

**To:** Bremner, Faith[fbremner@blm.gov]  
**Cc:** McAlear, Christopher[cmcalear@blm.gov]  
**From:** Haskett, Nikki  
**Sent:** 2017-11-15T08:08:01-05:00  
**Importance:** Normal  
**Subject:** Fwd: Your input needed for the September and October Reg Reform Summary Reports  
**Received:** 2017-11-15T08:08:09-05:00  
[BLM Summary Report Public Comments Reg Reform due 10.1.17 WO400 addition.docx](#)

Hi Faith,

I have reviewed the Regulatory Reform Summary Reports for September and October for WO-400. I included one response for WO-400 (attached).

Nikki Haskett (Moore)  
Acting Deputy Assistant Director  
National Conservation Lands and Community Partnerships  
Bureau of Land Management, Washington D.C.  
202.219.3180 (o)

----- Forwarded message -----

**From:** Christopher McAlear <cmcalear@blm.gov>  
**Date:** Tue, Nov 14, 2017 at 4:26 PM  
**Subject:** Fwd: Your input needed for the September and October Reg Reform Summary Reports  
**To:** Nikki Moore <nmoore@blm.gov>

Hi Nikki  
Can you clear for 400

Thanks

Sent from my iPhone

Begin forwarded message:

**From:** "Bremner, Faith" <fbremner@blm.gov>  
**Date:** November 14, 2017 at 1:55:34 PM EST  
**To:** "Bail, Kristin" <kbail@blm.gov>, Timothy Spisak <tspisak@blm.gov>, Christopher McAlear <cmcalear@blm.gov>  
**Cc:** "Senio, Ian J" <isenio@blm.gov>, Daniel DuBray <ddubray@blm.gov>, Jeff Krauss <jkrauss@blm.gov>, "Mali, Peter" <pmali@blm.gov>  
**Subject:** Your input needed for the September and October Reg Reform Summary Reports

Please click on the Google Docs links below to reach the Regulatory Reform Summary Reports for September and October. These reports summarize BLM-related public comments that the Department received between June 22 and September 25, 2017, as part of the Secretary's regulatory reform effort. WO-630 submitted these reports to ASLM on Oct. 1 and Nov. 1. However these reports were incomplete. BLM ADs did not have an opportunity to review them and provide feedback on actions that need to be taken to address each substantive comment. We now need you to review these two reports and complete them by filling in the "ACTIONS TAKEN" portions of the reports (the areas are highlighted in yellow). **Please make sure that your responses are complete.**

The deadline for the Assistant-Director Offices to fill in the missing information is Nov. 27. The reports are located in the Google Drive. Please make your edits directly on the Google document.

If you wish to view the original comments in their entirety, you can access them on the DTS FR Federal Register/Regs database at BLMR001737 (Sept. 1 report) and BLMR001771 (Oct. 1 report).

Link to the September 1 report:

<https://drive.google.com/a/doi.gov/file/d/1itEcOUyHPf3FUyQXboUgqtB0phmID249/view?usp=sharing>

Link to the October 1 report:

[https://drive.google.com/a/doi.gov/file/d/1LaSJ1sOatDihjYfTw1wLzYSmhm3URW3 /view?usp=sharing](https://drive.google.com/a/doi.gov/file/d/1LaSJ1sOatDihjYfTw1wLzYSmhm3URW3/view?usp=sharing)

Please let me know if you have any problems accessing these documents.

Thanks

Faith Bremner  
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Washington DC 20003  
202-912-7441

## **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) .