents in the use of their constitutional authorities.

The same principle applies to the constitutional amendments themselves. The Constitution contains no provision for undoing a constitutional amendment. Instead, the nation has used constitutional amendments to repeal previous constitutional amendments. The 21st Amendment repealed Prohibition, which had been enacted by the 18th Amendment. When the Constitution is silent about a method for repeal, it is assumed that we are to use the same process as that of enactment.

The executive branch operates under the same rule. No president can bind future presidents in the use of their constitutional authorities. Presidents commonly issue executive orders reversing, modifying, or even extending the executive orders of past presidents, and no court has ever questioned that authority, even when it is used to implement statutorily delegated powers. Good examples include the successive executive orders Presidents Ford, Carter, Reagan, Clinton, George W. Bush, and Obama used to specify how the congressionally mandated rulemaking process would be conducted and reviewed in the executive branch.[25] It would be quite an anomaly to

identify an executive directive or presidential proclamation that a subsequent president could not revoke.

Presidents also regularly add or remove executive branch officers appointed to White House committees or even the cabinet. They have created and eliminated whole offices in the Executive Office of the President. They have increased or reduced the use of cost-benefit analysis in regulatory decisions. In fact, when the Constitution deviates from this lawmaking symmetry, it explicitly does so in the text and in a manner that makes repeal easier than the first affirmative act.

The most famous example is the president's removal power. In Anglo-American constitutional history, the executive power traditionally included the power both to hire and fire subordinate executive officials. The Constitution altered the appointment process. Under Article II, Section 2, the president can nominate and, with the Senate's advice and consent, appoint high executive branch officers, judges, and ambassadors. The Constitution, however, did not explicitly address removing an officer.

In *Myers v. United States*,[26] the Supreme Court found that the Constitution implicitly retained the traditional rule that a president could unilaterally undo an appointment without the Senate's approval. In revoking an official's commission that was issued after Senate confirmation, the president is more clearly negating a specific, deliberative, and official Senate act. By contrast, revoking a predecessor's individual monument designation does not negate anything in particular that Congress approved.

A similar dynamic applies to the Treaty Clause. Under Article II, Section 2, of the Constitution, the president can make treaties subject to the advice and consent of the Senate. Again, the Constitution does not explicitly address terminating a treaty. But as a four-justice plurality of the Supreme Court and the US Court of Appeals for the DC Circuit have found, the president retains the traditional executive authority to unilaterally terminate treaties.[27] Past presidents and Senates cannot bind future presidents to treaties, just as they cannot prevent future presidents from removing executive branch officials.

Although the power to unilaterally abrogate a treaty flows from a grant of constitutional authority to the president to manage foreign relations, Congress is also constitutionally prohibited from delegating a statutory power to the president and then micromanaging the discretion granted.[28] Thus, even if the Antiquities Act attempted to prevent later presidents from using its authority to reverse an earlier monument designation, that would raise serious constitutional questions.

At a minimum, a thorough and up-to-date analysis of both constitutional principles and statutory examples should be performed before Cummings' opinion is followed.

A Limited Power to Revoke Certain National Monuments or Declare Others Invalid

Even if every monument designation cannot be revoked as a matter of presidential discretion, and we still question such limitation, authority might still exist to abolish some designations based on an earlier factual error, changed circumstances, or an original statutory violation. In short, three determinations, two factual and one legal, may provide strong grounds for certain monument revocations or invalidations.

New Factual Determinations. First, if the president concludes that the original designation was mistaken, perhaps because of an archeological fraud, historical error, or improved or updated scientific analysis, the predicate for original designation would be undermined. It would be hard to argue that Congress intended that every curiosity deemed scientifically interesting to a president 100 years ago (the once popular but now discredited and racist branch of human craniology/phrenology comes to mind) forever must remain a valid source of scientific interest and protection. It might be more controversial for a president to determine that a geological monument designation thought to be rare and scientifically interesting by an earlier president is not all that worthy of protection as a monument, but limiting such reevaluation would elevate certain determinations (or

privilege geological claims) over others in a manner that would be hard to logically sustain.

Second, as explained above, the act also was intended to provide authority to preserve artifacts that might otherwise be looted. Even assuming the original designation was proper, if the relevant artifacts were excavated and removed and are now on display in a museum off-site, how can it be said that the reserved parcels are currently the "smallest areas compatible with the proper care and management of the objects to be protected"? If any of these changes of fact or scientific interest justify revocation, then the general argument against revocation would be on shaky grounds, and discretionary revocations at will would be a more plausible interpretation of the act.

Problems of Size. A presidential determination that the original designation was illegally or inappropriately large is a special case. It may provide a sound predicate for declaring a designation to be invalid in some cases or for significantly reducing the monument's size in others. The president might be presented with an issue analogous to a severability determination regarding such monuments. If there is no reasonable way to reduce a reservation's size and maintain a meaningful monument, rescinding or declaring invalidity may be more appropriate. In all events, a review of controversies over the size of national monuments highlights three distinct periods of use and abuse, the last of which contains the most breathtakingly large monument designations.

Between 1906 and 1943, most monument reservations were smaller than 5,000 acres, and many of them actually protected antiquities. Yet there also were several large monument reservations or expansions during that period, mostly for scenic or geological formations.

President F. Roosevelt's designation of Jackson Hole National Monument in 1943 was the catalyst for two reforms, only one of which was made permanent. Wyoming congressmen were strongly opposed to the 210,950-acre Jackson Hole monument and reservation and secured a bill to overturn it, but President Roosevelt vetoed it. In 1950, Congress made Grand Teton National Park out of most of the land from the Jackson Hole monument and added the southern portion of the former monument to the National Elk Refuge. That law also amended the Antiquities Act, forbidding further use of it to expand or establish a national monument in Wyoming without express congressional authorization.[29] Note that the proviso enacted in 1950 does not prohibit the president from reducing the size of the monument reservation in Wyoming.

For 35 years after the congressional dispute over the Jackson Hole National Monument, presidents were quite temperate in their use of the Antiquities Act. Except for a couple of proclamations of large tracts by President Johnson, the period between 1943 and 1978 contained no especially vast monument reservations, and some presidents even reduced the size of older monuments. Eisenhower's combined proclamations under the act caused a net reduction in total acreage devoted to national monuments. President Nixon issued no Antiquities Act proclamations whatsoever.

In 1976, Congress enacted the Federal Land Policy and Management Act (FLPMA), which prevents a secretary of interior from withdrawing more than 5,000 acres of federal land without congressional approval. The FLPMA did not alter the president's authority under the Antiquities Act, perhaps because presidential abuses had abated. Although one ambiguous sentence of one House committee report has been mistakenly read to provide otherwise, the plain text of the FLPMA and settled canons of construction establish that the president's authority under the Antiquities Act was not affected by a provision that limited the secretary of interior's authority regarding similar land withdrawals.[30]

Unfortunately, presidential abuses under the Antiquities Act expanded significantly after 1978, especially by Presidents Carter, Clinton, and Obama. Until a few months ago, President Carter held the record for the most extensive monument reservations, with nine designations that were larger than a million acres and two larger than 10 million acres. Carter's designation of more than 56 million acres of monument reservations in Alaska on a single day led to the most recent amendment to the Antiquities Act.

The Alaska National Interest Lands Conservation Act (ANILCA), P.L. 96-487, was enacted by Congress and signed by President Carter on December 2, 1980, after his election loss to Reagan and the impending loss of Democratic Party control in the Senate. The ANILCA settled many long-standing issues and land disputes, and it made many Alaska-specific changes to laws governing federal land management, including requiring congressional approval for national monuments in Alaska larger than 5,000 acres.[31] Whether this congressional reaction made an impression on them or for other reasons, Presidents Reagan and George H. W. Bush both issued no proclamations under the Antiquities Act.

Several of President Obama's proclamations were also in the teeth of strong congressional opposition and undermined pending congressional legislation.

Nevertheless, President Clinton broke new ground with the number of monument designations per term,[32] many of which were larger than 100,000 acres and two of which were larger than one million acres.[33] He also proclaimed a questionable new type of monument on the high seas. President George W. Bush issued fewer than half as many monument designations as Clinton, and some were relatively small. Yet, President George W. Bush made a few large monument designations, including a questionable designation along the Pacific Ocean's Marianas Trench.[34]

President Barack Obama broke both Clinton's record number of monument proclamations per term and Carter's record for the total acres withdrawn. Among his 34 proclamations,[35] Obama enlarged the Papahanaumokuakea Marine National Monument by approximately 283.4 million acres,[36] enlarged the Pacific Remote Islands Marine National Monument by approximately 261.3 million acres,[37] and created the Northeast Canyons and Seamounts Marine National Monument, which covers approximately 3.1 million acres.[38]

Several of President Obama's proclamations were also in the teeth of strong congressional opposition and undermined pending congressional legislation. For example, on December 28, 2016, he created the 1.35 million–acre Bears Ears National Monument in southern Utah and the 300,000-acre Gold Butte National Monument in Nevada. Both designations were opposed by state officials and GOP congressional leaders, including the unanimous congressional delegation from Utah, which was willing to compromise on a smaller monument in Utah that permitted reasonable public uses of the area. The protective impact of the Bears Ears National Monument is particularly dubious since it is supposed to protect isolated Native American sites. It is unclear, for example, how the agency officials will protect those sites any differently after the monument designation than they might have before.

A designation smaller than 5,000 acres may still be too large (relative to some objects being protected) or politically abusive if the designation is for a questionable purpose, for example, to interfere with congressional deliberations over a compromise land-use arrangement or to regulate fishing that is not otherwise authorized. But reservations larger than 5,000 acres merit special review out of respect for Congress' traditional authority to establish federal land policy, especially if there was no "emergency" necessitating the monument designation without congressional action or if congressional leaders had expressed serious opposition to the monument designation.

If a president makes a credible determination, based on the facts and a reasonable interpretation of the act, that some former monuments are illegally large relative to the original "object" supposedly being protected, he could declare that the initial designation was void, especially if there is no easy way to make it lawful by severing discrete parcels of land.

That is distinct from his power to "revoke" those he thinks were originally lawful, and it would stem from his constitutional authority to take care that the laws are faithfully executed. Even so, a president trying to insulate such a decision should invoke both his constitutional authority to declare the prior designation void and his authority under the act to revoke the designation if it were legal. If he uses both sources of authority, he should issue a proclamation to exercise his authority under the Antiquities Act.

Judicial Review

Someone would have to establish standing to sue to overturn a later declaration of invalidity or a revocation, and that might be quite difficult in many cases. Standing has been a hurdle for many challenging monument designations that impaired grazing, timber, mining, or other rights to use the reserved land.[39] It might be even more difficult for a party to establish a sufficient and particularized injury that resulted from a monument revocation that restores land to public use.

If standing is established, challengers would have to satisfy different burdens, depending on the nature of their claims. A challenge to the president's legal authority to establish a particular monument, perhaps because the land in question is not owned or controlled by the United States,[40] is an issue of law that ought to decided without deference to either party. A legal challenge to the president's authority to ever revoke any prior monument under the act would probably be decided in a similar manner.

Someone challenging the president's discretionary determinations under the act would likely have to show an abuse of discretion—and to do so without an administrative record. And it is possible, absent proof of corruption, legal violation, or a failure of process, that certain factual determinations are committed to the president's discretion by law and are not subject to judicial review.[41] That standard might apply to presidential determinations that justify a reduction in the size of existing monuments, which is discussed further below.

Special Questions Regarding Marine Monument Designations

The Supreme Court has upheld or discussed the application of the act to the submerged lands of two different monuments along the coast and inland waterways,[42] but some issues regarding these kinds of monuments still remain open, and recent marine monument designations on the high seas raise new questions.

The submerged lands under inland waterways and territorial seas at issue in the two cases mentioned above were owned by the United States when the monuments were designated. That is not true with the areas associated with certain high-sea designations by Presidents Clinton, George W. Bush, and Obama. President Obama's most recent purported designation of the Northeast Canyons and Seamounts Marine National Monument is located approximately 130 miles off Cape Cod. This approximately 3.14 million–acre monument is in the United States' Exclusive Economic Zone (EEZ), but under domestic and international law, America does not own it. The Pacific Legal Foundation recently filed suit on behalf of a coalition of New England fishing organizations challenging the legality of the most recent marine monument, which is the first lawsuit of its kind.[43]

There are two problems with the designation of marine monuments far from shore under the Antiquities Act. First, the submerged land at issue is not the type of land that the United States could have owned or controlled in 1906. The modern EEZ is not only vastly wider than the "territorial waters" of 1906 but also a qualitatively different type of property interest than the United States may have acquired or controlled in an earlier era.[44] The United States had a sovereign interest in the submerged land near its coast and its territorial waters (whether that was then three miles from the coast and is now 12 miles), which justifies sovereign military and economic controls; it could not have and still does not have such a sovereign interest in the area beyond its territorial waters.[45] Relatedly, even current domestic and international law permits only limited regulation or control of the marine and wind resources in the EEZ outside our

territorial waters, and thus, it does not constitute the type of federal government "control" of the relevant land that is required under the Antiquities Act.

In *Treasure Salvors, Inc. v. Unidentified Wrecked and Abandoned Sailing Vessel*,[46] the Fifth Circuit held that the Antiquities Act does not extend beyond the territorial sea, despite subsequent legislation authorizing federal regulation beyond it. Although the Fifth Circuit acknowledged that the federal government's role in regulating beyond the territorial seas had expanded since 1906, including through the adoption of the Outer Continental Shelf Lands Act,[47] none of that conveyed the degree of control that the federal government enjoyed on federally owned lands or federally controlled territories in 1906.[48]

When President Clinton proposed to designate the first marine monument beyond American territorial waters, he received some surprising pushback from the Departments of Interior and Commerce, which submitted a joint memorandum to OLC asserting that the EEZ is not "owned or controlled by the Federal Government." OLC ultimately disagreed but acknowledged that it was a "closer question" than earlier disputes over the president's designation authority.[49]

We believe that the OLC opinion is flimsy and that the attorney general or White House counsel should request a reconsideration of it as well. The Clinton-era OLC opinion argues that the EEZ is sufficiently controlled by the federal government because recent presidents have consistently asserted *some* regulatory authority over the area and the United States has greater regulatory authority than any foreign government.[50] Of course, the same is true of many areas that are unquestionably *not* "owned or controlled by the Federal Government."

Private lands in the United States, for instance, are subject to federal regulation under the Commerce Clause, and no other nation can claim an authority to regulate them. But this does not mean the president has the authority to unilaterally designate privately owned lands as a monument. The Antiquities Act confirms this, stating that the president can receive privately owned lands to include them in a monument, but only through the owner's voluntary relinquishment of them.[51] The OLC opinion cannot be squared with this.

It also asserts that the EEZ is sufficiently controlled by the federal government because it has the authority to protect threatened or endangered species found there.[52] Yet the same could be said of any privately owned land under the Endangered Species Act.[53]

The OLC opinion has other problems, but its main defect is the failure to effectively grapple with the federal government's limited power to regulate in the EEZ. Rather than address whether this affects the president's ability to designate a monument in this area, the opinion instead argues that the regulations imposed within the monument are limited by the customary international law that otherwise applies. However, that cannot be squared with the Antiquities Act. In 1906, land owned or controlled by the federal government described federally owned land and federal territories in which the federal government had almost no limits on its authority and could exercise its full police power. Consistent with that, the Antiquities Act *requires* monuments to be regulated as necessary to effectuate the statute's purposes. For these reasons, we think the OLC opinion in 2000 is erroneous.

Finally, even if the Antiquities Act does allow monument designations in international submerged lands in the United States' EEZ, such designations might be valid only for the seabed itself and for the purpose of seabed protection. If so, that would provide additional authority to revoke designations that are primarily designed to protect sea life in international waters and remove other restrictions in ocean habitat, even if they are above seabed features that might be the subject of protection. To be clear, other authority exists to regulate fishing and other activity in the oceans, but it is questionable whether the Antiquities Act provides such authority.

The act's text provides strong support for limiting monuments to landmarks and objects on the land and further limits reservations relating to such monuments to parcels "of land." In particular, the act provides authority for monument designations of only "*land*marks, historic and prehistoric *structures*, and other *objects* of historic or scientific interest that are

situated *upon the land*," and when such monuments are designated, the president may then "reserve as part thereof parcels of *land*" for protection (emphasis supplied). There may be some ancillary power to regulate the air above a monument or some activity in the sea above a marine monument (see discussion of *Cappaert v. United States* below), but it is doubtful that the ocean itself and its living denizens can be designated as part of the monument. It is equally doubtful that a reservation of land can encompass the water column as a matter of presidential discretion under the Antiquities Act.

The act's text provides strong support for limiting monuments to landmarks and objects on the land and further limits reservations relating to such monuments to parcels "of land."

In *Cappaert*, the Supreme Court upheld some authority to regulate the immediate watershed outside a monument if that is necessary to protect geologic structures and endangered wildlife in the monument grounds, but its holding was based on other federal law governing reserved water rights.[54] The Court did mention the endangered fish that swim in the unmoving pool of the monument at issue, but that reference does not seem necessary to its holding that appurtenant water outside the monument was reserved. The facts of that case are distinguishable in other ways from the unbounded ocean and the unthreatened fish, mammals, and other sea creatures that swim in and out of it.

Yates v. United States[55] supports one such distinction. If a "fish" is not a "tangible object" within the meaning of Sarbanes-Oxley law because it is not like the other listed things that should be protected from shredding,[56] then it is even less likely that the ocean and its sea life are objects analogous to "structures" and "landmarks" that are "situated upon the land" within the meaning of the Antiquities Act. And even if the ocean and its sea life are "objects" that could be part of a monument, the Antiquities Act's second step permits the reservation of only the "part thereof" that are "parcels of land" necessary to protect them.

Accordingly, if the ocean and its sea life cannot be designated as part of a monument, or if no reservation "of land" can include them, then their regulation must rely on some other principle of law (analogous to the federal law regarding reserved water rights) and perhaps on proof that such regulation is necessary to protect the landmark, structure, or other objects of historic or scientific interest at issue in the actual monument, such as the seamounts and underwater valleys or mountains. For these reasons, the president should be free to lift erroneous fishing restrictions that are in place solely by reason of a marine monument designation.

The Power to Reduce the Scope of a Reservation Pursuant to a Monument Designation

Almost all commentators, including past opinions from the attorney general and the solicitor of interior, agree that monument boundary adjustments are permissible.[57] Environmentalists often seek large expansions of existing monuments. As a result, several presidents have added vast additional reservations to existing national monuments, including three by President Obama that added millions of acres to them. Many presidents have made other boundary adjustments, including some modest to large reductions, and the Supreme Court has cited some of these

changes in describing the monuments at issue, implicitly assuming they were valid.

If large additions of land have been deemed necessary to protect certain objects, it is doubtful the president could not determine that some large reductions are reasonable or necessary to satisfy the "smallest area" requirement of the act. Modern technology might even help justify a reduction, for example, if smaller boundaries may now be more effectively monitored and protected.

Yet several commentators claim that the question of whether the president could affect significant reductions remains open.[58] No court has ruled on the scope of downward boundary adjustments. Several commenters assert that the absence of judicial authority is because no president has attempted a significant reduction in the land reserved for a monument, but that is not true. According to the National Park Service:

- President Eisenhower reduced the reservation for the Great Sand Dunes National Monument by 25 percent. (He reduced the original 35,528-acre monument by a net 8,920 acres.)[59]

- President Truman diminished the reservation for Santa Rosa Island National Monument by almost half. (The original 9,500-acre reservation by F. Roosevelt was diminished by 4,700 acres.)[60]

- Presidents Taft, Wilson, and Coolidge collectively reduced the reservation for Mount Olympus by almost half, the largest by President Wilson in 1915 (cutting 313,280 acres from the original 639,200-acre monument).[61]

- The largest percentage reduction was by President Taft in 1912 to his own prior reservation in 1909 for the Navajo National Monument. (His elimination of 320 acres from the original 360-acre reservation was an 89 percent reduction.)[62]

There are many other reductions or adjustments to monument boundaries, but the above reductions are significant by any measure.

It is surprising that some scholars who claim expertise in this area have accepted and repeated the mistaken assertion that no substantial reductions have been made. More importantly, their position that significant reductions might be prohibited is based on a selective reading of the act's purposes and personal policy arguments instead of the text, and it is often built on the premise that authority to repeal or rescind a prior designation does not exist, including an uncritical reliance on Attorney General Cummings' questionable opinion in 1938. Under this reading of the Antiquities Act, monuments may be significantly enlarged by later presidents but never significantly reduced absent an act of Congress.

For many of the same reasons that we reject a limitation on the president's revocation power, we also question limitations on his power to substantially reduce the size of existing monument reservations. Moreover, we think there are additional reasons why the president has broad authority to alter the parcels of land reserved under existing monument designations, including logical inferences from textual provisions and the varied reasons prior presidents have given for boundary reductions that do not suggest clear limitations.

One textual command supporting boundary adjustments is that the act requires reservations to be "in all cases . . . confined to the smallest area compatible with the proper care and management of the objects to be protected." There is no temporal limit to this requirement, and some presidential proclamations adjusting the boundaries of existing monuments recognize a continuing duty to review and comply with it. Even if boundary adjustments to date had all been somewhat minor, which is not the case, it is hard to read into the text a limiting principle that allows large additions but not large reductions.

Another textual hook is the discretionary nature of the president's authority under the Antiquities Act. The relevant language in Section 2 states that it is "in his discretion" whether to declare the national monument. It then states that he "*may* reserve as part thereof parcels of land" to protect the objects at issue (emphasis added). The parcels must, as noted above, be confined to the smallest *area* compatible with the

protective purpose, but it is still up to the president's discretion which precise parcels to designate. Apart from reducing the overall size, the next president may determine that a given monument with a patchwork of private inholdings is better protected by concentrating the monument within the federal land that the government owns and controls.[63] There is nothing in the act that privileges the original designation and regulations over a later presidential determination.

Moreover, there are more fundamental questions about how best to manage and protect federal property near national monuments with available resources. The belief that increasing federal regulation is always the best means of protecting something is more ideologically than empirically based, especially when it excludes all other options. Cooperation with state authorities and private property owners who own adjoining land often promotes better land-use decisions, including better protections for such properties. Such consultation and multiparty agreements tend to increase support for the resulting decisions and increase fundamental fairness, since some prior designations have walled in private lands and restricted the reasonable use of such private property.

The evidence surrounding many recent monument designations also suggests that some of the largest geological and scenic monuments were not motivated exclusively or even primarily by a desire to protect an "object" of historic or scientific interest as much as to lock up natural resources from development and use—regardless of how limited or temporary the surface disturbances would be. Such actions not only create economic hardship for local communities and injustice to those who may have reasonably depended on the timber, grazing, or mineral resources, but they may actually be counterproductive to the ecological and environmental interests that past presidents claimed to protect. For example, prohibiting fishing in vast grounds in the Atlantic or Pacific Oceans where fishermen have engaged in sustainable practices forces more concentrated activity in other areas that may trigger unsustainable impacts.

Such large monument reserves also contribute to an estimated $13.5 to $20 billion maintenance backlog on Department of Interior land-management responsibilities[64]—and deny the federal government any reasonable return on land-use fees and leases. "Limited resources" was the primary justification for several of President Obama's executive actions that redirected enforcement resources from broader narcotics and immigration enforcement policies to those Obama designated as more important narcotics and immigration priorities. A more careful accounting of federal land policy might lead a president to conclude that some vast monument reserves, under the Antiquities Act and other acts, diffuse attention and resources from higher priorities and contribute to environmental degradation, soil erosion, and other forms of mismanagement of federal property.

Prohibiting fishing in vast grounds in the Atlantic or Pacific Oceans where fishermen have engaged in sustainable practices forces more concentrated activity in other areas that may trigger unsustainable impacts.

Apart from all that, increasing public use of vast tracts of federal land should be sufficient grounds for reducing certain prior monument reservations. The facts that underlie one Supreme Court case may prove instructive in defining possible grounds for monument reductions.

In *Alaska v. United States*,[65] the Supreme Court affirmed its special master's recommendation regarding the federal versus state ownership of certain

submerged lands underwater near Alaska's southeast coast. Some of the land in dispute was under Glacier Bay, which is now a national park. Glacier Bay was first reserved as a national monument by President Coolidge's proclamation in 1925 and later enlarged by President F. Roosevelt's proclamation in 1939, both pursuant to the Antiquities Act. In describing the relevant lands in question, the Court also noted that President Eisenhower "slightly altered" the monument's boundaries in 1955.

The Supreme Court accepted without discussion that the addition by Roosevelt and the "altered" boundaries by Eisenhower were valid. The monument was made part of the Glacier Bay National Park by an act of Congress in 1980, but since the status of the land in 1959 (when Alaska was made a state) was the critical focus of its analysis, the national park act was not particularly relevant to that determination. The Court did not discuss the Eisenhower proclamation further, but that proclamation reduced the size of the Glacier Bay National Monument in three ways without any land swaps or additions to counter those reductions. More importantly, the grounds Eisenhower provided for that reduction are historically interesting and legally relevant.

In Proclamation 3089 on March 31, 1955,[66] Eisenhower reduced the size of Glacier Bay National Monument for three different reasons. One ground was that some lands "including several homesteads which were patented prior to the enlargement of the monument [by Roosevelt] are suitable for a limited type of agriculture use and are no longer necessary for the proper care and management of the object of scientific interest on the lands within the monument." Although Proclamation 3089 provides no further explanation of this exclusion, it is fair to read it as concluding that the original inclusion of this land was mistaken and, perhaps as important, that the lands were *no longer* necessary for the proper care of the objects of scientific interest in the monument.

The second reduction in the size of Glacier Bay National Monument was based squarely on Eisenhower's conclusion that such lands should have been included in Tongass National Forest instead of the national monument in 1939, when Roosevelt enlarged it, "and such lands are suitable for national-forest purposes." Eisenhower determined that the earlier inclusion of these lands in the monument was in error, since their exclusion from the forest was "erroneous." He did not specifically declare that they were "no longer necessary" to the proper care of the objects of scientific interest in the Glacier Bay National Monument, but he must have concluded they were never necessary to be included or that the mistaken inclusion in 1939 was sufficient to exclude them in 1955.

The third reduction (the first mentioned in the proclamation) was because certain lands are "now being used as an airfield for national-defense purposes and are no longer *suitable* for national-monument purposes" (emphasis supplied). How land reserved in a national monument became a military airfield is not explained. In some respects, this may be the most interesting exclusion of all. Whether the earlier use of the land for an airfield was legal or not, Eisenhower asserted the authority to declare a higher government purpose for federal land that was part of a national monument and, by proclamation, to remove it from the national monument reservation. Note also that Eisenhower states that the airfield land was no longer *suitable* for inclusion in the national monument *because it was an airfield*, not that the land was otherwise unsuitable for inclusion in the monument. Would the same reasoning apply if it were not yet an airfield?

And while Eisenhower's total reductions in the size of Glacier Bay National Monument were not great relative to the monument's overall size, they were not trivial either. According to the National Park Service, the reductions total more than 4,100 acres of submerged land and 24,900 acres of other land.[67] Most national monuments before 1955 were not 29,000 acres, so the reductions were large in an absolute sense. Moreover, some of President Eisenhower's other monument reductions constituted a larger proportion of the original size of the monument (e.g., Great Sand Dunes), and earlier presidential reductions were even greater, as discussed above.

Attempts to argue from the act's broad purposes that significant reductions would not be authorized are as conclusory as Cummings' analysis of the revocation issue. Reasoning from selective, broad protective purposes can always yield the desired result. We reach the opposite conclusion based on the text discussed above and consideration of all the act's purposes, the original compromises the act incorporated, and separation of powers principles.

Subsequent congressional land-management statutes do not change the Antiquities Act, but they cut sharply against the policy argument that the act's use is necessary to promptly secure land that is otherwise prone to looting or harmful development. Indeed, these more recent laws provide the same or superior protection without undermining Congress' primary role in federal land-use decisions. Of special note, the secretary of interior now has statutory authority to make emergency withdrawals of federal land with few limitations (and none relating to size), including land not under his department's jurisdiction, which expire no later than three years after they are withdrawn.[68]

Thus, one cannot truthfully defend the president's power to lock up land from reasonable public uses in perpetuity as an "emergency" measure to stop imminent harm, no matter how often some make this claim. Yet monument declarations do have one powerful, immediate effect: They stop or inhibit ongoing congressional debate and potential compromise over the land at issue—which is often the unstated goal. Congress has withdrawn many federal lands for heightened protection, but its background law and representative principles balance the interests of multiple stakeholders. Defenders of Antiquities Act abuse regularly implore the president to preempt or interfere with Congress' deliberations. Even so, they cannot reasonably argue that presidential authority under the act can work only in one direction and that the interest of the states and other citizens cannot be reconsidered.

Returning to the text of the act, we have previously noted that it would have to be tortured extensively to yield a manageable standard that allows permissible "minor" boundary changes and large "additions" but forbids "significant" reductions. Eisenhower's Proclamation 3089, and perhaps others, proves that reductions have been recognized as valid even without further additions or other "enhancements" based on later presidential determinations. It was enough for a president to declare that certain lands: (1) were mistakenly included in the original designation, (2) are no longer necessary to be included, or (3) serve some higher federal purpose.

If the president can revoke prior monuments altogether, there is no strong argument that he lacks a lesser power to significantly reduce the land withdrawn for one. But even if the president lacks the power to revoke a monument, past practice includes proclamations that reduced some monuments to a fraction of their current size, such as President Taft's 89 percent reduction of the Navajo Nation Monument. Moreover, we think the courts are more likely to uphold significant reductions if the president could credibly include in his determination that the original designation was inappropriately large relative to the object to be protected or has become so with changed circumstances.

It would bolster his position if the president includes any existing site-specific justifications for reducing the particular monument's land reservation. For example, a president might issue a proclamation determining that limited resources prevent proper management of the largest national monuments, that other authority now exists for the excluded parcels to be regulated and managed (including perhaps a management plan for them), that changed technology or other changed circumstances allow a smaller area to be designated to protect the objects in question, or that other changed circumstances warrant such reductions.

The president's authority to significantly reduce the size of an existing monument would be less certain if the Supreme Court or other appellate court ruled that he lacked a general discretionary authority to revoke prior monument designations. But even then, we think the president would retain the authority, if not the duty, to reduce the size of existing monuments that were unreasonably large relative to the objects being preserved—or have become illegally

large with changed circumstances. And such determinations should be entitled to the same or similar respect as the original reservations.

As with a complete revocation, someone would have to establish standing to sue to overturn a proclamation reducing the size of a monument, and that might be difficult in many cases. And even if standing is established, we think the challenger would have a significant burden to prove in order to prevail. If the challenge were based on a factual determination, such a challenger might have to prove an abuse of discretion to overcome the president's more recent determinations under the act, or the courts might hold that some determinations under the act are textually committed to the president's absolute discretion (absent corruption or a procedural failure) and not subject to judicial review.

The Power to Modify a Monuments' Management Conditions and Restrictions

In addition to revoking a monument or significantly altering its boundaries, a president could change some of the restrictions on management grounds if he determines that it still properly protects the "objects" of scientific or historic interest. Accordingly, a president could "transfer the management of a monument from one agency to another; expand, authorize, or prohibit uses such as mining or grazing; or allow new rights-of-way across the lands."[69] Recent monument proclamations tend to contain more detailed management plans than earlier proclamations,[70] which relied on the statutory authority of the agency secretary delegated to oversee the monument to issue regulations for managing it.[71]

Restrictions or allowances set forth in the original proclamation would need to be changed by a subsequent proclamation, unless the proclamation delegated that authority to the relevant agency official. Although the FLPMA limits the power of the secretary of interior to modify or revoke an actual monument designation or the land withdrawn, it does not change the secretary's power under the Antiquities Act to alter the monument's management plan when that is consistent with the underlying proclamation.

There should be no doubt that the president can modify land-use restrictions. As early as 1936, President Franklin Roosevelt issued a proclamation expressly making the restrictions on Katmai National Monument "subject to valid claims under the public-land laws . . . existing when the proclamations were issued and since maintained."[72] And nothing in the act's text limits the president's authority to change restrictions or uses for the land withdrawn.

Nevertheless, those who believe revocation is not permissible also raise questions about the "scope of this authority . . . to the extent that greatly reducing a monument's restrictions or expanding its uses can be analogized to effectively abolishing the monument."[73] That is not an inconsistent argument, but it is based almost entirely on the flawed premise that presidents are prohibited from revoking or significantly reducing the land withdrawn for any prior monument.

Conclusion

We have argued that the president retains a general discretionary power to revoke prior monument designations pursuant to the Antiquities Act. It is a general principle of government that the authority to execute a discretionary power includes the authority to reverse the exercise of that power. This power is at its height when prior designations were made illegally or in contravention of the act's mandate that designations be reasonable in size.

Moreover, the purpose of the act supports the president in his ability to respond to new factual determinations or changes in circumstance that require modification of a monument's boundaries. The plain language of the act, its legislative purpose, and the practice of past presidents all support this conclusion. Most importantly, it is compelled by the constitutional principle of separation of powers. If presidents choose not to protect their policies through Congress' bicameral process, they leave those policies vulnerable to their successors by constitutional design.

About the Authors

John Yoo is Emanuel S. Heller Professor of Law at the University of California, Berkeley, and a visiting scholar at the American Enterprise Institute.

Todd Gaziano is the executive director of Pacific Legal Foundation's DC Center and its senior fellow in constitutional law. He is also one of attorneys for a coalition of New England fishing organizations suing to overturn a marine monument in *Massachusetts Lobstermen's Association v. Ross.*

Acknowledgments

We would like to thank Leah Hamlin, Berkeley Law '17, for her research assistance.

Cover image: Valley of the Gods in Bears Ears National Monument, Bureau of Land Management, Creative Commons. Photo by Bob Wick, BLM, https://www.flickr.com/photos/mypubliclands/31136248533.

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Notes

1. Percy Shelley's 1818 poem "Ozymandias" is about the ruins of an ancient kingdom, whose stern but long dead ruler declared it would last forever and make men tremble in despair. All that remains in modern times is a wrecked statue of the king, his boastful claim on its pedestal, and sand all around. For the text and history of the poem, see *Economist*, "The Real Ozymandias: King of Kings," December 18, 2013, http://www.economist.com/news/christmas specials/21591740 enthusiasms rivalries fads and fashions lie behind shelleys best known. Poetry and rulers vainly asserting the permanence of their works, however, are more timeless.
2. US Department of Interior, Rept. to Secretary of the Interior for Fiscal Year Ended June 30, 1909, 486 87.
3. Ronald F. Lee, "The Antiquities Act, 1900 1906," in *The Story of the Antiquities Act* (National Park Service, March 15, 2016), https://www.nps.gov/archeology/pubs/lee/Lee CH6.htm.
4. See Pub. L. 59 209, 34 Stat. 225 (June 8, 1906), now codified at 54 U.S.C. §§ 320301 03.
5. See Lee, "The Antiquities Act, 1900 1906," discussing Congress' refusal in the period before the Antiquities Act to pass five bills that sought to grant the secretary of the interior broad authority for designating national parks.
6. Ibid. ("The reluctance of the members of the Public Lands Committee, most of them western public lands states, to grant general authority to the Executive Branch to create new national parks is understandable in the light of their past experience with the timber reservations act of 1891.")
7. Although the National Park Service currently manages most existing national monuments, other units of the Department of Interior (the Bureau of Land Management and the US Fish and Wildlife Service) manage or comanage others. See list of national mon uments and their corresponding management agencies at National Parks Conservation Association, "Monuments Protected Under the Antiquities Act," January 13, 2017, https://www.npca.org/resources/2658 monuments protected under the antiquities act#sm. 00000py0rl7d8qfp5wxkeb7uvkeow. The original act contemplated that the Departments of Agriculture and Defense (then War) might also manage or relinquish land for national monuments and specified that the secretaries of interior, agriculture, and war had authority to jointly issue uniform regulations for managing national monuments. In recent decades, presidents have given responsibility to the National Oceanic and Atmospheric Administration (in the Department of Commerce) to manage or comanage marine monuments, and the US Forest Service (in the Department of Agriculture) manages or comanages certain other recent monuments.
8. See Lee, "The Antiquities Act, 1900 1906."
9. 252 U.S. 450 (1920).
10. See United States v. California, 436 U.S. 32 (1978); and Alaska v. United States, 545 U.S. 75 (2005), discussed in the section titled "Special Questions Regarding Marine Monument Designations."
11. See Tulare County v. Bush, 306 F.3d 1138, 1142 (D.C. Cir. 2001) (rejecting a challenge to the 327,769 acre Giant Sequoia National Monument as not constituting "the smallest areas compatible with proper care and management" of the objects being protected). Although the Supreme Court has not ruled expressly on a challenge to the excessive size of a monument, the courts have deferred to many presidential determinations under the act, and challengers may have to show an abuse of discretion to prevail on a size based claim. See discussion of judicial review in the section titled "Judicial Review." Nevertheless, *Tulare County* may be distinguishable in future challenges since the court held that the challengers failed to establish a factual basis for their claim, not that such a claim was barred. Consider one justification President Obama provided for creating the recent Bears Ears National Monument (see the section titled "Problems of Size"), which Utah officials have already said they will challenge: that it contains several ancient archeological sites. Although the proclamation also cited the area's cultural, geological, and historical significance, it is unclear how isolated archeological sites are better protected after a massive 1.35 million acre monument designation that incorporates all of them than before the designa tion, especially when the same two federal agencies (the US Forest Service and the Bureau of Land Management) will each manage the same areas after the designation as before it.
12. Proposed Abolishment of Castle Pinkney Nat'l Monument, 39 Op. Att'y Gen. 185 (1938).

13. The solicitor of interior cited the opinion in 1947 but for a different proposition, namely that the president can alter the boundar ies of a national monument. See "National Monuments," *Interior Decisions* 60 (1947): 9.

14. 39 Op. Att'y Gen. 186.

15. Ibid., 188.

16. Rock Island Military Reservation, 10 Op. Att'y Gen. 359 (1862).

17. Ibid., 364.

18. The Homestead Act of 1862 revised this law, significantly reducing the number of "preemption" claims. But Bates was addressing the rights of settlers who may have occupied the former military property before 1862.

19. See Uniform Trust Code: Revocation or Amendment of Revocable Trust § 602(a) (2010) ("Unless the terms of a trust expressly provide that the trust is irrevocable").

20. See Restatement (Third) of Trusts: Power of Settlor to Revoke or Modify § 63 (2003).

21. See, e.g., Commonwealth of Pa. v. Lynn, 501 F.2d 848, 855 56 (D.C. Cir. 1974).

22. See ibid.

23. 347 U.S. 483 (1954)

24. 163 U.S. 537 (1896).

25. Exec. Orders Nos. 11821, 39 F.R. 41501 (1974) (Ford); 12044, 43 F.R. 12661 (1978) (Carter); 12291, 46 F.R. 13193 (1981) (Reagan); 12866, 58 F.R. 51735 (1993) (Clinton); 13258, 67 F.R. 9385 (2002), and 13422, 72 F.R. 2763 (2007) (G. W. Bush); and 13497. 74 F.R. 6113 (22009) (Obama).

26. 272 U.S. 52 (1926).

27. See Goldwater v. Carter, 617 F.2d 697 (D.C. Cir. 1979), vacated by Goldwater v. Carter, 444 U.S. 996 (1979); and Kucinich v. Bush, 236 F. Supp. 2d 1 (D.D.C. 2002).

28. See INS v. Chadha, 462 U.S. 919 (1983).

29. 64 Stat. 849 (1950), codified at 54 U.S.C. § 320201(d) ("No extension or establishment of national monuments in Wyoming may be undertaken except by express authorization of Congress").

30. The FLPMA expressly limits agency officials' authority to "modify or revoke" national monuments created by the president under the Antiquities Act or other monuments created by Congress, but that simply confirms the natural reading of the Antiquities Act, which grants authority to the president alone to specify the parcels of land withdrawn for any monument created pursuant to the act. It should not be read to raise doubts about the president's authority to modify or revoke national monuments, as two Congressio nal Research Service reports (R44687 and RS20647) have suggested. FLPMA §204(j), 43 U.S.C. § 1714(j) provides:

> The Secretary shall not make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; *modify or revoke any withdrawal creating national monuments under* [*the Antiquities Act*]; or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to October 21, 1976, or which thereafter adds lands to that System under the terms of this Act. (emphasis supplied)

This restriction on the secretary's power creates no inference that Congress modified the president's authority in the Antiquities Act, and repeals by implication are strongly disfavored even if such an inference existed. The opposite reading of the text is much stronger, i.e., that Congress knew how to write express limitations and that it would have listed the president if its restriction on the secretary of interior's power was intended to bind the president. The lone sentence in a House report cited for the contrary view is, at best, itself ambiguous, but even unambiguous legislative history material is irrelevant when the statutory text is clear.

31. See 16 U.S.C. § 3213.

32. President Obama's 34 designations also overtook the previous record set by President Franklin Roosevelt, with 32 monument proclamations. See Juliet Eilperin and Brady Dennis, "Obama Names Five New National Monuments, Including Southern Civil Rights Sites," *Washington Post,* January 12, 2017, https://www.washingtonpost.com/national/health science/obama names five new national monuments including southern civil rights sites/2017/01/12/7f5ce78c d907 11e6 9a36 1d296534b31e story.html. All presidents since 1906 have issued such proclamations except Presidents Nixon, Reagan, and George H. W. Bush. National Park Service, "National

Monuments Designated by Presidents 1906 2009," https://www.nps.gov/parkhistory/hisnps/NPSHistory/national monuments.pdf. According to the National Parks Conservation Association, 157 monuments have been created under the Antiquities Act. See National Parks Conservation Association, "Monuments Protected Under the Antiquities Act." A few have been abolished by Congress. See National Park Service, "About 'Abolished' Monuments," March 15, 2016, https://www.nps.gov/archeology/sites/antiquities/abolished.htm. And the land constituting Papago Saguaro National Monument was conveyed to the state of Arizona for public purposes. See 54 U.S.C.A. § 320301 note, citing Pub. L. 92, 71st Cong., Apr. 7, 1930, c. 107, 46 Stat. 142.

33. See Albert C. Lin, "Clinton's National Monuments: A Democrat's Undemocratic Acts?," *Ecology Law Quarterly* 29 (2002): 718 19.

34. Bryan Walsh, "President Bush's Last Act of Greenness," *Time*, January 6, 2009, http://content.time.com/time/health/article/0,8599,1869917,00.html (noting that President Bush will have "protected more ocean than anyone else in the world").

35. Eilperin and Dennis, "Obama Names Five New National Monuments"; and Dana Varinsky, "Here's Every Piece of Land Obama Has Put Under Protection During His Presidency," *Business Insider,* January 16, 2017, http://www.businessinsider.com/every piece of land obama has protected 2017 1/#cascade siskiyou national monument 1.

36. Papahānaumokuākea.gov, "President Announces Expansion of Papahānaumokuākea," http://www.papahanaumokuakea.gov/news/expansion announcement.html.

37. Bryan C. Howard, "US Creates Largest Protected Area in the World, 3x Larger Than California," *National Geographic*, September 26, 2014, http://news.nationalgeographic.com/news/2014/09/140924 pacific remote islands marine monument expansion conservation/.

38. The White House, Office of the Press Secretary, "Fact Sheet: President Obama to Continue Global Leadership in Combatting Climate Change and Protecting Our Ocean by Creating the First Marine National Monument in the Atlantic Ocean," September 15, 2016, https://obamawhitehouse.archives.gov/the press office/2016/09/15/fact sheet president obama continue global leadership combatting climate. See also the later section discussing unique problems with monument designations of submerged land under the high seas and a citation to Pacific Legal Foundation's recent lawsuit challenging the legality of the Northeast Canyons and Seamounts Marine National Monument.

39. See Utah Assoc. of Counties v. Bush, 316 F. Supp. 2d 1172 (D. Utah 2004) (cataloguing cases).

40. See the section titled "Special Questions Regarding Marine Monument Designations" for discussion of legal issues related to questionable marine monuments on the high seas.

41. See Mountain States Legal Foundation v. Bush, 306 F.3d 1132 (D.C. Cir. 2002) (discussing judicial review to challenge presidential designations under the Antiquities Act and applying an unclear but deferential standard of review to factual determinations under the act); and Tulare County v. Bush, 306 F.3d 1138, 1142 (D.C. Cir. 2001) (rejecting a challenge to the Giant Sequoia National Monument as not constituting "the smallest areas compatible with proper care and management" of the objects being protected).

42. See United States v. California, 436 U.S. 32 (1978); and Alaska v. United States, 545 U.S. 75 (2005).

43. Complaint, Massachusetts Lobstermen's Association, et al. v. Ross, et al., No. 1:17 cv 00406, (D.D.C. Mar. 7, 2017), 2017 WL 897829. The complaint is available at https://www.pacificlegal.org/document.doc?id=2499+. The authors both have affiliations with Pacific Legal Foundation. Todd Gaziano is the executive director of its DC Center and is one of the attorneys for the plaintiffs in the case. John Yoo recently joined the board of Pacific Legal Foundation.

44. See also Joseph Briggett, comment, "An Ocean of Executive Authority: Courts Should Limit the President's Antiquities Act Power to Designate Monuments in the Outer Continental Shelf," *Tulane Environmental Law Journal* 22 (2009): 403.

45. See Restatement (Third) of Foreign Relations Law § 514 cmt. C.

46. 569 F.2d 330 (5th Cir. 1978).

47. 43 U.S.C. § 1331 et seq.

48. See Treasure Salvors, 569 F.2d at 337 340.

49. See Randolph D. Moss, Mem. Op. for the Solicitor, Dep't of the Interior; General Counsel, Nat'l Oceanic and Atmospheric Admin.; and General Counsel, Council on Environmental Quality (Sept. 15, 2000), https://www.justice.gov/sites/default/files/olc/opinions/2000/09/31/op olc v024 p0183.pdf.

50. See ibid., 196.

51. See 54 U.S.C. § 320301.

52. See Moss, Mem. Op. for the Solicitor, Dep't of the Interior, 197.

53. But see People for the Ethical Treatment of Property Owners v. U.S. Fish & Wildlife Serv., 57 F. Supp. 3d 1337 (D. Utah 2014).

54. See Cappaert v. United States, 426 U.S. 128 (1976) ("when the Federal Government withdraws its land from the public domain and reserves it for a federal purpose, the Government, by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation").

55. 135 S. Ct. 1074 (2015).

56. Ibid.

57. See National Monuments, 60 Interior Dec. 9 (1947), citing A. G. Cummings, 39 Op. Att'y Gen. 185 (1938).

58. Compare those who suggest there may be limitations on the president's authority to revoke or significantly reduce past monu ment reservations, Mark Squillace, "The Monumental Legacy of the Antiquities Act of 1906," *Georgia Law Review* 37 (2003): 473, 488; Lin, "Clinton's National Monuments," 707, 713; and Sanjay Ranchod, note, "The Clinton National Monuments: Protecting Ecosystems with the Antiquities Act," *Harvard Environmental Law Review* 25 (2001): 535, 552, with those who simply note that the issue remains open, Alexandra Wyatt, *Antiquities Act: Scope of Authority for Modification of National Monuments*, Congressional Research Service, November 14, 2016, 5, http://www.law.indiana.edu/publicland/files/national monuments modifications CRS.pdf; Kelly Y. Fanizzo, "Separation of Powers and Federal Land Management: Enforcing the Direction of the President Under the Antiquities Act," *Environ mental Law* 40 (2010): 765, 822; Roberto Iraola, "Proclamations, National Monuments, and the Scope of Judicial Review Under the Antiquities Act of 1906," *William & Mary Environmental Law & Policy Review* 29 (2004): 159; Scott Y. Nishimoto, "President Clinton's Designation of the Grand Canyon Parashnat National Monument: Using Statutory Interpretation Models to Determine the Proper Application of the Antiquities Act," *Journal of Environmental Law and Litigation* 17 (2002): 51, 54; Pamela Baldwin, *Authority of a Pres ident to Modify or Eliminate a National Monument,* Congressional Research Service, August 3, 2000, 3; and James R. Rasband, "The Future of the Antiquities Act," *Journal of Land, Resources & Environmental Law* 21 (2001): 619, 626.

59. Michael M. Geary, "Chapter 5: Monumental Dunes," in *Sea of Sand: A History of the Great Sand Dunes National Park and Preserve* (Norman, OK: University of Oklahoma Press, 2016).

60. President Harry S. Truman, Proclamation No. 2659 Eliminating Certain Lands from the Santa Rosa Island National Monument and Reserving Them for the Use of the War Department for Military Purposes (Aug. 13, 1945), http://www.presidency.ucsb.edu/ws/index.php?pid=87038.

61. Gail H. E. Evans, "Appendix A: A Chronology of the Public Domain," in *Historic Resource Study* (National Park Service, 1983), https://www.nps.gov/parkhistory/online books/olym/hrs/appa.htm.

62. Hal K. Rothman, "Chapter 2: Founding Navajo National Monument," in *Navajo National Monument: A Place and Its People: An Administrative History* (National Park Service, 1991), https://www.nps.gov/parkhistory/online books/nava/adhi/adhi2e.htm.

63. See, e.g., Wilkerson v. Dept. of the Interior, 634 F. Supp. 1265 (D. Col. 1986), holding that the United States could not completely restrict travel on a preexisting right of way through a national monument.

64. Hearing before the Subcomm. on the Interior, Environment, and Related Agencies of the H. Committee on Appropriations, (2001) (statement of Anu K. Mittal and Frank Rusco), http://www.gao.gov/assets/130/125531.pdf.

65. 545 U.S. 75 (2005).

66. President Dwight D. Eisenhower, Proclamation No. 3089 Excluding Certain Lands from the Glacier Bay National Monument and Adding a Portion Thereof to the Tongass National Forest (Mar. 31, 1955), http://www.presidency.ucsb.edu/ws/?pid=107264.

67. Theodore Catton, "Chapter VII: Private Interests and A Second Boundary," in *Land Reborn: A History of Administration and Visitor Use in Glacier Bay National Park and Preserve* (Anchorage, AL: National Park Service, 1995), https://www.nps.gov/parkhistory/online books/glba/adhi/chap7.htm.

68. 43 U.S.C. §§ 1714(e) and 1714(i).

69. Wyatt, *Antiquities Act*, 5. The Supreme Court has recognized the president's power to shift responsibility to manage the land withdrawn in the initial proclamation declaring the monument from one agency to another, California v. United States, 436 U.S. 32, 40 (1978), and there is no reason to think the president cannot shift that responsibility again in subsequent proclamations.

70. Compare President Barack Obama, Proclamation No. 9496 (Sept. 21, 2016), https://www.gpo.gov/fdsys/pkg/DCPD 201600596/pdf/DCPD 201600596.pdf, with President Franklin D. Roosevelt, Proclamation No. 1950 (April 24, 1931), reprinted in US Department of the Interior, Proposed Katmai National Park, Alaska: Final Environmental Statement 527 (1974).

71. See 54 U.S.C. 320302 ("The Secretary, the Secretary of Agriculture, and the Secretary of the Army shall make and publish uniform regulations for the purpose of carrying out this chapter").

72. President Franklin D. Roosevelt, Proclamation No. 2177 (1936).

73. Wyatt, *Antiquities Act*, 5.

From: Small, Jeff
To: micah_chambers@ios.doi.gov; amanda_kaster@ios.doi.gov
Subject: FW: Western Caucus Members Celebrate Action Toward American Energy Independence
Date: Friday, March 31, 2017 11:31:26 AM
Attachments: image001.png
image003.png
image004.png
image005.png

Would appreciate anything you all might be able to share to respond to the below questions?

Thanks,

Jeff

From: kellynorton@azmining.org [mailto:kellynorton@azmining.org]
Sent: Wednesday, March 29, 2017 2:52 PM
To: Small, Jeff
Subject: FW: Western Caucus Members Celebrate Action Toward American Energy Independence

Jeff,

Question for you. In the information below it mentions an energy royalty policy committee and mentions minerals and solar. When I sent it out several of my guys called asking what the role of this committee will be ? Anything you can share on that?

Regards,

Kelly Shaw Norton
President
Arizona Mining Association

ARIZONA
MINING ASSOCIATION

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Direct: (602) 296-5512
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KellyNorton@azmining.org
www.azmining.org

From: Roberson, Kelly [mailto:Kelly.Roberson@mail.house.gov]
Sent: Wednesday, March 29, 2017 11:27 AM
To: Roberson, Kelly <Kelly.Roberson@mail.house.gov>
Subject: Western Caucus Members Celebrate Action Toward American Energy Independence

http://paulgosar.house.gov/images/email/gosar.jpg

For Immediate Release
Contact: Kelly Roberson

Date: March 29, 2017
Kelly.Roberson@mail.house.gov

Western Caucus Members Celebrate Action Toward American Energy Independence

WASHINGTON, D.C. – Today, Congressional Western Caucus **Chairman Paul A. Gosar D.D.S. (AZ-04), Executive Vice-Chairman Rep. Scott Tipton (CO-03), Chairman Emeritus Rep. Rob Bishop (UT-01), Chairman Emeritus Rep. Steve Pearce (NM-02)** and Western Caucus member **Rep. Doug Lamborn (CO-05)** issued the following statements after Secretary of the Interior Ryan Zinke signed several secretarial orders in response to President Trump's American Energy Independence Executive Order:

"It is a great thing when Congress and the Administration can work together to effect meaningful change. Revoking two more job-killing policies from the Obama Administration in the form of

the federal coal lease moratorium and the unlawful Compensatory Mitigation Order is common sense. Reestablishing the Royalty Policy Committee will ensure the American people have a voice on federal policies that impact their livelihoods. During his confirmation hearings, Secretary Zinke reiterated his commitment to restoring trust with local communities. With today's secretarial orders, he is doing precisely that," said **Chairman Gosar**. "I was honored to stand alongside friends, fellow Westerners and Secretary Zinke as the Secretary acted quickly on several directives laid out in President Trump's American Energy Independence Executive Order."

"It was an honor to stand alongside several of my Congressional colleagues from western states to witness Secretary Zinke sign orders that will repeal the Obama Administration's 2016 Coal Moratorium, support U.S. energy independence, and establish an energy royalty policy committee that ensures state, local, and tribal governments have a seat at the table when it comes to setting royalties for energy development within their borders. This is the type of support the West needs from Washington," said **Congressman Tipton.**

Congressman Bishop remarked, "This moratorium was a hallmark policy of the prior administration to stomp out coal with absolutely no plan to replace our most abundant domestic energy source. In the House, we've worked hard to empower states and tribes and promote a diverse energy portfolio. It's reassuring to now have partners at Interior and the White House working to advance these shared goals."

"I was happy to join some of my colleagues in the Congressional Western Caucus at today's signing ceremony with Secretary Zinke, confirming a joint effort as we pave the way forward in responsible energy policy. Revenues from energy production contribute greatly to our local economies in New Mexico," stated **Congressman Pearce**. "The orders signed today will allow for the responsible development of these resources on federal lands. We can start focusing on expanding an 'all of the above' energy strategy in New Mexico without choking and duplicative regulations, creating greater opportunities and putting people back to work."

"Just yesterday, the President signed an Executive Order that helps create American jobs and increase energy production. Today, the Department of the Interior took this Executive Order one step further by reviewing Obama-era environmental policies and lifting the Federal Coal Moratorium on our public lands," said **Congressman Lamborn**. "Around 40% of coal production occurs on public lands. We don't need stifling restrictions—we need more responsible and efficient coal production to help get people back to work and our economy back on track. I was pleased to join Secretary Zinke on this historic occasion, and I look forward to working with the Department of the Interior in the future."

Background:

Secretarial Order 3348: Repealing the 2016 Coal Moratorium and Ending the PEIS

On March 28, 2017, President Donald Trump signed the American Energy Independence Executive Order, which directed Secretary of the Interior Ryan Zinke to lift the federal coal lease moratorium issued by former Obama Administration Secretary of the Interior Sally Jewell. Federal coal leasing is important to the U.S. economy and roughly 40% of U.S. coal is produced on federal lands. By their own admission, Obama's Bureau of Land Management (BLM) estimated that nearly 1.9 billion tons of coal reserves were placed off limits in nine states as a result of the Secretarial Order.

On January 15, 2016, Interior Secretary Sally Jewell issued this Secretarial Order, imposing an

unprecedented moratorium on further coal lease sales pending the completion of a Programmatic Environmental Impact Statement (PEIS) and review of the Federal Coal Leasing Program. The coal industry was already facing an onslaught of destructive government regulations from the Obama Administration, but the moratorium was yet another crushing blow to producers across the South and West.

The moratorium not only undermined the integrity of present production potential, but more importantly threatened the very future of coal development on federal lands by signaling to investors that resources will be kept "in the ground" at whatever cost. Most troubling is the impact this decision had on families that rely on jobs tied to the industry. The moratorium and PEIS put nearly 65,000 direct and in-direct mining jobs at risk as well as negatively impacted billions of dollars in revenues to states used to pay for schools, reclamation, construction, and other critical infrastructure projects.

Text of Secretarial Order 3348, Concerning the Federal Coal Moratorium can be found HERE.

Charter Signed to Establish the Royalty Policy Committee

Secretary Zinke is committed to ensuring state, local and tribal governments have a say in energy development within their borders and that taxpayers are getting a fair return on investment. To that end, this charter establishes a new Royalty Policy Committee to include renewable energy in addition to mineral resources.

On April 2, 2014, Secretary Jewell terminated the charter of the Royalty Policy Committee, effectively stripping state, local and tribal governments of their say and input regarding energy development within their respective jurisdictions.

The primary goal of this committee is to ensure the public continues to receive the full value of all energy produced on federal lands.

The composition of the charter is further detailed as follows:

- The charter establishes a 28 member committee to provide the Secretary with advice
- No member may have financial interest/business with the Department of the
- Members will be both federal and non-federal partners. They will hail from energy producing states, tribes, the energy industry, academia/interest
- Each member will serve a two year term

Text of the Royalty Policy Committee Charter can be found HERE.

Secretarial Order 3349: Regarding American Energy Independence

Following the bold executive order signed by President Trump on March 28, 2017, Secretarial Order 3349, "American Energy Independence," takes numerous steps to unleash the power of American energy on public lands including the following items:

- Revokes Secretarial Order 3330 regarding Compensatory Mitigation and launches a review of the program
- Launches a review of all climate change policies within the department
- Launches a review of the National Park Service and Fish and Wildlife Service oil and gas regulations
- Launches a review of Bureau of Land Management's venting & flaring (methane) rule
- Confirms that Bureau of Land Management is withdrawing the hydraulic fracking rule

Text of the Secretarial Order 3349, American Energy Independence can be found HERE.

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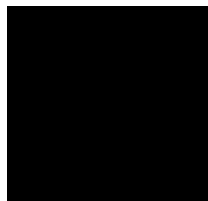

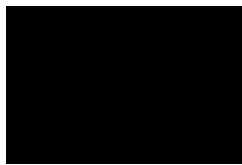

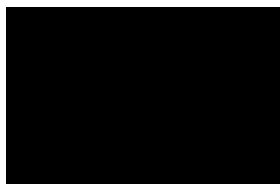

From:	Small, Jeff
To:	"Kaster, Amanda"
Cc:	micah_chambers@ios.doi.gov
Subject:	RE: FW: Western Caucus Members Celebrate Action Toward American Energy Independence
Date:	Friday, March 31, 2017 2:19:42 PM
Attachments:	image006.png image008.png image009.png image012.png image013.png image014.png image015.png

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Thanks!

Jeff Small
Executive Director | *Congressional Western Caucus*
Senior Advisor | *Congressman Paul A. Gosar, D.D.S.*
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail house.gov

From: Kaster, Amanda [mailto:amanda_kaster@ios.doi.gov]
Sent: Friday, March 31, 2017 11:56 AM
To: Small, Jeff
Cc: micah_chambers@ios.doi.gov
Subject: Re: FW: Western Caucus Members Celebrate Action Toward American Energy Independence

Hi Jeff, our talking points below touch on what the RPC's role will be.

Please let me know if you need anything else - thanks!

Charter Signed: Establish Royalty Policy Committee

Secretary Zinke is committed to ensuring state, local and tribal governments have a say in energy development within their borders and that taxpayers are getting a fair return on investment. To that end, he is establishing a new Royalty Policy Committee to include renewable energy in addition to mineral resources.

The primary goal is to ensure public continues to receive the full value of all energy produced on federal lands. The Secretary will seek their input on how we determine fair market value, collect revenues and how future policies could impact revenue collection.

Membership
The charter would establish a 28 member committee to provide the Secretary with advice;
No member may have financial interest/business with Interior;
Members will be both federal and non-federal partners. They will hail from energy producing states, tribes, the energy industry, academia/interest groups;
Each member will serve a two year term.

On Fri, Mar 31, 2017 at 11:31 AM, Small, Jeff <Jeff.Small@mail.house.gov> wrote:
Would appreciate anything you all might be able to share to respond to the below questions?

Thanks,

Jeff

From: kellynorton@azmining.org [mailto:kellynorton@azmining.org]
Sent: Wednesday, March 29, 2017 2:52 PM
To: Small, Jeff
Subject: FW: Western Caucus Members Celebrate Action Toward American Energy Independence

Jeff,

Question for you. In the information below it mentions an energy royalty policy committee and mentions minerals and solar. When I sent it out several of my guys called asking what the role of this committee will be ? Anything you can share on that?

Regards,

Kelly Shaw Norton
President
Arizona Mining Association

ARIZONA MINING ASSOCIATION

916 West Adams Street, Ste. 2
Phoenix, AZ 85007
Main: (602) 266-4416
Direct: (602) 296-5512
Cell: (602) 692-6013

KellyNorton@azmining.org

www.azmining.org

From: Roberson, Kelly [mailto:Kelly.Roberson@mail.house.gov]
Sent: Wednesday, March 29, 2017 11:27 AM
To: Roberson, Kelly <Kelly.Roberson@mail.house.gov>
Subject: Western Caucus Members Celebrate Action Toward American Energy Independence

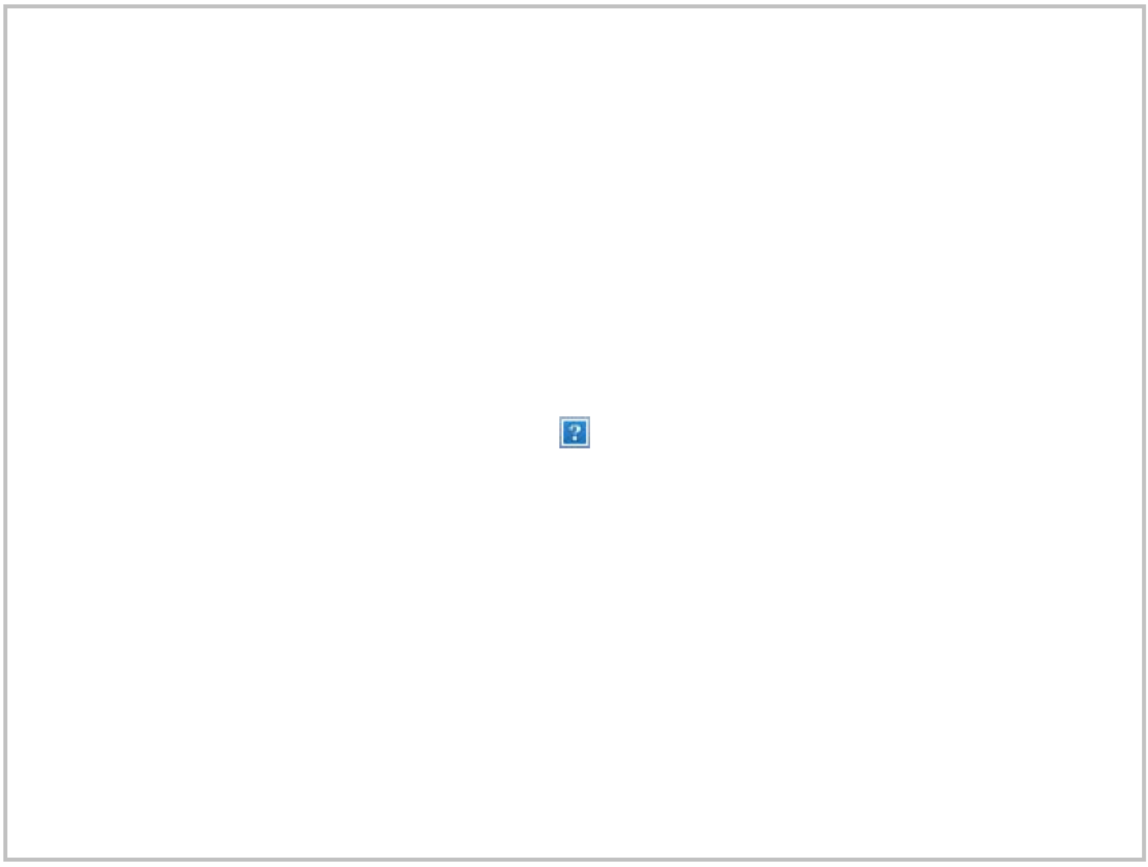
http://paulgosar.house.gov/images/email/gosar.jpg

For Immediate Release
Contact: Kelly Roberson

Date: March 29, 2017
Kelly.Roberson@mail.house.gov

Western Caucus Members Celebrate Action

Toward American Energy Independence



WASHINGTON, D.C. – Today, Congressional Western Caucus **Chairman Paul A. Gosar D.D.S. (AZ-04), Executive Vice-Chairman Rep. Scott Tipton (CO-03), Chairman Emeritus Rep. Rob Bishop (UT-01), Chairman Emeritus Rep. Steve Pearce (NM-02)** and Western Caucus member **Rep. Doug Lamborn (CO-05)** issued the following statements after Secretary of the Interior Ryan Zinke signed several secretarial orders in response to President Trump's American Energy Independence Executive Order:

"It is a great thing when Congress and the Administration can work together to effect meaningful change. Revoking two more job-killing policies from the Obama Administration in the form of the federal coal lease moratorium and the unlawful Compensatory Mitigation Order is common sense. Reestablishing the Royalty Policy Committee will ensure the American people have a voice on federal policies that impact their livelihoods. During his confirmation hearings, Secretary Zinke reiterated his commitment to restoring trust with local communities. With today's secretarial orders, he is doing precisely that," said **Chairman Gosar**. "I was honored to stand alongside friends, fellow Westerners and Secretary Zinke as the Secretary acted quickly on several directives laid out in President Trump's American Energy Independence Executive Order."

"It was an honor to stand alongside several of my Congressional colleagues from western states to witness Secretary Zinke sign orders that will repeal the Obama Administration's 2016 Coal Moratorium, support U.S. energy independence, and establish an energy royalty policy committee

that ensures state, local, and tribal governments have a seat at the table when it comes to setting royalties for energy development within their borders. This is the type of support the West needs from Washington," said **Congressman Tipton.**

Congressman Bishop remarked, "This moratorium was a hallmark policy of the prior administration to stomp out coal with absolutely no plan to replace our most abundant domestic energy source. In the House, we've worked hard to empower states and tribes and promote a diverse energy portfolio. It's reassuring to now have partners at Interior and the White House working to advance these shared goals."

"I was happy to join some of my colleagues in the Congressional Western Caucus at today's signing ceremony with Secretary Zinke, confirming a joint effort as we pave the way forward in responsible energy policy. Revenues from energy production contribute greatly to our local economies in New Mexico," stated **Congressman Pearce**. "The orders signed today will allow for the responsible development of these resources on federal lands. We can start focusing on expanding an 'all of the above' energy strategy in New Mexico without choking and duplicative regulations, creating greater opportunities and putting people back to work."

"Just yesterday, the President signed an Executive Order that helps create American jobs and increase energy production. Today, the Department of the Interior took this Executive Order one step further by reviewing Obama-era environmental policies and lifting the Federal Coal Moratorium on our public lands," said **Congressman Lamborn**. "Around 40% of coal production occurs on public lands. We don't need stifling restrictions—we need more responsible and efficient coal production to help get people back to work and our economy back on track. I was pleased to join Secretary Zinke on this historic occasion, and I look forward to working with the Department of the Interior in the future."

Background:

Secretarial Order 3348: Repealing the 2016 Coal Moratorium and Ending the PEIS

On March 28, 2017, President Donald Trump signed the American Energy Independence Executive Order, which directed Secretary of the Interior Ryan Zinke to lift the federal coal lease moratorium issued by former Obama Administration Secretary of the Interior Sally Jewell. Federal coal leasing is important to the U.S. economy and roughly 40% of U.S. coal is produced on federal lands. By their own admission, Obama's Bureau of Land Management (BLM) estimated that nearly 1.9 billion tons of coal reserves were placed off limits in nine states as a result of the Secretarial Order.

On January 15, 2016, Interior Secretary Sally Jewell issued this Secretarial Order, imposing an unprecedented moratorium on further coal lease sales pending the completion of a Programmatic Environmental Impact Statement (PEIS) and review of the Federal Coal Leasing Program. The coal industry was already facing an onslaught of destructive government regulations from the Obama Administration, but the moratorium was yet another crushing blow to producers across the South and West.

The moratorium not only undermined the integrity of present production potential, but more importantly threatened the very future of coal development on federal lands by signaling to investors that resources will be kept "in the ground" at whatever cost. Most troubling is the impact this decision had on families that rely on jobs tied to the industry. The moratorium and PEIS put nearly 65,000 direct and in-direct mining jobs at risk as well as negatively impacted billions of dollars in revenues to states used to pay for schools, reclamation, construction, and

other critical infrastructure projects.

Text of Secretarial Order 3348, Concerning the Federal Coal Moratorium can be found HERE.

Charter Signed to Establish the Royalty Policy Committee

Secretary Zinke is committed to ensuring state, local and tribal governments have a say in energy development within their borders and that taxpayers are getting a fair return on investment. To that end, this charter establishes a new Royalty Policy Committee to include renewable energy in addition to mineral resources.

On April 2, 2014, Secretary Jewell terminated the charter of the Royalty Policy Committee, effectively stripping state, local and tribal governments of their say and input regarding energy development within their respective jurisdictions.

The primary goal of this committee is to ensure the public continues to receive the full value of all energy produced on federal lands.

The composition of the charter is further detailed as follows:

- The charter establishes a 28 member committee to provide the Secretary with advice
- No member may have financial interest/business with the Department of the
- Members will be both federal and non-federal partners. They will hail from energy producing states, tribes, the energy industry, academia/interest
- Each member will serve a two year term

Text of the Royalty Policy Committee Charter can be found HERE.

Secretarial Order 3349: Regarding American Energy Independence

Following the bold executive order signed by President Trump on March 28, 2017, Secretarial Order 3349, "American Energy Independence," takes numerous steps to unleash the power of American energy on public lands including the following items:

- Revokes Secretarial Order 3330 regarding Compensatory Mitigation and launches a review of the program
- Launches a review of all climate change policies within the department
- Launches a review of the National Park Service and Fish and Wildlife Service oil and gas regulations
- Launches a review of Bureau of Land Management's venting & flaring (methane) rule
- Confirms that Bureau of Land Management is withdrawing the hydraulic fracking rule

Text of the Secretarial Order 3349, American Energy Independence can be found HERE.

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Amanda Kaster-Averill
Special Assistant
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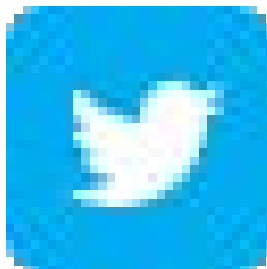
U.S. Department of the Interior
(202) 208-3337
amanda_kaster@ios.doi.gov



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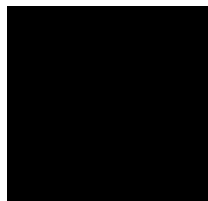

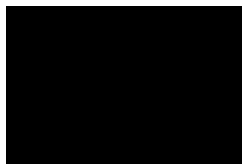

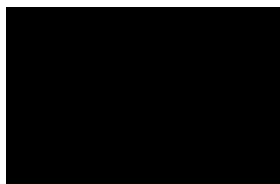

From:	O"Connell, Richie
To:	Natural Resources Repubs WPO LAs; Natural Resources Dems WPO LAs; Natural Resources Repub WPO Schedulers; Natural Resources Dem WPO Schedulers; Hall, Dan; Taft, Tammy; Cox, William; Johnson, Edward; Digest, Committee; Natural Resources Republican Press; "amanda_kaster@ios.doi.gov"; "micah_chambers@ios.doi.gov"
Cc:	All Staff_Natural Resources Cmte
Subject:	Hearing Memo and Testimony -- Sub on WPO Leg Hrg on 04.04.17
Date:	Friday, March 31, 2017 4:05:10 PM
Attachments:	Hearing Memo -- Leg Hrg on HR 220 on 04.04.17.pdf Hearing Memo -- Leg Hrg on H.R. 1411 04.04.17.pdf Hearing Memo -- Leg Hrg on H.R. (Lamborn) 04.04.17.pdf Sub on WPO Leg Hrg on 3 bills.ics

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Good afternoon,

Attached is the hearing memo for Tuesday's legislative hearing on:

H.R. 220 (Rep. Don Young), To authorize the expansion of the existing Terror Lake hydroelectric project, and for other purposes.

H.R. 1411 (Rep. Frank Pallone, Jr.), Exempts the summer flounder fishing from current federal fishery regulations. *"Transparent Summer Flounder Quotas Act."*

Discussion Draft of H.R. ____ (Rep. Doug Lamborn)**,** To amend the Reclamation Project Act of 1939 to authorize pumped storage hydropower development utilizing multiple Bureau of Reclamation reservoirs. *"Bureau of Reclamation Pumped Storage Hydropower Development Act."*

I have also reattached the calendar invite for your convenience.

Testimony for Tuesday can be found HERE when made available. Please check back periodically.

Please feel free to contact me at the Subcommittee on Water, Power and Oceans if you have any questions at extension 5-8331.

Thank you and we look forward to seeing you all there.

Richie O'Connell
Clerk
Committee on Natural Resources
Subcommittee on Water, Power and Oceans
4120 O'Neill Federal Office Building
Washington, DC 20515

Subcommittee on Water, Power and Oceans

Doug Lamborn, Chairman
Hearing Memorandum

March 31, 2017

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff, Subcommittee on Water, Power and Oceans (x5-8331)

Hearing: Legislative hearing on H.R. 220, a bill to authorize the expansion of an existing hydroelectric project, and for other purposes.
April 4, 2017 at 10:00 a.m. in 1324 Longworth H.O.B.

Bill Summary:

H.R. 220 authorizes the limited expansion of the Terror Lake hydroelectric project on Kodiak Island, Alaska.

Invited Witnesses:

Mr. Darron Scott
President and CEO
Kodiak Electric Association, Inc.
Kodiak, Alaska

Department of the Interior
Washington, DC

Background:

The Terror Lake Hydroelectric Project (Project) on Kodiak Island, Alaska provides 31 Megawatts[1] of hydropower capacity to the Island's approximately 13,789 residents and a U.S. Coast Guard Station (USCG). Kodiak Island (Island) is off the North American electricity grid and is reliant solely on electric generation within the Island or imported diesel fuel. Before the Project was built, the Island primarily relied on diesel fuel.[2]

The Project, licensed by the Federal Energy Regulatory Commission (FERC) as Project No. 2743 in 1981, was the result of an agreement between the federal government, the State of

[1] http://www.akenergyauthority.org/TerrorLake.
[2] Olive, Stewart W. and Lamb, Berton L. *Conducting a FERC Environmental Assessment: A Case Study and Recommendations from the Terror Lake Project*. U.S. Fish and Wildlife Service. April 1984, p. 8.

Alaska, environmental groups and the Kodiak Electric Association (KEA).[3] Since the Project is within the Kodiak Island National Wildlife Refuge (Refuge), the settlement required the following mitigation measures: 1) the Alaska Department of Natural Resources agreed to manage 28,000 acres of state-owned land contiguous to the Refuge at Kiliuda Bay as though it were part of the refuge; and 2) The State of Alaska agreed that at least half of the Shearwater Peninsula would be designated as wildlife habitat where grazing would be prohibited.[4] The Refuge currently comprises 82.6% of the Island.[5]

The KEA, a rural electric cooperative, owns and operates the Project. Almost 99.7% of KEA's energy sources are renewable and consist of wind energy and hydropower produced at Terror Lake with the remaining 0.3% consisting of diesel generation.[6] One of KEA's largest customers is the USCG Base on the Island, which includes Air Station Kodiak, USCG Cutter Spar, and the USCG Cutter Alex Haley.[7] KEA also provides electricity for USCG housing and support services. Due to the harsh environment in Alaska and the importance of offshore activities to the local economy, these USCG activities are essential not only to the Island's residents but to activities in the Bering Sea and the Gulf of Alaska.

In light of growing electricity demand on the Island, KEA will be unable to meet the needs of the residents without acquiring additional energy resources. KEA believes that the increased generation capacity must come in the form of either an expansion of the Terror Lake Hydroelectric Project or increased diesel fuel imports.[8] As a result, the utility seeks to expand the Project. The proposed expansion would divert a small portion of flows in the Upper Hidden Basin into Terror Lake via a 1.2 mile underground tunnel (see Map 1 below). This diversion would increase the water resources at Terror Lake by 25%, resulting in an additional 33,000 Megawatt-hours (MWh) of generation each year and totaling an estimated output of the Project of approximately 168 million MWh annually.[9] According to KEA estimates, if the expansion of

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[3] Yaffee Steven L. and Wondolleck Julia M., *Negotiating Extinction: An Assessment of the Potential Use of Alternative Dispute Resolution Techniques for Resolving Conflicts Between Endangered Species and Development*. School of Natural Resources and Environment, The University of Michigan, September 1994, (prepared for the Administrative Conference of the United States). Case Study #9: "The Terror Lake Case", p. 1. http://www.snre.umich.edu/ecomgt/cases/pubs/acus/Terror_Lake.pdf

[4] "The Terror Lake Case", p. 5.

[5] https://www.fws.gov/refuge/Kodiak/about html; http://www kodiak.org/kodiak_island_detailed_geography. Percentage determined as 1.9MM acres of refuge out of 2.3 MM acres total land comprising Kodiak Island.

[6] http://www.kodiakelectric.com/generation html.

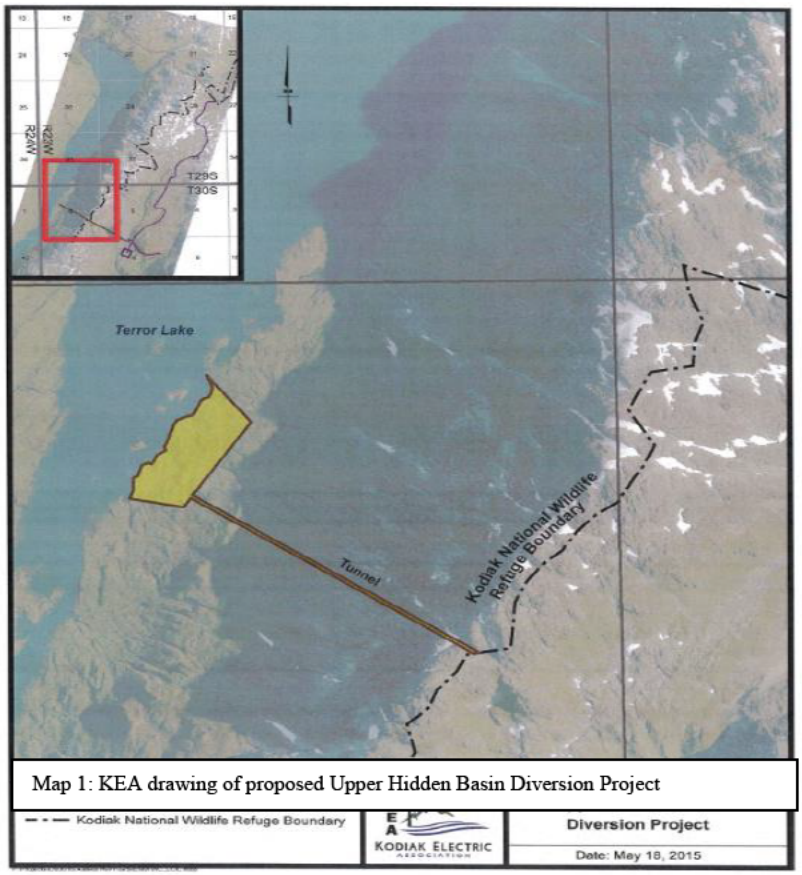
[7] https://www.uscg.mil/BaseKodiak/default.asp (See "Team Kodiak" tab).

[8] As KEA explained in its FERC amendment application, the stability and reliability that will be provided by the Upper Hidden Basin Diversion cannot be met by additional variable renewable resources: KEA is already pushing the technologic edge for wind energy penetration on its isolated micro-grid with battery and flywheel energy storage system integration, and cannot practically engineer any more wind energy additions to its system. The stable integration of all variable energy forms . . . on KEA's isolated micro-grid has reached its maximum under KEA's current conditions. Application for Non-Capacity Amendment to License, Preliminary Draft Environmental Assessment § 2.2.2. https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=14258904.

[9] Application for Non-Capacity Amendment to License, Exhibit B. https://elibrary ferc.gov/idmws/common/opennat.asp?fileID=14258904.

Terror Lake is not approved, the diesel generation required for heat alone will result in an annual release of 140 tons of NO_x and 6,500 tons of greenhouse gases into the atmosphere.[10]

KEA plans to use up to twenty acres of land on the Refuge to accommodate the construction of the needed tunnel and remediation site. H.R. 220 allows KEA to use not more than twenty acres of federal land within the Refuge for the proposed expansion. The legislation specifically requires the expansion to be subject to appropriate terms and conditions under the Federal Power Act. This would allow the U.S. Fish and Wildlife Service to impose what's commonly referred to as "mandatory conditions" under Section 4(e) of the Federal Power Act as a way for the federal agency to order mitigation.



Map 1: KEA drawing of proposed Upper Hidden Basin Diversion Project

The bill seeks to expedite the expansion in light of rising costs and a limited construction season. According to KEA, delaying construction by just one year would incur $11 million in additional project costs, which includes $1.3 million in costs associated with future supplemental diesel generation that will be required to meet electricity demand.[11] All of these costs would be borne by the Island's ratepayers, including the U.S. Coast Guard.

[10] Alaska Dept. of Environmental Quality, Kodiak Generating Station Title V Air Quality Operating Permit No. AQ0211TVP03, Condition 10.3.b for Emission Units 2C and 3C. http://dec.alaska.gov/Applications/Air/airtoolsweb/AirPermitsApprovalsAndPublicNotices .

[11] KEA estimates that 600,000 gallons of diesel would be required annually to produce the electricity that will be provided by the Upper Hidden Basin Diversion. Although the price of diesel fuel is volatile and KEA's contract price is tied to the Oil Price Information Service, its most recent delivery of diesel fuel (in January 2017) was invoiced at $2.26/gallon.

Major Provisions of H.R. 220:

Section 1(b) – Authorizes the licensee for the Terror Lake hydroelectric project to occupy not more than 20 acres of Federal land to construct, operate and maintain the Upper Hidden Basin Diversion Expansion without further authorization of the Secretary of the Interior or under the Alaska National Interest Lands Conservation Act.

Section 1(c) – Clarifies that this legislation does not impact any requirement to procure a revised license from FERC nor impact the ability of the USFWS to impose conditions on that license, pursuant to the Federal Power Act and in particular section 4(e) of that Act. This also in no way impacts any requirement to conduct an environmental review pursuant to the National Environmental Policy Act of 1969.

Cost

The Senate Energy and Natural Resources Committee voice voted an identical bill (S. 1583 – Sen. Murkowski) during the 114th Congress. The Congressional Budget Office (CBO) found that that the Senate language would have "no significant impact on the federal budget."[12] The Senate Energy and Natural Resources Committee passed the same bill (S. 214) in this Congress by voice vote on March 30, 2017.

Administration Position

Unknown.

Effect on Current Law (Ramseyer)

Not applicable.

[12] https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/s1583.pdf.

Subcommittee on Water, Power and Oceans
Doug Lamborn, Chairman
Hearing Memorandum

March 31, 2017

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff
Subcommittee on Water, Power and Oceans (x5-8331)

Hearing: Legislative Hearing on **H.R. 1411 (Rep. Frank Pallone)** To continue in effect for the 2017 and 2018 fishing seasons certain fishing specifications for the summer flounder fishery, and for other purposes.
April 4, 2017 at 10:00 a.m. in 1324 Longworth HOB

H.R. 1411 (Rep. Frank Pallone, D-NJ), *"Transparent Summer Flounder Quotas Act"*

Bill Summary:

H.R. 1411 exempts the Atlantic summer flounder fishery from an updated regulation revising the 2017 and 2018 seasons and instead requires federal fishery managers to manage the fishery under the original regulation that set the 2017 and 2018 seasons.

Cosponsors: Rep. LoBiondo (R-NJ)

Invited Witnesses:

Mr. Robert Beal
Executive Director
Atlantic States Marine Fisheries Commission
Arlington, Virginia

Captain John McMurray
One More Cast Charters
Oceanside, New York

U.S. Department of Commerce
Washington, D.C.

Background:

Each state in the Atlantic region manages its own fisheries in state waters (0-3 miles from shore) or collectively through the Atlantic States Marine Fisheries Commission (ASMFC). The National Oceanic and Atmospheric Administration (NOAA) manage fisheries in federal waters (3-200 miles from shore) through the applicable fishery management council (in this case the Mid-Atlantic Fishery Management Council).

A vital species to the mid-Atlantic economy is summer flounder, more commonly known as "fluke." While fluke range from Canada to Florida, they are most abundant in the mid-Atlantic region.[1] According to the ASMFC, fluke are "one of the most sought after commercial and recreational fish along the Atlantic coast," with more than seventeen million pounds being harvested in 2014.[2] The ASMFC manages the fluke fishery in state waters while NOAA manages the fishery in federal waters.[3]

Picture 1: Summer Flounder
Source: NOAA

Under the current quota system for fluke, the commercial fishery receives 60 percent and the recreational fishery receives 40 percent of the overall quota set for a given year.[4] While this split can cause some disagreement among the different user groups, the state-by-state allocations are more contentious in part because NOAA and the ASMFC use historical state landings data from 1998[5] to determine state allocations. Some states have argued that changes in the resource status and fishery performance warrant a reallocation of the overall quota among states.[6]

Controversy over fluke fishing has increased due to new developments within the fishery. In 2013 and 2014, the ASMFC alleged that some fishermen abused the Mid-Atlantic Fishery Management Council's Research Set-Aside program to illegally harvest fish.[7] Subsequently, a 2015 stock assessment update for fluke found that the stock was being overfished – mostly attributed to below-average year classes from 2010-2013.[8] The findings of the 2015 assessment

[1] http://www.asmfc.org/species/summer-flounder
[2] Id at 2
[3] Atlantic States Marine Fisheries Commission: Addendum XXVI to the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan, February 2015
[4] Id at 3
[5] Atlantic States Marine Fisheries Commission: Addendum XXVIII to the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan, February 2, 2017, Pg. 2, Table 1
[6] Atlantic States Marine Fisheries Commission: Addendum XXVI to the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan, February 2015
[7] http://www.asmfc.org/species/summer-flounder
[8] National Oceanic and Atmospheric Administration: Stock Assessment Update of Summer Flounder for 2015, August, 2015

contrast with the last fluke assessment in 2013 that found that the stock was not overfished, and that overfishing was not occurring.[9]

As the 2015 assessment illustrated a significant decrease in the health of the stock, a 29 percent reduction in total fluke Allowable Biological Catch (ABC) – which is the maximum amount of fish that can be sustainably harvested, from which quotas are derived – was recommended for the 2016 fishing season.[10] However, industry criticized this assessment and the resulting recommended reductions. According to one angler: "We see a lot of flounder. We raised the [size] limit and saved a lot of fish. It looks like it recovered and then the next year they say we have a problem."[11] Ultimately, NOAA reduced the 2016 ABC by **29 percent** over the previous year.[12] The 2016 ABC resulted in a commercial quota of 8.12 million pounds, and a recreational harvest limit of 5.24 million pounds.[13] The final rule that set the 2016 season also set the 2017 and 2018 seasons, with further declining ABCs of 15.86 and 15.68 million pounds, respectively.[14]

To determine if the ABCs set for 2016-2018 were still appropriate, NOAA's Northeast Fishery Science Center conducted an updated stock assessment in 2016, which included 2015 commercial and recreational catch levels.[15] Although recreational and commercial landings for 2015 were both below their annual quotas, the assessment determined that overfishing of the fluke fishery was occurring.[16] Due to that determination, NOAA published a final rule in December 2016 revising the previously set 2017 and 2018 commercial and recreational ABCs.[17] The revised ABCs resulted in additional reductions of approximately **30 percent for 2017** and **16 percent for 2018** in relation to the previously set ABCs for those years.[18] Following those reductions, the ASMFC released its final fishery management plan for recreational fluke harvest in February 2017.[19] These regulations required all states, with the exception of North Carolina, to increase the minimum size of a retained fish by one inch, but kept the possession limit of four fish per day.[20]

[9] Mid-Atlantic Fishery Management Council fact sheet: Summer Flounder Catch and Landings Limits – 2016 Reductions, August, 2015
[10] Id at 9
[11] Press of Atlantic City: *2016 flounder cuts could be reduced from 43 to 27 percent*, August 2, 2015
[12] 80 F.R. 80689, December 28, 2015, Table 1
[13] Id at 12, Table 1
[14] Id at 12, Table 1
[15] Northeast Fisheries Science Center: Stock Assessment of Summer Flounder for 2016, pg 1
[16] Id at 15, pg 1
[17] 81 F.R. 93842, December 22, 2016
[18] Id at 17
[19] Atlantic States Marine Fisheries Commission: Addendum XXVIII to the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan, February 2, 2017
[20] Id at 19, table 5

New Jersey's economy stands to take a significant hit under these reductions as, historically, the state has accounted for nearly 40 percent of landings among states.[21] As such, state officials and the New Jersey congressional delegation have been vocal against NOAA and the ASMFC implementing these cuts. New Jersey's Department of Environmental Commissioner Bob Martin has called the cuts an "attack on our economy, it's an attack on our way of life."[22] However, others do not question the underlying stock assessment science but believe that the outcome may not be favorable.[23]

H.R. 1411 aims to reverse these cuts by exempting the fishery from the regulation revising the 2017 and 2018 quotas and instead requires that NOAA and the ASMFC manage the fishery under the original 2017 and 2018 quotas. Under the bill, this exemption would remain in effect until federal fishery managers conduct a new stock assessment and publish a new rule in the Federal Register to set new seasons.[24]

Major Provisions/Analysis of H.R. 1411:

Section 2 exempts the summer flounder fishery from the 2017 fishery regulations (81 FR 93842) the fishery from the regulation revising the 2017 and 2018 quotas and instead requires that NOAA and the ASMFC manage the fishery under the original 2017 and 2018 quotas. Under this section, this exemption would remain in effect until NOAA has completed a new stock assessment and published a rule in the Federal Register to set new seasons.

Cost:

The Congressional Budget Office has not completed a cost estimate of this bill at this time.

Administration Position:

Unknown.

Effect on Current Law (Ramseyer):

Not applicable.

[21] Atlantic States Marine Fisheries Commission: Addendum XXVIII to the Summer Flounder, Scup, Black Sea Bass Fishery Management Plan, February 2, 2017, Pg. 2, Table 1
[22] Asbury Park Press: *New Jersey Rallies Against Flounder Harvest Cuts*, January 27, 2017
[23] Id at 22
[24] H.R. 1411, the Transparent Summer Flounder Quotas Act, introduced by Frank Pallone, Jr., March 7, 2017, Sec. 2

Subcommittee on Water, Power and Oceans
Doug Lamborn, Chairman
Hearing Memorandum

March 31, 2017

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff
Subcommittee on Water, Power and Oceans (x5-8331)

Hearing: Legislative hearing on a Discussion Draft of H.R. ____ (Rep. Doug Lamborn), To amend the Reclamation Project Act of 1939 to authorize pumped storage hydropower development utilizing multiple Bureau of Reclamation reservoirs. *"Bureau of Reclamation Pumped Storage Hydropower Development Act."*
April 4, 2017 at 10:00 a.m. in 1324 Longworth HOB

Bill Summary:

In order to stimulate non-federal pumped storage hydropower development in the seventeen western states, the Discussion Draft of H.R. ___ (Rep. Lamborn, R-CO) authorizes pumped storage hydropower at Bureau of Reclamation facilities.

Invited Witnesses:

Mr. Tim Culbertson
Secretary-Manager
Columbia Basin Hydropower
Ephrata, Washington

U.S. Department of the Interior
Washington, DC

Background:

Overview

The arid western United States (West), once sparsely populated due in large part to scarce water supplies, is now home to more than 70 million people and is one of the most productive agricultural regions in the world. This transformation of the West primarily occurred due to the development of multi-purpose surface water projects that stored water in mainstem rivers and their tributaries. The Bureau of Reclamation (Reclamation), a federal agency created in 1902, played a pivotal role in developing and maintaining much of the water infrastructure in the West.

Many of Reclamation's projects are multi-purpose in nature, and its reservoirs and dams further generate enough emissions-free electricity to serve at least 3.5 million homes annually.[1] This is accomplished through the operation of 53 hydroelectric power plants that annually produce, on average, 40 billion kilowatt-hours over the last 10 years.[2] It would take approximately 23.5 million barrels of crude oil or 6.8 million tons of coal to produce an equal amount of electricity.[3] Nationally, hydropower accounts for almost 7% of domestic electricity generation, divided equally between federal and non-federal output.[4]

Pumped Storage

Pumped storage hydropower facilities pump water stored at a lower reservoir to an upper reservoir during periods of low electricity demand. During periods of high electricity demand, water is released from the upper reservoir and run through turbines to produce electricity.[5] It not only provides power for baseload (full-time) needs and peak times, but also serves as a backup generation source for intermittent wind and solar power.[6]

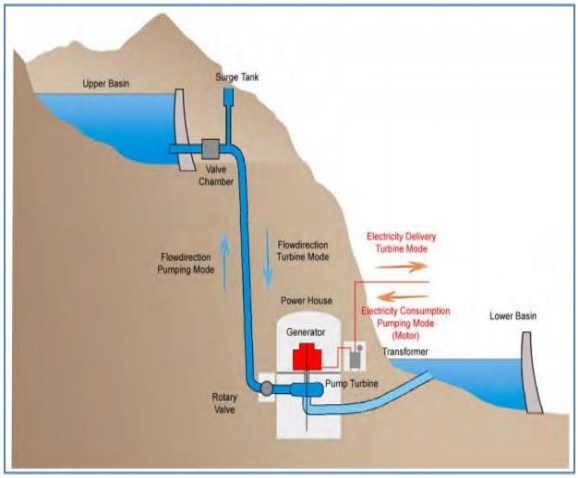


Figure 1 Typical Pumped Storage Facility. Source: Alstom Power

When Reclamation allows non-federal entities to produce hydropower at its facilities, it uses a "lease of power privilege" (LOPP) process. A LOPP is a contractual right given to a non-federal entity to use a Reclamation facility for electric power generation that is consistent with the project's purposes.[7] As part of this arrangement, the entity pays a fee (commonly referred to as a "falling water charge") to Reclamation for the use of the facilities and that fee is credited towards the capital repayment of the Reclamation facility. There are currently thirteen LOPP projects at Reclamation facilities: seven dams and six conduits with a combined capacity of nearly 46,000 kW.[8] According to Reclamation, the national potential for new pumped storage is 34,000 MW, although it would be far less at the agency's facilities.[9]

[1] Id. note 1
[2] http://www.usbr.gov/main/about/fact html
[3] Id. note 1
[4] Congressional Research Service, Relicensing of Nonfederal Hydroelectric Projects, April 25, 2007; Page 1
[5] National Hydropower Association, "Challenges and Opportunities for New Pumped Storage Development," http://www.hydro.org/wp-content/uploads/2014/01/NHA_PumpedStorage_071212b12.pdf
[6] http://www.vox.com/2015/6/19/8808545/wind-solar-grid-integration
[7] https://www.usbr.gov/power/LOPP/index.html
[8] https://www.usbr.gov/Power/LOPP/LOPP_Development_11-2016.xlsx
[9] https://www.usbr.gov/power/video/index.html

Even though the LOPP is used for Reclamation facilities that are authorized for hydropower development, there has been some historic inconsistency over what federal agency would manage hydropower development at Reclamation's facilities. In some cases, Reclamation has clear authority to develop hydropower at a specific project given its legislative history and authorized project purposes. In other cases, the Federal Energy Regulatory Commission (FERC) could have authority if the underlying project's authorization did not specifically include hydropower as a component. Congress cleared up some of this confusion when it passed and President Barack Obama signed the *"Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act"*, which explicitly authorized hydropower development at Reclamation's canals and water pipelines (conduits).[10]

There is still some confusion over which agency would oversee pumped storage development at certain Reclamation facilities. As an example, some of Reclamation's water users have expressed a desire to work directly with Reclamation to develop pumped storage hydropower at the agency's facilities but have run into uncertainty.

One such entity is Columbia Basin Hydropower (CBHP), which is looking to develop a pumped storage hydropower project in Washington State rated up to 500 megawatts.[11] CBHP seeks to develop the Banks Lake North Dam Project (Project), located in central Washington State near the Grand Coulee Dam. The Project would utilize two existing Reclamation reservoirs: the Banks Lake upper reservoir and Franklin D. Roosevelt (Roosevelt Lake) lower reservoir.[12] Since April 2012, there has been uncertainty over which federal regulatory process should apply to the Project. CBHP wishes to pursue the LOPP process since the Project would be located on federal lands administered by the Reclamation and operated in coordination with Reclamation's Keys Pumping Plant and Grand Coulee. A CBHP witness will testify on this subject.

To help clarify this process and to bring about certainty, the discussion draft authorizes pumped storage hydropower development that utilizes multiple Reclamation reservoirs. This authorization is intended to make it clear that Reclamation would be the lead agency which would oversee pumped storage hydropower development at these facilities.

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[10] H.R. 678, 113th Congress: https://www.gpo.gov/fdsys/pkg/BILLS-113hr678enr/pdf/BILLS-113hr678enr.pdf H.R. 678 became P.L. 113-24 in the 113th Congress.

[11] http://www.nwhydro.org/wp-content/uploads/events_committees/Docs/2016_Pumped_Storage_Workshop_Presentations/7%20-%20Tim%20Culbertson.pdf

[12] Id.

Major Provisions of the Discussion Draft of H.R. :

Section 2 amends the Reclamation Project Act of 1939 to authorize pumped storage hydropower development utilizing multiple Bureau of Reclamation reservoirs.

Cost:

The Congressional Budget Office has not completed a cost estimate of this draft bill at this time.

Administration Position:

Unknown.

Effect on Current Law (Ramseyer):

Showing Existing Law As Amended by the Discussion Draft of the Bureau of Reclamation Pumped Storage Hydropower Development Act
[text to be added highlighted in blue]

Reclamation Project Act of 1939 (43 U.S.C. 485h)

§485h. New projects; sale of water and electric power; lease of power privileges

(a) Findings of Secretary

No expenditures for the construction of any new project, new division of a project, or new supplemental works on a project shall be made, nor shall estimates be submitted therefor, by the Secretary until after he has made an investigation thereof and has submitted to the President and to the Congress his report and findings on-

(1) the engineering feasibility of the proposed construction;

(2) the estimated cost of the proposed construction;

(3) the part of the estimated cost which can properly be allocated to irrigation and probably be repaid by the water users;

(4) the part of the estimated cost which can properly be allocated to power and probably be returned to the United States in net power revenues;

(5) the part of the estimated cost which can properly be allocated to municipal water supply or other miscellaneous purposes and probably be returned to the United States.

If the proposed construction is found by the Secretary to have engineering feasibility and if the repayable and returnable allocations to irrigation, power, and municipal water supply or other miscellaneous purposes found by the Secretary to be proper, together with any allocation to flood control or navigation made under subsection (b) of this section, equal the total estimated cost of construction as determined by the Secretary, then the new project, new division of a project, or supplemental works on a project, covered by his findings, shall be deemed authorized and may be undertaken by the Secretary. If all such allocations do not equal said total estimated cost, then

said new project, new division, or new supplemental works may be undertaken by the Secretary only after provision therefor has been made by Act of Congress enacted after the Secretary has submitted to the President and the Congress the report and findings involved.

(b) Allocation of part of cost to flood control or navigation

In connection with any new project, new division of a project, or supplemental works on a project there may be allocated to flood control or navigation the part of said total estimated cost which the Secretary may find to be proper. Items for any such allocations made in connection with projects which may be undertaken pursuant to subsection (a) of this section shall be included in the estimates of appropriations submitted by the Secretary for said projects, and funds for such portions of the projects shall not become available except as directly appropriated or allotted to the Department of the Interior. In connection with the making of such an allocation, the Secretary shall consult with the Chief of Engineers and the Secretary of the Army, and may perform any of the necessary investigations or studies under a cooperative agreement with the Secretary of the Army. In the event of such an allocation the Secretary of the Interior shall operate the project for purposes of flood control or navigation, to the extent justified by said allocation therefor.

(c) Furnishing water to municipalities; sale of electric power; lease of power privileges

(1) The Secretary is authorized to enter into contracts to furnish water for municipal water supply or miscellaneous purposes: *Provided*, That any such contract either (A) shall require repayment to the United States, over a period of not to exceed forty years from the year in which water is first delivered for the use of the contracting party, with interest not exceeding the rate of 3½ per centum per annum if the Secretary determines an interest charge to be proper, of an appropriate share as determined by the Secretary of that part of the construction costs allocated by him to municipal water supply or other miscellaneous purposes; or (B) shall be for such periods, not to exceed forty years, and at such rates as in the Secretary's judgment will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost and an appropriate share of such fixed charges as the Secretary deems proper, and shall require the payment of said rates each year in advance of delivery of water for said year. Any sale of electric power or lease of power privileges, made by the Secretary in connection with the operation of any project or division of a project, shall be for such periods, not to exceed forty years, and at such rates as in his judgment will produce power revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost, interest on an appropriate share of the construction investment at not less than 3 per centum per annum, and such other fixed charges as the Secretary deems proper: *Provided further*, That in said sales or leases preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 [7 U.S.C. 901 et seq.]. Nothing in this subsection shall be applicable to provisions in existing contracts, made pursuant to law, for the use of power and miscellaneous revenues of a project for the benefit of users of water from such project. The provisions of this subsection respecting the sales of electric power and leases of power privileges shall be an authorization in addition to and alternative to any authority in existing laws related to particular projects, including small conduit hydropower development and pumped storage hydropower development utilizing multiple Bureau of Reclamation reservoirs. No contract relating to municipal water supply or miscellaneous purposes or to electric power or

power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes.

(2)(A) When carrying out this subsection, the Secretary shall first offer the lease of power privilege to an irrigation district or water users association operating the applicable transferred conduit, or to the irrigation district or water users association receiving water from the applicable reserved conduit. The Secretary shall determine a reasonable time frame for the irrigation district or water users association to accept or reject a lease of power privilege offer for a small conduit hydropower project.

(B) If the irrigation district or water users association elects not accept [1] a lease of power privilege offer under subparagraph (A), the Secretary shall offer the lease of power privilege to other parties in accordance with this subsection.

(3) The Bureau of Reclamation shall apply its categorical exclusion process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to small conduit hydropower development under this subsection, excluding siting of associated transmission facilities on Federal lands.

(4) The Power Resources Office of the Bureau of Reclamation shall be the lead office of small conduit hydropower policy and procedure-setting activities conducted under this subsection.

(5) Nothing in this subsection shall obligate the Western Area Power Administration, the Bonneville Power Administration, or the Southwestern Power Administration to purchase or market any of the power produced by the facilities covered under this subsection and none of the costs associated with production or delivery of such power shall be assigned to project purposes for inclusion in project rates.

(6) Nothing in this subsection shall alter or impede the delivery and management of water by Bureau of Reclamation facilities, as water used for conduit hydropower generation shall be deemed incidental to use of water for the original project purposes. Lease of power privilege shall be made only when, in the judgment of the Secretary, the exercise of the lease will not be incompatible with the purposes of the project or division involved, nor shall it create any unmitigated financial or physical impacts to the project or division involved. The Secretary shall notify and consult with the irrigation district or water users association operating the transferred conduit before offering the lease of power privilege and shall prescribe terms and conditions that will adequately protect the planning, design, construction, operation, maintenance, and other interests of the United States and the project or division involved.

(7) Nothing in this subsection shall alter or affect any existing agreements for the development of conduit hydropower projects or disposition of revenues.

(8) Nothing in this subsection shall alter or affect any existing preliminary permit, license, or exemption issued by the Federal Energy Regulatory Commission under Part I of the Federal Power Act (16 U.S.C. 792 et seq.) or any project for which an application has been filed with the Federal Energy Regulatory Commission as of August 9, 2013.

(9) In this subsection:

(A) Conduit.-The term "conduit" means any Bureau of Reclamation tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

(B) Irrigation district.-The term "irrigation district" means any irrigation, water conservation or conservancy, multicounty water conservation or conservancy district, or any separate public

entity composed of two or more such districts and jointly exercising powers of its member districts.

(C) Reserved conduit.-The term "reserved conduit" means any conduit that is included in project works the care, operation, and maintenance of which has been reserved by the Secretary, through the Commissioner of the Bureau of Reclamation.

(D) Transferred conduit.-The term "transferred conduit" means any conduit that is included in project works the care, operation, and maintenance of which has been transferred to a legally organized water users association or irrigation district.

(E) Small conduit hydropower.-The term "small conduit hydropower" means a facility capable of producing 5 megawatts or less of electric capacity.

(d) Delivery of water for irrigation; repayment contract prerequisites

No water may be delivered for irrigation of lands in connection with any new project, new division of a project, or supplemental works on a project until an organization, satisfactory in form and powers to the Secretary, has entered into a repayment contract with the United States, in a form satisfactory to the Secretary, providing among other things-

(1) That the Secretary may fix a development period for each irrigation block, if any, of not to exceed ten years from and including the first calendar year in which water is delivered for the lands in said block; and that during the development period water shall be delivered to the lands in the irrigation block involved at a charge per annum per acre-foot, or other charge, to be fixed by the Secretary each year and to be paid in advance of delivery of water: *Provided*, That where the lands included in an irrigation block are for the most part lands owned by the United States, the Secretary, prior to execution of a repayment contract, may fix a development period, but in such case execution of such a contract shall be a condition precedent to delivery of water after the close of the development period: *Provided further*, That when the Secretary, by contract or by notice given thereunder, shall have fixed a development period of less than ten years, and at any time thereafter but before commencement of the repayment period conditions arise which in the judgment of the Secretary would have justified the fixing of a longer period, he may amend such contract or notice to extend such development period to a date not to exceed ten years from its commencement, and in a case where no development period was provided, he may amend such contract within the same limits: *Provided further*, That when the Secretary shall have deferred the payment of all or any part of any installments of construction charges under any repayment contract pursuant to the authority of the Act of September 21, 1959 (73 Stat. 584), he may, at any time prior to the due date prescribed for the first installment not reduced by such deferment, and by agreement with the contracting organization, terminate the supplemental contract by which such deferment was effected, credit the construction payments made, and exercise the authority granted in this section. After the close of the development period, any such charges collected and which the Secretary determines to be in excess of the cost of the operation and maintenance during the development period shall be credited to the construction cost of the project in the manner determined by the Secretary.

(2) That the part of the construction costs allocated by the Secretary to irrigation shall be included in a general repayment obligation of the organization; and that the organization may vary its distribution of construction charges in a manner that takes into account the productivity of the various classes of lands and the benefits accruing to the lands by reason of the construction: *Provided*, That no distribution of construction charges over the lands

included in the organization shall in any manner be deemed to relieve the organization or any party or any land therein of the organization's general obligation to the United States.

(3) That the general repayment obligation of the organization shall be spread in annual installments, of the number and amounts fixed by the Secretary, over a period of not more than 40 years, exclusive of any development period fixed under paragraph (1) of this subsection, for any project contract unit or, if the project contract unit be divided into two or more irrigation blocks, for any such block, or as near to said period of not more than forty years as is consistent with the adoption and operation of a variable payment formula which, being based on full repayment within such period under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay.

(4) That the first annual installment for any project contract unit, or for any irrigation block, as the case may be, shall accrue, on the date fixed by the Secretary, in the year after the last year of the development period or, if there be not development period, in the calendar year after the Secretary announces that the construction contemplated in the repayment contract is substantially completed or is advanced to a point where delivery of water can be made to substantially all of the lands in said unit or block to be irrigated; and if there be no development period fixed, that prior to and including the year in which the Secretary makes said announcement water shall be delivered only on the toll charge basis hereinbefore provided for development periods.

(e) Contracts to furnish water

In lieu of entering into a repayment contract pursuant to the provisions of subsection (d) of this section to cover that part of the cost of the construction of works connected with water supply and allocated to irrigation, the Secretary, in his discretion, may enter into either short- or long-term contracts to furnish water for irrigation purposes. Each such contract shall be for such period, not to exceed forty years, and at such rates as in the Secretary's judgment will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost and an appropriate share of such fixed charges as the Secretary deems proper, due consideration being given to that part of the cost of construction of works connected with water supply and allocated to irrigation; and shall require payment of said rates each year in advance of delivery of water for said year. In the event such contracts are made for furnishing water for irrigation purposes, the costs of any irrigation water distribution works constructed by the United States in connection with the new project, new division of a project, or supplemental works on a project, shall be covered by a repayment contract entered into pursuant to said subsection (d).

(f) Public participation

No less than sixty days before entering into or amending any repayment contract or any contract for the delivery of irrigation water (except any contract for the delivery of surplus or interim irrigation water whose duration is for one year or less) the Secretary shall-

(1) publish notice of the proposed contract or amendment in newspapers of general circulation in the affected area and shall make reasonable efforts to otherwise notify interested parties which may be affected by such contract or amendment, together with information indicating to whom comments or inquiries concerning the proposed actions can be addressed; and

(2) provide an opportunity for submission of written data, views and arguments, and shall consider all substantive comments so received.

Attachment 03-31-2017 16_05_10Hearing Memo and Testimony --.ics (10495 Bytes) cannot be converted to PDF format.

From: Office of Senator Ted Cruz
To: Lara_Levison@ios.doi.gov
Subject: Cruz News: March 31, 2017
Date: Saturday, April 01, 2017 4:40:23 AM

March 31, 2017

Greetings,

This week the Trump Administration issued an executive order rolling back a number of costly Obama-era regulations, including the Clean Power Plan, the rules for new power plants, and the methane rule. Excessive regulations like these slow the economy, and crush job creation. This is a significant victory for Texas and the nation and I am hopeful it serves as an initial, powerful early step in unleashing the American Energy Renaissance.

On Wednesday, I joined a majority of my colleagues in the Senate Judiciary Committee in support of Judge Neil Gorsuch's nomination to the Supreme Court. I have been thankful for the opportunity to do my part in helping successfully usher Judge Gorsuch's confirmation through the first stages of his confirmation, and urge my colleagues across the aisle to join in support of this brilliant and immensely talented judge when the full Senate takes up his nomination next week.

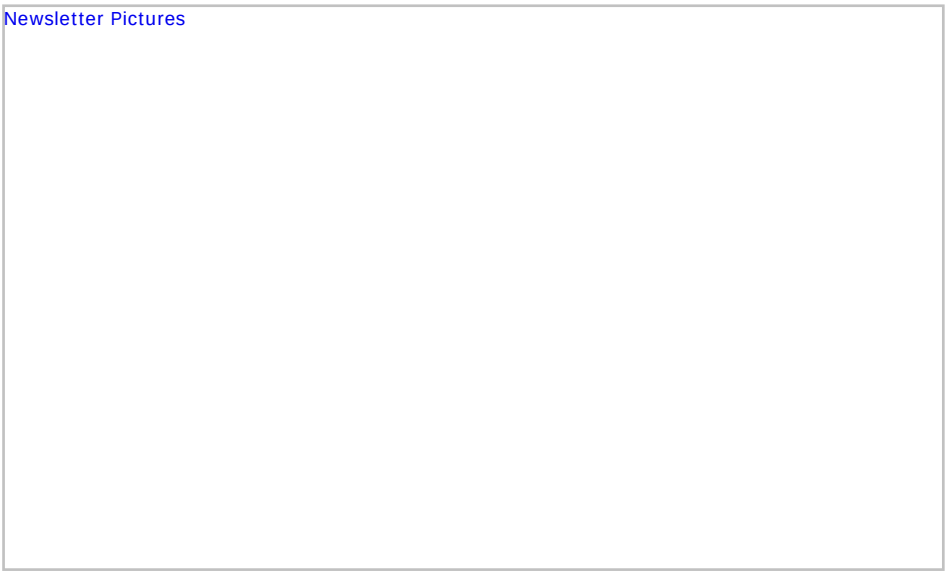
Throughout the week, I also had the pleasure of visiting with members of the Texas Farm Bureau, Texas Cattle Feeders Association, American Loggers Council, Texas Restaurant Association, and Texas AIPAC where I discussed my priorities for the 115th Congress. I remain excited and optimistic about the opportunities before us to repeal Obamacare, implement fundamental tax reform and regulatory reform, and confirm Judge Gorsuch to the Supreme Court.

Please read below for an update from this last week.

Keep Texas Strong,

TC Sig

Ted Cruz



Sen. Cruz: 'Judge Gorsuch Should be Confirmed to the Supreme Court and He Will be Confirmed to the Supreme Court'

On Wednesday, Sen. Cruz joined his colleagues in the Senate Judiciary Committee in support of Judge Neil Gorsuch's nomination to the Supreme Court. Sen. Cruz urged his Democratic colleagues who were willing to confirm Judge Gorsuch ten years ago to do so again.

"Judge Gorsuch should be confirmed to the Supreme Court and he will be confirmed to the Supreme Court," Sen. Cruz said. "On any objective measure Judge Gorsuch is impeccably well qualified for the court. Gorsuch has spent a lifetime in the law building a record demonstrating that he will make an exemplary justice. A decade ago when he was nominated to the Federal Court of Appeals, the Senate confirmed him by voice vote – not a single senator spoke out against him. If they supported his being on the Court of Appeals a decade ago, what's changed? The universal assessment of Judge Gorsuch's tenure as a judge is that he is a judge who follows the law without partiality to any litigant and without partiality to any policy outcome. That is what we want and deserve in judges."

Read the full press release here.

Sen. Cruz Praises Coast Guard for Approving Presidio Bridge Permit

Sen. Ted Cruz issued the following statement praising the U.S. Coast Guard for advancing Texas' Presidio International Rail Bridge permit process after urging action in a Senate Commerce Committee hearing last week.

"Reconstruction of the Presidio International Rail Bridge is an important project to the State of Texas," Sen. Cruz said. "After burning to the ground in February of 2008, the Texas Department of Transportation developed plans with the Army Corp of Engineers for reconstruction – however the project was delayed due to bureaucratic red tape. I urged the Coast Guard to work with my office in expediting the reconstruction permit of the bridge – and I am grateful that they have moved the process forward by issuing a 30-day notice for permit approval."

Texas Transportation Commissioner Jeff Austin III thanked Sen. Cruz for urging the Coast Guard to move forward with the reconstruction permit at the beginning of the Texas

Department of Transportation Commission meeting this week.

“We are extremely grateful to Senator Ted Cruz for his swift action in speaking directly to Coast Guard Commandant, Admiral Paul Zukunft, to rectify the delays in our permit for the South Orient Rail Bridge,” Commissioner Austin said. “We look forward to seeing the process move forward and in continuing to work with Senator Cruz on behalf of Texans.”

Read the full press release here.

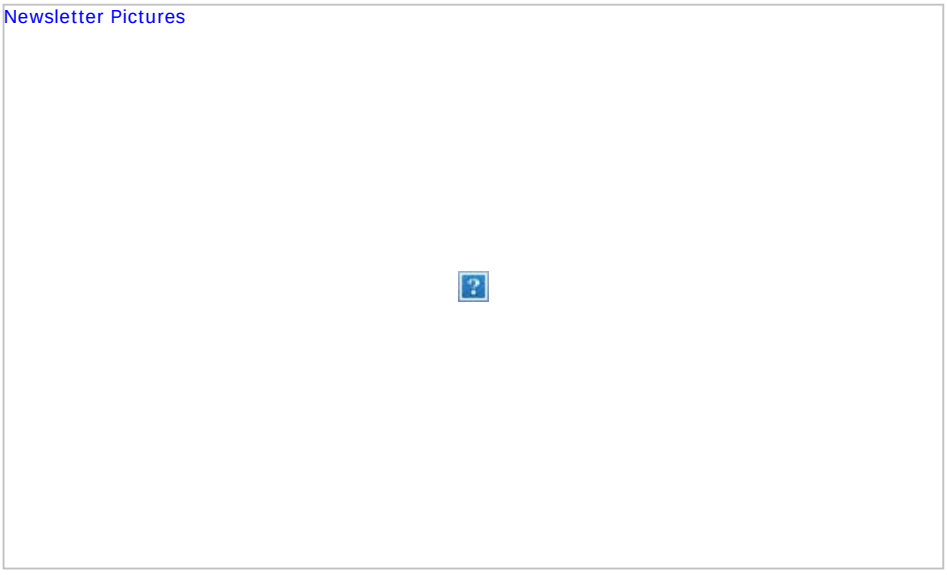
Sen. Cruz Introduces the Public Water Supply Invasive Species Compliance Act of 2017

On Thursday, Sen. Cruz introduced a bill to provide certainty to water agencies who supply water to Texans and to protect the water supply future of Texas. The legislation ensures that interstate water transfers between Texas, Louisiana and Arkansas will not be interrupted as a result of the Lacey Act, which affects trade in wildlife, fish, or plants across state lines. Rep. Louie Gohmert (R-Texas) has filed companion legislation in the U.S. House of Representatives.

“For the last several years, Texas water interests have faced regulatory barriers at every turn,” Sen. Cruz said. “With this legislation, water agencies who supply water to Texans will now have the confidence and clarity to continue providing water without interruption from Washington.”

Last month, Sen. Cruz addressed the 13th annual Texas Water Day, hosted by the Texas Water Conservation Association, where he reiterated his commitment to reducing federal regulations that impact Texas water rights and water conservation and returning more regulatory authority to state and local governments.

Read the full press release here.



Sen. Cruz: ‘When We Think Boldly and Creatively We Can Unleash the Free Enterprise System’

Sen. Cruz delivered remarks at a luncheon hosted by the Federalist Society to discuss the role of economic liberty in the U.S. and what can be done to remove government barriers that restrict Americans’ full participation in the economy.

“What folks here understand is that jobs and economic growth, they come from the private sector, they come from entrepreneurs putting capital at risk and they come from small businesses,” Sen. Cruz said. “I can tell you in the Senate my number one priority is jobs and economic growth. The reason for that is simple, it is the number one priority for the Texans I represent. From East Texas to West Texas, from the Panhandle to the Rio Grande, Texans want more jobs, higher wages and more opportunity. Two-thirds of all new jobs come from small businesses, and if you want to see more jobs and economic growth there's a tried-and-true method - regulatory reform and tax reform. When we think boldly and creatively, we can unleash the free enterprise system.”

Read the full press release here.

Sen. Cruz: White House Action is a Win for Job Creation and Economic Growth

On Wednesday, Sen. Cruz released the following statement praising the Trump Administration’s executive action to roll back a number of costly Obama-era climate regulations, including the Clean Power Plan, the rules for new power plants, and the methane rule:

“Today’s executive order is a huge victory for Texans and Americans in every corner of our nation. President Trump should be commended for rolling back these regulations that were intended to effectively eliminate coal power plants and drive up the price of certain key forms of energy. Excessive regulations like these, that pick winners and losers and force Americans to use certain types of energy, harm job creation and slow economic growth.

“All of us want clean water and clean air, but we shouldn’t have to choose between a clean environment and a healthy, growing economy. The previous administration’s effort to regulate our energy sector by executive fiat should be a lesson that regulations that impact the lives of every American should be approved by Congress, not imposed by the unelected bureaucracy. In fact, Congress should return much of the environmental rulemaking and regulation to the states, whose regulators are closer to the people and have a better understanding of their own state’s economy and environmental conditions.

“Over the last eight years, regulations aimed at reducing greenhouse gas emissions cost more than $457 billion, which is more than $3,350 per household. The United States should be focusing on pro-growth policies that encourage competition and create consumer choice. This action by the president today is a significant and powerful step in unleashing the American Energy Renaissance.”

Read the full press release here.

Texans in Washington D.C.

Newsletter Pictures

Newsletter Pictures

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From:	Bina, Betsy
To:	Adrianne Moss; Linda Smith; tricia_hall@ios.doi.gov
Subject:	Water conveyance/ Cadiz water project
Date:	Sunday, April 02, 2017 9:21:57 PM
Attachments:	BLM - 20 2017 Effects Statement - BLM Railroad Rights-of-Way.POB.pdf ATT00001.txt

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Hi. Can you provide some additional information on the solicitor's opinion on this? Also, have things changed since January? Thank you, Betsy

DEPARTMENT OF THE INTERIOR
FY 2011 Interior Appropriations Bill
Effect Statement on Congressional Action

Bureau/Office: Bureau of Land Management
Appropriation: Management of Land and Resources, General Provisions, and Administrative Provisions
Project/Budget Element: Railroad Rights-of-Way

House Action: The House includes two provisions regarding the use of rights-of-way granted pursuant to the General Railroad Right-of-Way Act of 1875.

House Report Statement: "Section 115 addresses Solicitor Opinion M-37025, dated November 4, 2011."

House Bill Language: "SEC. 115. None of the funds made available by this or any other Act may be used by the Secretary of the Interior to review, require approval of, or withhold approval for use of a right-of-way granted pursuant to the General Railroad Right-of-Way Act of 1875 (43 U.S.C. 934-939) if authorization of the use would have been considered under Department policy to be within the scope of a railroad's authority as of the day before the effective date of the Department's Solicitor's Opinion M-37025, issued on November 4, 2011."

The House also adds related bill language to BLM's Administrative Provisions

"Administrative Provisions" .
Provided further, That the Secretary shall approve any use of a right-of-way granted pursuant to the General Railroad Right-of-Way Act of 1875 (43 U.S.C. 934-939) if authorization of the use would have been considered under Department policy to be within the scope of a railroad's authority as of the day before the effective date of the Department's Solicitor's Opinion M-37025, issued on November 4, 2011."

Reference: H.R. 5538, Pages 8 and 61-62.

Effect of House Action: Section 115 and the new clause added by the House to BLM's Administrative Provisions are contradictory and the Department cannot reconcile the direction in both provisions. Section 115 and the Administrative Provisions language are clearly intended to override the Department's legal interpretation of the scope of the General Railroad Right-of-Way Act of 1875 (43 U.S.C. 934-939), as specifically expressed through the Department's Solicitor's Opinion M-37025 (November 4, 2011), and to reinstate the Department's previous legal interpretation of the 1875 Act.[1] However, the provisions provide inconsistent direction to the

[1] The Solicitor's Opinion M-37025 concluded that the scope of the 1875 Act rights-of-way are limited to only those activities that derive from or further a railroad purpose and that any activities beyond this scope require approval by the BLM. Whereas, the Department's previous legal interpretation, as reflected in Solicitor's Opinion M-36964 (January 5, 1989), concluded that a railroad could conduct any activity within the right-of-way (ROW) as long as such activity was not inconsistent with the purpose of railroad operations and that the BLM had no authority over such activities.

Secretary and seem to reflect a misunderstanding of the Department's legal interpretations of the 1875 Act. The Administrative Provisions language requires BLM "to approve" any use of a right-of-way granted pursuant to the 1875 Act "if authorization of the use would have been considered under Department policy to be within the scope of a railroad's authority as of the day before the Solicitor's Opinion M-37025." The provisions appear to reflect a misunderstanding of the interpretations offered prior to Solicitor's Opinion M-37025 because those interpretations viewed BLM as having no authority over activities within railroad ROWs, and therefore no authority to review or approve a railroad's activities. The provisions are inconsistent because the Administrative Provisions language would require BLM to affirmatively "approve" uses within a railroad's 1875 Act ROW, while section 115 would prevent BLM from carrying out that obligation by prohibiting it from spending funds "to approve" the planned use of a railroad ROW. There are additional ambiguities regarding these provisions that could generate problems, including, but not limited to: (1) the Administrative Provisions language is unclear as to whether it is intended only to cover uses existing as of November 4, 2011, or whether it covers existing uses and future uses, and (2) it is unclear whether the Administrative Provisions language is directing the Secretary to use existing authority to approve such uses or whether this is independent authority for such an approval.

In addition to the contradictory nature of the proposed new clause in the Administrative Provisions and Section 115, the Department would strongly oppose any language that overrides Solicitor's Opinion M-37025 for several reasons. The proposed provisions inaccurately refer to the Solicitor's Opinion as "Departmental policy." Instead of being a policy statement, Solicitor's Opinion M-37025 is the Department's legal interpretation of the scope of the right-of-way granted under the 1875 Act based on relevant case law. The proposed provisions would effectively require the Department to ignore its legal interpretation of the scope of the rights railroads received under the 1875 Act and give railroads greater rights than they obtained through the original grants. Railroad grantees, in fact, would receive overly expansive rights to the detriment of the public (and possibly to private land holders) and counter to the Federal government's general statutory direction to protect Federal interests, e.g., Section 504(g) of the Federal Land Policy and Management Act. Additionally, by extension, these provisions would effectively provide railroad ROW holders with an exemption from environmental laws, including the National Environmental Policy Act, that would otherwise be required under the Department's legal interpretation of the scope of 1875 Act grants.

In short, the Administrative Provisions and Section 115 include contradictory direction that could lead to inaction and they also include ambiguous language that could generate confusion. Moreover, the intended purpose of the provisions would create legally ambiguous outcomes for the public's interests, railroad ROW holders, and private property holders with rights to lands.

Senate Action The Senate includes report language on railroad rights-of-way and the Department's Solicitor's Opinion M-37025.

Senate Report Statement "Railroad Rights-of-Way." The Committee notes with concern the broad ramifications of the Bureau's treatment of acceptable uses of railroad rights of way as re-interpreted in the Department's Solicitor's Opinion M-37025, issued on November 4, 2011. The Committee believes the Department should amend its policies to ensure any use of a right-of-

way granted pursuant to the General Railroad Right-of-Way Act of 1875 by the railroad holding title to the right of way, or authorized by such railroad, is within the scope of the railroad's authority to use, or authorize others to use, the right of way received pursuant to the act, if authorization of the use would have been considered under Department policy to be within the scope of a railroad's authority as of the day before the effective date of the Opinion M-37025. In the interim, the Bureau should refrain from engaging in unnecessary and costly new permitting activities for existing uses.

Senate Bill Language SEC. 118. (a) Any proposed new use of the Arizona & California Railroad Company's Right of Way for conveyance of water shall not proceed unless the Secretary of the Interior certifies that the proposed new use is within the scope of the Right of Way.

(b) No funds appropriated or otherwise made available to the Department of the Interior may be used, in relation to any proposal to export groundwater for municipal use, for approval of any right-of-way or similar authorization on the Mojave National Preserve or lands managed by the Needles Field Office of the Bureau of Land Management, or for carrying out any activities associated with such right-of-way or similar approval.

Reference S.3068, Page 64, and Senate Report 114-281, Pages 13-14.

Effect of Senate Action In light of the November 2011 Solicitor's Opinion M-37025, the BLM issued Instruction Memorandum 2014-122 in August 2014, which provides specific guidance on the evaluation of existing and proposed uses within rights-of-way granted under the General Railroad Right-of-Way Act of March 3, 1875. While the Department acknowledges the Senate report language expressing the Committee's concern with the November 2011 Solicitor's Opinion M-37025, the BLM would use that Opinion and Instruction Memorandum 2014-122 as the basis for the certification required by Section 118(a).

Consistent with the Solicitor's Opinion M-37025 and BLM's Instruction Memorandum 2014-122, the BLM evaluated Cadiz, Inc.'s proposed use of the Arizona & California Railroad's (ARZC) right-of-way (ROW). On October 2, 2015, the BLM California State Office made an administrative determination that the Cadiz Project as contemplated was beyond the scope of ARZC's ROW grant because it does not derive from or further a railroad purpose. The determination was sent to Cadiz, Inc. on October 5, 2015.

The administrative determination indicates that Cadiz, Inc. would require a separate authorization (e.g., a FLPMA ROW) from BLM in order for the project to proceed. However, section (b) of the proposed bill language would prohibit BLM from approving or issuing such an authorization or ROW.

Preferred Action The Department strongly opposes any language that overrides the Department's Solicitor's Opinion M-37025.

From: Willens, Todd
To: "Melissa Simpson"
Subject: RE: Interior meetings request
Date: Monday, April 03, 2017 10:54:57 AM

I haven't heard from anyone on this.

Todd D. Willens

From: Melissa Simpson [mailto:melissa_simpson@ios.doi.gov]
Sent: Monday, March 27, 2017 7:56 AM
To: Willens, Todd
Subject: Re: Interior meetings request

You should hear from Linda or Yolando in Kathy's office today.

Melissa

Melissa Simpson

Intergovernmental and External Affairs

Department of the Interior

1849 C Street, NW Room 6211

Washington, DC 20240

(202) 706 4983 cell

melissa_simpson@ios.doi.gov

Sent from my iPhone

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> Melissa
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To: 'Melissa Simpson'
Subject: RE: Interior meetings request

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>
> We appreciate the Secretary and the Department's consideration of this request.
>
> *Todd D. Willens*
>
> ---
>
> **From:** Hayley Snow Klein [mailto:hklein@artesiachamber.com]
>
> **Sent:** Monday, March 13, 2017 3:07 AM
> **To:** Willens, Todd
> **Subject:** Interior meetings request

Good morning, Todd,
As you know, Artesia and Roswell are planning our annual Washington Fly-in. Usually, we meet with FWS and BLM in separate meetings, but have had some difficulties in the last two years with BLM. This year, I am asking for assistance in setting up meetings that would be appropriate for the following issues, which are primarily focused on BLM and FWS, but may include others:

- APD processing and permitting for oil & gas production – the new computerized system was not ready for roll-out, which is causing confusion and delays; moreoever, we would like to discuss the unpredictable timelines for APDs which cause delays in production and tie up significant funding.
- State BLM sale – we would like to see the BLM return to quarterly sales in New Mexico.
- The Resource Management Plan, which is delayed
- Venting & Flaring rule – the rule is not ready for

implementation; we hope for reconsideration of the rule altogether
The anticipated decision on the Texas Horned Shell Mussel and the associated CCAs
Other ESA listings that may be in the works

We will be in Washington May 1-3. We respectfully request a meeting or meetings at Interior on Monday, May 1. I have attached a list of our attendees. Please let me know if you have questions or need additional information.

Thank you for your assistance and direction,
Hayley

Hayley Klein
Executive Director
Artesia Chamber of Commerce
107 North First Street
Artesia, NM 88210
O: 575.746.2744
www.artesiachamber.com

<Artesia-Roswell Fly-in 2017 Attendees.pdf>

From: Small, Jeff
To: micah_chambers@ios.doi.gov; amanda_kaster@ios.doi.gov; katharine_macgregor@ios.doi.gov; kathleen_benedetto@ios.doi.gov
Subject: FW: Western Caucus Members Applaud Zinke Proposal to Repeal Job-Killing ONRR Rule
Date: Monday, April 03, 2017 6:50:42 PM
Attachments: image001.png
image002.png
image003.png

FYI.

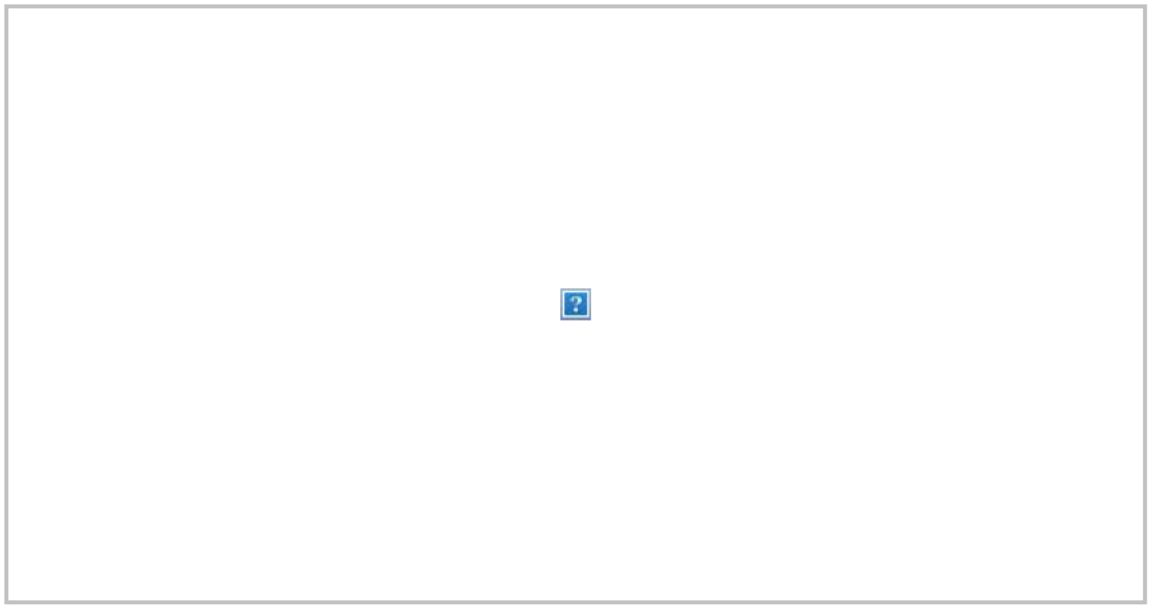
Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail house.gov

From: Representative Paul Gosar
Sent: Monday, April 03, 2017 5:05 PM
To: Small, Jeff
Subject: Western Caucus Members Applaud Zinke Proposal to Repeal Job-Killing ONRR Rule

For Immediate Release
Contact: Kelly Roberson

Date: April 3, 2017
Kelly.Roberson@mail.house.gov

Western Caucus Members Applaud Zinke Proposal to Repeal Job-Killing ONRR Rule



WASHINGTON, D.C. – Today, Congressional Western Caucus **Chairman Paul A. Gosar D.D.S. (AZ-04), Executive Vice Chairman Rep. Scott Tipton (CO-03), Chairman Emeritus Rep. Rob Bishop (UT-01), Chief Forestry Officer Rep. Bruce Westerman (AR-04), Chairman Emeritus Rep. Steve Pearce (NM-02)** and Western Caucus member **Rep. Steve Scalise (LA-01)** released the following statements following the announcement from the Department of the Interior of a proposal to repeal the Obama Administration's Consolidated Federal Oil & Gas and Indian Coal Valuation Reform Rule in its entirety:

Chairman Gosar remarked, "I am thrilled to hear that Secretary Zinke is taking action to roll back another duplicative and costly regulation from the Obama Administration. ONRR's valuation rule would disproportionately impact small producers by burying them with compliance costs, ultimately driving up energy prices for everyday consumers. By taking steps to repeal this unconstitutional tax on job creators, the Trump Administration continues to follow through on the promise to get America back on the path toward energy independence and job creation."

"The ONRR's mineral valuation rule added more red-tape, complexity and confusion to an already overly-complicated mineral valuation process, creating a disincentive for responsible development of our natural resources on federal land and ultimately hurting hardworking Americans and their families the most. I am glad to see that Secretary Zinke joins us in recognizing the harmful impact this rule would have on energy producers and consumers alike and has started the process for withdrawing the regulation through the rulemaking process," **Congressman Tipton** stated.

"The Trump administration should be commended for beginning the process of reversing the impossible regulatory requirements imposed on energy development by this rule. Endless layers of regulation don't yield greater returns for taxpayers, they paralyze economic activity. In this case, the rule hit marginal producers – the small businesses that support local economies – the hardest," **Congressman Bishop** said**.**

"The ONRR Coal, Oil, and gas valuation reform rule does nothing to help consumers. Instead, it would result in high costs for energy used to heat homes, fuel cars, and more. The Interior Department is right to repeal this overreach by the Obama administration. It is my hope that the Interior Department continues to unwind unnecessary and burdensome regulations handed down by an administration bent on protecting a political legacy instead of standing with the American people," said **Congressman Westerman.**

"These rules are a direct attack on energy production taking place on federal lands and I applaud the Administration's decision to review them. The valuation rule must be substantially changed or repealed to ensure taxpayers in New Mexico and across the nation are getting a fair return. The proposed rules will reduce federal, state, and tribal royalty revenue and will take away good-paying jobs by making it more difficult to develop domestic energy resources," said **Congressman Pearce**. "I am pleased to see the Department of the Interior take action to allow for the affordable and reliable production of energy, bringing American taxpayers more jobs and lower costs."

Congressman Scalise remarked, "Let's be clear—the ONRR mineral valuation rule was nothing but a shadow tax on American energy. In my home state of Louisiana, it meant reduced state revenue sharing dollars, hindering our ability to make major investments to restore our coast and protect Louisiana families and businesses from devastating storms. I applaud Secretary Zinke's action to begin withdrawing this damaging rule, and look forward to working with the Department of Interior to promote safe and responsible energy production throughout the U.S."

Background

***(Courtesy of Western Caucus members Tipton and Scalise as well as westerncaucus.house.gov)*:**

Today, April 3, 2016, the Department of the Interior announced a proposal to repeal the Obama Administration's Consolidated Federal Oil & Gas and Indian Coal Valuation Reform Rule in its entirety

On July 1, 2016 the Office of Natural Resource Revenue (ONRR) published its Final Rule for the valuation of federal onshore and offshore oil & gas production, as well as for coal production on federal and Indian lands for the purposes of calculating federal royalties. The agency premised the rule on a need for greater clarity and simplicity in the calculation of royalties owed on produced natural resources. However, the Rule achieves the opposite – injecting uncertainty and arbitrary bureaucracy into complex accounting determinations. In turn, the rule would bankrupt small, independent energy producers, and discourage production on federal lands across the West and offshore in the Gulf of Mexico and Alaska, meaning less revenue for the U.S. Treasury and our nation's rural communities.

On February 13, 2017, Reps. Scott Tipton and Steve Scalise introduced H.J. Res. 71, a resolution of disapproval under the Congressional Review Act that would rescind the onerous rulemaking and prohibit substantially similar rules from being considered. Further information on the bill can be found HERE.

Reps. Pearce and Lamborn have led multiple appropriations requests to prohibit funding for carrying out this rule.

In 2016, the federal revenue generated from onshore and offshore energy production brought over $5.4 billion to the federal treasury. Despite the regulatory onslaught from the Obama Administration, the energy industry managed to provide well-paying jobs to thousands of Americans and contribute billions of dollars to both the federal treasury and local communities in which the production takes place.

When the ONRR's 247-page Royalty Valuation Rule was finalized on June 30, 2016, the Department of the Interior insisted it was trying to improve and update its regulatory framework. However, rather than simplifying the valuation process, the ONRR rule would impose burdensome, costly, and unnecessary reporting requirements on small oil and gas producers,

arbitrarily requiring the collection of unneeded information. In many cases, the rule changes the reporting requirements without changing the method by which natural resources are valued, i.e., the valuation process, which is a perfect example of the government raising the costs of doing business with no tangible benefit to show for it.

Especially in a time of low commodity prices, unnecessary and costly government regulations like this with no actual benefit do nothing but raise energy prices, jeopardize America's source of domestically-produced energy, and cost good-paying, quality jobs. Further, the subjective nature of the rule's language creates more uncertainty, not less, thus increasing the chance that businesses and government bureaucrats will interpret the requirements of the rule differently.

This regulation also hits the coal industry very hard in a number of ways. Under prior rules, in non-arm's length situations coal royalties were based upon public indicators of the value of the coal, such as published coal prices from arm's length transactions. The United States thus received royalties on the fair market value of the coal. The new rule eliminates any ability to pay royalties based upon arm's length sales prices for coal, and requires the value of the coal be calculated by starting with the sale price of the electricity.

Promulgated under the guise of updating the mineral valuation method to ensure a fair return to the taxpayer for the resources extracted on both federal and tribal lands, as well as offshore sites, the final version of this rule makes one thing clear: the Obama Administration wanted to make it virtually impossible to develop the resources in its vast holdings. If allowed to remain, this rule will lead to further job loss, economic hardship for the hardworking families in our districts, and the loss of an important revenue source for the federal treasury and our local communities.

###

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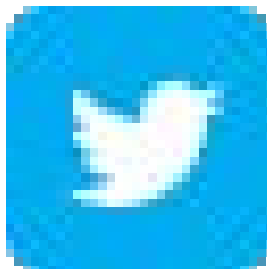

You
Tube

From: Willens, Todd
To: "kate_macgregor@ios.doi.gov"
Subject: FW: Interior meetings request
Date: Tuesday, April 04, 2017 5:35:07 PM

Kate, can you help me with this. Below is my chain with Melissa, but it bounced back. I assume she has moved on. Can you redirect me to help our folks?

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Sent: Monday, April 03, 2017 10:55 AM
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Department of the Interior

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Sent: Monday, March 13, 2017 3:07 AM
To: Willens, Todd
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Hayley Klein
Executive Director
Artesia Chamber of Commerce

107 North First Street
Artesia, NM 88210
O: 575.746.2744
www.artesiachamber.com

<Artesia-Roswell Fly-in 2017 Attendees.pdf>

From: Willens, Todd
To: Macgregor, Katharine
Subject: Re: Interior meetings request
Date: Tuesday, April 04, 2017 7:45:43 PM

Senior leadership.

Todd Willens
Chief of Staff
United States Congressman Steve Pearce
New Mexico's Second Congressional District

On Apr 4, 2017, at 7:18 PM, Macgregor, Katharine <katharine_macgregor@ios.doi.gov> wrote:

> Hey is the Congressman's request that the Secretary meet with these folks or senior leadership?
>
> ---------- Forwarded message ----------
> From: **Willens, Todd** <Todd.Willens@mail.house.gov>
> Date: Tue, Apr 4, 2017 at 5:34 PM
> Subject: FW: Interior meetings request
> To: "kate_macgregor@ios.doi.gov" <kate_macgregor@ios.doi.gov>
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Snow Klein
[mailto:hklein@artesiachamber.com]
Sent: Monday, March 13, 2017 3:07 AM
To: Willens, Todd
Subject: Interior meetings request

Good morning, Todd,

As you know, Artesia and Roswell are planning our annual Washington Fly-in. Usually, we meet with FWS and BLM in separate meetings, but have had some difficulties in the last two years with BLM. This year, I am asking for assistance in setting up meetings that would be appropriate for the following issues, which are primarily focused on BLM and FWS, but may include others:

APD processing and permitting for oil & gas production – the new computerized system was not ready for roll-out, which is causing confusion and delays; moreoever, we would like to discuss the unpredictable timelines for APDs which cause delays in production and tie up significant funding.

State BLM sale – we would like to see the

BLM return to quarterly sales in New Mexico.

The Resource Management Plan, which is delayed

Venting & Flaring rule – the rule is not ready for implementation; we hope for reconsideration of the rule altogether

The anticipated decision on the Texas Horned Shell Mussel and the associated CCAs

Other ESA listings that may be

in the works

We will be in Washington May 1-3. We respectfully request a meeting or meetings at Interior on Monday, May 1. I have attached a list of our attendees. Please let me know if you have questions or need additional information.

Thank you for your assistance and direction,

Hayley

Hayley Klein

Executive Director

Artesia Chamber of Commerce

107 North First Street

Artesia, NM

88210

O:
575.746.2744

www.artesiachamber.com

<Artesia-Roswell Fly-in 2017 Attendees.pdf>

--
Kate MacGregor
1849 C ST NW
Room 6625
Washington DC 20240

202-208-3671 (Direct)

From: Christianson, Andrew
To: Chambers, Micah
Subject: RE: Secretary Zinke Takes Immediate Action to Advance American Energy Independence: TEST
Date: Wednesday, April 05, 2017 11:17:07 AM

Hey Micah,
I took over as chief last week so I've just been trying to keep my head above water. Though it probably doesn't hold a candle to what you guys are doing getting Secretary Zinke set up!

Wanted to say thanks again for the invitation to have Kristi attend the signing ceremony last week. Was a great event.

Andrew Christianson
Chief of Staff
Congresswoman Kristi Noem (SD-AL)
2457 Rayburn House Office Building
Washington, DC 20515
202-225-2801
Connect with Congresswoman Noem

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Wednesday, March 29, 2017 1:50 PM
To: MacGregor, Robert; Christensen, Keeley; Thomas, James; Small, Jeff; Roberson, Kelly; Marino Thacker, Meghan (Daines); jason_thielman@daines.senate.gov; Sherer, Dustin; Green, Josh; Hayes, Colin (Energy); Hughes, Brian (Energy); Daimler-Nothdurft, Kristen (Murkowski); shawn_affolter@hoeven.senate.gov; Newman, Jennifer (Hoeven); Jorde, Adam; Marohl, Chris; Gruman, Mark; Christianson, Andrew; Fisher, Andrew; Ahern, Kara; Ward, Jimmy
Cc: Amanda Kaster; Swift, Heather
Subject: Fwd: Secretary Zinke Takes Immediate Action to Advance American Energy Independence: TEST

All. Please see the press release from DOI.

---------- Forwarded message ----------
From: **Swift, Heather** <heather_swift@ios.doi.gov>
Date: Wed, Mar 29, 2017 at 1:39 PM
Subject: Fwd: Secretary Zinke Takes Immediate Action to Advance American Energy Independence: TEST
To: Micah Chambers <micah_chambers@ios.doi.gov>, Amanda Kaster <amanda_kaster@ios.doi.gov>, Timothy Williams <timothy_williams@ios.doi.gov>

news release

Date: March 29, 2017
Contact: Interior_Press@ios.doi.gov

Secretary Zinke Takes Immediate Action to Advance American Energy Independence

WASHINGTON – Today, U.S. Secretary of the Interior Ryan Zinke signed two secretarial orders to advance American energy independence. The Secretary's orders foster responsible development of coal, oil, gas, and renewable energy on federal and Tribal lands and initiate review of agency actions directed by President Trump's executive order entitled "Promoting Energy Independence and Economic Growth." Secretary Zinke also signed a charter establishing a Royalty Policy Committee to ensure the public receives the full value of natural resources produced from federal lands. In signing the historic actions on energy independence, Secretary Zinke was joined by Members of Congress from western states and other stakeholders.

"Today I took action to sign a series of directives that put America on track to achieve the President's vision for energy independence and bringing jobs back to communities across the country" said Secretary Zinke. "American energy powers our national and local economies. But for too many local communities, energy on public lands has been more of a missed opportunity and has failed to include local consultation and partnership. Today's orders allow for Americans to benefit from safe and environmentally responsible development on federal lands and put America on track for energy independence."

Secretarial Order 3348 overturns the 2016 moratorium on all new coal leases on federal land and ends the programmatic environmental impacts statement that was set to be completed no sooner than 2019. Based upon the Department's review of Secretarial Order 3338, the order notes that, "the public interest is not served by halting the federal coal program for an extended time, nor is a PEIS required to consider potential improvements to the program." The order notes that the federal coal leasing program supplies approximately 40 percent of the coal produced in the United States that is of critical importance to the U.S. economy.

Secretarial Order 3349 implements review of agency actions directed by the President's Executive Order signed yesterday on energy independence. It also directs a reexamination of the mitigation and climate change policies and guidance across the Department of the Interior in order to better balance conservation strategies and policies with the equally legitimate need of creating jobs for hardworking American families. In particular, the order sets a timetable for review of agency actions that may hamper responsible energy development and reconsideration of regulations related to U.S. oil and natural gas development.

In an effort to ensure the public continues to receive the full value of natural resources produced on federal lands, Secretary Zinke also signed a charter establishing a Royalty Policy Committee to provide regular advice to the Secretary on the fair market value of and collection of revenues from Federal and Indian mineral and energy leases, include renewable energy sources. The Committee may also advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. The group will be made up of up to 28 local, Tribal, state, and other stakeholders and will serve as an advisory role only.

Secretary Zinke added that, "It's important that taxpayers get the full value of traditional and renewable energy produced on public lands and that we ensure companies conduct environmental reviews under NEPA and have reclamation plans."

Secretary Zinke issued the following statement regarding the President's executive order on energy independence:

"American energy production benefits the economy, the environment, and national security. First, it’s better for the environment that the U.S. produces energy. Thanks to advancements in drilling and mining technology, we can responsibly develop our energy resources and return the land to equal or better quality than it was before. I’ve spent a lot of time in the Middle East, and I can tell you with 100 percent certainty it is better to develop our energy here under reasonable regulations and export it to our allies, rather than have it produced overseas under little or no regulations. Second, energy production is an absolute boon to the economy, supporting more than 6.4 million jobs and supplying affordable power for manufacturing, home heating, and transportation needs. In many communities coal jobs are the only jobs. Former Chairman Old Coyote of the Crow Tribe in my home state of Montana said it best, 'there are no jobs like coal jobs.' I hope to return those jobs to the Crow people. And lastly, achieving American energy independence will strengthen our national security by reducing our reliance on foreign oil and allowing us to assist our allies with their energy needs. As a military commander, I saw how the power of the American economy and American energy defeated our adversaries around the world. We can do it again to keep Americans safe."

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Orth, Patrick (Portman)
To: Chambers, Micah
Subject: proposals
Date: Wednesday, April 05, 2017 1:55:26 PM
Attachments: Methane proposals.docx

Micah – see attached for 3 different proposals.

Patrick Orth
Legislative Assistant
Office of Senator Rob Portman
Phone: 202-224-3353
Email: Patrick_orth@portman.senate.gov

1) ***Program to Phase-out High-bleed Pneumatic Controllers – Implementation Principles***

General

- 5-year replacement goal for all onshore continuous high bleed pneumatic controllers
- Create a new and separate Gas STAR Pneumatics Program (separate from the proposed Gas Star Gold program and the old Gas STAR program)
- Work together with interested parties to develop the program specifics

Program Specifics

- Replace all onshore continuous-high-bleed controllers with one of the following:
  - Continuous-low-bleed controllers
  - Intermittent-vent controllers
  - Electrically operated controllers and valve actuators or mechanical controllers
  - Convert to instrument air to replace natural gas as the motive gas, or
  - Remove from service where feasible with no replacement
- Support annual reporting and alignment with timing of GHG reporting March 31st reporting deadline for the previous calendar year. Reports would include the following regarding a company s on shore continuous-high-bleed controllers:
  - Number replaced
  - Number swapped to instrument air
  - Number eliminated
  - Number remaining
- Targets to meet 100 replacement goal within 5 years
- Only affects controllers located at upstream onshore production and gathering facilities as well as natural gas processing plants
- EPA may make program details and submitted company-specific data publically available
- Maintain Subpart OOOO exemption based on functional needs, including but not limited to maintain time, safety, and positive actuation

2) ***Leak Program for Oil and Gas Production Sources – Implementation Principles***

General

- Targeted toward higher emissions sources
- Applies to new and existing onshore sites upstream of gas processing plant (as defined in OOOO)
- Applies to onshore production sites with online storage vessel or compressor
- Incorporates five-year phase in schedule to implement initial monitoring for participating existing sites based on individual company plan

- Instrument based monitoring programs within existing state regulatory and permit requirements or participation in voluntary program should satisfy future regulatory requirements (i.e., NSPS OOOO)
- Allow flexibility in leak detection methods and technologies (e.g., Method 21, IR camera, or other equivalent) to satisfy the voluntary program requirements
- Committed to reasonable, cost-effective reporting that tracks progress

Program Specifics

Target	Broad facility survey
Target Components	Significant emission sources such as malfunctioning fugitive emission components, pneumatic controllers not functioning as designed, and controlled hydrocarbon storage vessels
Method	IR camera or equivalent
Initial Surve	
Existing Site	Phased in, initiated within no later than 18 months and concluded over no more than a 5 year period
New Site	Within 180 days of start of production following installation of new hydrocarbon storage vessel or compressor
Subse uent Surve s	Annual after initial survey
Repair Period	• 1st attempt within 15 days • Repair within 60 days (pending part availability) • Delay of repair (at next shut down or pending part availability)
Reporting	
Frequency	Annual
Contents	• Number of new sites monitored • Number of existing sites monitored • Number of leaks repaired (excluding those repaired during survey) • Number of leaks not repaired and reason for delay
Tagging/Other identification	Only of leaking components not repaired during survey

3) Continue reporting of liquids unloading venting and work with companies to help reduce their liquids unloading venting.

    o The Waste Prevention, Production Subject to Royalties, and Resource Conservation rule requires that liquids unloading venting be reported that lasts more than 24 hours in a production month or greater than 75 MCF during a

production month. BLM could continue such reporting to determine wells with high liquids unloading venting.

- BLM should work with companies with high liquids unloading venting to identify options to reduce venting.

From: Christianson, Andrew
To: Chambers, Micah
Subject: Automatic reply: Secretary Zinke Takes Immediate Action to Advance American Energy Independence: TEST
Date: Friday, April 07, 2017 3:19:11 PM

I am out of the office with limited access to email. If you need immediate assistance, please call 202-225-2801. Thank you.

Andrew Christianson
Chief of Staff
Congresswoman Kristi Noem (SD-AL)
2457 Rayburn House Office Building
Washington, DC 20515
202-225-2801
Connect with Congresswoman Noem

From: Small, Jeff
To: katharine_macgregor@ios.doi.gov
Subject: RE: Bishop Statement on Zinke Appointment of Kate MacGregor to Interior Post
Date: Friday, April 07, 2017 3:26:38 PM
Attachments: image001.png
image003.png
image004.png

Congrats and much deserved!

From: Natural Resources Press Office
Sent: Thursday, April 06, 2017 7:43 PM
To: Natural Resources Press Office
Subject: Bishop Statement on Zinke Appointment of Kate MacGregor to Interior Post

HOUSE COMMITTEE ON NATURAL RESOURCES
NATURALRESOURCES.HOUSE.GOV | CHAIRMAN ROB BISHOP

Bishop Statement on Zinke Appointment of Kate MacGregor to Interior Post

FOR IMMEDIATE RELEASE: April 6, 2017
CONTACT: Parish Braden or Molly Block (202) 226-9019

Washington, D.C. – Today, U.S. Secretary of the Interior Ryan Zinke announced the appointment of Katharine MacGregor, former senior professional staff on the Subcommittee on Energy and Mineral Resources, as Deputy Assistant Secretary for Land and Minerals Management at the Department of the Interior. Chairman Rob Bishop (R-UT) issued the following statement:

"*Secretary Zinke made a fantastic decision with this appointment. Kate has been a force on these issues and an invaluable resource to our Committee and Capitol Hill for many years. She brings a wealth of knowledge and energy to this important leadership post and will be a tremendous asset to the Department at a critical time. I wish her the very best and congratulate her on this appointment.*"

During her time with the Natural Resources Committee, MacGregor's portfolio included offshore leasing as well as oil and gas issues. In her new role at the Department, she will advise the Secretary and Assistant Secretary on energy development and public land use.

###

HOUSE COMMITTEE ON

NATURAL RESOURCES

NATURALRESOURCES.HOUSE.GOV | CHAIRMAN ROB BISHOP

From:	Loraine, Jennifer (Gardner)
To:	Kaster, Amanda
Cc:	Bair, Betsy (Gardner); emoyer@co.grand.co.us
Subject:	Comments from Grand County, CO, on BLM Oil and Gas Lease Sales
Date:	Friday, April 07, 2017 4:46:12 PM
Attachments:	Grand County Protest 28 March 2017.pdf

Amanda,

Please see the attached letter from Grand County, Colorado, on the pending May 17, 2017 Oil and Gas Lease Sale in the BLM's White River Field Office. Senator Gardner wanted to make sure BLM headquarters received these comments.

I have included Grand County's Assistant County Manager, Ed Moyer, on this email. Please let me know if you have any questions.

Best,
Jennifer

Jennifer A. Loraine
Senior Energy Advisor and Counsel
Senator Cory Gardner
Russell Senate Office Building 354
202-224-5941

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E-Mail: grndcty1@co.grand.co.us
PHONE: 970/725-3100
Fax: 970/725-0565
LEE A. STAAB
County Manager
ALAN N. HASSLER
County Attorney

Tuesday, March 28, 2017

Bureau of Land Management
Colorado State Office
Attn: June 8, 2017 (aka May 11, 2017) Competitive Oil and Gas Lease Sale
2850 Youngfield St.
Lakewood, CO 80215

and

Delivered via electronic mail to:

blm_co_may_2017_lease_sale@blm.gov
Ruth Welch, BLM CO State Director (rwelch@blm.gov)
Greg Shoop, BLM CO Associate State Director (gshoop@blm.gov)
Lonny Bagley, BLM CO Deputy State Director, Energy Lands and Minerals (lbagley@blm.gov)
Courtney Whiteman, BLM CO Public Affairs Specialist (cwhiteman@blm.gov)
Andrew Archuleta, BLM CO Northwest District Manager (aarchule@blm.gov)

RE: GRAND COUNTY, CO PROTEST under regulation 43 CFR 3120.1-3 for the June 8, 2017 (aka May 11, 2017) Oil and Gas Lease Sale and Environmental Assessment for the May 11, 2017 Competitive Oil & Gas Lease Sale DOI-BLM-CO-NO5-2016-0099-EA

Dear BLM Colorado State Field Office:

The Grand County Board of County Commissioners are respectfully filing a protest to the June 8, 2017 Competitive Oil and Gas Lease Sale and Environmental Assessment DOI-BLM-2016-CO-NO5-2016-0099-EA, specifically, the inclusion of all the Grand County parcels that are up for sale. The parcels being protested are referenced in TABLE 1 (top of page 2) by Serial Number and acreage as is required by BLM rules for submitting a protest.

TABLE 1
Grand County Parcels
June 8, 2017 Competitive Oil & Gas Lease Sale

BLM PARCEL SERIAL #	ACREAGE
COC-78284	1,362.710
COC-78285	2,537.860
COC-78286	1,873.800
COC-78287	360.000
COC-78288	1,626.660
COC-78289	2,212.610
COC-78290	2,390.410
COC-78291	1,258.200
COC-78292	1,239.130
COC-78293	1,512.150
COC-78294	232.870
COC-78295	2,025,760
COC-78296	1,580.230
COC-78300	1,647.040
COC-78301	1,186.200
COC-78302	1,523.490
COD-78303	1,678.480
COD-78304	1,101.920
COD-78314	110.34
COD-78315	40.00
TOTAL ACRES	**27,499.860**

Furthermore, the County is protesting the fact that the Environmental Assessment that was completed for this proposed oil and gas lease sale failed to present a range of alternatives. It considered leasing as the only action, with no other scenarios. This narrow scope is an "all or nothing" approach, which is clear violation of the National Environment Protection Act (NEPA).

Grand County has a vested interest in the health, safety and welfare of its citizens and in the protection and appropriate utilization of lands and natural resources within our jurisdiction. In support of our protest Grand County is providing the following comments:

Grand County and its Board of Commissioners are opposed to the proposed lease sale of 27,500 acres in Grand County for future oil and gas development. These parcels and the County itself are geologically characterized as currently having low or no potential for oil and gas development. There is no oil and gas activity in Grand County today, and over the past years there have been more than 50 oil or gas wells drilled and each has been abandoned because of no production. These previously drilled wells are located in predominantly the same or similar areas as the proposed oil and gas lease sale. We recognize the importance of this resource to our state and national economy, however, the presence and number of these dry and abandoned wells should be proof that Grand County does not have viable oil and gas resource.

The only rationale provided for inclusion of the Grand County parcels in the proposed lease sale is to clear a group of deferred parcels that were set aside almost 10 years ago when BLM commenced the revision to the Kremmling Field Office Resource Management Plan. These parcels are not being nominated as a result of new Expressions of Interest from the oil and gas industry or individuals. Nor are these parcels located over the McCallum Oil Field. Drilling for oil and gas in Grand County will come only with significant effort, investment and costs and harm to our environment and economy, while there is not economic or resource justification for such activity.

The appropriateness of the Grand County parcels in this lease sale as a viable and developable resource is questionable. Furthermore, the potential environmental and socioeconomic impacts of the effects of drilling will severely hinder achieving the vision for our community as outlined in the Grand County Master Plan. Grand County's success and sustainability is linked directly to tourism/recreation related opportunities and business that are complimentary to outdoor recreation and tourism which requires protecting natural resources as they exist today, without oil and gas development.

The nominated parcels that are being considered with the lease sale are located in Central and Western Grand County, which is primarily rural, agricultural, undeveloped forest or public land with high wildlife habitat, scenic and recreation based values. Key natural areas include: Arapaho National Forest, the Colorado River, Willow Creek, Willow Creek Reservoir, Elk Mountain, Grouse Mountain, Byers Canyon and many stream tributaries to the Colorado River. The tributaries are Trail Creek, Willow Creek, Drowsy Water Creek, McQueary Creek, Sheriff Creek, Ute Bill Creek, First Creek, Second Creek and several other un-named water courses. US 40, SH 125 and US 34 also run through or are adjacent to this area and each are scenic corridors in their own right. US 40 is a designated Colorado Scenic Byway. Rocky Mountain National

Park exists in close proximity, and is the third most visited park in the United States. To reach the Park, tourists would be travelling through these potential lease areas. The sight of oil wells and the attendant facilities needed for their support would severely lessen the attraction of visiting this priceless resource. There is an abundance of recreation in this area that serves resort ranches, outfitters, hunting and fishing, hiking and trail running, mountain biking, cross country skiing, snowshoeing and snowmobiling. The area is also an important habitat for elk, deer, eagles, falcons, Greater Sage Grouse and native species of cutthroat trout. Lastly, on the southern edges of the proposed oil and gas lease sale, are the towns and communities of Granby, Hot Sulphur Springs, and Parshall that rely on this area for its scenic, resource, recreation and economic attractions for their residents and visitors.

The County feels that the impending development of Oil and Gas would have drastic negative consequences on our local environment, infrastructure and economy, as are more particularly described below:

RECREATION/TOURISM ECONOMY

Grand County enjoys strong tourism because of its proximity to Rocky Mountain National Park, Arapaho National Recreation Area, Arapaho National Forest and Indian Peaks Wilderness Area. It is the County's goal to continue to improve and develop our tourism based economy, and protecting our natural resources is vital to this goal. Critical to this will be the protection of view corridors, wildlife habitat, night sky, and natural spaces so they remain attractive for tourism and outdoor recreation purposes.

Recreation based tourism accounts for over 4,200 jobs in the county. As our county has only approximately 15,000 full-time residents, this is considerable and in fact tourism is the primary driver of our economy. For example, hunting, fishing and wildlife watching activities in Grand County alone accounts for approximately $50 million in direct and secondary spending. Our tourism-based economy with its links to natural resource protection is also helping the County conserve our ranching heritage through working resort dude ranches, like C Lazy U and Drowsy Water. The following will provide an idea of the values these businesses contribute to Grand County:

C Lazy U Ranch.

1. *The C Lazy U is an historic resource having started in 1919 making it nearly 100 years old. The C Lazy U barn was built in 1925 and the lodge was constructed in 1947 with logs felled from the Baldy hillside behind the lodge. The unique design of the lodge (suspension of second floor to avoid log posts on the ground floor to accommodate square dancing) was overseen by the Schoenbergers and set the tone for the rustic mountain elegance that would define the ranch for years to come.*

2. *The ranch is an important part of our County and State history and culture. Guest or "dude" ranches are disappearing across the American West.*

3. *C Lazy U is one of the best examples of a large landholding that is preserving Grand County's ranching heritage and equestrian traditions. The wranglers at the C Lazy U practice natural horsemanship and in the tradition of the "buckaroo". Wranglers work on horseback, not on four-wheelers, just as they did a century ago.*

4. *The ranch provides valuable tourism and recreational attributes. C Lazy U and its local fishery, Willow Creek, is an Orvis endorsed lodge.*

5. *The ranch preserves view sheds from Highway 125 across the Willow Creek Valley, which are very important scenic and visual assets to the County. The view across the ranch is enjoyed by thousands of public travelers.*

6. *The ranch employs approximately 50 year-round staff and 150 seasonal staff to accommodate the 4,000 guests each year.*

7. *The ranch hosts community events and charitable fundraisers to help the local community.*

8. *The four adjacent ranch communities (Homesteads, Dexter Meadows/Dexter Ridge, Aspen Springs and Chimney Rock Cabins) provide residential uses and continuity to the C Lazy U community. These residences are a valuable source of property tax dollars for the County and oil and gas development would almost certainly conflict with the surface uses of these residences. The ranch's riding program for children is world-renown and exposes youngsters to a wholesome outdoor experience. Real safety concerns arise from introducing oil and gas traffic and development as a conflicting surface use.*

9. *The payroll, revenues from ranch operations and related tourism and recreational dollars are essential to the local economy of Grand County.*

Drowsy Water

1. *A large portion of Drowsy Water operates utilizing a Special Recreation Permit on the adjoining public BLM lands.*

2. *Drowsy Water has been owned and operated by the Fosha Family for 40 years, and it has been a guest ranch in the County since the 1930's.*

3. *The ranch averages 2,300 user days each summer and activities are designed to provide folks with a heritage outdoor experience free of motorized vehicles in the Colorado High County.*

4. *Drowsy Water employs 30 people to accommodate approximately 700 summer guests.*

5. *The ranch provides an authentic western vacation focusing around horseback riding, moving cattle, kids' programs, hiking and enjoying the ranch private lands and surrounding federal lands.*

6. *The ranch provides valuable conservation, tourism and recreational attributes.*

Oil and gas development presents many challenges to Grand County: (1) financial impacts, such as roads, fire, Emergency Medical Services and police; (2) increased wildfire hazards because of development being located in pine beetle effected areas of the county; (3) reduced economic value to our public lands for their scenic and recreational values and reduced county and municipal revenues (sales, lodging and property tax); and (4) added negative threats to our water supply in the form of pollution from oil spills to byproducts of the drilling business such as increased erosion from the land and trees that must be cleared.

Grand County's legacy and its success will be based in its natural, cultural and historic heritage by and through a tourist/recreation-based economy; not the oil and gas industry. Oil and gas development will not complement or enhance the County's desired rural character and natural setting that sustains quality of life for our residents, visitors and businesses.

GEOLOGY

The landform in the proposed leased area consists of narrow, steep valleys that follow the tributary headwaters to the Colorado River. The region is characterized by significant faulting, which may prohibit effective containment of hydraulic fracturing fluids beneath aquitards or what would otherwise be confining geologic layers. The area proposed for leasing also contains an abundance of geological formations that contain expansive soils, are mapped by the U.S. Geological Survey as landslide, or that are prone to landslides, such as the Troublesome Formation (see FIGURE 1). In Grand County's experience with a landfill located to the south of parcel 7821, several water quality monitoring wells have been sheared off due to a buried slide plane that is perpendicular to the land surface. Complex slip planes such as these do not tend to show up on USGS maps, but a simple drive along the Colorado River will demonstrate that they are extremely common in the region. Leasing lands for oil and gas development that contain geologic formations that are known to slide would be irresponsible. Well development in these regions poses a serious threat to water quality due to the threat of pollution from oil or gas drilling fluids moving into aquifers from these faults.

Hot Sulphur Springs is named for its geothermal resource and it serves as the main tourist attraction for the town. The town is also bisected by the Mount Bross Fault. Oil and gas development in the parcels around Hot Sulphur Springs could alter the hydrodynamic regime that support the hot springs. In addition, contamination from fracking fluids or other pollution could enter the hot springs. Either possibility could destroy the hot springs and ruin this resource for future generations.

The BLM must also consider the fact that Grand County, and particularly the proposed oil and gas lease parcels, are not located in one of Colorado's major oil and gas basins. Grand County is not a resource area for oil and gas development. Furthermore, the area is constrained topographically. The areas is accessed by a primitive road system with seasonal access only. These road are narrow, with steep grades and switchbacks. It is made up of many steep valleys that have slopes ranging from 30% to 45% and an abundance of streams and creeks. The costs to overcome the terrain will make oil and gas development even less economically viable for a company or individual.

DEVELOPMENT ACCESS AND INFRASTRUCTURE

The area where the lease parcels are located is served by a road system that consists of narrow roads, steep grades, sharp curves and in many cases, only seasonal access. The area is primarily not accessible by vehicle from December to May each year. The road system as designed is not adequate for the construction vehicles associated with oil and gas development. Road improvements to access this area would definitely require intersection improvements where BLM, County or Forest Service roads connect with US 40. Furthermore, the roads would have to be improved in width, grade, curves and load capacity to adequately serve the type of traffic associated with oil and gas. Due to terrain, the improvements would require significant cuts and fills resulting in significant scarring of the landscape. These improvements would also come at a highly significant cost to the company or individual trying to develop these parcels. Road improvements of this magnitude would result in unacceptable impacts to the mountain landscape due to increased use, construction, traffic, dust, sediment and erosion. Our concern is that much of this sediment and erosion, potentially carrying un-natural substances, will end up in the local streams and rivers.

WILDLIFE AND FISH

The proposed lease sale parcels are located in important wildlife habitat:

- Severe winter range, winter concentration areas and migration corridors for mule deer, elk, moose and pronghorn (see FIGURE 2 and FIGURE 3).

- A significant portion of the leased parcels are located in sagebrush vegetation that is integral priority and general habitat for the Greater Sage Grouse. Grand County, Colorado Parks & Wildlife, BLM and the Middle Park Sage Grouse Working Group have made significant efforts to protect this habitat as set forth in the Middle Park Sage Grouse Conservation Plan and BLM Sage Grouse Final EIS. To lose this habitat may result in an endangered species listing for the Sage Grouse with negative spill over economic impacts to agriculture (i.e., loss of grazing lands) and recreation on this valuable public resource.

- Nesting habitat for raptors (eagles and falcons) along the Colorado River and tributaries along US 40 and SH at the edges of the proposed leased parcels.

- Native cutthroat trout in Kinney Creek
- Core habitat areas --- Parshall Divide, Sulphur Gulch

Oil and gas development will only contribute to further disruption and fragmentation of these important habitat areas and will restrict wildlife movement and migration due to new permanent structures, roads and other oil and gas facilities and activities. This habitat is important to the County's economic, recreational and environmental values.

County plans require that development minimize its impacts to critical wildlife habitat and corridors by directing new growth and development into areas where it can be served by adequate, roads, water, sewer, utilities, schools, parks, trails, housing, emergency services and public safety. We do this primarily to preserve the rural and mountain landscapes of Grand County. The improvements that will be required in support of oil and gas development on the proposed lease sale parcels will only serve to degrade the character of Grand County's landscapes and wildlife habitats.

WATER RESOURCES

The headwater of the Colorado River originate within Grand County and many tributaries to the Colorado River run through the proposed lease parcels. The creeks include; Trail Creek, Willow Creek, Drowsy Water Creek, McQueary Creek, Sheriff Creek, Ute Bill Creek, First Creek, Second Creek and several un-named water courses. Water quality in all of these Creeks and water courses is of concern, as they provide irrigation water to several area ranches that are critical to the ranching and outdoor recreation economy in Grand County. These tributaries are also linked through surface and ground water to the water supplies of the towns of Granby, Hot Sulphur Springs, Hot Sulphur Springs Resort, Grand County Government Offices and C Lazy U and Drowsy Water Guest Ranches. The region also contains a high number of individual domestic wells for nearby residences.

Several of the parcels are located in the Willow Creek drainage area flowing into Willow Creek Reservoir, which is a part of the Colorado-Big Thompson (C-BT) Project. Portions of some of the parcels may also drain to Coyote Creek, a tributary to Windy Gap Reservoir, which utilizes C-BT facilities for the conveyance of water. The C-BT Project supplies water to about 860,000 people and 650,000 acres of irrigated farmland in Northern Colorado. Any degradation of these waters has the potential to impact water quality in Willow Creek Reservoir, Granby Reservoir, Shadow Mountain Reservoir, Grand Lake, and several Front Range reservoirs, as well as hundreds of thousands of people.

Historic flows in the Colorado River between Granby Dam and the Williams Fork River have been reduced significantly due to trans-basin diversions which carry water to front-range cities and farms. That number is set to be further reduced with the expansion of Gross Reservoir and construction of Chimney Hollow Reservoir. Replacement water to compensate for these current diversions does not begin to enter the Colorado River until its confluence with the Williams Fork

River. As a result, it creates a depleted stretch of the Colorado River that is adjacent to the area of the proposed lease sale. Currently this stretch of the Colorado is subject to low flows, warmer water temperatures, and depleted species of food necessary for a strong cold water fishery. Tremendous efforts have been made to protect this reach of the Colorado River through complicated Windy Gap Agreement and Colorado River Cooperative Agreement negotiations. The agreements have resulted in the commitment of time and energy on the parts of several diverse agencies to protect and, where possible, to enhance the condition of the Colorado River through an ongoing collaborative effort called Learning by Doing. In addition, a project called the Windy Gap Connectivity Channel that would cost nearly $10 million is being pursued to reconnect the Colorado River and help restore the proper functioning condition and aquatic habitat to reverse extirpation of mottled sculpin, giant stonefly, and other macroinvertebrate species in the Colorado River downstream of Windy Gap. It is questionable whether this reach of the Colorado River would have the ability to recover from additional impacts such as the potential pollution from fracking fluids, disposal of produced water, accidental spills, and the developmental impacts that could be caused by oil and gas operations in this area.

Grand County has a growing concern regarding availability of water to support the current and future population and tourism sector. Adding large industry, such as Oil and Gas, would put even further strain on this valuable resource. Water resources such as the Colorado River and many local lakes are also major tourist and recreation attractions. The heavy water needs adherent to Oil and Gas development would put a strain on these water bodies, thus endangering the features of these attractions and the investments in these assets that we have made as both a Count and community.

AIR QUALITY

The oil and natural gas industry includes a wide range of operations and equipment, from wells to natural gas gathering lines and processing facilities, to storage tanks, and transmission and distribution pipelines.

The oil and gas industry is a significant source of methane emissions, a potent greenhouse gas with a global warming potential more than 25 times that of carbon dioxide. Oil and gas is also the largest industrial source of emissions of volatile organic compounds (VOCs), a group of chemicals that contribute to the formation of ground-level ozone (smog). Exposure to ozone is linked to a wide range of health effects, including aggravated asthma, increased emergency room visits and hospital admissions, and premature death.

In addition to helping form ozone, VOC emissions from the oil and gas industry include air toxics such as benzene, ethylbenzene, and n-hexane. Air toxics are pollutants known, or suspected of causing cancer and having other serious health effects.

Fracking has been linked to increased air pollution that is hazardous to the health of residents near wells, and may contribute to the larger problem of climate change. Fracking creates many opportunities for the release of air pollutants. The construction of drilling pads results in air pollution, as does the increased truck traffic back and forth from the well sites. Drilling itself

results in more air pollution from diesel fuel engines, evaporation of wastewater, release of fracturing fluid, flaring of wells (burning or venting of gas at the wells), condensate material, and fugitive emissions from compressor stations. A report in the Scientific American found that fracked wells leak 40 to 60 percent more methane than conventional natural gas wells.

The towns of Grand Lake and Granby, Rocky Mountain National Park and Indian Peaks Wilderness are all located in the air shed of the emissions from oil and gas development on the nominated lease parcels. These emissions will impact the opacity of the air and create serious health effects. Clean and clear skies are an important part of visual quality for our beautiful landscape and the tourism/recreation economy in Grand County.

ROCKY MOUNTAIN NATIONAL PARK

Rocky Mountain National Park's (RMNP) 415 square miles encompass and protect spectacular mountain environments. It includes Trail Ridge Road – which crests at over 12,000 feet including many overlooks to experience the subalpine and alpine worlds – along with over 300 miles of hiking trails, wildflowers, wildlife, starry nights, and fun times. In a world of superlatives, Rocky is on top! In 2015, RMNP had more than four million recreational visitors from across the United States and the world, making it the third most visited national park in the USA. It is only seven (7) miles from the eastern edge of the proposed oil and gas lease sale. New roads, well pad development, emissions, traffic, and night-lighting that would be associated with oil and gas activity would have severe negative impacts to this national park.

CULTURAL/HISTORIC RESOURCES

Grand County culture and history is based in agriculture and tourism. A great deal of the area that is in the proposed oil and gas lease sale was previously Ute Indian settlements and hunting grounds. The areas around Hot Sulphur Springs were considered sacred, especially the hot springs that are located at the base of Mount Bross. The area was also explored by mountain men like William Jefferson "Ute Bill" Thompson. His historic path is along Ute Bill Creek just north of Hot Sulphur Springs to the areas surrounding Elk and Grouse Mountains. The homes, tools, paths and other artifacts of the Ute Indians and explorers like Ute Bill still remain in this area and remain in a fragile state as they were made from local sources (land, vegetation, soil and fiber). High impact development like that of oil and gas development could very easily destroy this history. These stories of our history and culture are played out and told by the Grand County Historical Association for the benefit of the Heritage Coalition of Grand County. Our history and heritage is important to our quality of life and to the visitors of Grand County and they need to remain preserved and intact.

PUBLIC REVIEW AND COMMENT

As county commissioners in a public lands county, we know first-hand how important it is for federal land managers to work with local communities. Many of our citizens travel on roads

across federal lands to get to work every day and many families and businesses make their living working our county's natural resources. Those that live, work and raise their families in our county know that our communities are linked to the land.

The BLM over the last few years has been recommending the recently adopted Planning 2.0 for its improved public involvement process. Planning 2.0 is the agency's means to improve decision making, add transparency and provide early, meaningful public involvement. All government agencies, including local government, strive for planning programs that are efficient, transparent, responsive to change, have opportunity for meaningful public involvement and broad community buy-in from elected officials to private citizens.

The County recognizes that Planning 2.0 was done for Resource Management Plans and their adoption process. However, if public involvement is a main tenet for BLM resource planning then the same or similar principle should apply with oil and gas development review. The BLM has as one of its responsibilities under the Mineral Leasing Act the requirement to promote development of oil and gas. The development of oil and gas and the decisions leading to that development must be coordinated and shared because the management of this landscape is shared amongst federal agencies, including the BLM, towns, counties and other forms of local governments. Each entity involved will have varying goals, plans and policies regarding land use and management. The BLM leasing process recommends stakeholder coordination prior to public scoping. Grand County was not consulted or contacted on this matter and no public meetings were held in the County until we requested one. Local county governments can be invaluable allies to federal land managers when it comes to land use matters. The necessity for local government to be close to its land and its people makes us a significant resource.

Oil and gas development is a land use that because of its potential impact must be reviewed in depth in order to understand: (1) the economic potential for the resource; (2) the areas where it is most likely to take place; (3) the means for maintaining and improving the condition of natural resource values in the area; (4) the phasing and timing of development; (5) the improvements or infrastructure that will be needed to service the new development; and (6) the best protection measures and best management practices for oil and gas development. Due to the limited potential for oil and gas development in Grand County we are not recommending a Master Leasing Plan, only better analysis and greater coordination for the review and decision making related to oil and gas planning and development.

Grand County sincerely appreciated the White River Field Office and NW Regional Director appearing before the BOCC to provide an overview of the leasing process and to answer public questions. This is the type of action that should have been done in June or July, well in advance of public scoping and review of the EA.

CONCLUSION

- The "all or nothing" or "limited scope" approach of the Environmental Assessment that was completed for this proposed oil and gas lease sale failed to present any alterative actions to leasing, which is a clear violation of NEPA.

- These parcels and the County itself are geologically characterized as having low or no potential for oil and gas development.

- There is no oil and gas activity in Grand County today and over the past 50 years there have been 59 oil or gas wells drilled and each has been abandoned because of no production.

- There is no demand for the nomination of these parcels by companies or individuals.

- Leasing lands for oil and gas development that contain geologic formations that are known to contain faults and slides would be irresponsible and thus development in this area poses a serious threat to water quality.

- The Colorado River does not have the ability to absorb or recover from additional impacts such as the potential pollution from fracking fluids, disposal of produced water, accidental spills, and the development impacts that could be caused by oil and gas operations in this area.

- Adding large industry, such as Oil and Gas, would put even further strain on valuable water resources. Water resources such as the Colorado River and its tributaries, and many local lakes are major tourist and recreation attractions. The water needs adherent to Oil and Gas development would put a strain on these water bodies, thus endangering the features of these attractions and the investments in these assets that we have made as both a Count and community.

- Degradation to the Colorado River and its tributaries has the potential to impact water quality in Willow Creek Reservoir, Granby Reservoir, Shadow Mountain Reservoir, Grand Lake and for Hot Sulphur Springs, Hot Sulphur Springs Resort, Grand County, C Lazy U and several Front Range reservoirs, as well as hundreds of thousands of people and acres of land.

- On and off-site improvements result in unacceptable impacts to the mountain landscape due to increased use, construction, traffic, dust, emissions, sediment and erosion.

- Critical wildlife habitat would be significantly segmented or lost as a result of oil and gas development.

- It would create unacceptable impacts to Rocky Mountain National Park, a key natural and economic asset for Grand County and the State of Colorado.

- Our history and heritage is impacted as a result of oil and gas development occurring here in Grand County, which are important the quality of life for our residents and visitors.

- The payrolls and revenues from tourism and recreation operations and other related tourism and recreational dollars that are essential to the local economy of Grand County

will be negatively impacted by oil and gas development in the lease sale area. This impact will be most apparent with C Lazy U and Drowsy Water Guest Ranches.

- County air quality will be negatively impacted by the emissions from oil and gas developing through reduced opacity of the air and polluted air that will cause serious health effects.

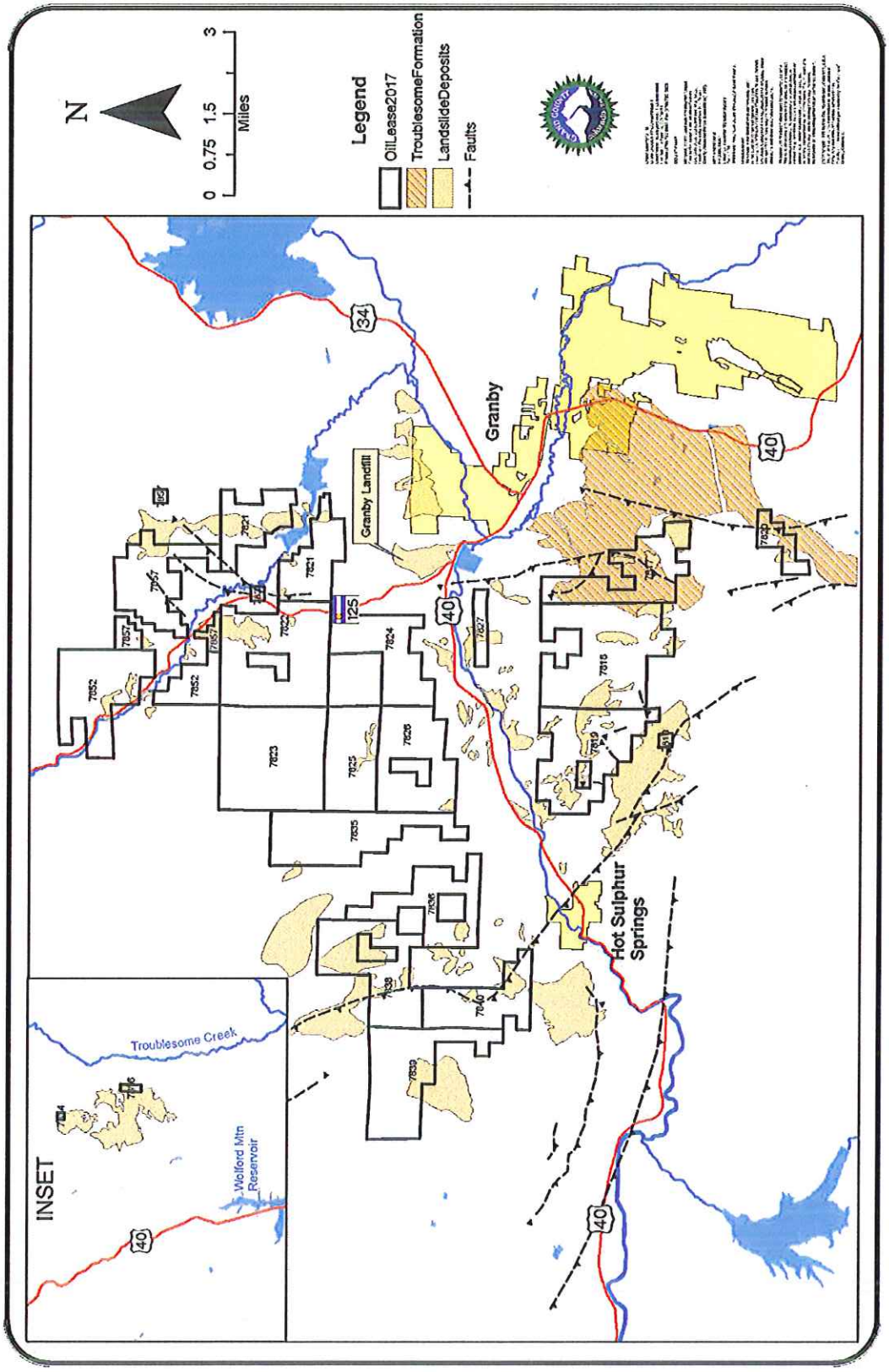
In conclusion, Grand County requests that the BLM withdraw the nominated parcels from the June 8, 2017, competitive lease sale. In the event that the BLM proceeds to offer these parcels, Grand County requests that you make all bidders aware and informed of our protest and our position on oil and gas development in Grand County. Finally, we request that the BLM Kremmling Field Office initiates a revision to the Resource Management Plan for the closure of all of Grand County's portion of the Kremmling Resource Area to oil and gas development.

Sincerely,

Kristen Manguso	Merrit Linke	Richard Cimino
Commissioner Chair	Commissioner	Commissioner

Cc: The Honorable John Hickenlooper, Governor, Colorado
The Honorable Michael Bennet, United States Senate
The Honorable Cory Gardener, United States Senate
The Honorable Jared Polis, US House of Representatives
Representative Randy Baumgardner, State House of Representatives, Colorado
Representative KC Becker, State House of Representatives, Colorado
Board of Trustees, Town of Kremmling
Board of Trustees, Town of Granby
Board of Trustees, Town of Grand Lake
Board of Trustees, Town of Hot Sulphur Springs
Board of Trustees, Town of Fraser
Board of Trustees, Town of Winter Park

FIGURE 1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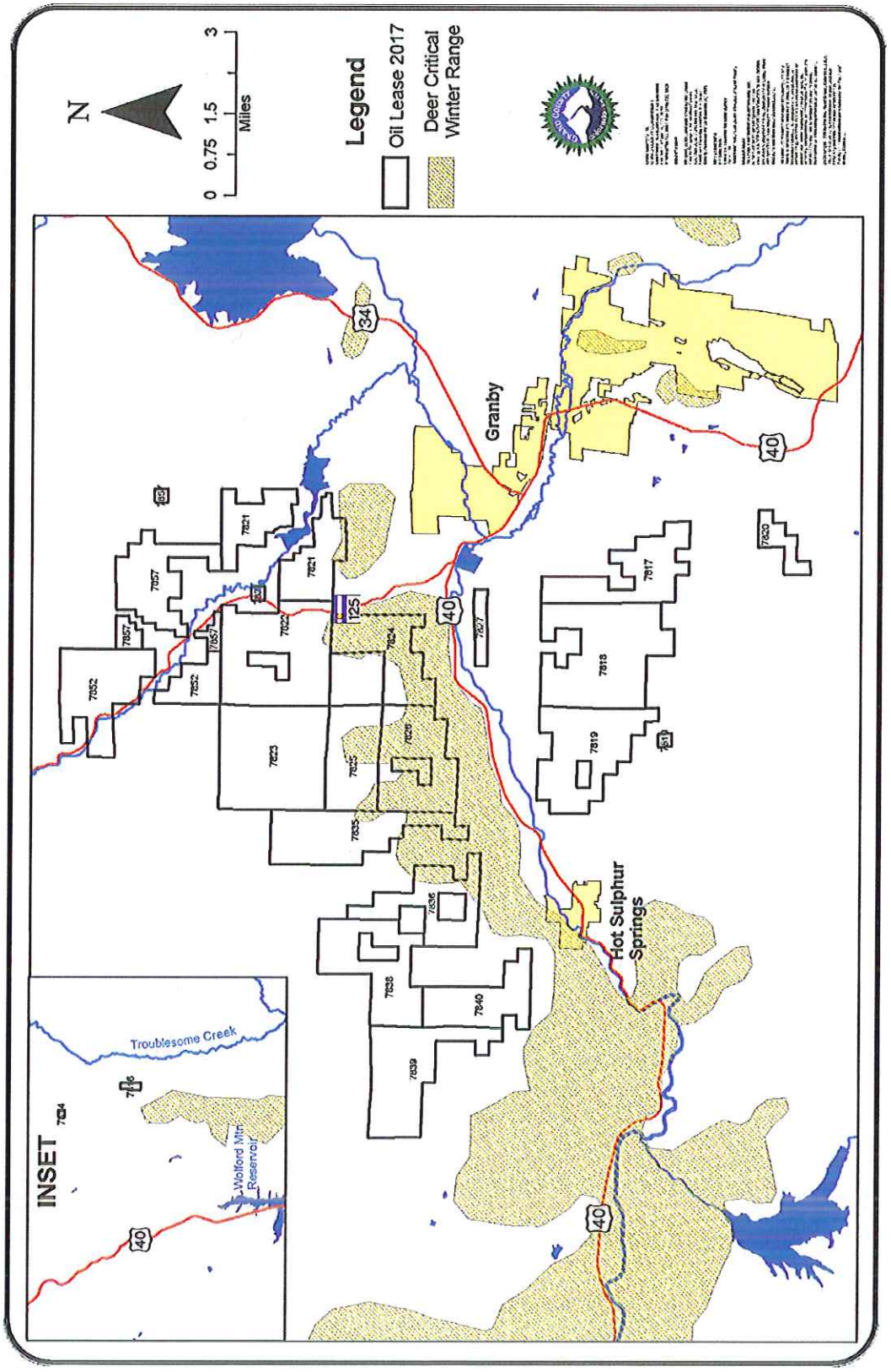
OilLease2017
TroublesomeFormation
LandslideDeposits
Faults
Granby
Granby Landfill
Hot Sulphur Springs
Troublesome Creek
Wolford Mtn Reservoir
INSET
34
40
125

FIGURE 2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Granby
Hot Sulphur Springs
INSET
Troublesome Creek
Wolford Mtn Reservoir
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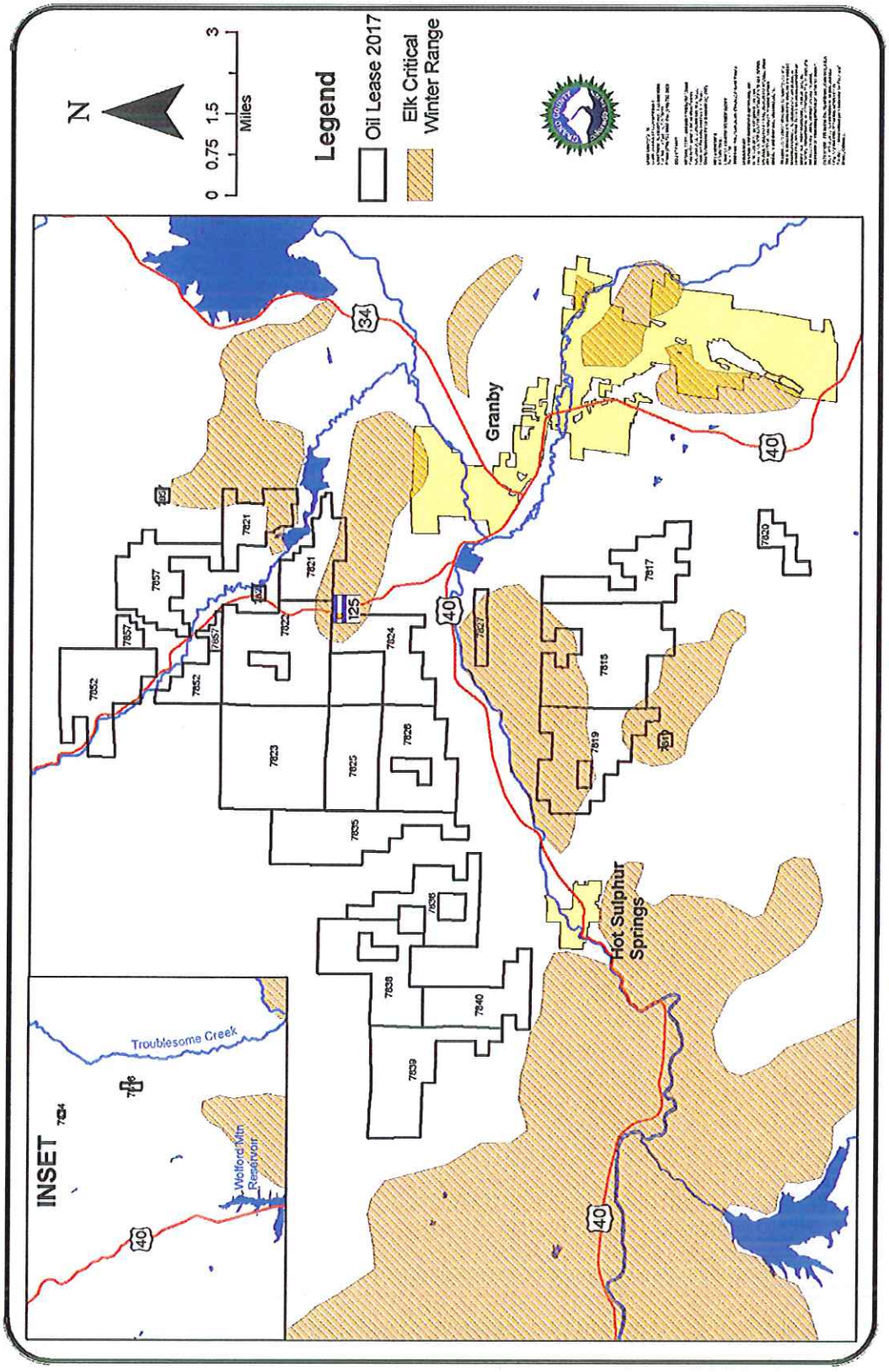
FIGURE 3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Oil Lease 2017
Elk Critical Winter Range
Granby
Hot Sulphur Springs
INSET
Troublesome Creek
Wolford Mtn Reservoir
34
40
125

From: Knox, Jason
To: "Micah Chambers"
Subject: RE: BOEM Release today
Date: Monday, April 10, 2017 10:01:30 AM

We are doing interviews all morning so I will have to call after lunch

---

From: Micah Chambers [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, April 10, 2017 9:50 AM
To: Knox, Jason
Subject: Re: BOEM Release today

You free to chat for a minute? 202.706.9093

Sent from my iPhone

On Mar 6, 2017, at 12:44 PM, Knox, Jason <Jason.Knox@mail.house.gov> wrote:

> Thank you
>
> **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Monday, March 06, 2017 12:22 PM
> **To:** Knox, Jason; Schafle, Matt; Freeman, Mike
> **Subject:** Fwd: BOEM Release today
>
> Thought you might want to share this with your relevant members. Release going out shortly. I know know who is best POC within those offices but figured you would.
>
> Micah
>
> All - here's final release going out shortly.
>
> Date: March 6, 2017
> Contact: Interior_Press@ios.doi.gov
> Caryl Fagot BOEM (504) 736-2590
>
> # Secretary Zinke Announces Proposed 73-Million Acre Oil and Natural Gas Lease Sale for Gulf of Mexico
>
> *All available areas in federal waters will be offered in first region-wide sale under new Five Year Program*
>
> WASHINGTON -- U.S. Secretary of the Interior Ryan Zinke today announced that the Department will offer 73 million acres offshore Texas, Louisiana, Mississippi, Alabama and Florida for oil and gas exploration and development. The proposed region-wide lease sale scheduled for August 16, 2017 would include all available unleased areas in federal waters of the Gulf of Mexico.
>
> "Opening more federal lands and waters to oil and gas drilling is a pillar of

President Trump's plan to make the United States energy independent," Secretary Zinke said. "The Gulf is a vital part of that strategy to spur economic opportunities for industry, states and local communities, to create jobs and home-grown energy and to reduce our dependence on foreign oil."

Proposed Lease Sale 249, scheduled to be livestreamed from New Orleans, will be the first offshore sale under the new Outer Continental Shelf Oil and Gas Leasing Program for 2017-2022 (Five Year Program). Under this new program, ten region-wide lease sales are scheduled for the Gulf, where the resource potential and industry interest are high, and oil and gas infrastructure is well established. Two Gulf lease sales will be held each year and include all available blocks in the combined Western, Central, and Eastern Gulf of Mexico Planning Areas.

The estimated amount of resources projected to be developed as a result of the proposed region-wide lease sale ranges from 0.211 to 1.118 billion barrels of oil and from 0.547 to 4.424 trillion cubic feet of gas. The sale could potentially result in 1.2 to 4.2 percent of the forecasted cumulative OCS oil and gas activity in the Gulf of Mexico. Most of the activity (up to 83% of future production) of the proposed lease sale is expected to occur in the Central Planning Area.

Lease Sale 249 will include about 13,725 unleased blocks, located from three to 230 miles offshore, in the Gulf's Western, Central and Eastern planning areas in water depths ranging from nine to more than 11,115 feet (three to 3,400 meters). Excluded from the lease sale are blocks subject to the Congressional moratorium established by the Gulf of Mexico Energy Security Act of 2006; blocks that are adjacent to or beyond the U.S. Exclusive Economic Zone in the area known as the northern portion of the Eastern Gap; and whole blocks and partial blocks within the current boundary of the Flower Garden Banks National Marine Sanctuary.

"To promote responsible domestic energy production, the proposed terms of this sale have been carefully developed through extensive environmental analysis, public comment and consideration of the best scientific information available," said Walter Cruickshank, the acting director of Interior's Bureau of Ocean Energy Management (BOEM). "This will ensure both orderly resource development and protection of the environment."

The lease sale terms include stipulations to protect biologically sensitive resources, mitigate potential adverse effects on protected species and avoid potential conflicts associated with oil and gas development in the region. BOEM's proposed economic terms include a range of incentives to encourage diligent development and ensure a fair return to taxpayers. The terms and conditions for Sale 249 in the Proposed Notice of Sale are not final. Different terms and conditions may be employed in the Final Notice of Sale, which will be published at least 30 days before the sale.

BOEM estimates that the U.S. Outer Continental Shelf (OCS) contains about 90 billion barrels of undiscovered technically recoverable oil and 327 trillion cubic feet of undiscovered technically recoverable gas. The Gulf of Mexico OCS, covering about 160 million acres, has technically recoverable resources of 48.46

billion barrels of oil and 141.76 trillion cubic feet of gas.

Production from all OCS leases provided 550 million barrels of oil and 1.25 trillion cubic feet of natural gas in FY2016, accounting for 72 percent of the oil and 27 percent of the natural gas produced on federal lands. Energy production and development of new projects on the U.S. OCS supported an estimated 492,000 direct, indirect, and induced jobs in FY2015 and generated $5.1 billion in total revenue that was distributed to the Federal Treasury, state governments, Land and Water Conservation Fund, and Historic Preservation Fund.

As of March 1, 2017, about 16.9 million acres on the U.S. OCS are under lease for oil and gas development (3,194 active leases) and 4.6 million of those acres (929 leases) are producing oil and natural gas. More than 97 percent of these leases are in the Gulf of Mexico; about 3 percent are on the OCS off California and Alaska.

The current Five Year Program [2012-2017] has one final Gulf lease sale scheduled on March 22, 2017 for Central Planning Area Sale 247. The 2012-2017 Five Year Program has offered about 73 million acres, netted more than $3 billion in high bids for American taxpayers and awarded more than 2,000 leases.)

All terms and conditions for Gulf of Mexico Region-wide Sale 249 are detailed in the Proposed Notice of Sale (PNOS) information package, which is available at: http://www.boem.gov/Sale-249/. Copies of the PNOS maps can be requested from the Gulf of Mexico Region's Public Information Unit at 1201 Elmwood Park Boulevard, New Orleans, LA 70123, or at 800-200-GULF (4853).

The Notice of Availability of the PNOS will be available today for inspection in the Federal Register at: http://www.archives.gov/federal-register/public-inspection/index.html and will be published in the March 7, 2017 *Federal Register*.

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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Special Assistant / Acting Director
Office of Congressional & Legislative Affairs

Office of the Secretary of the Interior

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Knox, Jason
To: "Micah Chambers"
Subject: RE: BOEM Release today
Date: Monday, April 10, 2017 12:26:43 PM

Just tried reaching you, my direct is 226-8885

From: Micah Chambers [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, April 10, 2017 9:50 AM
To: Knox, Jason
Subject: Re: BOEM Release today

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Office of the Secretary of the Interior

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Office of Congressional & Legislative Affairs

Office of the Secretary of the Interior

--

Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Marino Thacker, Meghan (Daines)
To:	[redacted]@doioig.gov
Cc:	Thacker, Darin (Daines); Micah Chambers (micah_chambers@ios.doi.gov); Amanda Kaster (amanda_kaster@ios.doi.gov)
Subject:	FW: DOI OIG Yellowstone investigation & 2 verification reviews
Date:	Monday, April 10, 2017 12:38:42 PM
Attachments:	AllegationsofSexualMisconductandReprisalYellowstone_Public.pdf ManagementRights-of-Way_VerificationReview_040717_Public.pdf RadioCommunicationsProgram_VerificationReview_040717_Public.pdf

---

Nancy,
I handle the Senator Daines' DOI/ENR Committee work. Can you please ensure I receive these emails as well?

Thanks,
Meghan

From: [redacted]@doioig.gov [mailto:(b) (6), (b) (7)(C)@doioig.gov] **On Behalf Of** Congressional, OIG
Sent: Monday, April 10, 2017 12:25 PM
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Subject: DOI OIG Yellowstone investigation & 2 verification reviews

Here is the web-redacted investigative report into allegations of misconduct and reprisal at Yellowstone National Park. It will be posted publicly on doioig.gov Wednesday 4/12.

We initiated this investigation in September 2016 after the National Park Service (NPS) reported allegations brought forward by a Yellowstone National Park employee. This employee alleged that a pervasive culture of gender bias, sexual harassment, and financial misconduct existed in a work unit within Yellowstone's Maintenance Division. He alleged that this behavior was tolerated, and even fostered, by a "men's club" environment —one of insensitivity and arrogance toward other Yellowstone employees— that was pervasive in the division from 2011 to 2015.

During our investigation, we interviewed over 100 current and former Yellowstone employees and reviewed more than 500 documents, including NPS-wide employee surveys from 2014 and 2015 and a 2016 exit survey of over 200 seasonal Yellowstone employees. An additional allegation of hiring discrimination by a supervisor in the Maintenance Division was raised during the interviews, so we included this allegation in our investigation.

We found credible evidence that male supervisors and staff in the Maintenance Division unit created a work environment that included unwelcome and inappropriate comments and actions toward women. This negative work environment was allowed to continue because of the actions, or inaction, of supervisors. Specifically, the Maintenance Division supervisor should have known about and addressed some of the alleged misconduct.

Our investigation of the employee's allegations of financial misconduct confirmed that the Maintenance Division supervisor had allowed his employees to use his Government credit card to make purchases, in violation of the U.S. Department of the Interior's Integrated Charge Card Policy. We also found that between 2011 and 2015, some Yellowstone employees made split purchases (breaking a large purchase into small, separate purchases in order to circumvent the procurement process). The employee's allegation that Yellowstone promoted another employee after she made over $10,000 in personal charges to her Government credit card was unfounded.

We also did not find evidence of hiring discrimination by the Maintenance Division supervisor. Although we confirmed that he had told a subordinate in early 2016 that he would not be hiring women to fill open positions in the work unit, we found that he later offered positions to two women.

The next 2 attachments are reviews verifying specific findings from

previous audits.

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Investigative Report of Alleged Se□ual Misconduct and Reprisal at Yello□stone National Par□

Date Posted to Web: April 12, 2017

This is a version of the report prepared for public release.

SYNOPSIS

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DETAILS OF INVESTIGATION

We opened this investigation on September 23, 2016, after the National Park Service (NPS) reported allegations to us that had been described in a magazine article. A Yellowstone National Park employee alleged in the article that exploitation, predatory sexual behavior, reprisals, abuse, and financial misconduct had occurred in an unnamed division of Yellowstone from 2011 to 2015; he also alleged that a pervasive "men's club" environment in the division – one of insensitivity and arrogance toward other Yellowstone employees – had encouraged these issues.

After the article was published, the employee discussed his allegations with Yellowstone Superintendent Dan Wenk, who initiated an investigation into them with a contract investigator. Wenk stopped his contracting efforts, however, when we communicated our intent to initiate an investigation. Our investigation included interviewing over 100 current and former Yellowstone employees and reviewing more than 500 documents, including NPS-wide employee surveys from 2014 and 2015 and a 2016 exit survey of over 200 seasonal Yellowstone employees. During our interviews, an additional allegation of hiring discrimination was raised against a supervisor in the Maintenance Division; we included this allegation in our investigation.

The Employee's History at Yellowstone and Decision To Report Allegations

In 2010, the employee began working at Yellowstone, on a temporary seasonal basis, in the park's Maintenance Division. He was selected in 2012 for a permanent position, later taking a detail in another Maintenance Division unit. After completing his detail, he returned to his permanent position.

The employee told us that he read a magazine article about allegations of misconduct by NPS employees at Grand Canyon National Park. He said that as he read the article, which included an interview of then-NPS Director Jonathan Jarvis, he thought that some of the issues involving how male employees at Grand Canyon talked about and treated female employees were similar to what he himself had seen at Yellowstone. He said he also found Jarvis' comments in the article "arrogant." He said he then contacted a magazine and reported his allegations of misconduct at Yellowstone. He told us that he did not report the allegations to Yellowstone officials because he did not believe they would be addressed.

The employee confirmed to us that the division he referred to in the article was a unit where he had worked. This unit, one of 25 units and subunits in the Maintenance Division, is staffed by seasonal and permanent employees who primarily do seasonal maintenance work at Yellowstone. The number of temporary seasonal employees fluctuates with the workload during the park's summer and winter seasons.

Agent's Note: *Temporary seasonal employees serve under appointments limited to 1 year or less. The term "seasonal" refers to the employees' work schedules, not the appointment type used to hire them. These employees are subject to termination at any time without use of adverse actions or reduction-in-force procedures.*

As of the date of this report, the unit had no permanent supervisor; that position had been filled by acting supervisors since the last supervisor retired. A Maintenance Division supervisor was the first-line supervisor of the unit until the mid-2000s, when he was promoted to his current position and became the second-line supervisor for this unit and for another unit in the division. This supervisor reported to a Maintenance Division official, who had been in that role since 2012.

The Emplo□ee□s Allegations in the Article Found To Be Inaccurate or E□aggerated

Allegation 1: A Supervisor in the Maintenance Division Unit Sexually Exploited a Subordinate

According to the article, the employee alleged that female employees in the Maintenance Division unit were □exploited□by their male coworkers, and the article stated that a female employee had been □more or less kept by . . . one of her supervisors for a sexual relationship.□ According to the article, this woman did minimal work, drank daily, and was □essentially . . . kept inebriated and available for favors from her superior.□

When we interviewed the employee, he admitted that □exploitation□might not have □been the best word□he could have used to describe the mistreatment of women assigned to the Maintenance Division unit. He clarified that what he had witnessed was primarily an environment of verbal abuse in which male employees would □talk down□to women and use inappropriate language toward them.

He said, however, that he did believe that a former seasonal employee had been sexually exploited by her supervisor during her time in the unit. He explained that he believed her supervisor (a subordinate of the Maintenance Division supervisor) had kept her employed, despite her well-known drinking problem, so that he could continue a relationship with her. The employee claimed that her supervisor had spoken openly about their relationship.

The employee said that he had seen the former seasonal employee drink wine □many times□ while at work, and he told us he had once relieved her of her duties because she was □so drunk she couldn□t even stand up.□Furthermore, he said, her supervisor asked him on one occasion to buy him a bottle of wine for her, but he refused because he assumed that she would drink it while on duty.

The employee told us he had heard that the seasonal employee lost her job at Yellowstone after an alcohol-related incident at work. He said that one day she and her supervisor were arguing in his vehicle, and her supervisor got angry at her, told her to get out, and drove off without her. The employee said that the seasonal employee, who was drunk at the time, got into another vehicle and drove off, but Yellowstone law enforcement later stopped her. As a result of this incident, he said, she was fired.

Our review of the seasonal employee□s personnel records showed that she worked at Yellowstone for over 20 seasons. She left the park, but returned when the Maintenance Division supervisor hired her.

We interviewed the former seasonal employee, who was no longer associated with NPS, about the Yellowstone employee's allegation. She denied the allegation and said that she was never kept "drunk on the job" in order to have sex. She acknowledged that she and her supervisor had been in a relationship while she worked for him, but explained that the relationship was consensual. She declined to give specific information about the relationship but told us that she cared "deeply" for her supervisor, that he had been "very kind and good" to her, and that she would never say anything against him. She also confirmed that she did have a drinking problem and had lost her job at Yellowstone due to an alcohol-related incident at work, but she stated that her supervisor had been concerned about her problem and had tried to help her with it, not exploit it. Her supervisor, who had retired, declined to be interviewed.

When we interviewed the Maintenance Division supervisor, he said that he had hired the former seasonal employee and approved yearly requests from her supervisor to rehire her thereafter. He said he knew her as an acquaintance before he hired her, and he acknowledged that he did not seek any references from her previous supervisors before hiring her.

The Maintenance Division supervisor acknowledged that the former seasonal employee had a problem with alcohol and that he had terminated her employment after Yellowstone law enforcement informed him that they had stopped her while she was intoxicated and driving a vehicle at work. He said he understood that she had consumed alcohol at her supervisor's house before driving the vehicle. He said that the season after her termination, he was having trouble finding laborers to hire and her supervisor suggested rehiring her if a replacement could not be found. He said he told him: "No, that won't happen again."

We asked the Maintenance Division supervisor when he first became aware that the former seasonal employee had a drinking problem. He said at first that it was about 4 months after he initially hired her, but he then clarified that he had just heard she liked to "party." There was a difference, he said, between drinking and having a drinking problem. When we specifically asked him whether anybody had told him that she drank on the job, he said no. He insisted that he had not known she had a drinking problem until he fired her after the incident with the vehicle.

Statements by two of the Maintenance Division supervisor's other subordinates, however, contradicted his assertion that he knew nothing about the former seasonal employee's drinking problem or her drinking on the job. One told us that her drinking problem was common knowledge among her coworkers. He said that she would drink while on the job and that he had called her supervisor on several occasions to come get her because she was drunk and he was concerned for her safety. This subordinate said he spoke to both the seasonal employee's supervisor and the Maintenance Division supervisor "more than once" about her drinking problem. Another subordinate told us that he told the Maintenance Division supervisor at least twice that the seasonal employee had been drinking on the job. He explained that she had smelled of alcohol and that he had seen her walking unevenly at work.

Other employees who had worked with the former seasonal employee said that her coworkers had known about her drinking problem for years. One told us that he had worked with her in another Yellowstone unit and that she "drank heavy" during that time. A second employee said

that she drank on the job during the time he worked with her and that more than once he had smelled alcohol on her breath first thing in the morning. He said he understood that the unit they had worked in together stopped rehiring her because of her drinking problem, and he was mystified when he heard she had later been hired to work in the Maintenance Division unit because her drinking problem was common knowledge and he knew she had not quit drinking.

In addition, a former employee who had worked with the former seasonal employee recalled an occasion when the former seasonal employee came to work so drunk that she could not do her job. This former employee said that her supervisor, who knew about the seasonal employee s drinking problem, asked her if she would take the seasonal employee home to sleep it off, which she said she did. She recalled another incident in which the former seasonal employee drove a work vehicle while intoxicated.

When asked about his knowledge of the former seasonal employee s relationship with her supervisor, the Maintenance Division supervisor stated that he heard rumors about it about 3 years after he hired her. He said he confronted her supervisor about the rumors, but her supervisor denied the relationship. The Maintenance Division supervisor acknowledged that he did not inquire further into the matter, nor did he inform his own then-supervisor about it. That supervisor, who has also retired, denied knowing anything about the relationship.

Allegation 2: Supervisors Improperly Hired an Employee for the Maintenance Division Unit

According to the article, the Yellowstone employee alleged that a woman had been hired specifically so she could be exploited for sex. When we interviewed him, he clarified that he believed the Maintenance Division supervisor and another supervisor, his subordinate, had hired another seasonal employee in order to have sex with her. He said he believed the Maintenance Division supervisor terminated her employment in part because she had rejected his sexual advances.

The employee, who was on a detail to another Yellowstone unit when this former seasonal employee was hired, explained that sometime after she was interviewed for her position, the Maintenance Division supervisor s subordinate told him: You ve got to see this [employee] we just hired, implying that this supervisor found her attractive. According to the employee, he then told the employee that he intended to try to have sex with her. The employee also alleged that he later heard secondhand that the Maintenance Division supervisor had also wanted to have sex with her.

Although the employee told us that he had assumed these two supervisors had interviewed the former seasonal employee in person, we determined that the Maintenance Division supervisor interviewed her by telephone and selected her for the position without having met her in person. The former seasonal employee explained in an interview that she met both supervisors for the first time when she reported to Yellowstone to start work.

The former employee s personnel records showed that she worked at Yellowstone for two seasons. Her employment was terminated after she became intoxicated at work and could not perform her duties.

The former employee, who was no longer associated with NPS, told us that neither supervisor made any sexual advances toward her while she worked for them. She described the Maintenance Division supervisor as a "wonderful boss" and said his relationship with her was friendly and supportive. None of our other interviews substantiated the allegation against the Maintenance Division supervisor.

The former employee did acknowledge, however, that after the other supervisor retired, he made sexual advances toward her by phone and text. (The supervisor declined to be interviewed.)

The Maintenance Division supervisor denied the allegations about why he hired the former employee. He told us that he selected her for the position after a telephone interview, and he denied making any sexual advances toward her. He confirmed that he fired her after she became intoxicated at work and could not do her job.

Allegation 3: The Maintenance Division Supervisor Groped an Employee

The article stated that, when asked if he had seen sexual harassment firsthand at Yellowstone, the Yellowstone employee alleged that he had seen "blatant physical groping."

During our interview, the employee clarified this allegation. He explained that he had once seen the Maintenance Division supervisor grab a female employee's buttocks with both hands. He explained that at the time of this incident, he was part of a small group of employees waiting for the supervisor to join them for an office equipment demonstration. He said that the supervisor came out of his office and then walked up to the employee, put his hands "all over her backside," and grabbed her "right on her ass cheeks." He said the employee "just kind of laughed" about the incident but seemed uncomfortable.

Another Maintenance Division employee told us that he had also witnessed the incident, which he believed had happened a few years before. He said, however, that the Maintenance Division supervisor did not grab the employee's buttocks. Instead, he said, the supervisor rubbed her lower back for several minutes. He said that he and a coworker were standing in the back during the demonstration when the incident occurred, and that the female employee "just stood there" and did not tell the supervisor to stop. He said the incident made him uncomfortable and he left the demonstration soon afterward.

We interviewed the coworker, who confirmed that he had witnessed the incident. He told us that the supervisor did not put his hand on the female employee's buttocks, but did rub her lower back. He said he and his coworker were the only ones standing behind the woman when the supervisor placed his hand on her back and "rubbed it kind of low" for about 10 seconds. He said the incident made him uncomfortable and he moved away from where he was standing.

We also interviewed the female employee about the incident. She told us that she could not recall the Maintenance Division supervisor touching her during the demonstration, but said that if he had, it would have been to put his hands on her waist and move her out of the way. She acknowledged that he had touched her shoulders and arms occasionally during the years they

worked together, and that he would stand behind her and put his hands on her shoulders while she was sitting in her office chair. She said, however, that he had never touched her inappropriately or made her uncomfortable.

While the Maintenance Division supervisor acknowledged that he and the female employee had been at the demonstration together, he denied grabbing her buttocks or rubbing her lower back. He did admit that he could have touched her lower back because they were friendly with each other and had a good working relationship. He also admitted that he occasionally touched her shoulders, her arms, and the middle of her back, and he said that she would reciprocate by tapping him on the shoulder when he walked by her.

When asked whether it was right or wrong for him, as a supervisor, to touch a female employee, the Maintenance Division supervisor stated: "Times have changed," but admitted: "Nowadays, yes, it's wrong."

Allegation 4: Employees Verbally Abused a Female Coworker

The article stated that the Yellowstone employee described "a practice of abuse" of female employees in the Maintenance Division unit. Although the article did not specify that he was referring to verbal abuse, during our interview he gave an example of alleged verbal abuse that he had witnessed. He explained that a woman who had worked there had been subjected to abusive behavior in the form of derogatory comments and name calling by two male coworkers, and that he had witnessed the female employee crying several times because of the abusive behavior and language directed toward her. He claimed that the two male employees had called her a bitch and said that she was not capable of doing her job. He said that the two were well behaved as individuals, but when they were together they acted like "two 3-year-olds."

We interviewed the woman, who was no longer associated with NPS. She told us that when she was with the unit, she was assigned to operate the worst equipment, which she felt was unfair treatment. She explained that the two male employees, both of whom were younger and less experienced than she was, were given better equipment while she was given equipment that always broke down. She said that the male employees would tease her and blame her when she reported broken equipment, and she would go home crying out of frustration.

She also described an experience she had at Yellowstone that predated the period the Yellowstone employee discussed in his initial allegations (2011 to 2015). She told us that a coworker, who left NPS in the early 2000s, had verbally abused her by calling her a derogatory name after they had a disagreement and telling her that if she had not been a woman, he would have punched her. She stated that the other men in the unit turned against her after the incident because they thought she was going to file a complaint against her coworker, but she did not because she needed her job. Instead, she said, she requested help from her supervisor to resolve the conflict, and he, along with the Maintenance Division supervisor, eventually resolved the matter.

When we interviewed one of the male employees about the allegation that he had verbally abused the woman, he told us that he had "more or less" gotten along with her but felt she was

□pushy.□He said that when he first started working with her, he accepted her negative behavior toward him, but over time he became more comfortable in his job and learned to ignore her. He admitted that he had called her a bitch and said he had done so because he was frustrated with her; he told us he considered her □marginal□in her job. When asked if the other male employee had ever called her a bitch, he said he did not know.

The second male employee told us that he had gotten along □just fine□with her and had never argued with her. He denied the allegation that he had called her a bitch or spoken negatively to her. He told us that she and his male coworker had not always agreed about how to operate equipment and that his coworker felt she had not maintained equipment properly. He said, however, that his coworker□s complaints about equipment operation and maintenance were not solely directed at her, but at male employees as well. When asked if his coworker had ever called her a bitch, he said not to his knowledge.

Allegation 5: A "Men's Club" Environment Existed in the Maintenance Division Unit

In the article, the Yellowstone employee referred to a □men□s club□environment. When we asked him to clarify, he told us that working with the unit□s male employees, who had worked together and known each other for a long time, was difficult because they would □just take over the place.□

The employee acknowledged that the unit, which handled many repair and maintenance tasks at Yellowstone, played a vital role in the park□s operations. He believed, however, that the mentality of having prestige at the park□ along with being under the direction of the Maintenance Division supervisor, who the employee said promoted this mentality□ created an environment ripe for abusive behavior like the issues he had alleged. He also stated that the Maintenance Division supervisor knew about the misconduct in the unit, but did not stop it.

Current and previous Maintenance Division officials partially agreed with the employee□s allegation regarding the mindset of the unit□s employees. The Maintenance Division supervisor described the culture at Yellowstone as a □good old boy system.□He told us that when he came to Yellowstone in the 1990s, this culture was rampant, and he acknowledged that although it had improved over time, it still existed. He explained that the absence of available housing at Yellowstone hindered the park□s ability to attract qualified applicants for open positions, so local applicants had to be selected. He acknowledged that when he first became a supervisor, he felt pressured to hire local individuals considered to be part of the □good old boys□club,□but that pressure had lessened over time. He believed that hiring people from outside the area would help change the park□s culture. Another Maintenance Division official also believed that there was a good old boy system in this unit and in another Maintenance Division unit, and told us of past incidents of misconduct had occurred. In addition, the former deputy superintendent said that he believed there was □some merit□to the statement that such a system existed and that there was some tolerance of □boys being boys.□

We found that between 2010 and 2016, six women who had previously worked in this unit had been subjected to derogatory comments or actions that made them feel uncomfortable:

- As discussed in Allegation 4 of this report, a former employee told us that she was subjected to verbal abuse and unequal treatment while assigned to the unit.

- The former seasonal employee we interviewed in connection with Allegation 2 told us that men in the unit would make sexual and racist comments in her presence while she was working, and their remarks made her feel "uncomfortable and degraded." She said that a relative of her supervisor was part of the unit and his drinking and comments were among the worst. We interviewed this employee, who acknowledged that he might have used a racial slur in the former employee's presence. The former employee also said that someone once stole six pairs of her underwear from her dresser drawer.

- Another Yellowstone employee told us that when she worked in the unit she was subjected to verbal abuse and "dirty" language from two male coworkers. We interviewed the coworkers, both of whom denied the allegation.

- A former temporary seasonal employee told us that when she worked in the unit, her supervisor offended her by referring to her and the other Native American employees in the unit as Indians.

- Another former temporary seasonal employee told us that a male coworker had harassed her and made inappropriate comments that caused her to feel nervous around him. She said that she reported this behavior to the Maintenance Division supervisor and told him she did not want to work with the male employee anymore, and the supervisor agreed. The supervisor confirmed her account and told us that he did not rehire the male employee for the following season.

- The former seasonal employee interviewed in connection with Allegation 1 told us that she had been mistreated during her time at Yellowstone. While she did not want to discuss her experiences in detail, she told us that she believed women at Yellowstone were treated differently because they were women. She said that Yellowstone was a "man's world" and that park officials needed to "wake up" to the fact that men there were "very dominating."

We also confirmed the Yellowstone employee's allegation that the Maintenance Division supervisor had been aware of some misconduct in the unit but failed to correct it:

- Regarding the statement by the former seasonal employee that some employees drank heavily and used derogatory language, the Maintenance Division supervisor said that he had a stated policy that no open drinking was permitted in common areas of work locations. He admitted, however, that he knew the employees drank openly in spite of this policy. He also admitted that he knew the drinking occurred in the former employee's presence but that he took no action except to warn her when she got drunk. A subordinate of the Maintenance Division supervisor, who had briefly supervised these employees, said that some drank in the former employee's presence and that at times they got a "little loud" and "maybe a little obnoxious." He told us that, in hindsight, he should never have allowed alcohol "anywhere near that whole area."

- This subordinate also alleged that an employee had been allowed to work directly for a relative. He told us that "on paper" the employee worked for the Maintenance Division supervisor, but in reality he worked for his relative. This employee acknowledged that he had worked under his relative's direct supervision. The Maintenance Division supervisor also admitted that the employee had worked under his relative's supervision at times and acknowledged that he had known at the time that this violated NPS anti-nepotism policy.

As part of our investigation, we identified all current permanent and seasonal female employees who were assigned to the Maintenance Division in 2016. We interviewed 30 of these employees, as well as 26 male employees. Most stated that they had not personally experienced or witnessed sexual harassment, discrimination, or intimidation, but seven employees reported concerns about the male-dominated environment or perceived hiring discrimination (discussed on p. 13 of this report) in the Maintenance Division.

In an attempt to assess whether sexual harassment or gender discrimination was a problem outside the Maintenance Division, we reviewed all 14 Equal Employment Opportunity (EEO) complaints (8 formal and 6 informal) filed by Yellowstone employees from 2011 to 2016. There were no EEO complaints involving sexual harassment, and the only gender-based complaint was filed in 2012 by a male employee alleging discrimination based on sexual orientation.

We also reviewed Yellowstone's 2016 exit survey of 217 seasonal employees. Two of the 38 survey questions pertained to safety concerns, discrimination, sexual harassment, hostile work environment, and bullying in the workplace:

1. "I felt empowered to report occurrences of safety concerns, discrimination, sexual harassment, a hostile work environment and/or bullying."
    - Of the 217 respondents, 14 percent gave a negative answer (either "disagree" or "strongly disagree") to this question.
    - The Maintenance Division had the highest percentage of negative answers, with 30 percent.
2. "I understood my responsibilities on reporting safety concerns, sexual harassment, a hostile work environment and/or bullying in the workplace."
    - Of the 217 respondents, 4 percent either disagreed or strongly disagreed.
    - The division with the highest percentage of negative answers was Resource and Visitor Protection, with 7.59 percent, followed by Maintenance, with 6.67 percent.

Allegation 6: Financial Misconduct Occurred Under the Maintenance Division Supervisor's Direction

The article mentioned reports of an environment of financial misconduct at Yellowstone. When we interviewed the Yellowstone employee, he alleged that during his detail in another unit under the supervision of the Maintenance Division supervisor, the Maintenance Division supervisor directed him and a coworker to use the supervisor's assigned Government credit card to make purchases when the two reached their monthly credit limit on their assigned Government credit cards. The employee explained that the supervisor interrupted a meeting he and his coworker were attending and told them that he did not "give a goddamn if [they were] out of money." He then directed the two to use his Government credit card to make purchases when the two no longer had credit remaining on their cards. He said he objected to this directive, but the supervisor told him that there would be no discussion about it.

Another supervisor in this unit confirmed the Yellowstone employee's account of this directive. He explained that he had been out of the office the day the Maintenance Division supervisor interrupted the meeting, but the employee had called him the same day and informed him about what had happened. He told us that when he returned to work, he confronted the Maintenance Division supervisor and told him: "We can't do this," because the two employees would "lose their purchasing authority" if they did. He said that about 7 or 8 years before, he had often seen the Maintenance Division supervisor give his Government credit card to two employees in the unit and direct them to use it to make purchases.

We interviewed these employees, who both acknowledged that the Maintenance Division supervisor had directed them to use his Government credit card to make purchases once they reached their monthly credit limit on their cards. One said that the supervisor gave him this direction approximately 2 to 4 years before; the other said the supervisor had directed him to do this approximately 5 years before.

We reviewed the U.S. Department of the Interior's Integrated Charge Card Policy Manual, which governs the use of credit cards issued by the Department. The manual expressly states that cardholders must not allow anyone else to use their cards, convenience checks, account numbers, personal identification numbers, or other sensitive information related to their cards.

The Maintenance Division supervisor admitted that he had in the past directed four employees to use his assigned Government credit card to make purchases when they had reached their monthly credit limits. He acknowledged that allowing someone else to use his assigned card violated departmental policy. He said that now, when his staff reached their credit limits on their assigned cards, he would make purchases for them using his card.

The Yellowstone employee also alleged that other employees had tried to get him to use his Government credit card to make split purchases (breaking a large purchase into small, separate purchases) in order to circumvent the lengthy procurement process. He said that he refused to do this.

The Maintenance Division supervisor acknowledged that split purchasing had been a common practice 7 or 8 years before, but said it no longer occurred because the Maintenance Division had begun using blanket purchase agreements to purchase larger items. A Maintenance Division official also acknowledged that the division had frequently used split purchasing, in part because dealing with the contracting office was "extremely difficult." An employee told us that the Maintenance Division supervisor had directed him in the past to make split purchases, but he could not recall specifics. He said that the practice had stopped approximately 8 years before. Another employee also told us that the Maintenance Division supervisor had directed him in the past to make split purchases but that he had refused.

To confirm the extent of split purchasing in the units under the supervision of the Maintenance Division supervisor, we reviewed the results of Yellowstone's Government credit card audits from 2011 to 2016. Out of 1,962 total accounts audited during these years, no split purchases were identified in one of the units. In another, nine transactions were identified in 2013, four in 2014, two in 2015, and none in 2011, 2012, or 2016.

Finally, the Yellowstone employee alleged that another employee had made approximately $10,000 in personal charges to her Government credit card. He said that she "got caught" but was later promoted.

We interviewed this employee, who now worked for another bureau in the Department, about the allegation. She denied charging $10,000 to her Government card, but admitted that for a period in the 1990s she had used the card occasionally for personal cash advances and once to pay for work-related training for another NPS employee. She said, however, that she had paid all of the money back, and she clarified that she was not promoted afterward; rather, she was demoted and reassigned to a lower-level position at Yellowstone.

We confirmed that the employee was demoted. In the late 2000s she made a lateral transfer to her current bureau, where several years later she was promoted to her current pay grade.

Yellowstone and Regional Officials Were Unaware of These Alleged Issues

We interviewed Yellowstone and NPS regional officials, including Superintendent Dan Wenk, Wenk's former deputy, and two officials from NPS' Intermountain Region about the issues the employee alleged in the article. All denied any knowledge of the issues until just before the article was published; however, Wenk believed that "there might be a grain of truth" to the allegations. He acknowledged there had been issues with employee misconduct in the Maintenance Division, specifically the units referenced in this report. In addition, the deputy said there had been two sexual harassment incidents at Yellowstone in 2016, but both had been resolved with the suspension or reprimand of the male employees involved. Neither incident involved the Maintenance Division or the employees mentioned in this report.

No Indication of Hiring Discrimination by the Maintenance Division Supervisor

During our investigation, a subordinate of the Maintenance Division supervisor alleged hiring discrimination against women in one of the Maintenance Division units. He said that in early

2016, the Maintenance Division supervisor told him: "We're not hiring any women this year." He said the Maintenance Division supervisor made the comment after learning that a woman was planning to apply for an open position in the unit.

The Maintenance Division supervisor acknowledged making the comment to his subordinate and told us he had not wanted to hire any women into that unit because the unit had not had a permanent supervisor since the former supervisor retired. Knowing that the unit did not have "too good a record at this point in time," he said, he did not want the "distraction" of a woman there without direct supervision. He told us, however, that he later changed his mind; he said he offered seasonal positions to two women, but they both declined. We confirmed this statement. As of the date of this report, the unit had no female employees.

We reviewed all job announcements, lists of certified applicants, and selectees associated with the Maintenance Division since 2013, and found the following:

- There were 61 job announcements associated with the Maintenance Division. (Many of these announcements had multiple hires.)

- Out of the 1,238 certified applicants for these announcements, 170 (13.7 percent) were women.

- Of the 170 certified female applicants, 94 were offered positions.

- Of the 216 total applicants who accepted positions, 31 (14.4 percent) were women. (The remaining 63 female applicants declined for various reasons.)

SUBJECTS

1. Maintenance Division supervisor, Yellowstone National Park, NPS.
2. Maintenance Division supervisor's former subordinate (retired), Yellowstone National Park, NPS.

DISPOSITION

We provided this report to the Acting NPS Director for any action he deemed appropriate.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

APR 07 2017

Memorandum

To: Amy Holley
Acting Assistant Secretary for Policy, Management and Budget

James Cason
Acting Deputy Secretary of the Interior

From: Amy R. Billings Amy R Billings
Central Region Manager for Audits, Inspections, and Evaluations

Subject: Verification Review – Recommendations for the Report, "Management of Rights-of-Way in the U.S. Department of the Interior," (Report No. C-IN-MOA-0013-2010)
Report No. 2017-CR-009

The Office of Inspector General (OIG) has completed a verification review of 13 of the 17 recommendations in our September 27, 2012 audit report, "Management of Rights-of-Way in the U.S. Department of the Interior," (Report No. C-IN-MOA-0013-2010). Our objective was to determine whether the National Park Service (NPS), the Office of Valuation Services (OVS), and the Office of Appraisal Services (OAS) implemented the recommendations pertaining to them as reported to the Office of Financial Management (PFM), Office of Policy, Management and Budget (PMB).

PFM reported to us when each of the 13 recommendations were addressed and provided supporting documentation. Based on our review, we consider 8 of the 13 recommendations (1, 4, 5, 7, 9, 12, 16, and 17) resolved, implemented, and closed. In addition, we acknowledge that OVS's ability to fully meet the intent of recommendations 10, 13 and 14 is hampered by the need for other bureaus to voluntarily change their rules and regulations. Therefore, we consider these recommendations closed but not implemented. We consider recommendations 2 and 3 not implemented and not closed.

Background

Our audit report found that NPS, OVS, OAS and the Bureau of Land Management (BLM) did not receive market value for rents on Rights-of-Way (ROW) and had an opportunity to collect as much as $100 million or more annually if they had assessed market value for rents. We made 17 recommendations designed to take advantage of these opportunities including performing ROW rent valuations based on actual market values, revising and updating ROW rent schedules, and identifying unreported services and collecting back rents on ROW. The Department generally concurred with the report's recommendations in a memorandum dated July 18, 2012.

On March 12, 2013, we referred all 17 of the recommendations to PFM to track their implementation or resolution. PFM issued a series of memoranda to us between March 5, 2014, and September 27, 2016 reporting the recommendations as implemented and closed. As of September 27, 2016, 13 recommendations 1, 2, 3, 4, 5, 7, 9, 10, 12, 13, 14, 16, and 17 were reported closed by PFM, which are the subject of this verification review. Recommendations 6, 8, 11 and 15 pertain directly to BLM and are closely tied to the recommendations covered in this review. BLM s recommendations, however, have not yet been reported as closed and were not part of this review.

Scope and Methodolog

We limited the scope of this review to the 13 recommendations reported closed by PFM and pertaining to NPS, OVS, and OAS. To accomplish our objective, we reviewed the supporting documentation that was provided to PFM, discussed issues with the OVS Chief Appraiser, and collected and reviewed additional supporting documentation as required to independently verify each recommendation s implementation.

We did not test internal controls, visit sites, or conduct fieldwork to determine whether the underlying deficiencies that we initially identified have been corrected. As a result, this review was not conducted in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States or the Quality Standards for Inspection and Evaluation of the Council of the Inspectors General on Integrity and Efficiency.

Results of Revie

Based on our review we conclude that 8 of the 13 recommendations reported as closed by PFM have been resolved, implemented, and closed:

Recommendation 1 Following Uniform Appraisal Standards, Valuation Services should define market value of ROW to include the value of the right or use granted.

Recommendation 4 Valuation Services should perform high-priority, individual valuations as allowed, given its resources.

Recommendation 5 Valuation Services should develop and implement guidance and training requirements for staff to conduct individual ROW valuations.

Recommendation Valuation Services should work with BLM to implement linear rent schedules for department-wide use with provisions to periodically update the schedules.

Recommendation Valuation Services should work with BLM to implement communications rent schedules for department-wide use with provisions to periodically update the schedules.

Recommendation 1 The Department s Office of Budget should seek authority for BLM and other bureaus with ROW responsibilities to retain a percentage of the revenues

recovered from reviews that identify unpaid rent from unreported services. Bureaus could use these additional revenues to fund additional reviews.

Recommendation 16—NPS should continue to implement a ROW management program that includes completing an inventory of its ROW and assigning qualified realty staff.

Recommendation 1—Appraisal Services should consult with the Office of the Solicitor to determine which recommendations in this report are applicable to Indian Affairs.

We consider recommendations 10, 13, and 14 closed, but not implemented:

Recommendation 10—Valuation Services should work with BLM to develop and implement procedures for department-wide periodic reevaluations of ROW grants, with authority to update rental rates to reflect current market values.

Actions Taken—In its response to our audit report, the Department stated that OVS would assist in the development of a department-wide reevaluation procedure by assisting BLM and DOI with developing methodologies for periodically reevaluating and updating the linear and communications rent schedules. It also stated that OVS would conduct periodic audits of ROW grants to determine whether rental rates are still representative of market value post-implementation.

In its request to PFM to close this recommendation, OVS stated that BLM determined it would have to pursue formal rulemaking to allow development of rent schedules other than those included in regulation. During our review, OVS provided us with drafts of the regulations that BLM wants to change and which OVS had input. OVS is not conducting periodic reevaluations of ROW grants, which was a finding in our original report. Rather, grant leases are evaluated at the end of the ROW terms. We believe that periodic audits of ROW grants are warranted; however, we understand that OVS's ability to implement the full intent of the original recommendation is heavily contingent on BLM action. Therefore, we consider this recommendation closed but not implemented.

Recommendation 13—Valuation Services should work with bureaus with ROW responsibilities to implement penalties for grantees that do not report additional services and fail to pay rents.

Recommendation 14—Valuation Services should work with the bureaus to develop and implement department-wide procedures for calculating and collecting unpaid back rents.

Actions Taken—In its response to our audit report, the Department noted that a considerable amount of research would be needed prior to implementing penalties for grantees or developing department-wide procedures for calculating and collecting unpaid back rents. To address these two recommendations, the Department stated it would have OVS convene a work group to—

- Identify authorities that may permit penalties and collection of back rents;

- Review current penalty and rent collections programs in the bureaus, if any;
- Develop recommendations for the implementation of penalties and back rent collections programs; and
- Implement programs in each bureau.

In its request to close the recommendation, OVS stated that it had convened a work group made up of key bureau personnel, and provided a list of attendees and a small chart outlining each bureau's applicable regulations, the section of the regulation that pertains to back rents, and a brief summary of the types of penalties or pecuniary actions available to each bureau. We were told, during the course of this review, that the work group met once, discussed the information provided in the chart, and concluded that OVS did not have the authority to implement any department-wide policies regarding penalties and back rents and that each of the bureaus would need to complete rulemaking to modify their existing regulations.

Though a work group was convened, and each bureau identified its own applicable authorities that may permit penalties and the collection of back rents. The group did not undertake any sort of in depth review, develop any recommendations regarding possible improvements, or implement or improve the implementation of a penalty or back rent collection programs in the bureaus. However, since OVS does not have direct authority to implement penalties, or to develop department-wide procedures for calculating and collecting back rents, its ability to meet the full intent of these two recommendations is limited. Therefore, we consider Recommendations 13 and 14 closed but not implemented.

We do not consider recommendations 2 and 3 implemented or closed:

Recommendation Valuation Services should create and maintain a database of comparable ROW information.

Actions Taken OVS has begun collecting market transaction data related to ROW from completed NPS and FWS appraisals, as well as ROW market-related information from State government agencies and other public sources. In addition, OVS has come to an agreement with OAS to buy licenses (through OAS enterprise agreement) for OAS appraisal software program, which includes the ability to create a database for ROW market transactions. In order to use the appraisal software program, however, we learned that OVS must clear this arrangement through the Department's Office of the Chief Information Officer (OCIO). According to OVS Chief Appraiser, OVS has not yet submitted this request to the OCIO, and as such is not currently using the appraisal software system.

OVS has made significant progress towards implementing this recommendation, and we commend the efficiency of using available resources (OAS appraisal system) rather than duplicating efforts by securing another similar system. Until OVS submits its request to the OCIO and gets approval, however, it cannot create and maintain a database of comparable ROW information as intended by the recommendation. Therefore, we do not consider this recommendation implemented or closed.

Recommendation 3—Valuation Services should establish criteria to prioritize ROW using market considerations, including the value and volume of the service authorized.

Actions Taken—In its closure request, OVS proposed that this recommendation be closed without implementation pending legal review. OVS noted that it did not have the authority to establish criteria for prioritization of ROW, but it met with BLM numerous times to discuss the implementation of this recommendation. The issue in question is whether determining market rents based on the value and volume of the authorized services violates the Commerce Clause of the U.S. Constitution, as ruled in *Western Oil and Gas Association v. Cory*, 726 F. 2d 1340 (1985). If the Office of the Solicitor determines that this approach is not a violation, OVS stated that it could take on the necessary market data collection effort to assist BLM, in the event that BLM requests valuation work from OVS. The other bureaus would each have to amend their regulations through the rulemaking process to allow this methodology to be used for establishing market rent.

Shortly after we began our review, OVS submitted a request for legal review to the Office of the Solicitor. At the time of this report, OVS had not yet received an opinion. Until OVS receives an opinion from the Solicitor indicating whether determining market rents based on the value and volume of the authorized services is a violation, we do not consider this recommendation implemented or closed.

Conclusion

We informed NPS, OVS, and OAS officials of the results of this review on March17, 2017.

cc: Olivia Ferriter, Deputy Assistant Secretary for Policy, Management and Budget
Elena Gonzalez, Acting Deputy Assistant Secretary, Technology, Information and Business Services
John Ross, Director, Office of Valuation Services
Timothy Hansen, Chief Appraiser, Office of Valuation Services
Denise Flanagan, Director, OS Office of Budget
Douglas Glenn, Director Office of Financial Management
Allen Lawrence, Division Chief, Internal Control and Audit Follow-up, Office of Financial Management
Alexandra Lampros, Audit Liaison Officer, Office of Financial Management
Shawn Benge, Associate Director, Park Planning, Facilities, and Lands
Vera Washington, NPS Audit Desk Officer, Office of the Comptroller
Mike Nedd, Acting Director, Bureau of Land Management
Heather Kie, Audit Liaison Officer, OTRA Office of Trust Review and Audit
Patrick McHugh, Office of Financial Management

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

APR 07 2017

Memorandum

To: Amy Holley
Acting Assistant Secretary for Policy, Management and Budget

From: Amy R. Billings Amy R Billings
Central Region Manager for Audits, Inspections, and Evaluations

Subject: Verification Review – Recommendations for the Report, "Department of the Interior's Radio Communications Program" (Audit No. C-IN-MOA-0007-2005) Report No. 2017-CR-008

The Office of Inspector General (OIG) has completed a verification review of the seven recommendations presented in our January 2007 audit report "Department of the Interior's Radio Communications Program" (Audit No. C-IN-MOA-0007-2005). Our objective for this review was to determine if the U.S. Department of the Interior (Department) implemented the seven recommendations as reported to the Office of Financial Management (PFM), Office of Policy, Management and Budget. Based on our review, we conclude that the report's recommendations have been resolved, implemented, and closed.

In our 2007 audit, we found that DOI has over 100 radio sites in extremely poor or hazardous condition, which posed an immediate risk of injury or death to employees and the public. We made seven recommendations for improving the Department's controls over radio communications. Between July 2009 and September 2016, PFM reported to OIG that the Department had addressed, implemented, and closed the seven following recommendations:

Recommendation 1: Reinstate wireless telecommunications as a departmental material weakness until the findings in this report are sufficiently addressed and corrected.

Recommendation 2: Assign full responsibility over the radio communications program to the OCIO [Office of the Chief Information Officer], including management and funding of all radio equipment and related infrastructure.

Recommendation 3: Develop a comprehensive management plan for the radio communications program, with input from users and stakeholders to include—

- the CPIC [Capital Planning and Investment Control] process to manage the radio communications program;
- a department-wide action plan with milestones to perform necessary site assessments and correct deficiencies;

- a determination of the funding necessary to conduct site assessments, correct deficiencies, and perform routine maintenance on the radio infrastructure; and
- short- and long-term strategies for completing the narrowband conversion.

Recommendation 4 Identify specific user groups (for example, fire fighter, law enforcement, and biologists) and ensure

- user needs are thoroughly assessed and addressed;
- guidance that meets all users' needs is provided and enforced;
- all user groups are provided adequate training on radio use; and
- users are allowed to purchase analog narrowband technology or to develop hybrid systems to address health and safety issues or limitations in infrastructure capabilities.

Recommendation 5 Appoint a credentialed project manager to oversee the radio communications program.

Recommendation 6: DOI [Department] should enforce existing safety procedures, such as posting warning signs, to inform employees and the general public of hazardous site conditions.

Recommendation Implement the following best practices, where appropriate:

- Establish a universal property management and radio system network database to better identify existing resources department-wide and to help identify resource sharing opportunities within DOI.
- Share infrastructure with other Federal agencies and State and local governments.
- Consider alternate technologies.
- Centralize the bureaus technical service capabilities to take advantage of the expertise and resources department-wide.
- Establish a consistent funding mechanism, such as a working capital fund, to ensure availability of funds for annual maintenance.
- Establish a life-cycle replacement program to systematically track the condition and useful life of the radio infrastructure so radio costs can be systematically projected.

We limited the scope of our review to determine if the Department implemented the recommendations reported closed by PFM. To accomplish our objective, we reviewed the supporting documentation that Department officials provided to PFM, and collected and reviewed additional supporting documentation necessary to verify each recommendation s implementation independently.

We did not test internal controls, visit sites, or conduct fieldwork to determine whether the underlying deficiencies that we initially identified have been corrected. As a result, we did not conduct this verification review in accordance with Generally Accepted Government

Auditing Standards issued by the Comptroller General of the United States, or Quality Standards for Inspection and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency.

We informed Department officials of the results of this review on April 03, 2017.

cc: Olivia Ferriter, Deputy Assistant Secretary for Policy, Management and Budget
Harry Humbert, Deputy Assistant Secretary for Public Safety, Resources Protection, Emergency Services; Policy, Management and Budget
Elena Gonzalez, Acting Deputy Assistant Secretary; Technology, Information and Business Services
Douglas Glenn, Director, Office of Financial Management
Allen Lawrence, Division Chief, Internal Control and Audit Follow-up, Office of Financial Management
Sylvia Burns, Chief Information Officer, Office of the Chief Information Officer
Russ Sveda, Radio and Spectrum Section Chief, Office of the Chief Information Officer
Nancy Thomas, Audit Liaison Officer, Office of Financial Management
Alexandra Lampros, Financial Specialist, Office of Financial Management
Peter Brownell, IT Specialist, Office of the Chief Information Officer
Jonathon Andrew, Interagency Borderlands Coordinator, Office of Financial Management

From: Knox, Jason
To: "Micah Chambers"
Subject: RE: BOEM Release today
Date: Monday, April 10, 2017 1:06:41 PM

I don't know what happened but SPAM caught a couple of your emails to me, sorry for not responding to them.

From: Micah Chambers [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, April 10, 2017 10:04 AM
To: Knox, Jason
Subject: Re: BOEM Release today

Ok. All good, need to discuss possible meeting with the caucus

Sent from my iPhone

On Apr 10, 2017, at 10:01 AM, Knox, Jason <Jason.Knox@mail.house.gov> wrote:

> We are doing interviews all morning so I will have to call after lunch
>
> ---
>
> **From:** Micah Chambers [mailto:micah_chambers@ios.doi.gov]
> **Sent:** Monday, April 10, 2017 9:50 AM
> **To:** Knox, Jason
> **Subject:** Re: BOEM Release today
>
> You free to chat for a minute? 202.706.9093
>
> Sent from my iPhone
>
> On Mar 6, 2017, at 12:44 PM, Knox, Jason <Jason.Knox@mail.house.gov> wrote:
>
> > Thank you
> >
> > **From:** Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
> > **Sent:** Monday, March 06, 2017 12:22 PM
> > **To:** Knox, Jason; Schafle, Matt; Freeman, Mike
> > **Subject:** Fwd: BOEM Release today
> >
> > Thought you might want to share this with your relevant members. Release going out shortly. I know know who is best POC within those offices but figured you would.
> >
> > Micah
> >
> > All - here's final release going out shortly.
> >
> > Date: March 6, 2017
> > Contact: Interior_Press@ios.doi.gov

Caryl Fagot BOEM (504) 736-2590

Secretary Zinke Announces Proposed 73-Million Acre Oil and Natural Gas Lease Sale for Gulf of Mexico

All available areas in federal waters will be offered in first region-wide sale under new Five Year Program

WASHINGTON -- U.S. Secretary of the Interior Ryan Zinke today announced that the Department will offer 73 million acres offshore Texas, Louisiana, Mississippi, Alabama and Florida for oil and gas exploration and development. The proposed region-wide lease sale scheduled for August 16, 2017 would include all available unleased areas in federal waters of the Gulf of Mexico.

"Opening more federal lands and waters to oil and gas drilling is a pillar of President Trump's plan to make the United States energy independent," Secretary Zinke said. "The Gulf is a vital part of that strategy to spur economic opportunities for industry, states and local communities, to create jobs and home-grown energy and to reduce our dependence on foreign oil."

Proposed Lease Sale 249, scheduled to be livestreamed from New Orleans, will be the first offshore sale under the new Outer Continental Shelf Oil and Gas Leasing Program for 2017-2022 (Five Year Program). Under this new program, ten region-wide lease sales are scheduled for the Gulf, where the resource potential and industry interest are high, and oil and gas infrastructure is well established. Two Gulf lease sales will be held each year and include all available blocks in the combined Western, Central, and Eastern Gulf of Mexico Planning Areas.

The estimated amount of resources projected to be developed as a result of the proposed region-wide lease sale ranges from 0.211 to 1.118 billion barrels of oil and from 0.547 to 4.424 trillion cubic feet of gas. The sale could potentially result in 1.2 to 4.2 percent of the forecasted cumulative OCS oil and gas activity in the Gulf of Mexico. Most of the activity (up to 83% of future production) of the proposed lease sale is expected to occur in the Central Planning Area.

Lease Sale 249 will include about 13,725 unleased blocks, located from three to 230 miles offshore, in the Gulf's Western, Central and Eastern planning areas in water depths ranging from nine to more than 11,115 feet (three to 3,400 meters). Excluded from the lease sale are blocks subject to the Congressional moratorium established by the Gulf of Mexico Energy Security Act of 2006; blocks that are adjacent to or beyond the U.S. Exclusive Economic Zone in the area

known as the northern portion of the Eastern Gap; and whole blocks and partial blocks within the current boundary of the Flower Garden Banks National Marine Sanctuary.

“To promote responsible domestic energy production, the proposed terms of this sale have been carefully developed through extensive environmental analysis, public comment and consideration of the best scientific information available,” said Walter Cruickshank, the acting director of Interior’s Bureau of Ocean Energy Management (BOEM). “This will ensure both orderly resource development and protection of the environment.”

The lease sale terms include stipulations to protect biologically sensitive resources, mitigate potential adverse effects on protected species and avoid potential conflicts associated with oil and gas development in the region. BOEM’s proposed economic terms include a range of incentives to encourage diligent development and ensure a fair return to taxpayers. The terms and conditions for Sale 249 in the Proposed Notice of Sale are not final. Different terms and conditions may be employed in the Final Notice of Sale, which will be published at least 30 days before the sale.

BOEM estimates that the U.S. Outer Continental Shelf (OCS) contains about 90 billion barrels of undiscovered technically recoverable oil and 327 trillion cubic feet of undiscovered technically recoverable gas. The Gulf of Mexico OCS, covering about 160 million acres, has technically recoverable resources of 48.46 billion barrels of oil and 141.76 trillion cubic feet of gas.

Production from all OCS leases provided 550 million barrels of oil and 1.25 trillion cubic feet of natural gas in FY2016, accounting for 72 percent of the oil and 27 percent of the natural gas produced on federal lands. Energy production and development of new projects on the U.S. OCS supported an estimated 492,000 direct, indirect, and induced jobs in FY2015 and generated $5.1 billion in total revenue that was distributed to the Federal Treasury, state governments, Land and Water Conservation Fund, and Historic Preservation Fund.

As of March 1, 2017, about 16.9 million acres on the U.S. OCS are under lease for oil and gas development (3,194 active leases) and 4.6 million of those acres (929 leases) are producing oil and natural gas. More than 97 percent of these leases are in the Gulf of Mexico; about 3 percent are on the OCS off California and Alaska.

The current Five Year Program [2012-2017] has one final Gulf lease sale scheduled on March 22, 2017 for Central Planning Area Sale 247. The 2012-2017 Five Year Program has offered about 73 million acres, netted more than $3 billion in high bids for American taxpayers and awarded more than 2,000 leases.)

All terms and conditions for Gulf of Mexico Region-wide Sale 249 are detailed in the Proposed Notice of Sale (PNOS) information package, which is available at: http://www.boem.gov/Sale-249/. Copies of the PNOS maps can be requested from the Gulf of Mexico Region's Public Information Unit at 1201 Elmwood Park Boulevard, New Orleans, LA 70123, or at 800-200-GULF (4853).

The Notice of Availability of the PNOS will be available today for inspection in the Federal Register at: http://www.archives.gov/federal-register/public-inspection/index.html and will be published in the March 7, 2017 *Federal Register*.

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Kleeschulte, Chuck (Energy)
Cc:	Hammond, Casey
Subject:	FYI request for help on another Alaska issue
Date:	Monday, April 10, 2017 4:00:01 PM
Attachments:	Cooper Lands DOI - letter FINAL Sterling Hwy. Reroute 4-4-17.pdf Cooper Landing , Letter to DOT on- Sterling Hwy. Reroute 4-10-17.pdf Cooper Landing DSEIS MP 45-60.pdf Cooper Landing One pager on Sterling MP 45-60 r1 from DOTPF 3-16-17.docx

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Hi Casey. My name is Chuck Kleeschulte and I work for Sen. Lisa Murkowski at the Energy committee. I believe Kate copied you on this email last week, but was checking back, mostly because she suggested I check in with you, on the issue of a land trade in Alaska needed to build the last major segment of a rebuilt Sterling Highway in the Cooper Landing area. The backup that I sent Kate is attached, plus a companion letter to DOT that also is needed to solve an issue with the Resurrection Pass Trail crossing. Call if you have questions. My direct line is 202/224-8276. Thank you. Chuck Kleeschulte

LISA MURKOWSKI, Alaska, *Chairman*
JOHN BARRASSO, Wyoming
JAMES E. RISCH, Idaho
MIKE LEE, Utah
JEFF FLAKE, Arizona
STEVE DAINES, Montana
CORY GARDNER, Colorado
LAMAR ALEXANDER, Tennessee
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LUTHER STRANGE, Alabama
MARIA CANTWELL, Washington
RON WYDEN, Oregon
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DEBBIE STABENOW, Michigan
AL FRANKEN, Minnesota
JOE MANCHIN III, West Virginia
MARTIN HEINRICH, New Mexico
MAZIE K. HIRONO, Hawaii
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COLIN HAYES, STAFF DIRECTOR
PATRICK J. McCORMICK III, CHIEF COUNSEL
ANGELA BECKER-DIPPMANN, DEMOCRATIC STAFF DIRECTOR
SAM E. FOWLER, DEMOCRATIC CHIEF COUNSEL

United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510–6150

WWW.ENERGY.SENATE.GOV

April 4, 2017

The Honorable Ryan Zinke
Secretary, U.S. Department of the Interior
1849 C. Street, NW
Washington, DC 20240

Re: Russian River Land Act/Sterling Highway reroute/land exchange

Dear Mr. Secretary:

I write to seek your assistance to help unravel one of the the longest running environmental regulatory roadblocks in the State of Alaska, the dispute over how to relocate a segment of Alaska Highway 1 (the Sterling Highway) as it runs along the Kenai River through and past the town of Cooper Landing.

Since the late 1970s a series of Administrations and Congress have been attempting to find the best route for a modern 15-mile bypass that would avoid funneling all traffic to Southcentral Alaska within a few feet of America's premiere king salmon streams, the Kenai and Russian Rivers. We are in the midst of the third Environmental Impact Statement, most recently costing $16 million. This is a complex issue as the Sterling Highway snakes through the Kenai Mountains near Cooper Landing, crossing the Chugach National Forest, the Kenai National Wildlife Refuge/formal wilderness and the Kenai State Park.

The Highway, one of America's most scenic, runs through major brown bear and moose habitat, crosses historic and culturally archaeological grounds for the Kenaitze Indian Tribe, and comes within a few feet of the Kenai River, the breeding grounds of America's largest king salmon. Hundreds of thousands of tourists travel the narrow highway yearly; despite this, commercial and sport fishing along the river account for 40 percent of the Kenai Peninsula's total economy.

The long-standing goal has been to build a by-pass around the tourist areas at Cooper Landing so that 70 percent of all traffic does not have to travel on the 1950's era pavement. This would protect the nearby salmon streams from potential fuel and chemical spills. Four route alternatives have been developed, the best from an environmental and Native archaeological standpoint is the Juneau Creek alternative that would run the highway 1.5 miles north of Kenai Lake, requiring no bridges to cross the

river, and protecting salmon from all sediment and road runoff. By contrast, the most significant negative impact environmentally would be from the G-South Alternative. This alternative, which remarkably is now "preferred," would require a new bridge over the river, counter to the requirements of the Kenai River Comprehensive Management Plan.

Unfortunately, the Federal Highway Administration recently ruled the Juneau Creek route out of consideration – even though it once approved of it -- because that route must cross the width of the Resurrection Pass National Historic Recreation Trail and about a quarter mile of the Mystery Creek Wilderness Area located inside the Kenai National Wildlife Refuge. It will take a 33-acre boundary adjustment to the southeast corner of the wilderness to clear a route for the highway.

Fifteen years ago, Congress envisioned that the best route for the bypass would cross the wilderness area and approved the Russian River Land Act (PL. 107-362, 116 Stat. 3021). That Act established a formal process for a land exchange to clear the right of way. Under that law, the region's Native Regional Corporation, Cook Inlet Inc. (CIRI), was required to trade lands to the U.S. Fish and Wildlife Service to be added to the refuge to offset the 33-acre boundary adjustment. CIRI was then allowed to select other less valuable lands to the west of Cooper Landing in exchange. Under P.L. 107-362, however, only the Secretary of the Interior can initiate negotiations for the exchange.

A land exchange to permit the bypass to follow the Juneau Creek alternative (again, a better route from an environmental standpoint) is supported by the Kenai River Sportfish Association, by the Kenai Peninsula Borough, the City of Kenai, the cities of Soldotna and Homer, the Kenaitze Indian Tribe, the Salamatof Native Association, the Ninilchik Traditional (Tribal) Council, and the environmental-fishery groups: Cook Inlet Keeper, Kenai Watershed Forum, Kenai Peninsula Fishermen's Association, United Cook Inlet Drift Association, the Kenai River Professional Guide Association, and the Kenai River Keys Property Owners Association.

Time is of the essence. Last fall the Federal Highway Administration unveiled its draft "final" EIS that eliminated the Juneau Creek alternative from consideration. At least in part because the FHwA noted there has yet to be a land exchange initiated that would prevent the road from crossing the wilderness area – a violation of Section 4(f) of the Federal Highway Act and because of concerns about the route crossing the Resurrection Pass Trail. The FHWA is scheduled to finalize its record of decision this fall.

Prompt action on a land exchange, however, in which CIRI is prepared to quickly engage, would prevent a poor alternative from being selected, and avoid additional delays and cost hikes in construction of one of the last segments of this key Alaska highway.

I hope you will consider quickly initiating the needed land exchange and that you will encourage all agencies in your department to press for the most narrow land exchange possible – one that will fully compensate the refuge for any wilderness acreage it loses for a road, but an exchange that will solve only the land issues raised by this project and not encompass all of the potential land ownership proposals that could arise – the

appraisal process obviously becoming far more complex and lengthy if a more expansive exchange is sought by federal agencies.

I and my staff stand ready to discuss this request with you at any time. It is just another of many vital issues to Alaska that you face as Secretary as a result of being the landlord for about 190 million acres of my state. Thank you for your consideration of this issue.

Sincerely,

Lisa Murkowski
United States Senator

Attachments: Sterling Highway Summary Sheet and DEIS Report

Sterling Highway MP 45-60 Reconstruction Project

Project Purpose: The purpose of the Sterling Highway MP 45-60 Reconstruction Project is to bring the highway up to current standards and to efficiently and safely serve the through-traffic, local community traffic and traffic bound for recreation destinations within the project area both now and in the future.

Background: This section of the Sterling Highway is essentially the same highway that was built in the 1940's and 1950's. The environmental work for this project was initiated in 1975 and has continued on to the present.

Alternatives: There are four "build" alternative routes evaluated in detail in the EIS. These are the Cooper Creek Alternative, G South Alternative, Juneau Creek Alternative (desired by local government, tribes and sport fishing organizations) and Juneau Creek Variant Alternative. There is also the "No Build Alternative".

Selected Alternative: The G South Alternative was selected for the following reasons: 1) The two Juneau Creek Alternatives cross the Resurrection Pass National Recreation Trail which FHWA has determined to be Section 4(f) resource. Section 4(f) refers to the original section within the U.S. Department of Transportation Act of 1966 which established the requirement for consideration of park and recreation lands, wildlife and waterfowl refuges, and historic sites in transportation project development. By law, if a Section 4(f) evaluation identifies a feasible and prudent alternative that completely avoids Section 4(f) properties, it must be selected. The G South and Cooper Creek Alternative are both feasible and prudent; therefore, neither of the Juneau Creek Alternatives can be selected. 2) The Cooper Creek Alternative would have considerable impacts to the community of Cooper Landing and would not address the congestion and safety problems in this portion of the highway as the G South Alternative; therefore, G South is the selected alternative.

Roles of FHWA and DOT&PF: FHWA makes the decisions on what is to be evaluated and makes the final route alternative selection which is published in a Record of Decision (ROD). DOT&PF performs the work as required by FHWA. Once the ROD is published, DOT&PF can either build the selected alternative in the ROD or decide not to build anything. Either way, the money spent on the EIS remains eligible for federal funds.

Financial Information: Current costs for the EIS exceed $16 million dollars. The construction cost estimates for this project are around $300 million. The project is a Federal Aid Highway Project. Under that program the federal government pays about 90% of project costs from State of Alaska apportioned funds from the Federal Highway Trust Fund, with the State paying the remaining 10%.

Current Status: In December 2015, DOT&PF and the Federal Highway Administration (FHWA) identified the G South Alternative as the preferred alternative for the Sterling Highway MP 45-60 Project near Cooper Landing. The Final EIS will be released for review by cooperating agencies this month (November 2016). The Final EIS public availability period is expected in the Summer of 2017. The Record of Decision is anticipated in November 2017.

Sterling Highway Milepost 45-60

Draft Supplemental Environmental Impact Statement and Draft Section 4(f) Evaluation

Executive Summary

MARCH 2015

STERLING
HIGHWAY MILE POST 45 TO 60
ALASKA

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STERLING
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ALASKA

Executive Summary

MARCH 2015

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The Project at a Glance

Originally completed in 1950, the Sterling Highway is the only road that links western Kenai Peninsula communities (e.g., Kenai, Soldotna, and Homer) to the rest of the state. For many years, the Alaska Department of Transportation and Public Facilities (DOT&PF) has recognized the need for improved safety and traffic flow along this highway to accommodate increased traffic from community growth, recreation, and tourism.

The Problems and Challenges

The Sterling Highway from Milepost 45 to 60 follows the Kenai River valley through the Kenai Mountains. The highway's problems and challenges through Cooper Landing include:

- A constricted valley between the Kenai River and steep mountain walls
- Narrow, curvy highway design
- Traffic congestion
- Many driveways and side roads
- Conflicts between local traffic and through-traffic
- Elevated crash rate
- Risk of contaminant spills into the Kenai River

The scenic nature of the area, community growth, and world-class fishing on the Kenai and Russian rivers combine to create serious congestion problems for the highway from May through September. This level of congestion has created safety issues for highway travelers, especially in areas where high-speed traffic conflicts with vehicles turning on and off the highway.

The Goal

DOT&PF seeks to:

- Reduce congestion
- Improve the highway to current "rural principal arterial" design standards
- Improve highway safety

See detailed project map on pages 3-4.

Whose project is this?

The Sterling Highway Milepost (MP) 45 to 60 Project is proposed by the DOT&PF (as the highway owner) and by the Federal Highway Administration (FHWA). FHWA administers Federal transportation project funds, which means that FHWA would approve the final environmental impact statement and subsequent record of decision.

Overview

Sterling Highway Milepost 45-60

Thousands of Alaskans and visitors from around the world drive to the spectacular upper Kenai River every summer. Most come from Anchorage, which is home to the majority of the state's population and the region's main airport. From the other direction, they may come from Kenai, Soldotna, or Homer—the principal cities on the western Kenai Peninsula. From either direction, they drive a consistent highway—with uniform lane widths, ample shoulders, and curves designed for uniform highway speeds—until they approach Cooper Landing.

Near Cooper Landing, the Sterling Highway reverts to its original design, with narrow lanes, no shoulders, and sharp curves. The highway through this stretch was constructed in the 1940s and 1950s and served the traffic and vehicles of that time. Since then, however, the sizes and numbers of cars and trucks have changed, as well as the standards for a highway's lanes, shoulders, and sharpness of curves. Along this stretch, the highway does not meet current highway standards. The narrow lanes and shoulders, sharp curves, and poor visibility mean the road is less safe than similar roads around the state.

In summer, traffic overwhelms the road. Cooper Landing and the nearby confluence of the Kenai and Russian rivers draw people for fishing, boating, camping, and hiking. This slow-moving local traffic is continually pulling on and off the highway. People traveling through the area, between places like Soldotna and Anchorage, share the same highway and get caught in the local traffic.

The idea of a new highway in the Cooper Landing area is favored by some people and is a source of concern for others.

Why favored?

This project holds promise for a better highway design and safer driving experience. The Sterling Highway runs for several miles along the Kenai River, in some places following every bend. The road is narrow and winding, with low speed limits in some areas, with no shoulders or adequate space along the road for safety, with little opportunity to pass, and with many connecting driveways that create multiple access points to the highway. Traffic is gradually increasing and has been for decades, reducing the ability of the highway to handle the traffic.

Upgrades to modern highway design standards would allow for more consistent highway speeds to serve long-distance travelers and commercial truck traffic. With a new highway route, segments of the old highway would remain as a lower-speed road suited to serving local and recreational traffic. A reconstructed highway would match other nearby portions of the Sterling and Seward highways, which have been upgraded to modern standards.

Why is there concern?

The Kenai River valley is not an easy place to improve a road. Land along the highway in Cooper Landing is largely built upon, leaving little room to alter the alignment or widen the highway without impacts to private property. The topography of mountain slopes and river bends also physically constrains the design of the highway, in some cases forcing proposed alignments into locations that are protected or important for other uses. Any change to the highway likely would impact wildlife corridors and habitat, recreation areas, and cultural sites. The Cooper Landing community provides essential support services, and people are concerned that traffic might be routed away from existing businesses.

The Kenai River is a State park, and the confluence of the Russian and Kenai rivers is a major destination for sport fishing. The two rivers also attract a concentration of brown bears. Most of the land in the area is managed by Chugach National Forest and Kenai National Wildlife Refuge.

The area is largely natural and provides habitat for bears, moose, and other wildlife. Besides fishing, people enjoy camping, hiking, mountain biking, rafting and boating, and backcountry winter sports on these public lands.

The fish in the confluence area have been important to Native peoples for thousands of years, and the river was important later to early Russian and American explorers and gold miners. Hundreds of historic and archaeological features dot the area and make it culturally important today to the Kenaitze Indian Tribe and to Cook Inlet Region, Inc. (CIRI), the regional Alaska Native corporation, which owns land in the area. All of this makes the area a complex setting for this project.

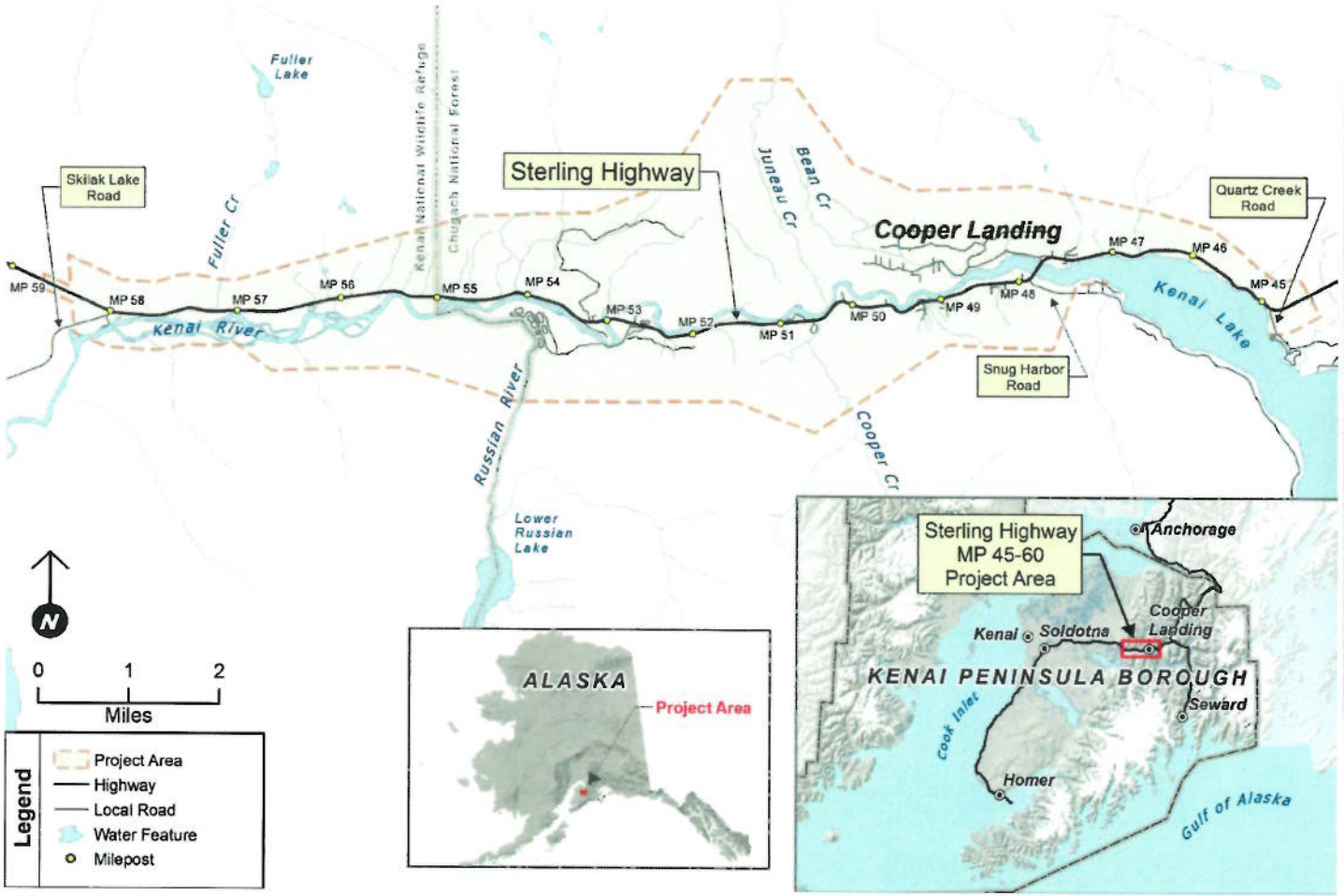
What is an EIS? An Environmental Impact Statement (EIS) is a document prepared to describe the effects of proposed activities on the environment. It considers both the natural and physical environment and the relationship of people with the environment. The purpose of developing an EIS is to help agencies, officials, and the public make sound decisions. Its preparation is prescribed by the National Environmental Policy Act of 1969, and it is necessary to disclose potential impacts in order to secure the use of Federal funding for transportation projects.

Why is this a supplemental EIS?

A supplemental EIS (SEIS) is meant to review the findings of an existing EIS and supplement them with new or updated information. DOT&PF and FHWA previously released two draft EISs for this project, in 1982 and 1994. These addressed a larger project area, extending from MP 37 (Seward Highway junction) to MP 60, 8 miles longer than the current project area (MP 45-60). Based on the complexity in the MP 45-60 area and on a determination that the MP 37-45 project would be useful on its own, the 8-mile segment was expedited and constructed by 2001. At about the same time, DOT&PF began preparing this SEIS, building on past work. Because the entire MP 37-60 area has been under a single ongoing work agreement between DOT&PF and FHWA since the 1970s, this EIS is formally considered a supplement. Enough time has passed, however, that all research was begun anew.

Where is the project?

The Sterling Highway is located on the Kenai Peninsula in Southcentral Alaska. It runs east-west through the Kenai Mountains and continues to the City of Homer. The project area is in the heart of the Kenai Mountains and runs from MP 45 to MP 60. The project's starting and stopping points for construction would be the intersection of the existing Sterling Highway with Quartz Creek Road on the east and the intersection with Skilak Lake Road on the west. The limits of any potential construction activities would be MP 44.5 to 58.2. However, MP 45 and MP 60 have been used historically to define the project, and therefore continue to be used as part of the project's formal name.



Why is the Sterling Highway important?

The Sterling Highway is the only road that connects the western Kenai Peninsula with the Seward Highway and the rest of the nation's highway system. It is part of the National Highway System and is Interstate Highway A-3. While the eastern end of the Sterling Highway connects to the rest of the national highway system on land, the opposite end of the Sterling Highway, at the city of Homer, connects to the Alaska Marine Highway System (ferry). Marine Highway ferries connect travelers by ocean to other Alaskan communities and the North American highway system at points in Southcentral and Southeast Alaska; at Prince Rupert, British Columbia; and at Bellingham, Washington.

Purpose and Need

What is "Purpose and Need," and how does it affect the process?

The Purpose and Need describes transportation problems the project is meant to address. It also helps the public and agencies determine which of the proposed alternatives best solve the transportation problems.

What is the project purpose?

The purpose of the project is to bring the highway up to current standards to efficiently and safely serve through-traffic, local community traffic, and traffic bound for recreation destinations in the area both now and in the future. DOT&PF and FHWA recognize the importance of protecting the Kenai River corridor while still achieving this transportation purpose.

What are the needs for the project?

There are three interrelated needs that the project would address: reducing highway congestion, meeting current highway design standards, and improving highway safety.

Need 1: Reduce Highway Congestion.

The construction of multiple driveways and side street accesses over time, combined with a curvy, constrained alignment with little passing opportunity and increasing traffic volumes, has led to unacceptable congestion that is forecast to worsen in the future. As a result, the highway performs below acceptable levels of service (LOS) for a rural principal arterial that is a component of the National Highway System. LOS is illustrated in the Congestion graphic to the right.

Congestion

Level-of-service (LOS) is a term used to qualitatively describe roadway and intersection traffic operations using "letter grades" ranging from A (best) to F (worst).

LOS A describes the highest quality of traffic service. Motorists travel at their desired speed. Without strict enforcement, LOS A results in average speeds of 55 mph or more for rural principal arterial highways. Passing demand is below passing capacity. Platoons of three or more vehicles are rare. Drivers are delayed no more than 35% of their travel time by other vehicles.

LOS B characterizes traffic flow with speeds of 50 mph or slightly higher on level terrain. The demand for passing to maintain desired speeds becomes significant. Drivers are delayed in platoons up to 50% of the time.

LOS C describes noticeable increases in platoon formation, platoon size, and frequency of passing impediments. The average speed still exceeds 45 mph. Chaining of platoons can occur. Although traffic flow is stable, it is susceptible to congestion due to turning traffic and slow-moving vehicles. Percent time spent following may reach 65%.

LOS D describes unstable traffic flow. Passing demand is high, with passing capacity near zero. Platoon sizes of 5-10 vehicles are common, although speeds of 40 mph still can be maintained. Turning vehicles and roadside distractions cause major shock waves in the traffic stream. Motorists are delayed in platoons nearly 80% of their travel time.

LOS E describes a condition where percent time spent following is greater than 80%. Speeds may drop below 40 mph, down to 25 mph on sustained grades. Passing is virtually impossible. Platooning becomes intense. Operating conditions are at capacity and unstable.

LOS F represents heavily congested flow with traffic demand exceeding capacity. Speeds are highly variable (possibly stop-and-go). While more cars are on the road at each level through LOS D/E, the traffic volume decreases at LOS F because vehicles cannot move freely.

Need 2: Meet Current Highway Design Standards.

Existing characteristics of the Sterling Highway do not meet current design standards for a rural principal arterial road. The existing highway contains curves, shoulders, guardrail, and clear zones that do not meet current design standards (see Current Design Standards and the Existing Highway table below).

Need 3: Improve Highway Safety.

The interrelated effects of highway congestion and outdated highway design characteristics lead to higher-than-average rates of traffic crashes in the project area, and a greater severity of crashes, when compared to the statewide average. The combination of narrow lanes, narrow or non-existent shoulders, sharp curves, and a high number of access points result in these safety issues. The crash rates are higher than the statewide average for similar types of roadways (rural principal arterials). The severity of crashes—that is, those that have major injuries or fatalities—is higher than the statewide average for portions of the highway in the project area.

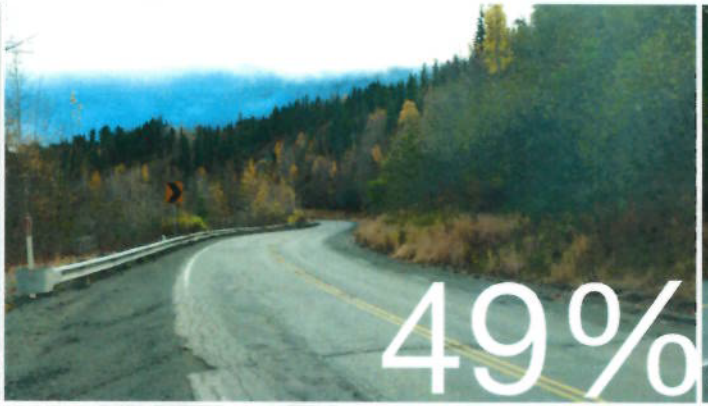
Current Design Standards and the Existing Highway

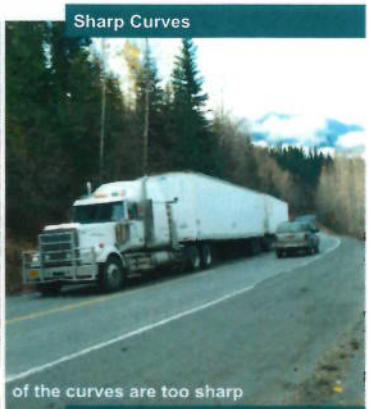
	Design Standards*	Distance Not Meeting Standard	Percent Not Meeting Standard
Design Speed *(mph)*	60	15 miles at 55 mph or less 4 miles at 40 mph or less	100%
Minimum Curve Radius *(feet)*	1,330	21 of 43 curves less than standard radius	49%
Lane Width *(feet)*	12	13.7 of 15 miles less than 12-foot-wide lanes	91%
Shoulder Width *(feet)*	6–10	15 of 15 miles less than 6-foot-wide shoulders	100%
Clear Zone *(feet)*	30–32	14 of 15 miles less than 30-foot-wide clear zone	95%

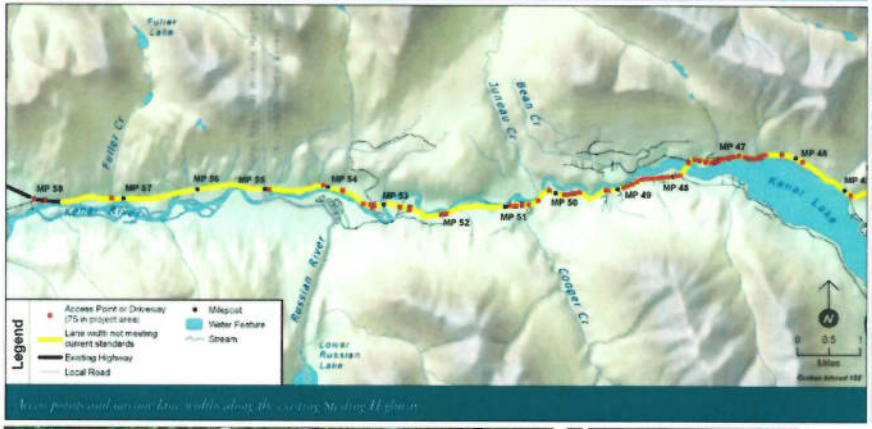
Where do I look in the Draft SEIS?

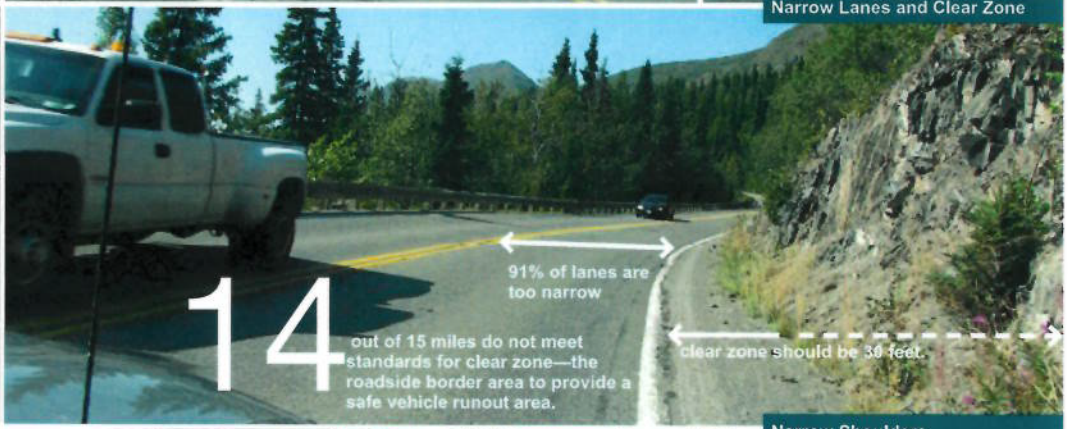
» Chapter 1 addresses purpose and need.

Purpose and Need continued...









Alternatives

Preliminary engineering and the alternatives screening process narrowed the potential build alternatives to four. These four and the No Build Alternative are evaluated in detail in the SEIS.

1. No Build Alternative
2. Cooper Creek Alternative
3. G South Alternative
4. Juneau Creek Alternative
5. Juneau Creek Variant Alternative

What is the No Build Alternative?

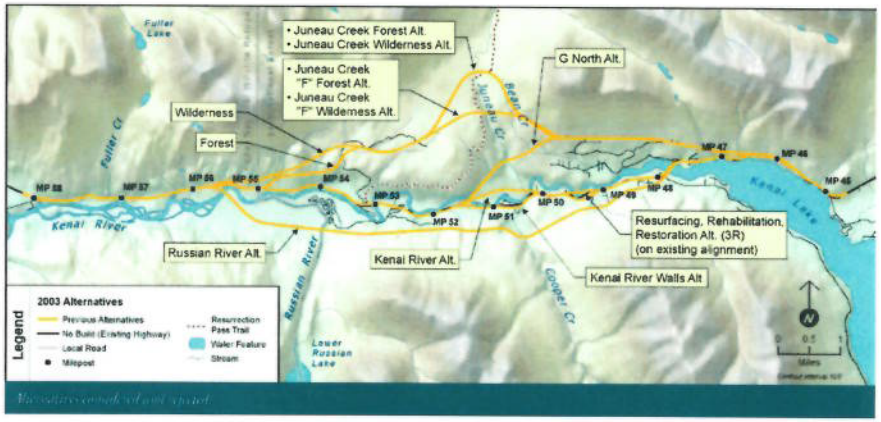
The National Environmental Policy Act requires that an EIS describe and analyze the impacts of not building the project as a benchmark that allows for comparison of the degree of environmental effects of the various project alternatives. In this document this alternative is called the "No Build Alternative." Under the No Build Alternative, the highway would remain much as it is today, with only maintenance and already programmed work assumed to occur.

What are the Build Alternatives?

The four build alternatives are the Cooper Creek Alternative, G South Alternative, Juneau Creek Alternative, and Juneau Creek Variant Alternative. Each of the build alternatives is engineered based on highway design standards for rural principal arterials. The build alternatives are identical from MP 45 to MP 46.3, at the eastern end of the project, and from MP 55.8 to MP 60, at the western end of the project. Each alternative would consist of a two-lane highway with paved shoulders, passing lanes, and turning lanes. Travel lanes would be 12 feet wide, paved shoulders would be 8 feet wide (adequate for safe bicycle and pedestrian use), passing lanes would be 12 feet wide, and all major intersections would have right- and left-turn lanes. No interchanges would be constructed. T-intersections would be used where the "old" highway intersects new segments within each alternative. Maps on pages 11 and 12 illustrate the build alternatives.

Were other alternatives considered?

More than thirteen alternative alignments were considered. Those that are fully analyzed in the SEIS are considered to represent the full range of reasonable alternatives. Those not carried forward were determined either not reasonable or similar to (but not as good as) a nearby similar alignment.



Alternatives were determined to not be reasonable for a combination of the following factors:

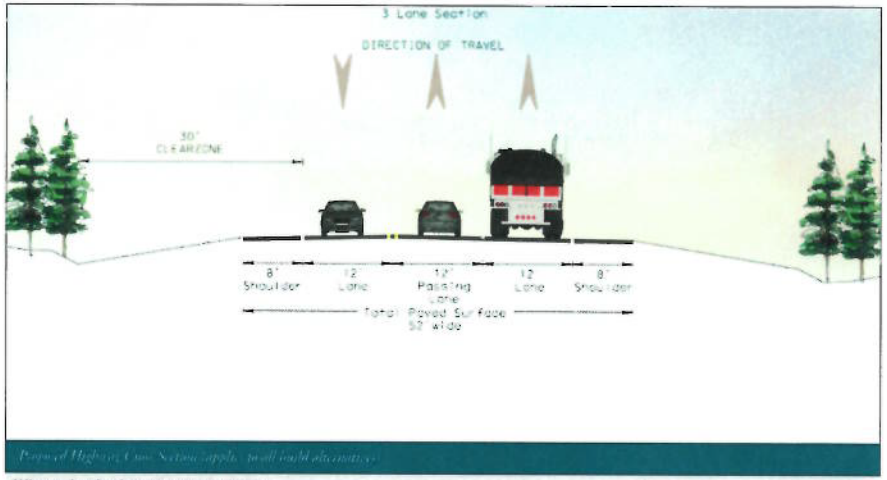
- Technical problems (for example, poor rock or soils).
- Inability to satisfy the project purpose and need (for example, grades too steep for a safe road).
- Impacts to the community, the natural environment, recreational areas, or high costs.
- General lack of public and agency support.

A formal analysis process that used criteria based on the purpose and need and preliminary impact assessment was conducted and is summarized in Chapter 2 of the SEIS. A map of alternatives considered and rejected appears on page 9.

Why not just improve the existing highway all the way through?

A segment of the existing highway in the area from MP 49 to MP 50.5 has several curves that do not meet current standards for a rural principal arterial. The hillside in this area rises abruptly from the winding Kenai River and its floodplain. The hillside is composed of fine-grained soils such as silt and clay-like soils. These soils were left by glacial retreat and water action. They were eroded into steep slopes by the Kenai River and its tributary, Cooper Creek. The soils are prone to landslides and mud flows. Multiple teams of DOT&PF and consulting engineers have examined this area over 30 years and determined that any alignment that straightened out the curves and widened the highway to meet standards would require huge cuts into the poor soils or would require direct impacts to the Kenai River. Civil and structural engineers have consistently recommended against large cuts in this area because of the unusual wall heights (as tall as 16-story buildings) and risk of slope and structure failure. Therefore, all alternatives have been routed around this area.

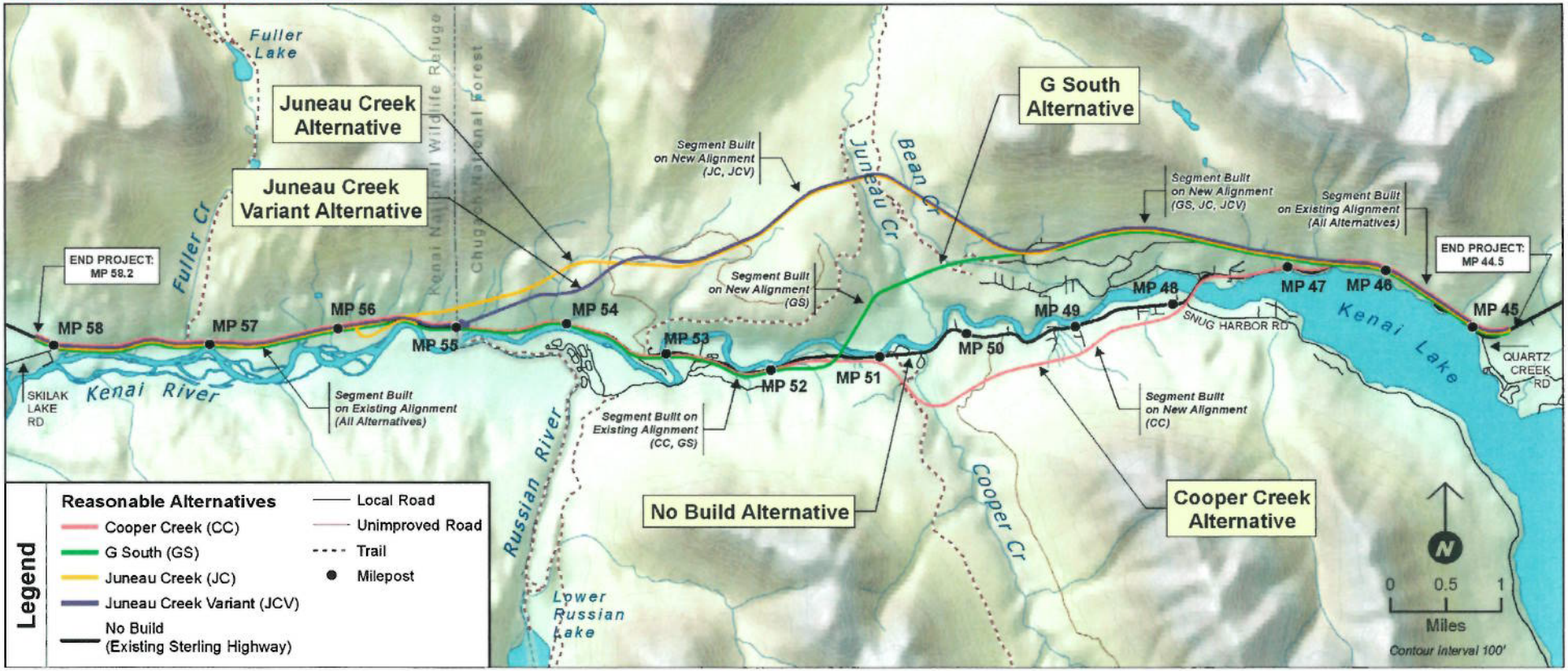
Highway Cross-Section. The highway would generally be a two-lane highway, but many portions of each alternative would have a passing lane or turning lane (three-lane cross-section, as shown below), and some areas would have passing lanes in both directions (four-lane cross-section). Widths of each lane (12 feet), widths of shoulders (8 feet), and clear zones (30 feet from lane edge) would be the same throughout.



Where do I look in the Draft SEIS?

- Chapter 2 addresses alternatives.

Alternatives evaluated in detail in the SEIS

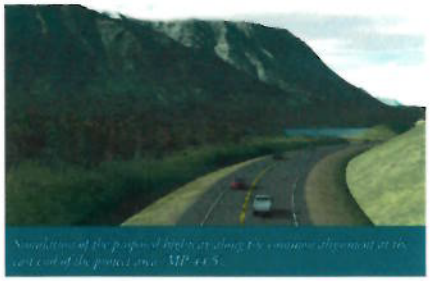


Cooper Creek Alternative. The Cooper Creek Alternative follows the existing alignment for most of its length. Only about 3.5 miles would be located on a new alignment, routed south of Cooper Landing. This alternative would include construction of three large bridges—two replacing existing Kenai River bridges and one new large bridge over Cooper Creek.

G South Alternative. The G South Alternative would construct 5.5 miles of new alignment skirting north of Cooper Landing and the Kenai River, reconnecting with the existing alignment near MP 52. This alternative was designed to avoid impacts to the Resurrection Pass Trail and Juneau Creek Falls area. This alternative would include construction of three bridges—one replacing an existing bridge over the Kenai River and two new bridges, a large bridge over lower Juneau Creek, and one new bridge over the Kenai River.

Juneau Creek Alternative. The Juneau Creek Alternative deviates from the existing alignment more than the other alternatives—about 10 of 14 miles would be on a new alignment. It would run north of Cooper Landing and the Kenai River, climbing the hillside and crossing Juneau Creek Canyon with a new bridge south of Juneau Creek Falls. The new segment would cross the Mystery Creek Wilderness in the KNWR and would rejoin the existing highway at about MP 56. The alternative includes one large bridge spanning Juneau Creek Canyon. It would be the longest single-span bridge in Alaska.

Juneau Creek Variant Alternative. The Juneau Creek Variant Alternative is almost the same as the Juneau Creek Alternative but was specifically designed to avoid use of land from the KNWR and the Mystery Creek Wilderness. The Juneau Creek Variant Alternative would rejoin the existing alignment at MP 55 of the existing highway near Sportsman's Landing. The alternative includes one large bridge crossing Juneau Creek Canyon. It would be the longest single-span bridge in Alaska.



Where do I look in the Draft SEIS?

» Chapter 2.6 SEIS Alternatives Advanced for Full Analysis

Affected Environment and Environmental Consequences

DOT&PF and FHWA analyzed the social and environmental conditions of the project area. Results of the analysis are the baseline for determining the potential impacts of the alternatives.

The analysis of existing conditions and impacts includes issues raised by agencies and the public, and issues discussed by the DOT&PF and FHWA in consultation with agencies while preparing the SEIS. This executive summary focuses on resources with greater potential impacts, resources identified during scoping as being resources of particular concern, and resources that illustrate substantive differentiation among alternatives. The impact tables at the end of this executive summary provide quantified data, where available, about impacts to resources. A larger number of resources and much more detailed discussion appear in the Draft SEIS (see Chapter 3). Chapter 4 of the Draft SEIS focuses on lands protected by Section 4(f) of the U.S. Department of Transportation Act; Federal transportation law provides additional protection for certain parks, wildlife refuges, recreation areas, and cultural/historic sites.

Where do I look in the Draft SEIS?

- Chapter 3 covers the "Affected Environment," "Environmental Consequences," and mitigation measures.
- Chapter 4 covers Section 4(f) impacts (park, recreation area, refuge, and cultural site impacts).

Land Ownership / Land Use Plans and Policies

Most lands in the project area are owned and managed by the Federal government, including the U.S. Forest Service (Chugach National Forest), east of MP 55, and the U.S. Fish and Wildlife Service (KNWR), west of MP 55. Within the Federal lands, and generally in blocks near the highway, there are undeveloped State- and Borough-owned lands, as well as smaller vacant and developed private parcels. Two relatively large parcels of private land are owned by Cook Inlet Region, Inc. (CIRI), the regional Alaska Native corporation formed by the Alaska Native Claims Settlement Act.

One important land issue involves the KNWR. The KNWR encompasses much of the western Kenai Peninsula. It is the most visited of Alaska's many wildlife refuges and provides the most accessible Federally designated Wilderness. The KNWR was established originally to protect the Kenai Peninsula moose population and generally to protect multiple wildlife and bird species. Its purposes include recreation that is compatible with wildlife protection. The existing highway is within a DOT&PF right-of-way easement on KNWR land. North of the highway right-of-way in the project area is the Mystery Creek Wilderness; south of the right-of-way is the Kenai River and then the Andrew Simons Wilderness.

Key Impacts and Issues:

- Impact to private land owners was an issue raised by the public, and land management agencies are interested in impacts to their Borough, State, or Federal lands. The tables at the end of this summary display the acreage of impacts on various public and private land owners. The Cooper Creek Alternative would impact more private land than the other alternatives—see also the Housing and Relocation section on pages 14-15.

- One of the most important issues for this project is the effect to Federal Wilderness land. The Juneau Creek Alternative differs from the other alternatives because it would cross a corner of the Mystery Creek Wilderness. The affected area would be 33.4 acres of the 1.9-million-acre KNWR, including 19.1 acres of the KNWR's 1.3 million acres of designated Wilderness. As this alternative proposes to reroute the Sterling Highway through a national Wildlife Refuge and designated Wilderness, it is subject to the procedural requirements, and determinations required under ANILCA Title XI, Transportation and Utility Systems (TUS). ANILCA Section 1106 (b) provides the procedural requirements for approval of a TUS in a designated Wilderness area, including Presidential review and recommendation and Congressional approval.
- The Russian River Land Act allows CIRI and the KNWR to exchange lands in this area. CIRI owns land just outside the KNWR boundary that would lie adjacent to the Cooper Creek, G South, and Juneau Creek alignments and that would be bisected by the Juneau Creek Variant Alternative. CIRI requested that the DOT&PF and FHWA continue to analyze the Juneau Creek Alternative fully in the SEIS. CIRI has stated an intention to pursue a land exchange.
- The Juneau Creek and Juneau Creek Variant alternatives would cross the Resurrection Pass National Recreation Trail; other alternatives would not. Like KNWR, the 1,000-foot-wide trail corridor is subject to ANILCA Title XI. However, because it is not Wilderness, it does not require approval of the President and Congress. (See also Parks and Recreation Resources, Section 3.8 of the SEIS).

Housing and Relocation

Much of the housing in Cooper Landing is used seasonally, with a smaller year-round base of residents. According to the 2010 U.S. Census, there were 395 housing units in Cooper Landing, of which 234 were vacant. Of the 234 vacant housing units, 207 were used seasonally and were generally not available for rental. There are also a number of undeveloped private lots in the community and other lots platted by the Kenai Peninsula Borough.

Where do I look in the Draft SEIS?

- Land Ownership in Section 3.1.
- Land Use Plans and Policies in Section 3.2.
- KNWR and ANILCA Title XI issues in Section 3.2, specifically 3.2.12, 3.2.1.5, 3.2.2.5 (KNWR), and 3.2.5 (Title XI). Chapter 4 also addresses the KNWR as a Section 4(f) resource.

Crossing Wilderness

Wilderness designated by Congress is particularly complex to cross with a road corridor, because the Wilderness Act defines a designated Wilderness as a large area without roads. Typically Wilderness areas do not allow wheeled or mechanized vehicles. The Alaska National Interest Lands Conservation Act (ANILCA) provides a mechanism in Title XI to authorize road corridors across Wilderness lands in Alaska.

Housing and Relocation continued...

Key Impacts/Issues:

- The Cooper Creek Alternative would impact 38 privately owned properties. Sixteen would be completely acquired. Of the 16, 6 are vacant parcels, 8 have developed residences that would require relocation, and 2 have accessory buildings.
- The G South Alternative would require partial acquisition of 6 vacant private properties but would not require relocation of any residences or businesses.
- The Juneau Creek Alternative would require partial acquisition of 4 private properties. None of these acquisitions would require any relocation.
- The Juneau Creek Variant Alternative would require partial acquisitions of 5 private properties. None of these acquisitions would require any relocation. One of the 5 properties is a 42-acre CIRI parcel near Sportsman's Landing, which the alignment would bisect.

Mitigation Measures:

Adversely affected property owners would compensated at fair market value as provided by the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, and the Alaska Relocation Assistance and Real Property Acquisition Practices (Alaska Statutes 34.60.010 et seq.).

Where do I look in the Draft SEIS?

- Housing and Relocation: Section 3.4

Economic Environment

The Kenai and Russian rivers draw thousands of people for salmon and trout fishing, and rafting—both tourists and in-state recreationists. Fishing and outdoor recreation, combined with the lake, river, and mountain scenery, drive much of the local economy. Cooper Landing is the only location between Summit Lake, Moose Pass, and Sterling that provides services to highway travelers. Many bed and breakfast inns, resorts, and fishing lodges in Cooper Landing accommodate visitors. The economy is seasonal and experiences a fluctuation of annual employment, as businesses reduce the number of employees or close entirely during the winter.

River-based businesses, such as guiding and lodging businesses catering to fishing and recreational enthusiasts, are destinations and are less dependent on spontaneous (drive-by) customers. Highway-based businesses, such as gas stations, grocery and general merchandise stores, restaurants, and motels, are more dependent on highway vehicle traffic and spontaneous stops.

Most businesses in the project area are clustered in the central commercial area of Cooper Landing (MP 47-50), but a few lodges, dining establishments, and gas stations occur outside the community along the highway.

Agencies and the public, particularly residents of Cooper Landing, have expressed concern that alternatives built on a new alignment would induce, or spur, development. One concern is that the highway could provide new access to previously undeveloped State or Borough lands, and new rural residential neighborhoods would spring up. A related concern is that new businesses would open to serve travelers along new highway segments and draw business away from the existing community. River-based businesses appear to be destination-oriented; their owners are more concerned about protecting the quality of the Kenai River and reducing traffic congestion in the area where they transport rafts and clients and less concerned about loss of drive-by customers. Highway-based retail businesses are more concerned about reduced business if traffic were removed from passing by their businesses.

Land use planning goals for the community of Cooper Landing, adopted into the Kenai Peninsula Borough Comprehensive Plan, indicate a desire to retain the commercial center within Cooper Landing and to avoid development of a competing commercial center along any new highway segment.

Key Impacts/Issues:

- All build alternatives include a highway segment built on a new alignment that would remove about 70 percent of the traffic from all or a portion of the central commercial area of Cooper Landing. A benefit of reducing traffic would be a more attractive community environment, with decreased congestion and improved safety for pedestrians, residents, and visitors to the community. Decreased traffic also would benefit local businesses that use the existing road in their daily local business transactions, such as river guides who shuttle rafts and sport fishing clients. People currently relying on Cooper Landing businesses would likely continue to do so, although some spontaneous economic activity would decrease. To varying degrees, all of the build alternatives have the potential to adversely affect individual businesses by diverting travelers who might make spontaneous stops at businesses located on the "old" highway. These spontaneous stops constitute a meaningful portion of their clientele, especially for highway-related businesses like gas stations, eateries, and convenience stores. This would be more of an issue for the G South Alternative and the two Juneau Creek alternatives, because they would not be routed through any portion of the community. The Cooper Creek Alternative would remain more connected to the community but would divert from the existing highway immediately south of the Cooper Landing Bridge.
- DOT&PF would not allow driveways and side roads to be connected to highway segments built on new alignments (bypass segments). Access to developable land adjacent to the bypass segments would need to be from the existing Sterling Highway only, as it is today. Therefore, no competing commercial development is anticipated as a result of this project, none of the build alternatives would create any new access to developable lands, and none of the build alternatives would induce new development of businesses or residences.
- All build alternatives would cost millions of dollars to build and maintain over the life of the project (see the Costs of the Alternatives table below). These funds would be Federal and State monies allocated for transportation projects. Such funds are limited, and use for this project would mean they would not be available for other Alaska transportation projects. The funds would flow principally to Alaska design and construction firms and into the Cooper Landing, Southcentral Alaska, and statewide economy.

Mitigation Measures:

The project would include directional signs to ensure that motorists were aware that business services were available in Cooper Landing, off the main highway.

Where do I look in the Draft SEIS?

- Economic Environment: Section 3.5

Costs of the Alternatives (millions)

	Cooper Creek	G South	Juneau Creek	Juneau Creek Variant
Construction[a]	$236.2	$250.4	$205.4	$211.6
Other Costs[b]	$54.5	$53.1	$44.2	$45.4
Total	**$291**	**$304**	**$250**	**$257**

[a] Construction costs include the road itself and bridges/tunnels/retaining walls, plus 20% for contingencies and 15% for construction administration.
[b] Other costs include permitting, design, utility relocations, right-of-way acquisition, and Indirect Cost Allocation Plan (ICAP). Note that right-of-way costs estimate the land payment portion only. It does not address the other per parcel costs of land acquisition. These costs only reflect privately owned land impacted by the alternatives. Land owned by Federal, State, and Municipal agencies is assumed to be acquired via interagency land transfers.

Parks and Recreation Resources; and Section 4(f)

The upper Kenai River area draws many people, both Alaska residents and visitors, for recreation. The area contains:

- Kenai River Special Management Area.
- Boat launch and river access areas: Jim's Landing (KNWR), Sportsman's Landing/Russian River Ferry (State and KNWR), and Cooper Landing Boat Launch and Day Use Area (State).
- Trails: Resurrection Pass National Recreation Trail, Bean Creek Trail, and Stetson Creek Trail (Chugach National Forest); Fuller Lakes Trail (KNWR); and informal trails such as the Art Anderson Slaughter Gulch Trail.
- Forest Service campgrounds: Russian River Campground and Cooper Creek Campground.
- Forest Service areas set aside for recreation: Kenai River Recreation Area, Juneau Falls Recreation Area, and Lower Russian Lake Recreation Area.

The main area of activity and land protected for recreation purposes is the central 4-mile river corridor between the confluence of Cooper Creek with the Kenai River (near existing highway MP 51) and the confluence of the Russian River with the Kenai River (near MP 55). Many park and recreation properties are centered in a core area along the river and loosely function together and are managed similarly, even though the different types of properties are managed by different entities. The Kenai River and the adjacent Kenai River Recreation Area, together with Sportsman's Landing, the Russian River Ferry, the Russian River Campground, the Lower Russian Lake Recreation Area, and the Cooper Creek Campground all are contiguous park, recreation, and refuge lands and waters comprising well over 700 acres. In addition, the K'Beq Footprints Heritage Site and the trailheads for the Resurrection Pass Trail, Russian Lakes Trail, and Stetson Creek Trail are located in this area. This area also is the heart of the Sqilantnu Archaeological District and Confluence Traditional Cultural Property.

The Juneau Falls Recreation Area (320 acres), Resurrection Pass Trail corridor (1,000 feet wide), and Bean Creek Trail corridor form a similar block of recreation properties on a smaller scale at the head of Juneau Creek Canyon. All are U.S. Forest Service properties.

Personal-use and commercial recreation use levels are high, with "combat fishing" a common term for elbow-to-elbow sportfishing near the Russian and Kenai rivers confluence. Thousands of float trips occur on the Kenai River each summer. The campgrounds and trails also are well used, and use of trails continues year round (for snowmobiles and skiing in winter). The Resurrection Pass Trail is 38 miles long and connects to the Hope area, with several side trails and backcountry public use cabins.

Most of the park and recreation properties are protected under Section 4(f) transportation law (see box, next page). However, a few are not because they are not publicly owned, not maintained or managed by any agency, or otherwise not significant as park or recreation facilities.

Key Impacts/Issues:

- All alternatives would use land from various park and recreation properties.
- The Cooper Creek Alternative would truncate the lower end of Stetson Creek Trail, which is a recreational and historic trail. The project would construct a new pullout trailhead at the terminus of the truncated trail and make over the old trailhead area into an interpretive loop trail for Cooper Creek Campground.
- The G South Alternative is considered to have the greatest impacts to the Kenai River (a designated park unit), primarily because it would add a new bridge over the Kenai River. New bridges are counter to the Kenai River Comprehensive Management Plan.

- Both the Cooper Creek and G South alternatives would continue to follow the existing alignment through the 4-mile core recreational area along the river. Thus, all traffic would remain in this area instead of being routed around it.
- The Juneau Creek and Juneau Creek Variant alternatives would impact the Resurrection Pass Trail with a crossing 3.4 miles north of the trail's southern terminus. The bridge over Juneau Creek Canyon would span the Resurrection Pass Trail, minimizing impact, but the backcountry atmosphere of the trail and Juneau Falls Recreation Area in this location would change to a more "front-country" experience, with greater use. Under these two alternatives, 70 percent of Sterling Highway traffic is expected to use the new highway, leaving the old highway through the 4-mile core area (Cooper Creek to Russian River) as a quieter, winding, lower-speed, local road suited to providing access to that area's multiple recreational amenities.

Mitigation Measures:

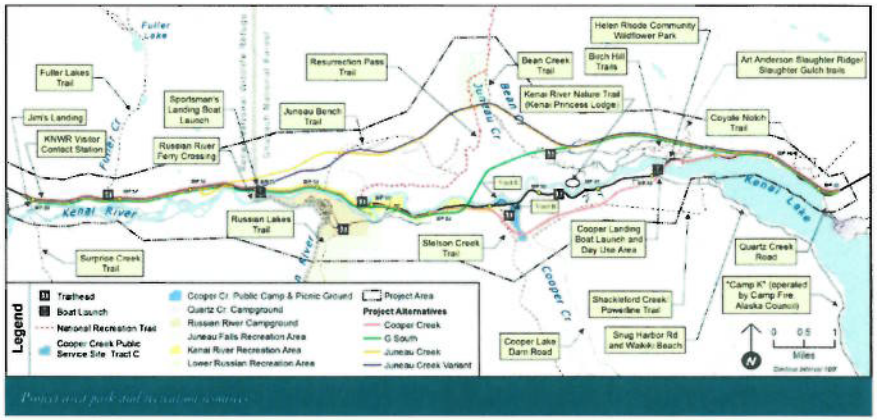
Substantial mitigation is proposed for impacts to recreation areas. These are spelled out in the Section 4(f) Evaluation, in section 4.7 of the SEIS. Mitigation proposed includes new parking and trailheads for Stetson Creek Trail, Bean Creek Trail, and Resurrection Pass Trail where alternatives cross the trail and addition of new connecting trails or re-routed trails where necessary. Underpasses would be created where an alternative would cross certain existing unimproved roads used as trails—the Cooper Lake Dam Road, extension of Slaughter Ridge Road, and West Juneau Road. Under the two Juneau Creek alternatives, a falls overlook would be added in the Juneau Falls Recreation area, and a pedestrian walkway would be added to the highway bridge to connect trails on either side of the canyon. For these alternatives, DOT&PF has accepted the Forest Service's suggestion to compensate for impacts to the long-distance experience on the Resurrection Pass Trail by providing a new connection for another long-distance trail nearby in the Kenai River watershed—the Iditarod National Historic Trail. DOT&PF would commit to providing a pedestrian crossing of the Snow River bridges at the opposite end of Kenai Lake to accommodate the Iditarod commemorative trail.

What is Section 4(f)?

Section 4(f) of the Federal Department of Transportation Act prohibits use of certain parks, recreation areas, wildlife refuges, or historic properties for transportation projects unless there is "no prudent and feasible alternative" or the impacts are "de minimis." The Draft SEIS evaluates Section 4(f) resources, the impacts of the proposed alternatives, alternatives that could avoid use of Section 4(f) resources, and all possible measures to minimize harm to these resources. If there is no prudent and feasible avoidance alternative, FHWA must select the alternative with the least overall harm. See Chapter 4 of the SEIS.

Where do I look in the Draft SEIS?

The Draft SEIS addresses park and recreation resources in Section 3.8. Chapter 4 also extensively addresses park and recreation areas determined to be Section 4(f) resources.



Historic and Archaeological Resources

Historic, archaeological, and other cultural properties in the project area that are eligible for the National Register of Historic Places include:

- Prehistoric archaeological sites associated with Alaska Native cultures.
- Historic sites associated principally with gold prospectors and settlement of the area by Russians and Americans from outside Alaska, including the Bean Creek Trail and Stetson Creek Trail.
- Traditional Cultural Properties (TCPs)—areas of cultural importance to the Kenaitze Indian Tribe.

The Sqilantnu Archaeological District encompasses most of the project area and both sides of the Kenai River valley up to an elevation of about 1,000 feet. This district is recognized in Federal law under the Russian River Land Act. Most other historic properties, including two historic mining districts, two TCPs, and portions of the historic trails, overlap with the Sqilantnu District. Hundreds of archaeological sites, comprised collectively of thousands of individual archaeological features, contribute to the district. The TCPs are individually eligible for the National Register of Historic Places and also contribute to the Sqilantnu District. While the cultural and archaeological features are not well known to the general public, the area is considered quite important by the Kenaitze Indian Tribe, CIRI, the Chugach National Forest, the KNWR, and the State of Alaska's Office of History and Archaeology. There is potential for future nomination of the area as a National Historic Landmark. All cultural and historic properties eligible for the National Register of Historic Places are considered to be protected by Section 4(f) (see box on the previous page).

Key Impacts/Issues:

- The Cooper Creek and G South alternatives pass directly through an area of overlapping historic and archaeological districts and TCPs. However, they mostly overlap the existing highway corridor. In general, the Cooper Creek and G South alternatives are similar in their effects. See the large summary table at the end of this document.
- The Juneau Creek and Juneau Creek Variant alternatives follow similar alignments and generally have fewer impacts to known cultural sites than the other two alternatives. The Juneau Creek Alternative would affect the least acreage and the fewest archaeological properties of any of the alternatives. The Juneau Creek Variant Alternative, designed to avoid use of the KNWR/Wilderness, would intersect the existing Sterling Highway at the confluence of the Kenai and Russian rivers in the heart of the Confluence TCP and Sqilantnu Archaeological District. It would therefore have greater impact to culturally important sites than the Juneau Creek Alternative, including proximity to human burials, although it would impact fewer sites than the Cooper Creek and G South alternatives.

Mitigation Measures:

Substantial mitigation for effects to adversely affected historic properties is expected. An agreement to be spelled out among tribal entities and agencies (consulting parties) will be presented in the Final EIS.

Where do I look in the Draft SEIS?
The Draft SEIS addresses cultural and archaeological resources and impacts in Section 3.9, Chapter 4 also addresses these topics as Section 4(f) resources.

Noise

Much of the project area away from the existing highway is generally quiet, consisting of natural areas, with running water and wind being the primary contributions to base sound levels. Noise measurements were taken at key sensitive locations (receptors) throughout the project area as a baseline, and sound levels were computer-modeled to forecast noise increases from traffic on the alternatives.

Key Impacts/Issues:

All build alternatives would create noise that would substantially increase noise levels and/or exceed noise abatement criteria. Forecast increases in traffic would result in increased noise levels even under the No Build Alternative, which would impact three more sensitive receptors than are impacted today. Only the Cooper Creek Alternative, which would impact five more properties than are impacted today, would have noise impacts at more sensitive noise receptors than the No Build Alternative.

Mitigation Measures:

DOT&PF examined the ability to mitigate permanent noise impacts with walls or barriers and could not find a way to make them effective given either the large land areas that are sensitive or the need to accommodate driveways (i.e., necessitating a break in the noise barrier). As a result, no noise walls, berms, or barriers are proposed.

Visual Resources

The glacially carved Kenai River valley frames the visual environment of the project area. Steep mountains and the unique turquoise color of Kenai Lake and the Kenai River are the predominant features seen from the project area. Canyons formed by Juneau Creek and Cooper Creek, tributaries of the Kenai River, notch the north and south sides of the main valley. The Sterling Highway is recognized as a State Scenic Byway because of its scenery, history, and recreational opportunities. Foreground views are of riparian forest and human development; mountain uplands and peaks can be seen in the background. The view of Cooper Landing is mainly of single-story small, framed (and sometimes log) residential and commercial buildings. The project identified key views and rated them using a formal process (Visual Quality Evaluation). The evaluation identified mostly moderate to high ratings for the existing visual environment.

Key Impacts/Issues:

All alternatives would adversely affect the visual environment but also would provide new views. Negative change in Visual Quality Evaluation scores would be highest under the Juneau Creek Variant Alternative, followed by the Juneau Creek, Cooper Creek, and G South alternatives with progressively fewer adverse changes in visual quality.

Mitigation Measures:

No specific mitigation for visual impacts is proposed. However, as part of the standard design, all cuts and fills would be constructed with care, and bare soils would be seeded for quick greening of the landscape. Large new bridges under all alternatives would be designed with aesthetics in mind for recreationists passing near or under the bridge on trails or in boats.

Where do I look in the Draft SEIS for Noise?
The Draft SEIS addresses noise in Section 3.15. A Noise Analysis report is also available on the project web site and is published in the SEIS as Appendix D.

Where do I look in the Draft SEIS for Visual Resources?
The Draft SEIS addresses visual resources in Section 3.16. A Visual Analysis report is available on the project web site.

Wetlands and Vegetation

The project area is vegetated with natural vegetation. It has been substantially modified in developed areas in and around Cooper Landing and at recreation developments. Multiple types of wetlands exist in the project area, from forested wetlands to ponds along the Kenai River to open, unforested wetlands. Wetlands and vegetation in general perform important functions, from wildlife habitat to floodwater retention. The U.S. Army Corps of Engineers (Corps) is a cooperating agency for this SEIS and must issue a permit for any fill to be placed in wetlands or other waters. The SEIS aids the Corps' decision-making process.

Key Impacts/Issues:

- All build alternatives would permanently eliminate wetlands. However, there would be substantial differences among the alternatives, with the Cooper Creek Alternative having relatively low impacts compared to the two Juneau Creek alternatives. These two alternatives would result in more than 3 times the total area of wetland loss of the Cooper Creek Alternative, including 6 times as much loss of emergent wetlands and nearly 12 times as much loss of forested wetlands. The G South Alternative would have intermediate wetland impacts.
- All alternatives would permanently eliminate vegetation. Again, the Cooper Creek Alternative would affect the least, the Juneau Creek alternatives the most. See the Impacts and Benefits Summary tables at the back of this document.

Where do I look in the Draft SEIS?

The Draft SEIS addresses wetlands and vegetation in Section 3.20. A wetlands report is available on the project web site.

Mitigation Measures:

The alternatives were developed to avoid and minimize impacts to wetlands and other waters. Where it was not practical to avoid impacts altogether, the SEIS contains a description of construction-related best management practices that would be followed to minimize impacts to wetlands and vegetation. DOT&PF has committed to paying a fee (in-lieu of creating or enhancing wetlands) to a land conservation organization that would use the funds for protection or enhancement of wetlands in a critical location on the Kenai Peninsula. This fee would be meant to compensate for the unavoidable impacts to wetlands and waters of the U.S. and to offset wetland loss.

Fish and Essential Fish Habitat

Fish habitat and water quality are related discussions, but appear separately in the SEIS. This section addresses both in describing fish and impacts to fish habitat.

The Kenai River ecosystem is a productive, diverse system that supports a wide variety of resident fish and fish that travel between freshwater and saltwater ("anadromous" fish) species. Major water bodies within the project area include Kenai Lake, Kenai River, Bean Creek, Juneau Creek, Cooper Creek, Russian River, and Fuller Creek. The project area contains important fish migration corridors. Kenai River fisheries for king (Chinook), sockeye (red), and coho (silver) salmon are the largest freshwater sport fisheries for these species in Alaska. More than one million sockeye salmon return each year to spawn in the Kenai and Russian rivers. Sockeye, Chinook, coho, and pink salmon all spawn in the upper reaches of the Kenai River, and chum salmon are also present.

The entirety of the Kenai River and its tributaries, where used by salmon, are designated essential fish habitat (EFH). EFH designations emphasize the importance of habitat protection to healthy fisheries. Water quality in the Kenai River and its tributaries within the project area is considered good. Downstream parts of the river have, in the recent past, been considered polluted with hydrocarbons from outboard motor use, but 2008 regulatory changes improved the water quality. Outboard motors are not allowed on the river in most of the project area, but are allowed on Kenai Lake and at its outlet in Cooper Landing.

A consistent theme in public comments has been concern about maintaining water quality and salmon habitat, including concerns about the risk of spills from the current highway and the problems with its design.

Key Impacts/Issues:

- All build alternatives would result in an increase in storm water runoff because the project area would have more paved surfaces—a wider highway where rebuilt, and all-new highway in the segments built on a new alignment. Impacts from storm water runoff would not be substantial enough to impact wells and wellhead protection areas or fish in the rivers.
- Each build alternative would move the majority of vehicle traffic away from the Kenai River along those segments built on new alignment. This would reduce the risk of spills and general runoff pollution reaching the river. The Juneau Creek and Juneau Creek Variant alternatives would divert traffic from the river over the greatest road length, and the Cooper Creek Alternative would divert the least amount of traffic away from the river. While the Cooper Creek Alternative would divert the least amount of traffic of all the build alternatives, it would be an improvement over the No Build Alternative and result in a reduction of risk over the existing conditions.
- Direct impacts on water bodies, water quality, and fish habitat would result from new and replacement bridges and culverts and from new roadway embankment placed in water bodies. New culvert crossings and bridge crossings would be likely to alter natural flow patterns and habitat in streams at the location of the crossings, and possibly upstream and downstream. The Cooper Creek and G South alternatives would involve substantial construction in the Kenai River to replace existing bridges and build new bridges. The Juneau Creek and Juneau Creek Variant alternatives would have no bridge construction in the Kenai River. All alternatives would include a segment of reconstructed highway at the western end of the project where rip-rap (rock) would be placed in the edge of the Kenai River, where the existing highway already is adjacent to the river.

Mitigation Measures:

Mitigation measures would be implemented during the construction process to minimize impacts to water quality from runoff and fuel. Construction timing windows would ensure that construction in the water (principally bridge construction) would occur outside of critical times in the salmon life cycle. New culverts and replacement culverts would be designed to modern fish passage standards wherever fish use those drainages. Where existing culverts do not allow fish to pass, replacements culverts would improve habitat availability for fish. These efforts would reduce impacts to fish habitat and water quality. Permanent impacts would be minimized by commitments to maintain or reduce the number of in-water piers for any replacement bridge.

Where do I look in the Draft SEIS?

- Water Bodies and Water Quality: Section 3.13
- Fish/Essential Fish Habitat: Section 3.21
- Kenai River Special Management Area description: Section 4.2.2
- Kenai River Special Management Area impacts: Section 4.5

A separate Essential Fish Habitat report is also published on the project website at www.sterlinghighway.net.

Wildlife

More than 175 species of mammals, birds, and amphibians live in, seasonally use, or visit the Kenai River basin. Brown bears and moose are two of nine species selected for in-depth analysis in the SEIS because of their status with State and Federal agencies and because of their susceptibility to project impacts.

The population of brown bears for the entire Kenai Peninsula appears to have approximately equal numbers of males and females and dependent young. Brown bears on the Kenai Peninsula use a wide variety of habitats, including rivers and

streams, forests, and subalpine and alpine areas, and generally avoid areas in proximity to roads. The general area between MP 45 and 60 is in a class of habitat with medium to high probability of use by both lone adult females and females with cubs during spring and summer. Brown bears likely move back and forth in a northwest-southeast direction over the Kenai Mountains and across the Kenai River within the project area between MP 45-55, with the area just west of Cooper Landing near Juneau Creek identified by wildlife managers as an important "linkage" zone.

The largest cause of bear deaths on the Kenai Peninsula is bears killed in defense of life and property (DLP kills), which appears to be closely associated with increasing human population, development, and activity on the Peninsula. The rate of deaths of female brown bears on the Kenai Peninsula has consistently been higher than management objectives expressed by the Alaska Department of Fish and Game.

Moose are a common and important species in the project area, providing many viewing opportunities to residents and tourists, as well as subsistence and sport hunting. Collisions with automobiles on the Sterling Highway are common, and present a risk to individual animals and to motorists. Portions of the MP 45-60 area include rutting, wintering, and enhanced feeding habitat for moose, and north-south wildlife movement corridors through the project area are considered important. The moose population is slowly declining. The factors most greatly affecting the moose population on the Kenai Peninsula are considered to be declining habitat quality, predation, weather, and mortality caused by vehicle collisions.

Key Impacts/Issues:

- All of the build alternatives would affect brown bears and moose due to habitat loss, habitat fragmentation, and decrease in habitat quality; changes in behavior to avoid the new highway; and potential injury or mortality from vehicle collisions.
- None of the alternatives would induce further residential or business development more than would be anticipated under the No Build Alternative because of DOT&PF's decision to prohibit access from new sections of adjacent property. By not inducing new growth (and potentially increasing DLP kills), indirect impacts to bears and other mammals would be minimized.
- The Juneau Creek and Juneau Creek Variant alternatives would have the greatest impact on wildlife habitat, because they have the longest lengths of highway built on a new alignment, resulting in larger areas of new effects to habitat.

Mitigation Measures:

DOT&PF is sponsoring a wildlife movement study, in consultation with wildlife management agencies. Results of this study, which began in 2014, are expected to aid in the placement of one or more wildlife crossings and other measures to accommodate wildlife movement across the highway for brown bears, moose, and other species. In the Final SEIS, DOT&PF hopes to have more detail on how many, what kind, and locations of potential wildlife crossings and other recommended measures.

Where do I look in the Draft SEIS?
Wildlife: Section 3.22.

Coordination

The basic requirement of the National Environmental Policy Act is that the Federal government must involve the public and agencies in its project decision-making process. The Act ensures a process of disclosing impacts to the public and incorporating public input before any decision is made.

A primary component of the Sterling Highway MP 45–60 Project has been involvement of key stakeholders and the consideration of their comments and concerns. Chapter 5 of the SEIS summarizes the coordination process conducted during development of the Draft SEIS, including tribal consultation under Section 106 of the National Historic Preservation Act. Chapter 5 of the SEIS also includes a summary of key issues and pertinent information received from the public, Alaska Native tribes and corporations, and government agencies. The coordination process will continue through the final decision.

How much has the public been involved in the project?

The Draft SEIS summarizes a long public and agency coordination process, including initial efforts to determine the scope of the SEIS inquiry ("scoping") and many follow-up meetings with stakeholder groups, the public, and agencies on multiple topics. Key topics that have included substantial coordination are:

- Alternatives screening and selection.
- Section 106 (cultural properties).
- Section 4(f) (park, refuge, recreation, and cultural properties).
- Bears, moose, and other wildlife impacts.
- Business and community impacts.
- ANILCA Title XI process for the Resurrection Pass National Recreation Trail and KNWR.
- Mitigation of impacts.

Scoping began in 2000 and included several kinds of meetings over several years:

- Agency Consultation Committee (six meetings).
- Individual stakeholder interviews (14 agency interviews; five public interviews).
- Stakeholder Sounding Board (five meetings for more than 60 invited groups).
- Public Listening Posts (four rounds of listening posts for a total of nine events in Cooper Landing, Soldotna, and Anchorage).

A web site (www.sterlinghighway.net), internet survey, mailing list, newsletters, and press releases were included. Public and agency input has continued as the Draft SEIS has taken shape, including public comment taken on the alternatives screening before some alternatives were dropped from further consideration. Agencies have been involved heavily regarding impacts and mitigation. From 2002 to 2014, there have been:

- 35 agency meetings on topics such as wildlife, recreation impacts, land issues, and Section 4(f).
- An additional 13 meetings with tribal entities and agencies regarding cultural resources to define new boundaries for the Sqilantnu Archaeological District, define for the first time two traditional cultural properties, define the boundaries of historic mining districts, and determine impacts to cultural properties.

These consultations have been valuable in sorting out the complex issues involved in the project and have formed the basis for much of the analysis in the EIS. Such coordination with the public and agencies will continue as the project moves forward.

Next Steps

Now that the Draft SEIS has been issued for public and agency review, the anticipated next steps are to respond to comments and revise the SEIS, identify a Preferred Alternative, and issue a Final EIS for review and comment. When the environmental process is complete, the FHWA will issue a Record of Decision. Your comments and input are important to the process.

The public and agencies are encouraged to review the Draft SEIS, accompanying appendices, and technical reports are available for review online at www.sterlinghighway.net. Printed copies of the documents are available for public review at the following locations:

Kenai Peninsula

- Cooper Landing Community Library, Mile 0.8 Bean Creek Road
- Kenai Community Library, 163 Main Street Loop
- Soldotna Public Library, 235 N. Binkley Street

Anchorage

- Z.J. Loussac Library (Alaska Collection), 3600 Denali Street
- Alaska Resources Library and Public Information Services (ARLIS), 3211 Providence Drive
- DOT&PF Central Region, 4111 Aviation Avenue

Juneau

- Alaska State Library, 333 Willoughby Avenue
- FHWA AK Division, 709 W. 9th Street, Room 851

Washington DC

- Martin Luther King Jr. Central Library, 901 G Street NW, 3rd Floor

To request a CD copy of the full Draft SEIS, send an email to sterlinghwy@hdrinc.com.

Opinions and preferences regarding the alternatives are appreciated and noted; however, the most helpful comments are those that provide new information, identify a new issue, identify a flaw or gap in analysis, or identify unexplored lines of research that could materially alter the assessment of impacts.

Comments can be submitted:

- **Preferred method:** online at www.sterlinghighway.net
- **Standard mail:**
  Brian Elliott, Environmental Manager
  DOT&PF Central Region
  Sterling Highway MP 45-60 Project
  PO Box 196900
  Anchorage, AK 99519-6900
- **Email:** sterlinghwy@hdrinc.com
- **In person:** at project open house/public hearings

Please visit the project website, www.sterlinghighway.net, for up-to-date project details, public open house and public hearing notifications, and comment deadlines.

What happens with my comments?

Some EISs receive many, many comments, and processing them takes time. Comments are categorized by topic in a database, and the entire email or letter is captured electronically for context. DOT&PF and FHWA will consider all comments and write responses. Comments frequently result in changes to the analysis in an EIS. Text clarifications are common. Sometimes comments result in new or modified environmental analyses or new measures proposed to mitigate impacts. A summary of comments and responses will be appended to the Final SEIS to document the comments and record how each was addressed.

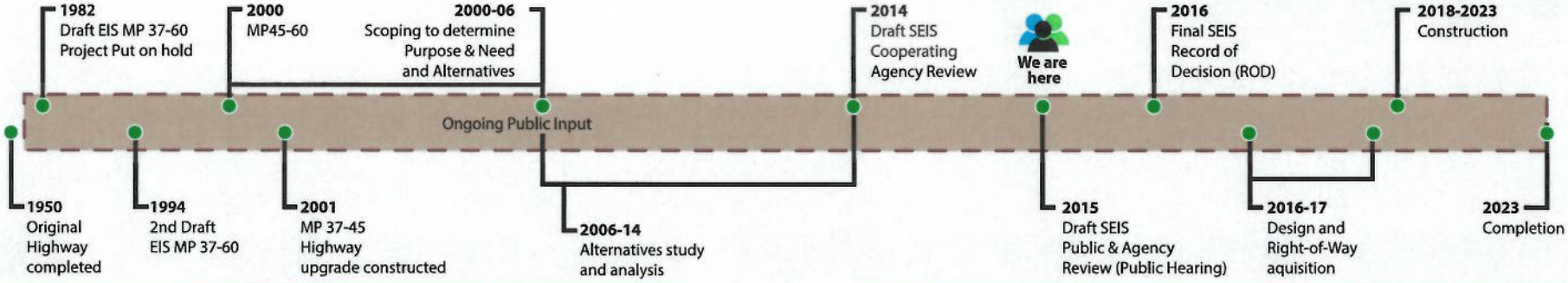
Who makes the final decision?

The FHWA is the lead Federal agency for the SEIS and makes the final decision about selection of an alternative. This decision is made in conjunction with the DOT&PF. Other Federal agencies have their own authorizations, including permits for fill in wetlands and water bodies and land transfer authorizations. Those agencies will also use this SEIS and your comments in making their decisions.

When will something be built?

If a build alternative is selected, the project will enter the design phase following publication of the Final SEIS and signing of a Record of Decision. The earliest construction could start is 2018; however, that is dependent on the availability of funding.

Project Timeline



Impacts and Benefits Table

The "Affected Environment and Environmental Consequences" section of this Executive Summary discusses key impact topics, with references to the tables that follow specific numerical impact data. These tables cover the key topics addressed earlier in this Executive Summary and all other resource topics analyzed in the Draft SEIS.

The tables present impacts of the alternatives side-by-side for comparison. Dividing bars that run horizontal across the table identify each resource by the same heading and section number used in the Draft SEIS. Readers may refer directly to that section of the SEIS for context and greater detail. A few sections of the Draft SEIS are not presented in these tables: sections 3.24 Permits; 3.25 Short-Term Uses vs. Long-Term Productivity; 3.26 Irreversible and Irretrievable Commitments of Resources; and 3.27 Cumulative Impacts. Please see the full Draft SEIS to learn about those topics.

Impact Category		Impacts and Benefits								
		No Build Alternative	Cooper Creek Alternative		G South Alternative		Juneau Creek Alternative		Juneau Creek Variant Alternative	
3.1 Land Ownership and Land Use										
Land Ownership *(acres, % in project area)*	Federal *(9,000)*	No impact	54	<1%	90	1%	167	2%	115	1%
	State *(1,720)*		9	<1%	43	3%	90	5%	92	5%
	Borough *(2,013)*		93	5%	126	6%	129	6%	129	6%
	Native *(61)*		1	2%	1	2%	-	-	12	19%
	Private *(698)*		57	8%	<1	<1%	<1	<1%	<1	<1%
	Total *(13,500)*		214	2%	261	2%	387	3%	349	3%
Land Use *(acres, % in project area)*	Commercial *(103)*	No impact	1	1%	-	-	-	-	-	-
	Institutional *(58)*		<2	2%	-	-	-	-	-	-
	Residential *(548)*		41	8%	<2	<1%	<2	<1%	<2	<1%
	Vacant *(12,791)*		170	1%	260	2%	385	3%	347	3%
	Total *(13,500)*		214	2%	261	2%	387	3%	349	3%
3.2 Land Use Plans and Policies										
Kenai National Wildlife Refuge Comprehensive Conservation Plan		No impact	No KNWR land would be acquired, developed, or directly used as a result of the Cooper Creek Alternative outside the existing highway right-of-way.		No KNWR land would be acquired, developed, or directly used as a result of the G South Alternative outside the existing highway right-of-way.		New transportation right-of-way across a corner of the KNWR Mystery Creek Wilderness unit and the KNWR Intensive Management area would be needed. The process would require approval by the President of the United States and then a joint resolution of Congress.		No KNWR land would be acquired, developed, or directly used as a result of the Juneau Creek Variant Alternative outside the existing highway right-of-way.	

Impact Category		Impacts and Benefits				
		No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.2 Land Use Plans and Policies continued...						
Chugach National Forest		No impact	Alignment is within the Fish, Wildlife and Recreation and the Major Transportation/ Utility Systems management area prescriptions.	Alignment is within the Fish, Wildlife and Recreation; Fish and Wildlife Conservation; and the Major Transportation/ Utility Systems management area prescriptions.	Alignment is within the Fish, Wildlife and Recreation; Major Transportation/ Utility Systems; Fish and Wildlife Conservation; and Backcountry management area prescriptions.	Alignment is within the Fish, Wildlife and Recreation; Major Transportation/Utility Systems; Fish and Wildlife Conservation; and Backcountry management area prescriptions.
National Forest Inventoried Roadless Area Lands *(acres of right-of-way, miles traversed)*		No impact	3.8 acres 0.1 mile	48.4 acres 1.1 miles	127.5 acres 3.3 miles	96 acres 2.4 miles
ANILCA Title XI *(conservation system units affected)*		No impact	No impact	No impact	The Juneau Creek Alternative would cross Resurrection Pass Trail and would cross a corner of the Mystery Creek Wilderness unit within the KNWR.	The Juneau Creek Variant Alternative would cross Resurrection Pass Trail.
State Plans		No impact	The build alternatives, to differing extents, meet the recommendation of the Kenai River Comprehensive Management Plan that new public road construction be located away from the Kenai River.			
Borough Plans and Other Pertinent Plans						
Consistency with planning documents		No impact	May require Kenai Borough Comprehensive Plan amendment.	May require Kenai Borough Comprehensive Plan amendment.	Consistent with Kenai Borough Comprehensive Plan.	
3.3 Social Environment						
Social Environment		Traffic congestion would make travel and social interaction within the community more difficult.	Change in local traffic patterns and community character through re-routing of traffic, less change for the Cooper Creek Alternative, more for the G South, Juneau Creek, and Juneau Creek Variant alternatives.			
3.4 Housing and Relocation						
Private and Native Property Impacts and Relocations *(number of affected parcels)*	**Private**	No impact	38	4	4	4
	Full Parcel	-	16 *(8 residential properties and approximately 14 people relocated.)*	0 *(0 relocations)*	0 *(0 relocations)*	0 *(0 relocations)*
	Part of Parcel	-	22	4	4	4
	Native Corporation (CIRI)	-	2	2	0	1
	Full Parcel	-	0	0	0	0
	Part of Parcel	-	2	2	0	1

Impacts and Benefits Table continued...

Impact Category	Impacts and Benefits				
	No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.5 Economic Environment					
Tax Base/Business Impacts	No impact	Would not result in any business relocations. All traffic would remain routed through a portion of the central commercial area of Cooper Landing. Highway-based businesses would retain benefit of passing traffic. River-based businesses would contend with highway traffic.	Would not result in any business relocations. These alternatives would remove 70 percent of the traffic from all of the central commercial area of Cooper Landing. Thirty percent of the traffic would continue traveling through Cooper Landing on the "old" highway. Beneficial impacts would result from decreased congestion. Adverse impacts would result from reduced spontaneous stops for services.		
Construction Cost	--	**$290.7 million**	**$303.5 million**	**$249.6 million**	**$257.0 million**
O&M and Periodic Major Activities *(over 20 years)*	**$69.7 million**	**$23.7 million**	**$23.8 million**	**$24.2 million**	**$24.3 million**
Operations & Maintenance[a]	$4.9 million *($245,500/yr)*	$11.9 million *($593,400/yr)*	$11.7 million *($585,400/yr)*	$12.2 million *($608,600/yr)*	$12.2 million *($611,700/yr)*
Periodic Major Activities[b,c]	$64.8 million	$11.8 million	$12.1 million	$12.0 million	$12.1 million
TOTAL	**$69.7 million**	**$314.4 million**	**$327.3 million**	**$273.8 million**	**$281.3 million**

[a]Operations and maintenance (O&M), includes annual cost such as snow plowing, crack sealing, and other basic maintenance on the alignments.
[b]Values for build alternatives do not account for O&M and Periodic Major Activities on exiting/unimproved highway in the corridor. See Section 3.27, Cumulative Impacts, for those values.
[c]Periodic major activities include projects such as replacement of guardrail and pavement overlays that are reasonably anticipated over a 20-year span.
Note: Numbers are rounded and therefore totals do not add perfectly. All estimates are in 2014 dollars (i.e. future dollars have not been inflated to the future year values)

Impact Category		Impacts and Benefits				
		No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.6 Transportation						
Roadway System						
Number of horizontal curves meeting minimum standard for 60 mph/total number curves		22 / 43	27 / 27	25 / 25	21 / 21	22 / 22
Percent of length above maximum grade *(>6% grade)*		0	0	0	0	0
Percent of length at 5.9 – 6% grade *(steep)*		0	9	8	2	0
Percent of length >5% grade *(hilly)*		-	9	14	16	26
Percent of length that meets clear zone standards		7	100	100	100	100
Percent of length that meets standards for shoulder width		0	100	100	100	100
Percent of length with passing lanes		0	29	26	42	39
Number of intersections of side roads and driveways		75	42	20	11	11

Impact Category		Impacts and Benefits				
		No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.6 Transportation continued...						
Travel Patterns		No change	This alternative would remove 70% of traffic from a portion of the central commercial area of Cooper Landing *(MP 47-48)* but would retain all traffic in the MP 48-50 portion. No change in overall traffic volumes.	This alternative would remove 70% of all traffic from all of the central commercial area of Cooper Landing *(approximately MP 47 to 50)*. No change in overall traffic volumes.	These alternatives would remove 70% of all traffic from all of the central commercial area of Cooper Landing *(approximately MP 47 to 50)* and from the primary recreation corridor *(approximately MP 50 to 55)*. No change in overall traffic volumes.	
Accessibility		No change	Under this alternative, getting on and off the highway would remain difficult at some times because all traffic would remain in town in the MP 47-48 area.	Under these alternatives, accessibility for Cooper Landing businesses and residents along the "Old Sterling Highway" is expected to improve because traffic would be reduced in this area.		
Traffic Level of Service in 2043 at LOS C or Better *(% of road length, including both directions of travel)*		0%	61%	69%	83%	82%
Crash Rate Reduction		No improvement. Potential increase in crash rate.	65% reduction	65% reduction	65% reduction	65% reduction
Aviation, Pedestrians, and Bicyclists		No impact	No impact to aviation. Pedestrians and bicyclists would benefit from wider shoulders on the new highway and decreased traffic on the existing *("old")* highway.			
Pullouts	Pullouts eliminated *(of 24 existing)*	No impact	16	12	4	4
	New pullouts/ parking areas provided	No impact	1 *(Stetson Creek Trail pullout)*	2 *(Bean Creek Trail pullout and parking lot)*	2 *(Bean Creek Trail pullout; trailhead parking lot for Resurrection Pass Trail)*	
3.7 River Navigation						
River Navigation		No impact	The proposed bridge structures to be built would not result in any permanent new impacts to river navigation.	The new Kenai River bridge would be a new structure to navigate, but would be built with adequate clearance.	No new or replacement structures over any navigable waterways. No impact to river navigation.	

Impacts and Benefits Table continued...

Impact Category	Impacts and Benefits				
	No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.8 Parks and Recreation Resources					
Park and Recreation Resources					
Recreation Resources Affected	No impact	Kenai River Special Management Area — Cooper Landing Boat Launch and Day Use Area — Kenai River Recreation Area — Sportsman's Landing *(temporary occupancy during construction only)* — Stetson Creek Trail — Cooper Lake Dam Road/Powerline Trail *(crossed with bridge)*	Kenai River Special Management Area — Kenai River Recreation Area — Sportsman's Landing *(temporary occupancy during construction only)* — Bean Creek Trail *(rerouted, crossed with bridge)* — Birch Ridge Trail *(shortened)* — Art Anderson/ Slaughter Gulch Trail *(shortened)*	Kenai National Wildlife Refuge and Wilderness — Resurrection Pass Trail *(crossed with bridge, added new trailhead)* — Bean Creek Trail *(rerouted, crossed with bridge)* — Birch Ridge Trail *(shortened)* — Art Anderson/ Slaughter Gulch Trail *(shortened)* — Juneau Bench Trails *(crossed with grade separation)* — Juneau Falls Recreation Area	Kenai River Recreation Area — Sportsman's Landing boat launch *(temporary occupancy during construction only)* — Resurrection Pass Trail *(crossed with bridge, added new trailhead)* — Bean Creek Trail *(rerouted, crossed with bridge)* — Birch Ridge Trail *(shortened)* — Art Anderson/Slaughter Gulch Trail *(shortened)* — Juneau Bench Trails *(crossed with grade separation)* — Juneau Falls Recreation Area
3.9 Historic and Archaeological Preservation					
Historic Properties Adversely Affected	–	Sqilantnu Archaeological District *(28 contributing properties)* — Confluence Traditional Cultural Property — Charles G. Hubbard Mining Claims Historic District — Kenai Mining and Milling Company Historic District — Stetson Creek Trail	Sqilantnu Archaeological District *(25 contributing properties)* — Confluence Traditional Cultural Property — Charles G. Hubbard Mining Claims Historic District — Bean Creek Trail	Sqilantnu Archaeological District *(JC Alt: 13 contributing properties) (JC Variant Alt: 22 contributing properties)* — Confluence Traditional Cultural Property — Bean Creek Trail	
3.10 Subsistence					
Changes in Resources, Resource Habitat, or Competition for Resources	No impact	Changes in both fish and wildlife resources may occur as a result of construction and operation of the build alternatives. Impacts to subsistence and hunting uses in the project area may include wildlife avoiding or reducing use of habitat near the highway, actual loss of habitat within the new alignment, decreased habitat quality, fragmentation of habitat, and injury or mortality of wildlife from collisions or hazardous materials spills.			
Changes in Resource Availability due to Alteration in Resource Migration Patterns or Distribution	No impact	Changes to the landscape caused by project construction can influence wildlife population migration patterns and distribution through habitat loss, changes in habitat suitability, changes in habitat use, or reduced survival. In addition, the highway itself can become a barrier to resource migration patterns through design, such as steep embankments or retaining walls, or through resource injuries or mortality due to collisions.			
Physical or Legal Barriers to Accessing Resources	No impact				

Impact Category	Impacts and Benefits				
	No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.11 Utilities					
Utilities	–	Relocates local power poles and underground utility lines along existing alignment. Adds lighting to major intersections. No new utilities proposed along segment built on new alignment. Crossing regional transmission line twice requires raising high voltage power lines and relocating one of the large towers.	Relocates local power poles and underground utility lines along existing alignment. Adds lighting to major intersections. No new utilities proposed along segment built on new alignment.		
3.12 Geology and Topography					
Geology and Topography	No impact	The build alternatives would alter the topography along the roadway corridor through roadway construction, grading, and extraction of sand and gravel for road foundation materials. Bridge construction would require excavations and/or blasting, which would change the topographic contours and remove rock and soils.			
		Unstable soils at large cut east of Cooper Creek may require special treatment/terracing.	No notable soils issue known.	Fractured rock at Juneau Creek canyon bridge site indicates need for extra evaluation for bridge foundations.	
3.13 Water Bodies and Water Quality					
New Bridges	–	**Kenai River** Replacement Cooper Landing Bridge: » 3 to 4 piers Replacement Schooner Bend Bridge: » 2 to 3 piers **Cooper Creek** New Cooper Creek Bridge: » No piers or fill in creek	**Kenai River** New Kenai River Bridge: » 2 to 3 piers Replacement Schooner Bend Bridge: » 2 to 3 piers **Juneau Creek** New Juneau Creek Bridge: » No piers or fill in creek	**Kenai River** No bridges **Juneau Creek** New Juneau Creek Bridge: » No piers or fill in creek	
Drainages	–	57 small drainage crossings: » 47 replacement culverts » 10 new culverts	73 small drainage crossings: » 39 replacement culverts » 32 new culverts *(drainages combined into one culvert where possible)*	63 small drainage crossings: » 20 replacement culverts » 41 new culverts *(drainages combined into one culvert where possible)*	
Longitudinal Encroachments to the Kenai River	No change	5 locations	4 locations	1 location	
Surface Water Quality	No change from existing conditions.	Increase in storm water runoff because the project area would have more paved surfaces. Cooper Creek Alternative would have least new surface area, G South Alternative more, Juneau Creek Variant Alternative more yet, and Juneau Creek Alternative most.			

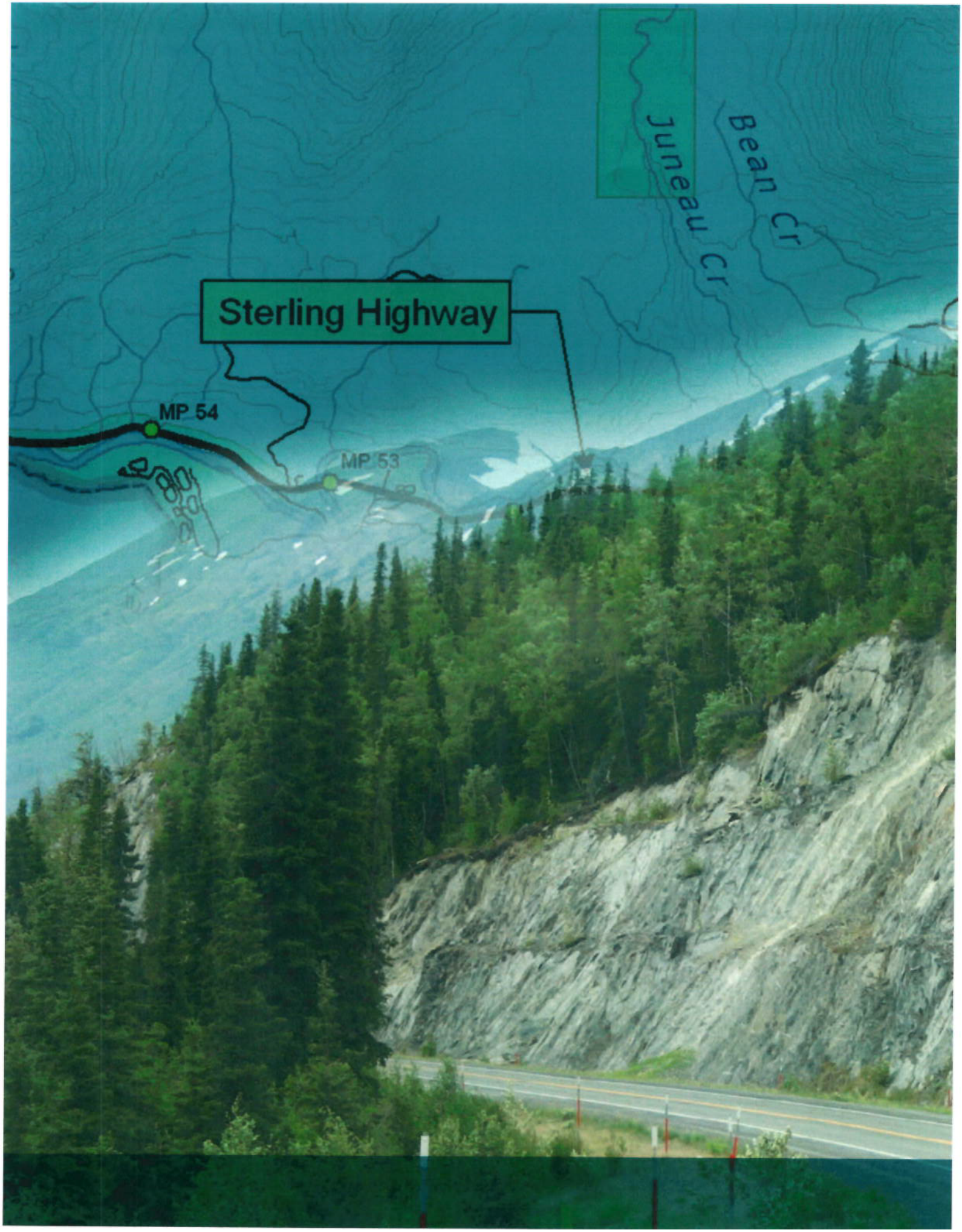
Impacts and Benefits Table continued...

Impact Category	Impacts and Benefits				
	No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.14 Air Quality					
Air Quality	No impact to air quality standards. Emissions are higher under congested conditions. Higher emissions likely to be offset in part by higher efficiencies in vehicle fleet nationwide.	No impact to air quality standards. Each of the build alternatives would result in a slight increase in vehicle miles traveled compared to existing conditions. The increase in emissions associated with vehicle miles traveled would be partially offset by increased engine efficiency and reductions in emissions associated with smoothly-flowing traffic. This would vary slightly by alternative, similar to level of service variations (see Section 3.6). Higher efficiencies in vehicle fleet nationwide would also offset increased emissions from vehicle miles traveled.			
3.15 Noise					
Noise *(number of receptors at which noise approaches or exceeds Noise Abatement Criteria, or where a substantial increase is predicted in 2043)*	4 residential 1 recreational **5 total**	4 residential 2 recreational 1 commercial **7 total**	0 residential 2 recreational **2 total**	0 residential 1 recreational **1 total**	0 residential 1 recreational **1 total**
3.16 Visual Environment					
Visual Quality Evaluation	–	All build alternatives have at least moderate impacts as a result of new or updated roadway elements. None of the build alternatives result in impacts that are orders of magnitude different than others.			
3.17 Hazardous Waste Sites and Spills					
Waste Sites	No impact				
Potential Risk of Water Quality Impacts Due to Spills *(percentage of roadway located within 500 feet of the Kenai River, Kenai Lake, Cooper Creek, Juneau Creek, and Russian River)*	77%	56%	45%	25%	26%
3.18 Energy					
Energy	No impact				
3.19 Floodplains					
Floodplains *(acres of encroachment in official mapped floodplain)*	–	5.1 acres	6.2 acres	–	<0.1 acre
3.20 Wetlands and Vegetation					
Wetlands *(acres filled)*	–	11 acres	26.6 acres	38.5 acres	37.5 acres
Vegetation *(acres removed)*	–	188 acres	202 acres	269 acres	256 acres
3.21 Fish and Essential Fish Habitat					
Essential Fish Habitat Impacts *(acres altered; crossings of anadromous fish streams with type of crossing)*	–	1.2 acres/8 crossings: » 4 culverts » 3 bridges » 1 creek re-routed	1.0 acre/8 crossings: » 3 bridges » 5 culverts	0.8 acres/2 crossings: » 1 culvert » 1 bridge	0.8 acres/2 crossings: » 1 culvert » 1 bridge

Impact Category		Impacts and Benefits				
		No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.22 Wildlife						
Brown Bear	Habitat Avoidance Area *(acres in addition to the avoidance area created by existing highway)*	–	605 acres	1,468 acres	2,834 acres	2,640 acres
	Quality of habitat loss	–	Impacts Kenai River corridor and bench from Cooper Creek to Russian River Not as intense brown bear use as other streams in the project area	Impacts high-quality brown bear movement and feeding corridors *(along Kenai River and Juneau Creek)*. Alternatives could permanently deter bear movement to, from, and feeding in area.		
	Length of Alternative within Bear Use Area *(miles)*	–	2.7	3.5	4.3	4.4
	Length of double highway barrier to movement within Bear Use Area *(miles)*	–	0.15	0.9	3.9	3.6
Moose	General	–	37 acres	37 acres	59 acres	40 acres
	Rutting	–	100 acres	105 acres	114 acres	116 acres
	Rutting and Winter	–	67 acres	74 acres	104 acres	110 acres
	Total Habitat Lost	–	204 acres	216 acres	277 acres	266 acres
	Length of Alternative within Moose Use Area *(miles)*	–	3.1	3.2	5.1	5.1
	Length of double highway barrier to movement within Moose Use Area *(miles)*	–	–	0.2	4.4	4.1
Bald Eagles	Number of nests within a 330-foot primary zone	3 nests	2 nests	2 nests	0 nests	1 nest
	Number of nests within a 330- to 660-foot secondary zone	5 nests	4 nests	3 nests	0 nests	0 nests
3.23 Coastal Zone Management						
Coastal Zone Management		No impact				

This Executive Summary is intended to provide an overview of the Sterling Highway 45-60 Project SEIS. For more detail, please refer to the full SEIS document.

We appreciate your participation in this process.


Juneau Cr
Bean Cr
Sterling Highway
MP 54
MP 53

LISA MURKOWSKI, Alaska, *Chairman*
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United States Senate
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510–6150
WWW.ENERGY.SENATE.GOV

April 10, 2017

The Honorable Elaine Chao
Secretary, U.S. Department of Transportation
1200 New Jersey Ave., SE
Washington, DC 20590

Re: Alaska Highway 1 / Sterling Highway By-Pass EIS/ Juneau Creek Alternative

Dear Madam Secretary:

I write to seek your assistance to help unravel one of the longest running environmental regulatory roadblocks in the State of Alaska, the dispute over how to relocate a segment of Alaska Highway 1 (the Sterling Highway) as it runs along the Kenai River through and past the town of Cooper Landing.

Since the late 1970s a series of Administrations and Congress have been attempting to find the best route for a modern 15-mile bypass that would avoid funneling all traffic to Southcentral Alaska within a few feet of America's premiere king salmon streams, the Kenai and Russian Rivers. We are in the midst of the third Environmental Impact Statement, most recently costing $16 million. This is a complex issue as the Sterling Highway snakes through the Kenai Mountains near Cooper Landing, crossing the Chugach National Forest, the Kenai National Wildlife Refuge/formal wilderness and the Kenai State Park.

The Highway, one of America's most scenic, runs through major brown bear and moose habitat, crosses historic and culturally archaeological grounds for the Kenaitze Indian Tribe, and comes within a few feet of the Kenai River, the breeding grounds of America's largest king salmon. Commercial and sport fishing along the river account for 40 percent of the Kenai Peninsula's total economy yet hundreds of thousands of tourists travel the narrow highway yearly. We need to reduce the risks this traffic and potential fuel and chemical spills present for the nearby salmon streams.

The long-standing goal has been to build a by-pass around the tourist areas at Cooper Landing so that 70 percent of all traffic does not have to travel on the 1950's era pavement. Four route alternatives have been developed. The best one from an environmental and Native archaeological standpoint is the Juneau Creek alternative that

would run the highway 1.5 miles north of Kenai Lake, requiring no bridges to cross the river, and protecting salmon from all sediment and road runoff. By contrast, the most significant negative impact environmentally would be from the G-South Alternative. This alternative, which remarkably is now the "preferred" one, would require a new bridge to be built over the river, counter to the requirements of the Kenai River Comprehensive Management Plan.

Unfortunately, the Federal Highway Administration recently ruled the Juneau Creek route out of consideration – even though it once approved of it -- because that route must cross the width of the Resurrection Pass National Historic Recreation Trail and about a quarter mile of the Mystery Creek Wilderness Area located inside the Kenai National Wildlife Refuge. It will take a 33-acre boundary adjustment to the southeast corner of the wilderness to clear a route for the highway.

Fifteen years ago, Congress envisioned that the best route for the bypass would cross the wilderness area and approved the Russian River Land Act (PL. 107-362, 116 Stat. 3021). That Act established a formal process for a land exchange to clear the right of way. Under that law, the region's Native Regional Corporation, Cook Inlet Inc. (CIRI), was required to trade lands to the U.S. Fish and Wildlife Service to be added to the refuge to offset the 33-acre boundary adjustment. CIRI was then allowed to select other less valuable lands to the west of Cooper Landing in exchange. Under P.L. 107-362, however, only the Secretary of the Interior can initiate negotiations for the exchange. I have recently asked the new Secretary of the Interior to formally start those talks.

My understanding is that the Alaska Department of Transportation and Public Facilities last year was required by FHwA to remove the Juneau Creek alternative from route consideration because of that by-pass route. The Juneau Creek alternative would cross the Resurrection Pass Trail and would also cross the current boundaries of a wilderness area. As I understand it, if there are "feasible and prudent" alternatives to avoid crossing park, recreation, wildlife lands, and historic sites, these crossings would run afoul of Section 4(f) of the Federal Highway Act of 1966. However, I do not believe that the G-South Alternative represents a "feasible and prudent alternative," nor to I believe there is such an alternative to the Juneau Creek alternative.

That prompts me to ask several questions.

- If the Secretary of the Interior would reach agreement on a 33-acre land exchange, which Congress authorized in P.L.107-362, the boundary of the wilderness area would be to the north of Juneau Creek alternative's needed right of way corridor. Why wouldn't this serve to solve the problem resented by section 4(f)?

- Would the FHwA delay finalizing the current EIS if land exchange talks with the Department of the Interior began? This would avoid the cost and delays inherent in conducting a new supplemental EIS. Would a SEIS be needed before or if the land exchange is completed?

- If the exchange is completed to clear the right of way from crossing a wilderness, would section 4(f) present an issue for the Juneau Creek route because it would still need to cross the Resurrection Pass Recreational Trail?

- According to the current draft EIS, the Juneau Creek alternative calls for construction of a bridge over Juneau Creek Canyon to route the trail under the highway. (That crossing would come just 3.4 miles north of the 39-mile trail's existing terminus.) Since the Juneau Creek option is clearly listed as the better option on environmental grounds in the current draft EIS, could the FHwA now reconsider whether it is the only "feasible and prudent" route? In contrast to the other alternatives, the Juneau Creek alternative would avoid the environmental impact caused by construction of a second bridge over the river. It would also avoid archaeological damage to Native historic sites closer to the river, eliminate the danger of fuel and chemical spills from entering the river, and avoid most all other recreational impacts.

- Is there any formal process that the State of Alaska or outside parties currently can undertake to prompt the FHwA administratively to reconsider its 2016 ruling and reinstate the Juneau Creek alternative as a viable route and then to select it as the route for the by-pass road?

- And are there any alternatives you could suggest that Congress could take to permit the Juneau Creek alternative by-pass to be constructed, if that alternative is not reinstated administratively by the FHwA?

I ask these questions because the Juneau Creek route is clearly the preferred route on environmental grounds. It is supported by the Kenai River Sportfish Association, by the Kenai Peninsula Borough, the City of Kenai, the cities of Soldotna and Homer, the Kenaitze Indian Tribe, the Salamatof Native Association, the Ninilchik Traditional (Tribal) Council, and the environmental-fishery groups: Cook Inlet Keeper, Kenai Watershed Forum, Kenai Peninsula Fishermen's Association, United Cook Inlet Drift Association, the Kenai River Professional Guide Association, and the Kenai River Keys Property Owners Association.

I hope you will ask FHwA to revisit the Juneau Creek alternative as the only feasible and prudent route for this vital Alaska road project. I understand that the FHwA intends to finalize its record of decision in this case by October 2017. A final determination in favor of the G-South Alternative would result in the worst environmental and most economically costly road alternative being selected – a decision that will perhaps delay once again a project already 40 years in the making.

I stand ready to discuss this request with you at any time. My staff is also available to you and your staff. Thank you for your consideration.

Sincerely,

Lisa Murkowski
United States Senator

Attachments: Sterling Highway Summary Sheet and DEIS Report

cc: Acting Administrator, Federal Highway Administration

Sterling Highway MP 45-60 Reconstruction Project

Project Purpose: The purpose of the Sterling Highway MP 45-60 Reconstruction Project is to bring the highway up to current standards and to efficiently and safely serve the through-traffic, local community traffic and traffic bound for recreation destinations within the project area both now and in the future.

Background: This section of the Sterling Highway is essentially the same highway that was built in the 1940's and 1950's. The environmental work for this project was initiated in 1975 and has continued on to the present.

Alternatives: There are four "build" alternative routes evaluated in detail in the EIS. These are the Cooper Creek Alternative, G South Alternative, Juneau Creek Alternative (desired by local government, tribes and sport fishing organizations) and Juneau Creek Variant Alternative. There is also the "No Build Alternative".

Selected Alternative: The G South Alternative was selected for the following reasons: 1) The two Juneau Creek Alternatives cross the Resurrection Pass National Recreation Trail which FHWA has determined to be Section 4(f) resource. Section 4(f) refers to the original section within the U.S. Department of Transportation Act of 1966 which established the requirement for consideration of park and recreation lands, wildlife and waterfowl refuges, and historic sites in transportation project development. By law, if a Section 4(f) evaluation identifies a feasible and prudent alternative that completely avoids Section 4(f) properties, it must be selected. The G South and Cooper Creek Alternative are both feasible and prudent; therefore, neither of the Juneau Creek Alternatives can be selected. 2) The Cooper Creek Alternative would have considerable impacts to the community of Cooper Landing and would not address the congestion and safety problems in this portion of the highway as the G South Alternative; therefore, G South is the selected alternative.

Roles of FHWA and DOT&PF: FHWA makes the decisions on what is to be evaluated and makes the final route alternative selection which is published in a Record of Decision (ROD). DOT&PF performs the work as required by FHWA. Once the ROD is published, DOT&PF can either build the selected alternative in the ROD or decide not to build anything. Either way, the money spent on the EIS remains eligible for federal funds.

Financial Information: Current costs for the EIS exceed $16 million dollars. The construction cost estimates for this project are around $300 million. The project is a Federal Aid Highway Project. Under that program the federal government pays about 90% of project costs from State of Alaska apportioned funds from the Federal Highway Trust Fund, with the State paying the remaining 10%.

Current Status: In December 2015, DOT&PF and the Federal Highway Administration (FHWA) identified the G South Alternative as the preferred alternative for the Sterling Highway MP 45-60 Project near Cooper Landing. The Final EIS will be released for review by cooperating agencies this month (November 2016). The Final EIS public availability period is expected in the Summer of 2017. The Record of Decision is anticipated in November 2017.

Sterling Highway Milepost 45-60

Draft Supplemental Environmental Impact Statement and Draft Section 4(f) Evaluation

Executive Summary

MARCH 2015

STERLING
HIGHWAY MILE POST 45 TO 60
ALASKA

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ALASKA

Executive Summary

MARCH 2015

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The Project at a Glance

Originally completed in 1950, the Sterling Highway is the only road that links western Kenai Peninsula communities (e.g., Kenai, Soldotna, and Homer) to the rest of the state. For many years, the Alaska Department of Transportation and Public Facilities (DOT&PF) has recognized the need for improved safety and traffic flow along this highway to accommodate increased traffic from community growth, recreation, and tourism.

The Problems and Challenges

The Sterling Highway from Milepost 45 to 60 follows the Kenai River valley through the Kenai Mountains. The highway's problems and challenges through Cooper Landing include:

- A constricted valley between the Kenai River and steep mountain walls
- Narrow, curvy highway design
- Traffic congestion
- Many driveways and side roads
- Conflicts between local traffic and through-traffic
- Elevated crash rate
- Risk of contaminant spills into the Kenai River

The scenic nature of the area, community growth, and world-class fishing on the Kenai and Russian rivers combine to create serious congestion problems for the highway from May through September. This level of congestion has created safety issues for highway travelers, especially in areas where high-speed traffic conflicts with vehicles turning on and off the highway.

The Goal

DOT&PF seeks to:

- Reduce congestion
- Improve the highway to current "rural principal arterial" design standards
- Improve highway safety

See detailed project map on pages 3-4.

Whose project is this?

The Sterling Highway Milepost (MP) 45 to 60 Project is proposed by the DOT&PF (as the highway owner) and by the Federal Highway Administration (FHWA). FHWA administers Federal transportation project funds, which means that FHWA would approve the final environmental impact statement and subsequent record of decision.

Overview

Sterling Highway Milepost 45-60

Thousands of Alaskans and visitors from around the world drive to the spectacular upper Kenai River every summer. Most come from Anchorage, which is home to the majority of the state's population and the region's main airport. From the other direction, they may come from Kenai, Soldotna, or Homer—the principal cities on the western Kenai Peninsula. From either direction, they drive a consistent highway—with uniform lane widths, ample shoulders, and curves designed for uniform highway speeds—until they approach Cooper Landing.

Near Cooper Landing, the Sterling Highway reverts to its original design, with narrow lanes, no shoulders, and sharp curves. The highway through this stretch was constructed in the 1940s and 1950s and served the traffic and vehicles of that time. Since then, however, the sizes and numbers of cars and trucks have changed, as well as the standards for a highway's lanes, shoulders, and sharpness of curves. Along this stretch, the highway does not meet current highway standards. The narrow lanes and shoulders, sharp curves, and poor visibility mean the road is less safe than similar roads around the state.

In summer, traffic overwhelms the road. Cooper Landing and the nearby confluence of the Kenai and Russian rivers draw people for fishing, boating, camping, and hiking. This slow-moving local traffic is continually pulling on and off the highway. People traveling through the area, between places like Soldotna and Anchorage, share the same highway and get caught in the local traffic.

The idea of a new highway in the Cooper Landing area is favored by some people and is a source of concern for others.

Why favored?

This project holds promise for a better highway design and safer driving experience. The Sterling Highway runs for several miles along the Kenai River, in some places following every bend. The road is narrow and winding, with low speed limits in some areas, with no shoulders or adequate space along the road for safety, with little opportunity to pass, and with many connecting driveways that create multiple access points to the highway. Traffic is gradually increasing and has been for decades, reducing the ability of the highway to handle the traffic.

Upgrades to modern highway design standards would allow for more consistent highway speeds to serve long-distance travelers and commercial truck traffic. With a new highway route, segments of the old highway would remain as a lower-speed road suited to serving local and recreational traffic. A reconstructed highway would match other nearby portions of the Sterling and Seward highways, which have been upgraded to modern standards.

Why is there concern?

The Kenai River valley is not an easy place to improve a road. Land along the highway in Cooper Landing is largely built upon, leaving little room to alter the alignment or widen the highway without impacts to private property. The topography of mountain slopes and river bends also physically constrains the design of the highway, in some cases forcing proposed alignments into locations that are protected or important for other uses. Any change to the highway likely would impact wildlife corridors and habitat, recreation areas, and cultural sites. The Cooper Landing community provides essential support services, and people are concerned that traffic might be routed away from existing businesses.

The Kenai River is a State park, and the confluence of the Russian and Kenai rivers is a major destination for sport fishing. The two rivers also attract a concentration of brown bears. Most of the land in the area is managed by Chugach National Forest and Kenai National Wildlife Refuge.

The area is largely natural and provides habitat for bears, moose, and other wildlife. Besides fishing, people enjoy camping, hiking, mountain biking, rafting and boating, and backcountry winter sports on these public lands.

The fish in the confluence area have been important to Native peoples for thousands of years, and the river was important later to early Russian and American explorers and gold miners. Hundreds of historic and archaeological features dot the area and make it culturally important today to the Kenaitze Indian Tribe and to Cook Inlet Region, Inc. (CIRI), the regional Alaska Native corporation, which owns land in the area. All of this makes the area a complex setting for this project.

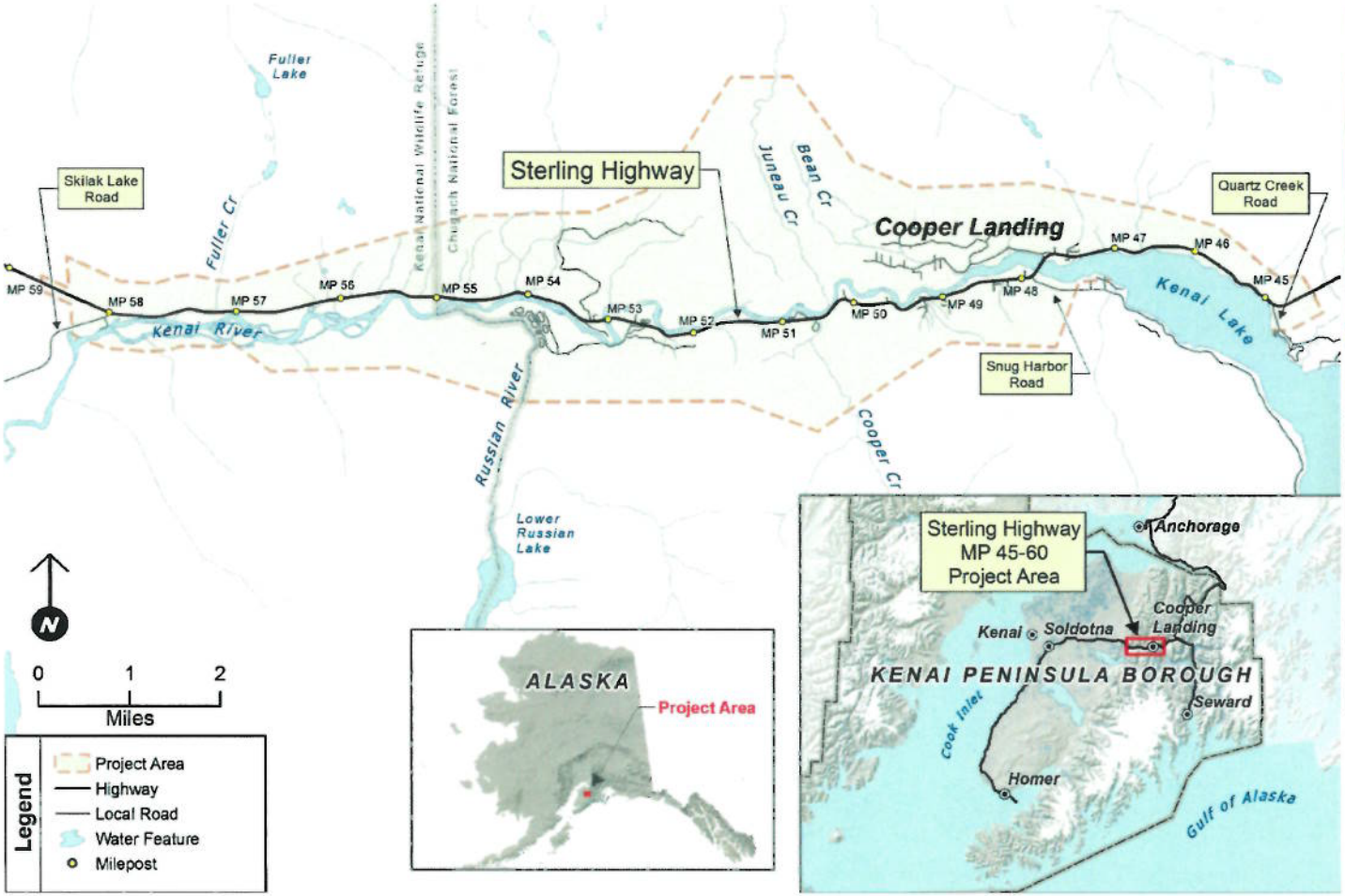
What is an EIS? An Environmental Impact Statement (EIS) is a document prepared to describe the effects of proposed activities on the environment. It considers both the natural and physical environment and the relationship of people with the environment. The purpose of developing an EIS is to help agencies, officials, and the public make sound decisions. Its preparation is prescribed by the National Environmental Policy Act of 1969, and it is necessary to disclose potential impacts in order to secure the use of Federal funding for transportation projects.

Why is this a supplemental EIS?

A supplemental EIS (SEIS) is meant to review the findings of an existing EIS and supplement them with new or updated information. DOT&PF and FHWA previously released two draft EISs for this project, in 1982 and 1994. These addressed a larger project area, extending from MP 37 (Seward Highway junction) to MP 60, 8 miles longer than the current project area (MP 45-60). Based on the complexity in the MP 45-60 area and on a determination that the MP 37-45 project would be useful on its own, the 8-mile segment was expedited and constructed by 2001. At about the same time, DOT&PF began preparing this SEIS, building on past work. Because the entire MP 37-60 area has been under a single ongoing work agreement between DOT&PF and FHWA since the 1970s, this EIS is formally considered a supplement. Enough time has passed, however, that all research was begun anew.

Where is the project?

The Sterling Highway is located on the Kenai Peninsula in Southcentral Alaska. It runs east-west through the Kenai Mountains and continues to the City of Homer. The project area is in the heart of the Kenai Mountains and runs from MP 45 to MP 60. The project's starting and stopping points for construction would be the intersection of the existing Sterling Highway with Quartz Creek Road on the east and the intersection with Skilak Lake Road on the west. The limits of any potential construction activities would be MP 44.5 to 58.2. However, MP 45 and MP 60 have been used historically to define the project, and therefore continue to be used as part of the project's formal name.



Why is the Sterling Highway important?

The Sterling Highway is the only road that connects the western Kenai Peninsula with the Seward Highway and the rest of the nation's highway system. It is part of the National Highway System and is Interstate Highway A-3. While the eastern end of the Sterling Highway connects to the rest of the national highway system on land, the opposite end of the Sterling Highway, at the city of Homer, connects to the Alaska Marine Highway System (ferry). Marine Highway ferries connect travelers by ocean to other Alaskan communities and the North American highway system at points in Southcentral and Southeast Alaska; at Prince Rupert, British Columbia; and at Bellingham, Washington.

Purpose and Need

What is "Purpose and Need," and how does it affect the process?

The Purpose and Need describes transportation problems the project is meant to address. It also helps the public and agencies determine which of the proposed alternatives best solve the transportation problems.

What is the project purpose?

The purpose of the project is to bring the highway up to current standards to efficiently and safely serve through-traffic, local community traffic, and traffic bound for recreation destinations in the area both now and in the future. DOT&PF and FHWA recognize the importance of protecting the Kenai River corridor while still achieving this transportation purpose.

What are the needs for the project?

There are three interrelated needs that the project would address: reducing highway congestion, meeting current highway design standards, and improving highway safety.

Need 1: Reduce Highway Congestion.

The construction of multiple driveways and side street accesses over time, combined with a curvy, constrained alignment with little passing opportunity and increasing traffic volumes, has led to unacceptable congestion that is forecast to worsen in the future. As a result, the highway performs below acceptable levels of service (LOS) for a rural principal arterial that is a component of the National Highway System. LOS is illustrated in the Congestion graphic to the right.

Congestion

Level-of-service (LOS) is a term used to qualitatively describe roadway and intersection traffic operations using "letter grades" ranging from A (best) to F (worst).

LOS A describes the highest quality of traffic service. Motorists travel at their desired speed. Without strict enforcement, LOS A results in average speeds of 55 mph or more for rural principal arterial highways. Passing demand is below passing capacity. Platoons of three or more vehicles are rare. Drivers are delayed no more than 35% of their travel time by other vehicles.

LOS B characterizes traffic flow with speeds of 50 mph or slightly higher on level terrain. The demand for passing to maintain desired speeds becomes significant. Drivers are delayed in platoons up to 50% of the time.

LOS C describes noticeable increases in platoon formation, platoon size, and frequency of passing impediments. The average speed still exceeds 45 mph. Chaining of platoons can occur. Although traffic flow is stable, it is susceptible to congestion due to turning traffic and slow-moving vehicles. Percent time spent following may reach 65%.

LOS D describes unstable traffic flow. Passing demand is high, with passing capacity near zero. Platoon sizes of 5-10 vehicles are common, although speeds of 40 mph still can be maintained. Turning vehicles and roadside distractions cause major shock waves in the traffic stream. Motorists are delayed in platoons nearly 80% of their travel time.

LOS E describes a condition where percent time spent following is greater than 80%. Speeds may drop below 40 mph, down to 25 mph on sustained grades. Passing is virtually impossible. Platooning becomes intense. Operating conditions are at capacity and unstable.

LOS F represents heavily congested flow with traffic demand exceeding capacity. Speeds are highly variable (possibly stop-and-go). While more cars are on the road at each level through LOS D/E, the traffic volume decreases at LOS F because vehicles cannot move freely.

Need 2: Meet Current Highway Design Standards.

Existing characteristics of the Sterling Highway do not meet current design standards for a rural principal arterial road. The existing highway contains curves, shoulders, guardrail, and clear zones that do not meet current design standards (see Current Design Standards and the Existing Highway table below).

Need 3: Improve Highway Safety.

The interrelated effects of highway congestion and outdated highway design characteristics lead to higher-than-average rates of traffic crashes in the project area, and a greater severity of crashes, when compared to the statewide average. The combination of narrow lanes, narrow or non-existent shoulders, sharp curves, and a high number of access points result in these safety issues. The crash rates are higher than the statewide average for similar types of roadways (rural principal arterials). The severity of crashes—that is, those that have major injuries or fatalities—is higher than the statewide average for portions of the highway in the project area.

Current Design Standards and the Existing Highway

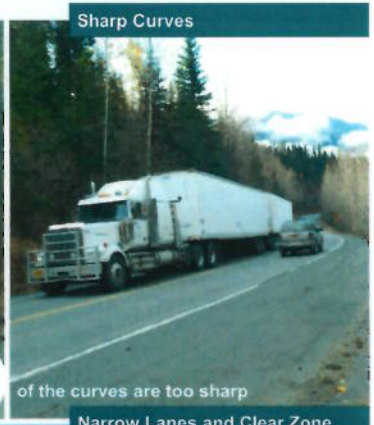
	Design Standards[1]	Distance Not Meeting Standard	Percent Not Meeting Standard
Design Speed *(mph)*	60	15 miles at 55 mph or less 4 miles at 40 mph or less	100%
Minimum Curve Radius *(feet)*	1,330	21 of 43 curves less than standard radius	49%
Lane Width *(feet)*	12	13.7 of 15 miles less than 12-foot-wide lanes	91%
Shoulder Width *(feet)*	6–10	15 of 15 miles less than 6-foot-wide shoulders	100%
Clear Zone *(feet)*	30–32	14 of 15 miles less than 30-foot-wide clear zone	95%

Where do I look in the Draft SEIS?

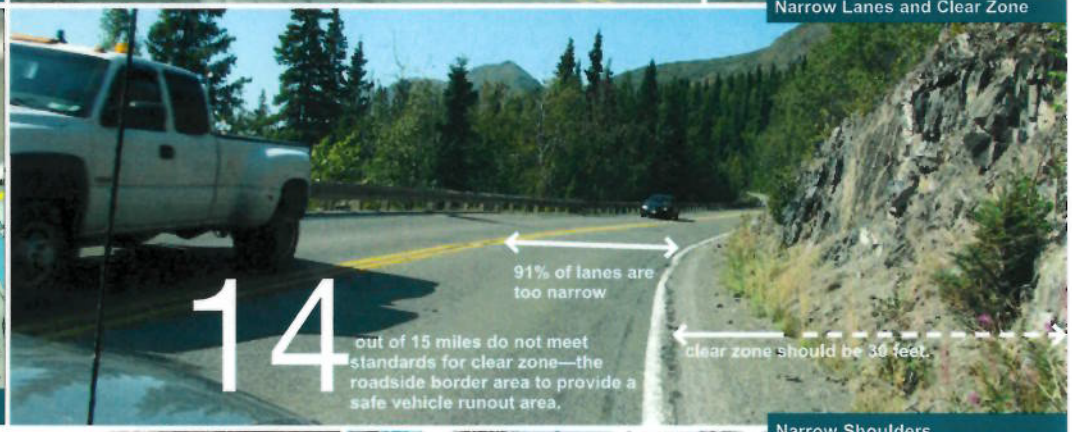
» Chapter 1 addresses purpose and need.

Purpose and Need continued...

Sharp Curves



Narrow Lanes and Clear Zone



Narrow Shoulders

Alternatives

Preliminary engineering and the alternatives screening process narrowed the potential build alternatives to four. These four and the No Build Alternative are evaluated in detail in the SEIS.

1. No Build Alternative
2. Cooper Creek Alternative
3. G South Alternative
4. Juneau Creek Alternative
5. Juneau Creek Variant Alternative

What is the No Build Alternative?

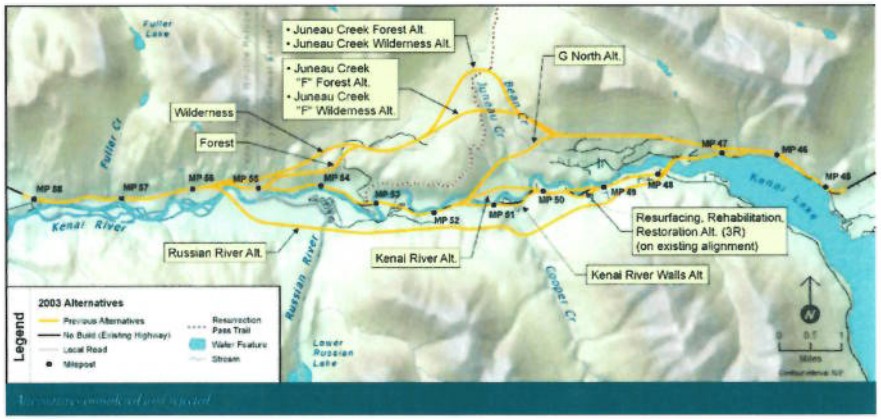
The National Environmental Policy Act requires that an EIS describe and analyze the impacts of not building the project as a benchmark that allows for comparison of the degree of environmental effects of the various project alternatives. In this document this alternative is called the "No Build Alternative." Under the No Build Alternative, the highway would remain much as it is today, with only maintenance and already programmed work assumed to occur.

What are the Build Alternatives?

The four build alternatives are the Cooper Creek Alternative, G South Alternative, Juneau Creek Alternative, and Juneau Creek Variant Alternative. Each of the build alternatives is engineered based on highway design standards for rural principal arterials. The build alternatives are identical from MP 45 to MP 46.3, at the eastern end of the project, and from MP 55.8 to MP 60, at the western end of the project. Each alternative would consist of a two-lane highway with paved shoulders, passing lanes, and turning lanes. Travel lanes would be 12 feet wide, paved shoulders would be 8 feet wide (adequate for safe bicycle and pedestrian use), passing lanes would be 12 feet wide, and all major intersections would have right- and left-turn lanes. No interchanges would be constructed. T-intersections would be used where the "old" highway intersects new segments within each alternative. Maps on pages 11 and 12 illustrate the build alternatives.

Were other alternatives considered?

More than thirteen alternative alignments were considered. Those that are fully analyzed in the SEIS are considered to represent the full range of reasonable alternatives. Those not carried forward were determined either not reasonable or similar to (but not as good as) a nearby similar alignment.



Alternatives were determined to not be reasonable for a combination of the following factors:

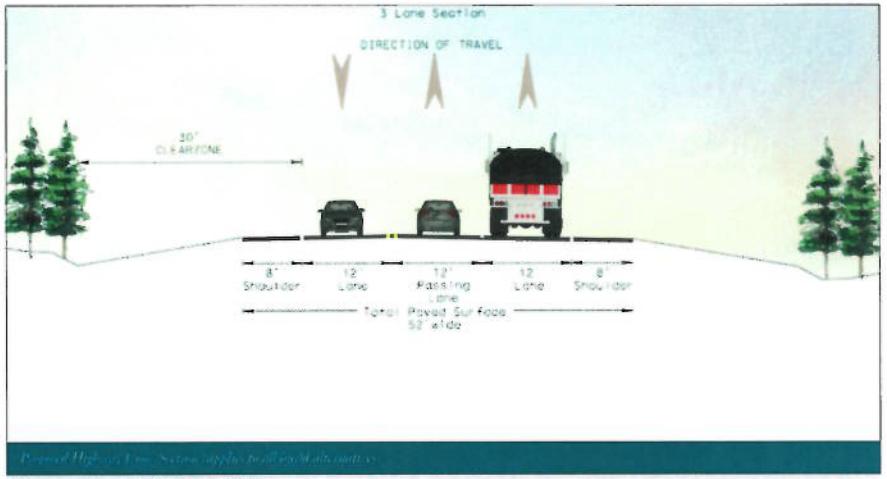
- Technical problems (for example, poor rock or soils).
- Inability to satisfy the project purpose and need (for example, grades too steep for a safe road).
- Impacts to the community, the natural environment, recreational areas, or high costs.
- General lack of public and agency support.

A formal analysis process that used criteria based on the purpose and need and preliminary impact assessment was conducted and is summarized in Chapter 2 of the SEIS. A map of alternatives considered and rejected appears on page 9.

Why not just improve the existing highway all the way through?

A segment of the existing highway in the area from MP 49 to MP 50.5 has several curves that do not meet current standards for a rural principal arterial. The hillside in this area rises abruptly from the winding Kenai River and its floodplain. The hillside is composed of fine-grained soils such as silt and clay-like soils. These soils were left by glacial retreat and water action. They were eroded into steep slopes by the Kenai River and its tributary, Cooper Creek. The soils are prone to landslides and mud flows. Multiple teams of DOT&PF and consulting engineers have examined this area over 30 years and determined that any alignment that straightened out the curves and widened the highway to meet standards would require huge cuts into the poor soils or would require direct impacts to the Kenai River. Civil and structural engineers have consistently recommended against large cuts in this area because of the unusual wall heights (as tall as 16-story buildings) and risk of slope and structure failure. Therefore, all alternatives have been routed around this area.

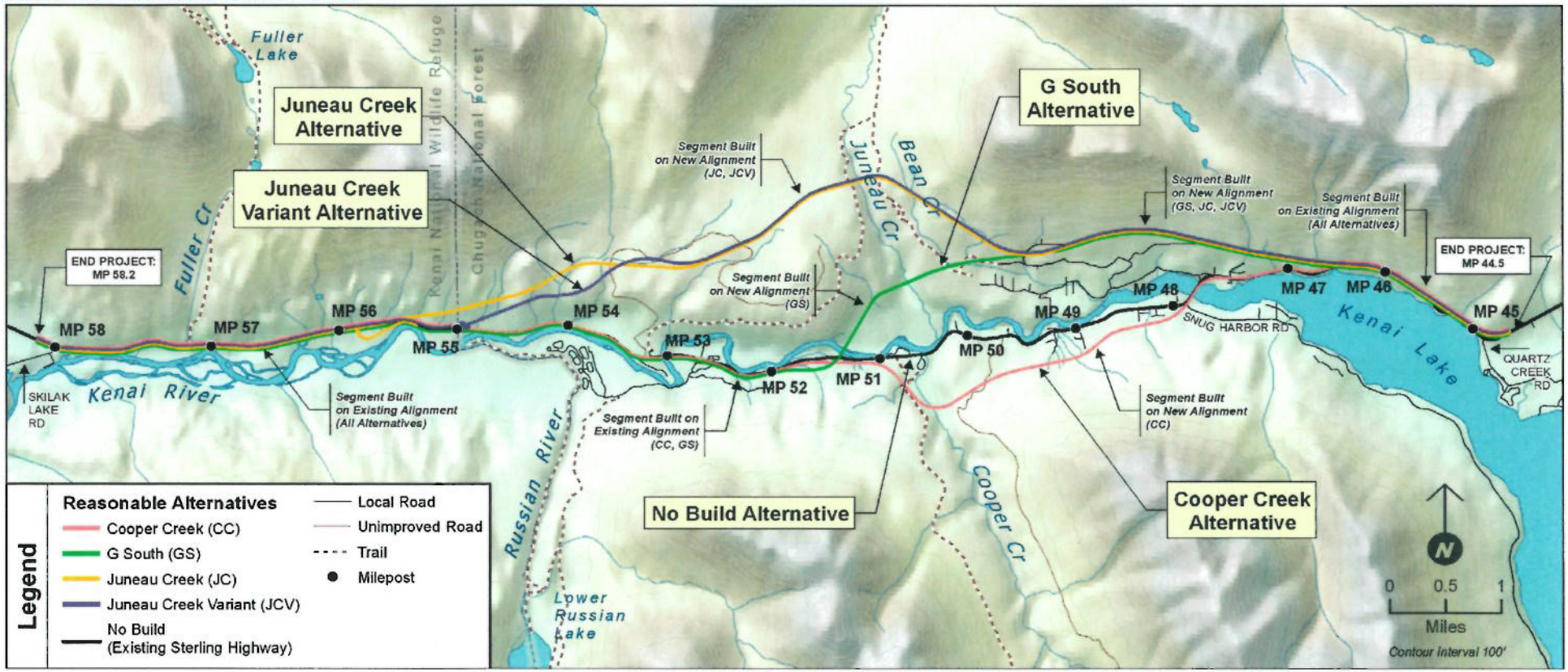
Highway Cross-Section. The highway would generally be a two-lane highway, but many portions of each alternative would have a passing lane or turning lane (three-lane cross-section, as shown below), and some areas would have passing lanes in both directions (four-lane cross-section). Widths of each lane (12 feet), widths of shoulders (8 feet), and clear zones (30 feet from lane edge) would be the same throughout.



Where do I look in the Draft SEIS?

- Chapter 2 addresses alternatives.

Alternatives evaluated in detail in the SEIS



Cooper Creek Alternative. The Cooper Creek Alternative follows the existing alignment for most of its length. Only about 3.5 miles would be located on a new alignment, routed south of Cooper Landing. This alternative would include construction of three large bridges—two replacing existing Kenai River bridges and one new large bridge over Cooper Creek.

G South Alternative. The G South Alternative would construct 5.5 miles of new alignment skirting north of Cooper Landing and the Kenai River, reconnecting with the existing alignment near MP 52. This alternative was designed to avoid impacts to the Resurrection Pass Trail and Juneau Creek Falls area. This alternative would include construction of three bridges—one replacing an existing bridge over the Kenai River and two new bridges, a large bridge over lower Juneau Creek, and one new bridge over the Kenai River.

Juneau Creek Alternative. The Juneau Creek Alternative deviates from the existing alignment more than the other alternatives—about 10 of 14 miles would be on a new alignment. It would run north of Cooper Landing and the Kenai River, climbing the hillside and crossing Juneau Creek Canyon with a new bridge south of Juneau Creek Falls. The new segment would cross the Mystery Creek Wilderness in the KNWR and would rejoin the existing highway at about MP 56. The alternative includes one large bridge spanning Juneau Creek Canyon. It would be the longest single-span bridge in Alaska.

Juneau Creek Variant Alternative. The Juneau Creek Variant Alternative is almost the same as the Juneau Creek Alternative but was specifically designed to avoid use of land from the KNWR and the Mystery Creek Wilderness. The Juneau Creek Variant Alternative would rejoin the existing alignment at MP 55 of the existing highway near Sportsman's Landing. The alternative includes one large bridge crossing Juneau Creek Canyon. It would be the longest single-span bridge in Alaska.

Where do I look in the Draft SEIS?

» Chapter 2.6 SEIS Alternatives Advanced for Full Analysis

Affected Environment and Environmental Consequences

DOT&PF and FHWA analyzed the social and environmental conditions of the project area. Results of the analysis are the baseline for determining the potential impacts of the alternatives.

The analysis of existing conditions and impacts includes issues raised by agencies and the public, and issues discussed by the DOT&PF and FHWA in consultation with agencies while preparing the SEIS. This executive summary focuses on resources with greater potential impacts, resources identified during scoping as being resources of particular concern, and resources that illustrate substantive differentiation among alternatives. The impact tables at the end of this executive summary provide quantified data, where available, about impacts to resources. A larger number of resources and much more detailed discussion appear in the Draft SEIS (see Chapter 3). Chapter 4 of the Draft SEIS focuses on lands protected by Section 4(f) of the U.S. Department of Transportation Act; Federal transportation law provides additional protection for certain parks, wildlife refuges, recreation areas, and cultural/historic sites.

Where do I look in the Draft SEIS?

- Chapter 3 covers the "Affected Environment," "Environmental Consequences," and mitigation measures.
- Chapter 4 covers Section 4(f) impacts (park, recreation area, refuge, and cultural site impacts).

Land Ownership / Land Use Plans and Policies

Most lands in the project area are owned and managed by the Federal government, including the U.S. Forest Service (Chugach National Forest), east of MP 55, and the U.S. Fish and Wildlife Service (KNWR), west of MP 55. Within the Federal lands, and generally in blocks near the highway, there are undeveloped State- and Borough-owned lands, as well as smaller vacant and developed private parcels. Two relatively large parcels of private land are owned by Cook Inlet Region, Inc. (CIRI), the regional Alaska Native corporation formed by the Alaska Native Claims Settlement Act.

One important land issue involves the KNWR. The KNWR encompasses much of the western Kenai Peninsula. It is the most visited of Alaska's many wildlife refuges and provides the most accessible Federally designated Wilderness. The KNWR was established originally to protect the Kenai Peninsula moose population and generally to protect multiple wildlife and bird species. Its purposes include recreation that is compatible with wildlife protection. The existing highway is within a DOT&PF right-of-way easement on KNWR land. North of the highway right-of-way in the project area is the Mystery Creek Wilderness; south of the right-of-way is the Kenai River and then the Andrew Simons Wilderness.

Key Impacts and Issues:

- Impact to private land owners was an issue raised by the public, and land management agencies are interested in impacts to their Borough, State, or Federal lands. The tables at the end of this summary display the acreage of impacts on various public and private land owners. The Cooper Creek Alternative would impact more private land than the other alternatives—see also the Housing and Relocation section on pages 14-15.

- One of the most important issues for this project is the effect to Federal Wilderness land. The Juneau Creek Alternative differs from the other alternatives because it would cross a corner of the Mystery Creek Wilderness. The affected area would be 33.4 acres of the 1.9-million-acre KNWR, including 19.1 acres of the KNWR's 1.3 million acres of designated Wilderness. As this alternative proposes to reroute the Sterling Highway through a national Wildlife Refuge and designated Wilderness, it is subject to the procedural requirements, and determinations required under ANILCA Title XI, Transportation and Utility Systems (TUS). ANILCA Section 1106 (b) provides the procedural requirements for approval of a TUS in a designated Wilderness area, including Presidential review and recommendation and Congressional approval.
- The Russian River Land Act allows CIRI and the KNWR to exchange lands in this area. CIRI owns land just outside the KNWR boundary that would lie adjacent to the Cooper Creek, G South, and Juneau Creek alignments and that would be bisected by the Juneau Creek Variant Alternative. CIRI requested that the DOT&PF and FHWA continue to analyze the Juneau Creek Alternative fully in the SEIS. CIRI has stated an intention to pursue a land exchange.
- The Juneau Creek and Juneau Creek Variant alternatives would cross the Resurrection Pass National Recreation Trail; other alternatives would not. Like KNWR, the 1,000-foot-wide trail corridor is subject to ANILCA Title XI. However, because it is not Wilderness, it does not require approval of the President and Congress. (See also Parks and Recreation Resources, Section 3.8 of the SEIS).

Housing and Relocation

Much of the housing in Cooper Landing is used seasonally, with a smaller year-round base of residents. According to the 2010 U.S. Census, there were 395 housing units in Cooper Landing, of which 234 were vacant. Of the 234 vacant housing units, 207 were used seasonally and were generally not available for rental. There are also a number of undeveloped private lots in the community and other lots platted by the Kenai Peninsula Borough.

Where do I look in the Draft SEIS?

- Land Ownership in Section 3.1.
- Land Use Plans and Policies in Section 3.2.
- KNWR and ANILCA Title XI issues in Section 3.2, specifically 3.2.12, 3.2.1.5, 3.2.2.5 (KNWR), and 3.2.5 (Title XI). Chapter 4 also addresses the KNWR as a Section 4(f) resource.

Crossing Wilderness

Wilderness designated by Congress is particularly complex to cross with a road corridor, because the Wilderness Act defines a designated Wilderness as a large area without roads. Typically Wilderness areas do not allow wheeled or mechanized vehicles. The Alaska National Interest Lands Conservation Act (ANILCA) provides a mechanism in Title XI to authorize road corridors across Wilderness lands in Alaska.

Housing and Relocation continued...

Key Impacts/Issues:

- The Cooper Creek Alternative would impact 38 privately owned properties. Sixteen would be completely acquired. Of the 16, 6 are vacant parcels, 8 have developed residences that would require relocation, and 2 have accessory buildings.
- The G South Alternative would require partial acquisition of 6 vacant private properties but would not require relocation of any residences or businesses.
- The Juneau Creek Alternative would require partial acquisition of 4 private properties. None of these acquisitions would require any relocation.
- The Juneau Creek Variant Alternative would require partial acquisitions of 5 private properties. None of these acquisitions would require any relocation. One of the 5 properties is a 42-acre CIRI parcel near Sportsman's Landing, which the alignment would bisect.

Mitigation Measures:

Adversely affected property owners would compensated at fair market value as provided by the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, and the Alaska Relocation Assistance and Real Property Acquisition Practices (Alaska Statutes 34.60.010 et seq.).

Where do I look in the Draft SEIS?

- Housing and Relocation: Section 3.4

Economic Environment

The Kenai and Russian rivers draw thousands of people for salmon and trout fishing, and rafting—both tourists and in-state recreationists. Fishing and outdoor recreation, combined with the lake, river, and mountain scenery, drive much of the local economy. Cooper Landing is the only location between Summit Lake, Moose Pass, and Sterling that provides services to highway travelers. Many bed and breakfast inns, resorts, and fishing lodges in Cooper Landing accommodate visitors. The economy is seasonal and experiences a fluctuation of annual employment, as businesses reduce the number of employees or close entirely during the winter.

River-based businesses, such as guiding and lodging businesses catering to fishing and recreational enthusiasts, are destinations and are less dependent on spontaneous (drive-by) customers. Highway-based businesses, such as gas stations, grocery and general merchandise stores, restaurants, and motels, are more dependent on highway vehicle traffic and spontaneous stops.

Most businesses in the project area are clustered in the central commercial area of Cooper Landing (MP 47-50), but a few lodges, dining establishments, and gas stations occur outside the community along the highway.

Agencies and the public, particularly residents of Cooper Landing, have expressed concern that alternatives built on a new alignment would induce, or spur, development. One concern is that the highway could provide new access to previously undeveloped State or Borough lands, and new rural residential neighborhoods would spring up. A related concern is that new businesses would open to serve travelers along new highway segments and draw business away from the existing community. River-based businesses appear to be destination-oriented; their owners are more concerned about protecting the quality of the Kenai River and reducing traffic congestion in the area where they transport rafts and clients and less concerned about loss of drive-by customers. Highway-based retail businesses are more concerned about reduced business if traffic were removed from passing by their businesses.

Land use planning goals for the community of Cooper Landing, adopted into the Kenai Peninsula Borough Comprehensive Plan, indicate a desire to retain the commercial center within Cooper Landing and to avoid development of a competing commercial center along any new highway segment.

Key Impacts/Issues:

- All build alternatives include a highway segment built on a new alignment that would remove about 70 percent of the traffic from all or a portion of the central commercial area of Cooper Landing. A benefit of reducing traffic would be a more attractive community environment, with decreased congestion and improved safety for pedestrians, residents, and visitors to the community. Decreased traffic also would benefit local businesses that use the existing road in their daily local business transactions, such as river guides who shuttle rafts and sport fishing clients. People currently relying on Cooper Landing businesses would likely continue to do so, although some spontaneous economic activity would decrease. To varying degrees, all of the build alternatives have the potential to adversely affect individual businesses by diverting travelers who might make spontaneous stops at businesses located on the "old" highway. These spontaneous stops constitute a meaningful portion of their clientele, especially for highway-related businesses like gas stations, eateries, and convenience stores. This would be more of an issue for the G South Alternative and the two Juneau Creek alternatives, because they would not be routed through any portion of the community. The Cooper Creek Alternative would remain more connected to the community but would divert from the existing highway immediately south of the Cooper Landing Bridge.
- DOT&PF would not allow driveways and side roads to be connected to highway segments built on new alignments (bypass segments). Access to developable land adjacent to the bypass segments would need to be from the existing Sterling Highway only, as it is today. Therefore, no competing commercial development is anticipated as a result of this project, none of the build alternatives would create any new access to developable lands, and none of the build alternatives would induce new development of businesses or residences.
- All build alternatives would cost millions of dollars to build and maintain over the life of the project (see the Costs of the Alternatives table below). These funds would be Federal and State monies allocated for transportation projects. Such funds are limited, and use for this project would mean they would not be available for other Alaska transportation projects. The funds would flow principally to Alaska design and construction firms and into the Cooper Landing, Southcentral Alaska, and statewide economy.

Mitigation Measures:

The project would include directional signs to ensure that motorists were aware that business services were available in Cooper Landing, off the main highway.

Where do I look in the Draft SEIS?

- Economic Environment: Section 3.5

Costs of the Alternatives (millions)

	Cooper Creek	G South	Juneau Creek	Juneau Creek Variant
Construction[a]	$236.2	$250.4	$205.4	$211.6
Other Costs[b]	$54.5	$53.1	$44.2	$45.4
Total	**$291**	**$304**	**$250**	**$257**

[a] Construction costs include the road itself and bridges/tunnels/retaining walls, plus 20% for contingencies and 15% for construction administration.
[b] Other costs include permitting, design, utility relocations, right-of-way acquisition, and Indirect Cost Allocation Plan (ICAP). Note that right-of-way costs estimate the land payment portion only. It does not address the other per parcel costs of land acquisition. These costs only reflect privately owned land impacted by the alternatives. Land owned by Federal, State, and Municipal agencies is assumed to be acquired via interagency land transfers.

Parks and Recreation Resources; and Section 4(f)

The upper Kenai River area draws many people, both Alaska residents and visitors, for recreation. The area contains:

- Kenai River Special Management Area.
- Boat launch and river access areas: Jim's Landing (KNWR), Sportsman's Landing/Russian River Ferry (State and KNWR), and Cooper Landing Boat Launch and Day Use Area (State).
- Trails: Resurrection Pass National Recreation Trail, Bean Creek Trail, and Stetson Creek Trail (Chugach National Forest); Fuller Lakes Trail (KNWR); and informal trails such as the Art Anderson Slaughter Gulch Trail.
- Forest Service campgrounds: Russian River Campground and Cooper Creek Campground.
- Forest Service areas set aside for recreation: Kenai River Recreation Area, Juneau Falls Recreation Area, and Lower Russian Lake Recreation Area.

The main area of activity and land protected for recreation purposes is the central 4-mile river corridor between the confluence of Cooper Creek with the Kenai River (near existing highway MP 51) and the confluence of the Russian River with the Kenai River (near MP 55). Many park and recreation properties are centered in a core area along the river and loosely function together and are managed similarly, even though the different types of properties are managed by different entities. The Kenai River and the adjacent Kenai River Recreation Area, together with Sportsman's Landing, the Russian River Ferry, the Russian River Campground, the Lower Russian Lake Recreation Area, and the Cooper Creek Campground all are contiguous park, recreation, and refuge lands and waters comprising well over 700 acres. In addition, the K'Beq Footprints Heritage Site and the trailheads for the Resurrection Pass Trail, Russian Lakes Trail, and Stetson Creek Trail are located in this area. This area also is the heart of the Sqilantnu Archaeological District and Confluence Traditional Cultural Property.

The Juneau Falls Recreation Area (320 acres), Resurrection Pass Trail corridor (1,000 feet wide), and Bean Creek Trail corridor form a similar block of recreation properties on a smaller scale at the head of Juneau Creek Canyon. All are U.S. Forest Service properties.

Personal-use and commercial recreation use levels are high, with "combat fishing" a common term for elbow-to-elbow sportfishing near the Russian and Kenai rivers confluence. Thousands of float trips occur on the Kenai River each summer. The campgrounds and trails also are well used, and use of trails continues year round (for snowmobiles and skiing in winter). The Resurrection Pass Trail is 38 miles long and connects to the Hope area, with several side trails and backcountry public use cabins.

Most of the park and recreation properties are protected under Section 4(f) transportation law (see box, next page). However, a few are not because they are not publicly owned, not maintained or managed by any agency, or otherwise not significant as park or recreation facilities.

Key Impacts/Issues:

- All alternatives would use land from various park and recreation properties.
- The Cooper Creek Alternative would truncate the lower end of Stetson Creek Trail, which is a recreational and historic trail. The project would construct a new pullout trailhead at the terminus of the truncated trail and make over the old trailhead area into an interpretive loop trail for Cooper Creek Campground.
- The G South Alternative is considered to have the greatest impacts to the Kenai River (a designated park unit), primarily because it would add a new bridge over the Kenai River. New bridges are counter to the Kenai River Comprehensive Management Plan.
- Both the Cooper Creek and G South alternatives would continue to follow the existing alignment through the 4-mile core recreational area along the river. Thus, all traffic would remain in this area instead of being routed around it.
- The Juneau Creek and Juneau Creek Variant alternatives would impact the Resurrection Pass Trail with a crossing 3.4 miles north of the trail's southern terminus. The bridge over Juneau Creek Canyon would span the Resurrection Pass Trail, minimizing impact, but the backcountry atmosphere of the trail and Juneau Falls Recreation Area in this location would change to a more "front-country" experience, with greater use. Under these two alternatives, 70 percent of Sterling Highway traffic is expected to use the new highway, leaving the old highway through the 4-mile core area (Cooper Creek to Russian River) as a quieter, winding, lower-speed, local road suited to providing access to that area's multiple recreational amenities.

Mitigation Measures:

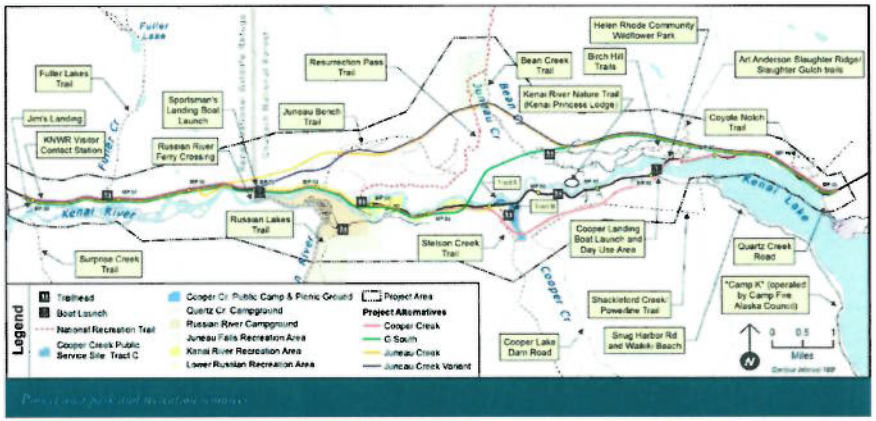
Substantial mitigation is proposed for impacts to recreation areas. These are spelled out in the Section 4(f) Evaluation, in section 4.7 of the SEIS. Mitigation proposed includes new parking and trailheads for Stetson Creek Trail, Bean Creek Trail, and Resurrection Pass Trail where alternatives cross the trail and addition of new connecting trails or re-routed trails where necessary. Underpasses would be created where an alternative would cross certain existing unimproved roads used as trails—the Cooper Lake Dam Road, extension of Slaughter Ridge Road, and West Juneau Road. Under the two Juneau Creek alternatives, a falls overlook would be added in the Juneau Falls Recreation area, and a pedestrian walkway would be added to the highway bridge to connect trails on either side of the canyon. For these alternatives, DOT&PF has accepted the Forest Service's suggestion to compensate for impacts to the long-distance experience on the Resurrection Pass Trail by providing a new connection for another long-distance trail nearby in the Kenai River watershed—the Iditarod National Historic Trail. DOT&PF would commit to providing a pedestrian crossing of the Snow River bridges at the opposite end of Kenai Lake to accommodate the Iditarod commemorative trail.

What is Section 4(f)?

Section 4(f) of the Federal Department of Transportation Act prohibits use of certain parks, recreation areas, wildlife refuges, or historic properties for transportation projects unless there is "no prudent and feasible alternative" or the impacts are "de minimis." The Draft SEIS evaluates Section 4(f) resources, the impacts of the proposed alternatives, alternatives that could avoid use of Section 4(f) resources, and all possible measures to minimize harm to these resources. If there is no prudent and feasible avoidance alternative, FHWA must select the alternative with the least overall harm. See Chapter 4 of the SEIS.

Where do I look in the Draft SEIS?

The Draft SEIS addresses park and recreation resources in Section 3.8. Chapter 4 also extensively addresses park and recreation areas determined to be Section 4(f) resources.



Historic and Archaeological Resources

Historic, archaeological, and other cultural properties in the project area that are eligible for the National Register of Historic Places include:

- Prehistoric archaeological sites associated with Alaska Native cultures.
- Historic sites associated principally with gold prospectors and settlement of the area by Russians and Americans from outside Alaska, including the Bean Creek Trail and Stetson Creek Trail.
- Traditional Cultural Properties (TCPs)—areas of cultural importance to the Kenaitze Indian Tribe.

The Sqilantnu Archaeological District encompasses most of the project area and both sides of the Kenai River valley up to an elevation of about 1,000 feet. This district is recognized in Federal law under the Russian River Land Act. Most other historic properties, including two historic mining districts, two TCPs, and portions of the historic trails, overlap with the Sqilantnu District. Hundreds of archaeological sites, comprised collectively of thousands of individual archaeological features, contribute to the district. The TCPs are individually eligible for the National Register of Historic Places and also contribute to the Sqilantnu District. While the cultural and archaeological features are not well known to the general public, the area is considered quite important by the Kenaitze Indian Tribe, CIRI, the Chugach National Forest, the KNWR, and the State of Alaska's Office of History and Archaeology. There is potential for future nomination of the area as a National Historic Landmark. All cultural and historic properties eligible for the National Register of Historic Places are considered to be protected by Section 4(f) (see box on the previous page).

Key Impacts/Issues:

- The Cooper Creek and G South alternatives pass directly through an area of overlapping historic and archaeological districts and TCPs. However, they mostly overlap the existing highway corridor. In general, the Cooper Creek and G South alternatives are similar in their effects. See the large summary table at the end of this document.
- The Juneau Creek and Juneau Creek Variant alternatives follow similar alignments and generally have fewer impacts to known cultural sites than the other two alternatives. The Juneau Creek Alternative would affect the least acreage and the fewest archaeological properties of any of the alternatives. The Juneau Creek Variant Alternative, designed to avoid use of the KNWR/Wilderness, would intersect the existing Sterling Highway at the confluence of the Kenai and Russian rivers in the heart of the Confluence TCP and Sqilantnu Archaeological District. It would therefore have greater impact to culturally important sites than the Juneau Creek Alternative, including proximity to human burials, although it would impact fewer sites than the Cooper Creek and G South alternatives.

Mitigation Measures:

Substantial mitigation for effects to adversely affected historic properties is expected. An agreement to be spelled out among tribal entities and agencies (consulting parties) will be presented in the Final EIS.

Where do I look in the Draft SEIS?
The Draft SEIS addresses cultural and archaeological resources and impacts in Section 3.9. Chapter 4 also addresses these topics as Section 4(f) resources.

Noise

Much of the project area away from the existing highway is generally quiet, consisting of natural areas, with running water and wind being the primary contributions to base sound levels. Noise measurements were taken at key sensitive locations (receptors) throughout the project area as a baseline, and sound levels were computer-modeled to forecast noise increases from traffic on the alternatives.

Key Impacts/Issues:

All build alternatives would create noise that would substantially increase noise levels and/or exceed noise abatement criteria. Forecast increases in traffic would result in increased noise levels even under the No Build Alternative, which would impact three more sensitive receptors than are impacted today. Only the Cooper Creek Alternative, which would impact five more properties than are impacted today, would have noise impacts at more sensitive noise receptors than the No Build Alternative.

Mitigation Measures:

DOT&PF examined the ability to mitigate permanent noise impacts with walls or barriers and could not find a way to make them effective given either the large land areas that are sensitive or the need to accommodate driveways (i.e., necessitating a break in the noise barrier). As a result, no noise walls, berms, or barriers are proposed.

Visual Resources

The glacially carved Kenai River valley frames the visual environment of the project area. Steep mountains and the unique turquoise color of Kenai Lake and the Kenai River are the predominant features seen from the project area. Canyons formed by Juneau Creek and Cooper Creek, tributaries of the Kenai River, notch the north and south sides of the main valley. The Sterling Highway is recognized as a State Scenic Byway because of its scenery, history, and recreational opportunities. Foreground views are of riparian forest and human development; mountain uplands and peaks can be seen in the background. The view of Cooper Landing is mainly of single-story small, framed (and sometimes log) residential and commercial buildings. The project identified key views and rated them using a formal process (Visual Quality Evaluation). The evaluation identified mostly moderate to high ratings for the existing visual environment.

Key Impacts/Issues:

All alternatives would adversely affect the visual environment but also would provide new views. Negative change in Visual Quality Evaluation scores would be highest under the Juneau Creek Variant Alternative, followed by the Juneau Creek, Cooper Creek, and G South alternatives with progressively fewer adverse changes in visual quality.

Mitigation Measures:

No specific mitigation for visual impacts is proposed. However, as part of the standard design, all cuts and fills would be constructed with care, and bare soils would be seeded for quick greening of the landscape. Large new bridges under all alternatives would be designed with aesthetics in mind for recreationists passing near or under the bridge on trails or in boats.

Where do I look in the Draft SEIS for Noise?
The Draft SEIS addresses noise in Section 3.15. A Noise Analysis report is also available on the project web site and is published in the SEIS as Appendix D.

Where do I look in the Draft SEIS for Visual Resources?
The Draft SEIS addresses visual resources in Section 3.16. A Visual Analysis report is available on the project web site.

Wetlands and Vegetation

The project area is vegetated with natural vegetation. It has been substantially modified in developed areas in and around Cooper Landing and at recreation developments. Multiple types of wetlands exist in the project area, from forested wetlands to ponds along the Kenai River to open, unforested wetlands. Wetlands and vegetation in general perform important functions, from wildlife habitat to floodwater retention. The U.S. Army Corps of Engineers (Corps) is a cooperating agency for this SEIS and must issue a permit for any fill to be placed in wetlands or other waters. The SEIS aids the Corps' decision-making process.

Key Impacts/Issues:

- All build alternatives would permanently eliminate wetlands. However, there would be substantial differences among the alternatives, with the Cooper Creek Alternative having relatively low impacts compared to the two Juneau Creek alternatives. These two alternatives would result in more than 3 times the total area of wetland loss of the Cooper Creek Alternative, including 6 times as much loss of emergent wetlands and nearly 12 times as much loss of forested wetlands. The G South Alternative would have intermediate wetland impacts.
- All alternatives would permanently eliminate vegetation. Again, the Cooper Creek Alternative would affect the least, the Juneau Creek alternatives the most. See the Impacts and Benefits Summary tables at the back of this document.

Where do I look in the Draft SEIS?

The Draft SEIS addresses wetlands and vegetation in Section 3.20. A wetlands report is available on the project web site.

Mitigation Measures:

The alternatives were developed to avoid and minimize impacts to wetlands and other waters. Where it was not practical to avoid impacts altogether, the SEIS contains a description of construction-related best management practices that would be followed to minimize impacts to wetlands and vegetation. DOT&PF has committed to paying a fee (in-lieu of creating or enhancing wetlands) to a land conservation organization that would use the funds for protection or enhancement of wetlands in a critical location on the Kenai Peninsula. This fee would be meant to compensate for the unavoidable impacts to wetlands and waters of the U.S. and to offset wetland loss.

Fish and Essential Fish Habitat

Fish habitat and water quality are related discussions, but appear separately in the SEIS. This section addresses both in describing fish and impacts to fish habitat.

The Kenai River ecosystem is a productive, diverse system that supports a wide variety of resident fish and fish that travel between freshwater and saltwater ("anadromous" fish) species. Major water bodies within the project area include Kenai Lake, Kenai River, Bean Creek, Juneau Creek, Cooper Creek, Russian River, and Fuller Creek. The project area contains important fish migration corridors. Kenai River fisheries for king (Chinook), sockeye (red), and coho (silver) salmon are the largest freshwater sport fisheries for these species in Alaska. More than one million sockeye salmon return each year to spawn in the Kenai and Russian rivers. Sockeye, Chinook, coho, and pink salmon all spawn in the upper reaches of the Kenai River, and chum salmon are also present.

The entirety of the Kenai River and its tributaries, where used by salmon, are designated essential fish habitat (EFH). EFH designations emphasize the importance of habitat protection to healthy fisheries. Water quality in the Kenai River and its tributaries within the project area is considered good. Downstream parts of the river have, in the recent past, been considered polluted with hydrocarbons from outboard motor use, but 2008 regulatory changes improved the water quality. Outboard motors are not allowed on the river in most of the project area, but are allowed on Kenai Lake and at its outlet in Cooper Landing.

A consistent theme in public comments has been concern about maintaining water quality and salmon habitat, including concerns about the risk of spills from the current highway and the problems with its design.

Key Impacts/Issues:

- All build alternatives would result in an increase in storm water runoff because the project area would have more paved surfaces—a wider highway where rebuilt, and all-new highway in the segments built on a new alignment. Impacts from storm water runoff would not be substantial enough to impact wells and wellhead protection areas or fish in the rivers.
- Each build alternative would move the majority of vehicle traffic away from the Kenai River along those segments built on new alignment. This would reduce the risk of spills and general runoff pollution reaching the river. The Juneau Creek and Juneau Creek Variant alternatives would divert traffic from the river over the greatest road length, and the Cooper Creek Alternative would divert the least amount of traffic away from the river. While the Cooper Creek Alternative would divert the least amount of traffic of all the build alternatives, it would be an improvement over the No Build Alternative and result in a reduction of risk over the existing conditions.
- Direct impacts on water bodies, water quality, and fish habitat would result from new and replacement bridges and culverts and from new roadway embankment placed in water bodies. New culvert crossings and bridge crossings would be likely to alter natural flow patterns and habitat in streams at the location of the crossings, and possibly upstream and downstream. The Cooper Creek and G South alternatives would involve substantial construction in the Kenai River to replace existing bridges and build new bridges. The Juneau Creek and Juneau Creek Variant alternatives would have no bridge construction in the Kenai River. All alternatives would include a segment of reconstructed highway at the western end of the project where rip-rap (rock) would be placed in the edge of the Kenai River, where the existing highway already is adjacent to the river.

Mitigation Measures:

Mitigation measures would be implemented during the construction process to minimize impacts to water quality from runoff and fuel. Construction timing windows would ensure that construction in the water (principally bridge construction) would occur outside of critical times in the salmon life cycle. New culverts and replacement culverts would be designed to modern fish passage standards wherever fish use those drainages. Where existing culverts do not allow fish to pass, replacements culverts would improve habitat availability for fish. These efforts would reduce impacts to fish habitat and water quality. Permanent impacts would be minimized by commitments to maintain or reduce the number of in-water piers for any replacement bridge.

Where do I look in the Draft SEIS?

- Water Bodies and Water Quality: Section 3.13
- Fish/Essential Fish Habitat: Section 3.21
- Kenai River Special Management Area description: Section 4.2.2
- Kenai River Special Management Area impacts: Section 4.5

A separate Essential Fish Habitat report is also published on the project website at www.sterlinghighway.net.

Wildlife

More than 175 species of mammals, birds, and amphibians live in, seasonally use, or visit the Kenai River basin. Brown bears and moose are two of nine species selected for in-depth analysis in the SEIS because of their status with State and Federal agencies and because of their susceptibility to project impacts.

The population of brown bears for the entire Kenai Peninsula appears to have approximately equal numbers of males and females and dependent young. Brown bears on the Kenai Peninsula use a wide variety of habitats, including rivers and

streams, forests, and subalpine and alpine areas, and generally avoid areas in proximity to roads. The general area between MP 45 and 60 is in a class of habitat with medium to high probability of use by both lone adult females and females with cubs during spring and summer. Brown bears likely move back and forth in a northwest-southeast direction over the Kenai Mountains and across the Kenai River within the project area between MP 45-55, with the area just west of Cooper Landing near Juneau Creek identified by wildlife managers as an important "linkage" zone.

The largest cause of bear deaths on the Kenai Peninsula is bears killed in defense of life and property (DLP kills), which appears to be closely associated with increasing human population, development, and activity on the Peninsula. The rate of deaths of female brown bears on the Kenai Peninsula has consistently been higher than management objectives expressed by the Alaska Department of Fish and Game.

Moose are a common and important species in the project area, providing many viewing opportunities to residents and tourists, as well as subsistence and sport hunting. Collisions with automobiles on the Sterling Highway are common, and present a risk to individual animals and to motorists. Portions of the MP 45-60 area include rutting, wintering, and enhanced feeding habitat for moose, and north-south wildlife movement corridors through the project area are considered important. The moose population is slowly declining. The factors most greatly affecting the moose population on the Kenai Peninsula are considered to be declining habitat quality, predation, weather, and mortality caused by vehicle collisions.

Key Impacts/Issues:

- All of the build alternatives would affect brown bears and moose due to habitat loss, habitat fragmentation, and decrease in habitat quality; changes in behavior to avoid the new highway; and potential injury or mortality from vehicle collisions.
- None of the alternatives would induce further residential or business development more than would be anticipated under the No Build Alternative because of DOT&PF's decision to prohibit access from new sections of adjacent property. By not inducing new growth (and potentially increasing DLP kills), indirect impacts to bears and other mammals would be minimized.
- The Juneau Creek and Juneau Creek Variant alternatives would have the greatest impact on wildlife habitat, because they have the longest lengths of highway built on a new alignment, resulting in larger areas of new effects to habitat.

Mitigation Measures:

DOT&PF is sponsoring a wildlife movement study, in consultation with wildlife management agencies. Results of this study, which began in 2014, are expected to aid in the placement of one or more wildlife crossings and other measures to accommodate wildlife movement across the highway for brown bears, moose, and other species. In the Final SEIS, DOT&PF hopes to have more detail on how many, what kind, and locations of potential wildlife crossings and other recommended measures.

Where do I look in the Draft SEIS?
Wildlife: Section 3.22.

Coordination

The basic requirement of the National Environmental Policy Act is that the Federal government must involve the public and agencies in its project decision-making process. The Act ensures a process of disclosing impacts to the public and incorporating public input before any decision is made.

A primary component of the Sterling Highway MP 45–60 Project has been involvement of key stakeholders and the consideration of their comments and concerns. Chapter 5 of the SEIS summarizes the coordination process conducted during development of the Draft SEIS, including tribal consultation under Section 106 of the National Historic Preservation Act. Chapter 5 of the SEIS also includes a summary of key issues and pertinent information received from the public, Alaska Native tribes and corporations, and government agencies. The coordination process will continue through the final decision.

How much has the public been involved in the project?

The Draft SEIS summarizes a long public and agency coordination process, including initial efforts to determine the scope of the SEIS inquiry ("scoping") and many follow-up meetings with stakeholder groups, the public, and agencies on multiple topics. Key topics that have included substantial coordination are:

- Alternatives screening and selection.
- Section 106 (cultural properties).
- Section 4(f) (park, refuge, recreation, and cultural properties).
- Bears, moose, and other wildlife impacts.
- Business and community impacts.
- ANILCA Title XI process for the Resurrection Pass National Recreation Trail and KNWR.
- Mitigation of impacts.

Scoping began in 2000 and included several kinds of meetings over several years:

- Agency Consultation Committee (six meetings).
- Individual stakeholder interviews (14 agency interviews; five public interviews).
- Stakeholder Sounding Board (five meetings for more than 60 invited groups).
- Public Listening Posts (four rounds of listening posts for a total of nine events in Cooper Landing, Soldotna, and Anchorage).

A web site (www.sterlinghighway.net), internet survey, mailing list, newsletters, and press releases were included. Public and agency input has continued as the Draft SEIS has taken shape, including public comment taken on the alternatives screening before some alternatives were dropped from further consideration. Agencies have been involved heavily regarding impacts and mitigation. From 2002 to 2014, there have been:

- 35 agency meetings on topics such as wildlife, recreation impacts, land issues, and Section 4(f).
- An additional 13 meetings with tribal entities and agencies regarding cultural resources to define new boundaries for the Sqilantnu Archaeological District, define for the first time two traditional cultural properties, define the boundaries of historic mining districts, and determine impacts to cultural properties.

These consultations have been valuable in sorting out the complex issues involved in the project and have formed the basis for much of the analysis in the EIS. Such coordination with the public and agencies will continue as the project moves forward.

Next Steps

Now that the Draft SEIS has been issued for public and agency review, the anticipated next steps are to respond to comments and revise the SEIS, identify a Preferred Alternative, and issue a Final EIS for review and comment. When the environmental process is complete, the FHWA will issue a Record of Decision. Your comments and input are important to the process.

The public and agencies are encouraged to review the Draft SEIS, accompanying appendices, and technical reports are available for review online at www.sterlinghighway.net. Printed copies of the documents are available for public review at the following locations:

Kenai Peninsula

- Cooper Landing Community Library, Mile 0.8 Bean Creek Road
- Kenai Community Library, 163 Main Street Loop
- Soldotna Public Library, 235 N. Binkley Street

Anchorage

- Z.J. Loussac Library (Alaska Collection), 3600 Denali Street
- Alaska Resources Library and Public Information Services (ARLIS), 3211 Providence Drive
- DOT&PF Central Region, 4111 Aviation Avenue

Juneau

- Alaska State Library, 333 Willoughby Avenue
- FHWA AK Division, 709 W. 9th Street, Room 851

Washington DC

- Martin Luther King Jr. Central Library, 901 G Street NW, 3rd Floor

To request a CD copy of the full Draft SEIS, send an email to sterlinghwy@hdrinc.com.

Opinions and preferences regarding the alternatives are appreciated and noted; however, the most helpful comments are those that provide new information, identify a new issue, identify a flaw or gap in analysis, or identify unexplored lines of research that could materially alter the assessment of impacts.

Comments can be submitted:

- **Preferred method:** online at www.sterlinghighway.net
- **Standard mail:**
  Brian Elliott, Environmental Manager
  DOT&PF Central Region
  Sterling Highway MP 45-60 Project
  PO Box 196900
  Anchorage, AK 99519-6900
- **Email:** sterlinghwy@hdrinc.com
- **In person:** at project open house/public hearings

Please visit the project website, www.sterlinghighway.net, for up-to-date project details, public open house and public hearing notifications, and comment deadlines.

What happens with my comments?

Some EISs receive many, many comments, and processing them takes time. Comments are categorized by topic in a database, and the entire email or letter is captured electronically for context. DOT&PF and FHWA will consider all comments and write responses. Comments frequently result in changes to the analysis in an EIS. Text clarifications are common. Sometimes comments result in new or modified environmental analyses or new measures proposed to mitigate impacts. A summary of comments and responses will be appended to the Final SEIS to document the comments and record how each was addressed.

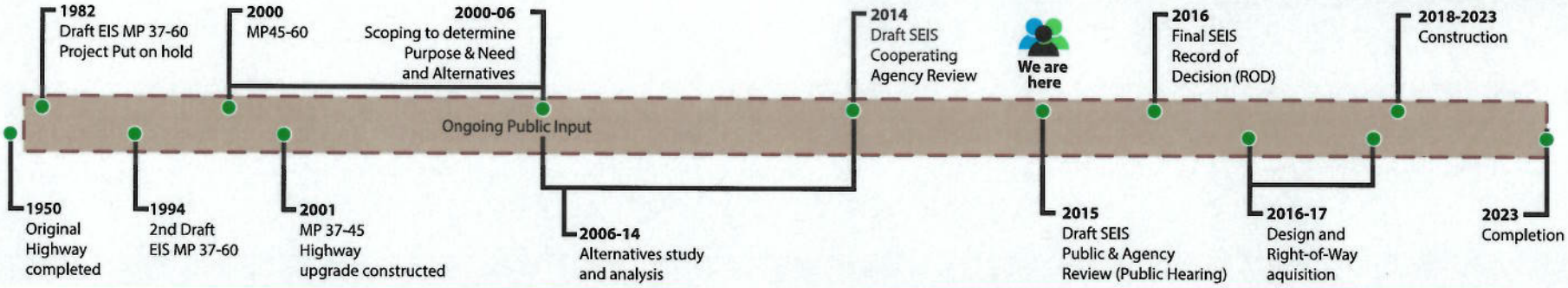
Who makes the final decision?

The FHWA is the lead Federal agency for the SEIS and makes the final decision about selection of an alternative. This decision is made in conjunction with the DOT&PF. Other Federal agencies have their own authorizations, including permits for fill in wetlands and water bodies and land transfer authorizations. Those agencies will also use this SEIS and your comments in making their decisions.

When will something be built?

If a build alternative is selected, the project will enter the design phase following publication of the Final SEIS and signing of a Record of Decision. The earliest construction could start is 2018; however, that is dependent on the availability of funding.

Project Timeline



Impacts and Benefits Table

The "Affected Environment and Environmental Consequences" section of this Executive Summary discusses key impact topics, with references to the tables that follow specific numerical impact data. These tables cover the key topics addressed earlier in this Executive Summary and all other resource topics analyzed in the Draft SEIS.

The tables present impacts of the alternatives side-by-side for comparison. Dividing bars that run horizontal across the table identify each resource by the same heading and section number used in the Draft SEIS. Readers may refer directly to that section of the SEIS for context and greater detail. A few sections of the Draft SEIS are not presented in these tables: sections 3.24 Permits; 3.25 Short-Term Uses vs. Long-Term Productivity; 3.26 Irreversible and Irretrievable Commitments of Resources; and 3.27 Cumulative Impacts. Please see the full Draft SEIS to learn about those topics.

Impact Category		Impacts and Benefits								
		No Build Alternative	Cooper Creek Alternative		G South Alternative		Juneau Creek Alternative		Juneau Creek Variant Alternative	
3.1 Land Ownership and Land Use										
Land Ownership (acres, % in project area)	Federal (9,008)	No impact	54	<1%	90	1%	167	2%	115	1%
	State (1,720)		9	<1%	43	3%	90	5%	92	5%
	Borough (2,013)		93	5%	126	6%	129	6%	129	6%
	Native (61)		1	2%	1	2%	-	-	12	19%
	Private (696)		57	8%	<1	<1%	<1	<1%	<1	<1%
	Total (13,500)		214	2%	261	2%	387	3%	349	3%
Land Use (acres, % in project area)	Commercial (103)	No impact	1	1%	-	-	-	-	-	-
	Institutional (58)		<2	2%	-	-	-	-	-	-
	Residential (548)		41	8%	<2	<1%	<2	<1%	<2	<1%
	Vacant (12,791)		170	1%	260	2%	385	3%	347	3%
	Total (13,500)		214	2%	261	2%	387	3%	349	3%
3.2 Land Use Plans and Policies										
Kenai National Wildlife Refuge Comprehensive Conservation Plan		No impact	No KNWR land would be acquired, developed, or directly used as a result of the Cooper Creek Alternative outside the existing highway right-of-way.		No KNWR land would be acquired, developed, or directly used as a result of the G South Alternative outside the existing highway right-of-way.		New transportation right-of-way across a corner of the KNWR Mystery Creek Wilderness unit and the KNWR Intensive Management area would be needed. The process would require approval by the President of the United States and then a joint resolution of Congress.		No KNWR land would be acquired, developed, or directly used as a result of the Juneau Creek Variant Alternative outside the existing highway right-of-way.	

Impact Category		Impacts and Benefits				
		No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.2 Land Use Plans and Policies continued...						
Chugach National Forest		No impact	Alignment is within the Fish, Wildlife and Recreation and the Major Transportation/ Utility Systems management area prescriptions.	Alignment is within the Fish, Wildlife and Recreation; Fish and Wildlife Conservation; and the Major Transportation/ Utility Systems management area prescriptions.	Alignment is within the Fish, Wildlife and Recreation; Major Transportation/ Utility Systems; Fish and Wildlife Conservation; and Backcountry management area prescriptions.	Alignment is within the Fish, Wildlife and Recreation; Major Transportation/Utility Systems; Fish and Wildlife Conservation; and Backcountry management area prescriptions.
National Forest Inventoried Roadless Area Lands (acres of right-of-way, miles traversed)		No impact	3.8 acres 0.1 mile	48.4 acres 1.1 miles	127.5 acres 3.3 miles	96 acres 2.4 miles
ANILCA Title XI (conservation system units affected)		No impact	No impact	No impact	The Juneau Creek Alternative would cross Resurrection Pass Trail and would cross a corner of the Mystery Creek Wilderness unit within the KNWR.	The Juneau Creek Variant Alternative would cross Resurrection Pass Trail.
State Plans		No impact	The build alternatives, to differing extents, meet the recommendation of the Kenai River Comprehensive Management Plan that new public road construction be located away from the Kenai River.			
Borough Plans and Other Pertinent Plans						
Consistency with planning documents		No impact	May require Kenai Borough Comprehensive Plan amendment.	May require Kenai Borough Comprehensive Plan amendment.	Consistent with Kenai Borough Comprehensive Plan.	
3.3 Social Environment						
Social Environment		Traffic congestion would make travel and social interaction within the community more difficult.	Change in local traffic patterns and community character through re-routing of traffic, less change for the Cooper Creek Alternative, more for the G South, Juneau Creek, and Juneau Creek Variant alternatives.			
3.4 Housing and Relocation						
Private and Native Property Impacts and Relocations (number of affected parcels)	**Private**	No impact	38	4	4	4
	Full Parcel	-	16 (8 residential properties and approximately 14 people relocated.)	0 (0 relocations)	0 (0 relocations)	0 (0 relocations)
	Part of Parcel	-	22	4	4	4
	Native Corporation (CIRI)	-	2	2	0	1
	Full Parcel	-	0	0	0	0
	Part of Parcel	-	2	2	0	1

Impacts and Benefits Table continued...

Impact Category	Impacts and Benefits				
	No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.5 Economic Environment					
Tax Base/Business Impacts	No impact	Would not result in any business relocations. All traffic would remain routed through a portion of the central commercial area of Cooper Landing. Highway-based businesses would retain benefit of passing traffic. River-based businesses would contend with highway traffic.	Would not result in any business relocations. These alternatives would remove 70 percent of the traffic from all of the central commercial area of Cooper Landing. Thirty percent of the traffic would continue traveling through Cooper Landing on the "old" highway. Beneficial impacts would result from decreased congestion. Adverse impacts would result from reduced spontaneous stops for services.		
Construction Cost	–	**$290.7 million**	**$303.5 million**	**$249.6 million**	**$257.0 million**
O&M and Periodic Major Activities *(over 20 years)*	**$69.7 million**	**$23.7 million**	**$23.8 million**	**$24.2 million**	**$24.3 million**
Operations & Maintenance[a,b]	$4.9 million *($245,500/yr)*	$11.9 million *($593,400/yr)*	$11.7 million *($585,400/yr)*	$12.2 million *($608,600/yr)*	$12.2 million *($611,700/yr)*
Periodic Major Activities[b,c]	$64.8 million	$11.8 million	$12.1 million	$12.0 million	$12.1 million
TOTAL	**$69.7 million**	**$314.4 million**	**$327.3 million**	**$273.8 million**	**$281.3 million**

[a]Operations and maintenance (O&M); includes annual cost such as snow plowing, crack sealing, and other basic maintenance on the alignments.
[b]Values for build alternatives do not account for O&M and Periodic Major Activities on exiting/unimproved highway in the corridor. See Section 3.27, Cumulative Impacts, for those values.
[c]Periodic major activities include projects such as replacement of guardrail and pavement overlays that are reasonably anticipated over a 20-year span.
Note: Numbers are rounded and therefore totals do not add perfectly. All estimates are in 2014 dollars (i.e. future dollars have not been inflated to the future year values)

Impact Category		Impacts and Benefits				
		No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.6 Transportation						
Roadway System						
Number of horizontal curves meeting minimum standard for 60 mph/total number curves		22 / 43	27 / 27	25 / 25	21 / 21	22 / 22
Percent of length above maximum grade *(>6% grade)*		0	0	0	0	0
Percent of length at 5.9 – 6% grade *(steep)*		0	9	8	2	0
Percent of length >5% grade *(hilly)*		-	9	14	16	26
Percent of length that meets clear zone standards		7	100	100	100	100
Percent of length that meets standards for shoulder width		0	100	100	100	100
Percent of length with passing lanes		0	29	26	42	39
Number of intersections of side roads and driveways		75	42	20	11	11

Impact Category		Impacts and Benefits				
		No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.6 Transportation continued...						
Travel Patterns		No change	This alternative would remove 70% of traffic from a portion of the central commercial area of Cooper Landing *(MP 47-48)* but would retain all traffic in the MP 48-50 portion. No change in overall traffic volumes.	This alternative would remove 70% of all traffic from all of the central commercial area of Cooper Landing *(approximately MP 47 to 50)*. No change in overall traffic volumes.	These alternatives would remove 70% of all traffic from all of the central commercial area of Cooper Landing *(approximately MP 47 to 50)* and from the primary recreation corridor *(approximately MP 50 to 55)*. No change in overall traffic volumes.	
Accessibility		No change	Under this alternative, getting on and off the highway would remain difficult at some times because all traffic would remain in town in the MP 47-48 area.	Under these alternatives, accessibility for Cooper Landing businesses and residents along the "Old Sterling Highway" is expected to improve because traffic would be reduced in this area.		
Traffic Level of Service in 2043 at LOS C or Better *(% of road length, including both directions of travel)*		0%	61%	69%	83%	82%
Crash Rate Reduction		No improvement. Potential increase in crash rate.	65% reduction	65% reduction	65% reduction	65% reduction
Aviation, Pedestrians, and Bicyclists		No impact	No impact to aviation. Pedestrians and bicyclists would benefit from wider shoulders on the new highway and decreased traffic on the existing *("old")* highway.			
Pullouts	Pullouts eliminated *(of 24 existing)*	No impact	16	12	4	4
	New pullouts/ parking areas provided	No impact	1 *(Stetson Creek Trail pullout)*	2 *(Bean Creek Trail pullout and parking lot)*	2 *(Bean Creek Trail pullout; trailhead parking lot for Resurrection Pass Trail)*	
3.7 River Navigation						
River Navigation		No impact	The proposed bridge structures to be built would not result in any permanent new impacts to river navigation.	The new Kenai River bridge would be a new structure to navigate, but would be built with adequate clearance.	No new or replacement structures over any navigable waterways. No impact to river navigation.	

Impacts and Benefits Table continued...

Impact Category	Impacts and Benefits				
	No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.8 Parks and Recreation Resources					
Park and Recreation Resources					
Recreation Resources Affected	No impact	Kenai River Special Management Area — Cooper Landing Boat Launch and Day Use Area — Kenai River Recreation Area — Sportsman's Landing *(temporary occupancy during construction only)* — Stetson Creek Trail — Cooper Lake Dam Road/Powerline Trail *(crossed with bridge)*	Kenai River Special Management Area — Kenai River Recreation Area — Sportsman's Landing *(temporary occupancy during construction only)* — Bean Creek Trail *(rerouted, crossed with bridge)* — Birch Ridge Trail *(shortened)* — Art Anderson/ Slaughter Gulch Trail *(shortened)*	Kenai National Wildlife Refuge and Wilderness — Resurrection Pass Trail *(crossed with bridge, added new trailhead)* — Bean Creek Trail *(rerouted, crossed with bridge)* — Birch Ridge Trail *(shortened)* — Art Anderson/ Slaughter Gulch Trail *(shortened)* — Juneau Bench Trails *(crossed with grade separation)* — Juneau Falls Recreation Area	Kenai River Recreation Area — Sportsman's Landing boat launch *(temporary occupancy during construction only)* — Resurrection Pass Trail *(crossed with bridge, added new trailhead)* — Bean Creek Trail *(rerouted, crossed with bridge)* — Birch Ridge Trail *(shortened)* — Art Anderson/Slaughter Gulch Trail *(shortened)* — Juneau Bench Trails *(crossed with grade separation)* — Juneau Falls Recreation Area
3.9 Historic and Archaeological Preservation					
Historic Properties Adversely Affected	–	Sqilantnu Archaeological District *(28 contributing properties)* — Confluence Traditional Cultural Property — Charles G. Hubbard Mining Claims Historic District — Kenai Mining and Milling Company Historic District — Stetson Creek Trail	Sqilantnu Archaeological District *(25 contributing properties)* — Confluence Traditional Cultural Property — Charles G. Hubbard Mining Claims Historic District — Bean Creek Trail	Sqilantnu Archaeological District *(JC Alt: 13 contributing properties)* *(JC Variant Alt: 22 contributing properties)* — Confluence Traditional Cultural Property — Bean Creek Trail	
3.10 Subsistence					
Changes in Resources, Resource Habitat, or Competition for Resources	No impact	Changes in both fish and wildlife resources may occur as a result of construction and operation of the build alternatives. Impacts to subsistence and hunting uses in the project area may include wildlife avoiding or reducing use of habitat near the highway, actual loss of habitat within the new alignment, decreased habitat quality, fragmentation of habitat, and injury or mortality of wildlife from collisions or hazardous materials spills.			
Changes in Resource Availability due to Alteration in Resource Migration Patterns or Distribution	No impact	Changes to the landscape caused by project construction can influence wildlife population migration patterns and distribution through habitat loss, changes in habitat suitability, changes in habitat use, or reduced survival. In addition, the highway itself can become a barrier to resource migration patterns through design, such as steep embankments or retaining walls, or through resource injuries or mortality due to collisions.			
Physical or Legal Barriers to Accessing Resources	No impact				

Impact Category	Impacts and Benefits				
	No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.11 Utilities					
Utilities	–	Relocates local power poles and underground utility lines along existing alignment. Adds lighting to major intersections. No new utilities proposed along segment built on new alignment. Crossing regional transmission line twice requires raising high voltage power lines and relocating one of the large towers.	Relocates local power poles and underground utility lines along existing alignment. Adds lighting to major intersections. No new utilities proposed along segment built on new alignment.		
3.12 Geology and Topography					
Geology and Topography	No impact	The build alternatives would alter the topography along the roadway corridor through roadway construction, grading, and extraction of sand and gravel for road foundation materials. Bridge construction would require excavations and/or blasting, which would change the topographic contours and remove rock and soils.			
		Unstable soils at large cut east of Cooper Creek may require special treatment/terracing.	No notable soils issue known.	Fractured rock at Juneau Creek canyon bridge site indicates need for extra evaluation for bridge foundations.	
3.13 Water Bodies and Water Quality					
New Bridges	–	**Kenai River** Replacement Cooper Landing Bridge: » 3 to 4 piers Replacement Schooner Bend Bridge: » 2 to 3 piers **Cooper Creek** New Cooper Creek Bridge: » No piers or fill in creek	**Kenai River** New Kenai River Bridge: » 2 to 3 piers Replacement Schooner Bend Bridge: » 2 to 3 piers **Juneau Creek** New Juneau Creek Bridge: » No piers or fill in creek	**Kenai River** No bridges **Juneau Creek** New Juneau Creek Bridge: » No piers or fill in creek	
Drainages	–	57 small drainage crossings: » 47 replacement culverts » 10 new culverts	73 small drainage crossings: » 39 replacement culverts » 32 new culverts *(drainages combined into one culvert where possible)*	63 small drainage crossings: » 20 replacement culverts » 41 new culverts *(drainages combined into one culvert where possible)*	
Longitudinal Encroachments to the Kenai River	No change	5 locations	4 locations	1 location	
Surface Water Quality	No change from existing conditions.	Increase in storm water runoff because the project area would have more paved surfaces. Cooper Creek Alternative would have least new surface area, G South Alternative more, Juneau Creek Variant Alternative more yet, and Juneau Creek Alternative most.			

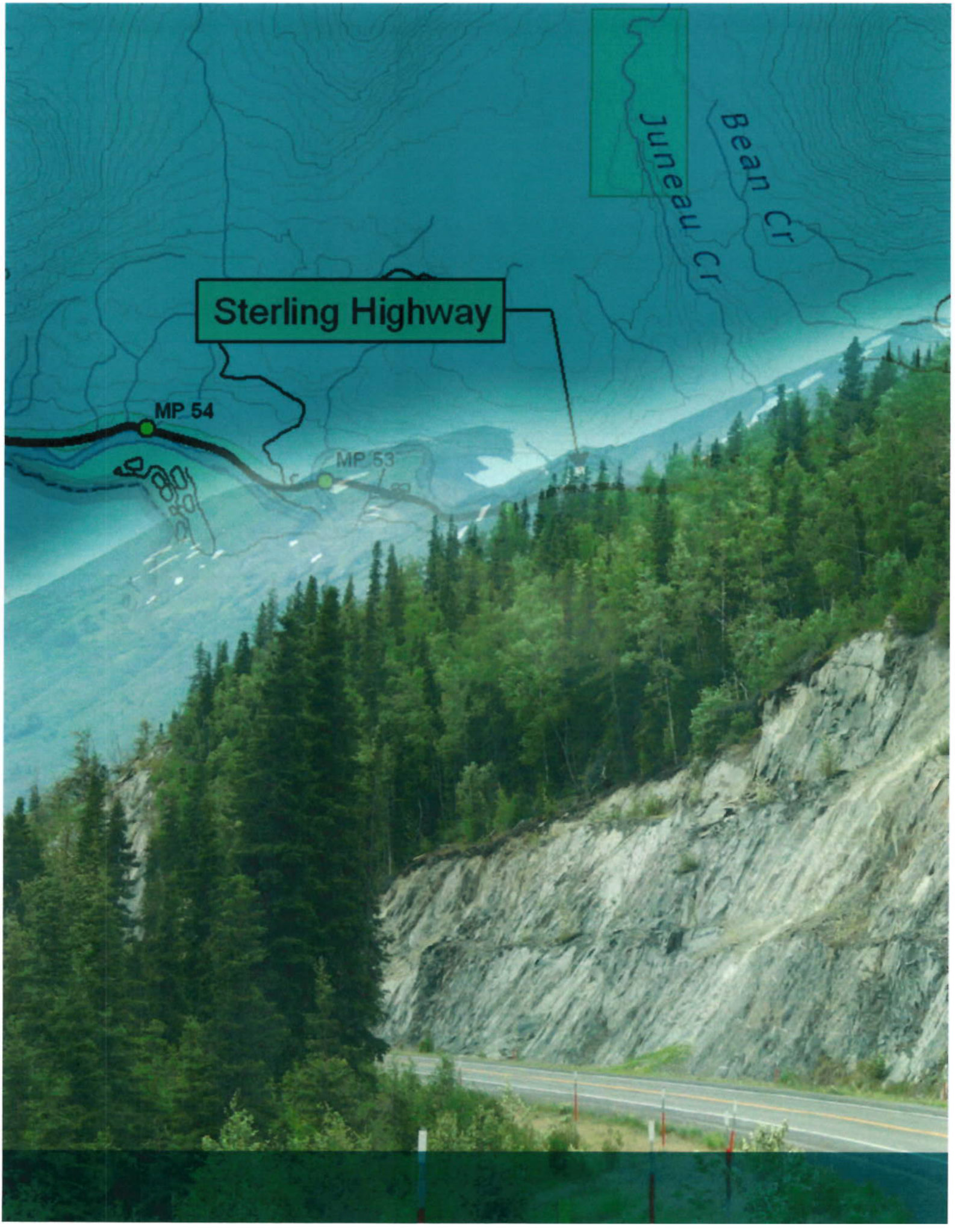
Impacts and Benefits Table continued...

Impact Category	Impacts and Benefits				
	No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.14 Air Quality					
Air Quality	No impact to air quality standards. Emissions are higher under congested conditions. Higher emissions likely to be offset in part by higher efficiencies in vehicle fleet nationwide.	No impact to air quality standards. Each of the build alternatives would result in a slight increase in vehicle miles traveled compared to existing conditions. The increase in emissions associated with vehicle miles traveled would be partially offset by increased engine efficiency and reductions in emissions associated with smoothly-flowing traffic. This would vary slightly by alternative, similar to level of service variations (see Section 3.6). Higher efficiencies in vehicle fleet nationwide would also offset increased emissions from vehicle miles traveled.			
3.15 Noise					
Noise *(number of receptors at which noise approaches or exceeds Noise Abatement Criteria, or where a substantial increase is predicted in 2043)*	4 residential 1 recreational **5 total**	4 residential 2 recreational 1 commercial **7 total**	0 residential 2 recreational **2 total**	0 residential 1 recreational **1 total**	0 residential 1 recreational **1 total**
3.16 Visual Environment					
Visual Quality Evaluation	–	All build alternatives have at least moderate impacts as a result of new or updated roadway elements. None of the build alternatives result in impacts that are orders of magnitude different than others.			
3.17 Hazardous Waste Sites and Spills					
Waste Sites	No impact				
Potential Risk of Water Quality Impacts Due to Spills *(percentage of roadway located within 500 feet of the Kenai River, Kenai Lake, Cooper Creek, Juneau Creek, and Russian River)*	77%	56%	45%	25%	26%
3.18 Energy					
Energy	No impact				
3.19 Floodplains					
Floodplains *(acres of encroachment in official mapped floodplain)*	–	5.1 acres	6.2 acres	–	<0.1 acre
3.20 Wetlands and Vegetation					
Wetlands *(acres filled)*	–	11 acres	26.6 acres	38.5 acres	37.5 acres
Vegetation *(acres removed)*	–	188 acres	202 acres	269 acres	256 acres
3.21 Fish and Essential Fish Habitat					
Essential Fish Habitat Impacts *(acres altered; crossings of anadromous fish streams with type of crossing)*	–	1.2 acres/8 crossings: » 4 culverts » 3 bridges » 1 creek re-routed	1.0 acre/8 crossings: » 3 bridges » 5 culverts	0.8 acres/2 crossings: » 1 culvert » 1 bridge	0.8 acres/2 crossings: » 1 culvert » 1 bridge

Impact Category		Impacts and Benefits				
		No Build Alternative	Cooper Creek Alternative	G South Alternative	Juneau Creek Alternative	Juneau Creek Variant Alternative
3.22 Wildlife						
Brown Bear	Habitat Avoidance Area *(acres in addition to the avoidance area created by existing highway)*	–	605 acres	1,468 acres	2,834 acres	2,640 acres
	Quality of habitat loss	–	Impacts Kenai River corridor and bench from Cooper Creek to Russian River Not as intense brown bear use as other streams in the project area	Impacts high-quality brown bear movement and feeding corridors *(along Kenai River and Juneau Creek)*. Alternatives could permanently deter bear movement to, from, and feeding in area.		
	Length of Alternative within Bear Use Area *(miles)*	–	2.7	3.5	4.3	4.4
	Length of double highway barrier to movement within Bear Use Area *(miles)*	–	0.15	0.9	3.9	3.8
Moose	General	–	37 acres	37 acres	59 acres	40 acres
	Rutting	–	100 acres	105 acres	114 acres	116 acres
	Rutting and Winter	–	67 acres	74 acres	104 acres	110 acres
	Total Habitat Lost	–	204 acres	216 acres	277 acres	266 acres
	Length of Alternative within Moose Use Area *(miles)*	–	3.1	3.2	5.1	5.1
	Length of double highway barrier to movement within Moose Use Area *(miles)*	–	–	0.2	4.4	4.1
Bald Eagles	Number of nests within a 330-foot primary zone	3 nests	2 nests	2 nests	0 nests	1 nest
	Number of nests within a 330- to 660-foot secondary zone	5 nests	4 nests	3 nests	0 nests	0 nests
3.23 Coastal Zone Management						
Coastal Zone Management		No impact				

This Executive Summary is intended to provide an overview of the Sterling Highway 45-60 Project SEIS. For more detail, please refer to the full SEIS document.

We appreciate your participation in this process.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Sterling Highway
MP 54
MP 53

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Sterling High□a□MP 45-60 Reconstruction Pro□ect

Pro□ect Purpose□The purpose of the Sterling Highway MP 45-60 Reconstruction Project is to bring the highway up to current standards and to efficiently and safely serve the through-traffic, local community traffic and traffic bound for recreation destinations within the project area both now and in the future.

Bac□ground□This section of the Sterling Highway is essentially the same highway that was built in the 1940□s and 1950□s. The environmental work for this project was initiated in 1975 and has continued on to the present.

Alternatives□There are four □build□alternative routes evaluated in detail in the EIS. These are the Cooper Creek Alternative, G South Alternative, Juneau Creek Alternative (desired by local government, tribes and sport fishing organizations) and Juneau Creek Variant Alternative. There is also the □No Build Alternative□

Selected Alternative□The G South Alternative was selected for the following reasons: 1) The two Juneau Creek Alternatives cross the Resurrection Pass National Recreation Trail which FHWA has determined to be Section 4(f) resource. Section 4(f) refers to the original section within the U.S. Department of Transportation Act of 1966 which established the requirement for consideration of park and recreation lands, wildlife and waterfowl refuges, and historic sites in transportation project development. By law, if a Section 4(f) evaluation identifies a feasible and prudent alternative that completely avoids Section 4(f) properties, it must be selected. The G South and Cooper Creek Alternative are both feasible and prudent; therefore, neither of the Juneau Creek Alternatives can be selected. 2) The Cooper Creek Alternative would have considerable impacts to the community of Cooper Landing and would not address the congestion and safety problems in this portion of the highway as the G South Alternative; therefore, G South is the selected alternative.

Roles of FHWA and DOT□PF□FHWA makes the decisions on what is to be evaluated and makes the final route alternative selection which is published in a Record of Decision (ROD). DOT□PF performs the work as required by FHWA. Once the ROD is published, DOT□PF can either build the selected alternative in the ROD or decide not to build anything. Either way, the money spent on the EIS remains eligible for federal funds.

Financial Information□Current costs for the EIS exceed $16 million dollars. The construction cost estimates for this project are around $300 million. The project is a Federal Aid Highway Project. Under that program the federal government pays about 90□ of project costs from State of Alaska apportioned funds from the Federal Highway Trust Fund, with the State paying the remaining 10□.

Current Status□In December 2015, DOT□PF and the Federal Highway Administration (FHWA) identified the G South Alternative as the preferred alternative for the Sterling Highway MP 45-60 Project near Cooper Landing. The Final EIS will be released for review by cooperating agencies this month (November 2016). The Final EIS public availability period is expected in the Summer of 2017. The Record of Decision is anticipated in November 2017.

From: Orth, Patrick (Portman)
To: Chambers, Micah
Subject: Draft letter
Date: Tuesday, April 11, 2017 2:19:49 PM

Dear Secretary Zinke,

Over the last decade, advancement in technology and engineering has enabled an unprecedented opportunity for the production of oil and natural gas from underground shale formations. As a result of this increased production, the United States has become more energy secure and states like Ohio have seen an increase in direct and indirect oil and gas investments.

The Department of the Interior, through the Bureau of Land Management (BLM), plays an integral role in the responsible development of the vast energy resources owned and managed by the federal government. The BLM, through the Mineral Leasing Act, is responsible for preventing the waste of methane emitted during the oil and natural gas production process. It is important that the Department minimize the waste of methane through a pragmatic approach that prevents waste but does not discourage investment. I have been encouraged by your comments during your confirmation process and in your time as Secretary that you have made public comments about your desire to reduce methane waste in a similar approach.

As you know, a Congressional Review Act (CRA) resolution currently sits before the Senate that would repeal the previous Administration's Methane and Waste Prevention Rule. I have concerns with the rule as it was written but also believe that there are actions that you can take to reduce methane waste than the previous status quo. As I consider whether or not I will vote for the CRA resolution it would be helpful to know what actions you can commit to taking should the CRA pass.

I look forward to working with you to reduce the waste of our natural resources.

Sincerely,

RP

Patrick Orth
Legislative Assistant
Office of Senator Rob Portman
Phone: 202-224-3353
Email: Patrick_orth@portman.senate.gov

From: Willens, Todd
To: "Macgregor, Katharine"
Subject: RE: FW: Interior meetings request
Date: Thursday, April 13, 2017 2:23:41 PM

Kate,

We have not heard anything on this yet. Is there something more I should be doing?

Todd D. Willens

From: Macgregor, Katharine [mailto:katharine_macgregor@ios.doi.gov]
Sent: Tuesday, April 04, 2017 7:17 PM
To: Willens, Todd
Subject: Re: FW: Interior meetings request

Hey is the Congressman's request that the Secretary meet with these folks or senior leadership?

---------- Forwarded message ----------
From: **Willens, Todd** <Todd.Willens@mail.house.gov>
Date: Tue, Apr 4, 2017 at 5:34 PM
Subject: FW: Interior meetings request
To: "kate_macgregor@ios.doi.gov" <kate_macgregor@ios.doi.gov>

Kate, can you help me with this. Below is my chain with Melissa, but it bounced back. I assume she has moved on. Can you redirect me to help our folks?

Todd D. Willens

From: Willens, Todd
Sent: Monday, April 03, 2017 10:55 AM
To: 'Melissa Simpson'
Subject: RE: Interior meetings request

I haven't heard from anyone on this.

Todd D. Willens

From: Melissa Simpson [mailto:melissa_simpson@ios.doi.gov]
Sent: Monday, March 27, 2017 7:56 AM
To: Willens, Todd
Subject: Re: Interior meetings request

You should hear from Linda or Yolando in Kathy's office today.

Melissa

Melissa Simpson

Intergovernmental and External Affairs

Department of the Interior

1849 C Street, NW Room 6211

Washington, DC 20240

(202) 706 4983 cell

melissa_simpson@ios.doi.gov

Sent from my iPhone

On Mar 21, 2017, at 9:59 AM, Melissa Simpson <melissa_simpson@ios.doi.gov> wrote:

> Thanks. I will check on the status. Stay tuned.
>
> Melissa
>
> Melissa Simpson
>
> Intergovernmental and External Affairs
>
> Department of the Interior
>
> 1849 C Street, NW Room 6211
>
> Washington, DC 20240
>
> (202) 706 4983 cell
>
> melissa_simpson@ios.doi.gov
>
> Sent from my iPhone
>
> On Mar 21, 2017, at 9:41 AM, Willens, Todd <Todd.Willens@mail.house.gov> wrote:
>
> > Melissa,
> >
> > I have not heard from anyone at MIB in response to this request.
> >
> > *Todd D. Willens*

From: Willens, Todd
Sent: Monday, March 13, 2017 10:40 AM
To: 'Melissa Simpson'
Subject: RE: Interior meetings request

On second thought, to avoid the extra forms, lets keep it at staff level. Secretary not critical at this point. His staff is though. Can you get someone from his wing to do that then?

Todd D. Willens

From: Melissa Simpson [mailto:melissa_simpson@ios.doi.gov]

Sent: Monday, March 13, 2017 9:29 AM
To: Willens, Todd
Subject: Re: Interior meetings request

Thanks Todd. There is a meeting request form that the Secretary's scheduler requires. I will send that to you. I'm the next email. Please cc me when you send it to her.

Meanwhile, I will tee this up with Kathy.

Melissa

Melissa Simpson

Intergovernmental and External Affairs

Department of the Interior

1849 C Street, NW Room 6211

Washington, DC 20240

(202) 706 4983 cell

melissa_simpson@ios.doi.gov

Sent from my iPhone

On Mar 13, 2017, at 8:43 AM, Willens, Todd <Todd.Willens@mail.house.gov> wrote:

Melissa,

Congressman Pearce has a fly-in group from Roswell/Artesia, NM region coming to DC on May 1st. They have been able to get in the last few years with FWS and BLM. Unfortunately, those meetings have not been very successful.

For this year's visit, the Congressman seeks the Secretary's assistance in confirming this year's group to meet with FWS, BLM and Department leadership, preferably the Secretary, on May 1st. Below is the request from their coordinator and attached is the attendee list.

We appreciate the Secretary and the Department's consideration of this request.

Todd D. Willens

From: Hayley Snow Klein [mailto:hklein@artesiachamber.com]

Sent: Monday, March 13, 2017 3:07 AM
To: Willens, Todd
Subject: Interior meetings request

Good morning, Todd,
As you know, Artesia and Roswell are planning our annual Washington Fly-in. Usually, we meet with FWS and BLM in separate meetings, but have had some difficulties in the last two years with BLM. This year, I am asking for assistance in setting up meetings that would be appropriate for the following issues, which are primarily focused on BLM and FWS, but may include others:

APD processing and permitting for oil & gas production – the new computerized system was not ready for roll-out, which is causing confusion and delays; moreoever, we would like to discuss the unpredictable timelines

for APDs which cause delays in production and tie up significant funding.

State BLM sale – we would like to see the BLM return to quarterly sales in New Mexico.

The Resource Management Plan, which is delayed

Venting & Flaring rule – the rule is not ready for implementation; we hope for reconsideration of the rule altogether

The anticipated decision on the Texas Horned Shell Mussel and the associated CCAs

Other ESA listings that may be in the works

We will be in Washington May 1-3. We respectfully request a meeting or meetings at Interior on Monday, May 1. I have attached a list of our attendees. Please let me know if you have questions or need additional information.

Thank you for your assistance and direction,
Hayley

Hayley Klein
Executive Director
Artesia Chamber of Commerce
107 North First Street
Artesia, NM 88210
O: 575.746.2744
www.artesiachamber.com

<Artesia-Roswell Fly-in 2017 Attendees.pdf>

--
Kate MacGregor
1849 C ST NW
Room 6625
Washington DC 20240

202-208-3671 (Direct)

From:	Ball, William
To:	"casey_hammond@ios.doi.gov"
Subject:	NMFS
Date:	Friday, April 14, 2017 10:41:03 AM
Attachments:	NMFS.docx hopper_testimony.pdf

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http://www.nmfs.noaa.gov/pr/species/criticalhabitat.htm

Northeast Canyons and Seamounts Marine National Monument | Proclamation | 9/15/2016

- Creates New England Marine National Monument. Ideally Administration can repeal. However if that is not the case we can have members push the industry alternative as a Congressional Designation (we would have to address oil and gas issues in congressional approach).

Papahanaumokuakea Marine National Monument Expansion | Proclamation | 8/26/2016

- Expanded Monument surrounding HI to 580k sq.mi. Administration needs to repeal expansion as there is no scientific basis for expansion.

William Ball
Committee on Natural Resources
Subcommittee on Water, Power and Oceans
1324 Longworth House Office Building
(202) 225-8331 | naturalresources.house.gov

Alaska □climate resilience area□- https://obamawhitehouse.archives.gov/the-press-office/2016/12/09/fact-sheet-white-house-announces-actions-protect-natural-and-cultural

In□urious Wildlife Species□Listing 10 Fresh□ater Fish and 1 Cra□fish □81 FR 67862 □ 9/30/2016

- Listed a number of species under Lacey Act, including a freshwater crayfish that is raised via aquaculture facilities in Gulf States.
- At-least the Crayfish needs to be removed as this listing creates a nearly impossible hurdle for aquaculture growers to move their product over state lines.

Fish and Fish Product Import Provisions of MMPA □81 FR 54389 □8/15/2016

- Final action restricts U.S. imports from foreign countries that don□t follow procedures and conditions set forth by NMFS. After effective date, NMFS will publish in FR a list of foreign nations that export seafood to U.S. and request all nations provide documents on management and sustainability of their fisheries within 90 days. NMFS will reevaluate nations□every four years.
- This rule was brought to be by a petition pushed by CBD to restrict swordfish imports into U.S.
- Gross overreach of Agency authority and may result in trade barriers or retaliatory restrictions.
- Final Rule effective Jan 1, 2017

Trade Monitoring Procedures for Fisher□Products□Permits Re□uired for Importers and E□porters □81 FR 51126 □8/3/2016

- Result of □Streamlining Ex/Im□Exec Order □2/19/2014
- Final rule sets forth regulations to integrate the collection of trade documentation within the government-wide International Trade Data System (ITDS) and require electronic information collection through the automated portal maintained by the DHS and CBP. Under rule, NMFS will require annual Int□l Fisheries Trade Permits for importers and exporters.
- Requires excessive paperwork and data collection □creates significant issue for both importers and exporters and Customs officials.
- At BEST: Repeal; At WORST: Permitting and data collection on behalf of US interests needs to be revised allowing full participation by importers/exporters, customs officials, etc., to ensure effective and efficient system.

Critical Habitat for Endangered North Atlantic Right Whale □81 FR 4837 □1/27/2016

- This rule added approx. 29,763 NM of marine habitat in Gulf of Maine and in the Southeast Atlantic (Florida up-)
- May be tough to roll back but could be ripe for subsequent rule revising boundaries. Possibly address offshore development activities in Atlantic.

Revised guidance for Treatment of Climate Change in NMFS Endangered Species Act Decisions □10/2016

- Creates regulatory □guidance□(mandatory) on climate change for ESA fish species.
- Has the potential to negatively impact hydropower and storage in the West
- http://www.nmfs.noaa.gov/pr/pdfs/pr_climate_change_guidance_june_2016.pdf

NMFS□Ecos□stem Based Fisheries Management Road Map □11/17/2016

- Provides additional guidance to initial policy (below) on Agency-wide implementation of EBM in federal fisheries management.
- http://www.nmfs.noaa.gov/op/pds/documents/01/120/01-120-01.pdf

NMFS□Ecos□stem Based Fisheries Management Polic□ □5/23/2016

- Lays the ground work to implement EBM □a pillar of NOP □throughout all fishery management actions taken by NMFS. This policy fundamentally changes how federal fisheries are managed.
- EBM needs to be struck entirely from all aspects of NMFS policy
- http://www.nmfs.noaa.gov/op/pds/documents/01/01-120.pdf

Statement of

Abigail Ross Hopper

Director, Bureau of Ocean Energy Management

U.S. Department of the Interior

Before the

House Committee on Natural Resources

Subcommittee on Energy and Mineral Resources

March 02, 2016

Chairman Lamborn, Ranking Member Lowenthal and members of the Subcommittee, I am pleased to appear before you today to discuss the President's fiscal year (FY) 2017 budget request for the Bureau of Ocean Energy Management (BOEM). Thank you for inviting me to appear here today with my counterparts from the Bureau of Safety and Environmental Enforcement (BSEE), and the Bureau of Land Management. BOEM coordinates and collaborates with BSEE in a variety of ways on a daily basis to ensure effective management of offshore energy activities. Through the sharing of applicable data and collaboration on cross-cutting topics, BOEM and BSEE work efficiently to ensure that the offshore energy resources belonging to the American public are managed in a safe and responsible manner that brings maximum benefit to the United States taxpayer.

BOEM is responsible for managing the development of U.S. offshore energy and mineral resources in a balanced way that promotes efficient and environmentally responsible development. BOEM's functions include offshore oil and gas leasing, resource evaluation, review and administration of oil and gas exploration plans and development and production plans, renewable energy development, National Environmental Policy Act analyses, and environmental studies. The Bureau is committed to applying the best available science to decision-making, using research and rigorous analysis to balance the Nation's need for offshore energy resources with the protection of the human, marine and coastal environments.

The FY2017 budget request is designed to provide the resources necessary to advance BOEM's commitment to effective and efficient management and oversight of the Nation's offshore resources, including safe and responsible domestic oil and gas exploration and development, as well as development of clean and abundant renewable energy resources. Through the President's energy strategy, the United States is safely and responsibly developing our traditional energy resources while advancing cleaner forms of energy, such as natural gas and renewables. Roughly two years ago, America hit a milestone of energy independence: For the first time in nearly two decades, the U.S. produced more oil domestically than it imported from foreign sources. The U.S. is now the number-one natural gas producer in the world. Thanks in part to these initiatives, America's dependence on foreign oil is at a 40-year low — and declining.

Furthermore, renewable electricity generation from wind, solar, and geothermal sources has doubled since 2009.

The FY 2017 Budget Request

The FY 2017 budget requests $175.1 million for BOEM operations, which includes $94.9 million in offsetting collections (approximately $88.5 million from rental receipts and over $6 million from cost recovery fees). The President's request includes a $6 million increase in direct appropriations, which is partially offset by a projected decrease in offsetting collections, for a net increase in BOEM's total budget authority of $4.3 million. BOEM's FY 2017 request reflects a careful analysis of the resources needed to further develop the Bureau's capacity and to execute its functions carefully, responsibly, and efficiently. It also reflects modest increases that will support high priority offshore oil and gas activities, including those outlined in the 2012-2017 OCS Oil and Gas Leasing Program and the 2017-2022 Program currently in preparation. Specifically, BOEM is requesting additional resources for its risk management program (discussed further below), for the workload primarily associated with deepwater activity in the Gulf of Mexico, and to fund the special salary rate for hard-to-fill geoscientist and petroleum engineer positions.

The FY 2017 budget will support ongoing efforts and important initiatives that are vital to BOEM's mission and critical to advancing Administration priorities. BOEM's FY 2017 request reflects a careful analysis of the resources needed to develop the Bureau's capacity and to execute its functions carefully, responsibly, and efficiently.

Key Priorities and Accomplishments

BOEM's FY 2017 request builds upon recent accomplishments and supports critical ongoing efforts.

Conventional Energy

BOEM manages access to, and ensures fair return for, the energy and mineral resources of the OCS to help meet the energy demands and mineral needs of the Nation, while also balancing such access with the protection of the human, marine, and coastal environments. As the offshore energy and mineral resource manager, BOEM administers comprehensive analyses to provide the key information necessary for decisions about whether, where, and when offshore energy and mineral development can or should occur. BOEM's responsibilities are broad, beginning with identifying and calculating appropriate boundaries and legal descriptions; identifying, inventorying, and assessing offshore energy and mineral endowment; developing a transparent, systematic, and comprehensive schedule for OCS oil and gas resource offerings; developing appropriate financial terms to ensure the public receives fair market value for OCS resources; carefully reviewing requests for approval of comprehensive, detailed industry plans to explore, develop, and produce leased resources; and finally, ensuring OCS lessees have the financial capacity to fulfill decommissioning obligations.

As of January 2016, BOEM administers more than 5,000 active oil and gas leases on nearly 27 million OCS acres. In FY 2015, production from these leases generated $4.4 billion of dollars in leasing revenue for the Federal Treasury, Land and Water Conservation Fund, Historic Preservation Fund and state governments. The overall level of activity on the OCS related to this production, drilling, and development of new projects is estimated to support employment associated with approximately 650,000 direct, indirect, and induced jobs. In FY 2015, OCS leases provided more than 550 million barrels of oil and 1.35 trillion cubic feet of natural gas, accounting for about sixteen percent of the Nation's oil production and about five percent of domestic natural gas production, almost all of which is produced in the Gulf of Mexico.

The Bureau is currently implementing the 2012-2017 OCS Oil and Gas Leasing Program. The 2012-2017 Program focuses on making OCS areas with the greatest resource potential available for oil and gas leasing. Together, the lease areas included in the 2012-2017 Program contain more than 75 percent of the undiscovered, technically recoverable oil and gas resources estimated to exist in Federal waters offshore the United States. The Program includes 12 potential lease sales in the Gulf of Mexico, of which eight have been held, and three off the coast of Alaska, of which two have been cancelled due to market conditions and lack of industry interest. During calendar year 2015, BOEM held two lease sales and issued 194 leases, which generated more than $561 million in bonus bids. Three lease sales are planned for calendar year 2016, and two lease sales are planned for calendar year 2017 before the 2012-2017 Program expires.

BOEM is continuing efforts in the Atlantic to facilitate updated resource evaluation information. During FY 2014, BOEM developed a framework for the acquisition and management of geological & geophysical (G&G) data within the Mid-Atlantic and South Atlantic Planning Areas. BOEM also issued a Record of Decision (ROD) for the PEIS for Atlantic G&G activities that establishes the highest practicable mitigation measures while allowing for potential G&G survey activities off the Mid-Atlantic and South Atlantic coast. Since issuance of the ROD, BOEM has received twelve applications for G&G permits. One permit (that did not require an Incidental Harassment Authorization (IHA) from National Marine Fisheries Service (NMFS)) was issued in July 2014, and three other permit applications have been withdrawn. Of the remaining eight permits, six are awaiting a decision from the NMFS on an IHA. One of the remaining two applications has not yet been submitted to NMFS, and the other application does not require review by NMFS. It was, however, only recently submitted to BOEM for its review.

BOEM is moving forward with the development of the 2017-2022 Program that will lay out the schedule of oil and gas lease sales that the Secretary of the Interior determines will best meet national energy needs and address energy security for that five-year period. The Department released the Draft Proposed Program (DPP) for the 2017-2022 OCS Oil and Gas Leasing Program on January 27, 2015. The DPP is the first of three proposals to create an oil and gas leasing program that identifies offshore areas for potential lease sales during the 2017-2022 timeframe. The DPP continues the regionally-tailored planning employed in the current 2012-2017 Program, which aims to achieve the dual goals of promoting prompt development of the offshore oil and gas resources while protecting the marine, coastal, and human environments. The DPP includes 14 potential lease sales in 8 planning areas—10 sales in the Gulf of Mexico, three off the coast of Alaska (in 2020, 2021, and 2022), and one in portions of the Mid-Atlantic

and South Atlantic Planning Areas (2021). The DPP would make areas containing nearly 80 percent of undiscovered technically recoverable oil and gas resources in the OCS available for exploration and development. Following the release of the DPP, BOEM held 23 public meetings along the coasts and conducted extensive outreach with states, stakeholders and the public. FY 2016 will be a critical year for the Program, with the publication of the Proposed Program and Draft Programmatic Environmental Impact Statement (PEIS) anticipated in the first quarter of calendar year 2016, followed by a public comment period and public meetings. The Proposed Final Program and final PEIS are expected to be published in late 2016 with the Program to take effect in July 2017.

In order to better align regulatory requirements with the realities of aging offshore infrastructure, as well as to ensure that lease obligations, such as decommissioning, do not fall to the taxpayer, BOEM is proactively implementing a comprehensive Risk Management and Financial Assurance Program to modernize our regulatory regime. BOEM's efforts in this regard will continue throughout FY 2016 and FY 2017. The Risk Management Program will provide essential financial risk protection to the U.S. government through use of a flexible, comprehensive mitigation effort to decrease risk to taxpayers. It will also develop risk governance structures, including revised bonding and financial assurance regulations, as well as general and project-specific risk management strategies and procedures. Finally, it will monitor and track the financial strength of lessees for offshore activities and infrastructure to ensure that BOEM is requiring the proper level of bonding or other acceptable financial risk mitigation measures to protect taxpayers. The requested funds will allow us to fully implement the recommendation of the Government Accountability Office to "ensure that BOEM completes its plan to revise its financial assurance procedures" (Offshore Oil and Gas Resources: Actions Needed to Better Protect Against Billions of Dollars in Federal Exposure to Decommissioning Liabilities (GAO-16-40)).

The requested FY 2017 funds, which will be fully offset by cost recovery fees, combined with funding received in FY 2016, should bring the Risk Management Program to full staffing capacity and allow it to become fully operational. A total investment of less than $6 million (for both FY16 and FY17), partially offset by industry fees, has the potential to save the American taxpayers from *billions* in contingent liabilities that could result from industry bankruptcies and associated decommissioning costs. (Estimated total liabilities in the Gulf could be as high as $50 billion.)

Marine Minerals

In carrying out its mission to manage the responsible development of offshore resources, BOEM considers resources other than conventional or renewable energy. Pursuant to the OCS Lands Act, BOEM is the steward of OCS sand, gravel, and shell resources. Through its Marine Minerals Program, BOEM manages the responsible use of these resources, which are critical for the long-term success and cost-effectiveness of many shore protection, beach nourishment, and wetlands restoration projects along the Gulf and Atlantic coasts. The Marine Minerals Program provides the Bureau with the capability to provide sand and gravel resources to protect and improve coastal resources and the environment locally, regionally and nationally. To date, BOEM (and its predecessor the Minerals Management Service) has conveyed the rights to more

than 112 million cubic yards of OCS sediment by executing 48 leases for projects that have restored 269 miles of coastline in seven states.

Looking forward, BOEM's conventional energy and marine mineral activities will continue to meet the high standards set by the Administration, Congress, and the public through appropriate planning, development and protection of the Nation's offshore resources in response to the Nation's energy and coastal resilience needs.

Renewable Energy Development

The President's energy strategy includes the development of the readily-available renewable energy resources that are vital to our Nation's long-term economic development and energy security. Securing clean sources of energy not only benefits the environment, but also creates American jobs and promotes innovation in the United States.

BOEM continues to work diligently to oversee responsible renewable energy development. BOEM facilitates environmentally responsible offshore wind development along the OCS by identifying wind energy areas using a coordinated approach with extensive environmental analysis, public review, and large-scale planning. As of February 2016, BOEM has issued eleven commercial offshore wind energy leases, including two issued through the non-competitive lease negotiation process (one for the Cape Wind project proposed for Nantucket Sound, Massachusetts, and another for a potential project offshore Delaware) and nine through the competitive lease sale process (two offshore Rhode Island-Massachusetts, two offshore Maryland, one offshore Virginia, two offshore Massachusetts, and two offshore New Jersey). Competitive lease sales have generated more than $16.4 million in bonus bids for more than 1.18 million acres in Federal waters. If fully developed, these eleven leases could generate enough energy to power over 4 million homes. BOEM has also executed 6 limited/research leases (three offshore New Jersey, one offshore Delaware, one offshore Florida, and one offshore Virginia). BOEM has received three commercial wind lease requests from two different companies for offshore Hawaii, as well as one unsolicited lease request for a commercial wind lease offshore California. In FY 2015, $2.2 million in rent payments were collected on OCS renewable energy leases, and BOEM estimates annual rent payments of more than $3.5 million in FY 2016 and $4.7 million in FY 2017. BOEM is currently engaged in renewable energy planning efforts for areas offshore North Carolina, South Carolina, New York, Oregon, and Hawaii. BOEM is also making progress on siting demonstration and technology testing projects for wind and marine hydrokinetic energy offshore both the Atlantic and Pacific coasts.

Through detailed planning and analysis, and partnerships with states, other governmental agencies and stakeholders, BOEM has advanced the Renewable Energy Program nationwide and will continue to do so in FY 2017. Offshore wind leasing activities, including both commercial and research leases, have increased, contributing to the Administration's goal of promoting clean energy development. BOEM continues to demonstrate science-based decision-making by initiating and funding research. The studies directly benefit BOEM, other energy and mineral programs, renewable energy stakeholders and individual states. State interest in pursuing offshore renewable energy development is readily apparent in the increased involvement of the states through BOEM's intergovernmental renewable energy task forces – there are now 13 such

task forces consisting of representatives from Federal, state, local and tribal governments. BOEM anticipates the Renewable Energy Program will continue to grow and is prepared to support this valuable effort in response to the Nation's energy needs.

Environmental Programs

BOEM, in coordination with BSEE, is responsible for assessing the impacts of and providing effective environmental safeguards for the exploration and development of energy and mineral resources on the OCS. Utilizing science as the foundation for sound policy decisions, and managing offshore energy and mineral resources in an environmentally and economically responsible way, BOEM facilitates top-quality research by talented scientists from a range of disciplines that is targeted to support policy needs and priorities.

These responsibilities require BOEM to assess the environmental impacts of planned and proposed OCS development and to provide guidance to developers and other stakeholders concerning the place, time, and nature of activities to be authorized. BOEM's environmental programs provide information for decision-makers and the public about potential environmental impacts of OCS energy and mineral resource development, how to prevent or mitigate those impacts, and how to monitor impacts. This information supports and guides decision-making not just within BOEM, but also by BSEE and other government authorities.

BOEM will continue environmental reviews of mission-critical activities and lease sales included in the current Five Year OCS Oil and Gas Leasing Program (2012-2017). Within the past year, BOEM has published five draft and final Environmental Impact Statements (EIS) related to Gulf of Mexico oil and gas lease sales. In addition, BOEM completed almost 700 NEPA analyses during FY 2015 related to oil and gas plans and permits, renewable energy leasing, and marine minerals leasing activities across all OCS regions. In FY 2016 and early FY 2017, BOEM plans to finalize the Programmatic EIS in support of the next Five Year OCS Oil and Gas Leasing Program (2017-2022). In FY 2016, BOEM plans to publish the Draft Programmatic EIS for Gulf of Mexico Geophysical & Geological (G&G) Activities, support environmental reviews for potential G&G permits in the Atlantic OCS, continue preparing an EIS for the Liberty Development and Production Plan in the Beaufort Sea, and continue working with BSEE on the programmatic assessment of well stimulation treatments in the Pacific OCS.

Because of its quality, scale, and duration, BOEM's Environmental Studies Program is a leading contributor to the growing body of scientific knowledge about the nation's marine and coastal environment. In its applied research program, BOEM has leveraged partnerships with academic institutions and other Federal agencies to extend its allocated research budget, and will continue to advance those partnerships and produce top-tier scientific work in the coming year. The FY 2017 budget builds on the work done on landscape-level and ecosystem-wide conservation, oceans policy, and climate adaptation and resilience, and moves toward institutionalizing these Administration priorities.

BOEM's management of the Nation's OCS oil and gas, marine minerals and renewable energy resources will continue to be informed through the environmental assessments, studies and partnerships conducted under the Environmental Program. These efforts are vital to ensuring that

the impacts of OCS activities on the environment are understood and that effective protective measures are put in place.

Conclusion

BOEM plays a vital role in advancing safe and responsible offshore energy development and in helping to secure our energy future. In a time when serious fiscal constraints demand difficult tradeoffs, we appreciate the critical resources provided this fiscal year – including investment in robust science to inform decisions relating to ocean energy policy and management and appropriate environmental safeguards. It is important to sustain this level of investment moving into the next fiscal year, and the FY 2017 request reflects a careful analysis of the resources needed for the Bureau to carry out the important mission with which we are charged.

Thank you once again for the opportunity to testify here today, and for your consistent support for BOEM's programs. I look forward to our continued work together and to answering your questions today.

From: Wright, Jennie (Inhofe)
To: Micah Chambers
Subject: FW: Requested one page summary
Date: Wednesday, April 19, 2017 3:27:11 PM
Attachments: One Pager Zinke Meeting (4-18-2017).DOCX

Here is the one page summary from FC. Thank you again for your help on this.

Sincerely,
Jennie H. Wright
U.S. Senator James M. Inhofe

-----Original Message-----
From: Cole William [mailto (b) (6)]
Sent: Wednesday, April 19, 2017 12:32 PM
To: Wright, Jennie (Inhofe) <Jennie_Wright@inhofe.senate.gov>; Gray Jonathan <Jonathan.Gray@mail.house.gov>
Cc: Smith Stan <ssmith@mwlaw.com>; Eckman, Adam <aeckman@nma.org>; Jarrett Jeff <(b) (6) Jeff Jarrett >; COOPER Bob P. <rcooper@farrellcooper.com>
Subject: Requested one page summary

Jennie-
I have attached the one page summary that you requested yesterday.
Are you planning on getting this to Interior or do you need me to?
Look forward to our meeting, we are flying in tonight.
-Chance

Farrell-Cooper Mining company (FCMC) request to meet with Interior Department regarding the unlawful attack by the Obama administration against Farrell Cooper Mining Company and the State of Oklahoma.

Subject: Department of Interior Federal Violations NOV N11-030-370-001 (Liberty #5), NOV N12-030-246-001 (Liberty #6) and NOV N13-030-370-001 (Rock Island).

Background: In 2010 the Office of Surface Mining unilaterally changed its longstanding interpretation of the "Approximate Original Contour" section of the Surface Mining Control and Reclamation Act of 1977. Without following the requirements of the APA, the agency then applied the new interpretation of this law retroactively on 3 permits in the State of Oklahoma and issued Notices of Violations to the mining company which required the company to redo existing reclamation at a cost estimate of $25,000,000.

FCMC challenged the Notices of Violations at the administrative court level. FCMC was successful in asserting its claims at Liberty #5 and Liberty #6 that the NOVs were unlawfully issued and the NOVs were vacated. The NOV issued at Rock Island was upheld. All of the cases are currently on appeal as discussed below.

SMCRA was intended to confer primary, if not completely exclusive, jurisdiction to administer surface coal mining programs to the primacy States. Although OSM retains considerable oversight authority, Congress and the Secretary have clarified that OSM should defer to the State regulatory authority when there is conflict over interpretation of a SMCRA requirement – unless the State's position is arbitrary, capricious, or an abuse of discretion.

-Judge Pearlstein Decision, NOV N11-030-370-001 (Liberty #5). p. 27

ODM took the position that FCMC was not in violation of state law and applicable regulations and Judge Pearlstein determined in both Liberty #5 and Liberty #6 that ODM's position was not arbitrary, capricious or an abuse of discretion.

The Office of Surface Mining has appealed the Liberty #5 and Liberty #6 decisions to the Interior Board of Land Appeals (IBLA) and the appeals are currently pending. Recent correspondence in the Liberty #5 and Liberty #6 cases indicates that a decision by the IBLA may be issued soon in each of those appeals. The Rock Island case* was initially appealed to the IBLA and then subsequently to the U. S. District Court in Oklahoma after the IBLA denied FCMC's request for a stay. An appeal on the issue of jurisdiction was recently heard at the 10th Circuit in Denver, Colorado.

Request: FCMC, the National Mining Association, Senator Jim Inhofe, and Representative Markwayne Mullin request that the Secretary of Interior withdraw the appeals of the Liberty #5 and Liberty #6 NOVs and let the decisions of Judge Pearlstein stand.

Authority: Executive Order signed by the President on March 28, 2017 and entitled, "Promoting Energy Independence and Economic Growth." The Secretarial Order 3349. Resolution of disapproval (H.J. Res. 38) under the Congressional Review Act voiding the Stream Protection Rule.

*-We would like to discuss the Rock Island case and find a solution that complies with the Executive Order and Secretarial Order 3349.

From: Neely, Amanda (HSGAC)
To: Chambers, Micah; Orth, Patrick (Portman)
Subject: Re: Revised
Date: Wednesday, April 19, 2017 6:33:42 PM

Thanks, Micah. How about "we commit to pursuing, among other options, the following strategies..."?

From: Chambers, Micah
Sent: Wednesday, April 19, 2017 2:50 PM
To: Orth, Patrick (Portman); Neely, Amanda (HSGAC)
Subject: Revised

Please let me know what you think here. As I mentioned earlier, there are concerns with boxing us into only a certain set of options, particularly if there are other options we haven't explored or haven't seen yet. Let me know what your boss thinks. Thank you and enjoy california. Hope you get to catch a breath soon.

Micah

The Honorable Rob Portman

United States Senator

448 Russell Senate Office Building

Washington, D.C. 20510

April xx, 2017

Dear Senator Portman:

Thank you for your letter regarding the Department of the Interior's (DOI) Venting and Flaring rule. I, too, believe DOI has an integral role to play in this issue, which is why I intend to act within my authority as Secretary to craft solutions that incentivize responsible development.

I share your concerns regarding methane waste and I agree that we must manage our public lands in a pragmatic way. Should you and your Senate colleagues choose to rescind the rule through the Congressional Review Act (CRA), the Bureau of Land Management (BLM) will continue to have the ability to act under its existing authorities to meaningfully update its policies to reduce waste. The BLM will continue to regulate venting, flaring, and beneficial

use of gas pursuant to the 1979 Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost (NTL-4A). The world has certainly changed since these regulations were last updated, and we need revisions to reflect the world we live in today. Whether the BLM pursues new rulemaking or revisions to existing processes, the Department intends to address the following venting and flaring issues:

- Strengthening policies to encourage conservation through beneficial use of oil or gas on leases;

- Conserving unsold gas by reinjection for enhanced oil recovery or for later recovery;

- Improving rights-of-way (ROW) timelines and removing obstacles to timely approval for pipeline and gathering infrastructure;

- Recognizing existing flaring restrictions and policies in states like North Dakota, Wyoming, Utah, New Mexico, Colorado, and Montana to avoid duplication and redundancy.

I have been tasked to lead and plan for the Department's future over the next 100 years. As an admirer of President Teddy Roosevelt, you can rest assured that the policies I propose will reflect the promise I made to you and your colleagues during my confirmation hearing: we will work together to ensure the use of our public lands reflects higher purpose so that our children's children can look back and say, "We did it right."

Sincerely,

Secretary Ryan Zinke

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Feldgus, Steve
To:	Kate MacGregor (katharine_macgregor@ios.doi.gov); "Kaster, Amanda"; Patrick Wilkinson (p2wilkin@blm.gov); "Fleming, Julie"; Rich Cardinale (Richard_Cardinale@ios.doi.gov); Lee Tilton (lee.tilton@boem.gov); "Gonzales-Evans, Anita"; jjester@usgs.gov; "aurelia_skipwith@ios.doi.gov"; "scott_cameron@ios.doi.gov"; "amy_holley@ios.doi.gov"; Moshay Simpson (msimpson@osmre.gov); "mmaucieri@usbr.gov"; "martin_kodis@fws.gov"; G Hackett
Cc:	Lim, Sarah
Subject:	Letter from HNR Ranking Members
Date:	Thursday, April 20, 2017 9:30:15 AM

Hello,

Attached is a letter from the Ranking Members of the House Natural Resources Committee requesting documents referred to in Secretarial Order 3349. Please let Sarah Lim or me know if you have any questions.

Thanks,

--Steve

Steve Feldgus, Ph.D.
Senior Energy Policy Advisor
House Natural Resources Committee
Ranking Member Raúl M. Grijalva
186 Ford House Office Building
(202) 225-6065

From: Neely, Amanda (HSGAC)
To: Chambers, Micah
Cc: Orth, Patrick (Portman)
Subject: Re: Revised
Date: Thursday, April 20, 2017 1:49:09 PM

I think that works. I'm a little concerned about the suggestion that BLM might pursue revisions to existing processes-- by that, do you mean the reg we would void via CRA? If so, I think that raises the specter of the substantially the same as problem, and it would be helpful if the letter clarifies that any new rule will not be substantially the same as the current rule. I know the department doesn't think that issue is judicially reviewable, but the judicial review bar only applies to actions/omissions "under this subchapter"-- and I do not think the writing of a new rule is an action taken under the CRA. So we do want to be sure that the letter to be clear that future action will be different from the current rule. Thanks, Amanda

---

From: Chambers, Micah
Sent: Thursday, April 20, 2017 10:43 AM
To: Neely, Amanda (HSGAC)
Cc: Orth, Patrick (Portman)
Subject: Re: Revised

Thanks for the quick reply Amanda. I plugged in the line you sent and it read a little weird, but I think I word smithed it with same message. Pls let me know if this works:

Whether the BLM pursues new rulemaking or revisions to existing processes, the Department remains committed to reducing methane waste by pursuing, among other options, the following strategies:

On Wed, Apr 19, 2017 at 6:33 PM, Neely, Amanda (HSGAC) <Amanda_Neely@hsgac.senate.gov> wrote:

> Thanks, Micah. How about "we commit to pursuing, among other options, the following strategies..."?
>
> ---
>
> **From:** Chambers, Micah
> **Sent:** Wednesday, April 19, 2017 2:50 PM
> **To:** Orth, Patrick (Portman); Neely, Amanda (HSGAC)
> **Subject:** Revised
>
> Please let me know what you think here. As I mentioned earlier, there are concerns with boxing us into only a certain set of options, particularly if there are other options we haven't explored or haven't seen yet. Let me know what your boss thinks. Thank you and enjoy california. Hope you get to catch a breath soon.
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> Micah
>
> The Honorable Rob Portman
>
> United States Senator

448 Russell Senate Office Building

Washington, D.C. 20510

April xx, 2017

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I share your concerns regarding methane waste and I agree that we must manage our public lands in a pragmatic way. Should you and your Senate colleagues choose to rescind the rule through the Congressional Review Act (CRA), the Bureau of Land Management (BLM) will continue to have the ability to act under its existing authorities to meaningfully update its policies to reduce waste. The BLM will continue to regulate venting, flaring, and beneficial use of gas pursuant to the 1979 Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost (NTL-4A). The world has certainly changed since these regulations were last updated, and we need revisions to reflect the world we live in today. Whether the BLM pursues new rulemaking or revisions to existing processes, the Department intends to address the following venting and flaring issues:

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- Conserving unsold gas by reinjection for enhanced oil recovery or for later recovery;
- Improving rights-of-way (ROW) timelines and removing obstacles to timely approval for pipeline and gathering infrastructure;
- Recognizing existing flaring restrictions and policies in states like North Dakota, Wyoming, Utah, New Mexico, Colorado, and Montana to avoid duplication and redundancy.

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will reflect the promise I made to you and your colleagues during my confirmation hearing: we will work together to ensure the use of our public lands reflects higher purpose so that our children's children can look back and say, "We did it right."

Sincerely,

Secretary Ryan Zinke

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Neely, Amanda (HSGAC)
To: Chambers, Micah
Cc: Orth, Patrick (Portman)
Subject: Re: Revised
Date: Thursday, April 20, 2017 1:59:52 PM

Got it, thanks. If the letter could make that a little more clear, that would be great. "Exisiting processes established by" or "under"...

But the phrasing you use below addresses our other concern - thanks.

From: Chambers, Micah
Sent: Thursday, April 20, 2017 10:56 AM
To: Neely, Amanda (HSGAC)
Cc: Orth, Patrick (Portman)
Subject: Re: Revised

No. If it is CRA'd (new word) BLM reverts back to the NTL4A. We would look at taking the principles we mentioned and updating the NTL4A with the options listed. However, if we find that some of these options are more complex for the Federal Register system, then we might have to look into a new rulemaking process. But the options in the letter are very different than the current rule while achieving the same objective. Feel free to call if none of that made sense. 202.706.9093

On Thu, Apr 20, 2017 at 1:48 PM, Neely, Amanda (HSGAC) <Amanda_Neely@hsgac.senate.gov> wrote:

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>
> ---
>
> **From:** Chambers, Micah
> **Sent:** Thursday, April 20, 2017 10:43 AM
> **To:** Neely, Amanda (HSGAC)
> **Cc:** Orth, Patrick (Portman)
> **Subject:** Re: Revised
>
> Thanks for the quick reply Amanda. I plugged in the line you sent and it read a little weird, but I think I word smithed it with same message. Pls let me know if this works:
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> Whether the BLM pursues new rulemaking or revisions to existing processes, the Department remains committed to reducing methane waste by pursuing, among other options, the following strategies:

On Wed, Apr 19, 2017 at 6:33 PM, Neely, Amanda (HSGAC) <Amanda_Neely@hsgac.senate.gov> wrote:

Thanks, Micah. How about "we commit to pursuing, among other options, the following strategies..."?

From: Chambers, Micah
Sent: Wednesday, April 19, 2017 2:50 PM
To: Orth, Patrick (Portman); Neely, Amanda (HSGAC)
Subject: Revised

Please let me know what you think here. As I mentioned earlier, there are concerns with boxing us into only a certain set of options, particularly if there are other options we haven't explored or haven't seen yet. Let me know what your boss thinks. Thank you and enjoy california. Hope you get to catch a breath soon.

Micah

The Honorable Rob Portman

United States Senator

448 Russell Senate Office Building

Washington, D.C. 20510

April xx, 2017

Dear Senator Portman:

Thank you for your letter regarding the Department of the Interior's (DOI) Venting and Flaring rule. I, too, believe DOI has an integral role to play in this issue, which is why I intend to act within my authority as Secretary to craft solutions that incentivize responsible development.

I share your concerns regarding methane waste and I agree that we must manage our public lands in a pragmatic way. Should you and your Senate colleagues choose to rescind the rule through the Congressional Review Act (CRA), the Bureau of Land Management (BLM) will continue to have the ability to act under its existing authorities to meaningfully update its policies to reduce waste. The BLM will continue to regulate venting, flaring, and beneficial use of gas pursuant to the 1979 Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost (NTL-4A). The world has certainly changed since these regulations

were last updated, and we need revisions to reflect the world we live in today. Whether the BLM pursues new rulemaking or revisions to existing processes, the Department intends to address the following venting and flaring issues:

- Strengthening policies to encourage conservation through beneficial use of oil or gas on leases;
- Conserving unsold gas by reinjection for enhanced oil recovery or for later recovery;
- Improving rights-of-way (ROW) timelines and removing obstacles to timely approval for pipeline and gathering infrastructure;
- Recognizing existing flaring restrictions and policies in states like North Dakota, Wyoming, Utah, New Mexico, Colorado, and Montana to avoid duplication and redundancy.

I have been tasked to lead and plan for the Department's future over the next 100 years. As an admirer of President Teddy Roosevelt, you can rest assured that the policies I propose will reflect the promise I made to you and your colleagues during my confirmation hearing: we will work together to ensure the use of our public lands reflects higher purpose so that our children's children can look back and say, "We did it right."

Sincerely,

Secretary Ryan Zinke

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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Office of the Secretary of the Interior

From: Neely, Amanda (HSGAC)
To: Chambers, Micah
Cc: Orth, Patrick (Portman)
Subject: Re: Revised
Date: Thursday, April 20, 2017 2:38:50 PM

Looks good. Thanks, Micah.

From: Chambers, Micah
Sent: Thursday, April 20, 2017 11:09 AM
To: Neely, Amanda (HSGAC)
Cc: Orth, Patrick (Portman)
Subject: Re: Revised

This read any clearer?

If a CRA is passed, the BLM will continue to regulate venting, flaring, and beneficial use of gas pursuant to the 1979 Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost (NTL-4A). The world has changed since these regulations were first implemented so any revisions should reflect today's realities. Whether the BLM proposes new rulemaking or revisions to the NTL-4A process, the Department remains committed to reducing methane waste by pursuing, among other options, the following strategies:

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> 448 Russell Senate Office Building
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Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Brinck, Casey
To:	"Chambers, Micah"
Subject:	RE: Undeliverable: Fwd: Presidential Executive Order on the Review of Designations Under the Antiquities Act
Date:	Wednesday, April 26, 2017 1:22:57 PM

Thanks!

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Wednesday, April 26, 2017 1:17 PM
To: Brinck, Casey <Casey.Brinck@mail.house.gov>
Subject: Fwd: Undeliverable: Fwd: Presidential Executive Order on the Review of Designations Under the Antiquities Act

THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

April 26, 2017

EXECUTIVE ORDER

- - - - - - -

REVIEW OF DESIGNATIONS UNDER THE ANTIQUITIES ACT

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in recognition of the importance of the Nation's wealth of natural resources to American workers and the American economy, it is hereby ordered as follows:

Section 1. Policy. Designations of national monuments under the Antiquities Act of 1906, recently recodified at sections 320301 to 320303 of title 54, United States Code (the "Antiquities Act" or "Act"), have a substantial impact on the management of Federal lands and the use and enjoyment of neighboring lands. Such designations are a means of stewarding America's natural resources, protecting America's natural beauty, and preserving America's historic places. Monument designations that result from a lack of public outreach and proper coordination with State, tribal, and local officials and other relevant stakeholders may also create barriers to achieving energy independence, restrict public access to and use of Federal lands, burden State, tribal, and local governments, and otherwise curtail economic growth. Designations should be made in accordance with the requirements and original objectives of the Act and appropriately balance the protection of landmarks, structures, and objects against the appropriate use

of Federal lands and the effects on surrounding lands and communities.

Sec. 2. Review of National Monument Designations. (a) The Secretary of the Interior (Secretary) shall conduct a review of all Presidential designations or expansions of designations under the Antiquities Act made since January 1, 1996, where the designation covers more than 100,000 acres, where the designation after expansion covers more than 100,000 acres, or where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders, to determine whether each designation or expansion conforms to the policy set forth in section 1 of this order. In making those determinations, the Secretary shall consider:

(i) the requirements and original objectives of the Act, including the Act's requirement that reservations of land not exceed "the smallest area compatible with the proper care and management of the objects to be protected";

(ii) whether designated lands are appropriately classified under the Act as "historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest";

(iii) the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land Policy and Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries;

(iv) the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries;

(v) concerns of State, tribal, and local governments affected by a designation, including the economic development and fiscal condition of affected States, tribes, and localities;

(vi) the availability of Federal resources to properly manage designated areas; and

(vii) such other factors as the Secretary deems appropriate.

(b) In conducting the review described in subsection (a) of this section, the Secretary shall consult and coordinate with, as appropriate, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Energy, the Secretary of Homeland Security, and the heads of any other executive departments or agencies concerned with areas designated under the Act.

(c) In conducting the review described in subsection (a) of this section, the Secretary shall, as appropriate, consult and coordinate with the Governors of States affected by monument designations or other relevant officials of affected State, tribal, and local governments.

(d) Within 45 days of the date of this order, the Secretary shall provide an interim report to the President, through the Director of the Office of Management and Budget, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chairman of the Council on Environmental Quality, summarizing the findings of the review described in subsection (a) of this section with respect to Proclamation 9558 of December 28, 2016 (Establishment of the Bears Ears National Monument), and such other designations as the Secretary determines to be appropriate for inclusion in the interim report. For those designations, the interim report shall include recommendations for such Presidential actions, legislative proposals, or other actions consistent with law as the Secretary may consider appropriate to carry out the policy set forth in section 1 of this order.

(e) Within 120 days of the date of this order, the Secretary shall provide a final report to the President, through the Director of the Office of Management and Budget, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chairman of the Council on Environmental Quality, summarizing the findings of the review described in subsection (a) of this section. The final report shall include recommendations for such Presidential actions, legislative proposals, or other actions consistent with law as the Secretary may consider appropriate to carry out the policy set forth in section 1 of this order.

Sec. 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
April 26, 2017.

###

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The White House · 1600 Pennsylvania Avenue, NW · Washington DC 20500 · 202-456-1111

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Wiser, Devin
To: Chambers, Micah
Subject: Re: Presidential Executive Order on the Review of Designations Under the Antiquities Act
Date: Wednesday, April 26, 2017 3:26:42 PM

Thanks, Micah!

From: "Chambers, Micah" <micah_chambers@ios.doi.gov>
Date: Wednesday, April 26, 2017 at 1:09 PM
To: "Knox, Jason" <Jason.Knox@mail.house.gov>, "Schafle, Matt" <Matt.Schafle@mail.house.gov>, "Block, Molly" <Molly.Block@mail.house.gov>, "Lane, Michelle (Energy)" <Michelle_Lane@energy.senate.gov>, "Hayes, Colin (Energy)" <colin_hayes@energy.senate.gov>, "jay.royas@investguam.com" <jay.royas@investguam.com>, "Foley, Ian" <Ian.Foley@mail.house.gov>, "Wiser, Devin" <Devin.Wiser@mail.house.gov>, "Bell, Allyson (Lee)" <allyson_bell@lee.senate.gov>, "casey.brink@mail.house.gov" <casey.brink@mail.house.gov>, "Tanner, John (Hatch)" <john_tanner@hatch.senate.gov>, "Cox, Ed (Hatch)" <ed_cox@hatch.senate.gov>
Subject: Fwd: Presidential Executive Order on the Review of Designations Under the Antiquities Act

Text of the EO.

THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

April 26, 2017

EXECUTIVE ORDER

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DONALD J. TRUMP

THE WHITE HOUSE,
April 26, 2017.

###

Unsubscribe

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--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Small, Jeff
To: "micah_chambers@ios.doi.gov"; "amanda_kaster@ios.doi.gov"; "katharine_macgregor@ios.doi.gov"; kathleen_benedetto@ios.doi.gov
Subject: FW: President Trump Signs Order to Review Massive Land Grabs, Western Caucus Members Cheer
Date: Wednesday, April 26, 2017 6:16:40 PM
Attachments: image003.png
image001.png
image002.png

Meant to forward this to you guys earlier. Thanks again for your efforts on this E.O.

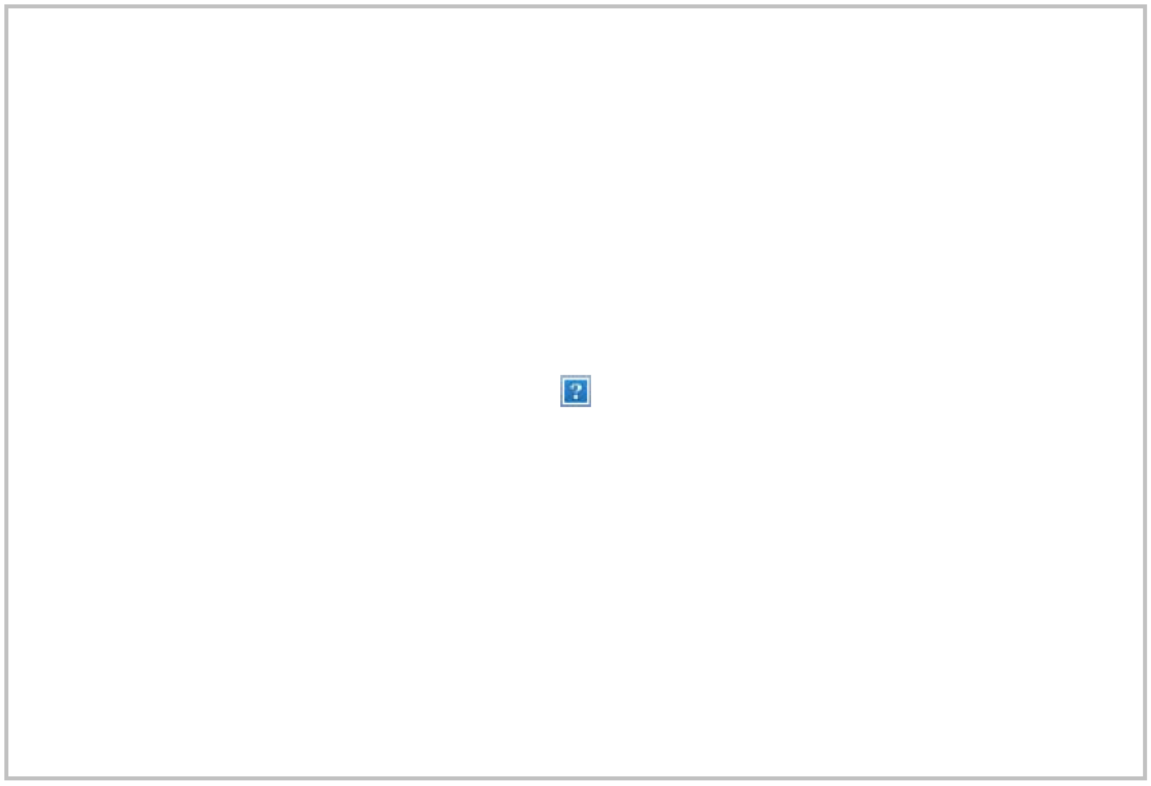
Jeff Small
Executive Director | Congressional Western Caucus
Senior Advisor | Congressman Paul A. Gosar, D.D.S.
2057 Rayburn HOB | Washington, DC 20515
(202) 225-2315 main
jeff.small@mail house.gov

From: Representative Paul Gosar
Sent: Wednesday, April 26, 2017 2:00 PM
To: Small, Jeff
Subject: President Trump Signs Order to Review Massive Land Grabs, Western Caucus Members Cheer

For Immediate Release
Contact: Kelly Roberson

Date: April 26, 2017
Kelly.Roberson@mail.house.gov

President Trump Signs Order to Review Massive Land Grabs, Western Caucus Members Cheer



WASHINGTON, D.C. – Today, Congressional Western Caucus **Chairman Paul A. Gosar D.D.S. (AZ-04), Chief Defense and Interior Officer Rep. Chris Stewart (UT-02), Chairman Emeritus Rep. Steve Pearce (NM-02), Vice Chairman for Indian Affairs and Oceans Rep. Don Young (AK-At Large), Chairman Emeritus Rep. Rob Bishop (UT-01)** and Western Caucus members **Speaker Paul Ryan (WI-01), Majority Leader Kevin McCarthy (CA-23), Rep. Tom Emmer (MN-06), Rep. Markwayne Mullin (OK-02), Rep. Aumua Amata (American Samoa-At Large), Rep. Doug LaMalfa (CA-01), Rep. Doug Lamborn (CO-05), Rep. Jason Chaffetz (UT-03)** and **Rep. Raúl Labrador (ID-01)** issued the following statements after President Donald Trump signed an Executive Order requiring Secretary of the Interior Ryan Zinke for a review of the 1906 Antiquities Act:

Chairman Gosar said, "After enduring the Obama Administration's tyrannical land grabs, I am elated by President Trump's action to require a formal review of misguided monument declarations over the past 20 years that have restricted massive swaths of land and water throughout the country. President Obama's abuse of a century-old law allowed one man to unilaterally lock up more than 550 million acres with the stroke of a pen. Local stakeholders deserve to have a voice in the land management process and I am pleased they will finally be included in the conversation. I applaud President Trump and look forward to working closely with Secretary Zinke during this review. However, this fight won't be over and communities won't be safe until Congress reforms the antiquated Antiquities Act."

"Over the years, the original intent of the Antiquities Act has morphed well beyond the original intent of the Act, which was to preserve the 'smallest area compatible with proper care and management of the objects to be protected'. These land grabs occur with no input from Congress or the local communities most impacted by the designations. It's an emotional issue to communities around the Bears Ears and Grand Staircase-Escalante National Monuments, as it affects and threatens their ways of life. That's why I believe this Executive Order asking for a review of National Monuments is both a healthy and necessary process," said **Congressman Stewart.** "Utahns deserve a collaborative land management process that ensures local residents have a seat at the table."

"The last several Presidents have abused the Antiquities Act by creating expansive monuments that have disregarded input from local communities and governments who are affected the most by these designations. New Mexicans, and people across the nation, should be able to access federal lands for recreation, hunting, grazing, and the economic opportunity that comes with it. We all share the common goal of preserving the natural beauty we are blessed to have in the West, but responsible conservation has to consider how these actions affect the surrounding communities and local economies," said **Congressman Pearce**. "I support today's Executive Order that puts surrounding communities back in the driver's seat by calling for an appropriate review of previously designated monuments."

Congressman Young said, "For too long, we've seen the crippling impacts associated with the monument designation process, all with little to no consultation or support of those that live in or rely upon the areas. I welcome today's actions and remain committed to reforming the outdated monument designation process from a top down executive mandate to a locally driven, bottom-up approach. The days of Presidents unilaterally closing off thousands of acres of land or water must change."

"Today's action sends the powerful message that communities will no longer take a back seat to out-of-state special interest groups. I'm pleased to see President Trump recognize long-standing abuses of the Antiquities Act. It was created with noble intent and for limited purposes, but has been hijacked to set aside increasingly large and restricted areas of land without public input," stated **Congressman Bishop**. "I applaud the Trump administration's clear commitment to do what past administrations refused to do, actually talk to real people who live in the area. This EO is not the end of the story, we will work the Trump administration and our communities to get this right."

Speaker Ryan said, "The Antiquities Act is a century-old law that has been hijacked by executive overreach in recent years. While designating monuments is a noble goal, this law, like many others, has strayed far from its original purpose. Presidents have used the law to lock up thousands of acres of lands and water with the stroke of a pen, disregarding the needs and concerns of local communities. I comment the Trump administration for stopping this cycle of executive abuse and beginning a review of past designations."

"Government must still retain the authority to preserve our nation's most treasured sites, but that authority was clearly abused by the Obama Administration when it restricted over 550 million acres in 34 national monuments under the Antiquities Act. The Antiquities Act was not intended to restrict state and local usage of such a large amount of territory. This abuse of federal authority and the subsequent disruption of the wellbeing of communities and citizens is the exact kind of behavior from Washington that the American people are sick of. Local control is not only better policy; it respects the American people who can get along just fine without a distant government controlling all the details of their lives," said **Majority Leader McCarthy**. "President Trump and House Republicans will work together to offer a defense against future executive overreach and bring a necessary dose of commonsense to public land policy."

Congressman Emmer said, "I am pleased to see President Trump call for a review of the Antiquities Act in this morning's executive order," said Emmer. "Under the Obama Administration, we witnessed unilateral land grabs by the executive without Congressional consent. My home state of Minnesota was hit with similar last minute actions that closed off nearly a quarter million acres of land, which would stunt our state's economic growth. I look forward to the results of the review to indicate what next steps may be necessary."

"President Obama's time in office led to more than 554,000,000 acres of land being declared as national monuments, practically the definition of a land grab. While the Antiquities Act serves a

purpose, it has been abused by previous presidents and I'm glad to see President Trump sign an executive order to review the land taken in this drastic overreach of power," remarked **Congressman Mullin**.

Aumua Amata said, "I want to applaud President Trump for the executive order he signed today to review the Antiquities Act, which regulates national marine monument designations. The national marine monuments that have been instituted in the Western Pacific have closed off vast swaths of the ocean that our people have fished for over a *millennium*. I look forward to the actions that will be taken upon the completion of the review. It is essential that our fishing fleet in American Samoa has access to these traditional fishing grounds and this is the first step in restoring that access for our people."

"I fully support the President's decision to review national monuments that had been recklessly expanded under the Obama Administration. Downsizing many of these monuments will help the Department of Interior to better manage our federal lands. It is time to reform the Antiquities Act and return the power to designate and expand national monuments back to Congress," remarked **Congressman LaMalfa.**

Congressman Lamborn said, "The review of the monuments designated under the Antiquities Act is both warranted and necessary. Today's executive order signifies a shift in power from the federal government to the local communities who support these monuments and deserve to have a voice in the process. As the President and Secretary Zinke review the monuments in Colorado, I urge them to consider multi-user groups and recreation, community outreach, and the ability to fund and manage these important lands."

"Unilaterally locking up millions of acres of land for political gain was not the original intent of the Antiquities Act. Imposing such designations without any kind of local support from those who will bear the burden is an abuse of power. I strongly support President Trump's order to review the gross misuse of such an outdated law. The American people – especially Utahns – deserve better than to have their livelihoods turned upside down with the stroke of a pen," remarked **Congressman Chaffetz**.

Congressman Labrador stated, "I am pleased by President Trump's decision to review the Antiquities Act, which was used by his predecessors to designate national monuments without input from Congress or local communities. That's why, in the last Congress, I introduced the National Monument Designation Transparency and Accountability Act, which would require Congressional approval and public input before restricting access to public lands in a proposed monument. When it comes to land in Idaho, Idahoans know best, and we appreciate a President who understands that. We need a legislative fix, and I look forward to working with President Trump on this issue."

Background:

(Courtesy of the White House)

Today's Executive Order directs the Department of the Interior to review monuments designated using the Antiquities Act since January 1, 1996, that are in excess of 100,000 acres, or that were expanded without adequate public outreach and coordination with relevant stakeholders. The order does not strip any monument of a designation and does not loosen any environmental or conservation regulations on any land or marine areas.

Further, the Executive Order:

- Directs the Secretary of the Interior to conduct the above-mentioned review.

- Directs the Secretary of the Interior to make recommendation to the President on whether a monument should be rescinded or resized.

- Directs the Secretary of the Interior to consult and coordinate with, as appropriate, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Homeland Security, and the heads of any other executive departments or agencies concerned with areas designated under the Act.

- Directs the Secretary of the Interior to consult and coordinate with the Governors of States affected by monument designations or other relevant officials of affected State, Tribal, and local
- Directs the Secretary of the Interior to provide an interim report to the President within 45 days of the date of the
- Directs the Secretary of the Interior to provide a final report to the President within 120 days of the date of the order.

Text of the Executive Order can be found HERE.

(Courtesy of the Congressional Western Caucus)

The president's ability to set aside land for monuments and national parks comes from the outdated Antiquities Act of 1906, which was originally intended to protect prehistoric Indian ruins and artifacts on federal lands in the West. More than one hundred years later, the original intent of this law, which included language to limit these designations to "the smallest area compatible with proper care and management of the objects," has been significantly abused. Compared to early application of the Antiquities Act, where the average size of a national monument was merely 422 acres, in recent years it became commonplace for a monument to exceed a million acres in size.

President Obama exceeded the intent of the Antiquities Act more than any other president in the history of this nation. With designation of the 1.35 million acre Bears Ears National Monument in Utah and the 300,000 acre Gold Butte National Monument in Nevada, President Obama designated or expanded 34 national monuments, more than any other president in history. These unilateral declarations locked-up 554,590,000 million acres of land and water.

National monument designations under the Antiquities Act typically have significant consequences that negatively affect grazing rights, water rights, wildfire prevention and other land management activities. These declarations also result in some of the most restrictive land-use regulations possible and also greatly impact hunting, fishing, OHV and other recreational activities.

Unilateral designations that circumvent Congress typically result in devastating consequences for rural America and our future economic prosperity. For every new acre claimed for the federal government, there is an acre of private land lost. Such actions exacerbate challenges for local communities to fund things like education and infrastructure as lands that are added to the federal rolls can no longer be taxed.

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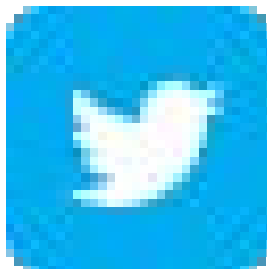

From:	Orth, Patrick (Portman)
To:	Micah Chambers
Cc:	Neely, Amanda (HSGAC)
Subject:	Edits to letter
Date:	Wednesday, April 26, 2017 8:17:45 PM

Micah -

See below for the additional edits Senator Portman needs in addition to the specific polices on beneficial use. Let us know if you have any questions.

Thanks,

Pat

April xx, 2017

Dear Senator Portman:

Thank you for your letter regarding the Department of the Interior's (DOI) Methane and Waste Prevention Rule. I, too, believe DOI has an integral role to play in this issue, which is why I intend to act within my authority as Secretary to craft solutions that incentivize responsible development.

I share your concerns regarding methane waste and I agree that we must manage our public lands in a pragmatic way. Should you and your Senate colleagues choose to rescind the rule through the Congressional Review Act (CRA), the Bureau of Land Management (BLM) will continue to have the authority to meaningfully update its policies to reduce methane waste. If a CRA is passed, the BLM will continue to regulate venting, flaring, and beneficial use of gas pursuant to the DOI Order known as NTL-4A[1]. The world has changed a lot since these regulations were first implemented. I will update and revise the NTL-4A process or initiate a new rulemaking process, the Department is—and will remain—committed to reducing methane waste.

You asked me in your letter about specific concrete actions that the Department would take in the absence of the current Methane and Waste Prevention Rule. The Department would pursue, among other options, the following strategies:

· Strengthening policies to encourage companies to capture methane to be used for other purposes. Such policy changes will include:

  · [additional policy] Currently companies do not have to pay royalties to the government on methane used for a specific list of purposes. The Department

will expand this list which would encourage companies to capture and use more methane;

- [additional policy];
- [additional policy];

- Tightening restrictions on the flaring of unmarketable methane from oil wells;
- Conserving unsold methane by reinjection into the existing well for enhanced oil recovery or for later recovery;
- Expediting approval for methane pipeline and gathering infrastructure;
- Eliminating BLM policies that conflict with or duplicate flaring restrictions in states like North Dakota, Wyoming, Utah, New Mexico, Colorado, and Montana.

I have been tasked to lead and plan for the Department's future over the next 100 years. As an admirer of President Teddy Roosevelt, you can rest assured that the policies I propose will reflect the promises I made to you and your colleagues during my confirmation hearing: we will work together to ensure the use of our public lands reflects higher purpose so that our children's children can look back and say, "We did it right." Under my leadership, the Department will take important steps to reduce methane waste, and we will do that without hurting job creation and economic growth. Thank you for your interest in this issue, and thank you for your letter.

Sincerely,

Secretary Ryan Zinke

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[1] The *1979 Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases, Royalty or Compensation for Oil and Gas Lost (NTL-4A)*

Sent from my iPhone

From: Kurtz, Olivia (Aging)
To: Chambers, Micah
Cc: Schley_Mary Grace (Collins); Cashwell_Morgan (King); philip.swartzfager@mail.hsoue.gov
Subject: Re: Presidential Executive Order on the Review of Designations Under the Antiquities Act
Date: Thursday, April 27, 2017 10:53:21 AM

Thanks, Micah- can you also send a copy of the list that was sent out?
Olivia

On Apr 27, 2017, at 10:32 AM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> Morning. Just an FYI from yesterday's monument EO. There was some clarification needed from the Governor and thought you should know should press come to you with any questions for your bosses.
>
> Micah
>
> ...
>
> The list the WH sent out was DOI-managed monuments post 1996 that are over 100,000 acres. The ME monument is less than that so it was not included and the gov was asked about it.
>
> **The EO states, the review could also include monuments "where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders,"**
>
> So, if the local community and officials don't feel as though they were part of the process, the Secretary could review it.
>
> -
> Heather Swift
> Department of the Interior
> @DOIPressSec
> Heather_Swift@ios.doi.gov l Interior_Press@ios.doi.gov

THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

April 26, 2017

EXECUTIVE ORDER

- - - - - - -

REVIEW OF DESIGNATIONS UNDER THE ANTIQUITIES ACT

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in recognition of the importance of the Nation's wealth of natural resources to American workers and the American economy, it is hereby ordered as follows:

Section 1. Policy. Designations of national monuments under the Antiquities Act of 1906, recently recodified at sections 320301 to 320303 of title 54, United States Code (the "Antiquities Act" or "Act"), have a substantial impact on the management of Federal lands and the use and enjoyment of neighboring lands. Such designations are a means of stewarding America's natural resources, protecting America's natural beauty, and preserving America's historic places. Monument designations that result from a lack of public outreach and proper coordination with State, tribal, and local officials and other relevant stakeholders may also create barriers to achieving energy independence, restrict public access to and use of Federal lands, burden State, tribal, and local governments, and otherwise curtail economic growth. Designations should be made in accordance with the requirements and original objectives of the Act and appropriately balance the protection of landmarks, structures, and objects against the appropriate use of Federal lands and the effects on surrounding lands and communities.

Sec. 2. Review of National Monument Designations. (a) The Secretary of the Interior (Secretary) shall conduct a review of all Presidential designations or expansions of designations under the Antiquities Act made since January 1, 1996, where the designation covers more than 100,000 acres, where the designation after expansion covers more than 100,000 acres, or where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders, to determine whether each designation or expansion conforms to the policy set forth in section 1 of this order. In making those determinations, the Secretary shall consider:

(i) the requirements and original objectives of the Act, including the Act's requirement that reservations of land not exceed "the smallest area compatible with the proper care and management of the objects to be protected";

(ii) whether designated lands are appropriately classified under the Act as "historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest";

(iii) the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land Policy and Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries;

(iv) the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries;

(v) concerns of State, tribal, and local governments affected by a designation, including the economic development and fiscal condition of affected States, tribes, and localities;

(vi) the availability of Federal resources to properly manage designated areas; and

(vii) such other factors as the Secretary deems appropriate.

(b) In conducting the review described in subsection (a) of this section, the Secretary shall consult and coordinate with, as appropriate, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Energy, the Secretary of Homeland Security, and the heads of any other executive departments or agencies concerned with areas designated under the Act.

(c) In conducting the review described in subsection (a) of this section, the Secretary shall, as appropriate, consult and coordinate with the Governors of States affected by monument designations or other relevant officials of affected State, tribal, and local governments.

(d) Within 45 days of the date of this order, the Secretary shall provide an interim report to the President, through the Director of the Office of Management and Budget, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chairman of the Council on Environmental Quality, summarizing the findings of the review described in subsection (a) of this section with respect to Proclamation 9558 of December 28, 2016 (Establishment of the Bears Ears National Monument), and such other designations as the Secretary determines to be appropriate for inclusion in the interim report. For those designations, the interim report shall include recommendations for such Presidential actions, legislative proposals, or other actions consistent with law as the Secretary may consider appropriate to carry out the policy set forth in section 1 of this order.

(e) Within 120 days of the date of this order, the Secretary shall provide a final report to the President, through the Director of the Office of Management and Budget, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chairman of the Council on Environmental Quality, summarizing the findings of the review described in subsection (a) of this section. The final report shall include recommendations for such Presidential actions, legislative proposals, or other actions consistent with law as the Secretary may consider appropriate to carry out the policy set forth in section 1 of this order.

Sec. 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or

legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,

April 26, 2017.

###

Unsubscribe

The White House 1600 Pennsylvania Avenue, NW Washington DC 20500 202-456-1111

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Financial Services Committee
To: jhoset_burgosrodriguez@ios.doi.gov
Subject: FSC Majority | Week in Review
Date: Friday, April 28, 2017 10:32:40 AM

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WEEK IN REVIEW

April 28, 2017

Financial CHOICE Act Will Result in Growth, End Bailouts

Witnesses testifying at Wednesday's full committee hearing on the Financial CHOICE Act praised the proposal's focus on economic growth, accountability and ending bank bailouts

"By far the most important aspect of this proposed legislation is the provision which allows properly capitalized banks to opt out of the regulatory nightmare which is paralyzing the industry and slowing innovation, creativity and thereby economic growth. Lower income individuals are the most negatively damaged by this sad situation," said John Allison, former CEO of BB&T.

Alex Pollock of the R Street Institute called the Financial CHOICE Act "an excellent example of the Congress asserting itself at last to clarify that regulatory agencies are derivative bodies accountable to the Congress, that they cannot be sovereign fiefdoms—not even the dictatorship of the CFPB."

"Smaller companies, which are an important part of our economy and of many Americans' lives, have been forced to fight for the capital markets' scraps through an awkward set of exemptions," said Hester Peirce of the Mercatus Center at George Mason University. "The CHOICE Act also allows more investors to qualify as accredited, a label that allows them access to a broader array of investments. Because many investors prefer to invest through pools, the relief afforded to pooled investment vehicles and their advisers by the CHOICE Act could also be instrumental in expanding small businesses' access to capital."

"The Dodd-Frank Act has had a highly adverse effect on economic growth in the United States, primarily—although not entirely—through imposing substantial costs on small and community banks. The CHOICE Act attacks this problem in a comprehensive way—providing these banks, and potentially others, with an 'off-ramp' that would allow them to avoid many of the most costly regulations if they adopt a capital position based on a 10% leverage ratio instead of the Basel risk-based capital standards," said Peter Wallison of the American Enterprise Institute.

Subcommittee Examines Ways to Stem Illicit

On the Horizon

Tuesday, May 2 at 10:00 a.m.
Markup of H.R. 10, the Financial CHOICE Act of 2017

In the News

PoliticoPro | Big banks battered as Dodd-Frank repeal debate kicks off

Housing Wire | Mnuchin declares support for Republican Dodd-Frank replacement

Washington Post | Republicans launch effort to roll back Dodd-Frank regulations

Newsmax | Trump tackles Dodd-Frank with executive order, memo

American Banker | Republicans optimistic about housing finance reform

Financing

The Subcommittee on Terrorism and Illicit Finance held a hearing Thursday to examine information sharing and data collection practices at the Financial Crimes Enforcement Network (FinCEN) and assess how the process and coordination could be improved.

“From the most traditional forms of financial transactions to the ever-evolving world of financial technology, it is essential that our nation have an efficient, effective, and modern set of rules and regulation to safeguard our nation’s financial system. This hearing starts the conversation and ensures our subcommittee is taking a pragmatic and complete look at the laws and regulations we currently have in place,“ ,” said Subcommittee Chairman Steve Pearce (R-NM).

MEMBER SPOTLIGHTS

Rep. Mia Love (R-UT) | Bring on the CHOICE Act

This common sense alternative to Dodd-Frank represents a fundamental break from the overregulation and micro-management of banks by Washington bureaucrats in favor of strong capital and the freedom to serve the financial needs of American households and businesses.

Rep. Ann Wagner (R-MO) | Americans Deserve the Financial CHOICE Act

Our Republican-led Congress has a better way – the Financial CHOICE Act, which stands for Creating Hope and Opportunity for Investors, Consumers and Entrepreneurs. And that’s exactly what we’re going to do: provide you with the financial opportunities you deserve.

Rep. Bill Huizenga (R-MI) |Financial CHOICE Act Would Restore Accountability, Opportunity

The Financial CHOICE Act will protect taxpayers and consumers alike, remove the anti-growth regulations put in place by Dodd-Frank, and provide more opportunity for hardworking individuals in West Michigan to achieve financial independence.

Weekend Must Reads

Washington Examiner | Here’s why the GOP plan to replace Dodd-Frank is a marked improvement

Rather than ending the "Too Big to Fail" problem, Dodd-Frank further entrenched the risk of taxpayer-funded bailouts for the largest banks and financial institutions while failing to address the root causes of the financial crisis. Likewise, by layering overly complicated regulations onto the financial system, Dodd-Frank stunted economic growth and limited access to capital.

National Taxpayers Union | Coalition supports legislation repealing key provisions of Dodd-Frank

The Financial CHOICE Act will begin the process of eliminating Dodd-Frank and the burdensome regulations that have restricted business creation, innovation, and entrepreneurship. By reducing

red tape and empowering job creators and consumers over Washington bureaucrats, the CHOICE Act will help get our economy out of its historically slow economic recovery and create a financial system that benefits all Americans.

Financial Regulation News | ICBA, NAFCU endorse Financial CHOICE Act

Congressional Republicans' proposal to replace Dodd-Frank, the Financial CHOICE Act, received endorsements this week from two major financial players — the Independent Community Bankers of America (ICBA) and the National Association of Federally-Insured Credit Unions (NAFCU).

Sent from the Committee on Financial Services

2129 Rayburn House Office Building, Washington, DC 20515 | T (202) 225-7502 | Press (202) 226-0471

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From: Congressman Ed Perlmutter
To: kenneth_casey@ios.doi.gov
Subject: Protecting public lands and national treasures
Date: Friday, April 28, 2017 2:11:31 PM

HELPING REDUCE THE PUBLIC SAFETY THREAT IN OUR COMMUNITIES

This week, I introduced bipartisan legislation to allow marijuana-related businesses in states with existing regulatory structures to access the banking system. The Secure and Fair Enforcement Banking Act (SAFE Banking Act) helps align federal and state laws - specifically as it relates to the banking crisis confronting marijuana-related businesses. The legislation will ensure all small businesses and their

employees are treated fairly.

Most importantly, the SAFE Banking Act reduces the public safety threat that arises when small businesses are forced to operate on a cash-only basis. Allowing tightly regulated marijuana businesses the ability to access the banking system will help reduce the threat of crime, robbery and assault in our communities and keep the cash out of cartels.

With eight states and Washington, D.C. now allowing adult-use recreational marijuana and 29 states legalizing medical marijuana, we have reached a tipping point on this issue and it's time for Congress to act.

VISITING LOCAL SCHOOLS

I enjoyed visiting with students at several local school in the district last week including 5th graders at Mesa Elementary, the Thornton High School Health Center, and Adams County Head Start.

I held a mock legislative session with the students at Mesa Elementary and they asked me several questions about my job as a member of Congress.

At Thornton High School, I learned about school-based health centers and how they can help keep students in school. A new health center will be opening at the school in the fall.

PROTECTING PUBLIC LANDS AND NATIONAL TREASURES

President Trump signed an executive order this week asking the Interior Department to review national monument designations dating back to 1996 that are more than 100,000 acres. Colorado is home to eight national monuments encompassing more than 440,000 acres including the Canyons of the Ancients, which comes under scrutiny by the Trump Administration because it spans more than 176,000 acres. Dinosaur National Monument is more than 210,000 acres but is partially in Utah.

As the Denver Post reported earlier this week, the Canyons of the Ancients has more than 6,000 Ancestral Puebloan cliff dwellings, kivas and rock paintings, and is a big tourism attraction for the Four Corners region, drawing about 30,000 visitors a year. Two studies by Headwaters Economics found that a national monument designation goes hand-in-hand with economic growth.
These public lands and national monuments are a significant contributor to our state's economy. We need to protect our public lands and national treasures, not find ways to roll back those protections.

UPCOMING EVENTS

What: Congressional Art Competition & Reception - All high school art students of the 7th Congressional District are cordially invited to participate in our annual Congressional Art Competition. **Click here** for more information.
When: Friday, May 5 from 5:30 p.m. to 7:00 p.m.
Where: Red Rocks Community College Library (2nd Level) (13300 W. 6th Avenue - Lakewood, CO 80228 | MAP)

What: Vietnam War 50th Commemoration Ceremony - I'm hosting a ceremony to honor United States Vietnam-era Veterans (Nov. 1, 1955 - May 15, 1975). If you are a Vietnam-era Veteran in Colorado, **click here** to see how you can receive a Vietnam Veteran Lapel Pin.
When: Thursday, June 1 from 9:30 a.m. to 11:30 a.m.
Where: Community Room at Red Rocks Community College (13300 W 6th Ave, Lakewood, CO 80228 | MAP)

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From: Orth, Patrick (Portman)
To: Chambers, Micah
Subject: updated letter
Date: Monday, May 01, 2017 9:03:24 AM

Micah – hope you had a nice weekend. See below for a few further edits. I believe NTL -4A is a guidance so I switched that from order. Let me know if you have any questions.

April xx, 2017

Dear Senator Portman:

Thank you for your letter regarding the Department of the Interior's (DOI) Methane and Waste Prevention Rule. I, too, believe DOI has an integral role to play in this issue, which is why I intend to act within my authority as Secretary to craft solutions that incentivize responsible development.

I share your concerns regarding methane waste and I agree that we must manage our public lands in a pragmatic way. Should you and your Senate colleagues choose to rescind the rule through the Congressional Review Act (CRA), the Bureau of Land Management (BLM) will continue to have the authority to meaningfully update its policies to reduce methane waste. If a CRA is passed, the BLM will continue to regulate venting, flaring, and beneficial use of gas pursuant to the DOI guidance known as NTL-4A[1]. The world has changed a lot since these regulations were first implemented. I will update and revise the NTL-4A guidance or initiate a new rulemaking process, because the Department is—and will remain—committed to reducing methane waste.

You asked me in your letter about specific concrete actions that the Department would take in the absence of the current Methane and Waste Prevention Rule. The Department would pursue, among other options, the following strategies:

- Engaging in a robust assessment of all venting and flaring requirements to ensure the industry conserves resources and prevents waste, and so the taxpayer is assured the fair value of royalties. This includes, and is not limited to:
    - Criteria for approving venting and flaring
    - Venting and flaring thresholds
    - Venting and flaring time limits
    - Beneficial use
    - Royalty requirements

· Strengthening policies to encourage companies to capture methane to be used for other purposes, such as the beneficial use of methane on lease for generating power, powering equipment, and compressing or treating methane.

· Tightening restrictions on the flaring of unmarketable methane from oil wells;

· Conserving unsold methane by reinjection into the existing well for enhanced oil recovery or for later recovery;

· Expediting approval for methane pipeline and gathering infrastructure;

· Eliminating BLM policies that conflict with or duplicate flaring restrictions in states like North Dakota, Wyoming, Utah, New Mexico, Colorado, and Montana.

I have been tasked to lead and plan for the Department's future over the next 100 years. As an admirer of President Teddy Roosevelt, you can rest assured that the policies I propose will reflect the promises I made to you and your colleagues during my confirmation hearing: we will work together to ensure the use of our public lands reflects higher purpose so that our children's children can look back and say, "We did it right." Under my leadership, the Department will take important steps to

reduce methane waste, and we will do that without hurting job creation and economic growth. Thank you for your interest in this issue, and thank you for your letter.

Sincerely,

Secretary Ryan Zinke

Patrick Orth
Legislative Assistant
Office of Senator Rob Portman
Phone: 202-224-3353
Email: Patrick_orth@portman.senate.gov

From:	Layden, Will
To:	Natural Resources Repubs FL LAs; Natural Resources Repub FL Schedulers; Natural Resources Republican Press; Natural Resources Dems FL LAs; Natural Resources Dem FL Schedulers; Hall, Dan; Taft, Tammy; Cox, William; Johnson, Edward; Digest, Committee; amanda_kaster@ios.doi.gov; "micah_chambers@ios.doi.gov"
Cc:	All Staff - Natural Resources Cmte
Subject:	Hearing Memo & Testimony -- Sub on FL Ov Hrg on 5.02.17
Date:	Monday, May 01, 2017 12:43:07 PM
Attachments:	Sub on FL Ov Hrg 05 02 17.ics Hearing Memo -- Ov Hrg on Antiquities Act 05.02.17.pdf

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Good afternoon,

Attached is the hearing memo for Tuesday's Subcommittee on Federal Lands oversight hearing titled *"Examining the Consequences of Executive Branch Overreach of the Antiquities Act."*

I have also reattached a calendar invite for your convenience.

Testimony for Tuesday's hearing can be found HERE. Please check periodically, and please do not hesitate to contact the Subcommittee on Federal Lands with any questions at 6-7736.

Thanks,

Will Layden
Clerk
Committee on Natural Resources
Subcommittee on Federal Lands
1324 Longworth House Office Building
Washington, DC 20515
(202) 226-7736

Attachment 05-01-2017 12_43_07Hearing Memo & Testimony -- S.ics (6903 Bytes) cannot be converted to PDF format.

Subcommittee on Federal Lands
Tom McClintock, Chairman
Hearing Memorandum

May 1, 2017

To: All Subcommittee on Federal Lands Members

From: Majority Committee Staff – Aniela Butler
Subcommittee on Federal Lands (x 6-7736)

Hearing: Oversight hearing on *"Examining the Consequences of Executive Branch Overreach of the Antiquities Act."*
May 2, 2017 at 10:00 AM; 1324 Longworth HOB.

The Subcommittee on Federal Lands will hold an oversight hearing to hear testimony on *"Examining the Consequences of Executive Branch Overreach of the Antiquities Act"* on Tuesday, May 2, at 10:00 a.m. in 1324 Longworth House Office Building. The hearing will focus on reviewing national monuments designated without significant local input or support and national monuments with excessively large or restrictive designations.

Policy Overview

- Presidents of both parties have exceeded the intent and law of the Antiquities Act since its enactment in 1906 to designate increasingly large and restricted areas of land.

- Originally intended to protect rare, sacred Native American burial grounds and endangered archeological sites, Presidents now routinely use the Antiquities Act to lock up millions of acres of land and water from public access, energy development, timber production, grazing, fishing and other uses.

- President Obama's excessive use of the Antiquities Act locked up nearly *554 million acres* of land and water--more than any other Administration in history, and resulted in designations that prioritized legacy-building over state and local input and support.

- Widely opposed designations in Maine, Utah, Oregon, and California exemplify the negative results that unilateral national monument designations can force on local communities through elimination of multiple-use, loss of rural jobs, and restricted recreational access.

Invited Witnesses

The Honorable Paul LePage
Governor, The State of Maine
Augusta, Maine

Ms. Kathleen Clarke
Director, Utah Public Lands Policy Coordinating Office
Former Director, Bureau of Land Management
Bountiful, Utah

Mr. Knox Marshall
Vice President of Resources, Murphy Company
Eugene, Oregon

Mr. Lucas St. Clair
President, Elliotsville Plantation, Inc.
Portland, Maine

Background

At the beginning of the 20th century, vandals and robbers began looting sacred Native American burial grounds and archeological sites throughout the territories in the Southwest. The destruction of archeological artifacts prompted Congress to enact the Antiquities Act of 1906, which authorized the President to designate national monuments on federal lands containing "historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest."[1] The law also specified that national monuments "be confined to the smallest area compatible with proper care and management of the objects to be protected."[2] Furthermore, the President could only designate national monuments "upon the lands owned or controlled by the Government of the United States."[3]

The Act granted Presidents the flexibility to quickly protect small Native American sites in imminent danger from looting and destruction.[4] President Theodore Roosevelt designated the first National Monument, Devils Tower, in 1906. Since that time, Presidents have broadly interpreted the Antiquities Act to expand both the size and justifications for National Monument designations, despite the 1906 Congressional Record plainly reflecting Congress's clear intent to limit the size of the designations.[5]

Presidents have used their authority under the Antiquities Act 233 times to establish and enlarge 157 National Monuments totaling 840.4 million acres, or roughly 10 times the size of the entire National Park System.[6] Although the National Park Service (NPS) primarily manages National Monuments, in recent decades the majority of National Monuments have been placed under the management of agencies like the Bureau of Land Management (BLM), U.S. Forest Service (FS), and the U.S. Fish and Wildlife Service (FWS). Although presidential declarations create most national monuments, Congress has also established 45 national monuments, including Appomattox (1935), Badlands (1929), and Biscayne (1968).

[1] 34 Stat 225, 16 U S C 431-433
[2] Ibid
[3] Ibid
[4] Benderson, Judith "The Archaeological Resources Protection Act and The Native American Graves Protection and Repatriation Act " Offices of the United States Attorneys https://www justice gov/usao/priority-areas/indian-country/native-american-artifacts
[5] In their discussions of the bill, Congressmen Lacey and Stephens debated whether Presidents would eventually abuse the Antiquities Act Congressman Lacey, the bill's sponsor, reassured the bill provides that reservations "shall be the smallest area necesstry [sic] for the care and maintenance of the objects to be preserved," Congressional Record, 1906, https://coast noaa gov/data/Documents/OceanLawSearch/Congressional%20Record_House%20&%20Senate%201906 pdf?redirect=301ocm
[6] Information provided by the Congressional Research Service

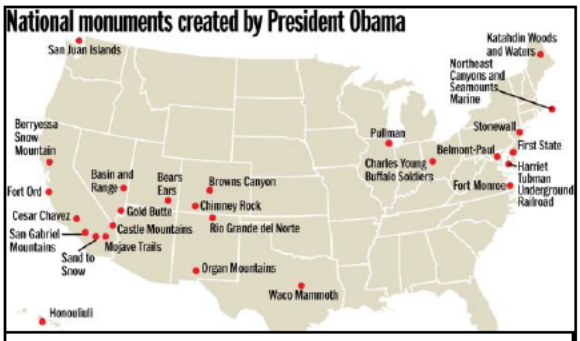
In its 111-year history, Congress amended the Antiquities Act only twice to enact statutory restrictions on the President's authority to designate National Monuments. The first, passed in 1950, prohibits the designation of National Monuments in the State of Wyoming. The second restriction, passed in 1986, requires prior Congressional approval of executive land withdrawals in the State of Alaska exceeding 5,000 acres.[7] These actions followed the controversial declarations of Jackson Hole National Monument by President Franklin Roosevelt and President Carter's establishment of several monuments in Alaska, respectively.

The Antiquities Act pre-dates the establishment of 5 states, including New Mexico and Arizona, the establishment of the National Park Service, and the creation of major environmental and archeological resources protection laws. Since the creation of the Antiquities Act, Congress and the executive branch enacted over one dozen new statutes and regulations rendering protections under the Act outdated.[8]

On April 26, 2017, President Trump signed a Presidential Executive Order directing the Secretary of the Interior to review all unilateral national monument designations "made since January 1, 1996, where the designation covers more than 100,000 acres, where the designation after expansion covers more than 100,000 acres, or where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders."[9] The Executive Order directs the Secretary to recommend any necessary legislative or administrative changes to those designations. This Executive Order itself makes no changes to any national monuments, and will not affect the ownership of the land in the event the administration decides to reduce or rescind certain national monuments.

Modern Abuses of the Antiquities Act

Over the past eight years, President Obama used the Antiquities Act 34 times to lock up **553,599,880 acres** of land and water as national monuments--representing 66% of all of the land and water ever designated as a national monument using the Antiquities Act. This is more than any other administration in history.[10]



Map 1: Source: Deseret News, National Park Service.

[7] Hardy Vincent, Carol "National Monuments and the Antiquities Act" Congressional Research Service P 1

[8] Some of the major statutes created to protect archeological resources include: *Historic Sites Act (1935)* – establishing the National Historic Landmarks Program; *National Stolen Property Act (1948)* – established fines and penalties for transporting or transferring stolen property; *Reservoir Salvage Act (1960)* – required study and protection of archeological objects that may be destroyed during the construction of a dam or reservoir; *National Historic Preservation Act (1966)* – established the National Register of Historic Places and State Historic Preservation Offices; *Archeological and Historic Preservation Act (1974)* – preserved archeological objects that might otherwise be destroyed during any federally licensed activity or program (such as a federal construction project);*Archeological Resources Protection Act (1979)* – strengthened fines and penalties for unauthorized excavation of archeological sites on federal land; *Abandoned Shipwreck Act (1987)* – established federal ownership and a management structure of abandoned shipwrecks in submerged waters of the United States; *Native American Graves Protection and Repatriation Act (1990)* – required consultation with Native American groups before archeological excavation of culturally sensitive sites; *National Maritime Heritage Act (1994)* – established to National Maritime Heritage Grants Program; *American Battlefield Protection Program Act (1996)* – provided assistance to private and public individuals and institutions to protect historic battlefields in the United States; *National Historic Lighthouse Preservation Act (2000)* – allowed the transfer of deteriorating historic lighthouses to other government entities or non-profit, educational, or community development organizations with the capacity to maintain the lighthouse; *Sunken Military Craft Act (2004)* – codified the sovereign status and permanent U S ownership of sunken military aircraft and vessels and preserved sunken military aircraft and vessels in U S waters

[9] President Donald J Trump, "Presidential Executive Order on the Review of Designations Under the Antiquities Act", 04/26/17, https://www whitehouse gov/the-press-office/2017/04/26/presidential-executive-order-review-designations-under-antiquities-act

[10] President Obama's total acreage equates to 189,589 acres designated as a national monument for every day he was in office, or an area roughly equivalent to the size of Delaware for every month of the Obama Administration

Katahdin Woods and Waters National Monument

On August 24, 2016, President Obama designated 87,563 acres in central Maine as the Katahdin Woods and Waters National Monument. One day prior to the designation, Elliotsville Plantation, Inc. donated the land to the Department of the Interior (DOI) with the intention of eventually converting the area to a National Park.[11] Nearly twice the size of Acadia National Park, the Katahdin Woods and Waters National Monument became the largest parcel of federal land in a state that has just 1.1% federal land ownership.[12]

The effort to create a National Park in this area began over two decades ago with a proposal to create a 3.2 million acre National Park, the second largest in the continental U.S.[13] Varied other proposals have included the creation of a 150,000 acre National Park and National Recreation Area. In 2002, to facilitate the creation of a National Park, Roxanne Quimby, the founder of Burt's Bees,[14] established Elliotsville Plantation, Inc. According to media accounts, after acquiring land for the proposed park site, Elliotsville Plantation evicted campers, burned down cabins, and closed the area to the "hunters and to the snowmobilers who had long relied on it for north-south access."[15] These actions were strongly opposed in the surrounding communities who were concerned a National Park would restrict snowmobiling, hunting and the local timber industry, and in 2016, residents of East Millinocket, Medway, and Patten voted resoundingly against the proposed National Park.[16]

After the National Park proposal failed to gain traction in the state, Elliotsville Plantation, Inc., led by Mr. Lucas St. Clair, shifted its focus toward designating the land as a National Monument under the Antiquities Act. The National Monument proposal faced significant opposition in the State of Maine. No Member of Congress introduced a bill studying the creation of or designating the land as a National Park or National Monument. Comparatively, every NPS National Monument designation made by President Obama prior to the designation of Katahdin Woods and Waters National Monument had corresponding legislation in Congress either establishing the area as an NPS unit or authorizing a special resource study.[17]

On November 20, 2015, Maine Senators Collins and King and Representative Poliquin, wrote President Obama to express "serious reservations and significant concerns" about the proposed monument.[18] Later that year, the Maine State Legislature passed L.D. 1600, a bill opposing the creation of a National Monument in Maine, sponsored by Rep. Stephen Stanley (D-Medway), by bipartisan votes in both the House and Senate.[19] On June 1, 2016, the Committee on Natural Resources held a field hearing in East Millinocket, Maine, on the proposed National Monument designation entitled *"Elevating Local Voices and Promoting Transparency for a*

[11] Kevin Miller, "A national park or a national monument? North Woods groups shift focus", Portland Press Herald, 11/29/15, http://www pressherald com/2015/11/29/a-national-park-or-a-national-monument-north-woods-groups-shift-focus/
[12] Carol Hardy Vincent et al , "Federal Land Ownership: Overview and Data", Congressional Research Service, 03/02/17, http://www crs gov/reports/pdf/R42346
[13] Tux Turkel, "A dream endures for another park in North Woods", Portland Press Herald, 08/24/14, http://www pressherald com/2014/08/24/a-dream-endures-for-another-park-in-north-woods/
[14] In 2007, Burt's Bees was purchased by Clorox for $925 million, see:Andrew Farrell, "Clorox to buy Burt's Bees", Forbes, 10/31/07, https://www forbes com/2007/10/31/clorox-burts-bees-markets-equity-cx_af_1031markets15 html
[15] Billy Baker, "A feud as big as the great outdoors" Boston Globe, 11/17/13, https://www bostonglobe com/magazine/2013/11/17/son-burt-bees-cofounder-leads-fight-for-maine-national-park/iQHv6w2s7fUJc6MBt6ZJSN/story html
[16] Residents of East Millinocket, Medway, and Patten voted 320-191, 252-102, and 121-53 against the proposed National Park, respectively See: Nick Sambides Jr , "East Millinocket voters reject national park by wide margin ", Bangor Daily News, 06/29/15, http://bangordailynews com/2015/06/29/outdoors/east-millinocket-voters-reject-national-park-by-wide-margin/
[17] Information provided by the Congressional Research Service
[18] Collins, King, and Poliquin Letter to President Obama 11/20/15 https://poliquin house gov/media-center/press-releases/collins-king-poliquin-send-letter-president-possible-national-monument https://www king senate gov/download/?id=474877DD-9E5C-48E6-BF2E-5A4768C86522&inline=file
[19] L D 1600, Maine State Legislature, http://www mainelegislature org/legis/bills/bills_127th/billtexts/HP109102 asp At a listening session between locally-elected officials from the towns surrounding the National Monument and NPS, only 2 of the 75 attendees voiced support for a designation See: Sambides, Nick "Maine people weigh in on proposed national monument at packed forums " 05/17/16 https://bangordailynews com/2016/05/16/news/state/maine-people-weigh-in-on-proposed-national-monument-at-packed-forums-in-orono-east-millinocket/

Potential Monument Designation in Maine."[20] During the hearing, numerous state and locally-elected officials representing the area, along with witnesses from sportsmen and snowmobiling groups, expressed significant concerns about the National Monument proposal. Although multiple proponents of the National Monument, including Mr. St. Clair, were repeatedly invited to testify at the hearing, they declined to attend.

Map 2: Source: The Boston Globe, National Park Service, Wilderness.org

Among the concerns raised, opponents of the National Monument argued it was an unsuitable addition to the National Park System. Many believed Ms. Quimby's status as a Board Member of the National Park Foundation would grant her unfair influence in the decision. Furthermore, NPS currently faces an $11.927 billion deferred maintenance backlog and any new land acquisition would add to that total. In Acadia National Park alone, NPS boasts a $68.25 million deferred maintenance backlog. Along with the land donation, Elliotsville Plantation, Inc. created a $20 million endowment to maintain the National Monument and pledged to raise an additional $20 million in donations. Although the endowment helps alleviate some costs of maintaining the land, the entire endowment would still not be sufficient to cover the deferred maintenance backlog of Acadia National Park.

Mainers also expressed concerns about the National Monument's impact on the local forest products industry and the subsequent effects on rural economies in central Maine. Since the early 1800's, the land in central Maine has been a working forest that supports the local communities. The current gateway community to the National Monument, Millinocket, started in 1989 with the creation of Great Northern Paper, the largest paper mill in the world at the time. In Maine, the forest products industry creates an $8 billion impact on the economy and supplies 1 in 20 jobs in the State.[21] Furthermore, Maine could soon experience a large spruce budworm outbreak that could kill thousands of acres of the spruce-fir forest within the National Monument.[22] Lack of active management of the forests within the National Monument could cause this epidemic to spread and potentially kill thousands of trees on state and private land.

Proponents of the National Monument suggested that jobs related to increased tourism would supplant the forest products industry. However, most of the promised tourism jobs are low-wage and seasonal.[23] Furthermore, according to NPS data from 2017, National Parks created almost six times as many jobs and had an economic output nearly $8 billion greater than NPS-operated

[20] Committee on Natural Resources, "Field Hearing on Elevating Local Voices and Promoting Transparency for a Potential Monument Designation in Maine", 06/01/16, http://naturalresources house gov/calendar/eventsingle aspx?EventID=400497
[21] Maine Forest Products Council, "Maine's Forest Economy", 2013, http://maineforest org/wp-content/uploads/2013/09/Maines-forest-economy pdf
[22] Cooperative Forestry Research Unit, University of Maine et al "Coming Spruce Budworm Outbreak: Initial Risk Assessment and Preparation & Response Recommendations for Maine's Forestry Community" 3/16/16 http://www sprucebudwormmaine org/docs/SBW_full_report_web pdf
[23] In his analysis about the tourism economy in Maine, Thomas McLaughlin, a professor in the School of Social Work at the University of New England, stated: "Lost in all this good news [about rising tourism spending] is the percentage of the population who rely on seasonal work as employees to make ends meet throughout the entire 52 weeks While a small percentage of the workers may have access to overtime, most will work 30 to 40 hours per week during the 10-week summer period At minimum wage, this means, at most, the worker could gross $3,000 in a 10-week period For most families in Maine who have two seasonal workers, this means a "good summer" would be $6,000 of full-time work, then sporadic hours during the remaining 42 weeks during the year Most of these seasonal workers live well below the poverty line This means summer earnings must be saved and past due bills paid during the good times "Thomas McLaughlin, "How Maine's seasonal workers could benefit more from summer tourism", Bangor Daily News, 07/26/17, http://bangordailynews com/2016/07/25/opinion/contributors/how-maines-seasonal-workers-could-benefit-more-from-summer-tourism/

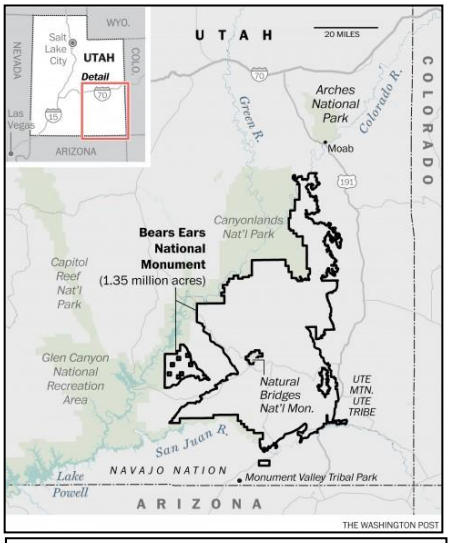
National Monuments.[24] On average, National Parks also hosted over 46.7 million more visitors than National Monuments.[25]

Further hindering economic potential, the National Monument restricts traditional recreational uses of the land, including hunting[26] and snowmobiling,[27] and in some cases, the deeds failed to include protections for pre-existing snowmobiling routes in the National Monument.[28] As of April 2016, NPS advises that the National Monument includes limited amenities and spotty or non-existent cell phone coverage. Currently, there is also no wheeled access to the National Monument, two access roads are gated by NPS, and NPS halted all grooming for snowmobiling and skiing.[29] In November 2016, NPS closed Loop Road, a main attraction in the National Monument, due to snowfall, and have yet to reopen the route.

In a letter dated February 14, 2017, Governor LePage asked President Trump to "undo the [National Monument] designation and return the land to private ownership before economic damage occurs and traditional recreational pursuits are diminished."[30]

Bears Ears National Monument

President Obama designated the Bears Ears National Monument in San Juan County, Utah, during the final weeks of his administration. The National Monument, totaling 1,351,849 acres, covers an area larger than the State of Delaware.[31]



Map 3: Source: Washington Post

The push for a National Monument in southeastern Utah began in October 2014 during a meeting of the Conservation Lands Foundation (CLF) in San Francisco, California. During the meeting, CLF discussed the prospects of designating a national monument in southeastern Utah and agreed to call the National Monument 'Bears Ears', "to move away from a Navajo name."[32] CLF expressed concerns about "hitching [their] success to the Navajo" in the event that local Navajo in San Juan County disagreed with the group's proposals.[33] The campaign to designate Bears Ears as a national monument received millions of dollars in donations from out-of-state environmentalists, including $20 million in donations from the Hewlett and Packard foundations and a portion of $15.6 million in grants from the Leonardo DiCaprio Foundation.[34] Outside organizations also heavily supported

[24] NPS, "Visitor Spending Effects - Economic Contributions of National Park Visitor Spending ", https://www nps gov/subjects/socialscience/vse htm
[25] Ibid
[26] Less than 40% of the land conveyed to the Federal Government included specific protections for hunting NPS can also close that land to hunting at any time "for reasons of public safety, administration, or resource protection" and the deeds specifically ban all trapping and hunting with dogs and bait Quitclaim deed with covenant, Hunt Farm, 08/23/16
[27] Only four deeded parcels, covering less than 20 percent of the National Monument, included any protections to continue traditional snowmobiling uses See: John Holyoke and Nick McCrea, "What we know about access to North Woods national monument land", Bangor Daily News, 08/24/16, https://bangordailynews com/2016/08/24/outdoors/what-we-know-about-access-to-north-woods-national-monument-land/?ref=relatedSidebar
[28] Ibid
[29] NPS, Katahdin Woods and Waters, up to date as of 4/25/17, https://www nps gov/kaww/planyourvisit/conditions htm
[30] Governor Paul LePage, Letter to President Donald J Trump, 02/14/17, https://www eenews net/assets/2017/02/23/document_gw_09 pdf
[31] Alexandra DeSanctis, "Reversing Obama's Last-Minute Land Grab", National Review, 01/02/17, http://www nationalreview com/article/443462/trump-gop-aim-reverse-obamas-land-grab-utah-nevada-million-acres
[32] Conservation Lands Foundation, Board Meeting Minutes, San Francisco, California, 10/24/14, pg a6, http://conservationlands org/wp-content/uploads/2015/05/Fall-2014-meeting-minutes pdf
[33] Ibid pg a6
[34] Amy Joi O'Donoghue, "Big money, environmentalists and the Bears Ears story", Deseret News, 08/04/16, http://www deseretnews com/article/865659464/Big-money-environmentalists-and-the-Bears-Ears-story html

the Bears Ears Inter-Tribal Coalition, a group representing five tribes that supported a National Monument designation, by creating their website, crafting maps of their National Monument proposal, and sending out their press releases and contacting the media.[35] According to Blanding City Manager Jeremy Redd, "This is not a grass-roots Native American effort to protect sacred lands. This is an effort by environmental groups to get what they want. … People feel like they are being run over by the money and the organization that these special interest groups have. Sadly, local people don't have that kind of money behind them." San Juan County Commissioner Rebecca Benally, a Diné and Navajo woman, testified on the record during a Natural Resources Committee hearing last September that:

> "Bears Ears National Monument campaign is a cynical political stunt that, if successful, will deny grass roots Utah Navajos access to their sacred and spiritual grounds. Traditional Utah Navajo people depend on that land for their necessities of life: to gather medicinal plants, fire wood, piñon nuts, as well as to hunt and practice sacred ceremonies. Traditional Utah Navajo people are not conspiring with lawyers in board rooms in Salt Lake City and San Francisco. Traditional Utah Navajo people are not collecting $20 million from the Hewlett and Packard foundations and Leonardo De Caprio to sponsor this toxic divide-and-conquer campaign. Traditional Utah Navajo people are not magazine environmentalists but are real stewards of the land whose interests will be destroyed by a Bears Ears National Monument. Grassroots Utah Navajo people do not support this effort to convert our sacred lands into a federal designation that will subjugate them to micromanagement by bureaucrats in Washington DC."

Since the designation, out-of-state groups and corporations have continued campaigns aimed at maintaining the Bears Ears designation. Outdoor Retailer economically retaliated against the local opposition to Bears Ears National Monument by pulling its $45 million industry shows out of the State.[36] Patagonia, the $800 million outdoor clothing retail corporation, funneled millions of dollars into grants and videos about the new National Monument.[37] After the April executive order reviewing national monument designations, Patagonia stated its intention to continue fighting any diminishment of the National Monument's boundaries.

The National Monument proposal faced enormous opposition in the state of Utah. In a poll conducted in May 2016, only 17 percent of Utahans favored the President designating Bears Ears as a National Monument.[38] No members of the Utah Congressional delegation or the Governor supported the unilateral designation and were not meaningfully consulted on a national monument proposal prior to the designation. The Obama Administration failed to offer any concrete plans or details about the designation to members of the Congressional delegation, despite repeated requests on the record to discuss the future of the area. In a 2016 Subcommittee on Oversight and Investigations hearing, Council on Environmental Quality (CEQ) Chair Christy Goldfuss refused to discuss the Administration's plans for Bears Ears:

> "CHAIRMAN BISHOP: Is CEQ actively working on a national monument proposal for Bears Ears in San Juan County in my State?

[35] Ibid
[36] Jason Lee, "Impact of Outdoor Retailer departure far-reaching", Deseret News, 02/17/17, http://www deseretnews com/article/865673692/Impact-of-Outdoor-Retailer-departure-far-reaching html
[37] Stuart Leavenworth, "Outdoors companies mobilize hikers in multimillion-dollar battle over public lands", McClatchy DC, 03/28/17, http://www mcclatchydc com/news/politics-government/white-house/article141223478 html
[38] http://utahpolicy com/index php/features/today-at-utah-policy/9551-poll-only-17-of-utahns-want-obama-to-designate-bears-ears-as-a-national-monument

MS. GOLDFUSS. I cannot talk about any specific proposals that we are working on out of CEQ or out of the Administration with regard to national monuments."[39]

In addition, at a Committee on Natural Resources oversight hearing on March 1, 2016, Secretary Jewell stated President Obama had no prior intentions of designating any national monuments:

> "DR. GOSAR: How many more new national monuments does this Administration plan to designate this year? What are the names and geographic locations of potential monuments being considered?
> SECRETARY JEWELL: That is entirely up to the President of the United States. There are many people that come through the doors saying, "We would like you to look at monuments." There are, you know, assessments that happen from across the country of interest. They go directly to the White House.
> DR. GOSAR: So let me stop you there. *So, the President hasn't given you any detailed leanings, one way or the other?*
> SECRETARY JEWELL: *The President has not.*
> DR. GOSAR: *Absolutely zippo?*
> SECRETARY JEWELL: *Absolutely zippo."*[40] (emphasis added)

In a written response to a Senator's question, the former Acting Assistant Director of the National Landscape Conservation System and Community Partnerships for BLM, denied any knowledge of plans to designate national monuments such as Bears Ears.[41]

Given the Administration's use of the Antiquities Act, this "midnight monument" designation did not come as a surprise to many local residents.[42] However, these transcripts point to a clear lack of coordination and consultation between the Administration and members of the delegation on the National Monument and demonstrate the total lack of transparency in the designation process.

Local San Juan County tribes and residents also voiced overwhelming opposition to a National Monument designation under the Antiquities Act. In May 2016, the Blue Mountain Dine' Community unanimously passed a resolution against the proposed National Monument, stating they disagreed "that the creation of an Inter-Tribal National Monument will be in the best interests and welfare of not only local Navajo people, but of all locals who love the land of their heritage."[43] The Aneth Chapter of the Navajo Nation, based in San Juan County, also passed a resolution opposing the unilateral National Monument designation.[44] One hundred San Juan County residents signed a petition endorsing a National Conservation Area over a National

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[39] Subcommittee on Oversight and Investigations, Oversight hearing on The President's Imposition of New Environmental Mitigation Regulations, 02/24/16, http://naturalresources house gov/calendar/eventsingle aspx?EventID=399897

[40] Committee on Natural Resources, Oversight hearing on the President's 2017 Budget Proposal with Department of the Interior Secretary Sally Jewell, 03/01/16, http://naturalresources house gov/calendar/eventsingle aspx?EventID=399957

[41] "**Question (Flake)** ***(written)*** - Please provide a list of any National Monuments that are presently under consideration for designation by the President under the Antiquities Act **Answer (Murphy)** ***(written)*** - I am not aware of any list of proposed National Monuments under consideration by the President "Administration statements to Senator Flake on consultation before a national monument designation, https://www flake senate gov/public/_cache/files/3e03f699-a39a-4f5b-b785-ea0a82971eeb/10 03 16-flake-mccain-letter-to-potus-re-national-monuments pdf

[42] David DeMille, "Utah Republicans voice fears about 'Midnight Monument' at Bears Ears", The Spectrum, 12/15/16, http://www thespectrum com/story/news/2016/12/15/utah-republicans-voicing-fears-midnight-monument-bears-ears/95473834/

[43] Blue Mountain Dine' Community, "A Resolution Establishing in Opposition to the Proposed Bears Ears National Monument and in the Alternative, in Support of a National Conservation Area", Resolution No : 055216

[44] Resolution of the Aneth Chapter, "Requesting the Naa'bik'iyati Committee of the Navajo Nation Council Rescind Resolution Nabima-13-15, "Supporting the Utah Dine Bikeyah Conservation Proposal for the Federal Designation of Bear's Ears National Conservation Area/National Monument in San Juan County, Utah, to Protect the Native Rights and Interest on Federal Lands for Future Generations", ACNOV-16-014

Monument, in part because it offered "the greatest recognition/protection of our sacred sites and cultural resources that are existing in the proposed designated area."[45]

In a letter to Interior Secretary Zinke after the designation, a community organization, Stewards of San Juan County, stated, "The majority of Navajo and Ute residents in San Juan County overwhelmingly oppose the monument designation, in contrast to out-of-county/state tribes who know very little of this area and will simply not be affected by this monument. It is appalling that non-local voices have drowned out those who treasure this land the most." The group later continued, "This monument was designated in order to appease outside special interest groups. It was done WITHOUT a robust consultation with the stakeholders who actually live in San Juan County. Voices of life-long residents and tribal members have been, and continue to be, blatantly ignored."[46] After the designation, Suzette Morris, a Ute Mountain Ute member and Vice President of Stewards of San Juan County, stated, "We have cemeteries up there and I don't want our ancestors to be put in museums" and "We all have a fight and we all are going to continue to fight for this to be rescinded."[47]

According to previous statements on the record, the National Monument designation likely fell short of expectations of even the most vocal National Monument supporters. A major point of contention during the debate over a National Monument versus a National Conservation Area revolved around the ability to allow the tribes to co-manage the land. Since its establishment, some supporters of the National Monument falsely claim the designation allowed the first ever tribal co-management of a National Monument. However, the tribes do not currently co-manage the land and the words "co-management" do not appear anywhere in the text of the proclamation.[48] Instead, the proclamation creates the Bears Ears Commission, a standard advisory committee created using authority under the Federal Advisory Committee Act, not the Antiquities Act.[49] The proclamation states that the Commission will "provide guidance and recommendations" on the management of the National Monument, but stops short of actually allowing the tribes to partner with the BLM and FS to manage Bears Ears.[50]

After the release of a Secretarial Order promoting the role of tribes in the management of lands, Willie Grayeyes, Chairman of Utah Dine Bikéyah, stated that, "I would have to read [the Secretarial Order], but *if it is less than co-management, I think it would fall short of our goal*."[51] (emphasis added) Additionally, in testimony before the Committee on Natural Resources, Regina Lopez-Whiteskunk, the Co-Chair of the Bears Ears Inter-Tribal Coalition, stated that a key reason the BEITC supported unilateral executive action over the Public Lands Initiative process was the acreage size for the National Monument. In her written testimony, she stated that BEITC's "call to protect 1.9 million acres is already a conservation request. *Anything less is tantamount to destruction of sacred sites that the identities of native people are affixed to*."[52] (emphasis added) Despite the administration failing to follow through on these core aspects of

[45] Residents of San Juan County, Utah, Petition to Support Alternative B, Plan for Designation of Southeastern Utah Public Land As National Conservation Area", http://sutherlandinstitute org/wp-content/uploads/Navajo-Opposition-Packet pdf
[46] Stewards of San Juan County, Letter to DOI Secretary Zinke, 02/21/17, https://stewardsofsanjuansos files wordpress com/2017/02/letter-to-zinke1 pdf
[47] Devon Dewey, "Road to Understanding: Bears Ears still a topic of controversy in San Juan County", KSL, 03/25/17, https://www ksl com/index php?sid=43636087&nid=148&title=road-to-understanding-bears-ears-still-a-topic-of-controversy-in-san-juan-county
[48] President Barack Obama, Presidential Proclamation – Establishment of the Bears Ears National Monument, 12/28/16, https://obamawhitehouse archives gov/the-press-office/2016/12/28/proclamation-establishment-bears-ears-national-monument Instead, the proclamation creates the Bears Ears Commission, a standard advisory committee created using authority under the Federal Advisory Committee Act, not the Antiquities Act
[49] Ibid
[50] Ibid
[51] Amy Joi O'Donoghue, "Native American chairman says Jewell order lacks equality for tribes", Deseret News, 10/21/16, http://www deseretnews com/article/865665388/Bears-Ears-coalition-leader-says-Jewell-order-lacks-equality-for-tribes html?pg=all
[52] Regina Lopez-Whiteskunk, Testimony before the House Committee on Natural Resources Subcommittee on Federal Lands, Hearing on H R 5780, Utah Public Lands Initiative Act, 09/14/16

their proposal, BEITC and Utah Dine Bikéyah supported the National Monument after its creation.

Prior to the unilateral designation of the National Monument, Natural Resources Committee Chairman Bishop and Oversight and Government Reform Committee Chairman Chaffetz proposed two alternative National Conservation Areas to protect the Bears Ears area in H.R. 5780, *"Utah Public Lands Initiative Act."* The process to craft the solution, which lasted over three years and involved over 1,200 meetings with stakeholders, drew widespread support from locals in San Juan County. This solution offered the only permanent protection for the Bears Ears area and the only legal mechanism to allow the tribes to co-manage the land. The Bears Ears National Conservation Area language focused on creating the necessary footprint to preserve the archeological resources and objects of antiquity within Bears Ears, while also allowing the tribes access to sacred sites and preserving traditional tribal uses of the land. The Indian Creek National Conservation Area focused on allowing outdoor recreation and preserving traditional uses of the land, such as grazing. On September 22, 2016, the Committee on Natural Resources successfully reported H.R. 5780 out of Committee by a vote of 21-13. During the markup, an amendment offered by Ranking Member Grijalva striking the section of the bill related to Bears Ears failed on a bipartisan vote of 11-19.[53]

As in the case of Grand Staircase-Escalante 20 years earlier, the National Monument designation locked up 109,000 acres of Utah School and Institutional Trust Land Administration (SITLA) land, which benefits Utah public schoolchildren.[54] Scattered across Utah in a checkerboard pattern, SITLA land derives revenues from activities such as energy and mineral resource development, grazing, and timber production. The funds from these revenues go into the State School Fund, "a permanent income-producing endowment created by Congress in the Utah Enabling Act for the support of the state's K-12 public education system."[55] In the past 20 years, revenue from SITLA's lands generated over $1.7 billion in revenue for Utah's public schoolchildren.[56] According to Dave Ure, SITLA's Director, "Approximately 64 percent of our state is federal public land, while only six percent is trust land."[57] This means that any designation that stunts the growth in revenue from SITLA lands will have far-reaching consequences for public schoolchildren across the state. Resolving this situation and freeing up the SITLA land will require "identification of possible exchange lands, negotiations, appraisals, adherence to the National Environmental Policy Act (NEPA), and approval by the Utah Legislature and likely the U.S. Congress."[58] Previous exchanges took up to 9 years to complete.[59]

While proponents of the National Monument claim it will bring new economic opportunities to San Juan County, this appears unlikely. San Juan County already home to a National Park, a National Forest, a National Recreation Area, and three National Monuments.[60] Despite this seemingly expansive tourism economy, San Juan County is still the poorest county

[53] Committee on Natural Resources, Markup on 09/22/16, Roll Call Vote #1
[54] SITLA, "109K ACRES OF SCHOOL TRUST LAND CAPTURED IN BEARS EARS NATIONAL MONUMENT", 01/03/17, https://trustlands utah gov/109k-acres-of-school-trust-land-captured-in-bears-ears-national-monument/
[55] Dave Ure, Testimony before the House Committee on Natural Resources Subcommittee on Federal Lands on H R 5780, Utah Public Lands Initative Act, 09/14/16, pg 2
[56] Ibid "109K ACRES OF SCHOOL TRUST LAND CAPTURED IN BEARS EARS NATIONAL MONUMENT"
[57] Utah State Board of Educators, "Utah Leaders Ask President to Address 109,106 Acres of Trust Land Inholdings Captured Within New Monument", 12/28/16, https://schoolboard utah gov/tag/utah-school-and-institutional-lands-administration
[58] Ibid "109k Acres of School Trust Land Captured in Bears Ears National Monument"
[59] Ibid
[60] Matthew Anderson, "10 questions about Bears Ears for the outdoor retail industry", Sutherland Institute, http://sutherlandinstitute org/10-questions-about-the-bears-ears-for-the-outdoor-retail-industry/

in Utah, with 28.5% of its population living in poverty--more than double the state average.[61] In order to truly prosper, San Juan County needs to diversify its economy and attract full-time, high-paying jobs. Furthermore, since the designation, groups have already attempted to limit outdoor recreational access, which would bring additional revenue to the area. For example, a coalition of environmental groups initiated litigation blocking previously approved recreation access to the National Monument. In March 2017, a judge halted the creation of a 6.4 mile ATV trail the County worked on for over a decade.[62] The State of Utah, San Juan County, and the BLM are fighting the decision.

After the President's signing of the Executive Order on the Antiquities Act, DOI Secretary Zinke announced his intention to offer a recommendation on maintaining, modifying, or rescinding Bears Ears National Monument to the White House within 45 days.[63] Secretary Zinke said, "For years, the people of Utah and other rural communities have voiced concern and opposition to some monument designations. But too often in recent history, exiting presidents make designations despite those concerns. And the acreage is increasing." In a poll released the day before the executive order, a majority of Utahans supported a reduction or rescission in the size of Bears Ears, with a plurality of Utahans responding they "definitely" supported the action.[64]

Grand Staircase-Escalante National Monument

On September 18, 1996, during the waning months of his first term, President Clinton designated 1.7 million acres in Utah as the Grand Staircase-Escalante National Monument during a ceremony on the South Rim of the Grand Canyon. After generally consolidating national monuments under the National Park Service, Grand Staircase-Escalante represented the first BLM-managed national monument.[65]

The designation immediately kicked off a massive controversy in the State of Utah. The Governor, members of the Congressional delegation, and residents of Utah all expressed outrage at the lack of prior consultation or warning of the designation. Utahans previously worked on proposals to protect the land and were stunned when the designation happened and uprooted those plans. For Utahans, their unhappiness was not a result of not wanting to preserve the environment; "on the contrary, they [understood] that their state is worthy of preservation and [took] measures to assure that proper regions of their state have necessary protection. However, President Clinton's unilateral designation of Grand Staircase as a national monument severely conflicted with many of the uses that national, state, and local governments had planned for the land."[66] The Governor at the time, Mike Leavitt, testified before Congress that:

> "At two o'clock eastern time, the President stood at the north rim of the Grand Canyon to announce the creation of the Grand Staircase-Escalante National Monument and its 1.7 million acre expanse of Utah's Garfield and Kane Counties. As has been mentioned, no

[61] United States Census Bureau, 2015, https://www census gov/quickfacts/table/IPE120215/49037,49,49017,49025
[62] Amy Joi O'Donoghue, "Bears Ears designation upends proposed ATV trail in San Juan County" Deseret News, 03/16/17, http://www deseretnews com/article/865675786/Bears-Ears-designation-upends-proposed-ATV-trail-in-San-Juan-County html
[63] Thomas Burr and Brian Maffly, "Zinke will recommend Bears Ears fate within 45 days", The Salt Lake Tribune, 04/25/17, http://www sltrib com/news/5217193-155/wh-official-trump-to-order-review
[64] Bryan Schott, "Poll: Utahns want Trump to change or undo Bears Ears" Utah Policy, 04/25/17, http://utahpolicy com/index php/features/today-at-utah-policy/13020-poll-utahns-want-trump-to-change-or-undo-bears-ears
[65] NPS, Archeology Program, https://www nps gov/archeology/sites/antiquities/MonumentsList htm
[66] Eric C Rusnak, "The Straw that Broke the Camel's Back? Grand Staircase-Escalante National Monument Antiquates the Antiquities Act", Ohio State Law Journal 64:669, p 703

> Member of Congress, no local official, or had the Governor ever been consulted, nor had the public. As the Governor, I had not seen a map. I had not read the proclamation, or, for that matter, was I even invited. This isn't about courtesy, it is about process. It is about public trust. A major land decision, perhaps the biggest land decision that has been made or will be made in the next two decades, had occurred. Obviously, this is not the way public land decisions should or were ever intended to be made."[67]

According to Senator Orrin Hatch, the Administration assured him "in a meeting just a week prior to the President's announcement that the leaks concerning a designation of a monument in Utah were not true, and that no such action was contemplated. If it were, we were told, the Utah Delegation would be fully apprised and consulted."[68] Prior to the designation, the Clinton Administration held no town halls, public meetings, or public comment sessions in Utah and did not receive any input from local stakeholders or land managers in the area. Perhaps most egregiously, the Administration only kept the designation a secret from members of *Utah's* Congressional delegation. CEQ reached out to former Senator Harry Reid (D-NV), Governor Roy Romer (D-CO), Rep. Bill Richardson (D-NM), and Governor Bob Miller (D-NV) to get feedback on the proposal and even questioned if "there [were] Democratic candidates [they] should alert" about the designation.[69] Over a week before the designation, CEQ staff notified reporters at the Washington Post about the designation while simultaneously assuring the Utah delegation that no decision had been made yet.[70]

The Clinton administration clearly established the National Monument for political, not archeological, purposes. According to correspondence obtained by the Committee, former Clinton CEQ Chair, Katie McGinty, expressed hesitation about the designation and said, "I'm [sic] increasingly of the view that we should just drop these utah [sic] ideas. we [sic] do not really know how the enviros will react and I do think there is a danger of ''abuse'' of the withdraw/antiquities authorities especially because these lands are not really endangered."[71] She also wrote to the President that the action "would help overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration."[72]

The designation of the Grand Staircase Escalante National Monument resulted in devastating consequences for the surrounding communities. In a study conducted by Utah State University, researchers found that the reduction in grazing alone resulted in a loss of 81 jobs and $9,101,801 in economic input yearly in Garfield and Kane Counties.[73] However, the largest losses in economic output and jobs came from the reduced potential for energy and minerals development. According to a study from the Utah Geological Survey, the value of potential energy mineral resources in Grand Staircase-Escalante totals between **$223 billion and $330 billion,** including $221-321 billion of coal, $2 billion-$17.5 billion of coal-bed gas, $20 million-

[67] Committee on Resources Subcommittee on National Parks and Public Lands, "Establishing the Grand Staircase-Escalante National Monument", Serial No 105-20, pg 23-24
[68] Ibid Pg 12
[69] Committee on Resources, "Behind Closed Doors: The Abuse of Trust and Discretion in the Establishment of the Grand Staircase-Escalante National Monument", Report 105-s1, 11/07/97, pg 5
[70] Ibid Pg 6
[71] Committee on Resources, "Monumental Abuse: The Clinton Administration's Campaign of Misinformation in the Establishment of the Grand Staircase-Escalante National Monument", House Report 105-824
[72] Ibid "Behind Closed Doors: The Abuse of Trust and Discretion in the Establishment of the Grand Staircase-Escalante National Monument", pg 19
[73] American Stewards – analyzing data from Utah State University Extension and Eonomics Associations of Utah, Inc , "Economic and Cultural Report on Livestock Grazing in The Grand Staircase Escalante National Monument to The Kane County Board of Commissioners " https://www americanstewards us/wp-content/uploads/2015/07/Economic-and-Cultural-Report-on-Grazing-on-The-Grand-Staircase pdf

$1.1 billion of petroleum, and at least $4.5 million of other minerals.[74] This amounts to an estimated 62 billion tons of coal, 2.6-10.5 trillion cubic feet of methane, and 270 million barrels of oil.[75] At the time of the designation, companies including Andalex, PacifiCorp, and Conoco Oil, had 89 oil and gas leases covering 137,700 acres and 22 coal leases covering 59,100 acres.[76] The National Monument directly prevented the creation of a planned coal mine, costing the area 1,100 jobs.[77] The lost royalties impacted every level of government, with Conoco estimating that the development of a 150 million barrel oil field would have resulted in $864 million in royalties, including $313 million for the state, $33 million for SITLA, and $94 million for the counties.[78]

One of the most controversial aspects of the designation involved the inclusion of roughly 176,000 acres of SITLA land in the exterior boundaries of the National Monument. The White House was not aware of the existence of SITLA land "or their importance" and needed an explanation of their benefits to schoolchildren the day before the National Monument's designation.[79] According to the Utah Geological Survey, "the value of the recoverable coal on School Trust lands [was] at least $17 billion but could [have been] $25 billion or more" with potential royalties worth $1.4-$2 billion.[80] Years later, in order to compensate the State of Utah, SITLA received 145,000 acres of land outside of the National Monument and a $50 million cash equalization payment.[81]

Over 20 years after the designation, the National Monument still creates serious problems for the local communities. On June 22, 2015, Garfield County Commissioners declared a state of emergency due to declining enrollment in the County's schools.[82] Since the designation, enrollment in the Garfield School District dropped by 300 students and the student body in Escalante High School declined by two-thirds.[83] In the resolution declaring the state of emergency, Garfield County cited the National Monument and federal land management policies as the reason for "virtually eliminat[ing] historic social and economic stability in Garfield County's communities and families."[84] Management of the National Monument also continues to present challenges to BLM and local communities. A 2014 Manager's Report highlighted the management difficulties at the National Monument by stating, "Increased backcountry visitor impacts include increased graffiti, human waste issues, water quality concerns and parking congestion."[85] According to BLM, over a 10 year period, Grand Staircase-Escalante experienced 78 separate incidents of vandalism, theft, or damage and destruction of archeological and natural resources.[86] In 2015 alone, rangers removed more than 1,234 square feet of graffiti.[87] In comparison, before its designation as a National Monument, Bears Ears only experienced 1

[74] M Lee Allison et al , "A Preliminary Assessment of Energy and Mineral Resources within the Grand Staircase - Escalante National Monument", Utah Geological Survey, January 1997, http://files geology utah gov/online/c/c-93/index htm
[75] Ibid
[76] Ibid "The Straw that Broke the Camel's Back? Grand Staircase-Escalante National Monument Antiquates the Antiquities Act", pg 704-5 Janice Fried, "The Grand Staircase-Escalante National Monument: A Case Study in Western Land Management", 17 Va Envtl L J 477 1997-1998, pg 489
[77] AP, "Strong emotions reignited on 20th anniversary of Utah monument", CBS News, 09/18/16, http://www cbsnews com/news/strong-emotions-20th-anniversary-utah-grand-staircase-escalante-national-monument/
[78] Karl Cates, "Plans for Escalante Wells Attacked", Deseret News, 02/12/97, http://www deseretnews com/article/542880/PLANS-FOR-ESCALANTE-WELLS-ATTACKED html
[79] Ibid "Establishing the Grand Staircase-Escalante National Monument", p 23
[80] Ibid "A Preliminary Assessment of Energy and Mineral Resources within the Grand Staircase - Escalante National Monument"
[81] Brian Maffly, "Utah not ready to sign off on a Bears Ears lands swap", The Salt Lake Tribune, 01/20/17, http://www sltrib com/home/4835113-155/utah-not-ready-to-sign-off
[82] McKeller, Katie, "Garfield County issues unique state of emergency", Deseret News, 06/22/15, http://www deseretnews com/article/865631229/Garfield-County-issues-unique-state-of-emergency html
[83] McKeller, Katie, "Does Garfield County have a future? Student numbers tell troubled story", Deseret News, 06/09/15, http://www deseretnews com/article/865630428/Does-Garfield-County-have-a-future-Student-numbers-tell-troubled-story html?pg=all
[84] Garfield County Board of Commissioners, Resolution 2015-3, 06/22/15, http://garfield utah gov/wp-content/uploads/2015/07/commission-meeting-6-22-2015 pdf
[85] BLM, Grand Staircase-Escalante Manager's Annual Report, 2014, https://www blm gov/nlcs_web/sites/style/medialib/blm/ut/grand_staircase-escalante/nlcs_mgrs_report Par 61629 File dat/GSENM_Manager_Report_FY2014_draft1-25-2015 pdf pg 46
[86] Information obtained by the Congressional Research Service and provided by the Bureau of Land Management
[87] Fox 13 News, "Rangers investigate vandalism at Grand Staircase-Escalante National Monument", 04/04/16, http://fox13now com/2016/04/04/rangers-investigate-vandalism-at-grand-staircase-escalante-national-monument/

incident of vandalism over 5 years.[88] On February 17, 2017, Governor Herbert signed H.C.R. 12, a bipartisan state law urging a federal reduction in the size of Grand Staircase-Escalante.[89]

Cascade-Siskiyou National Monument

On June 9, 2000, President Clinton designated Cascade-Siskiyou National Monument in southwestern Oregon. President Obama expanded the National Monument by 47,624 acres, including 5,275 acres in California, as one of his last uses of the Antiquities Act on January 12, 2017. A major concern with the designation involved the massive amount of private land included in the boundaries of the National Monument. President Obama's expansion added 32,977 acres of private land to the National Monument, in addition to the approximately 19,000 of private land already within the National Monument's original footprint.[90]

Currently, Murphy Company, a forest products company, and the Association of O&C Counties are suing over the designation, arguing the expansion illegally overlaps with Oregon and California Railroad lands (O&C Lands). According to a 1940 opinion from DOI Solicitor General Nathan R. Margold, the President does not possess the authority to designate a National Monument on O& C Lands, stating:

> "There can be no doubt that the administration of the lands for national monument purposes would be inconsistent with the utilization of the O. and C. lands as directed by Congress. It is well settled that where Congress has set aside lands for a specific purpose the President is without authority to reserve lands for another purpose inconsistent with that specified by Congress."[91]

Roughly 40,000 acres of the 48,000 acre expansion overlap O&C Lands that are meant for the sustained yield of timber production.[92] Congress passed the O&C Lands Act in 1937 for "permanent forest production" and stated "the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities."[93] 50 percent of the revenues from O&C Lands go directly to the Counties, which pay for "essential public services of all kinds, from public safety such as sheriff patrols and jails to public health programs and libraries."[94] When these lands are taken out of multiple-use, the Counties face extreme budget shortfalls that negatively impact residents in the surrounding rural communities.

The restrictions from the National Monument expansion will not only harm the local forest products industry, but also make science-based management of the forest a near impossibility. Active management is critical to resilient forest health and preventing catastrophic wildfires in the face of drought, insects, and disease. The National Monument designation will

[88] Ibid Rebecca Benally, Subcommittee on Federal Lands Hearing on H R 5780
[89] Benajamin Wood, "Utah Senate approves call to shrink Grand Staircase-Escalante National Monument", The Salt Lake Tribune, 02/08/17, http://www sltrib com/home/4919019-155/utah-senate-approves-call-to-shrink
[90] Mark Freeman, "Obama expands Cascade-Siskiyou National Monument", Mail Tribune, 01/13/17, http://www mailtribune com/news/20170112/obama-expands-cascade-siskiyou-national-monument
[91] Department of the Interior Solicitor General Nathan R Margold, M 30506, 03/09/40, pgs 3-4
[92] Karina Brown, "Oregon Counties Fight Expansion of National Monument", CourtHouse News Service, 02/16/17, https://www courthousenews com/oregon-counties-fight-expansion-of-national-monument/
[93] 43 U S C §1181a
[94] Association of O&C Counties, Testimony for the House Committee on Natural Resources Subcommittee on Federal Lands Regarding the Antiquities Act, pg 2

not only prevent commercial timber harvesting, but also essential forest management activities such as thinning.[95] In a scientific study conducted in 2014, researchers categorized most of the lands in the National Monument footprint as having moderate (25-45%) to high (45-65%) active restoration needs.[96] Potentially exacerbating these conditions are the restrictions on transportation within the National Monument and reduced funds to maintain and repair infrastructure, which could severely limit access for firefighters in the event of a catastrophic wildfire.[97] According to testimony provided by the American Forest Resource Council, "Because these are dynamic ecosystems – and the boundaries of the monument are not – catastrophic fire is not a matter of "if." It is a matter of when."[98]

Grazing presents another challenge with the National Monument's expansion. President Clinton's original designation of Cascade-Siskiyou specifically targeted grazing and ordered BLM to study grazing's impact on biological diversity in the National Monument.[99] After the original designation, the permitted animal unit months (AUMs) fell from 2,714 to 101, covering 47,281 acres.[100] Many ranchers reluctantly agreed to receive buyouts because the regulations impacting their grazing operations became too burdensome and were threatening their profitability.[101] In testimony provided to the Committee, Jackson County, Oregon, reported that one rancher loses nearly $170,000 per year because restrictions on transportation in the National Monument prevent him from reaching his 360 acres of lands leased for grazing.[102] After the expansion of the National Monument, many ranchers faced renewed concerns that the designation would prevent ranchers from "properly maintain[ing] fences, water structures and other range improvements, diminishing the land's suitability for grazing."[103]

Several groups and individuals in Oregon and California opposed the expansion including Chairmen Greg Walden (R-OR-02), Tom McClintock (R-CA-04), and Doug LaMalfa (R-CA-01), Oregon State Senators Herman Baertschiger Jr. and Doug Whitsett, Oregon State Representatives Mike McLane, Carl Wilson, Gail Whitsett, Sal Esquivel, and Duane Stark, Jackson County, Oregon, Siskiyou County, California, Klamath County, Oregon, the Association of O&C Counties, local forestry companies, including the Murphy Company, Medford/Jackson Chamber of Commerce, the Oregon Farm Bureau, the Oregon Cattlemen's Association, Oregon Snowmobilers, Jefferson State 4x4, and the Jackson County Chamber of Commerce.[104] The designation also lacked adequate public input, as the BLM Medford Office never provided "accurate maps and data to enable the public to learn more about how the expansion" would affect the local community.[105]

[95] Travis Joseph, Testimony on "Consequences of Executive Branch Overreach of the Antiquities Act", AFRC, pg 4
[96] Ryan Haugo et al "A new approach to evaluate forest structure restoration needs across Oregon and Washington, USA", Forest Ecology and Management 335 (2015) 37–50
[97] Jackson County, Oregon, Letter RE: House Natural Resources Committee, Subcommittee on Federal Lands Oversight Hearing – Examining the Consequences of Executive Branch Overreach of the Antiquities Act, pg 2
[98] Ibid Testimony on "Consequences of Executive Branch Overreach of the Antiquities Act", AFRC, pg 4
[99] President Bill Clinton, Proclamation 7318, 06/09/00, https://www blm gov/or/resources/recreation/csnm/files/Proclamation_7318 pdf
[100] Phil Taylor, "Grazing in Clinton-era monuments – it's complicated", E&E News, 04/28/16, https://www eenews net/stories/1060035783
[101] Ibid "Grazing in Clinton-era monuments – it's complicated "
[102] Ibid , Letter RE: House Natural Resources Committee, Subcommittee on Federal Lands Oversight Hearing – Examining the Consequences of Executive Branch Overreach of the Antiquities Act, pg 2
[103] Mateusz Perkowski, "Ranchers dread effects of Cascade-Siskiyou monument expansion, Capital Press, 01/113/17, http://www capitalpress com/Oregon/20170112/obama-expands-cascade-siskiyou-national-monument
[104] Letters provide to the Committee on Natural Resources
[105] Members representing Southern Oregon in the Oregon State Legislature, Letter RE: Cascade Siskiyou, 11/1/16

From: Schafle, Matt
To: "Micah Chambers"
Subject: RE: Secretary Zinke Signs Orders Implementing America-First Offshore Energy Strategy
Date: Monday, May 01, 2017 5:21:50 PM

Thank you sir.

From: Micah Chambers [mailto:micah_chambers@ios.doi.gov]
Sent: Monday, May 01, 2017 5:20 PM
To: Michelle Lane; Knox, Jason; Schafle, Matt; Colin Hayes; brian_hughes@energy.senate.gov
Subject: Fwd: Secretary Zinke Signs Orders Implementing America-First Offshore Energy Strategy

Sent from my iPhone

Begin forwarded message:

From: U.S. Department of the Interior <interior_news@updates.interior.gov>
Date: May 1, 2017 at 4:58:53 PM EDT
To: <micah_chambers@ios.doi.gov>
Subject: Secretary Zinke Signs Orders Implementing America-First Offshore Energy Strategy
Reply-To: <interior_news@updates.interior.gov>

news release

Date: May 1, 2017
Contacts: Interior_Press@ios.doi.gov

Secretary Zinke Signs Orders Implementing America-First Offshore Energy Strategy

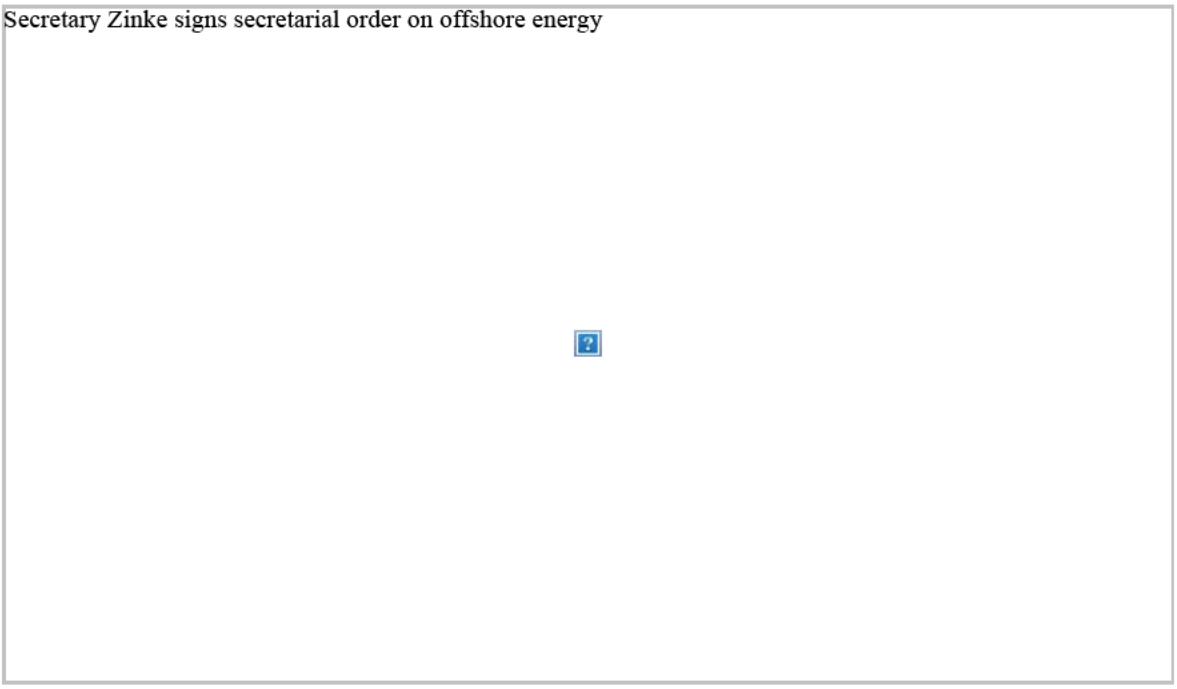
Directs Development of New Five-Year Outer Continental Shelf Oil and Gas Leasing Program to Spur Safe and Responsible Energy Development Offshore

HOUSTON — On the stage of the Offshore Technology Conference, flanked by men and women who work on offshore oil and gas platforms, Secretary of the Department of the Interior Ryan Zinke today signed two secretarial orders aimed at unleashing America's offshore energy potential and growing the U.S. economy. The first order implements President Trump's Executive Order signed Friday and directs the Bureau of Ocean Energy Management (BOEM) to develop a new five-year plan for oil and gas exploration in offshore waters and reconsider a number of regulations governing those activities. The second order establishes a new position – Counselor to the Secretary for Energy Policy – to coordinate the Interior Department's energy portfolio that spans nine of the Department's ten bureaus.

"Following through on the leadership established by President Trump, today's orders will help cement our Nation's position as a global energy leader and foster energy independence and security for the benefit of the American people, while ensuring that this development is safe and environmentally responsible," Secretary Zinke told industry representatives at the annual Offshore Technology Conference in Houston. "We will conduct a thorough review of the Outer Continental Shelf (OCS) for oil and gas exploration and listen to state and local stakeholders. We also will conduct a thorough review of regulations that were created with good intentions but have had harmful impacts on America's energy

security."

Secretary Zinke signs secretarial order on offshore energy



Secretarial Order 3550 directs BOEM to immediately develop a new "Five Year Outer Continental Shelf Leasing Program" with full consideration given to leasing the OCS offshore Alaska, mid- and south-Atlantic, and the Gulf of Mexico. It also directs BOEM to work with the Department of Commerce's National Marine Fisheries Service to expedite authorization requests for seismic surveys, particularly for new or resubmitted permitting applications in the Atlantic to understand the extent of America's energy potential. The Secretary's order also directs prompt completion of the Notice to Lessees No. 2016-N01 dated September 12, 2016, and ceases all activities to promulgate the proposed "Offshore Air Quality Control, Reporting, and Compliance Rule." The order also directs BOEM and BSEE to review a host of other rules and report progress within 21 days.

"We're going to look at everything and make sure the policies are appropriate for each local community, rather than force a Washington-driven one-size-fits-all plan," said Zinke "There's no predetermined map of development, but if there are areas that are acceptable, that have resources, and states and local communities support offshore development, we could include those area in the next 5-Year Program."

As a featured speaker at the Offshore Technology Conference in Houston, TX, on Offshore Energy Policies: Harnessing the Full Potential of America's Offshore, Zinke highlighted that OCS production currently accounts for about 18 percent of domestic crude oil and 4 percent of domestic natural gas supply. In Fiscal Year 2016, federal leasing revenues for the OCS were about $2.8 billion. By contrast, in 2008 federal leasing revenues for the OCS were nearly $18 billion dollars. "That's a drop of more than $15 billion that would otherwise go to the Treasury or toward funding important conservation programs like the Land and Water Conservation Fund and the Historic Preservation Fund," Zinke noted.

"Interior's Bureau of Safety and Environmental Enforcement (BSEE) and Bureau of Ocean Energy Management (BOEM) will play vital roles in this expansive energy policy," Zinke noted while discussing the importance of strengthening frontline staffs to help them work closer with industry and communities. "We are committed to fuller cooperation with the offshore industry and coastal communities to expand responsible energy development while holding industry accountable to strict safety and environmental protections."

BSEE engineers work with offshore operators to carefully review and introduce new technology and ensure that operations remain safe and are conducted responsibly. BSEE inspectors conduct more than 19,000 inspections a year to ensure the safe and environmentally responsible operation of nearly 2,400 offshore oil and gas drilling and production facilities and 27,000 miles of pipeline.

Of the 1.7 billion acres on the OCS, only 16.9 million acres are leased for oil and gas development with 4.4 million of those acres (885 blocks) producing oil and gas. About 97 percent of all OCS leases are currently in the Gulf of Mexico. BOEM estimates the U.S. OCS has about 90 billion barrels of undiscovered technically recoverable oil and 327 trillion cubic feet of undiscovered, technically recoverable natural gas. The Gulf of Mexico, covering 160 million acres of the OCS, has an estimated 48.46 billion barrels of technically recoverable oil and 141.76 trillion cubic feet of technically recoverable natural gas.

#

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This email was sent to micah_chambers@ios.doi.gov by: U.S. Department of the Interior 1849 C Street, N.W. Washington DC 20240 202-208-3100

From: Orth, Patrick (Portman)
To: Chambers, Micah
Subject: Letter to Sec. Zinke from Senator Portman on Methane & Waste Rule CRA
Date: Monday, May 01, 2017 6:23:38 PM
Attachments: 170501 - Portman letter to Zinke.pdf

Micah – please see attached for a letter from Sen. Portman to Sec. Zinke on the Methane & Waste CRA. Please let me know if you have any questions.

Thanks,

Pat

Patrick Orth
Legislative Assistant
Office of Senator Rob Portman
Phone: 202-224-3353
Email: Patrick_orth@portman.senate.gov

ROB PORTMAN
OHIO

COMMITTEES:
ENERGY AND
NATURAL RESOURCES
FINANCE
FOREIGN RELATIONS
HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

United States Senate

WASHINGTON, DC 20510

May 1, 2017

The Honorable Ryan Zinke
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Zinke,

Over the last decade, advances in technology and engineering have created unprecedented opportunity for the production of oil and natural gas from underground shale formations. This increased production has made the United States more energy secure, lowered gas prices, and created jobs in Ohio and across the country.

Under current law, the Bureau of Land Management (BLM) is responsible for preventing methane waste through venting and flaring as a result of oil and natural gas production on federal land. I believe BLM should be taking actions to reduce and minimize methane waste—but doing that in a way that does not unnecessarily shut down existing production, especially by smaller producers.

Protecting the environment and taxpayer resources while also protecting the jobs and livelihoods of middle-class families should be the balance we seek. I have authored bills that have been signed into law that support our National Park Service, improve water quality, and promote energy efficiency. Each of those bills found common ground between these two objectives. I believe that we can and should try to find that kind of common ground on this issue, too.

A Congressional Review Act (CRA) resolution currently sits before the United States Senate that would repeal the previous Administration's Methane and Waste Prevention Rule. I support the goal of reducing methane waste but have concerns about the rule's provisions, in part because I think the rule could make it harder to create jobs through energy production on federal lands. I do believe, however, that the Department has the authority and responsibility to act on this issue, and I am requesting a commitment from you that the Department would continue to take significant steps to reduce methane waste without hurting job creation. And so my question to you is a simple one: if the United States Congress rescinds this rule, what concrete actions will you then take to prevent methane waste?

I look forward to working with you to promote better stewardship over our natural resources.

Sincerely,

Rob Portman
U.S. Senator for Ohio

448 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510
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312 WALNUT STREET
SUITE 3425
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420 MADISON AVENUE
SUITE 1210
TOLEDO, OH 43604
PHONE: (419) 259-3895

www.portman.senate.gov

From: Wiser, Devin
To: Chambers, Micah
Subject: Re: ICYMI: An 'America First' energy policy holds 3 powerful benefits
Date: Tuesday, May 02, 2017 10:54:12 AM

Good stuff. Thanks, Micah!

From: "Chambers, Micah" <micah_chambers@ios.doi.gov>
Date: Tuesday, May 2, 2017 at 10:08 AM
To: "Schafle, Matt" <Matt.Schafle@mail.house.gov>, "Lane, Michelle (Energy)" <Michelle_Lane@energy.senate.gov>, "Wiser, Devin" <Devin.Wiser@mail.house.gov>
Subject: Fwd: ICYMI: An 'America First' energy policy holds 3 powerful benefits

FYI

---------- Forwarded message ----------
From: **Swift, Heather** <heather_swift@ios.doi.gov>
Date: Tue, May 2, 2017 at 9:56 AM
Subject: ICYMI: An 'America First' energy policy holds 3 powerful benefits
To:

ICYMI: Secretary Zinke's OpEd in the Washington Times ENERGY 2017 Issue

Washington Times: An 'America First' energy policy holds 3 powerful benefits
By Secretary Ryan Zinke

The Department of the Interior is the steward and manager of America's natural resources, which in addition to national parks and grazing lands also includes oil, gas, clean coal, hydro, solar and other renewable energy sources.

Being a good steward of our land and resources does not mean locking it up. As America's conservationist president, Theodore Roosevelt, wrote, "Conservation means development as much as it does protection."

Like Theodore Roosevelt, President Trump believes that responsible development of natural resources, conservation stewardship, and outdoor recreation on public lands benefit all Americans. Balancing those priorities is the job of the Interior.

The department oversees 1.7 billion offshore acres of Outer Continental Shelf and 700 million onshore acres of mineral estate. These lands produce 21 percent of the nation's energy, including 45 percent of coal, 43 percent of solar capacity, 23 percent of oil, 15 percent of natural gas, 15 percent of hydropower, and 57 percent of the nation's installed geothermal capacity. As a result, Interior generates more revenue for the federal government than any agency other than the IRS.

While not all public lands are appropriate for energy development, many provide the perfect opportunity to balance energy, conservation and outdoor recreation priorities. Thanks to new innovations in science and technology, developing our resources and conserving the environment are not mutually exclusive. Interior leads the way in showing that responsible energy development and conservation stewardship are possible.

There is no debate that the federal government should regulate energy production within its borders and that the taxpayer should get fair value for the resources extracted. But when regulation crushes American innovation and becomes a tool of political advocacy rather than public interest, we must change course.

Between 2008 and 2016, annual energy and mineral revenue from federal and tribal lands decreased by about $17 billion. Offshore energy revenues — where funding for much land conservation and historic preservation originates — fell by 84 percent over the same period. This trend stops now.

In March, President Trump issued an executive order launching America towards energy independence and economic growth. I followed the president's leadership by ending the moratorium on federal coal leases, eliminating job-crushing energy regulations, and re-establishing a Royalty Policy Committee that gives local, tribal, federal and non-federal stakeholders a seat at the table to discuss energy development on public lands.

These actions have restored balanced access to federal lands for employers to add thousands of jobs and generate billions in revenue for the American taxpayer. And, coupled with President Trump's executive orders to combat bad regulations and streamline government bureaucracy, these actions are already providing relief to hardworking families and jumpstarting the economy.

Developing American energy and achieving American energy independence have three major benefits to the environment, economy and national security:

First, it's better for the environment that the U.S. produces energy. We can responsibly develop our energy resources and return the land to equal or better quality than it was before extraction. I've spent a lot of time as a Navy SEAL in the Middle East, and I can tell you with 100 percent certainty it is better to develop our energy here under reasonable regulations rather than have it produced overseas under little or no regulations.

Second, energy production is a boon to the economy, supporting more than 9.8 million jobs and supplying affordable power for homes, hospitals, manufacturing and transportation. But for too many local communities, energy on public lands has been more of a missed opportunity and has failed to include local consultation and partnership.

And lastly, achieving American energy independence will strengthen our national security by reducing our reliance on foreign oil and allowing us to assist our allies with their energy needs. As a military commander, I saw how the power of the American economy and American energy defeated our adversaries around the world. Under President Trump's leadership, we will once again develop our resources and use them as a diplomatic force to keep prices low and Americans safe.

Together with local, state and tribal partners, we will power the American economy with

American energy. We will create the business conditions to put people back to work on the rigs in the Gulf, in the oil fields of the West, and in the coal mines like those on great Crow Nation's lands. In the Trump administration, all-of-the-above means all-of-the-above, and economic opportunity will once again be available to those who have been left behind and forgotten by the policies of the past.

Former Montana Rep. Ryan K. Zinke was sworn in as 52nd Secretary of the U.S. Department of the Interior on March 1, 2017. A fifth-generation Montanan, Mr. Zinke is the first U.S. Navy SEAL officer to serve as a cabinet secretary.

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Memmott, Justin (EPW)
To: Chambers, Micah (micah_chambers@ios.doi.gov)
Subject: fyi
Date: Tuesday, May 02, 2017 6:12:48 PM

Senate Will Roll Back Methane Rule Next Week, Chairman Vows

Posted May 02, 2017, 02:45 P.M. ET
By Dean Scott
Bloomberg BNA

The chairman of the Senate Environment and Public Works Committee is confident he has the votes to roll back Interior Department methane limits and will bring the measure to the floor next week.

"It's duplicative, unnecessary, expensive, and we'll pass [a Congressional Review Act resolution] next week," Sen. John Barrasso (R-Wyo.) told Bloomberg BNA. But it's unclear whether he has swayed enough undecided Republicans—including Sen. Cory Gardner (R-Colo.) who said today his vote is still in play.

Barrasso is leading the Senate effort to repeal the regulations covering methane venting and flaring from oil and gas development on federal lands. The Senate is using expedited procedures under the Congressional Review Act, which allows for a simple up-or-down vote on resolutions to nullify regulations with no option for a filibuster.

If Barrasso's measure (S.J. Res. 11) passes, it would go to President Donald Trump for his signature because the House already passed a similar resolution in February.

Supporters of the rollback are racing against the clock to nullify the methane rule within the 60-day window provided under the CRA for fast-tracking a Senate floor vote. Opinions differ on the precise deadline for a vote, with several senators eyeing the week of May 8 as the last chance to use the CRA on Obama-era regulations.

Sen. Patty Murray (D-Wash.) told Bloomberg BNA that, as of Monday, Congress had 11 more days in session before the clock expires. That raises the possibility that there could be an opportunity to consider CRA resolutions as late as the week of May 15.

Republican No Votes Make For Close Call

The Senate vote is close because Republicans only control the Senate 52-48 and at least two of them—Sens. Lindsey Graham (R-S.C.) and Susan Collins (R-Maine)—are opposed to the measure. Several other members, including Gardner and Sen. Rob Portman (R-Ohio), are still undecided.

Gardner said his vote remains in play as he hears from environmental supporters of the methane limits and industry supporters of rolling back the regulations. But he's reluctant to do anything that might jeopardize Colorado's own methane limits.

"I want to make sure I'm taking into account opinions on both sides both the support, the pro, and the cons of this so I'll continue to hear those conversations," he told Bloomberg BNA today. "You know, Colorado has a really strong rule in place and I think that's an important factor in this discussion as well."

To get the resolution passed, Barrasso and other Republicans have one option in the event of a tie: they could rely on Vice President Mike Pence to cast the deciding vote.

Sen. Brian Schatz (D-Hawaii) told Bloomberg BNA that Democrats aren't ready to concede the battle yet.

"This is the next big environmental fight, and it's not at all clear to me that they have the votes" to roll back the methane rule, Schatz said. "If they had the votes, they would schedule the vote," he said.

Justin J. Memmott
Majority Senior Counsel
Senate Environment and Public Works Committee
(d) 202-224-6389

From:	Orth, Patrick (Portman)
To:	Chambers, Micah
Subject:	RE: signed letter - Sec. Zinke to Sen. Portman
Date:	Thursday, May 04, 2017 3:35:21 PM

Thanks!

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Thursday, May 04, 2017 3:05 PM
To: Orth, Patrick (Portman) <patrick_orth@portman.senate.gov>
Subject: Fwd: signed letter - Sec. Zinke to Sen. Portman

It's headed your way.

Micah
---------- Forwarded message ----------
From: **Wolfe, Shane** <shane_wolfe@ios.doi.gov>
Date: Thu, May 4, 2017 at 2:58 PM
Subject: signed letter - Sec. Zinke to Sen. Portman
To: Micah Chambers <micah_chambers@ios.doi.gov>, "Kaster, Amanda" <amanda_kaster@ios.doi.gov>
Cc: Robert Howarth <robert_howarth@ios.doi.gov>

Good afternoon. Attached is the pdf of the signed letter from Sec. Zinke to Sen. Portman regarding the BLM Methane and Waste Prevention Rule.

The hard copy of the signed letter is in ExecSec hallway. Let us know if you would like that brought down to you.

Best,
Shane

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Tanner, John (Hatch)
To: Magallanes, Downey
Subject: FW: Economic and Hunting Interest In Utah Monuments
Date: Saturday, May 06, 2017 11:00:05 AM
Attachments: ZINKE.pages

Downey,

See below for the information that Don Peay, founder of Sportsmen for Fish and Wildlife, will bring up in his meeting with Secretary Zinke tomorrow when he meets with him privately at the dinner.

The attachments include: the economic impacts of hunting to the State of Utah and the areas in and around both national monuments; and photos of big game taken in the area.

Don will also mention his ties to Donald Trump Jr. He developed a relationship with Jr. during the campaign. They have been on several hunts together in Utah.

See you tomorrow.

###

Soon, interior Secretary Zinke will be touring Utah Monuments - Bears Ears and Grand Staircase for a review per Executive Order from President Trump

These 3.2 Million acres, thanks to modern conservation funding are now home to thriving herds of Elk, Mule Deer, Desert Bighorn Sheep, antelope, cougar, black Bear and wild turkey

These areas are lands of the 235 plus inch mule deer, 400 inch elk, 170 inch Rams, and most importantly places where thousands of families have enjoyed world class hunting adventures on public lands. It is the place where many of our children have bagged their first turkey!

51,007 hunters apply for the permits in these areas - highly coveted opportunities! It generates at a Minimum $29 Million in direct conservation funding, and economic activity. See attached.

The above data is supplied by Don Peay, Founder of Sportsmen for Fish And Wildlife, that has an MBA. It is the best data as supplied by the Utah DWR and knowledge of the hunting economies in these areas. See attached, any comments welcome. Very important to the American Sportsmen

Subject: Economic and Hunting Interest In Monuments

Just north of Lake Powell, a cross from the Bears Ears Border, lies the magnificent Henry Mountains, with mountain peaks reaching 10,000 plus feet

The mountain Range is home to the only free ranging, disease free Bison herd in North America. The Bison herd, and restoration of what now many consider the best mule deer herd in North America, are examples of Modern day Sportsmen and state agency Conservation efforts. More than $1 Million of private sportsmen funds have been invested in the last ten years to grow and expand these herds. The Dept. of Interior recognized the Bison efforts last year.

There are opportunities to further expand these herds, and make this a Zinke and Interior Legacy project for elk, Mule Deer and Bison. Desert bighorn are scheduled to be added to the mountain as well.

This is a microcosm for the west. Massive habitat restoration, impacts of fires, finding win win solutions for conflicts between wildlife and domestic livestock, sportsmen funding, state wildlife agencies working cooperatively with Federal Agencies.

And in the end, healthy watersheds, local economic growth, and incredible hunting on Americas great public lands!

.....
Don Peay

Attachment 05-06-2017 11_00_05FW_ Economic and Hunting Inte.pages (251519 Bytes) cannot be converted to PDF format.

From:	Butler, Aniela
To:	"micah_chambers@ios.doi.gov"; "Kaster, Amanda"
Subject:	Monuments Memo
Date:	Tuesday, May 09, 2017 4:08:34 PM
Attachments:	image001.png Hearing Memo -- Ov Hrg on Antiquities Act Abuses 05.02.17.doc

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Hi Micah and Amanda,

I hope you're both doing well. I wanted to pass along a longer version of our Committee memo from our hearing last week on abuses of the Antiquities Act. It's a pretty comprehensive look at some of these National Monuments and may be helpful in the future to you. If you'd like any other materials from the hearing, please let me know.

Thanks,

Aniela Butler
Professional Staff
Committee on Natural Resources
Subcommittee on Federal Lands
1332 Longworth House Office Building
Washington, DC 20515

(202) 226-7736 *main*
(202) 226-0203 *direct*
(202) 226-2301 *fax*

Subcommittee on Federal Lands

Tom McClintock, Chairman

Hearing Memorandum

April 28, 2017

To All Subcommittee on Federal Lands Members
From Majority Committee Staff Aniela Butler
Subcommittee on Federal Lands (x 6-7736)
Hearing Oversight hearing on *"Examining the Consequences of Executive Branch Overreach of the Antiquities Act."*
Ma 01 at 10 00 AM 13 4 Long orth HOB.

The Subcommittee on Federal Lands will hold an oversight hearing to hear testimony on *"Examining the Consequences of Executive Branch Overreach of the Antiquities Act"* on Tuesday, May 2, at 10:00 a.m. in 1324 Longworth House Office Building. The hearing will focus on reviewing national monuments designated without significant local input or support and national monuments with excessively large or restrictive designations.

Polic Overvie

- Since its enactment in 1906, Presidents of both parties abused the Antiquities Act to designate increasingly large and restricted areas of land.
- Originally intended to protect sacred Native American burial grounds and endangered archeological sites, presidents now use the Antiquities Act to lock up millions of acres from public access, energy development, timber production, grazing, and other uses.
- President Obama s excessive use of the Antiquities Act locked up nearly 553.6 million acres of land and water, more than any other President in history, and resulted in designations that prioritized legacy-building over local input and support.
- Widely opposed designations in Maine, Utah, Oregon, and California exemplify the negative results of unilateral national monument designations on local communities through their elimination of multiple-use, loss of rural jobs, and restricted recreational access.

Invited Witnesses

The Honorable Paul LePage
Governor, The State of Maine
Augusta, Maine

Ms. Kathleen Clarke
Director, Utah Public Lands Policy Coordinating Office
Former Director, Bureau of Land Management
Bountiful, Utah

Mr. Knox Marshall
Vice President of Resources, Murphy Company
Eugene, Oregon

Mr. Lucas St. Clair
President, Elliotsville Plantation, Inc.
Portland, Maine

Bac ground

At the beginning of the 20th Century, vandals and robbers began looting sacred Native American burial grounds and archeological sites throughout the territories in the Southwest. The destruction of archeological artifacts prompted Congress to enact the Antiquities Act of 1906, which authorized the President to designate National Monuments on federal lands containing historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest.[1] The law also specified that National Monuments be confined to the smallest area compatible with proper care and management of the objects to be protected.[2] Furthermore, the President could only designate National Monuments upon the lands owned or controlled by the Government of the United States.[3] The Act granted Presidents the flexibility to quickly protect small Native American sites in imminent danger from looting and destruction.[4] President Theodore Roosevelt designated the first National Monument, Devils Tower, in 1906. Since that time, Presidents broadly interpreted the Antiquities Act to expand both the size and justifications for National Monument designations.

The Congressional Record plainly reflects Congress s clear intent to limit the size of the designations. In their discussions of the bill, Congressmen Lacey and Stephens debated whether Presidents would eventually abuse the Antiquities Act. Congressman Lacey, the bill s sponsor, ensured his colleague this would not be the case by stating:

> Mr. LACEY. *There has been an effort made to have national parks in some of these regions, but this will merely make small reservations where the objects are of sufficient interest to preserve them.*
> Mr. STEPHENS of Texas. Will that take this land off of market, or can they still be settled on as part of the public domain?
> Mr. LACEY. It will take that portion of the reservation out of the market. *It is meant to cover the cave dwellers and cliff dwellers.*
> Mr. STEPHENS of Texas. How much land will be taken off the market in the Western States by the passage of this bill?
> Mr. LACEY. Not very much. The bill provides that it shall be the *smallest area necesstry [sic]* for the care and maintenance of the objects to be preserved.
> Mr. STEPHENS of Texas. Would it be anything like the forest-reserve bill, by which seventy or eighty million acres of land in the United States have been tied up?
> Mr. LACEY. Certainly not. *The object is entirely different. It is to preserve these old objects of special interest in the Southwest*, whilst the other reserves the forests and the water courses.[5]
> (emphasis added)

Presidents used their authority under the Antiquities Act 233 times to establish and enlarge 157 National Monuments totaling 840.9 million acres, or roughly 10 times the size of the

[1] 54 USC 320301-320303
[2] 54 USC 320301
[3] Ibid
[4] Benderson, Judith The Archaeological Resources Protection Act and The Native American Graves Protection and Repatriation Act Offices of the United States Attorneys https://www justice gov/usao/priority-areas/indian-country/native-american-artifacts
[5] Congressional Record, 1906, https://coast noaa gov/data/Documents/OceanLawSearch/Congressional 20Record House 20 20Senate 201906 pdf?redirect 301ocm

entire National Park System.[6] Although the National Park Service (NPS) primarily manages National Monuments, in recent decades the majority of National Monuments have been managed by agencies like the Bureau of Land Management (BLM) or U.S. Forest Service (FS). Although presidential declarations create most national monuments, Congress also established 45 national monuments, including Appomattox in 1935, Badlands in 1929, and Biscayne in 1968.

In its 111-year history, Congress amended the Antiquities Act only two times to enact statutory restrictions on the President's authority to designate National Monuments. The first, passed in 1950, prohibits the designation of National Monuments in the State of Wyoming. The second restriction, passed in 1980, requires prior Congressional approval of executive land withdrawals in the State of Alaska exceeding 5,000 acres.[7] These actions followed the controversial declarations of Jackson Hole National Monument by President Franklin Roosevelt and President Carter's establishment of several monuments in Alaska, respectively.

The Antiquities Act pre-dates the establishment of 5 states, including New Mexico and Arizona, the establishment of the National Park Service, and the creation of major environmental and archeological resources protection laws. Since the creation of the Antiquities Act, Congress and the executive branch enacted over one dozen new statutes and regulations rendering protections under the Act outdated and unnecessary. Some of the major statutes created to protect archeological resources include:

- *Historic Sites Act (1935)* established the National Historic Landmarks Program
- *National Stolen Property Act (1948)* established fines and penalties for transporting or transferring stolen property
- *Reservoir Salvage Act (1960)* required study and protection of archeological objects that may be destroyed during the construction of a dam or reservoir
- *National Historic Preservation Act (1966)* established the National Register of Historic Places and State Historic Preservation Offices
- *Archeological and Historic Preservation Act (1974)* preserved archeological objects that might otherwise be destroyed during any federally licensed activity or program (such as a federal construction project)
- *Archeological Resources Protection Act (1979)* strengthened fines and penalties for unauthorized excavation of archeological sites on federal land
- *Abandoned Shipwreck Act (1987)* established federal ownership and a management structure of abandoned shipwrecks in submerged waters of the United States
- *Native American Graves Protection and Repatriation Act (1990)* required consultation with Native American groups before archeological excavation of culturally sensitive sites
- *National Maritime Heritage Act (1994)* established to National Maritime Heritage Grants Program
- *American Battlefield Protection Program Act (1996)* provided assistance to private and public individuals and institutions to protect historic battlefields in the United States
- *National Historic Lighthouse Preservation Act (2000)* allowed the transfer of deteriorating historic lighthouses to other government entities or non-profit, educational, or community development organizations with the capacity to maintain the lighthouse
- *Sunken Military Craft Act (2004)* codified the sovereign status and permanent U.S. ownership of sunken military aircraft and vessels and preserved sunken military aircraft and vessels in U.S. waters[8]

[6] Information provided by the Congressional Research Service
[7] Hardy Vincent, Carol "National Monuments and the Antiquities Act" Congressional Research Service P 1
[8] NPS, "Federal Historic Preservation Laws, Regulations, and Orders", https://www.nps.gov/subjects/historicpreservation/laws.htm

On April 26, 2017, President Trump signed the "Presidential Executive Order on the Review of Designations Under the Antiquities Act."[9] The Executive Order directs the Secretary of the Interior to review all unilateral national monument designations "made since January 1, 1996, where the designation covers more than 100,000 acres, where the designation after expansion covers more than 100,000 acres, or where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders" and recommend any necessary legislative or administrative changes to those designations.[10] This Executive Order makes no immediate changes to any national monuments, and will not affect the ownership of the land in the event the administration decides to reduce or rescind certain national monuments.

Modern Abuses of the Anti□uities Act

Overview

The Obama Administration established more national monuments and designated more land and water as national monuments than any other President in history. Over the course of his Administration, President Obama used the Antiquities Act 34 times to lock up 553,599,880 acres of land and water as national monuments. President Obama's acreage total represents 66□ of all of the land and water ever designated as a national monument throughout the Antiquities Act's 111-year history. President Obama's total acreage equates to 189,589 acres designated as a national monument for every day he was in office, or an area roughly equivalent to the size of Delaware for every week of the Obama Administration.

Katahdin Woods and Waters National Monument

On August 24, 2016, President Obama designated 87,563 acres in central Maine as the Katahdin Woods and Waters National Monument. One day prior to the designation, Elliotsville Plantation, Inc. donated the land to the Department of the Interior (DOI) with the intention of eventually converting the area into a National Park.[11] Nearly twice the size of Acadia National Park, the Katahdin Woods and Waters National Monument became the largest parcel of federal land in a state with only 1.1□ federal land ownership.[12]

The effort to create a National Park in this area began over two decades ago with a proposal to create a 3.2 million acre National Park, or the second largest National Park in the continental United States.[13] Details of the proposed National Park varied since, and include proposals to create a 150,000 acre National Park and National Recreation Area. To facilitate the creation of a National Park, Roxanne Quimby established Elliotsville Plantation, Inc. in 2002. Ms. Quimby famously started Burt's Bees, a personal care company purchased by Clorox in 2007 for $925 million. [14] After acquiring land for the proposed National Park site, Elliotsville Plantation, Inc. evicted campers, burned down cabins, and closed the area to the "hunters and to the snowmobilers who had long relied on it for north-south access."[15] Residents in the surrounding communities overwhelmingly opposed creating a National Park due to concerns

[9] President Donald J Trump, "Presidential Executive Order on the Review of Designations Under the Antiquities Act", 04/26/17, https://www whitehouse gov/the-press-office/2017/04/26/presidential-executive-order-review-designations-under-antiquities-act
[10] Ibid
[11] Kevin Miller, "A national park or a national monument? North Woods groups shift focus", Portland Press Herald, 11/29/15, http://www pressherald com/2015/11/29/a-national-park-or-a-national-monument-north-woods-groups-shift-focus/
[12] Carol Hardy Vincent et al , "Federal Land Ownership: Overview and Data", Congressional Research Service, 03/02/17, http://www crs gov/reports/pdf/R42346
[13] Tux Turkel, "A dream endures for another park in North Woods", Portland Press Herald, 08/24/14, http://www pressherald com/2014/08/24/a-dream-endures-for-another-park-in-north-woods/
[14] Andrew Farrell, "Clorox to buy Burt's Bees", Forbes, 10/31/07, https://www forbes com/2007/10/31/clorox-burts-bees-markets-equity-cx_af_1031markets15 html
[15] Billy Baker, "A feud as big as the great outdoors"Boston Globe, 11/17/13, https://www bostonglobe com/magazine/2013/11/17/son-burt-bees-cofounder-leads-fight-for-maine-national-park/iQHv6w2s7fUJc6MBt6ZJSN/story html

over limiting historic uses such as snowmobiling and hunting and the effect of the designation on the local timber industry. In 2016, residents in the towns of East Millinocket, Medway, and Patten voted 320-191, 252-102, and 121-53 against the proposed National Park, respectively.[16] After the controversy created in the State, Ms. Quimby's son, Lucas St. Clair *(invited witness)*, took over the National Park campaign.

After the National Park proposal failed to gain traction in the state, Elliotsville Plantation, Inc. shifted their focus towards designating the land as a National Monument under the Antiquities Act. The National Monument proposal faced significant opposition in the State of Maine. No Member of Congress introduced a bill studying the creation of or designating the land as a National Park or National Monument. Comparatively, every NPS National Monument designation made by President Obama prior to the designation of Katahdin Woods and Waters National Monument had corresponding legislation in Congress either establishing the area as an NPS unit or authorizing a special resource study.[17] On November 20, 2015, three of the four members of Maine's Congressional delegation, including Senators Susan Collins and Angus King and Representative Bruce Poliquin, wrote President Obama to express "serious reservations and significant concerns" about the proposed monument.[18] Later that year, the Maine State Legislature passed L.D. 1600, sponsored by Rep. Stephen Stanley (D-Medway), by bipartisan votes in both the House and Senate.[19] The bill expressed opposition to the creation of a National Monument in Maine. At a listening session between locally-elected officials from the towns surrounding the National Monument and NPS, only 2 of the 75 attendees voiced support for a designation.[20] On June 1, 2016, the Committee on Natural Resources held a field hearing in East Millinocket, Maine, on the proposed National Monument designation entitled *"Elevating Local Voices and Promoting Transparency for a Potential Monument Designation in Maine."*[21] During the hearing, numerous state and locally-elected officials representing the area, along with witnesses from sportsmen and snowmobiling groups, expressed significant concerns about the National Monument proposal. Although multiple proponents of the National Monument, including Mr. St. Clair, were repeatedly invited to testify at the hearing, they declined to attend.

Among the concerns raised with the proposal, opponents of the National Monument argued it was an unsuitable addition to the National Park System. Many believed Ms. Quimby's status as a Board Member of the National Park Foundation would grant her unfair influence in the decision. Furthermore, NPS already faces an $11.927 billion deferred maintenance backlog and any new land acquisition will only increase that total. In Acadia National Park alone, NPS boasts a $68.25 million deferred maintenance backlog. Along with the land donation, Elliotsville Plantation, Inc. created a $20 million endowment to maintain the National Monument and pledged to raise an additional $20 million in donations. Although the endowment helps alleviate some costs of maintaining the land, the entire endowment would still not be sufficient to cover the deferred maintenance backlog of Acadia National Park.

Mainers also expressed concerns about the National Monument's impact on the local forest products industry and the subsequent effects on rural economies in central Maine. Since the early 1800's, the land in central Maine has been a working forest that supports the local communities. The current gateway community to the National Monument, Millinocket, started in

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[16] Nick Sambides Jr , "East Millinocket voters reject national park by wide margin", Bangor Daily News, 06/29/15, http://bangordailynews com/2015/06/29/outdoors/east-millinocket-voters-reject-national-park-by-wide-margin/

[17] Information provided by the Congressional Research Service

[18] Collins, King, and Poliquin Letter to President Obama 11/20/15 https://poliquin house gov/media-center/press-releases/collins-king-poliquin-send-letter-president-possible-national-monument https://www king senate gov/download/?id=474877DD-9E5C-48E6-BF2E-5A4768C86522=inline=file

[19] L D 1600, Maine State Legislature, http://www mainelegislature org/legis/bills/bills_127th/billtexts/HP109102 asp

[20] Sambides, Nick "Maine people weigh in on proposed national monument at packed forums "05/17/16 https://bangordailynews com/2016/05/16/news/state/maine-people-weigh-in-on-proposed-national-monument-at-packed-forums-in-orono-east-millinocket/

[21] Committee on Natural Resources, "Field Hearing on Elevating Local Voices and Promoting Transparency for a Potential Monument Designation in Maine", 06/01/16, http://naturalresources house gov/calendar/eventsingle aspx?EventID=400497

1989 with the creation of Great Northern Paper, the largest paper mill in the world at the time. In Maine, the forest products industry creates an $8 billion impact on the economy and supplies 1 in 20 jobs in the State.[22] Furthermore, Maine could soon experience a large spruce budworm outbreak that could kill thousands of acres of the spruce-fir forest within the National Monument.[23] If the forests within the National Monument are not actively managed, this epidemic could spread and potentially kill thousands of trees on state and private land.

Proponents of the National Monument suggested that jobs related to increased tourism would supplant the forest products industry. However, most of the promised tourism jobs are low-wage and seasonal. In his analysis about the tourism economy in Maine, Thomas McLaughlin, a professor in the School of Social Work at the University of New England, said:

> "Lost in all this good news [about rising tourism spending] is the percentage of the population who rely on seasonal work as employees to make ends meet throughout the entire 52 weeks. While a small percentage of the workers may have access to overtime, most will work 30 to 40 hours per week during the 10-week summer period. At minimum wage, this means, at most, the worker could gross $3,000 in a 10-week period. For most families in Maine who have two seasonal workers, this means a "good summer" would be $6,000 of full-time work, then sporadic hours during the remaining 42 weeks during the year. Most of these seasonal workers live well below the poverty line. This means summer earnings must be saved and past due bills paid during the good times."[24]

Furthermore, according to NPS data from 2017, National Parks created almost 6 times as many jobs and had an economic output nearly $8 billion greater than NPS-operated National Monuments.[25] On average, National Parks also hosted over 46.7 million more visitors than National Monuments.[26]

Further hindering economic potential, the National Monument currently includes several restrictions on traditional recreational uses of the land, including hunting and snowmobiling. Less than 40% of the land conveyed to the Federal Government included specific protections for hunting. NPS can also close that land to hunting at any time "for reasons of public safety, administration, or resource protection" and the deeds specifically ban all trapping and hunting with dogs and bait.[27] Only four deeded parcels, covering less than 20 percent of the National Monument, included any protections to continue traditional snowmobiling uses.[28] In some cases, the deeds failed to include protections for pre-existing snowmobiling routes in the National Monument.[29] As of April 2016, NPS advises that the National Monument includes limited amenities and spotty or non-existent cell phone coverage. Currently, there is also no wheeled access to the National Monument, two access roads are gated by NPS, and NPS halted all grooming for snowmobiling and skiing.[30] In November 2016, NPS closed Loop Road, a main attraction in the National Monument, due to snowfall, and have yet to reopen the route.

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[22] Maine Forest Products Council, "Maine's Forest Economy," 2013, http://maineforest.org/wp-content/uploads/2013/09/Maines-forest-economy.pdf
[23] Cooperative Forestry Research Unit, University of Maine et al. "Coming Spruce Budworm Outbreak: Initial Risk Assessment and Preparation & Response Recommendations for Maine's Forestry Community," 3/16/16. http://www.sprucebudwormmaine.org/docs/SBW_full_report_web.pdf
[24] Thomas McLaughlin, "How Maine's seasonal workers could benefit more from summer tourism," Bangor Daily News, 07/26/17, http://bangordailynews.com/2016/07/25/opinion/contributors/how-maines-seasonal-workers-could-benefit-more-from-summer-tourism/
[25] NPS, "Visitor Spending Effects - Economic Contributions of National Park Visitor Spending," https://www.nps.gov/subjects/socialscience/vse.htm
[26] Ibid
[27] Quitclaim deed with covenant, Hunt Farm, 08/23/16
[28] John Holyoke and Nick McCrea, "What we know about access to North Woods national monument land," Bangor Daily News, 08/24/16, https://bangordailynews.com/2016/08/24/outdoors/what-we-know-about-access-to-north-woods-national-monument-land/?ref=relatedSidebar
[29] Ibid
[30] NPS, Katahdin Woods and Waters, up to date as of 4/25/17, https://www.nps.gov/kaww/planyourvisit/conditions.htm

On February 14, 2017, Governor LePage asked President Trump in a letter to undo the [National Monument] designation and return the land to private ownership before economic damage occurs and traditional recreational pursuits are diminished.[31]

Bears Ears National Monument

President Obama designated the Bears Ears National Monument in San Juan County, Utah, during the final weeks of his administration. The National Monument, totaling 1,351,849 acres, covers an area larger than the State of Delaware.[32]

The push for a National Monument in southeastern Utah began in October 2014 during a meeting of the Conservation Lands Foundation (CLF) in San Francisco, California. During the meeting, CLF discussed the prospects of designating a national monument in southeastern Utah and agreed to call the National Monument Bears Ears, to move away from a Navajo name.[33] CLF expressed concerns about hitching [their] success to the Navajo in the event that local Navajo in San Juan County disagreed with the group s proposals.[34] This campaign to designate Bears Ears as a national monument received millions of dollars in donations from out-of-state environmentalists, including $20 million in donations from the Hewlett and Packard foundations and a portion of $15.6 million in grants from the Leonardo DiCaprio Foundation.[35] Outside organizations also heavily supported the Bears Ears Inter-Tribal Coalition, a group representing five tribes that supported a National Monument designation, by creating their website, crafting maps of their National Monument proposal, and sending out their press releases and contacting the media.[36] According to Blanding City Manager Jeremy Redd, This is not a grass-roots Native American effort to protect sacred lands. This is an effort by environmental groups to get what they want. People feel like they are being run over by the money and the organization that these special interest groups have. Sadly, local people don't have that kind of money behind them. San Juan County Commissioner Rebecca Benally, a Din and Navajo woman, testified on the record during a Natural Resources Committee hearing last September that:

> Bears Ears National Monument campaign is a cynical political stunt that, if successful, will deny grass roots Utah Navajos access to their sacred and spiritual grounds. Traditional Utah Navajo people depend on that land for their necessities of life: to gather medicinal plants, fire wood, pi on nuts, as well as to hunt and practice sacred ceremonies. Traditional Utah Navajo people are not conspiring with lawyers in board rooms in Salt Lake City and San Francisco. Traditional Utah Navajo people are not collecting $20 million from the Hewlett and Packard foundations and Leonardo De Caprio to sponsor this toxic divide-and-conquer campaign. Traditional Utah Navajo people are not magazine environmentalists but are real stewards of the land whose interests will be destroyed by a Bears Ears National Monument. Grassroots Utah Navajo people do not support this effort to convert our sacred lands into a federal designation that will subjugate them to micromanagement by bureaucrats in Washington DC.

Since the designation, out-of-state groups and corporations continued to fund campaigns aimed at maintaining the Bears Ears designation. Outdoor Retailer economically retaliated against the

[31] Governor Paul LePage, Letter to President Donald J Trump, 02/14/17, https://www eenews net/assets/2017/02/23/document_gw_09 pdf
[32] Alexandra DeSanctis, Reversing Obama s Last-Minute Land Grab, National Review, 01/02/17, http://www nationalreview com/article/443462/trump-gop-aim-reverse-obamas-land-grab-utah-nevada-million-acres
[33] Conservation Lands Foundation, Board Meeting Minutes, San Francisco, California, 10/24/14, pg a6, http://conservationlands org/wp-content/uploads/2015/05/Fall-2014-meeting-minutes pdf
[34] Ibid pg a6
[35] Amy Joi O Donoghue, Big money, environmentalists and the Bears Ears story, Deseret News, 08/04/16, http://www deseretnews com/article/865659464/Big-money-environmentalists-and-the-Bears-Ears-story html
[36] Ibid

local opposition to Bears Ears National Monument by pulling its $45 million industry shows from the State.[37] Patagonia, the $800 million outdoor clothing retail corporation, funneled millions of dollars into grants and videos produced about the new National Monument.[38] After the April executive order reviewing national monument designations, Patagonia stated its intention to continue fighting any diminishment of the National Monument's boundaries.

The National Monument proposal faced enormous opposition in the state of Utah. In a poll conducted in May of 2016, only 17 percent of Utahans favored the President designating Bears Ears as a National Monument.[39] No members of the Utah Congressional delegation or the Governor supported the unilateral designation and were not meaningfully consulted on a national monument proposal prior to the designation. The administration did not offer any concrete plans or details about the designation to members of the Congressional delegation, despite repeated requests on the record to discuss the future of the area. In a 2016 Subcommittee on Oversight and Investigations hearing, Council on Environmental Quality (CEQ) Chair Christy Goldfuss refused to discuss the Administration's plans for Bears Ears:

> "CHAIRMAN BISHOP: Is CEQ actively working on a national monument proposal for Bears Ears in San Juan County in my State?
> MS. GOLDFUSS. I cannot talk about any specific proposals that we are working on out of CEQ or out of the Administration with regard to national monuments."[40]

At a Committee on Natural Resources oversight hearing on March 1, 2016, Secretary Jewell indicated that the President had no prior intentions of designating any national monuments:

> "DR. GOSAR: How many more new national monuments does this Administration plan to designate this year? What are the names and geographic locations of potential monuments being considered?
> SECRETARY JEWELL: That is entirely up to the President of the United States. There are many people that come through the doors saying, "We would like you to look at monuments." There are, you know, assessments that happen from across the country of interest. They go directly to the White House.
> DR. GOSAR: So let me stop you there. *So the President hasn't given you any detailed leanings, one way or the other?*
> SECRETARY JEWELL: *The President has not.*
> DR. GOSAR: *Absolutely zippo?*
> SECRETARY JEWELL: *Absolutely zippo."*[41]
> (emphasis added)

Furthermore, in written comments to the Senate Energy and Natural Resources Committee, Tim Murphy, the former Acting Assistant Director of the National Landscape Conservation System and Community Partnerships for BLM, denied any knowledge of plans to designate national monuments such as Bears Ears:

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[37] Jason Lee, "Impact of Outdoor Retailer departure far-reaching", Deseret News, 02/17/17, http://www deseretnews com/article/865673692/Impact-of-Outdoor-Retailer-departure-far-reaching html

[38] Stuart Leavenworth, "Outdoors companies mobilize hikers in multimillion-dollar battle over public lands", McClatchy DC, 03/28/17, http://www mcclatchydc com/news/politics-government/white-house/article141223478 html

[39] http://utahpolicy com/index php/features/today-at-utah-policy/9551-poll-only-17-of-utahns-want-obama-to-designate-bears-ears-as-a-national-monument

[40] Subcommittee on Oversight and Investigations, Oversight hearing on The President's Imposition of New Environmental Mitigation Regulations, 02/24/16, http://naturalresources house gov/calendar/eventsingle aspx?EventID 399897

[41] Committee on Natural Resources, Oversight hearing on the President's 2017 Budget Proposal with Department of the Interior Secretary Sally Jewell, 03/01/16, http://naturalresources house gov/calendar/eventsingle aspx?EventID 399957

Question (Flake) *(written)* - Please provide a list of any National Monuments that are presently under consideration for designation by the President under the Antiquities Act.
Answer (Murph) *(written)* - I am not aware of any list of proposed National Monuments under consideration by the President.[42]

Given the Administration's use of the Antiquities Act, this "midnight monument" designation did not come as a surprise to many local residents.[43] However, these transcripts point to a clear lack of coordination and consultation between the Administration and members of the delegation on the National Monument and demonstrate the total lack of transparency in the designation process.

Local tribes and residents in San Juan County also voiced overwhelming opposition to a National Monument designation under the Antiquities Act. In May 2016, the Blue Mountain Dine" Community unanimously passed a resolution against the proposed National Monument and stated that they disagreed "that the creation of an Inter-Tribal National Monument will be in the best interests and welfare of not only local Navajo people, but of all locals who love the land of their heritage."[44] The Aneth Chapter of the Navajo Nation, based in San Juan County, also passed a resolution opposing the unilateral National Monument designation.[45] One hundred San Juan County residents signed a petition endorsing a National Conservation Area over a National Monument in part because it offered "the greatest recognition/protection of our sacred sites and cultural resources that are existing in the proposed designated area."[46] In a letter to DOI Secretary Zinke after the designation, Stewards of San Juan County, a community organization based in the County, stated, "The majority of Navajo and Ute residents in San Juan County overwhelmingly oppose the monument designation, in contrast to out-of-county/state tribes who know very little of this area and will simply not be affected by this monument. It is appalling that non-local voices have drowned out those who treasure this land the most." The group later continued, "This monument was designated in order to appease outside special interest groups. It was done WITHOUT a robust consultation with the stakeholders who actually live in San Juan County. Voices of life-long residents and tribal members have been, and continue to be, blatantly ignored."[47] After the designation, Suzette Morris, a Ute Mountain Ute member and Vice President of Stewards of San Juan County, stated, "We have cemeteries up there and I don't want our ancestors to be put in museums" and "We all have a fight and we all are going to continue to fight for this to be rescinded."[48]

According to previous statements on the record, the National Monument designation likely fell short of expectations of even the most vocal National Monument supporters. A major point of contention during the debate over a National Monument versus a National Conservation Area revolved around the ability to allow the tribes to co-manage the land. Since its establishment, some supporters of the National Monument falsely claim the designation allowed the first ever tribal co-management of a National Monument. However, the tribes do not currently co-manage the land and the words "co-management" do not appear anywhere in the

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[42] Administration statements to Senator Flake on consultation before a national monument designation, https://www flake senate gov/public/_cache/files/3e03f699-a39a-4f5b-b785-ea0a82971eeb/10 03 16-flake-mccain-letter-to-potus-re-national-monuments pdf
[43] David DeMille, "Utah Republicans voice fears about "Midnight Monument" at Bears Ears", The Spectrum, 12/15/16, http://www thespectrum com/story/news/2016/12/15/utah-republicans-voicing-fears-midnight-monument-bears-ears/95473834/
[44] Blue Mountain Dine" Community, "A Resolution Establishing in Opposition to the Proposed Bears Ears National Monument and in the Alternative, in Support of a National Conservation Area", Resolution No : 055216
[45] Resolution of the Aneth Chapter, "Requesting the Naa"bik"iyati Committee of the Navajo Nation Council Rescind Resolution Nabima-13-15, "Supporting the Utah Dine Bikeyah Conservation Proposal for the Federal Designation of Bear's Ears National Conservation Area/National Monument in San Juan County, Utah, to Protect the Native Rights and Interest on Federal Lands for Future Generations", ACNOV-16-014
[46] Residents of San Juan County, Utah, Petition to Support Alternative B, Plan for Designation of Southeastern Utah Public Land As National Conservation Area", http://sutherlandinstitute org/wp-content/uploads/Navajo-Opposition-Packet pdf
[47] Stewards of San Juan County, Letter to DOI Secretary Zinke, 02/21/17, https://stewardsofsanjuansos files wordpress com/2017/02/letter-to-zinke1 pdf
[48] Devon Dewey, "Road to Understanding: Bears Ears still a topic of controversy in San Juan County", KSL, 03/25/17, https://www ksl com/index php?sid"43636087"nid"148"title"road-to-understanding-bears-ears-still-a-topic-of-controversy-in-san-juan-county

text of the proclamation.[49] Instead, the proclamation creates the Bears Ears Commission, a standard advisory committee created using authority under the Federal Advisory Committee Act, not the Antiquities Act.[50] The proclamation states that the Commission will "provide guidance and recommendations" on the management of the National Monument, but stops short of actually allowing the tribes to partner with the BLM and FS to manage Bears Ears.[51] After the release of a Secretarial Order promoting the role of tribes in the management of lands, Willie Grayeyes, Chairman of Utah Dine Bik'yah, stated that, "I would have to read [the Secretarial Order], but *if it is less than co-management, I think it would fall short of our goal.*"[52] (emphasis added) Additionally, in testimony before the Committee on Natural Resources, Regina Lopez-Whiteskunk, the Co-Chair of the Bears Ears Inter-Tribal Coalition, stated that a key reason the BEITC supported unilateral executive action over the Public Lands Initiative process was the acreage size for the National Monument. In her written testimony, she stated that BEITC's "call to protect 1.9 million acres is already a conservation request. *Anything less is tantamount to destruction of sacred sites that the identities of native people are affixed to.*"[53] (emphasis added) Despite the administration failing to follow through on these core aspects of their proposal, BEITC and Utah Dine Bik'yah supported the National Monument after its creation.

Prior to the unilateral designation of the National Monument, Chairmen Bishop and Chaffetz proposed two alternative National Conservation Areas to protect the Bears Ears area in H.R. 5780, *"Utah Public Lands Initiative Act."* The process to craft the solution, which lasted over three years and involved over 1,200 meetings with stakeholders, drew widespread support from locals in San Juan County. This solution offered the only permanent protection for the Bears Ears area and the only legal mechanism to allow the tribes to co-manage the land. The Bears Ears National Conservation Area language focused on creating the necessary footprint to preserve the archeological resources and objects of antiquity within Bears Ears, while also allowing the tribes access to sacred sites and preserving traditional tribal uses of the land. The Indian Creek National Conservation Area focused on allowing outdoor recreation and preserving traditional uses of the land, such as grazing. On September 22, 2016, the Committee on Natural Resources successfully reported H.R. 5780 out of Committee by a vote of 21-13. During the markup, an amendment offered by Ranking Member Grijalva striking the section of the bill related to Bears Ears failed on a bipartisan vote of 11-19.[54]

Like in the case of Grand Staircase-Escalante 20 years prior, the National Monument designation locked up 109,000 acres of Utah School and Institutional Trust Land Administration (SITLA) land, which benefits public schoolchildren in the State of Utah.[55] Scattered across Utah in a checkerboard pattern, SITLA land derives revenues from activities such as energy and mineral resource development, grazing, and timber production. The funds from these revenues go into the State School Fund, "a permanent income-producing endowment created by Congress in the Utah Enabling Act for the support of the state's K-12 public education system."[56] In the past 20 years, revenue from SITLA's lands generated over $1.7 billion in revenue for Utah's public schoolchildren.[57] According to Dave Ure, SITLA's Director, "Approximately 64 percent of our state is federal public land, while only six percent is trust land."[58] This means that any

[49] President Barack Obama, Presidential Proclamation "Establishment of the Bears Ears National Monument, 12/28/16, https://obamawhitehouse archives gov/the-press-office/2016/12/28/proclamation-establishment-bears-ears-national-monument
[50] Ibid
[51] Ibid
[52] Amy Joi O'Donoghue, "Native American chairman says Jewell order lacks equality for tribes", Deseret News, 10/21/16, http://www deseretnews com/article/865665388/Bears-Ears-coalition-leader-says-Jewell-order-lacks-equality-for-tribes html?pg=all
[53] Regina Lopez-Whiteskunk, Testimony before the House Committee on Natural Resources Subcommittee on Federal Lands, Hearing on H R 5780, Utah Public Lands Initiative Act, 09/14/16
[54] Committee on Natural Resources, Markup on 09/22/16, Roll Call Vote #1
[55] SITLA, "109K ACRES OF SCHOOL TRUST LAND CAPTURED IN BEARS EARS NATIONAL MONUMENT", 01/03/17, https://trustlands utah gov/109k-acres-of-school-trust-land-captured-in-bears-ears-national-monument/
[56] Dave Ure, Testimony before the House Committee on Natural Resources Subcommittee on Federal Lands on H R 5780, Utah Public Lands Initative Act, 09/14/16, pg 2
[57] Ibid "109K ACRES OF SCHOOL TRUST LAND CAPTURED IN BEARS EARS NATIONAL MONUMENT"
[58] Utah State Board of Educators, "Utah Leaders Ask President to Address 109,106 Acres of Trust Land Inholdings Captured Within New Monument", 12/28/16, https://schoolboard utah gov/tag/utah-school-and-institutional-lands-administration

designation that stunts the growth in revenue from SITLA lands will have far-reaching consequences for public schoolchildren across the state. Resolving this situation and freeing up the SITLA land will require identification of possible exchange lands, negotiations, appraisals, adherence to the National Environmental Policy Act (NEPA), and approval by the Utah Legislature and likely the U.S. Congress.[59] Previous exchanges took up to nine years to complete.[60]

While proponents of the National Monument claim this will bring new economic opportunities to San Juan County, the probability of an economic boom seems unlikely. San Juan County already holds 1 National Park, 1 National Forest, 1 National Recreation Area, and 3 National Monuments.[61] Despite this seemingly expansive tourism economy, San Juan County is still the poorest county in Utah, with 28.5 of its population living in poverty, more than double the state average.[62] In order to truly prosper, San Juan County needs to diversify its economy and attract full-time, high-paying jobs. Furthermore, since the designation, groups have already attempted to limit outdoor recreational access, which would bring additional revenue to the area. For example, a coalition of environmental groups initiated litigation blocking previously approved recreation access to the National Monument. In March, a judge halted the creation of a 6.4 mile ATV trail the County worked on for over a decade.[63] The State of Utah, San Juan County, and the BLM are fighting the decision.

After the signing of President Trump s Executive Order on the Antiquities Act, DOI Secretary Zinke announced his intention to offer a recommendation on maintaining, modifying, or rescinding Bears Ears National Monument to the White House within 45 days.[64] During the signing ceremony, President Trump specifically mentioned Bears Ears, stating, In December of last year alone, the federal government asserted this power [of the Antiquities Act] over 1.35 million acres of land in Utah, known as Bears Ears -- I ve heard a lot about Bears Ears, and I hear it s beautiful -- over the profound objections of the citizens of Utah. The Antiquities Act does not give the federal government unlimited power to lock up millions of acres of land and water, and it s time we ended this abusive practice. I ve spoken with many state and local leaders -- a number of them here today -- who care very much about preserving our land, and who are gravely concerned about this massive federal land grab. And it s gotten worse and worse and worse, and now we're going to free it up, which is what should have happened in the first place. This should never have happened.[65] After the signing of the executive order, DOI Secretary Zinke said, For years, the people of Utah and other rural communities have voiced concern and opposition to some monument designations. But too often in recent history, exiting presidents make designations despite those concerns. And the acreage is increasing. In a poll released the day before the executive order, a majority of Utahans supported a reduction or rescission in the size of Bears Ears, with a plurality of Utahans responding they definitely supported the action.[66]

Grand Staircase-Escalante National Monument

[59] Ibid 109k Acres of School Trust Land Captured in Bears Ears National Monument
[60] Ibid
[61] Matthew Anderson, 10 questions about Bears Ears for the outdoor retail industry, Sutherland Institute, http://sutherlandinstitute org/10-questions-about-the-bears-ears-for-the-outdoor-retail-industry/
[62] United States Census Bureau, 2015, https://www census gov/quickfacts/table/IPE120215/49037,49,49017,49025
[63] Amy Joi O Donoghue, Bears Ears designation upends proposed ATV trail in San Juan County Deseret News, 03/16/17, http://www deseretnews com/article/865675786/Bears-Ears-designation-upends-proposed-ATV-trail-in-San-Juan-County html
[64] Thomas Burr and Brian Maffly, Zinke will recommend Bears Ears fate within 45 days, The Salt Lake Tribune, 04/25/17, http://www sltrib com/news/5217193-155/wh-official-trump-to-order-review
[65] President Donald J Trump, Remarks by President Trump at the Signing of Executive Order on the Antiquities Act, 04/26/17, https://www whitehouse gov/the-press-office/2017/04/26/remarks-president-trump-signing-executive-order-antiquities-act
[66] Bryan Schott, Poll: Utahns want Trump to change or undo Bears Ears Utah Policy, 04/25/17, http://utahpolicy com/index php/features/today-at-utah-policy/13020-poll-utahns-want-trump-to-change-or-undo-bears-ears

On September 18, 1996, during the waning months of his first term, President Clinton designated 1.7 million acres in Utah as the Grand Staircase-Escalante National Monument during a ceremony on the South Rim of the Grand Canyon. After generally consolidating national monuments under the National Park Service, Grand Staircase-Escalante represented the first BLM-managed national monument.[67]

The designation immediately kicked off a massive controversy in the State of Utah. The Governor, members of the Congressional delegation, and residents of Utah all expressed outrage at the lack of prior consultation or warning of the designation. Utahans previously worked on proposals to protect the land and were stunned when the designation happened and uprooted those plans. For Utahans, their unhappiness was not a result of not wanting to preserve the environment; "on the contrary, they [understood] that their state is worthy of preservation and [took] measures to assure that proper regions of their state have necessary protection. However, President Clinton's unilateral designation of Grand Staircase as a national monument severely conflicted with many of the uses that national, state, and local governments had planned for the land."[68] The Governor at the time, Mike Leavitt, testified before Congress that:

> "At two o'clock eastern time, the President stood at the north rim of the Grand Canyon to announce the creation of the Grand Staircase-Escalante National Monument and its 1.7 million acre expanse of Utah's Garfield and Kane Counties. As has been mentioned, no Member of Congress, no local official, or had the Governor ever been consulted, nor had the public. As the Governor, I had not seen a map. I had not read the proclamation, or, for that matter, was I even invited. This isn't about courtesy, it is about process. It is about public trust. A major land decision, perhaps the biggest land decision that has been made or will be made in the next two decades, had occurred. Obviously, this is not the way public land decisions should or were ever intended to be made."[69]

According to Senator Orrin Hatch, the Administration assured him "in a meeting just a week prior to the President's announcement that the leaks concerning a designation of a monument in Utah were not true, and that no such action was contemplated. If it were, we were told, the Utah Delegation would be fully apprised and consulted."[70] Prior to the designation, the administration held no town halls, public meetings, or public comment sessions in Utah and did not receive any input from local stakeholders or land managers in the area. Perhaps most egregiously, the Administration only kept the designation a secret from members of *Utah's* Congressional delegation. CEQ reached out to former Senator Harry Reid (D-NV), Governor Roy Romer (D-CO), Rep. Bill Richardson (D-NM), and Governor Bob Miller (D-NV) to get feedback on the proposal and even questioned if "there [were] Democratic candidates [they] should alert" about the designation.[71] Over a week before the designation, CEQ staff notified reporters at the Washington Post about the designation while simultaneously assuring the Utah delegation that no decision had been made yet.[72]

The Clinton administration clearly established the National Monument for political, not archeological, purposes. According to correspondence obtained by the Committee, CEQ Chair, Katie McGinty, expressed hesitation about the designation and said, "I'm [sic] increasingly of the view that we should just drop these utah [sic] ideas. we [sic] do not really know how the

[67] NPS, Archeology Program, https://www nps gov/archeology/sites/antiquities/MonumentsList htm
[68] Eric C Rusnak, "The Straw that Broke the Camel's Back? Grand Staircase-Escalante National Monument Antiquates the Antiquities Act", Ohio State Law Journal 64:669, p 703
[69] Committee on Resources Subcommittee on National Parks and Public Lands, "Establishing the Grand Staircase-Escalante National Monument", Serial No 105-20, pg 23-24
[70] Ibid Pg 12
[71] Committee on Resources, "Behind Closed Doors: The Abuse of Trust and Discretion in the Establishment of the Grand Staircase-Escalante National Monument", Report 105-s1, 11/07/97, pg 5
[72] Ibid Pg 6

enviros will react and I do think there is a danger of "abuse" of the withdraw/antiquities authorities especially because these lands are not really endangered."[73] She also wrote to the President that the action "would help overcome the negative views toward the Administration created by the timber rider. Designation of the new monument would create a compelling reason for persons who are now disaffected to come around and enthusiastically support the Administration."[74]

The designation of the National Monument resulted in devastating consequences for the surrounding communities. In a study conducted by Utah State University, researchers found that the reduction in grazing alone resulted in a loss of 81 jobs and $9,101,801 in economic input yearly in Garfield and Kane Counties.[75] However, the largest losses in economic output and jobs came from the reduced potential for energy and minerals development. According to a study from the Utah Geological Survey, the value of potential energy mineral resources in Grand Staircase-Escalante totals between $223 billion and $330 billion, including $221-321 billion of coal, $2-17.5 billion of coal-bed gas, $20 million-$1.1 billion of petroleum, and at least $4.5 million of other minerals.[76] This amounts to an estimated 62 billion tons of coal, 2.6-10.5 trillion cubic feet of methane, and 270 million barrels of oil.[77] At the time of the designation, companies including Andalex, PacifiCorp, and Conoco Oil, had 89 oil and gas leases covering 137,700 acres and 22 coal leases covering 59,100 acres.[78] The National Monument directly prevented the creation of a planned coal mine, costing the area 1,100 jobs.[79] The lost royalties impacted every level of government, with Conoco estimating that the development of a 150 million barrel oil field would have resulted in $864 million in royalties, including $313 million for the state, $33 million for SITLA, and $94 million for the counties.[80]

One of the most controversial aspects of the designation involved the inclusion of roughly 176,000 acres of SITLA land in the exterior boundaries of the National Monument. The White House was not aware of the existence of SITLA land "or their importance" and needed an explanation of their benefits to schoolchildren the day before the National Monument's designation.[81] According to the Utah Geological Survey, "the value of the recoverable coal on School Trust lands [was] at least $17 billion but could [have been] $25 billion or more" with potential royalties worth $1.4-2 billion.[82] Years later, in order to compensate the State of Utah, SITLA received 145,000 acres of land outside of the National Monument and a $50 million cash equalization payment.[83]

Over 20 years after the designation, the National Monument still creates serious problems for the local communities. On June 22, 2015, Garfield County Commissioners declared a state of emergency due to declining enrollment in the County's schools.[84] Since the designation, enrollment in the Garfield School District dropped by 300 students and the student body in Escalante High School declined by two-thirds.[85] In the resolution declaring the state of

[73] Committee on Resources, "Monumental Abuse: The Clinton Administration's Campaign of Misinformation in the Establishment of the Grand Staircase-Escalante National Monument", House Report 105-824
[74] Ibid "Behind Closed Doors: The Abuse of Trust and Discretion in the Establishment of the Grand Staircase-Escalante National Monument", pg 19
[75] American Stewards "analyzing data from Utah State University Extension and Eonomics Associations of Utah, Inc , "Economic and Cultural Report on Livestock Grazing in The Grand Staircase Escalante National Monument to The Kane County Board of Commissioners "https://www americanstewards us/wp-content/uploads/2015/07/Economic-and-Cultural-Report-on-Grazing-on-The-Grand-Staircase pdf
[76] M Lee Allison et al , "A Preliminary Assessment of Energy and Mineral Resources within the Grand Staircase - Escalante National Monument", Utah Geological Survey, January 1997, http://files geology utah gov/online/c/c-93/index htm
[77] Ibid
[78] Ibid "The Straw that Broke the Camel's Back? Grand Staircase-Escalante National Monument Antiquates the Antiquities Act", pg 704-5 Janice Fried, "The Grand Staircase-Escalante National Monument: A Case Study in Western Land Management", 17 Va Envtl L J 477 1997-1998, pg 489
[79] AP, "Strong emotions reignited on 20th anniversary of Utah monument", CBS News, 09/18/16, http://www cbsnews com/news/strong-emotions-20th-anniversary-utah-grand-staircase-escalante-national-monument/
[80] Karl Cates, "Plans for Escalante Wells Attacked", Deseret News, 02/12/97, http://www deseretnews com/article/542880/PLANS-FOR-ESCALANTE-WELLS-ATTACKED html
[81] Ibid "Establishing the Grand Staircase-Escalante National Monument", p 23
[82] Ibid "A Preliminary Assessment of Energy and Mineral Resources within the Grand Staircase - Escalante National Monument"
[83] Brian Maffly, "Utah not ready to sign off on a Bears Ears lands swap", The Salt Lake Tribune, 01/20/17, http://www sltrib com/home/4835113-155/utah-not-ready-to-sign-off
[84] McKeller, Katie, "Garfield County issues unique state of emergency", Deseret News, 06/22/15, http://www deseretnews com/article/865631229/Garfield-County-issues-unique-state-of-emergency html
[85] McKeller, Katie, "Does Garfield County have a future? Student numbers tell troubled story", Deseret News, 06/09/15, http://www deseretnews com/article/865630428/Does-Garfield-County-have-a-future-Student-numbers-tell-troubled-story html?pg=all

emergency, Garfield County cited the National Monument and federal land management policies as the reason for "virtually eliminat[ing] historic social and economic stability in Garfield County's communities and families."[86] Management of the National Monument also continues to present challenges to BLM and local communities. A 2014 Manager's Report highlighted the management difficulties at the National Monument by stating, "Increased backcountry visitor impacts include increased graffiti, human waste issues, water quality concerns and parking congestion."[87] According to BLM, over a 10 year period, Grand Staircase-Escalante experienced 78 separate incidents of vandalism, theft, or damage and destruction of archeological and natural resources.[88] In 2015 alone, rangers removed more than 1,234 square feet of graffiti.[89] In comparison, before its designation as a National Monument, Bears Ears only experienced 1 incident of vandalism over 5 years.[90] On February 17, 2017, Governor Herbert signed H.C.R. 12, a bipartisan state law urging a federal reduction in the size of Grand Staircase-Escalante.[91]

Cascade-Siskiyou National Monument

On June 9, 2000, President Clinton designated Cascade-Siskiyou National Monument in southwestern Oregon. President Obama expanded the National Monument by 47,624 acres, including 5,275 acres in California, as one of his last uses of the Antiquities Act on January 12, 2017. A major concern with the designation involved the massive amount of private land included in the boundaries of the National Monument. President Obama's expansion added 32,977 acres of private land to the National Monument, in addition to the approximately 19,000 of private land already within the National Monument's original footprint.[92]

Currently, Murphy Company, a forest products company, and the Association of O&C Counties are suing over the designation, arguing the expansion illegally overlaps with Oregon and California Railroad lands (O&C Lands). According to a 1940 opinion from DOI Solicitor General Nathan R. Margold, the President does not possess the authority to designate a National Monument on O& C Lands, stating:

> "There can be no doubt that the administration of the lands for national monument purposes would be inconsistent with the utilization of the O. and C. lands as directed by Congress. It is well settled that where Congress has set aside lands for a specific purpose the President is without authority to reserve lands for another purpose inconsistent with that specified by Congress."[93]

Roughly 40,000 acres of the 48,000 acre expansion overlap O&C Lands that are meant for the sustained yield of timber production.[94] Congress passed the O&C Lands Act in 1937 for "permanent forest production" and stated "the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities."[95] 50 percent of the revenues from O&C Lands go directly to the Counties, which pay for "essential

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[86] Garfield County Board of Commissioners, Resolution 2015-3, 06/22/15, http://garfield utah gov/wp-content/uploads/2015/07/commission-meeting-6-22-2015 pdf
[87] BLM, Grand Staircase-Escalante Manager's Annual Report, 2014, https://www blm gov/nlcs_web/sites/style/medialib/blm/ut/grand_staircase-escalante/nlcs_mgrs_report Par 61629 File dat/GSENM_Manager_Report_FY2014_draft1-25-2015 pdf pg 46
[88] Information obtained by the Congressional Research Service and provided by the Bureau of Land Management
[89] Fox 13 News, "Rangers investigate vandalism at Grand Staircase-Escalante National Monument", 04/04/16, http://fox13now com/2016/04/04/rangers-investigate-vandalism-at-grand-staircase-escalante-national-monument/
[90] Ibid Rebecca Benally, Subcommittee on Federal Lands Hearing on H R 5780
[91] Benajamin Wood, "Utah Senate approves call to shrink Grand Staircase-Escalante National Monument", The Salt Lake Tribune, 02/08/17, http://www sltrib com/home/4919019-155/utah-senate-approves-call-to-shrink
[92] Mark Freeman, "Obama expands Cascade-Siskiyou National Monument", Mail Tribune, 01/13/17, http://www mailtribune com/news/20170112/obama-expands-cascade-siskiyou-national-monument
[93] Department of the Interior Solicitor General Nathan R Margold, M 30506, 03/09/40, pgs 3-4
[94] Karina Brown, "Oregon Counties Fight Expansion of National Monument", CourtHouse News Service, 02/16/17, https://www courthousenews com/oregon-counties-fight-expansion-of-national-monument/
[95] 43 U S C 1181a

public services of all kinds, from public safety such as sheriff patrols and jails to public health programs and libraries.[96] When these lands are taken out of multiple-use, the Counties face extreme budget shortfalls that negatively impact residents in the surrounding rural communities.

The restrictions from the National Monument expansion will not only harm the local forest products industry, but also make science-based management of the forest a near impossibility. Active management is critical to resilient forest health and preventing catastrophic wildfires in the face of drought, insects, and disease. The National Monument designation will not only prevent commercial timber harvesting, but also essential forest management activities such as thinning.[97] In a scientific study conducted in 2014, researchers categorized most of the lands in the National Monument footprint as having moderate (25-45) to high (45-65) active restoration needs.[98] Potentially exacerbating these conditions are the restrictions on transportation within the National Monument and reduced funds to maintain and repair infrastructure, which could severely limit access for firefighters in the event of a catastrophic wildfire.[99] According to testimony provided by the American Forest Resource Council, Because these are dynamic ecosystems and the boundaries of the monument are not catastrophic fire is not a matter of if. It is a matter of when.[100]

Grazing presents another challenge with the National Monument s expansion. President Clinton s original designation of Cascade-Siskiyou specifically targeted grazing and ordered BLM to study grazing s impact on biological diversity in the National Monument.[101] After the original designation, the permitted AUMs fell from 2,714 to 101, covering 47,281 acres.[102] Many ranchers reluctantly agreed to receive buyouts because the regulations impacting their grazing operations became too burdensome and were threatening their profitability.[103] In testimony provided to the Committee, Jackson County, Oregon, reported that one rancher loses nearly $170,000 per year because restrictions on transportation in the National Monument prevent him from reaching his 360 acres of lands leased for grazing.[104] After the expansion of the National Monument, many ranchers faced renewed concerns that the designation would prevent ranchers from properly maintain[ing] fences, water structures and other range improvements, diminishing the land s suitability for grazing.[105]

Several groups and individuals in Oregon and California opposed the expansion including Chairmen Greg Walden (R-OR-02), Tom McClintock (R-CA-04), and Doug LaMalfa (R-CA-01), Oregon State Senators Herman Baertschiger Jr. and Doug Whitsett, Oregon State Representatives Mike McLane, Carl Wilson, Gail Whitsett, Sal Esquivel, and Duane Stark, Jackson County, Oregon, Siskiyou County, California, Klamath County, Oregon, the Association of O C Counties, local forestry companies, including the Murphy Company, Medford/Jackson Chamber of Commerce, the Oregon Farm Bureau, the Oregon Cattlemen s Association, Oregon Snowmobilers, Jefferson State 4x4, and the Jackson County Chamber of Commerce.[106] The designation also lacked adequate public input, as the BLM Medford Office never provided accurate maps and data to enable the public to learn more about how the expansion would affect the local community.[107]

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[96] Association of O C Counties, Testimony for the House Committee on Natural Resources Subcommittee on Federal Lands Regarding the Antiquities Act, pg 2
[97] Travis Joseph, Testimony on Consequences of Executive Branch Overreach of the Antiquities Act, AFRC, pg 4
[98] Ryan Haugo et al A new approach to evaluate forest structure restoration needs across Oregon and Washington, USA, Forest Ecology and Management 335 (2015) 37 50
[99] Jackson County, Oregon, Letter RE: House Natural Resources Committee, Subcommittee on Federal Lands Oversight Hearing Examining the Consequences of Executive Branch Overreach of the Antiquities Act, pg 2
[100] Ibid Testimony on Consequences of Executive Branch Overreach of the Antiquities Act, AFRC, pg 4
[101] President Bill Clinton, Proclamation 7318, 06/09/00, https://www blm gov/or/resources/recreation/csnm/files/Proclamation_7318 pdf
[102] Phil Taylor, Grazing in Clinton-era monuments it s complicated, E E News, 04/28/16, https://www eenews net/stories/1060035783
[103] Ibid Grazing in Clinton-era monuments it s complicated
[104] Ibid , Letter RE: House Natural Resources Committee, Subcommittee on Federal Lands Oversight Hearing Examining the Consequences of Executive Branch Overreach of the Antiquities Act, pg 2
[105] Mateusz Perkowski, Ranchers dread effects of Cascade-Siskiyou monument expansion, Capital Press, 01/113/17, http://www capitalpress com/Oregon/20170112/obama-expands-cascade-siskiyou-national-monument
[106] Letters provide to the Committee on Natural Resources
[107] Members representing Southern Oregon in the Oregon State Legislature, Letter RE: Cascade Siskiyou, 11/1/16

From:	Forsythe, Liam (Heitkamp)
To:	Chambers, Micah (micah_chambers@ios.doi.gov)
Cc:	Venuto, Sarah (Manchin)
Subject:	Letter to Sec. Zinke re. BLM"s Methane Waste Prevention Rule
Date:	Wednesday, May 10, 2017 2:24:48 PM
Attachments:	5.10.17 INTERIOR Sec. Zinke_BLM Methane Waste Rule (SIGNED).pdf

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Micah –

Please see attached for a letter to Sec. Zinke regarding BLM's "Waste Management Production Subject to Royalties, and Resource Conservation" Rule or Methane Waste Prevention Rule.

If you have any questions please do not hesitate to contact me at Liam_Forsythe@heitkamp.senate.gov or (202) 224.2043

Liam

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United States Senate

WASHINGTON, DC 20510

May 10, 2017

The Honorable Ryan Zinke
Secretary
Department of Interior
1849 C Street NW
Washington, DC 20240-0002

Dear Secretary Zinke:

In the course of reviewing and taking comment on the "Waste Management Production Subject to Royalties, and Resource Conservation" (Methane Waste Prevention Rule), released by the Bureau of Land Management (BLM) on November 15, 2016, we have determined that sufficient concerns exist with the final regulation and request that you take the necessary steps to promulgate a revised or new rule. Put simply, we believe the BLM erred in its development of the rule and failed to adequately consider credible concerns raised by industry stakeholders and tribes with active oil and gas production on federal and Indian lands.

The BLM stated the rule was intended to update "30-year old regulations governing venting, flaring, and leaks of natural gas, and [to] help curb waste of public resources, reduce harmful methane emissions, and provide a fair return on public resources for federal taxpayers, tribes and states." [1] Unfortunately, in issuing the rule, we believe the BLM overreached and created some areas of duplication – and in the case of Indian lands, the BLM improperly included lands that are not federal lands without proper consultation. Therefore, significant modifications to the rule must be pursued.

On March 28, 2017, President Trump issued Executive Order 13783 on "Promoting Energy Independence and Economic Growth" that, among other things, directs the Department of the Interior (DOI) to review this rule and determine if it should be revoked or revised. We agree with the Administration's call to review this rule – and ask that in reviewing the rule the Administration meet with affected industry stakeholders, tribes, and state regulators on making the necessary revisions. And, while we agree that this rule contains significant flaws, as elected officials, we have a responsibility to our constituents to ensure that taxpayer-owned resources are not unnecessarily wasted. These resources belong to the American taxpayer and various Indian tribes, and it is the responsibility of the BLM to manage these valuable resources in a manner that delivers the best return for the taxpayer and tribes.

The independent and non-partisan Government Accountability Office (GAO) has stated on at least two separate occasions that the Department of the Interior's regulations were not sufficient to protect against waste and ensure the best return for the American taxpayer. GAO found in a 2013 report that, "Interior changed certain offshore lease terms — including raising royalty rates twice in response to changing market conditions. For onshore resources, which are subject to many of the same market conditions, Interior has considered but not made changes to royalty rates … Interior officials are currently unable to make timely adjustments to onshore royalty rates. Current regulations generally provide for a fixed onshore royalty rate that limits Interior's flexibility to make timely adjustments."[2] In a July 2016 report, GAO found that while Interior had made efforts on the collection and reporting of data related to royalty-bearing oil and gas production, there had been limited guidance on how operators should address emissions.[3] The report stated "[a]s a result of these limitations, Interior may not have a consistent accounting of natural gas emissions from onshore federal leases, and does not have the information it needs to reasonably ensure it is minimizing waste on these leases."[4]

BLM developed this rule in response to GAO findings about wasted public resources. These findings are further substantiated by the fact that, between 2009 and 2015, oil and gas wells on federally-owned lands vented or flared

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[1] "Interior Department Announces Final Rule to Reduce Methane Emissions & Wasted Gas on Public, Tribal Lands." Press Release. Department of the Interior. November 15, 2016.
[2] "Oil and Gas Resources: Actions Needed for Interior to Better Ensure a Fair Return." GAO, Report to the Chairman, Committee on Energy and Natural Resources, U.S. Senate. December 2013.
[3] King, Pamela. "Dumping Interior rules means tossing waste safeguards." Energywire, 27 February 2017
[4] "Oil and Gas Resources: Interior Could Do More to Account for and Manage Natural Gas Emissions." GAO, Report to Congressional Requesters, July 2016.

approximately 462 billion cubic feet of natural gas into the atmosphere, a substantial loss of royalties to the American taxpayer. Given these findings of waste, there is a clear and corresponding need to improve the methods used to ensure a better return for taxpayers. Therefore, we urge you to modify the Methane Waste Prevention Rule in a manner that ensures an adequate return of royalties to the Treasury, while also preventing an unnecessary decline in oil and gas production on public lands. It is our understanding that you have several tools at your disposal to pursue a thoughtful and effective regulation that can achieve these goals. Those tools include: (a) requesting that the District Court of Wyoming, the court currently consider this rule in a pending lawsuit, actually remand the rule back to BLM to reconsider the issues raised by the lawsuit[5]; (b) begin the process of revising the rule by issuing both a rule suspending enforcement and a replacement rule to correct the inherent flaws in the current rule; or (c) use your enforcement discretion to issue guidance indicating that the BLM does not intend to enforce certain portions of the rule until the rule is fully reconsidered.

We appreciate your willingness to review and address this rule, and we look forward to working with you to fix the current rule – making it more responsive and efficient for industry and state regulators while preventing waste and ensuring the maximum return for the American taxpayer.

Sincerely,

Heidi Heitkamp
United States Senator

Joe Manchin III
United States Senator

[5] *Wyoming v. Department of Interior,* NO. 16-CV-00285 (D.Wy filed Nov. 18, 2016)

From:	Gruman, Mark
To:	Chambers, Micah
Cc:	Marohl, Chris
Subject:	RE: Letter to Sec. Zinke re. BLM"s Methane Waste Prevention Rule
Date:	Wednesday, May 10, 2017 2:53:33 PM

Thanks. Mark.

This email and any related documents generated or received by Congressman Cramer or his staff are congressional records and remain subject to the Congressman's control, even if forwarded to an agency in connection with legislative or oversight activities. Any documents created or compiled by an agency in relation to any response to this email or to any related congressional communications are also congressional records and remain subject to congressional control. Accordingly, the aforementioned documents are not "agency records" for purposes of the Freedom of Information Act, and should be segregated from agency records.

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Wednesday, May 10, 2017 2:43 PM
To: Bernstein, Ryan (Hoeven); shawn_affolter@hoeven.senate.gov; Marohl, Chris; Gruman, Mark; Deeley, Blake
Subject: Fwd: Letter to Sec. Zinke re. BLM's Methane Waste Prevention Rule

FYI. From your ND and WV colleagues.

---------- Forwarded message ----------
From: **Forsythe, Liam (Heitkamp)** <Liam_Forsythe@heitkamp.senate.gov>
Date: Wed, May 10, 2017 at 2:21 PM
Subject: Letter to Sec. Zinke re. BLM's Methane Waste Prevention Rule
To: "Chambers, Micah (micah_chambers@ios.doi.gov)" <micah_chambers@ios.doi.gov>
Cc: "Venuto, Sarah (Manchin)" <Sarah_Venuto@manchin.senate.gov>

Micah -

Please see attached for a letter to Sec. Zinke regarding BLM's "Waste Management Production Subject to Royalties, and Resource Conservation" Rule or Methane Waste Prevention Rule.

If you have any questions please do not hesitate to contact me at Liam_Forsythe@heitkamp.senate.gov<mailto:Liam_Forsythe@heitkamp.senate.gov> or (202) 224.2043

Liam

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<http://www.heitkamp.senate.gov/public/_cache/files/d486790b-74d8-43cd-8808-852a1efa055e/img-3185-photogallery.jpg>

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From:	Deeley, Blake
To:	Chambers, Micah; Bernstein, Ryan (Hoeven); shawn_affolter@hoeven.senate.gov; Marohl, Chris; Gruman, Mark
Subject:	RE: Letter to Sec. Zinke re. BLM"s Methane Waste Prevention Rule
Date:	Wednesday, May 10, 2017 3:00:17 PM

Thanks for sharing

From: Chambers, Micah [mailto:micah_chambers@ios.doi.gov]
Sent: Wednesday, May 10, 2017 2:43 PM
To: Bernstein, Ryan (Hoeven); shawn_affolter@hoeven.senate.gov; Marohl, Chris; Gruman, Mark; Deeley, Blake
Subject: Fwd: Letter to Sec. Zinke re. BLM's Methane Waste Prevention Rule

FYI. From your ND and WV colleagues.

---------- Forwarded message ----------
From: **Forsythe, Liam (Heitkamp)** <Liam_Forsythe@heitkamp.senate.gov>
Date: Wed, May 10, 2017 at 2:21 PM
Subject: Letter to Sec. Zinke re. BLM's Methane Waste Prevention Rule
To: "Chambers, Micah (micah_chambers@ios.doi.gov)" <micah_chambers@ios.doi.gov>
Cc: "Venuto, Sarah (Manchin)" <Sarah_Venuto@manchin.senate.gov>

Micah -

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Liam

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<http://instagram.com/senatorheitkamp>[cid:image005.jpg@01D1012E.E6CB94C0]
<https://medium.com/@senatorheitkamp>[cid:image006.jpg@01D1012E.E6CB94C0]
<http://www.heitkamp.senate.gov/public/_cache/files/d486790b-74d8-43cd-8808-852a1efa055e/img-3185-photogallery.jpg>

--
Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

From: Ryan Ullman
To: Chambers, Micah
Cc: domnitchc@api.org
Subject: Re: Letter to Sec. Zinke re. BLM"s Methane Waste Prevention Rule
Date: Wednesday, May 10, 2017 4:06:15 PM

Talk about trying to polish a turd. My eyes have rolled so far back in my head I can see my brain stem.

Sent from my iPhone

On May 10, 2017, at 2:40 PM, Chambers, Micah <micah_chambers@ios.doi.gov> wrote:

> FYI
>
> ---------- Forwarded message ----------
> From: **Forsythe, Liam (Heitkamp)** <Liam_Forsythe@heitkamp.senate.gov>
> Date: Wed, May 10, 2017 at 2:21 PM
> Subject: Letter to Sec. Zinke re. BLM's Methane Waste Prevention Rule
> To: "Chambers, Micah (micah_chambers@ios.doi.gov)"
> <micah_chambers@ios.doi.gov>
> Cc: "Venuto, Sarah (Manchin)" <Sarah_Venuto@manchin.senate.gov>
>
> Micah -
>
> Please see attached for a letter to Sec. Zinke regarding BLM's "Waste Management Production Subject to Royalties, and Resource Conservation" Rule or Methane Waste Prevention Rule.
>
> If you have any questions please do not hesitate to contact me at Liam_Forsythe@heitkamp.senate.gov<mailto:Liam_Forsythe@heitkamp.senate.gov> or (202) 224.2043
>
> Liam
>
> Liam Taggart Forsythe
> Chief Counsel
> U.S. Senator Heidi Heitkamp (D-ND)
> Hart 516
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> [facebook]<http://www.facebook.com/SenatorHeidiHeitkamp>[twitter]
> <http://www.twitter.com/SenatorHeitkamp>[youtube]<http://www.youtube.com/senatorheidiheitkamp>[cid:image004.jpg@01D1012E.E6CB94C0]
> <http://instagram.com/senatorheitkamp>[cid:image005.

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cid:image006.jpg@01D1012E.E6CB94C0]<http://www.heitkamp.
senate.gov/public/_cache/files/d486790b-74d8-43cd-8808-852a1efa055e/img-
3185-photogallery.jpg>

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Micah Chambers
Special Assistant / Acting Director
Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

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<image006.jpg>

<5.10.17 INTERIOR Sec. Zinke_BLM Methane Waste Rule (SIGNED).pdf>

From: Wright, Jennie (Inhofe)
To: Micah Chambers
Subject: follow up re farrell-cooper
Date: Monday, May 15, 2017 5:18:23 PM
Attachments: One Pager Zinke Meeting (4-18-2017).docx

Hi Micah,

Farrell-Cooper is looking for an update. Anything we can share with them one way or the other? They've asked about scheduling a phone call with Kate too, if needed/possible.

Thanks,

Jennie H. Wright
Legislative Counsel
U.S. Senator James M. Inhofe
205 Russell Senate Office Building
Washington, DC 20510
(202) 224-4721 | Main
(202) 228-0380 | Fax

Farrell-Cooper Mining company (FCMC) request to meet with Interior Department regarding the unlawful attack by the Obama administration against Farrell Cooper Mining Company and the State of Oklahoma.

Subject: Department of Interior Federal Violations NOV N11-030-370-001 (Liberty #5), NOV N12-030-246-001 (Liberty #6) and NOV N13-030-370-001 (Rock Island).

Background: In 2010 the Office of Surface Mining unilaterally changed its longstanding interpretation of the "Approximate Original Contour" section of the Surface Mining Control and Reclamation Act of 1977. Without following the requirements of the APA, the agency then applied the new interpretation of this law retroactively on 3 permits in the State of Oklahoma and issued Notices of Violations to the mining company which required the company to redo existing reclamation at a cost estimate of $25,000,000.

FCMC challenged the Notices of Violations at the administrative court level. FCMC was successful in asserting its claims at Liberty #5 and Liberty #6 that the NOVs were unlawfully issued and the NOVs were vacated. The NOV issued at Rock Island was upheld. All of the cases are currently on appeal as discussed below.

SMCRA was intended to confer primary, if not completely exclusive, jurisdiction to administer surface coal mining programs to the primacy States. Although OSM retains considerable oversight authority, Congress and the Secretary have clarified that OSM should defer to the State regulatory authority when there is conflict over interpretation of a SMCRA requirement – unless the State's position is arbitrary, capricious, or an abuse of discretion.

-Judge Pearlstein Decision, NOV N11-030-370-001 (Liberty #5). p. 27

ODM took the position that FCMC was not in violation of state law and applicable regulations and Judge Pearlstein determined in both Liberty #5 and Liberty #6 that ODM's position was not arbitrary, capricious or an abuse of discretion.

The Office of Surface Mining has appealed the Liberty #5 and Liberty #6 decisions to the Interior Board of Land Appeals (IBLA) and the appeals are currently pending. Recent correspondence in the Liberty #5 and Liberty #6 cases indicates that a decision by the IBLA may be issued soon in each of those appeals. The Rock Island case* was initially appealed to the IBLA and then subsequently to the U. S. District Court in Oklahoma after the IBLA denied FCMC's request for a stay. An appeal on the issue of jurisdiction was recently heard at the 10th Circuit in Denver, Colorado.

Request: FCMC, the National Mining Association, Senator Jim Inhofe, and Representative Markwayne Mullin request that the Secretary of Interior withdraw the appeals of the Liberty #5 and Liberty #6 NOVs and let the decisions of Judge Pearlstein stand.

Authority: Executive Order signed by the President on March 28, 2017 and entitled, "Promoting Energy Independence and Economic Growth." The Secretarial Order 3349. Resolution of disapproval (H.J. Res. 38) under the Congressional Review Act voiding the Stream Protection Rule.

*-We would like to discuss the Rock Island case and find a solution that complies with the Executive Order and Secretarial Order 3349.