

**From:** [Charisa Morris](#)  
**To:** [Nikki Randolph](#)  
**Subject:** Fwd: EDITS ON COMMENTS - QUICK TURNAROUND: Unified agenda rankings  
**Date:** Wednesday, September 13, 2017 7:02:25 AM  
**Attachments:** [ATT00001.htm](#)  
[All FWS Comments Jun 21 - Aug25 2017withdisp revised based on FWP cmts9-12-17.docx](#)  
[All FWS Comments Jun 21 - Aug25 2017withdisp revised per FWP redline by Gary Frazer.docx](#)  
[ATT00002.htm](#)

---

Good morning, Nikki!

Can you get the new versions (with a tracked changes version as well) into the package that is on my desk and return to Aurelia asap this am?

Thank you!  
Charisa

Sent from my iPhone

Begin forwarded message:

**From:** "Campbell, Tina" <[tina\\_campbell@fws.gov](mailto:tina_campbell@fws.gov)>  
**Date:** September 12, 2017 at 6:12:46 PM EDT  
**To:** "Morris, Charisa" <[charisa\\_morris@fws.gov](mailto:charisa_morris@fws.gov)>  
**Cc:** "Wilkinson, Susan" <[susan\\_wilkinson@fws.gov](mailto:susan_wilkinson@fws.gov)>, "Randolph, Nikki" <[nikki\\_randolph@fws.gov](mailto:nikki_randolph@fws.gov)>, Sara Prigan <[sara\\_prigan@fws.gov](mailto:sara_prigan@fws.gov)>, Anissa Craghead <[anissa\\_craghead@fws.gov](mailto:anissa_craghead@fws.gov)>, Gary Frazer <[gary\\_frazer@fws.gov](mailto:gary_frazer@fws.gov)>  
**Subject:** **Re: EDITS ON COMMENTS - QUICK TURNAROUND: Unified agenda rankings**

Hi Charisa,

Attached is the revised version of our comments and disposition paper for the Department's reg reform FR notice. I made the editorial changes requested by FWP and Gary Frazer provided the revised wording for the substantive comments. I am also uploading this version to DTS. Please let me know if you want me to send it to Maureen or if you plan to do that.

I am also attaching Gary's track changes version showing the substantive changes. I didn't prepare a version for the editorial changes.

Let me know if you need anything else.

Tina

*Tina A. Campbell  
Chief, Division of Policy, Performance, and Management Programs  
U.S. Fish and Wildlife Service  
5275 Leesburg Pike, MS: BPHC  
Falls Church, VA 22041-3803  
Telephone: 703-358-2676*

*Fax: 703-358-1997*

On Tue, Sep 12, 2017 at 2:36 PM, Morris, Charisa <[charisa\\_morris@fws.gov](mailto:charisa_morris@fws.gov)> wrote:

Guess what! Todd made editing requests on the comments (attached) - are we able to incorporate these and get them back to him by COB today? Let me know what's possible. We're trying to keep this package moving.

On Tue, Sep 12, 2017 at 11:19 AM, Morris, Charisa <[charisa\\_morris@fws.gov](mailto:charisa_morris@fws.gov)> wrote:

Thank you, Susan!

On Tue, Sep 12, 2017 at 9:04 AM, Wilkinson, Susan <[susan\\_wilkinson@fws.gov](mailto:susan_wilkinson@fws.gov)> wrote:

Maureen just called me about this, and I emailed the file to her.

On Tue, Sep 12, 2017 at 7:28 AM, Randolph, Nikki <[nikki\\_randolph@fws.gov](mailto:nikki_randolph@fws.gov)> wrote:

Whats the DCN Number?

On Tue, Sep 12, 2017 at 7:21 AM, Wilkinson, Susan <[susan\\_wilkinson@fws.gov](mailto:susan_wilkinson@fws.gov)> wrote:

That's fine. I'm here today and happy to help Maureen in any way that she needs.

On Mon, Sep 11, 2017 at 11:56 PM, Charisa Morris <[charisa\\_morris@fws.gov](mailto:charisa_morris@fws.gov)> wrote:

Hi Nikki-

Can you send this to Maureen from DTS when you get in and let this thread know?

Also, Susan and Anissa- Maureen may be contacting you directly about some RINs tomorrow am. I put Susan down as the primary contact and Anissa as the secondary, simply because it was easier to pull Susan's phone number from her signature block (Anissa, you don't appear to have one, or at least not one that I can find, so I could only give your email)- let me know if I should switch that around.

Thanks,  
Charisa

Sent from my iPhone

Begin forwarded message:

**From:** Maureen Foster <[maureen\\_foster@ios.doi.gov](mailto:maureen_foster@ios.doi.gov)>

**Date:** September 11, 2017 at 7:29:46 PM EDT  
**To:** Morris Charisa <[charisa\\_morris@fws.gov](mailto:charisa_morris@fws.gov)>  
**Subject:** Unified agenda rankings

You may get this twice as my computer is frozen.

I need the 9.7.2017 FWS unified agenda rankings as an electronic file.

We have to create a combined ASFWP submission.

First thing in the morning would be great.

Thanks.

Maureen D. Foster  
Chief of Staff  
Office of the Assistant Secretary for  
Fish and Wildlife and Parks.  
202.208.5970 office  
202.306.3845 cell

--

Susan Wilkinson  
Division of Policy, Performance, and Management Programs  
U.S. Fish and Wildlife Service Headquarters  
5275 Leesburg Pike, MS: BPHC  
Falls Church, VA 22041-3803  
703-358-2506

--

Nikki S. Randolph  
Chief, CCU  
U.S. Fish and Wildlife Service  
202-208-7535

*"It's my Life. it's now or never, I ain't gonna live forever, I just wanna live while I am alive....." My hero... JBJ*

--

Susan Wilkinson  
Division of Policy, Performance, and Management Programs  
U.S. Fish and Wildlife Service Headquarters  
5275 Leesburg Pike, MS: BPHC

Falls Church, VA 22041-3803  
703-358-2506

--

[Charisa\\_Morris@fws.gov](mailto:Charisa_Morris@fws.gov) | Chief of Staff, Office of the Director | U.S.  
Fish & Wildlife Service | 1849 C Street NW, Room 3348 | Washington, DC 20240 | (202) 208-  
3843 | For urgent matters, please dial cell: 301-875-8937

--

[Charisa\\_Morris@fws.gov](mailto:Charisa_Morris@fws.gov) | Chief of Staff, Office of the Director | U.S.  
Fish & Wildlife Service | 1849 C Street NW, Room 3348 | Washington, DC 20240 | (202) 208-  
3843 | For urgent matters, please dial cell: 301-875-8937

## Comment Summaries Needing Recommended Dispositions

### Comments Received from June 21 – August 25

#### INSTRUCTIONS:

1. Add recommended dispositions for the comment summaries below for your bureau.
2. Include the comment summaries for your bureau in the Comment Summary Report that is due to the Assistant Secretary on September 1.

#### FWS

- Anonymous  
ID: **DOI-2017-0003-0015**
  - FWS employees using heavy-handed tactics to interfere with local projects citing possible federal violations with no proof.
  - **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[REDACTED]
- Anonymous  
ID: **DOI-2017-0003-0016**
  - Failure of certain offices and individuals within FWS to respond to FOIA requests.
  - **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[REDACTED]
- Anonymous  
ID: **DOI-2017-0003-0017**
  - Review rules allowing FWS employees to serve on the board of directors for not-for-profit environmental agencies. In one case, an employee is serving on the board of a land trust that purchased parcels of land that was then used to influence projects to which the FWS was a party.
  - **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[REDACTED]
- Anonymous  
ID: **DOI-2017-0003-0018**

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- Prohibit FWS employees from accepting compensatory mitigation payments and directing them to organizations on which they serve on the board of directors (cites example of FWS employee brokering dollars from a FWS compensatory mitigation payment project with a developer then funneling those dollars to an organization in which he serves on the board).

- **RECOMMENDED DISPOSITION:**

(b) (5) DPP

- American Falconry Conservancy

ID: **DOI-2017-0003-0019**

- Request the elimination of FWS regulatory oversight regarding any and all activities with the personal use, in contrast to harvest, of birds of prey (raptors), because States have adopted regulatory provisions for the protection of wild raptors, so Federal involvement is redundant and costly. Specific Federal provisions that should be eliminated include:

- Allowing FWS to inspect to ensure birds are being treated humanely.
- Requirement to submit a Migratory Bird Acquisition and Disposition Report (Form 3-186A) to FWS for any wild take or transfer of raptors.
- Inclusion of hybrid falcons scope of requirements.
- Continued management of the formerly threatened peregrine falcons as threatened, rather than allowing a harvest of 5%.
- The prohibition on acquiring golden eagles in livestock depredation situations.
- Interpretation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in a manner more restrictive than other nations.
- Inclusion of raptors in the Wild Bird Conservation Act.
- Raptor propagation, abatement, education regulations, all of which should be left to States to regulate.

- **RECOMMENDED DISPOSITION:**

(b) (5) DPP

- Anonymous

ID: **DOI-2017-0003-0020**

- FWS's protection of foreign species with no funding or expertise just duplicates foreign government's CITES rules. It is impossible to sell captive-bred listed species from one state to another without a massive permitting process; this inhibits legal breeding of wildlife. The ESA should apply only to native species. Animal rights groups petition for listing a species knowing FWS cannot meet the legal deadlines and then sue FWS to earn money for themselves.

- **RECOMMENDED DISPOSITION:**

(b) (5) DPP

(b) (5) DPP  
[Redacted]

- Office of Alaska State Senator John Coghill

ID: **DOI-2017-0003-0027**

RE: *Management of Alaska public lands and wildlife*

- Alaska wants to manage their own public lands and wildlife.
- State of Alaska was blocked in their efforts to manage game and predator populations by FWS "biological diversity" program. The State feels this is causing declines in animal populations, not protecting them. The State wants to be allowed to manage their own wildlife.
- **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[Redacted]

- Individual (Jordan, R)

ID: **DOI-2017-0003-0028**

RE: *FWS regulation of exotic pets*

- FWS has made owning a parrot “bureaucratic red tape and potential arrest.”
- Non-profits habitually sue the Service over exotic animals causing FWS to spend resources defending those lawsuits.
- Permit to sell exotic species of parrot that was born in the U.S. can take two years and requires showing benefit to wild species in a third-world country.
- The agenda now is to attack U.S. pet owners and their rights.
- Get control of the Endangered Species Act and the Wild Bird Conservation Act now.
- **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[Redacted]

- Individual (Ingram, James)

ID: **DOI-2017-0003-0029**

RE: *Regulation of falconry*

- 262 regulations can be eliminated from the Falconry Standards.

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- Every State that allows falconry has adopted more restrictive regulations, so the Federal regulations are redundant.
- FWS does not have authority to determine the use and care of raptors in falconry; it is only responsible for evaluation of raptor populations for safe harvest of wild raptors and sale and commerce of raptors. Birds born in captivity are private property.
- No similar regulations apply to other species, such as someone who has captive bred a Mallard duck.
- The regulations require States to conduct warrantless searches.
- The FWS study showed falconers have zero impact on raptor populations, the peregrine falcon population has exploded, yet FWS severely limits the number of birds that can be taken. Remove the restrictions.
- FWS has disallowed the practice of legally harvesting golden eagles, even though Congress allows for it in the Eagle Act. This is unnecessary regulation.

○ **RECOMMENDED DISPOSITION:**

(b) (5) DPP

- Individual (Rush, Barbara)

ID: **DOI-2017-0003-0036**

*RE: Regulation of oil and gas at Hagerman National Wildlife Refuge*

- Continue to regulate oil and gas leases and practices at Hagerman National Wildlife Refuge.

○ **RECOMMENDED DISPOSITION:**

(b) (5) DPP

- Individual (Mason, George)

ID: **DOI-2017-0003-0037**

*RE: “Management of Non-Federal Oil and Gas Rights” (81 FR 83008) as it relates to Hagerman National Wildlife Refuge*

- Do not alter or repeal “Management of Non-Federal Oil and Gas Rights” (81 FR 83008) as it relates to Hagerman National Wildlife Refuge.
- The refuge provides habitat for many species and is a prime recreational mecca for the Northern Texas region.
- For years, the refuge has enjoyed a partnership with the oil company that maintains the drilling and storage facilities there.

○ **RECOMMENDED DISPOSITION:**

(b) (5) DPP

- Individual (Hill, Carl)

ID: **DOI-2017-0003-0038**

*RE: [unspecified]*

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- Unless oil and gas companies are held to strong regulations, they will have little respect for anything but their wallets.
- Attached picture of rusting pipeline.
- **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Wilderness Society, Western Environmental Law, Natl Parks Conservation, Center for American Progress, Natl Audubon, Natural Resources Defense Council  
ID: **DOI-2017-0003-0047**

*RE: The public has not been given a chance to comment on many actions; object to the demonstrably false premise that there is a need to “alleviate unnecessary regulatory burdens place on the American people;” DOI does not have the authority to establish energy development as the dominant use of public lands.*

- There is a section discussing court cases for "Land Management Agencies with Multiple-Use Mandates – BLM & USFS", "Land Management Agencies with Conservation/Preservation Mandates – NPS & FWS", and "The NEPA and NHPA Overlays – All Land Management Agencies".
- **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Individual (John, Mike)  
ID: **DOI-2017-0003-0048**

*RE: [unspecified]*

- Cooperate with local communities when establishing parks.
- FWS establishes parks without adequate funding, expecting the locals to pick up the slack. This makes it hard for farmers trying to make a living off the land.

**RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Anonymous  
ID: **DOI-2017-0003-0049**

*RE: FWS employee*

- A group of landowners opposing major transmission/infrastructure project in Nebraska met and a FWS employee attended on taxpayer dollars
- A Facebook post for the opposition group stated that FWS is key to stopping the infrastructure project and stated that the FWS employee would be present to answer questions
- Control employees and keep them from taking sides.

○ **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- Columbia Law School, Sabin Center for Climate Change Law  
ID: **DOI-2017-0003-0050**

*RE: NPS and FWS rule identified in SO 3349*

- Existing regulations addressing energy development on Federal land have important benefits, including those identified in SO 3349.
  - The NPS Rule, and FWS Rule, establish important environmental safeguards and will not have significant economic impacts.
  - See comment summary under BLM for comments on BLM rules.
- DOI regulations are needed to address the program of global climate change.
- DOI must consider the environmental impacts of regulatory changes.
- Includes as attachments:
  - 30-page document "Veyrier - Job Creation in the Emerging Methane Leak Detection and Repair Industry - 2017"
  - GAO Publication - National Wildlife Refuges – 2010
  - GAO Publication - Federal Oil and Gas Leases – 2010
  - 83-page document "Stokes - The Emerging U.S. Methane Mitigation Industry - 2014"
- **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Anonymous  
ID: **DOI-2017-0003-0051**

*RE: [unspecified]*

- End "WOTUS" [Waters of the United States]
- **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Western Urban Water Coalition  
ID: **DOI-2017-0003- 0052**

*RE: ESA, Mitigation, NEPA, etc.*

- Streamline and work collaboratively with western water supply agencies to ensure these agencies can meet water supply needs and water quality requirements.
- Tax Exemption for Water Conservation Rebates
  - Water supply and management utilities and companies create the incentive for customers to conserve by providing rebates to lower the cost to the consumer for water-saving measures and equipment purchases, but IRS has determined they are taxable. Encourage Treasury Department to exempt water conservation rebates provided to customers from the definition of income for federal tax purposes, based on the connection between energy and water conservation.
- Comprehensive Reimbursement Agreements
  - Develop comprehensive and uniform guidance that encourages the use of reimbursement agreements through which applicants can pay for permit

- processing costs. Such agreements must ensure the objectivity of the reviews and agency actions made pursuant to reimbursement programs.
- Endangered Species Act Reform
    - Increase use of procedures and mechanisms that allow applicants to provide financial and in-kind assistance to cover the costs of ESA reviews.
    - Reopen the HCP Handbook, issued December 21, 2016, for public review and, pending review, reinstate the previous HCP Handbook.
    - Reopen regulations defining adverse modification of critical habitat and establishing the procedures for designating critical habitat and exclusions. The rules are too stringent in their treatment of habitat in areas “unoccupied at the time of listing” and in determining what is “essential to the conservation of the species.” The policy for exclusion from critical habitat does not provide sufficient flexibility for areas subject to conservation plans developed under other laws.
    - Develop policy guidance to define how exclusions from critical habitat will be made based on economic impacts of designation on regulatory entities, rather than following an ad-hoc process.
    - Develop regulations to define the meaning of ESA’s “best available science” test.
    - Develop guidance and revise regulations to give nonfederal designated representatives a greater consultative role in formal consultation
  - Mitigation Policies
    - Review each bureau’s mitigation policies to eliminate the requirement that mitigation provide a “net environmental benefit” not only for projects supporting energy independence, but also for water infrastructure and wildfire treatment projects.
  - National Environmental Policy Act Reform
    - Revise NEPA regulations and handbooks to require: (1) development of an interagency coordination plan whenever more than one agency is involved in permitting, so there is simultaneous preparation and review of NEPA; (2) a 30-day deadline for agency review of submitted NEPA studies; (3) that administrative appeals of NEPA issues can be brought only by parties who participated in the NEPA administrative process and raised the issue; (4) use the regulation that provides EAs need only analyze the proposed action and may proceed without considering additional alternatives when there are no unresolved conflicts concerning alternative uses of available resources; (5) expand CATEX’s to exempt larger acreages for wildfire prevention treatments and rehabilitation of burden areas.
  - Maximum Utilization of Existing Facilities
    - Examine and revise its standards and directives on project expansion, use of excess capacity, water sharing, use of storage and conveyance facilities for non-project water, places of use, and fair value pricing.

o **RECOMMENDED DISPOSITION:**

(b) (5) DPP  
[Redacted]

● Individual (Neria, Meredith)

ID: **DOI-2017-0003-0053**

RE: *2016 rule on Management of Non-Federal Oil and Gas Rights*

- o Do not want the updated rules from 2016 to be undone.
- o We need our public lands to be protected even as they are used by the oil and gas industry.
- o The oil and gas industry should be responsible for proper care and thorough clean-up of public lands, including refuge lands.
- o Consider the long-term effect of allowing the oil and gas industry, which has a poor track record of allowing pollution and not cleaning up thoroughly.
- o Do not allow the dismantling of Management of Non-Federal Oil and Gas Rights.
- o **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[Redacted]

● Individual (John, Mike)

ID: **DOI-2017-0003-0054**

RE: *[unspecified]*

- o “t” [apparent typo]
- o **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[Redacted]

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- Individual (Egner, Gail)

**ID: DOI-2017-0003-0100**

*RE: Stop placing fish weirs on our creeks and streams in WA State..*

- The weir placed in Olequa Creek in the Cowlitz County area in Castle Rock WA is making the creek unnavigable. What used to be an active spawning creek, has no fish left.
- Eagles & hawks used to fish here regularly. Not any more. Herons and cranes were frequent visitors--not anymore. This weir is also hampering wildlife--deer, elk, beaver, otter, even ducks.
- **RECOMMENDED DISPOSITION:** (b) (5) DPP

[REDACTED]

- Individual (Busch, Steve)

**ID: DOI-2017-0003-0101**

*RE: The ESA was intended to protect species from the threat of extinction. It was NOT intended to be used as a vehicle to expand the range of non-endangered high impact predators based on ideology.*

- The 2014 policy to improve and clarify implementation of the Endangered Species Act by providing a formal interpretation of the phrase "significant portion of its range" that appears in the ESA definitions of "endangered species" and "threatened species." This policy is ambiguous and contradictory, and bases its conclusions on the agenda driven pseudo-science known as "conservation biology."
- The policy further misconstrues the original intent of the ESA by continuing to allow non-endangered vertebrates, such as wolves and grizzly bears, (both are listed by the IUCN as "Species of LEAST CONCERN") to be listed as "endangered" on the basis of regionalism, or where the species used to live in comparison to lines on a map, or political boundaries.
- The "significant range" policy itself declares that the services will NOT consider "historical range" to be relevant in making recommendations re species protections, yet the services lists gray wolves as "endangered" in some 39 states and portions of states simply because gray wolves used to live there.
- Gray wolves currently have the widest circum-polar range of any large terrestrial predator on earth. Their population numbers are extremely high and are continuing to increase. Yet, this policy ignores the overall health of the species, the sufficiency of current range, impacts on settled landscapes and agriculture, impacts on other wildlife, and impacts on human health and safety.
- In 1991, USFWS Policy towards hybrids was clear and unambiguous.
- By 2001 the USFWS "hybrid non-protection policy" was withdrawn in light of the growing amount of scientific data showing that many protected species, such as Spotted Owls and Gray Wolves, are subject to hybridization with "non-

endangered" varieties such as, in the case of Spotted Owls, Barred Owls; and in the case of wolves, coyotes and dogs.

- As a result of this information, the services proposed an "intercross" policy intended to keep hybrids fully protected under the ESA. The services chose to ignore this problem altogether and instead focus on creating something called, "Distinct Population Segments".
- The services must rethink how their policies line up, or don't line up, with the original intent of the ESA. As I see it, the USFWS in particular, has made a mockery of the law and science.
- **Other Bureaus Addressed in Comment:** NOAA's National Marine Fisheries Service

- **RECOMMENDED DISPOSITION:**

- (b) (5) DPP [Redacted]

- Individual (Zaborac, Shane)

ID: **DOI-2017-0003-0102**

*RE: Something needs to be done about the exploding seal and sea lion populations in Washington state and their negative impacts on the dwindling salmon and steelhead populations*

- The bay of Grays Harbor (mouth of the Chehalis river) has more seals than fish.
- Fish hold up in the bay in late summer and wait for a rain to move up river and by the time the rain comes the seals have taken their toll.
- Same complaints other places like the Columbia river and its tributaries.
- Taking the population of seals down by more than 70% and that would not endanger them as a species but yet would have a major benefit for the fisheries.
- The native Americans in my area use to hunt seals now they don't.

- **RECOMMENDED DISPOSITION:** (b) (5) DPP [Redacted]

- Edison Electric Institute (EEI)

ID: **DOI-2017-0003-0103**

*RE: Revise administrative burdens, simplify and streamline the overall process, eliminate duplicative environmental reviews and enhance the ability of EEI's*

*members to permit, site and operate generation, transmission and other infrastructure assets while maintaining environmental integrity*

- EEI supports cost-effective public policies and a streamlined approach to regulation.
- EEI continues to support efforts—administratively and legislatively—to reform the permitting and siting process for critical energy infrastructure projects.
- EEI and its members intend to participate in these initiatives as they are developed.
- FWS Should Withdraw, Refine, and Re-propose Habitat Conservation Planning (HCP) Handbook.
- The FWS also should revise the 2016 HCP Handbook to reflect the appropriate mitigation standard.
- There are several instances in the Handbook where the PM1s mitigation goal of "net benefit" or "no net loss" is embedded.
- This is in conflict with the ESA.
- Concerned that-either at the time guidance is adopted, or subsequent to its adoption what initially may have been considered by the federal land management agencies ( e.g., FWS) to be voluntary guidance in effect becomes mandatory and results in de facto regulation, although it has not been through any public notice and comment process.
- There should be a national point of contact to review instances in which guidance may have been inappropriately developed or applied.
- Any proposal by these agencies to develop written guidance should always receive input from the offices of the Solicitor.

**RECOMMENDED DISPOSITION:**

(b) (5) DPP  
[Redacted content]

- Lignite Energy Council (LEC)  
ID: **DOI-2017-0003-0104**

*RE: LEC offers the following information to help you understand the situation with federal coal in North Dakota, and how the program can be better structured to achieve the aforementioned goals. All of the coal produced in North Dakota is used within the state to*

*produce electricity, synthetic natural gas, and associated byproducts. No coal mined within the state is sold on the open market or transported out-of-state.*

- Federal coal production in North Dakota is unique in many ways relative to surface coal production throughout the Western United States.
- 1) “Impose costs that exceed benefits”
- As described above, federal coal represents a relatively small proportion of a mine area in North Dakota. While pursuing these comingled parcels is the most efficient way to mine, coal producers do have the option in many cases to simply bypass a federal coal tract if a lease cannot be obtained in a timely manner.
- Bypassing a tract essentially sterilizes that reserve – it would never be feasible to go back and mine. The rate of return to American taxpayers if their resource is left in the ground is and will always remain zero.
- In another scenario where it might be difficult to isolate a federally-owned coal tract and an entire area needs to be mined around, the inability to secure a federal coal lease could represent a takings of comingled non-federal coal reserves.
- 2) “Are outdated, unnecessary, or ineffective”
- The inability to lease federal coal tracts is not accounted for in North Dakota coal companies’ contractual obligation to supply fuel for power generation and gasification.
- Since mining companies hold the surface rights over federal coal tracts, the area will likely be disturbed to support mining activities regardless of whether the federal coal is retrieved or not.
- A policy decision to restrict development of our coal resources will have no bearing on the decision of other nations to strive for the same standard of living coal has brought to the U.S., and as a result will have no meaningful impact on global emissions.
- 3) “Eliminate jobs, or inhibit job creation”
- United States is blessed to have a sustainable coal reserve that can meet our energy needs centuries into the future. North Dakota alone has enough lignite coal to maintain current levels of production for the next 800 years.
- Despite coal-fired power generation increasing 93 percent since 1970, regulated emissions have fallen by 92 percent.
- Reclamation standards and practices have improved dramatically. Coal producers in North Dakota must reclaim mined lands to a standard of “as good or better,” and demonstrate that reclaimed lands meet that strict production level a full ten years after reclamation before being eligible for bond release.
- The industry is dedicated to tackling the issue of carbon capture, utilization, and storage.
- It must be the continued policy of the federal government to incentivize the use of coal to help meet our energy needs.
- Department needs to analyze the leasing program to find ways to streamline leasing and uphold its statutory mandate to manage public resources for the greater good.
- The subtitle of the Mineral Leasing Act explicitly states that it is “an act to promote the mining of coal...” and mandates that “no mining operating plan shall be approved

which is not found to achieve the maximum economic recovery of the coal within the tract<sup>3</sup>”. (tract<sup>3</sup> refers to <http://legcounsel.house.gov/Comps/mla.pdf>)

- Encourage your department to review the federal mining plan approval process. Under current regulations (30 CFR Parts 740 and 746), there is a four-step process by which a coal producer obtains all approvals to mine federal coal<sup>4</sup>. (coal<sup>4</sup> refers to “1) Secure federal coal lease from BLM; 2) obtain an approved Resource Recovery & Production Plan from BLM; 3) obtain state primacy agency surface coal mining permit approval; and 4) obtain federal mining plan approval from the DOI Assistant Secretary for Land & Minerals following, review, approval, and recommendation from OSM.”)
  - With respect to the U.S. Fish and Wildlife Service (FWS), we would recommend that DOI clarify through a new biological opinion that FWS concurrence is not required for state-approved surface coal mining permits.
  - FWS should also provide clarification that criminal or civil liability does not exist for those connected with incidental impacts to migratory birds that occur in the normal course of business.
  - Coal producers in North Dakota are faced with a years-long and costly analysis process, with little guarantee of success or return on investment in pursuing federal coal leases.
  - The 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.
    - The federal leasing process must work in concert with state permitting agencies.
    - **Other Bureaus Addressed in Comment:** OSM
    - **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]
- Individual (Langdon, Steve)  
ID: **DOI-2017-0003-0105**  
*RE: The USFW needs an overall for all the great things I have mentioned they have been stifled, taken over and corrupted by so called environmentalist and animal rights activists who care more about denying people's access and use of public lands and wildlife than about having a balanced effort that benefits all including people.*
    - Environmentalists groups outside the USFW have also had entirely too much influence on USFW as they push for their anti human agenda.
    - Decisions not based on science. But on the ever failing theory of "preservation and rewilding."
    - Expanding use of the Endangered Species Act has only compounded these issues.
    - A prime example of all this is the Nonessential wolf experiment in the west and in New Mexico.
    - The wolf. As still the example has created a wildlife disaster not seen since the buffalo slaughters and is a stain on the North American Wildlife Model.
    - **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Ecological Restoration Business Association (ERBA)

ID: **DOI-2017-0003-0106**

*RE: The ecological restoration industry faces the challenge of regulatory burdens. Our efforts, however, are often slowed by regulatory inconsistencies and delays. Species related compensatory mitigation activities are subject to Interior and FWS policies and guidance. ERBA believes there are opportunities for improvement, particularly within the FWS' ESA Compensatory Mitigation Policy*

- Remove references to "net gain," which cause confusion for the regulated public. DOI could use another standard and more precise terms.
- ERBA recommends consideration of "proportional to the impact" or "no net loss" as the appropriate standard.
- Restructure the "landscape-level" approach mitigation goal. ERBA recognizes the term "landscape-level" may have connotations (such as larger and larger conservation areas) other than our understood goal of the most efficient size and location of mitigation sites.
- We recommend the FWS either clarify "landscape-level" or potentially restructure the goal with alternative terminology.
- Reduce administrative and procedural local discretion by implementing defined mitigation protocols.
- Local discretion in implementing the administrative and procedural aspects of the permitting process and Policy results in a lack of consistency and equivalency.
- Interior can reduce this cause of permitting inefficiencies by clearly stating the goals of consistency and equivalency in the Policy.
- Interior could enforce these goals through more direction and routine oversight from Headquarters to field offices on the procedural processing of mitigation bank applications and impact permits.
- ERBA recommends incorporating adherence to and timely implementation of the Policy into the evaluation process of Regional leadership and offices.
- Update, clarify and streamline the Section 7 Handbook to modernize the Section 7 consultation process.
- Section 7 Handbook has no mention of conservation banking, which is one of the most efficient means of allowing vital projects to progress while providing significant species impact avoidance and minimization.
- ERBA recommends including clear guidance on when compensatory mitigation may be required by the FWS for a permit applicant to quickly move through the ESA process.
- ERBA also recommends setting fairly strict timelines in the permitting process for when FWS may require avoidance and minimization before moving to considering mitigation.
- **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

(b) (5) DPP



- Individual (Schumacher, Karen)

ID: **DOI-2017-0003-0107**

*RE: I live in the Great Northern Landscape Conservation Cooperative (GNLCC) and they have continued to engage in activity that your order specifically ended.*

- Federal agencies are embedded with initiatives such as the High Divide, Yellowstone to Yukon, Crown of the Continent, Heart of the Rockies, and Greater Yellowstone Coalition.
- These initiatives actively pursue conservation easements, creation of corridors which they want to lead to linkage and connectivity, and are implementing these agendas through representatives of their NGOs at a local level.
- These initiatives are also planning to use the State Wildlife Action Plans to integrate linkage, corridor, and connectivity language to further advance their agenda.
- The GNLCC steering committee has leaders of these initiatives as members. This begs the question of whether the federal government is actually advancing these initiative agendas. Other countries and some corporations are also involved with the GNLCC, but there is no local representation.
- The GNLCC completely excludes public involvement except for organizations that hold the same ideology as them.
- The GNLCC is using the Idaho Department of Transportation (ITD) to incorporate their agenda to build wildlife overpasses in areas that have historic significance, wetlands, questionable soil suitability, and which are opposed by the local citizens.
- All of the NGO individuals who have been working with the ITD do not live in the area yet have more influence on decisions because they are tied in with the initiative leaders who sit on the steering committee.
- There has been no public involvement from the beginning of the proposed transportation project but the individuals who are involved with the steering committee members have been. There has also been a significant lack of involvement by elected representatives.

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- The funding mechanism is also concerning. The initiative individuals seem to have quite a bit of funding going to their agendas and there is a question about whether or not the grant money has been properly processed.
- No federal law or regulatory authority for any of the activities the GNLCC engages in, yet they continue to advance their agenda via DOI agencies. Since your order 3349 they have continued to work towards meeting their objectives.
- The GNLCC openly admits they do not recognize jurisdictional boundaries or authority. This is a violation of our Constitution.
- If there are no regulations for large landscape cooperatives then they must be investigated for ongoing activity and dismantled immediately. If there are regulations they must be eliminated.
- It is imperative that decisions about land use are made by local elected representatives and the people within those jurisdictions. These cooperatives have completely removed that right.
- The initiative members on the steering committee are involved with the IUCN and the NGOs are certified UN NGOs. It is clear that they are implementing UN objectives for connectivity by placing land into conservation status through various methods.
- Once land is designated as a corridor it will be subject to potential overlays and land use regulation. They use the comprehensive plans to integrate land use planning objectives that will require land owners to practice conservation, require restrictive regulations such as how the land is used, how the house is built, density, housing only near municipal services, landscaping only by professionals, buffer zones, the list is extensive.
- These same initiative leaders on the steering committee are also heavily involved with land trusts which manage conservation easements in the area. Is this not a conflict of interest?
- I know Rep. Labrador and Bishop have asked for an accounting of these LCCs, oversight of their activity, and investigation into funding improprieties. The investigation must go farther, especially if there is no regulatory authority for them.
- **DISPOSITION:** (b) (5) DPP [REDACTED]

- Utility Water Act Group

**ID: DOI-2017-0003-0114**

*RE: Given the overlap of NMFS and FWS jurisdiction on ESA issues of importance to UWAG, these comments address regulatory reform issues for DOI and NOAA together and will be filed under both dockets.*

- UWAG supports the Services' regulatory reform efforts and, in particular, UWAG supports efforts that serve the key goals of:
- Focusing cost and impact of ESA implementation on efforts demonstrated to deliver the greatest value for conservation and recovery of listed species.
- Shifting emphasis from unilateral use of restrictions toward collaborative, voluntary actions to conserve and recover species.
- Greater state involvement in ESA implementation and conservation.

- Listing decisions and critical habitat designations supported by sound scientific methods and data.
- Establishment of streamlined and efficient methods for regulated parties to ensure ESA compliance.
- UWAG provides the following specific recommendations as to how the Services can improve their regulatory processes, and identify regulations and policies that warrant repeal, replacement, or modification.
- The Services Must Use a Proper Baseline and Effects Analysis in ESA Section 7 Consultations.
- The Services Should Clarify the Causation Standard for Effects Analyses.
- The Services Must Ensure Listing Decisions and Critical Habitat Designations Rely on Best Available Science.
- The Services Should Revise the HCP Handbook to Remove or Modify Requirements to Assess Climate Change Impacts in HCPs.
- The Services Should Issue a Revised Section 7 Consultation Handbook.
- The Services Should Issue Guidance for Streamlined Section 10 Permitting.
- The Services Should Repeal and/or Modify the Critical Habitat Rules.
- FWS Should Withdraw or Modify Its 2016 Mitigation Policies.
- **Other Bureaus Addressed in Comment:** National Oceanic and Atmospheric Administration (NOAA) and National Marine Fisheries Service (NMFS)
- **DISPOSITION:**

(b) (5) DPP



(b) (5) DPP

[REDACTED]

## Comment Summaries Needing Recommended Dispositions

### Comments Received from June 21 – August 25

#### INSTRUCTIONS:

1. Add recommended dispositions for the comment summaries below for your bureau.
2. Include the comment summaries for your bureau in the Comment Summary Report that is due to the Assistant Secretary on September 1.

#### FWS

- Anonymous  
ID: **DOI-2017-0003-0015**
  - o FWS employees using heavy-handed tactics to interfere with local projects citing possible federal violations with no proof.
  - o **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[REDACTED]
- Anonymous  
ID: **DOI-2017-0003-0016**
  - o Failure of certain offices and individuals within FWS to respond to FOIA requests.
  - o **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[REDACTED]
- Anonymous  
ID: **DOI-2017-0003-0017**
  - o Review rules allowing FWS employees to serve on the board of directors for not-for-profit environmental agencies. In one case, an employee is serving on the board of a land trust that purchased parcels of land that was then used to influence projects the FWS was a party to.
  - o **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[REDACTED]
- Anonymous  
ID: **DOI-2017-0003-0018**
  - o Prohibit FWS employees from accepting compensatory mitigation payments and directing them to organizations on which they serve on the board of directors (cites

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

example of FWS employee brokering dollars from a FWS compensatory mitigation payment project with a developer then funneling those dollars to an organization in which he serves on the board).

- o **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- American Falconry Conservancy

ID: **DOI-2017-0003-0019**

- o Request the elimination of FWS regulatory oversight regarding any and all activities with the personal use, in contrast to harvest, of birds of prey (raptors), because States have adopted regulatory provisions for the protection of wild raptors, so Federal involvement is redundant and costly. Specific Federal provisions that should be eliminated include:
  - Allowing FWS to inspect to ensure birds are being treated humanely
  - Requirement to submit a Migratory Bird Acquisition and Disposition Report (Form 3-186A) to FWS for any wild take or transfer of raptors
  - Inclusion of hybrid falcons scope of requirements
  - Continued management of the formerly threatened peregrine falcons as threatened, rather than allowing a harvest of 5%
  - The prohibition on acquiring golden eagles in livestock depredation situations.
  - Interpretation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in a manner more restrictive than other nations.
  - Inclusion of raptors in the Wild Bird Conservation Act
  - Raptor propagation, abatement, education regulations, all of which should be left to States to regulate.

- o **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Anonymous

ID: **DOI-2017-0003-0020**

- o FWS's protection of foreign species with no funding or expertise just duplicates foreign government's CITES rules. It is impossible to sell captive-bred listed species from one state to another without a massive permitting process; this inhibits legal breeding of wildlife. The ESA should apply only to native species. Animal rights groups petition for listing a species knowing FWS cannot meet the legal deadlines and then sue FWS to earn money for themselves.

- o **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- Office of Alaska State Senator John Coghill

ID: **DOI-2017-0003-0027**

*RE Management of Alaska public lands and wildlife*

- Alaska wants to manage their own public lands and wildlife.
- State of Alaska was blocked in their efforts to manage game and predator populations by FWS "biological diversity" program. The State feels this is causing declines in animal populations, not protecting them. The State wants to be allowed to manage their own wildlife.
- **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[REDACTED]

- Individual (Jordan, R)

ID: **DOI-2017-0003-0028**

*RE FWS regulation of exotic pets*

- FWS has made owning a parrot "bureaucratic red tape and potential arrest."
- Noon-profits habitually sue the Service over exotic animals causing FWS to spend resources defending those lawsuits.
- Permit to sell exotic species of parrot that was born in the U.S. can take two years and requires showing benefit to wild species in a third-world country.
- The agenda now is to attack U.S. pet owners and their rights.
- Get control of the Endangered Species Act and the Wild Bird Conservation Act now.
- **RECOMMENDED DISPOSITION:** (b) (5) DPP  
[REDACTED]

- Individual (Ingram, James)

ID: **DOI-2017-0003-0029**

*RE Regulation of falconry*

- 262 regulations can be eliminated from the Falconry Standards.
- Every State that allows falconry has adopted more restrictive regulations, so the Federal regulations are redundant.
- FWS does not have authority to determine the use and care of raptors in falconry; it is only responsible for evaluation of raptor populations for safe harvest of wild raptors and sale and commerce of raptors. Birds born in captivity are private property.
- No similar regulations apply to other species, such as someone who has captive bred a Mallard duck.
- The regulations require States to conduct warrantless searches.

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- o The FWS study showed falconers have zero impact on raptor populations, the peregrine falcon population has exploded, yet FWS severely limits the number of birds that can be taken. Remove the restrictions.
  - o FWS has disallowed the practice of legally harvesting golden eagles, even though Congress allows for it in the Eagle Act. This is unnecessary regulation.
  - o **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]
- Individual (Rush, Barbara)  
ID: **DOI-2017-0003-0036**  
*RE Regulation of oil and gas at Hagerman National Wildlife Refuge*
    - o Continue to regulate oil and gas leases and practices at Hagerman National Wildlife Refuge.
    - o **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]
- Individual (Mason, George)  
ID: **DOI-2017-0003-0037**  
*RE “Management of Non-Federal Oil and Gas Rights” (81 FR 83008) as it relates to Hagerman National Wildlife Refuge*
    - o Do not alter or repeal “Management of Non-Federal Oil and Gas Rights” (81 FR 83008) as it relates to Hagerman National Wildlife Refuge.
    - o The refuge provides habitat for many species and is a prime recreational mecca for the Northern Texas region.
    - o For years, the refuge has enjoyed a partnership with the oil company that maintains the drilling and storage facilities there.
    - o **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]
- Individual (Hill, Carl)  
ID: **DOI-2017-0003-0038**  
*RE [unspecified]*
    - o Unless oil and gas companies are held to strong regulations, they will have little respect for anything but their wallets.
    - o Attached picture of rusting pipeline.
    - o **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]
- Wilderness Society, Western Environmental Law, Natl Parks Conservation, Center for American Progress, Natl Audubon, Natural Resources Defense Council  
ID: **DOI-2017-0003-0047**  
*RE: The public has not been given a chance to comment on many actions; object to the demonstrably false premise that there is a need to “alleviate unnecessary regulatory*

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

*burdens place on the American people; DOI does not have the authority to establish energy development as the dominant use of public lands.*

- There is a section discussing court cases for "Land Management Agencies with Multiple-Use Mandates – BLM & USFS", "Land Management Agencies with Conservation/Preservation Mandates – NPS & FWS", and "The NEPA and NHPA Overlays – All Land Management Agencies".
- **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Individual (John, Mike)  
ID: **DOI-2017-0003-0048**  
RE [unspecified]

- Cooperate with local communities when establishing parks.
- FWS establishes parks without adequate funding, expecting the locals to pick up the slack. This makes it hard for farmers trying to make a living off the land.

**RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Anonymous  
ID: **DOI-2017-0003-0049**  
RE FWS employee

- A group of landowners opposing major transmission/infrastructure project in Nebraska met and a FWS employee attended on taxpayer dollars
- A Facebook post for the opposition group stated that FWS is key to stopping the infrastructure project and stated that the FWS employee would be present to answer questions
- Control employees and keep them from taking sides.

○ **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Columbia Law School, Sabin Center for Climate Change Law  
ID: **DOI-2017-0003-0050**  
RE NPS and FWS rule identified in SO 3349

- Existing regulations addressing energy development on Federal land have important benefits, including those identified in SO 3349
  - The NPS Rule, and FWS Rule, establish important environmental safeguards and will not have significant economic impacts
  - See comment summary under BLM for comments on BLM rules.
- DOI regulations are needed to address the program of global climate change
- DOI must consider the environmental impacts of regulatory changes
- Includes as attachments:
  - 30-page document "Veyrier - Job Creation in the Emerging Methane Leak Detection and Repair Industry - 2017"

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- o GAO Publication - National Wildlife Refuges – 2010
  - o GAO Publication - Federal Oil and Gas Leases – 2010
  - o 83-page document "Stokes - The Emerging U.S. Methane Mitigation Industry - 2014"
  - o **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]
- Anonymous  
ID: **DOI-2017-0003-0051**  
*RE [unspecified]*
    - o End “WOTUS” [Waters of the United States]
    - o **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]
- Western Urban Water Coalition  
ID: **DOI-2017-0003- 0052**  
*RE ESA, Mitigation, NEPA, etc.*
    - o Streamline and work collaboratively with western water supply agencies to ensure these agencies can meet water supply needs and water quality requirements.
    - o Tax Exemption for Water Conservation Rebates
      - Water supply and management utilities and companies create the incentive for customers to conserve by providing rebates to lower the cost to the consumer for water-saving measures and equipment purchases, but IRS has determined they are taxable. Encourage Treasury Department to exempt water conservation rebates provided to customers from the definition of income for federal tax purposes, based on the connection between energy and water conservation.
    - o Comprehensive Reimbursement Agreements
      - Develop comprehensive and uniform guidance that encourages the use of reimbursement agreements through which applicants can pay for permit processing costs. Such agreements must ensure the objectivity of the reviews and agency actions made pursuant to reimbursement programs.
    - o Endangered Species Act Reform
      - Increase use of procedures and mechanisms that allow applicants to provide financial and in-kind assistance to cover the costs of ESA reviews.
      - Reopen the HCP Handbook, issued December 21, 2016, for public review and, pending review, reinstate the previous HCP Handbook.
      - Reopen regulations defining adverse modification of critical habitat and establishing the procedures for designating critical habitat and exclusions. The rules are too stringent in their treatment of habitat in areas “unoccupied at the time of listing” and in determining what is “essential to the conservation of the species.” The policy for exclusion from critical habitat does not provide

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

sufficient flexibility for areas subject to conservation plans developed under other laws.

- Develop policy guidance to define how exclusions from critical habitat will be made based on economic impacts of designation on regulatory entities, rather than following an ad-hoc process.
- Develop regulations to define the meaning of ESA’s “best available science” test.
- Develop guidance and revise regulations to give nonfederal designated representatives a greater consultative role in formal consultation
- Mitigation Policies
  - Review each bureau’s mitigation policies to eliminate the requirement that mitigation provide a “net environmental benefit” not only for projects supporting energy independence, but also for water infrastructure and wildfire treatment projects.
- National Environmental Policy Act Reform
  - Revise NEPA regulations and handbooks to require: (1) development of an interagency coordination plan whenever more than one agency is involved in permitting, so there is simultaneous preparation and review of NEPA; (2) a 30-day deadline for agency review of submitted NEPA studies; (3) that administrative appeals of NEPA issues can be brought only by parties who participated in the NEPA administrative process and raised the issue; (4) use the regulation that provides EAs need only analyze the proposed action and may proceed without considering additional alternatives when there are no unresolved conflicts concerning alternative uses of available resources; (5) expand CATEX’s to exempt larger acreages for wildfire prevention treatments and rehabilitation of burden areas.
- Maximum Utilization of Existing Facilities
  - Examine and revise its standards and directives on project expansion, use of excess capacity, water sharing, use of storage and conveyance facilities for non-project water, places of use, and fair value pricing.
- **RECOMMENDED DISPOSITION:**

(b) (5) DPP  
[Redacted content]

Formatted: Font: 11 pt

DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE

(b) (5) DPP  
[Redacted]

- Individual (Neria, Meredith)  
ID: DOI-2017-0003-0053  
RE 2016 rule on Management of Non-Federal Oil and Gas Rights
  - Do not want the updated rules from 2016 to be undone.
  - We need our public lands to be protected even as they are used by the oil and gas industry.
  - The oil and gas industry should be responsible for proper care and thorough cleanUp of public lands, including refuge lands.
  - Consider the long-term effect of allowing the oil and gas industry, which has a poor track record of allowing pollution and not cleaning up thoroughly,
  - Do not allow the dismantling of Management of Non-Federal Oil and Gas Rights.
  - RECOMMENDED DISPOSITION: (b) (5) DPP  
[Redacted]

- Individual (John, Mike)  
ID: DOI-2017-0003-0054  
RE [unspecified]
  - “t” [apparent typo]
  - RECOMMENDED DISPOSITION: (b) (5) DPP  
[Redacted]

- Individual (Egner, Gail)  
ID: DOI-2017-0003-0100  
RE: Stop placing fish weirs on our creeks and streams in WA State.
  - The weir placed in Olequa Creek in the Cowlitz County area in Castle Rock WA is making the creek unnavigable. What used to be an active spawning creek, has no fish left.
  - Eagles & hawks used to fish here regularly. Not any more. Herons and cranes were frequent visitors--not anymore. This weir is also hampering wildlife--deer, elk, beaver, otter, even ducks.
  - RECOMMENDED DISPOSITION: (b) (5) DPP  
[Redacted]

DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE

- Individual (Busch, Steve)

ID: DOI-2017-0003-0101

RE: *The ESA was intended to protect species from the threat of extinction. It was NOT intended to be used as a vehicle to expand the range of non-endangered high impact predators based on ideology.*

- The 2014 policy to improve and clarify implementation of the Endangered Species Act by providing a formal interpretation of the phrase "significant portion of its range" that appears in the ESA definitions of "endangered species" and "threatened species." This policy is ambiguous and contradictory, and bases its conclusions on the agenda driven pseudo-science known as "conservation biology".
- The policy further misconstrues the original intent of the ESA by continuing to allow non-endangered vertebrates, such as wolves and grizzly bears, (both are listed by the IUCN as "Species of LEAST CONCERN") to be listed as "endangered" on the basis of regionalism, or where the species used to live in comparison to lines on a map, or political boundaries.
- The "significant range" policy itself declares that the services will NOT consider "historical range" to be relevant in making recommendations re species protections, yet the services lists gray wolves as "endangered" in some 39 states and portions of states simply because gray wolves used to live there.
- Gray wolves currently have the widest circum-polar range of any large terrestrial predator on earth. Their population numbers are extremely high and are continuing to increase. Yet, this policy ignores the overall health of the species, the sufficiency of current range, impacts on settled landscapes and agriculture, impacts on other wildlife, and impacts on human health and safety.
- In 1991, USFWS Policy towards hybrids was clear and unambiguous.
- By 2001 the USFWS "hybrid non-protection policy" was withdrawn in light of the growing amount of scientific data showing that many protected species, such as Spotted Owls and Gray Wolves, are subject to hybridization with "non-endangered" varieties such as, in the case of Spotted Owls, Barred Owls; and in the case of wolves, coyotes and dogs.
- As a result of this information, the services proposed an "intercross" policy intended to keep hybrids fully protected under the ESA. The services chose to ignore this problem altogether and instead focus on creating something called, "Distinct Population Segments".
- The services must rethink how their policies line up, or don't line up, with the original intent of the ESA. As I see it, the USFWS in particular, has made a mockery of the law and science.
- **Other Bureaus Addressed in Comment:** NOAA's National Marine Fisheries Service
- **RECOMMENDED DISPOSITION:**
- (b) (5) DPP [REDACTED]

DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE

(b) (5) DPP

[REDACTED]

- Individual (Zaborac, Shane)

ID: DOI-2017-0003-0102

*RE: Something needs to be done about the exploding seal and sea lion populations in Washington state and their negative impacts on the dwindling salmon and steelhead populations*

- The bay of Grays Harbor (mouth of the Chehalis river) has more seals than fish.
- Fish hold up in the bay in late summer and wait for a rain to move up river and by the time the rain comes the seals have taken their toll.
- Same complaints other places like the Columbia river and its tributaries.
- Taking the population of seals down by more than 70% and that would not endanger them as a species but yet would have a major benefit for the fisheries.
- The native Americans in my area use to hunt seals now they don't.

○ RECOMMENDED DISPOSITION: (b) (5) DPP

[REDACTED]

- Edison Electric Institute (EEI)

ID: DOI-2017-0003-0103

*RE: Revise administrative burdens, simplify and streamline the overall process, eliminate duplicative environmental reviews and enhance the ability of EEI's members to permit, site and operate generation, transmission and other infrastructure assets while maintaining environmental integrity*

- EEI supports cost-effective public policies and a streamlined approach to regulation.
- EEI continues to support efforts—administratively and legislatively—to reform the permitting and siting process for critical energy infrastructure projects.
- EEI and its members intend to participate in these initiatives as they are developed.
- FWS Should Withdraw, Refine, and Re-propose Habitat Conservation Planning (HCP) Handbook
- The FWS also should revise the 2016 HCP Handbook to reflect the appropriate mitigation standard.
- There are several instances in the Handbook where the PM1s mitigation goal of "net benefit" or "no net loss" is embedded.

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- This is in conflict with the ESA.
- Concerned that-either at the time guidance is adopted, or subsequent to its adoption what initially may have been considered by the federal land management agencies ( e.g. FWS) to be voluntary guidance in effect becomes mandatory and results in de facto regulation, although it has not been through any public notice and comment process.
- There should be a national point of contact to review instances in which guidance may have been inappropriately developed or applied.
- Any proposal by these agencies to develop written guidance should always receive input from the offices of the Solicitor.

**RECOMMENDED DISPOSITION:**

(b) (5) DPP



- Lignite Energy Council (LEC)  
DOI-2017-0003-0104  
*RE: LEC offers the following information to help you understand the situation with federal coal in North Dakota, and how the program can be better structured to achieve the aforementioned goals. All of the coal produced in North Dakota is used within the state to produce electricity, synthetic natural gas, and associated byproducts. No coal mined within the state is sold on the open market or transported out-of-state.*
  - Federal coal production in North Dakota is unique in many ways relative to surface coal production throughout the Western United States.
  - 1) “Impose costs that exceed benefits”
  - As described above, federal coal represents a relatively small proportion of a mine area in North Dakota. While pursuing these comingled parcels is the most efficient way to mine, coal producers do have the option in many cases to simply bypass a federal coal tract if a lease cannot be obtained in a timely manner.

## DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE

- Bypassing a tract essentially sterilizes that reserve – it would never be feasible to go back and mine. The rate of return to American taxpayers if their resource is left in the ground is and will always remain zero.
- In another scenario where it might be difficult to isolate a federally-owned coal tract and an entire area needs to be mined around, the inability to secure a federal coal lease could represent a takings of comingled non-federal coal reserves.
- 2) “Are outdated, unnecessary, or ineffective”
- The inability to lease federal coal tracts is not accounted for in North Dakota coal companies’ contractual obligation to supply fuel for power generation and gasification.
- Since mining companies hold the surface rights over federal coal tracts, the area will likely be disturbed to support mining activities regardless of whether the federal coal is retrieved or not.
- A policy decision to restrict development of our coal resources will have no bearing on the decision of other nations to strive for the same standard of living coal has brought to the U.S., and as a result will have no meaningful impact on global emissions.
- 3) “Eliminate jobs, or inhibit job creation”
- United States is blessed to have a sustainable coal reserve that can meet our energy needs centuries into the future. North Dakota alone has enough lignite coal to maintain current levels of production for the next 800 years.
- Despite coal-fired power generation increasing 93 percent since 1970, regulated emissions have fallen by 92 percent.
- Reclamation standards and practices have improved dramatically. Coal producers in North Dakota must reclaim mined lands to a standard of “as good or better,” and demonstrate that reclaimed lands meet that strict production level a full ten years after reclamation before being eligible for bond release.
- The industry is dedicated to tackling the issue of carbon capture, utilization, and storage.
- It must be the continued policy of the federal government to incentivize the use of coal to help meet our energy needs.
- Department needs to analyze the leasing program to find ways to streamline leasing and uphold its statutory mandate to manage public resources for the greater good.
- The subtitle of the Mineral Leasing Act explicitly states that it is “an act to promote the mining of coal...” and mandates that “no mining operating plan shall be approved which is not found to achieve the maximum economic recovery of the coal within the tract<sup>3</sup>”.
- Encourage your department to review the federal mining plan approval process. Under current regulations (30 CFR Parts 740 and 746), there is a four-step process by which a coal producer obtains all approvals to mine federal coal<sup>4</sup>.
- With respect to the U.S. Fish and Wildlife Service (FWS), we would recommend that DOI clarify through a new biological opinion that FWS concurrence is not required for state-approved surface coal mining permits.

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- FWS should also provide clarification that criminal or civil liability does not exist for those connected with incidental impacts to migratory birds that occur in the normal course of business.
- Coal producers in North Dakota are faced with a years-long and costly analysis process, with little guarantee of success or return on investment in pursuing federal coal leases.
- The 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.
  - The federal leasing process must work in concert with state permitting agencies.
  - **Other Bureaus Addressed in Comment:** OSM
  - **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Individual (Langdon, Steve)

DOI-2017-0003-0105

*RE: The USFW needs an overall for all the great things I have mentioned they have been stifled, taken over and corrupted by so called environmentalist and animal rights activists who care more about denying people's access and use of public lands and wildlife than about having a balanced effort that benefits all including people.*

- Environmentalists groups outside the USFW have also had entirely too much influence on USFW as they push for their anti human agenda
- Decisions not based on science. But on the ever failing theory of "preservation and rewilding".
- Expanding use of the Endangered Species Act has only compounded these issues.
- A prime example of all this is the Nonessential wolf experiment in the west and in New Mexico.
- The wolf. As still the example has created a wildlife disaster not seen since the buffalo slaughters and is a stain on the North American Wildlife Model.
- **RECOMMENDED DISPOSITION:** (b) (5) DPP [REDACTED]

- Ecological Restoration Business Association (ERBA)

DOI-2017-0003-0106

*RE: The ecological restoration industry faces the challenge of regulatory burdens. Our efforts, however, are often slowed by regulatory inconsistencies and delays. Species related compensatory mitigation activities are subject to Interior and FWS policies and guidance. ERBA believes there are opportunities for improvement, particularly within the FWS' ESA Compensatory Mitigation Policy*

- Remove references to "net gain," which cause confusion for the regulated public. DOI could use another standard and more precise terms.
- ERBA recommends consideration of "proportional to the impact" or "no net loss" as the appropriate standard.

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- Restructure the "landscape-Level" approach mitigation goal. ERBA recognizes the term "landscape-level" may have connotations (such as larger and larger conservation areas) other than our understood goal of the most efficient size and location of mitigation sites.
- We recommend the FWS either clarify "landscape-level" or potentially restructure the goal with alternative terminology.
- Reduce administrative and procedural local discretion by implementing defined mitigation protocols.
- Local discretion in implementing the administrative and procedural aspects of the permitting process and Policy results in a lack of consistency and equivalency.
- Interior can reduce this cause of permitting inefficiencies by clearly stating the goals of consistency and equivalency in the Policy.
- Interior could enforce these goals through more direction and routine oversight from Headquarters to field offices on the procedural processing of mitigation bank applications and impact permits.
- ERBA recommends incorporating adherence to and timely implementation of the Policy into the evaluation process of Regional leadership and offices.
- Update, clarify and streamline the Section 7 Handbook to modernize the Section 7 consultation process.
- Section 7 Handbook has no mention of conservation banking, which is one of the most efficient means of allowing vital projects to progress while providing significant species impact avoidance and minimization.
- ERBA recommends including clear guidance on when compensatory mitigation may be required by the FWS for a permit applicant to quickly move through the ESA process.
- ERBA also recommends setting fairly strict timelines in the permitting process for when FWS may require avoidance and minimization before moving to considering mitigation.
- **RECOMMENDED DISPOSITION:** (b) (5) DPP

[REDACTED]

DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE

(b) (5) DPP

- Individual (Schumacher, Karen)  
DOI-2017-0003-0107  
*RE: I live in the Great Northern Landscape Conservation Cooperative (GNLCC) and they have continued to engage in activity that your order specifically ended.*
  - Federal agencies are embedded with initiatives such as the High Divide, Yellowstone to Yukon, Crown of the Continent, Heart of the Rockies, and Greater Yellowstone Coalition.
  - These initiatives actively pursue conservation easements, creation of corridors which they want to lead to linkage and connectivity, and are implementing these agendas through representatives of their NGOs at a local level.
  - These initiatives are also planning to use the State Wildlife Action Plans to integrate linkage, corridor, and connectivity language to further advance their agenda.
  - The GNLCC steering committee has leaders of these initiatives as members. This begs the question of whether the federal government is actually advancing these initiative agendas. Other countries and some corporations are also involved with the GNLCC, but there is no local representation.
  - The GNLCC completely excludes public involvement except for organizations that hold the same ideology as them.
  - The GNLCC is using the Idaho Department of Transportation (ITD) to incorporate their agenda to build wildlife overpasses in areas that have historic significance, wetlands, questionable soil suitability, and which are opposed by the local citizens.
  - All of the NGO individuals who have been working with the ITD do not live in the area yet have more influence on decisions because they are tied in with the initiative leaders who sit on the steering committee.
  - There has been no public involvement from the beginning of the proposed transportation project but the individuals who are involved with the steering committee members have been. There has also been a significant lack of involvement by elected representatives.
  - The funding mechanism is also concerning. The initiative individuals seem to have quite a bit of funding going to their agendas and there is a question about whether or not the grant money has been properly processed.
  - No federal law or regulatory authority for any of the activities the GNLCC engages in, yet they continue to advance their agenda via DOI agencies. Since your order 3349 they have continued to work towards meeting their objectives.
  - The GNLCC openly admits they do not recognize jurisdictional boundaries or authority. This is a violation of our Constitution.
  - If there are no regulations for large landscape cooperatives then they must be investigated for ongoing activity and dismantled immediately. If there are regulations they must be eliminated.

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- It is imperative that decisions about land use are made by local elected representatives and the people within those jurisdictions. These cooperatives have completely removed that right.
- The initiative members on the steering committee are involved with the IUCN and the NGOs are certified UN NGOs. It is clear that they are implementing UN objectives for connectivity by placing land into conservation status through various methods.
- Once land is designated as a corridor it will be subject to potential overlays and land use regulation. They use the comprehensive plans to integrate land use planning objectives that will require land owners to practice conservation, require restrictive regulations such as how the land is used, how the house is built, density, housing only near municipal services, landscaping only by professionals, buffer zones, the list is extensive.
- These same initiative leaders on the steering committee are also heavily involved with land trusts which manage conservation easements in the area. Is this not a conflict of interest?
- I know Rep. Labrador and Bishop have asked for an accounting of these LCCs, oversight of their activity, and investigation into funding improprieties. The investigation must go farther, especially if there is no regulatory authority for them.
- **DISPOSITION:** (b) (5) DPP

- Utility Water Act Group

DOI-2017-0003-0114

*RE: Given the overlap of NMFS and FWS jurisdiction on ESA issues of importance to UWAG, these comments address regulatory reform issues for DOI and NOAA together and will be filed under both dockets.*

- UWAG supports the Services' regulatory reform efforts and, in particular, UWAG supports efforts that serve the key goals of:
- Focusing cost and impact of ESA implementation on efforts demonstrated to deliver the greatest value for conservation and recovery of listed species;
- Shifting emphasis from unilateral use of restrictions toward collaborative, voluntary actions to conserve and recover species;
- Greater state involvement in ESA implementation and conservation;
- Listing decisions and critical habitat designations supported by sound scientific methods and data
- Establishment of streamlined and efficient methods for regulated parties to ensure ESA compliance.
- UWAG provides the following specific recommendations as to how the Services can improve their regulatory processes, and identify regulations and policies that warrant repeal, replacement, or modification.
- The Services Must Use a Proper Baseline and Effects Analysis in ESA Section 7 Consultations.
- The Services Should Clarify the Causation Standard for Effects Analyses.

**DRAFT – INTERNAL DELIBERATIONS – DO NOT DISTRIBUTE**

- The Services Must Ensure Listing Decisions and Critical Habitat Designations Rely on Best Available Science.
- The Services Should Revise the HCP Handbook to Remove or Modify Requirements to Assess Climate Change Impacts in HCPs
- The Services Should Issue a Revised Section 7 Consultation Handbook.
- The Services Should Issue Guidance for Streamlined Section 10 Permitting.
- The Services Should Repeal and/or Modify the Critical Habitat Rules.
- FWS Should Withdraw or Modify Its 2016 Mitigation Policies.
- **Other Bureaus Addressed in Comment:** National Oceanic and Atmospheric Administration (NOAA) and National Marine Fisheries Service (NMFS)
- **DISPOSITION:**

(b) (5) DPP  
[Redacted text block]

(b) (5) DPP

