



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

NOV 15 2017

The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
U.S. Senate  
Washington, D.C. 20510

Dear Chairman Murkowski:

Enclosed are responses prepared by the U.S. Fish and Wildlife Service to questions submitted following the Committee's November 2, 2017, hearing on "The potential for oil and gas exploration and development in the non-wilderness portion of the Arctic National Wildlife Refuge, known as the "1002 Area" or Coastal Plain, to raise sufficient revenue pursuant to the Senate reconciliation instructions included in H. Con. Res. 71".

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti  
Legislative Counsel  
Office of Congressional and Legislative Affairs

Enclosure

cc: The Honorable Maria Cantwell  
Ranking Member

U.S. Senate Committee on Energy and Natural Resources  
November 2, 2017 Hearing: *The Potential for Oil and Gas Exploration and  
Development in the Non-Wilderness Portion of the Arctic National Wildlife Refuge, Known as  
the "1002 Area" or Coastal Plain, to Raise Sufficient Revenue Pursuant to the Senate  
Reconciliation Instructions included in H. Con. Res. 71*  
Questions for the Record Submitted to Mr. Greg Sheehan

**Questions from Ranking Member Maria Cantwell**

**Question 1: Your testimony states that the Administration supports oil and gas development in the Arctic National Wildlife Refuge. The Fish and Wildlife Service is charged with managing the Arctic refuge "to protect fish and wildlife and their habitat in their natural diversity."**

**The Arctic refuge Coastal Plain is a critical calving area for the Porcupine Caribou herd—as your testimony notes—and almost the entire area has been designated as critical habitat for polar bears, which are listed as a threatened species under the Endangered Species Act.**

**What analysis did the Administration undertake in assessing the impact of oil development on its obligation to protect the Arctic refuge and its wildlife, including a polar bear population that is listed under the Endangered Species Act, before deciding to promote oil development in the refuge?**

**Response:** The Alaska National Interest Lands Conservation Act (ANILCA) reserved the decision to develop oil and gas resources in the 1002 area for Congress. The Administration supports legislation to authorize that development. We will follow all applicable laws, including the Endangered Species Act, the Marine Mammal Protection Act, the National Wildlife Refuge System Administration Act, and the National Environmental Policy Act, to analyze potential effects of developing oil and gas resources in the 1002 area and determine compatibility with established purposes for the refuge. Environmental reviews will identify potential measures to avoid or reduce impacts to wildlife and habitat and ensure that development, if authorized, proceeds in a way that is consistent with all applicable laws. In addition, the Department will use the best practices learned from development within the National Petroleum Reserve Alaska (NPR), which is very similar to the 1002 area, to make sure we are thorough in our reviews and surveys and that we avoid or reduce impacts to the greatest extent possible.

**Question 2: Do you agree that oil development in one of the most pristine and ecologically important national wildlife refuges in the country should be undertaken only if consistent with all environmental laws?**

**Response:** Yes. Only Congress can authorize oil and gas development in the 1002 area. If authorized by Congress, development would only be undertaken in a manner consistent with all applicable environmental laws and Congressional intent.

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**Question 3:** Do you agree that allowing an oil field to be developed inside a national wildlife refuge is a major federal action requiring a full public process and the development of an environmental impact statement in accordance with the National Environmental Policy Act?

**Response:** Yes.

**Question 4:** The 2015 Comprehensive Conservation Plan (CCP) for the Arctic Refuge was the result of years of scientific work and public input. As part of the plan, the US Fish and Wildlife Service recommended that the Coastal Plain of the Arctic Refuge be designated as wilderness.

In your testimony, you mentioned the original CCP but did not mention the current CCP, which is the Fish and Wildlife Service's most recent scientific review of the Refuge, management policy for the Refuge, and recommendations to Congress.

**Is the Arctic Refuge still being managed according to this plan?**

**Response:** Yes, the refuge is managed according to the current Comprehensive Conservation Plan (CCP). If Congress enacts legislation that authorizes oil and gas development in the 1002 area, we will modify the CCP as needed to continue to minimize impacts and remain consistent with Congressional intent.

**Question 5:** Is current Department of the Interior leadership committed to the scientific analysis behind the 2015 Comprehensive Conservation Plan for the Arctic National Wildlife Refuge?

**Response:** The 2015 CCP is the current management plan for the Arctic National Wildlife Refuge, and the USFWS continues to administer the refuge consistent with this plan and its underlying science. If Congress enacts legislation that authorizes oil and gas development in the 1002 area, we will modify the 2015 CCP as needed.

**Questions from Senator Ron Wyden**

**Question 1:** Mr. Sheehan, in your spoken testimony you referred to research and best practices to avoid complications from drilling. But I am still concerned that drilling could seriously damage the pristine nature of the Refuge. We've heard that using ice pads and ice roads can reduce the environmental footprint of drilling, but the Refuge has a hillier

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**terrain and less standing water than other drill sites on the North Slope. That means it could be harder to use ice drilling techniques in the Refuge.**

**Given the lack of drilling experience in the uniquely-rugged terrain of the Refuge, how can the Administration be certain that oil exploration and production won't damage the Refuge?**

**Response:** ANILCA reserved the decision to develop oil and gas resources in the 1002 area for Congress. The Administration supports legislation to authorize that development. We will follow all applicable laws to analyze potential effects; determine compatibility with established purposes for the refuge; recommend measures to avoid or reduce impacts; and ensure that development proceeds in a way that is consistent with all applicable laws. If development of oil and gas resources in the 1002 area is authorized, the environmental review process would identify potential environmental effects as well as opportunities to avoid or reduce adverse impacts to the greatest extent possible by utilizing best practices and lessons learned from development in similar terrain in Alaska.

**Question 2: I am also concerned about the potential for oil spills. We've heard that drilling technology has advanced, but oil spills still happen. In fact, since 2009 tens of thousands of gallons of crude oil and drilling fluids have spilled on the North Slope, damaging waters and local wildlife.**

**Since oil spills have happened in places where there's a longer history of drilling, how could a spill prevention or disaster recovery plan for the Refuge be credible?**

**How much access would disaster recovery crews have to respond to a spill in the Refuge?**

**Response:** ANILCA reserved the decision to develop oil and gas resources in the coastal plain of the 1002 area for Congress. The Administration supports legislation to authorize that development. We will follow all applicable environmental laws to analyze potential effects and recommend measures to avoid or reduce impacts.

The USFWS and the Bureau of Land Management (BLM) both play important roles in ensuring involved parties are committed to preventing spills and have a credible disaster recovery plan in place. A credible spill prevention or disaster recovery plan will establish best management practices that will include the deployment of recovery crews, which should reduce the potential for spills and reduce the effects of spills.

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The BLM is responsible for ensuring that EPA requirements including the EPA's Spill Prevention, Control, and Countermeasure (SPCC) Plan and the Facility Response Plan (FRP) rules are followed. The intent behind the SPCC rule is to prevent a discharge of oil into navigable waters or adjoining shorelines and to control a spill should one occur. The FRP rule requires operators to submit response plans developed to respond to a worst-case oil discharge or threat of a discharge.

In addition, the BLM will utilize lessons learned and best practices from similar areas such as the NPRA to operate and development in the most safe and least intrusive manner possible. As you mentioned and as was illustrated at the hearing, exploration and development technology has made great progress over the years. The Department is confident that any future development can be done in a safe and mitigated manner that is consistent with the same environmental laws and safeguards that govern every other development and production project. I would also reiterate Secretary Zinke's sentiments from his budget and confirmation hearings that development should happen under reasonable environmental regulations in the United States rather than countries overseas whose regulations are slim to none.

In response to your question on access, if there was an oil pipeline spill in the 1002 area, response personnel would be able to utilize the access roads adjacent to pipelines. If oil and gas development in the 1002 area was authorized by Congress and initiated, roads would be constructed to provide access to the pipeline for routine maintenance, spill prevention, and emergency response. Helicopters can also be used as a reliable source to help determine the initial spill area and quickly bring first responders to the site.

**Questions from Senator Bernard Sanders**

**Question 1:** **Do you agree with the vast majority of scientists that climate change is real, it is caused by human activity, and that we must aggressively transition away from fossil fuels toward energy efficiency and sustainable energy like wind, solar, and geothermal?**

**Response:** As I stated at the hearing, I believe that climate change is real. I am not an expert or a climate scientist, but I believe it is caused at least in part by human activity. As Principal Deputy Director of the U.S. Fish and Wildlife Service, I am not responsible for developing the Administration's energy policy. However, as I indicated at the hearing, I am aware that the Administration supports securing our energy future by developing an all-of-the above energy strategy.

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**Question 2: Do you agree with the vast majority of scientists that the combustion of fossil fuels contributes to climate change?**

**Response:** I am not an expert or a climate scientist, but I believe combustion of fossil fuels contributes to climate change.

**Question 3: During your testimony, you said that the Trump administration is being "forward looking" with regard to advancing renewable energy technologies. However, the Administration's proposed budget has called for a 70% cut to the Department of Energy Office of Energy Efficiency and Renewable Energy (EERE) and zeroing out of ARPA-E. Additionally, the Administration has announced its intention to leave the Paris Climate Accord and proposed to repeal the Clean Power Plan. Can you please explain how such actions are helping advance renewable energy technology? Can you please provide any examples of ways the Trump Administration has increased support for renewable energy since taking office?**

**Response:** While I cannot speak to the Department of Energy's budget request, the America First Energy Plan is an "all-of-the-above" approach that includes oil and gas, coal, hydropower and renewable resources. The FY 2018 Budget requests funds for onshore and offshore renewable energy development at a level that is expected to address current industry demand. The Department is also taking steps to improve its leasing processes, including implementation of BLM's competitive leasing rule. This will support a competitive leasing process for solar and wind energy development. The rulemaking updates and codifies acreage rent and megawatt capacity fees for wind and solar energy projects, establishes a new rate adjustment method that provides greater certainty and fair return for use of the public lands, provides incentives for leases within designated leasing areas, updates project bonding requirements, and incorporates sensible solar and wind energy policies into the right-of-way regulations. In March, 2017, the Secretary announced the completion of the nation's seventh competitive lease sale for renewable wind energy in federal waters. BOEM also this year marked the operational launch of the nation's first commercial offshore wind farm – the five-turbine, 30 megawatt Block Island Wind Facility.

**Question 4: Scientists tell us that we must work to keep fossil fuels in the ground if we are to avoid the most dangerous impacts of climate change. The U.S. Geological Survey estimates that more than 10 billion barrels of recoverable oil could be held in the Arctic Refuge. How does extracting this oil from the Arctic Refuge help the U.S. transform its**

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**energy system, as quickly as possible, from one based on carbon-intensive fuels to one based on clean, sustainable sources?**

**Response:** As Principal Deputy Director of the USFWS, I am not responsible for developing the Administration's energy policy. However, as I stated at the hearing, I am aware that the Administration supports developing energy from all sources, including fossil fuel sources. Fossil fuels serve as a major energy source that remains in high demand to meet immediate and shorter term energy needs.

**Question 5:** According to the State of Alaska, there have been over 640 oil spills on Alaska's North Slope since 1995, 13 of which were greater than 10,000 gallons. Since 2009, tens of thousands of gallons of crude oil and drilling fluids have spilled on the North Slope. In April, a BP oil well leaked crude oil and gas for several days due to damage caused by pressure from thawing permafrost. The Alaska Oil and Gas Conservation Commission issued an emergency order to review all wells on the North Slope of Alaska due to the threat posed by warming permafrost.

**Do you agree with the Alaska Oil and Gas Conservation Commission that warming permafrost poses a threat to fossil fuel infrastructure? If not, why not? What specific technology can guarantee no spills in the face of melting permafrost?**

**Response:** According to BLM, warming permafrost does pose a risk to older production wells, such as the example of the BP well referenced in your question. Modern wells, such as what could be developed in the 1002 area, do not carry the same level of risk because the surface casing extends completely below the permafrost zone. Surface casing is the protective pipe that houses the production strings. The surface casing also provides a heat buffer that prevents thaw while producing warm fluids (they are captured in a separate string contained within the surface casing). In the BP example, the surface casing did not extend through the permafrost zone. With the surface casing being a rigid pipe, melting permafrost will not bend or fracture the casing. It is cemented in place at the surface by specially designed cement specific for permafrost and arctic conditions. Any changes or movement of the pipe will be noticed at the surface where the well integrity can be determined. This issue is alleviated further by having many wellheads contained within a single pad, thus making detection easier as all would be routinely inspected as a group.

All potential impacts on new oil and gas infrastructure—including that from permafrost melt—would be assessed and appropriately addressed by environmental reviews under applicable laws.

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**Can you provide an example of an oil well on the scale of the \$1 billion dollar project proposed in the 1002 area of the Arctic Refuge that has not had a spill?**

**Response:** According to BLM, clarification would need to be provided if the question refers to an incidental spill or a large spill. To prevent spills of any size the operator must maintain a strict inspection and maintenance schedule that meet federal requirements.

**Question 6:** The Arctic Refuge is home to hundreds of plant and wildlife species, including America's most iconic animals such as polar bears, grizzly bears, musk ox, wolves and caribou.

**This area includes more polar bear den sites than any other area on the north coast of Alaska and has been designated as a critical habitat for these threatened animals, which are listed as a threatened species under the Endangered Species Act.**

**The Arctic Refuge is also the nesting ground for millions of birds, including waterfowl such as Northern Pintail and Tundra Swans, which migrate from all 50 states.**

**What specific technology can guarantee that the infrastructure and technology used for extraction does not adversely affect this pristine ecosystem?**

**Response:** If development of oil and gas resources in the 1002 area is authorized, the environmental review process would identify potential environmental effects as well as opportunities to minimize adverse impacts to the greatest extent possible. ANILCA reserved the decision to develop oil and gas resources in the 1002 area for Congress. The Administration supports legislation to authorize that development and will follow all applicable laws to analyze effects, avoid or reduce effects, including through the evaluation of technology to avoid or reduce effects as much as practicable, so that development would be consistent with all applicable laws.

**What specific technology can guarantee that the infrastructure and technology used for extraction does not violate the Endangered Species Act?**

**Response:** ANILCA reserved the decision to develop oil and gas resources in the 1002 area for Congress. The Administration supports legislation to authorize that development. We will follow all applicable laws, including the Endangered Species Act (ESA), the Marine Mammal Protection Act, the National Wildlife Refuge System Administration Act, and the National Environmental Policy Act, to analyze potential effects; determine compatibility with established



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purposes for the refuge; recommend measures to avoid or reduce impacts; and ensure that development proceeds in a way that is consistent with all applicable laws, including Section 7 of the ESA.

**Question 7:** Nearly 200,000 Porcupine Caribou, currently the only healthy caribou herd in North America, birth their calves in the Arctic Refuge. Disrupting these calving grounds could have a significant adverse impact on the herd's continued health.

**What specific measures and technology can guarantee that the infrastructure used for extraction does not adversely impact this herd?**

**Response:** ANILCA reserved the decision to develop oil and gas resources in the 1002 area for Congress. The Administration supports legislation to authorize that development. We will follow all applicable laws to analyze potential effects; determine compatibility with established purposes for the refuge; recommend measures to avoid or reduce impacts; and ensure that development proceeds in a way that is consistent with all applicable laws. If Congress enacts legislation to authorize oil and gas development in the 1002 area, environmental review, siting criteria, and recommended measures to avoid or reduce impacts will help avoid or reduce adverse effects to ensure the herd's health. It is worth noting that the caribou herd migrates through areas where development is currently occurring, particularly the NPRA, and the herd has continued to healthily grow while maintaining its migration patterns.

**The herd is also an essential part of life for the Gwichyaa Zhee Gwich'in Nation. The Nation has survived off the food from the herd for 20,000 years and the land where the herd lives is sacred.**

**What specific measures and technology can guarantee that the infrastructure and equipment used for extraction does not disrupt the Gwich'in Nation and preserves their relationship with the herd?**

**Response:** The USFWS recognizes that Alaska Native people are spiritually, physically, culturally, and historically connected to the land, wildlife, and waters. If Congress enacts legislation to authorize oil and gas development in the 1002 area, we will, through consultation with all affected tribes, identify concerns and establish measures to avoid or reduce impacts to the Porcupine Caribou Herd, along with other impacts of concern to Alaska Natives. Consultation will provide an opportunity to identify and address potential disruptions with respect for the Gwich'in Nation's cultural and spiritual relationship with the coastal plain of the

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1002 area and the caribou. This consultation will also include the Iñupiat people who have lived off the land and the wildlife for thousands of years. As I am sure you remember, Mr. Rexford testified on behalf of Kaktovic and the Iñupiat people in support of developing the 1002 area. Should development be authorized, we look forward to a complete and thorough consultation process.

**Question 8: The average lease sale per acre on the neighboring North Slope is \$194 per acre. In order to meet the Senate reconciliation instructions to the Senate Committee of Energy and Natural Resources, every single acre in the Coastal Plain would need to be leased at an average rate of \$1,333 per acre. What is the likelihood that every acre in the Coastal Plain would be sold at this rate? Describe the specific modeling and methods used to estimate the revenue that would be generated from leases on the Coastal Plain.**

**Response:** Estimates for how much companies may bid for leases in the 1002 area, should leasing be authorized, involve a number of assumptions, considerations and variables that are inherently uncertain. What we do know is that the 1002 area contains the largest undeveloped oil resources discovered in the United States and state oil and gas lease sales demonstrate industry interest in the region. In its analysis of the Committee's legislation, the Congressional Budget Office concluded that, based on historical information and information from the Department, the Energy Information Administration, and industry, bonus bids alone would result in over \$2 billion in Federal revenues over 10 years, with \$1 billion in deficit reduction and another \$1 billion in revenues that would be shared with the State of Alaska under the bill.



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The Honorable Lisa Murkowski  
Chairman  
Committee on Energy and Natural Resources  
United States House Senate  
Washington, D.C. 20510

Dear Chair Murkowski:

Enclosed are responses prepared by the Department to the questions for the record submitted following Committee's September 19, 2017, hearing *to examine vegetation management requirements for electricity assets located on federal lands and to receive testimony on Section 2310 of S. 1460, the Energy and Natural Resources Act of 2017, and H.R. 1873, the electricity Reliability and Forest Protection Act.*

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti  
Legislative Counsel  
Office of Congressional and  
Legislative Affairs

Enclosure

cc: The Honorable Maria Cantwell, Ranking Member  
Committee on Energy and Natural Resources

September 19, 2017 Hearing: To Examine Vegetation Management Requirements for Electricity Assets Located on Federal Lands and to Receive Testimony on Section 2310 of S. 1460, the Energy and Natural Resources Act of 2017, and H.R. 1873, the Electricity Reliability and Forest Protection Act  
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Questions from Chairman Lisa Murkowski

**Question 1:** Currently, power line owners and operators must undertake a full environmental analysis under the National Environmental Policy Act (NEPA) – either an Environmental Impact Statement or an Environmental Assessment – to undertake vegetation management work on federal lands. Such analyses can take several years to complete, delaying work vital to public safety.

- a. Please provide a list of the types of vegetation management activities that are routine enough that, from the agency's vantage point, they should be categorically excluded (CE) under NEPA.

The Bureau of Land Management (BLM) has a number of CEs that it regularly applies to certain vegetation management activities to speed NEPA compliance (see the list below offered in response to the following question).

More generally, the BLM is currently finalizing a report to the Secretary that identifies actionable items that would make the BLM's land use planning and NEPA processes faster, less costly, and more responsive to local needs.

As codified in Section 1508.4 of Chapter 40 of the Code of Federal Regulations (CFR), the BLM is unable to apply a BLM CE if "extraordinary circumstances" exist. For example, if the action under consideration will have a significant impact on an endangered or threatened species, or on historic or cultural resources, the BLM is precluded from applying a CE. (Section 46.215 of Chapter 43 of the CFR provides a list of the extraordinary circumstances under which actions otherwise covered by a CE require NEPA analysis.) While the BLM does have an existing CE that allows for the sale or removal of individual or small groups of trees that constitute a safety hazard, this CE cannot be applied if extraordinary circumstances exist.

The BLM is interested in considering the prospects of CE that can be applied to allow for the removal of hazard trees that threaten transmission and distribution lines, and are required by law or regulation to be removed by the utility, even if extraordinary circumstances are present. The BLM has undertaken a review of its NEPA process and may recommend the creation of additional CEs in the future, including a CE for utility vegetation management.

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**b. Please provide a list of any existing CEs that are available for this type of work.**

A number of existing CEs in the BLM's NEPA Handbook are applicable to vegetation management in electrical transmission right of ways (ROW). These CEs are listed below.

- Sale and removal of individual trees or small groups of trees which are dead, diseased, injured, or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads;
- Pre-commercial thinning and brush control using small mechanical devices;
- Harvesting live trees not to exceed 70 acres, requiring no more than 0.5 mile of temporary road construction, with some limitations;
- Salvaging dead or dying trees not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction, with some limitations; and
- Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management approved condition as a result of the event, with some limitations.

**c. Will BLM take administrative action to create CEs for utility vegetation management work on federal lands?**

As directed in Secretarial Order 3355, the BLM has undertaken a review of its NEPA process and may recommend the creation of additional CEs in the future, including a CE for utility vegetation management.

**Question 2: We've received testimony of inconsistent practices/procedures of federal land managers at the local level – a lack of uniformity that can lead to planning difficulties for utilities and delays in clearing vegetation.**

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**a. How do local land managers take into account a utility's regulatory reliability requirements?**

The BLM's authorized officer discusses these regulatory requirements with the utility and captures them in the ROW grant. Modifications to ROW grant language can be made if regulatory requirements change.

In a further effort to provide consistency, the BLM works closely with utilities that hold many ROWs to establish master agreements. Master agreements provide standard terms and conditions that can be applied to many ROW grants, and allow the BLM to engage in timely communication and consistent management as required by the various authorities that guide the BLM in its administration of ROWs for electrical transmission.

**b. Should federal land managers be required to implement all state and local requirements with respect to electric reliability and fire safety? What happens if state and local requirements conflict with federal law?**

Yes. Conflicts between Federal and State or local laws on Federal lands are identified during the grant process. If conflicts are identified, the authorized officer will consult his or her regional solicitor for guidance.

**c. Is your agency timely responding to utility requests to enter on federal lands and maintain their rights of way? What do you consider timely?**

Yes. What constitutes "timeliness" is defined in the ROW grant or the vegetation management plan and is determined collaboratively by the BLM and the utility. If for some reason timeliness is not defined in the ROW grant or vegetation management plan, timeliness is determined by the exigency of the situation under consideration.

**Question 3: Under the Memorandum of Understanding (MOU) between the federal agencies and Edison Electric Institute, the agencies promise within 18 months to "emphasize laws, regulations, and policies associated with vegetation management for power line ROWs on Federal lands." The agencies also promise to "[w]ork with the non-governmental parties to develop a process for coordinating vegetation**

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management of power line ROWs on Federal lands.” The 18-month deadline will be in February of 2018.

- **Is the Bureau on track to meet the deadline? What has been done to-date and what remains to be completed?**

The BLM is on track to meet the deadline. The BLM is developing policy guidance to field staff through an Instruction Memorandum that will be issued by February 2018.

- **Has the Bureau considered entering into a similar MOU with public power entities?**

The BLM is open to working with public power entities to develop similar MOUs. No efforts are currently underway, however.

**Questions from Ranking Member Maria Cantwell**

**Question 1: Why does the BLM currently require prior approval for some right-of-way maintenance activities, such as major ground-disturbing actions, under a utility’s approved vegetation management plan, as opposed to authorizing all such activity in the future upon approval of the vegetation management plan?**

In order to comply with NEPA and other environmental laws, the BLM must, in some cases, conduct an environmental analysis before a utility undertakes a major ground-disturbing action. Whether or not the BLM undertakes an environmental analysis is highly site specific, and may differ from one area of a ROW grant to another, depending on the environmental conditions of each site and the scale of the ROW grant.

**Question 2: If (1) the BLM must apply a categorical exclusion to a vegetation management plan that is part of a proposed renewal of a long-term right-of-way authorization that predates the Federal Land Policy and Management Act and the National Environmental Policy Act, and (2) the BLM is precluded from requiring a utility to seek any further case-by-case approval for discrete vegetation management**

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**activities contemplated under that plan, then at what point would the BLM ever conduct a thorough analysis of the environmental effects of various ways to maintain the right-of-way?**

A thorough analysis of environmental effects would be performed at the initiation of a ROW grant request, a modification of the existing ROW grant, or upon expiration/renewal of the ROW grant. For those ROW grants that predate NEPA and the Federal Land Policy and Management Act, an analysis would be performed for any modifications outside the scope of the original grant or upon renewal.

**Question 3: If the BLM, for good cause, prohibits a utility from conducting some type of vegetation management activity within a right-of-way that is otherwise consistent with the utility's approved vegetation management plan, should the utility be released from any liability for damages caused by wildfires, including instances where the utility acted negligently, grossly negligently, or criminally?**

As a general matter, a utility should not be released from liability if it has acted negligently, grossly negligently, or criminally. BLM is unaware of any authority that would allow it to impose strict liability on a utility for fire trespass. In general, however, the BLM works closely with prospective and current ROW grant holders to reduce the risk of catastrophic wildfire.

**Question 4: Are there instances when it has taken the BLM more than 3 days to review and approve (or deny) a non-emergency request to maintain a right-of-way, and is 3 days a realistic or reasonable timeframe for such reviews?**

Yes, there are often instances when it has taken the BLM more than three days to review and approve or deny a non-emergency request to undertake a maintenance activity in a ROW. The BLM works with the ROW grant holder to develop reasonable timeframes for review and approval of non-emergency requests to maintain the ROW, where approval is required. The length of these timeframes vary, but are determined and agreed upon by the BLM and the utility.



September 19, 2017 Hearing: To Examine Vegetation Management Requirements  
for Electricity Assets Located on Federal Lands and to Receive Testimony on  
Section 2310 of S. 1460, the Energy and Natural Resources Act of 2017,  
and H.R. 1873, the Electricity Reliability and Forest Protection Act  
Questions for the Record Submitted to Mr. John Ruhs

**Questions from Senator Martin Heinrich**

**Question 1: What are the sources for the claims in the monument review report?**

The Department does not comment on leaked documents.

**Question 2: How did the secretary ensure that information he was told by stakeholders was accurate before he relied on it in his report?**

The Department does not comment on leaked documents.

**Question 3: Will the factual errors in the report be corrected? And will the recommendations that rely on those errors be withdrawn?**

The Department does not comment on leaked documents.