

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

May 19, 2023

The Hon. Tracy Stone-Manning
Director
Bureau of Land Management
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240-0001

Dear Director Stone-Manning,

Thank you for appearing before the Subcommittee on Energy and Mineral Resources oversight hearing on Tuesday, May 16, 2023, to present testimony at the hearing entitled, *"Examining the President's FY 2024 Budget for the Bureau of Land Management and the Office of Surface Mining, Reclamation and Enforcement."*

Your testimony was extremely helpful in defining the Subcommittee's understanding of the issue and I appreciate the effort you took to prepare and present your testimony. While many questions were asked during the hearing, the Subcommittee has additional questions, attached, for your reply.

Please forward your responses to Lonnie Smith, Clerk of the Subcommittee on Energy and Mineral Resources, at lonnie.smith@mail.house.gov by June 2, 2023. Your assistance in meeting this deadline is requested, as failure to meet it will be noted in the printed transcript.

Once again, thank you for your extensive effort in making this a valuable hearing.

Sincerely,



Pete Stauber
Subcommittee on Energy and Mineral Resources
Chairman

Enclosure

Committee on Natural Resources
Subcommittee on Energy and Mineral Resources
Oversight Budget Hearing
1324 Longworth House Office Building
May 16, 2023
10:15 AM

“Examining the President’s FY 2024 Budget for the Bureau of Land Management and the Office of Surface Mining, Reclamation and Enforcement.”

Questions from Chairman Westerman for The Honorable Tracy Stone-Manning, Director,
Bureau of Land Management

BLM Proposed Rule on Conservation and Landscape Health

1. During the hearing, Members from both sides of the aisle raised concern over the determination the BLM proposed rule on Conservation and Landscape Health was not deemed economically significant. The Administrator of the Office of Information and Regulatory Affairs makes the determination of whether a rule is major, although this information would have been submitted by BLM. Conservation leases could potentially prevent access of federal land to current BLM permittees. I’d like to understand how the BLM determined this proposed rule does not have an impact of more than \$100 million per year on the national economy.
 - a. What analysis did BLM provide to justify this would not have a major impact?
 - b. Will you share the entire economic analysis conducted by the agency and submitted to ORIA with the Committee?
2. I often find the local staff, with boots on the ground, have valuable expertise and should be consulted on major decisions effecting their roles to carry out the agency’s mission. Given that, I’ve been disappointed to hear, from multiple sources, the lack of consultation with local staff on the BLM’s recently released Conservation and Landscape Health proposed rule. In addition, stakeholders and those directly affected by such a rule were left out of the development of this rule.
 - a. Did you engage with local staff, solicit their expertise and advice, and value their opinion on the crafting of this proposed rule?
 - b. Do you commit to consulting stakeholders, including BLM district staff, in any rule or agency decision?
3. The BLM’s proposed Conservation and Landscape Health rule seeks comments on how the agency should incorporate the management of old and mature forests into the rule. The BLM recently released a report on old growth, with the Forest Service, clearly recognizing “mature forests” are not a scientifically recognized term in forestry. Why is the BLM proposing to fundamentally change the way we manage these forests based on

inherently flawed science? Is the Department considering placing any restrictions on the management of “old growth and mature forests” as part of this rulemaking?

4. Your Department of the Interior colleagues have recently testified before this committee about their lack of concern for Congressional authority. I now see the BLM potentially following suite. The agency has proposed a rule fundamentally changing the way the BLM carries out its multiple use and sustained yield mandate. BLM is creating a new use of lands without Congressional Authority. Why do you believe the agency is justified in publishing this proposed rule outside of Congressional direction?
5. I am glad you are making an effort to listen to stakeholders through in-person listening sessions. However, I am concerned about the lack of in-person sessions and their location. The population of the three cities announced does not accurately represent the people who will be most impacted by this rule.
 - a. Who have you invited to participate in the listening sessions?
 - b. Will you commit to holding more listening sessions in areas impacted by this proposed rule?
 - c. Will you commit to attending each listening session?
6. In the recently published proposed rule, BLM has two statements that appear to contradict each other. The proposal says conservation leases are “not intended to provide a mechanism for precluding other uses, such as grazing, mining and recreation. Conservation leases should not disturb existing authorizations, valid existing rights, or state or Tribal land use management.” The proposal also says that once a lease has been issued, the “BLM shall not authorize any other uses of the leased lands that are inconsistent with the authorized conservation use.”
 - a. Will conservation leases be in addition to other leases or issued in a way excluding other uses of the land?
 - b. How will BLM determine lands eligible for a conservation lease?
 - c. What will take priority if conservation leases overlap with other possible land use, such as the potential for oil and gas development leases or areas for timber or grazing?
7. The Inflation Reduction Act provided \$500 million for NPS and BLM for conservation, resiliency, and restoration projects. Recently, your staff briefed my staff on the implementation of this funding. The NPS and BLM are carrying out landscape sized projects to restore and conserve land, including post fire work. DOI confirmed their ability to carry out this conservation work without the need for any new rules, regulations, or authority. Why is the BLM pushing forward a proposed rule focusing on conservation and creating conservation leases when conservation work has been ongoing without such a rule?
8. How does the BLM statutorily justify the addition of a “conservation lease” and giving this designation an equal standing as other uses defined within FLPMA while maintaining the requirements of FLPMA’s multiple-use and sustained-yield framework?

9. Is the overall intent of this proposed rule to reduce the acreage available for FLPMA mandated uses just as grazing, energy development and transmission?
10. How will the BLM evaluate and manage the conservation efforts that are laid out in the proposed rule? Will this process be done through RMPs and various land management plans, as prescribed by FLPMA, currently governing public land use?
11. It is clear BLM is already engaging in meaningful conservation work through stewardship agreements and other activities.
 - a. How many BLM acres have been conserved, restored, or treated with mitigation measures each year in the past 10 years?
 - b. How many acres does BLM expect this new proposed rule would include?
12. The recent proposed rule on conservation and landscape health defines conservation as “meaning maintaining resilient, functioning ecosystems by protecting or restoring natural habitats and ecological function.”
 - a. Will you provide any other definitions of “conservation” used by BLM?
 - b. How much BLM land is currently considered “conserved” by BLM’s proposed definition in this rule?
13. How many ACECs have been designated each year for the past 10 years?
14. How many acres have been designated as ACECs each year for the past 10 years?
15. In the recent proposed rule, the agency states, “...public lands are increasingly degraded and fragmented due to adverse impacts from climate change and a significant increase in authorized use.”
 - a. How has climate change led to fragmented lands?
 - b. What is the agency referencing as “authorized use”?
16. Sadly, we see BLM has often failed to maintain healthy landscapes across much of the west. Areas are overrun and destroyed by wild horses and burros. Lack of active management on our timber and grasslands has led to catastrophic wildfires. The inability to actively manage lands has only furthered invasive species. These examples are the responsibility of the BLM and cannot be attributed to other multiple uses. How would this proposal help BLM be a better steward of places like overstocked Herd Management Areas and overgrown, wildfire prone areas?
17. Is active forest management consistent with the BLM’s definition of “conservation”, as proposed in this rule?
18. Can the agency commit that this rule will not affect the ability of the agency to manage its lands to reduce hazardous fuels to respond to wildfire, insects, disease, drought, and/or overstocked and unhealthy forests or rangelands?

Wildland Fire and Fire Management

19. Fire can be a valuable tool to manage rangelands and forests and reduce the buildup of hazardous fuels. However, wildfire is bad. What are the agency's policies to ensure fire doesn't escape containment?
20. What is the role of fire on rangelands and forests?
21. How does focusing on old-growth forests interplay with the Department's Wildfire Risk Five-Year Monitoring, Maintenance, and Treatment Plan?
22. The BLM proposed budget is an indication of the agency's priorities. As I read it, I see DOI's budget requests substantial increases in funding for hazardous fuels reduction, but concerningly, without committing to treating any additional acreage of fire-prone lands. Despite requesting an increase in the Fuels Management account, DOI is planning to treat the exact same amount of acreage as last year. The administration is also proposing a legislative path to increase wildland firefighter pay. However, the budget request fails to identify any long-term funding sources for this pay increase. Further, the budget fails to pair pay reforms with the rangeland and forest management reforms. Increasing the pay for wildland firefighters and failing to address the issues preventing the agency from efficiently managing its land does nothing to address the increasingly dangerous situations wildland firefighters are sent into. Will the agency pursue active forest management and support for wildland firefighters?

Oil and Gas

23. BLM's application for permit to drill (APD) reports are missing for October and November 2022, due to a database reconciliation error.
 - a. What are the costs of maintaining relevant databases? If so, are there any redundancies that can be eliminated?
 - b. Is the Department of the Interior actively overseeing these databases and attempting to resolve reconciliation errors?
24. Jason Miller, OMB's deputy director for management, reiterated the expectation of a greater "in-person presence in the office" in a recent blog post. I believe that having employees in the office is important because it allows communities with BLM lands to come in and meet face to face with BLM employees.
 - a. Are you planning on bringing more staff back in person? Is there a plan in place to do so and, if so, please provided it to the Committee.
 - b. Are you tracking agency efficiency as it relates to BLM staff working in person versus remotely?
 - c. How is agency staff work and progress tracked, and how are you ensuring that agency staff meet agency missions?

- d. How many hours a week are field office staffers required to come into the office or what percentage of your staff in Field Offices are back in the office five days a week?
25. How does the BLM plan to spend money associated with the new Expression of Interest (EOI) fee provisions contained in the Inflation Reduction Act?
- a. Is there a plan to refund the EOI fees if multiple companies submitted EOI fees, and one of those companies lost in a multi-bidder scenario?
 - i. If not, what is the plan for those funds?
26. The BLM held an onshore lease sale in June of last year, but the Department watered-down the sale and only offered 20 percent of the parcels originally included. We recently saw reports that the Department plans on removing roughly half of the tracts in Wyoming's first federal oil and gas lease sale slated to take place later this year.

Section 50265 of the so-called Inflation Reduction Act states that a right-of-way for wind or solar energy development may only be issued if an onshore oil and gas lease sale has been held within 120 days *and* if the total acreage offered for lease the prior year is either over two million acres or equal to or greater than 50 percent of the acreage for which EOIs have been submitted.

- a. Are you counting the deferred acreage for purposes of meeting the 50 percent requirement in Section 50265 of the Inflation Reduction Act?
27. During your time as an employee of the United States Senate from 2007-2012, yes, or no, did you remain in compliance with all required ethics laws to the best of your knowledge?
- a. During that time, did you participate in any and all ethics training, as required by the United States Senate and/or the Office of Senator John Tester, yes or no?
 - b. Were you aware that a gift rule was and remains, to this day, in place for all Senate employees, yes or no?
 - c. Did you accept a loan of \$100,000 from a Mr. Stuart Goldberg, a donor to the Democratic party and your boss in the 2006 election cycle, yes or no?
 - d. Did you disclose this loan to Senator Tester?
 - e. Did you disclose this loan, which was below market rate, or seek counsel regarding acceptance of such a loan, from the Senate Ethics office, yes or no?
 - f. Have you paid off the loan?
 - g. During the time that you held the loan, did you recuse yourself from all projects related to Mr. Goldberg's interests?
 - h. If you did recuse yourself, how was this tracked if you never reported the initial loan?
28. IM 2023-007, Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales, requires heightened weight be afforded to certain criteria when reviewing leases for sale. These criteria include proximity to existing development, the presence of "important" fish and wildlife habitat, historic properties, recreation and other "important" uses and the potential for development.

- a. Why is this IM necessary given the fact that every Resource Management Plan studies and determines, in a public process, which lands shall be available for leasing?
- b. Based on this new policy, the BLM is proposing to defer leases in both the Q2 and Q3 lease sales in Wyoming. Please provide sufficient justification about how these criteria would be sufficiently negatively affected to compel the BLM to not offer the leases for sale.
- c. Please provide the threshold BLM considers significant when deciding a parcel should not be offered.
- d. Please provide commentary about how the current conditions in the RMPs covering these criteria are inadequate.

Mining

29. In August 2021, Interior released a notice of intent to conduct a review of the federal coal leasing program. It has now been a year and a half since BLM first solicited comments for the review.
 - a. When does BLM expect to complete the review and issue its findings?
 - b. Please provide specific examples of how your agency is taking into account the comments and economic needs of federal coal states and tribes who have expressed interest to the agency in developing their coal resources.
30. DOI's Departmental Highlights for the FY24 budget said, "BLM is processing 68 priority utility-scale onshore clean energy projects proposed on public lands in the western United States, including solar, wind, geothermal, and associated interconnect transmission line projects that are vital to grid connection." It also stated that, "BLM has over 120 pending applications for solar and wind development for processing when transmission capacity is available."
 - a. Is BLM providing the same level of priority to process permit applications from industries aside from solar, wind, geothermal, and associated transmission projects, such as conventional energy development and hardrock mining?
 - b. How many applications for permits, mine plans of operations, or other authorizations for coal and hardrock mining projects are currently pending at BLM?
 - c. Please provide information on the number of staff at BLM field offices dedicated to processing coal and hardrock mining permits and other authorizations.

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Questions from Rep. Grijalva for Director Stone-Manning

1. I am interested in the National Petroleum Reserve-Alaska rulemaking status, announced on March 12, 2023.

The Western Arctic has the potential to help our nation meet our climate goals while protecting biodiversity and sustainable activities like subsistence which support local communities in the region. We are encouraged that the administration will consider how to strengthen protections, and we hope that the administration will use this opportunity to take bold action to protect the Western Arctic.

- a) What is the scope of the rulemaking, and when can Congress and the public expect the draft rule to be published for comment?
- b) We agree that further protections for Special Areas are warranted, given their value as wildlife habitat and the subsistence and recreational values they provide. However, the Willow project – and the massive oil and gas development proposals that will follow – pose an urgent threat to the biological integrity of the region and subsistence uses, as well as threats to established Special Areas. ConocoPhillips has made it clear that it views Willow as “the next great Alaska hub” and hopes to use it further to build significant infrastructure and extraction throughout the Reserve.

Does DOI intend to propose withdrawals or other protections for any areas of the Western Arctic currently available for oil and gas leasing, either within or outside current or proposed Special Area boundaries?

- c) Oil companies hold numerous leases in Special Areas of the Reserve, and we are concerned that multiple projects the size of Willow could be proposed in years to come.

How does the administration plan to assess the emissions from oil and gas development in the NPRA, and how does it align with the administration’s climate commitments?

- d) When does the administration plan to finalize these regulations?

2. What tools does the Bureau of Land Management have to prevent nuisance mining claiming on federal lands?
 - a. How would removing the valuable mineral discovery requirement impact BLM's operations in terms of staff capacity and resources?
 - b. Do you expect that removing the valuable mineral requirement could increase nuisance claiming?
 - c. How could an increase in nuisance mining claiming impact renewable energy development?
3. As you know, the Energy Act of 2020 included a goal to deploy 25 gigawatts of renewable energy capacity by 2025. Senior Advisor to the White House, John Podesta, recently mentioned in remarks on energy infrastructure that we need to update these goals for 2030 and 2035. Director Stone Manning, from your perspective, what should those next goals be?

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Questions from Rep. Hunt (TX-38) for Ms. Tracy Stone-Manning, Director of the Bureau of Land Management (BLM).

During the hearing, you mentioned that BLM waited on operators for an average of 162 days.

1. Please define, in detail, how your department categorizes “waiting on an operator.”
2. Are court delays or other matters outside an operator’s control included in the “waiting on operator” category?
3. Please provide the average number of days “waiting on an operator” delays are attributable to court delays or matters outside an operator’s control.