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**Cc:** Senio, Ian J[isenio@blm.gov]  
**From:** Bremner, Faith  
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We appear to be having problems with Google Drive. The links to the two documents that I emailed you on Nov. 14 don't allow the edits that folks add to the documents to be saved. I have attached copies of the two documents to this email. Please make your contributions to the ACTIONS TAKEN lines on these documents and email them back to me ASAP and I'll merge them into the documents that need to go to Peter and then to ASLM.

Thanks

Faith Bremner  
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## **BLM Comments on Regulatory Reform**

### **Received from August 26, 2017 – September 25, 2017**

Freeport Minerals Corporation (Francis R. McAllister)

ID: DOI-2017-0003-0074

*RE: Reducing Federal regulatory burdens.*

- Freeport's chief product is copper, which is highly sensitive to local production cost variables and small changes in regulatory burdens or costs at individual steps in the production process can impose a significant economic toll. Relieving regulatory burdens and costs on primary mining and metals industry will create a positive economic multiplier effect. Regulatory reform efforts should prioritize the primary mining and metals industry to address the realities of a marketplace where companies like Freeport supply critical raw materials to the rest of the economy. We strongly support the efforts to implement EO 13771 and EO 13777.
- Regulatory burdens and uncertainty seriously impact Freeport's business and impede domestic policy growth.
- Regulatory burdens place U.S. industries at a competitive disadvantage to foreign industries, especially for primary mining and metals, whose products are fungible commodities traded on international markets. The competitive disadvantage also impedes efforts to ensure that U.S. infrastructure projects rely on U.S. materials.
- The identified regulations and guidance impose two principle regulatory burdens for Freeport's domestic business activities: (1) administrative compliance costs directly resulting in lost economic opportunities and diminishing funds that would otherwise be available for production; (2) substantial legal uncertainty that limit and disincentivize future economic growth and responsible business practices. These indirect costs typically arise from agencies attempting to exceed their statutory mandates and interpret the law unpredictably, forcing Freeport to make overly conservative legal assumptions. There should instead be a clear rulebook. The regulatory burdens and uncertainty limit economic opportunities and new jobs that would be created but for onerous compliance costs of doing business domestically. (See comment for example of median cost of NEPA EA).
- Timely regulatory reform is necessary, especially for regulations and guidance that influence permitting.
- Freeport relies on issuance of Federal permits for many mining and processing facilities, regularly interacting with BLM, FWS, BIA, BOR, NPS, and OSMRE. Agencies' implementation of many programs often is unduly complicated, delayed, and vexatious due to concurrent application of multiple other regulations and guidance that are triggered by federal decision-making. Participation by multiple agencies is required merely to authorize a single new project. Freeport does not expect permit decisions at the speed of

private business but a few straightforward changes could greatly reduce costs, lost opportunities, and consequences of delays. Chiefly, these delays relate to implementation of NEPA and the ESA.

- RECOMMENDED DISPOSITION: Refer to the BLM's solid minerals program for consideration.
- ACTIONS TAKEN:

Environmental Defense Fund (Eric Holst and Tomas Carbonell)

ID: DOI-2017-0003-0120

*RE: Federal Lands Policy and Management Act, 43 U.S.C. 1732(a), Waste Prevention, Production Subject to Royalties, and Resource Conservation Final Rule*

- FLPMA does not allow energy development to take priority over other public-land uses, contrary to what the Administration has indicated it may do in its Executive and Secretarial Orders. FLPMA requires the BLM to manage public lands for multiple use and sustained yield. Effectively used mitigation measures allow the BLM to fulfill this obligation by supporting a wide variety of resources and land uses across the landscape.
- Mitigation policies drive economic and environmental benefits.
- DOI should disclose all comments received in response to its call for public input on regulatory reform as well as decision documents related to its regulatory review.
- EDF opposes efforts to roll back waste mitigation measures and to suspend and delay the Waste Rule. The Waste Rule minimizes the waste of taxpayer-owned natural resources, helps ensure a fair return to tribes, puts energy resources to good use, and reduces harmful pollution that threatens our climate and human health. A rollback would be contrary to the BLM's mandate under the MLA to ensure that oil and gas operators "use all reasonable precautions to prevent waste of oil or gas developed in the land."
- The Waste Rule would have minimal cost or employment impacts on industry. A recent EDF public-opinion poll found that over 70 percent of Americans support the Waste Rule's measures.
- RECOMMENDED DISPOSITION: Refer to the BLM's oil and gas program for consideration.
- ACTIONS TAKEN

Anonymous

ID: DOI-2017-0003-0121

*RE: Regulatory reform efforts.*

- The BLM thinks it owns all public land. They don't want cattle, sheep, or hunters on the land. Fires have gotten worse since public lands have been closed to livestock.
- The BLM has become bullies, look at the Lavoy Finicum case, the Bundy case, and Hammon case.
- The government should sell BLM's land-locked property to private individuals, which would create a tax base.
- President Trump is on the right track and we're glad he is asking for our input.
- RECOMMENDED DISPOSITION: Non-substantive comment. No further action.
- ACTIONS TAKEN: None

Encana Oil & Gas (USA) Inc. (Matthew Most)

ID: DOI-2017-0003-0127

RE: 43 CFR part 1600 (Planning, programming, budgeting), 40 CFR part 1500 (Council on Environmental Quality), 36 CFR part 800 (Protection of historic properties), and 43 CFR part 46 (Implementation of NEPA)

- The BLM's process for issuing oil and gas leases, permits to drill, and rights-of-ways is rife with redundancies and inefficiencies. Through regulatory reform, the BLM can reduce or eliminate this.
- BLM resource management plans and their EISes, which identify where leasing may occur, often take seven or eight years to complete. The BLM then conducts additional NEPA review before offering leases for oil and gas development. Finally, the BLM conducts additional environmental analysis prior to approving permits that authorize development on oil and gas leases. NEPA review for multi-well oil and gas projects can easily take seven to 10 years.
- This burdensome process renders Federal oil and gas resources less attractive than non-Federal resources.
- The BLM should explore the use of categorical exclusions and work with the Council on Environmental Quality (CEQ) to change its regulations to streamline NEPA reviews.
- Open-ended reviews under NEPA and the National Historic Preservation Act (NHPA) can take years to complete with no defined end in sight. The Department should examine how it implements NEPA and NHPA and define logical and finite ends to review processes done under these laws.
- The Department should find ways to use technology to reduce administrative burdens on BLM staff. The BLM still does a significant amount of business using paper forms rather than automated systems. For example operators submit Form 3160-5 (Sundry Notices and Reports on Wells) for a variety of routine operations and activities. Operators must also submit this form to the appropriate state agency. This form should be automated.
- Supports efforts to rescind the hydraulic fracturing rule and the waste prevention rule.
- RECOMMENDED DISPOSITION: Refer to the BLM's oil and gas program for consideration.
- **ACTIONS TAKEN:**

The Wilderness Society, Center for American Progress, Defenders of Wildlife, Earthjustice, Natural Resources Defense Council, Western Organization of Resource Councils, Western Environmental Law Center

ID: DOI-2017-0003-0132

RE: Reducing Federal regulatory burdens, BLM IM 2010-117 (Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews); BLM IM 2016-143 (Implementation of Greater Sage-Grouse Resource Management Plan Revisions or Amendments – Oil and Gas Leasing and Development Sequential Prioritization); Waste Prevention, Production Subject to Royalties, and Resource Conservation Final Rule; DOI and BLM mitigation manuals

First of three letters submitted with this comment:

- Commenters disagree that there is a need to “alleviate unnecessary regulatory burdens.” Existing guidance and direction benefits the American people.

- The BLM's multiple-use mandate does not permit energy development to be prioritized over other uses of public lands, as the Administration has indicated it may do in a series of Executive and Secretarial Orders.
- We support IM 2010-117 and encourage DOI to continue to conduct Resource Management Plan (RMP) effectiveness monitoring and periodic RMP evaluations to determine if existing oil and gas leasing decisions and development adequately protect important resources. Master leasing plans are a proven tool for resolving potential conflicts with oil and gas development and we advocate for the continued use of this planning instrument. DOI should continue to implement oil and gas lease parcel reviews consistent with the IM. Curtailing or eliminating this review process would result in less informed decision making and could increase the number of lease sale protests and challenges.
- We encourage DOI to continue to implement IM 2016-143. It provides the necessary guidance for prioritizing oil and gas leasing and development outside of Greater Sage-Grouse Priority Habitat Management Areas and General Habitat Management Areas. These measures are necessary for keeping sage-grouse off the endangered species list and they provide certainty to the oil and gas industry.

Second of three letters:

- The BLM has the legal obligation and authority to require waste reduction measures and has a mandate to reduce waste. The Secretary should not identify the Waste Rule as a "regulatory burden" in his response to E.O. 13777.
- Previous policies were inadequate to fulfil this mandate and resulted in unnecessary waste. A 2010 Government Accountability Office report found rampant waste of publicly owned oil and gas. This waste has continued to worsen over time and has resulted in very real financial and environmental impacts.
- The Waste Rule relies on years of robust analysis that minimized costs to operators while maximizing public benefit. It increases public benefits while minimizing compliance costs for operators.
- A 2017 Colorado College poll found that 81 percent of westerners support keeping the Waste Rule in place.
- The Waste Rule is not a regulatory burden and is in line with goals of the Executive Orders. It does not "unnecessarily encumber energy production, constrain economic growth and prevent job creation." Compliance costs are minimal. The rule has potential to encourage economic growth, create new jobs, and spur the development of new technology. It provides regulatory certainty. Most operators have already begun investing in technology and equipment needed to meet the rule's requirements.
- The Waste Rule's additional benefits include reducing harmful pollutants, such as VOC, and increasing revenues for Federal, State, and local government coffers.
- We urge DOI to withdraw its proposed rule to suspend and delay implementation of the Waste Rule and the proposed rule to revise or rescind it.

Third of three letters:

- Urge DOI to keep common-sense mitigation policies in place and focus any potential changes on ways to strengthen them.
- Regional mitigation strategies, compensatory mitigation funds, and conservation agreements allow land managers, working with developers and stakeholders, to prioritize

areas for different uses and determine whether avoidance, minimization, or compensation of development impacts is appropriate in specific contexts and locations.

- Three examples of common-sense approaches to mitigation: The Dry Lake Solar Energy Zone in Nevada, the Luning Solar Project in Nevada, and the Jonah Energy Year-Round Development Project in Wyoming.
- DOI should keep its Mitigation Manual in place and implement it fully so that it continues to provide the benefit of consistent mitigation standards across DOI agencies.
- The BLM should keep its Mitigation Manual and Handbook in place and implement them fully so that it maintains consistent mitigation standards within the bureau.
- Supports BLM's use of Regional Mitigation Strategies as appropriate to balance development and conservation on public lands.
- The BLM should finalize the New Mexico and Utah solar mitigation strategies and continue to develop such strategies for future projects.
- The Regional Mitigation Strategy for oil and gas development in the National Petroleum Reserve-Alaska is important for providing predictability to developers on their mitigation obligations.
- RECOMMENDED DISPOSITION: Refer to the BLM's planning, oil and gas, and renewable energy programs for consideration.
- **ACTIONS TAKEN:**

National Parks Conservation Association (Theresa Pierno)

ID: DOI-2017-0003-0135

*RE: Waste Prevention, Production Subject to Royalties, and Resource Conservation Final Rule; BLM Instruction Memorandum 2010-117 (Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews).*

- Concerned with the false premise of E.O. 13777 that there is a need to “alleviate unnecessary regulatory burdens placed on the American people.”
- Natural gas intentionally vented, burned off at the well, or leaked from production facilities reduce air quality and visibility at national parks, including at the Arches National Park and Dinosaur National Monument.
- The Waste Prevention Rule is necessary to prevent waste, ensure a fair return for taxpayers, improve localized air quality, and slow the release of greenhouse gases.
- National parks and the oil and gas industry can coexist. However, the BLM should ensure oil and gas leasing in sensitive areas does not unintentionally harm park environments or visitation experience.
- IM 2010-117, which includes Master Lease Planning, established a venue for smart leasing decisions, leading to locally driven balance between energy development, national park visitation and outdoor recreation. Completed Master Lease Plans, like the Moab MLP around the Arches and Canyonlands National Parks in Utah and the Dinosaur Trails MLP, for lands next to the Dinosaur National Monument, benefit both industry and other stakeholders.
- Master Leasing Plans are a solution to a problem and should not be rescinded. Altering or removing this policy will put the land planning process back to its former, broken state with local communities ignored and battles over leases dragging out in court.
- RECOMMENDED DISPOSITION: Refer to the BLM's oil and gas program for consideration.

○ ACTIONS TAKEN:

Defenders of Wildlife, National Parks Conservation Association, Western Environmental Law Center, The Wilderness Society

ID: DOI-2017-0003-0139

*RE: Regulatory Reform efforts, Waste Prevention Final Rule*

- It's not clear that the E.O. 13777 Regulatory Reform Task Forces are designed to represent the public interest. News reports say that almost a third of the task-force appointees have conflicts of interest. It seems apparent the Department erroneously and unlawfully will view conservation and other public-interest regulations as burdens, not as benefits.
- Interior must inform the public on how its existing regulatory framework will be evaluated, how "burdens" will be defined and measured, and how deregulatory actions will be identified. The public needs to see the criteria the Department is using. Without this information, the public will question the legitimacy of a process that is already suspect.
- We are unaware of any evidence that Interior's regulations are a burden on the public or contrary to public interest. Interior gave no reference to its claim on its website that regulations in the U.S. have cost the economy more than \$2 trillion in recent years.
- A recent report by Columbia University's Sabin Center for Climate Change Law found that regulations to control emissions from power plants, oil production, and motor vehicles could together lead to close to \$300 billion in net public benefits by 2030. Report also says the BLM's Waste Prevention Rule could lead to \$126 million in economic benefits in 2020 and \$197 million in benefits in 2025.
- Elevating energy development over other uses is inconsistent with FLPMA.
- BLM lands provide habitat for more than 3,000 fish and wildlife species, 400 of which are listed under the Endangered Species Act, and for more than 800 rare plant species. The BLM's own statistics show that wildlife-based recreation on BLM lands generates for local economies \$574 million from fishing, \$800 million from hunting, and \$2.8 billion from wildlife viewing each year.
- The Department's new direction to revise sage-grouse conservation plans to allow more fossil fuel development and livestock grazing is not in the public interest, will lead to significant conservation costs. This could jeopardize an unprecedented, collaborative effort to conserve this iconic species.
- Recommend the Secretary recognize areas of critical environmental concern (ACECs) as a critical agency program and strengthen policy and guidance to improve ACECs' effectiveness.
- RECOMMENDED DISPOSITION: Refer to the BLM's oil and gas and planning programs.
- ACTIONS TAKEN:

Denise Doebbeling

ID: DOI-2017-0003-0153

*RE: Regulatory Reform efforts*

- We must protect this world and restore what we have damaged before it is too late. This is the reason wildlife refuges, wilderness areas, national monuments like Escalante and Bear's Ears have been created.
- I suspect Mr. Zinke and the Trump Administration want to open these lands to mineral lease. Due to global warming, we must develop other sources that will stop the use of carbon emissions.
- Public lands are the bank accounts to preserve a future for our survival.
- RECOMMENDED DISPOSITION: Refer to the BLM's oil and gas and NLCS programs
- ACTIONS TAKEN: Addressed in the Secretary of the Interior's 45-day June 10, 2017 Interim Report on Bears Ears National Monument to President Donald J. Trump and final report summary *REPORT SUMMARY BY U.S. SECRETARY OF THE INTERIOR RYAN ZINKE* {<https://www.doi.gov/sites/doi.gov/files/uploads/monument-report-summary.pdf>} in accordance with the April 26, 2017, Executive Order (EO) .



## BLM Comments on Regulatory Reform Received from June 22 – August 25, 2017

- Anonymous

ID: DOI-2017-0003-0012

RE: 43 CFR part 2800 (*Rights-of-Way under FLPMA*)

- A flood-control-district official in Arizona wants the BLM to expedite lease applications for public-safety communications equipment installed on Federal lands. Commenter has had two lease applications for environmental monitoring stations pending in local BLM field office since late 2015 and was recently told it could take another 2 years to get them approved.
- RECOMMENDED DISPOSITION: Refer to the BLM's Rights-of-Way Program for consideration.
- ACTIONS TAKEN:

- Office of Alaska State Senator John Coghill

ID: DOI-2017-0003-0023

RE: 43 CFR part 1600 (*Planning, Programming, Budgeting*)

- The BLM should reduce or restrict the number of, or stop expanding, Areas of Environmental Concern (ACECs) in Alaska. ACECs are de facto withdrawals that violate the Alaska National Interest Lands Conservation Act. They have a negative effect on the economic value of mineral deposits in the ACEC and in adjacent lands.
- RECOMMENDED DISPOSITION: Refer to the BLM's National Landscape Conservation System Program for consideration.
- ACTIONS TAKEN:

Commented [BFM1]: Needs response from NLCS

- Individual (Keener, Jeff)

ID: DOI-2017-0003-0024

RE: 43 CFR part 3800 (*Mining Claims Under the General Mining Laws*)

- Family-scale mining operations in Alaska are being wiped out by BLM regulations. Since 2009, BLM has required supplemental questionnaires to the standard Plan of Operations submittal, which are cumbersome for operators. These should be eliminated. Also, there should be a time limit, for example, 30 days for the agency to respond to an initial Plan of Operations for Small-Scale mining, 15 days to respond to an amendment to an approved Plan. The U.S. Bureau of Mines should be re-instated to help miners.
- Reinstate the public's ability to apply for patent to mineral locations.
- RECOMMENDED DISPOSITION: Refer to the BLM's Solid Minerals Program for consideration.
- ACTIONS TAKEN:

- American Petroleum Institute

ID: DOI-2017-0003-0043

*RE: 40 CFR part 1506 (Other requirements of NEPA; Agency responsibility), 43 CFR 3162.3-1 (Conduct of operations), 43 CFR part 3000 (Oil and gas leasing)*

- o BLM should prioritize timely completion of oil and gas leasing and permit decisions and incorporate this priority into performance standards for agency staff.
- o Leases should be issued within 60 days of an accepted high bid and APDs should be issued within 30 days of submission of a complete permit application.
- o BLM should issue guidance to District Offices that says APDs should be deemed submitted within 10 days, unless BLM provides clear written reasons to the lessee.
- o Once those issues are resolved, the BLM cannot raise new completeness issues.
- o Ad hoc requirements for APDs, that have no basis in regulation or law, such as asking companies to perform extra cultural, wildlife, flood plain surveys, should be reviewed to determine their consistency with the Secretarial Order. If these requirements are not consistent, then they should be withdrawn or terminated.
- o CEQ guidelines on time limits for the NEPA process (3 months for EAs and 12 months for EISs) should be followed. Direct staff to use existing CXs, unless an EA is clearly shown to be necessary. The NEPA process should tier from recent reviews of similar, nearby projects where circumstances have not materially changed. BLM should use Determination of NEPA Adequacy where appropriate.
- o Secretary should review existing guidance documents to determine their consistency with the Secretarial Order.
- o RECOMMENDED DISPOSITION: Refer to the BLM's Oil and Gas Program for consideration.
- o **ACTIONS TAKEN:**

- Berkshire Hathaway Energy  
ID: DOI-2017-0003-0044

*RE: 43 CFR part 2800 (Rights-of-Way under FLPMA)*

- o The BLM needs to do a better job of coordinating its environmental reviews and stipulations for power lines with other agencies to save time and avoid duplicative action.
- o BLM documents should refer to and incorporate the Avian Power Line Interaction Committee's document, "Best Management Practices for Electric Utilities in Sage-grouse Habitat." This document is updated as new information becomes available and reflects the best current science.
- o Aerial ROWs should not be required to undergo NEPA analyses. The NEPA process should be made consistent across all Field Offices in order to eliminate confusion, reduce project costs, and delays.
- o At the start of projects, the BLM should provide ROW permit holders with a staff directory and a list of key contacts to make it easier to identify staff and their roles because agency websites are not clear on this.
- o The BLM should acknowledge the feedback it receives from the public on various planning documents.
- o The BLM needs to expedite maintenance-project applications by following a standardized review schedule that's transparent to applicants and by meeting set timelines. Tribes, state, local, and other Federal agencies and stakeholders should be

involved in the review process as early as possible. The BLM should not be allowed to add stipulations after initial analysis and approval has occurred. Stakeholders should not be allowed to use the NEPA process to unduly delay projects and their concerns should be based on science and not on emotion.

- The BLM should implement a streamlined and expedited approval process for electric utility ROW project renewals. There should be a process for applicants to take their concerns to the State Director rather than be directed back to field-office managers who may not be responsive. Applicants should not be required to analyze environmental impacts on portions of their transmission-line ROWs that cross private lands. Perch discouragers are not effective and should not be required.
- Requirements that applicants wash vehicles before they can conduct work in ROWs is burdensome and do not protect against the spread of invasive species.
- The BLM should reconsider requiring companies to install new power lines underground. Underground lines cost more, are less reliant, disturb more ground, and may not always be feasible.
- The BLM should use CXs as much as possible for power-line maintenance projects.
- RECOMMENDED DISPOSITION: Refer to the BLM's Lands and Realty Program for consideration.
- ACTIONS TAKEN:

- Columbia Law School, Sabin Center for Climate Change Law

ID: DOI-2017-0003-0045

RE: 43 CFR subpart 3179 (Waste Prevention and Resource Conservation), 43 CFR subpart 3160 (Onshore Oil and Gas Operations: General)

- The BLM's existing energy regulations protect local communities and avoid environmental harm.
- The Waste Prevention rule is necessary and provides important public benefits that significantly outweigh costs. Its benefits include mitigation of climate change, improvements in public health, increased quality of life in communities where oil and gas development occurs; additional revenues from gas sales and increased royalties; and increased employment resulting from new job creation in the gas-capture industry.
- Retaining the hydraulic fracturing rule is essential to meeting the BLM's statutory duty to protect Federal lands under its control. Fracking can impact drinking water resources; reduce air quality; contaminate soil from spills and leaks; result in land clearing, visual impacts, construction noise, and disturbance of archaeological and cultural resources; and create visitor safety hazards from equipment and other facilities.
- Revising or repealing existing energy and climate-related regulations will have significant environmental impacts which requires the DOI to prepare an EIS.
- RECOMMENDED DISPOSITION: Refer to the BLM's Oil and Gas Program for consideration.

○ ACTIONS TAKEN:

- Individual (Pendery, Bruce)

ID: DOI-2017-0003-0046

*RE: 43 CFR subpart 3179 (Waste Prevention and Resource Conservation), 43 CFR subpart 3160 (Onshore Oil and Gas Operations: General)*

- o These regulations should be retained in their current form and fully implemented. It took years to develop these rules and they involved massive amounts of public involvement. Abandoning these rules now would be a massive waste of public resources and time. It is shameful that you would even consider these changes and abandon these efforts now.
- o RECOMMENDED DISPOSITION: Refer to the BLM's Oil and Gas Program for further consideration.
- o **ACTIONS TAKEN:**

- Individual (Wilmarth, David)

ID: DOI-2017-0003-0061

*RE: [Unspecified]*

- o The setback that restricts mining within a set distance like 200 feet from a stream often makes it impossible to mine the stream because mineable ground is in that area. When the stream is diverted to avoid the mining area that should be enough to protect the stream and water. A setback of 20 feet would be more appropriate just to protect the diversion.
- o The existing setback costs jobs without providing any environmental benefit and eliminates side streams from being prospected for placer gold.
- o On larger waterways where boats frequent a maximum setback of 50 feet seems better and some cases 100 feet.
- o RECOMMENDED DISPOSITION: Comment pertains to state regulations.
- o **ACTIONS TAKEN:**

- Individual (Anonymous, SRM)

ID: DOI-2017-0003-0062

*RE: New Oil and Gas rules that replace Onshore Oil & Gas Orders 3, 4, and 5 at 43 CFR 3173.29 (Requirements for Site Security and Production Handling; Immediate assessments), 3174 (Measurement of Oil; Immediate assessments), 3175 (Measurement of Gas; Immediate assessments)*

- o Immediate assessments have been forced into rules that are unfair, ineffective, and place unnecessary burdens on oil and gas operators.
- o 43 CFR 6163.1(b) was crafted to state that immediate assessments were to be enforced "without exception" prior to going to State Director Review this is unreasonable, unrealistic and a waste of government personnel time and resources
- o This is unfair because it treats mom & pop operators exactly the same as a major corporation, with potentially devastating economic impacts.
- o Declare the immediate assessment aspects of these rules unenforceable. With an administration that is more sensible to the struggles of business, I cannot overstate how completely unreasonable these assessments are.
- o The broad-brush approach of 43 CFR 3163.1(b) "Remedies for Acts of NonCompliance" must be nullified so that the field can implement reasonable discretion.

- o RECOMMENDED DISPOSITION: Refer to the BLM's Oil and Gas Program for consideration.

- o ACTIONS TAKEN:

- Power Company of Wyoming LLC (PCW)

ID: DOI-2017-0003-0075

RE: *Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Correction.*

- o This regulation adds an additional \$47 to \$106M in costs to our project and will inhibit job creation and impose costs that exceed benefits for renewable energy developers.
- o We've been developing the nation's largest renewable energy project on BLM land, the Chokecherry and Sierra Madre Wind Energy Project (CCSM Project) (see comment for details on project).
- o To date, PCW has invested over \$70M in private capital in developing and permitting the project. These costs were anticipated and included in our analysis of economic viability. We did not, however, anticipate or forecast a new lease and fee structure from BLM for this project.
- o BLM proposed the rule in September 2014 and we provided extensive comments about the economic implications and recommended grandfathering projects because they enjoyed net benefits from the regulation and should therefore bear no cost. Others raised similar comments. We also briefed OMB on our concerns in July 2016. DOI finalized the regulations in November 2016.
- o The application of the rule to our project and others in development prior to the regulatory initiative inhibits job creation, imposes costs that exceed benefits, and fails to accomplish the stated policy objectives of the regulation.
- o The rule requires ROW holders for wind development to pay two types of fees: (1) an acreage rental fee; and (2) a megawatt (MW) capacity fee based on the nameplate capacity approved in the ROW grant. To further complicate matters, it also provides the ROW holder must choose between either a Standard Rate Adjustment or Scheduled Rate Adjustment. *See* comment for calculations on how this increases costs at least \$46 million and potentially as much as \$106 million.
- o Despite providing our estimates of impacts at every stage of the input process, the BLM estimate of economic impact of the rule was only \$5 million. This low estimate did not make this rule eligible for repeal under the Congressional Review Act, but since the rule has been effective, operational solar projects in California and Nevada are also facing massive rent increase.
- o PCW made significant private investments in developing this project in hopes of strengthening energy independence, creating jobs in rural areas, and making a reasonable return on our investment. Mid-stream, the rules of the game were changed by this regulation, resulting in additional unforeseen operational costs. Despite expressing our concerns, the final rule failed to grandfather our project. We urge you to reconsider how this rule is applied to projects in development and modify the rule to apply only to prospective projects. This regulation undermines the stated goal of facilitating the advancement of renewable energy on public lands.

- RECOMMENDED DISPOSITION: Refer to the BLM's Lands and Realty Program for consideration.
  - ACTIONS TAKEN:
- Anonymous
 

ID: DOI 2017 0003 0091

RE: *Wild Horse Program*

  - Numbers of wild horses must be reduced. Their meat should be used to feed starving children.
  - RECOMMENDED DISPOSITION: Refer to wild horse program.
  - ACTIONS TAKEN:
- Anonymous
 

ID: DOI 2017 0003 0092

RE: *Restrictive regulations, generally*

  - Concerned about BLM overreach and restrictive regulations placed upon farmers and ranchers leasing BLM land.
  - Disagrees with actions the government took against Cliven Bundy.
  - Government agents responsible for the terror and loss of Levoy Finicum's life. Justice for the victims.
  - RECOMMENDED DISPOSITION: Non substantive comment. No further action.
  - ACTIONS TAKEN: None.
- Anonymous
 

ID: DOI 2017 0003 0093

RE: *Unspecified*

  - "Defund this. It is unconstitutional that it exists."
  - RECOMMENDED DISPOSITION: Non substantive comment. No further action.
  - ACTIONS TAKEN: None.
- Institute for Policy Integrity at NYU School of Law, Susanne Brooks, et al
 

ID: DOI 2017 0003 0094

RE: *DOI's process for reviewing regulations, 43 CFR subpart 3179 (Waste Prevention and Resource Conservation), 43 CFR 3485.2(c)(1) (Royalties), and 43 CFR 3103.4 1 (Royalty reductions)*

  - Retrospective review should prioritize reanalysis of regulations for which actual costs and benefits diverge significantly from predicted costs and benefits because of changing economic circumstances, new technological innovations, or emerging scientific understandings. It is irrational and inefficient to base a retrospective review purely on the volume of opposition from regulated entities and without considering regulatory benefits.
  - DOI should establish a process to prospectively collect the information needed to review the performance of any future "economically significant" rules.
  - To the extent that other stakeholders suggest repealing rules by attacking cost benefit methodologies, DOI should reaffirm that benefit estimates used in recent regulatory

impact analyses, including the value of mortality risk reduction and the social cost of greenhouses gases, remain the best available estimates.

- To the extent that other stakeholders argue for the repeal of regulations by alleging large negative impacts on employment, DOI should rely on well accepted economic theory and strong evidence that regulations have little effect on aggregate employment or unemployment rates.
- 43 CFR 3485.2(c)(1) and 43 CFR 3103.4 1 are two examples of fossil fuel, royalty relief provisions that should be modified or repealed under EO 13777 because they prevent a fair return to taxpayers and are unnecessary and ineffective.
- RECOMMENDED DISPOSITION: Refer to the BLM's Oil and Gas Program and Coal Program for consideration.
- ACTIONS TAKEN:

- Lignite Energy Council (Jason Bohrer)

ID: DOI 2017 0003 0095

RE: 30 CFR parts 740 (*General Requirements for Surface Coal Mining And Reclamation Operations On Federal Lands*) and 746 (*Review and Approval of Mining Plans*); and 43 CFR subpart 3425 (*Leasing on Application*)

- Department should analyze the (coal) leasing program to streamline leasing and uphold its statutory mandate to manage public resources for the greater good. The status quo is a gross violation of the spirit of this mandate.
- Department should also analyze the Federal mining plan approval process. The Surface Mining Control and Reclamation Act (SMCRA) dates back to 1983. It's time to review these rules and see if there's a more efficient way to implement SMCRA on Federal lands.
- DOI should look for ways in which the BLM and Office of Surface Mining Reclamation and Enforcement can improve the process and increase efficiencies between the two agencies.
- Department should remove duplicative and unnecessary information for Federal mining plan approval.
- The BLM's lease by application process should run in parallel with resource recovery and protection plans, mine plan reviews, and other analyses to expedite the leasing process.
- Federal leasing process must work in concert with state permitting agencies to ensure that a mine plan can be implemented without years long delays to lease Federal Coal parcels within the mine area.
- RECOMMENDED DISPOSITION: Refer to the BLM's Coal Program for consideration.

○ ACTIONS TAKEN:

- Anonymous

ID: DOI 2017 0003 0096

RE: *Unspecified*

- The BLM does not need to have armed officers or be a law enforcement agency. It should only be an administrative agency and any law enforcement should be left to local county sheriffs.

- RECOMMENDED DISPOSITION: Non substantive comment. No further action.
  - ACTION TAKEN: None.
- Anonymous
 

ID: DOI 2017 0003 0097

RE: *Unspecified*

  - Please take law enforcement powers away from the BLM.
  - The BLM is responsible for too many Americans' deaths.
  - RECOMMENDED DISPOSITION: Non substantive comment. No further action.
  - ACTIONS TAKEN: None.
- Western Energy Alliance (Kathleen Sgamma)
 

ID: DOI 2017 0003 0098

RE: *43 CFR part 3100 (Oil and Gas Leasing)*

  - Oil and gas production on Federal lands in the West is not increasing like it is on private and state lands because of slow processing times and Federal obstacles to production, which limit job creation and economic growth, particularly in rural communities.
  - BLM should work with Congress to delegate primary regulatory authority for well permitting and operations to the states where it is appropriate. States have robust oil and gas regulatory frameworks that have been in place for decades. BLM should focus on NEPA compliance.
  - Federal Government takes more than 250 days to issue drilling permits compared to about 30 days on average for state agencies.
  - It is inappropriate for the BLM to become involved in wells in which it has only a minority of the mineral interest. The BLM's approach to the Federal nexus is regulatory overreach that results in development on state and private land being subject to the discretion of Federal agencies. This leads to the full gamut of Federal reviews and processes, resulting in long delays to the development of private and state minerals.
  - BLM should work with Congress on legislation that defines a Federal nexus as situations only where Federal surface and/or a majority of Federal minerals are being development.
  - RECOMMENDED DISPOSITION: Refer to the BLM's Oil and Gas Program for consideration.
  - ACTIONS TAKEN:
- Murray Energy Corporation (Chester Scott)
 

ID: DOI 2017 0003 0111

RE: *43 CFR parts 2800 and 2880 (Rights Of Way Under the Federal Land Policy and Management Act and Rights Of Way Under the Mineral Leasing Act)*

  - Rescind the Solar and Wind Energy Rule. It creates a competitive advantage to the renewable resource industry.
  - This policy discriminates against fossil fuels, which do not receive similar preferential access to Federal lands and, instead, have been subject to an active effort to prevent their development on Federal lands.



- RECOMMENDED DISPOSITION: Refer to the BLM's Renewable Energy Program for consideration.
- ACTIONS TAKEN: