



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAR 12 2024

The Honorable Tom Tiffany
Chairman
Subcommittee on Federal Lands
Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Tiffany:

Enclosed are responses to questions for the record submitted to the Department's witness, Bodie Shaw, Deputy Regional Director-Trust Services, Northwest Region, Bureau of Indian Affairs, following his appearance before your Subcommittee on December 5, 2023, at an oversight hearing titled, "Examining Opportunities to Promote and Enhance Tribal Forest Management." These responses were prepared by the Bureau of Indian Affairs and the Bureau of Land Management.

Thank you for the opportunity to respond to you on these matters.

Sincerely,

Pamela L. Barkin
Acting Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Joe Neguse, Ranking Member
Subcommittee on Federal Lands

Questions for the Record
U.S. House Committee on Natural Resources
Subcommittee on Federal Lands
Oversight Hearing on “Examining Opportunities to Promote and
Enhance Tribal Forest Management”
December 5, 2023

Questions from Chairman Westerman

Question 1: Earlier this fall, the Intertribal Timber Council released the fourth ever assessment of tribal forest management practices and trends, along with recommendations to Congress. Among the primary concerns flagged by that report, the overall health of tribal forests remains a major concern with "excessive stand density, high fuel accumulations, and insect and disease" threatening the long-term sustainability of these forests. What in your view needs to be done to increase the forest management activities necessary to address this serious concern?

Response: The Forestry Program annual appropriation funds the Bureau of Indian Affairs (BIA) and Tribal staff under ISDEAA funding agreements that conduct forest land management activities. The emphasis for this program is the preparation and administration of Tribal forest product sales, and the management and technical oversight of those activities. The sale of forest products is a principle fiduciary trust responsibility and a vital source of Tribal revenue and employment. Forest products, as defined at 25 CFR 163.1, are harvested to maintain forest health and protect Tribal forests and communities from wildfire, insect epidemics, and disease infestations.

The Forestry Projects annual appropriation funds forest treatments such as thinning, planting, and stand improvement projects. BIA and Tribal forestry staff are simply not able to keep up with the current backlog of over one million acres of Tribal forest lands in need of treatment.

The most recent Indian Forest Management Assessment Team Report (IFMAT IV, FY2023) concludes that an increase in annual funding of \$96 million is needed to support forest stewardship and timber harvests for Tribal forests to reach parity with National Forest and BLM funding on their respective lands, and an increase of \$42 million in Fire Preparedness funding. See https://www.bia.gov/sites/default/files/media_document/ifmat_iv_report.pdf.

The goals for BIA Forestry are to attain appropriate staffing levels, develop incoming and current forestry staff, continue to be creative in our approach to accomplishing our work, and look for ways to utilize emerging technologies in forestry applications. These goals also include reducing the number of acres in need of treatment, increasing forest health and resilience, and providing economic opportunities and benefits for Tribes and Tribal members through the execution of forest management activities.

Question 2: Tribal and federal forest managers, particularly out West, have continued to struggle to figure out what to do with low-value excess fuels that need to be removed. One of the suggestions contained in the IFMAT IV (IF-MATT-4) assessment is the need to explore other revenue options including biofuels and biomass use, which both offer great potential as a solution to this excess fuel problem. What is the BIA

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currently doing to encourage more innovative uses of excess forest material? Do you believe more can be done to encourage biomass and biofuels opportunities?

Response: The Forestry Projects Timber Harvest Initiative supports all activities involved in the harvest of forest products on reservations that are unable to meet their allowable annual cut. This funding provides additional resources to the BIA and Tribes to prepare, offer, and administer timber sales and to create opportunities for the utilization of low-value excess fuels that would otherwise not be harvested. By finding avenues of use of these low-value excess fuels Tribes can create local markets for dimensional lumber, wood chips, pellets, and firewood.

For many Tribes, the lack of foresters, local lumber markets, and milling infrastructure make selling timber and treating forest stands difficult, or impossible. Treating forest acres is essential in keeping Tribal forests healthy both in the woodlands, and in other undertreated forest types. In 2018, BIA Forestry began funding Portable Infrastructure Projects such as portable sawmills, portable chippers and pelletizers, and portable firewood processors. Through the use of Portable Infrastructure Projects, Tribes can bring milling, chipping, pelletizing and firewood processors to the source of the wood fiber. Doing so treats forest acres, improves forest health, reduces hazardous fuels, creates products otherwise unavailable, provides local jobs to Tribal members, and provides training opportunities. BIA Forestry intends to utilize available funding to provide Tribes with the funding resources needed to improve their timber sales programs, which contributes to the attainment of the allowable annual cut (AAC). Over the past five years, BIA Forestry has provided approximately \$4.6 million to support over 20 projects. Portable Infrastructure Projects will remain an important tool, and financial support will continue to be made available as funding allows.

Question 3. The Committee has heard concerns about the BLM’s efforts to finalize the Utility Master Operations and Maintenance Consolidation (MOMAC) Plan they have been working on with Pacific Gas and Electric (PG&E).

- a. Can you provide an explanation for why it is taking the BLM so long to establish an Operations and Management (O&M) plan with Pacific Gas and Electric (PG&E) and Southern California Edison (SCE) to adhere to the requirements of FLPMA 512 taking so long?**

Response: On January 9, 2020, the Bureau of Land Management (BLM), Pacific Gas and Electric (PG&E), and Southern California Edison (SCE) entered into an agreement to initiate a pilot project to streamline standard right-of-way (ROW) processes through possible consolidation of authorizations and implementing a standardized operations and maintenance (O&M) plan. The BLM Master Operations and Maintenance Consolidation (MOMAC) team was created to meet this purpose, initially in the Bakersfield Field Office as a pilot project, and expanded throughout BLM California Field Offices with utility-held ROWs. For over three

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years, the MOMAC team has collaborated with PG&E and SCE (collectively “utilities”) to streamline the routine operations and maintenance of utility ROWs on BLM-managed public lands throughout California.

In December 2022, the utilities provided the BLM with a significantly modified O&M Plan. The BLM and utilities collectively worked through a number of matters to coordinate the review and approval of the O&M Plan. The MOMAC team has initiated meetings with other BLM California Field Offices to prepare for implementation.

The BLM and the Fish and Wildlife Service (FWS) are currently conducting two statewide biological consultations as required under the Endangered Species Act (ESA). The final draft of the O&M Plan can be fully implemented once the consultations are complete.

b. When is this plan expected to be completed?

Response: The O&M Plan was completed in 2023 and was reviewed by the utilities’ legal teams and the Department of the Interior (DOI) Office of the Solicitor. The MOMAC Project is expected to be fully implemented in the Bakersfield Field Office by mid-2024, and all field offices by the end of 2024.

c. What has delayed completion?

Response: The complexity of the effort to consolidate the ROWs for the utilities has made it time intensive. For example, in the Bakersfield Field Office where the pilot project was initially established, PG&E has 160 ROW grants, and SCE has 60 grants, some preceding FLPMA, for transmission and distribution lines. The MOMAC Project will consolidate these 220 total grants into two grants per utility – one for distribution and one for transmission. The BLM will also issue ROWs for access and maintenance of access routes as needed, and developing a shared understanding of the location and access to each line has also proven to be complex. The BLM has also dedicated time to documentation, data standardization, and consultation with the FWS.

d. Can you please explain the BLM's decision to establish a pilot team to work with PG&E, rather than assigning California State Office Staff?

Response: The original intent of the MOMAC pilot project was to develop an O&M Plan concurrently with the utilities in the Bakersfield Field Office, with the goal of developing a universal tool for use in other field offices and with other utilities. The pilot team was established specifically for this pilot project, and BLM California State Office management and staff regularly participate in and oversee the pilot project.

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e. Is the Bakersfield Pilot Team staffed appropriately with individuals with the necessary expertise?

Response: Yes. The BLM believes that the MOMAC team established for the pilot project is staffed appropriately.

f. Is the State Office involved with accountability of timelines and deliverables?

Response: Yes. The California State Office has been involved since the launch of the MOMAC project. In addition, the California State Office’s management and staff are active participants in weekly administration meetings between the BLM and the utilities to ensure all parties are engaged and informed at each stage of the project’s development. Further, a California State Office manager chairs the MOMAC Steering Committee, which is a committee comprised of field level Managers, District Managers, and a State Office Lead. Lastly, State Office leadership receives regular updates from staff, meets with the utilities monthly, and works in close coordination with FWS leadership.

g. Can the BLM direct the SCE to adopt an IM-approach as opposed to developing a new O&M Plan?

Response: An instruction memorandum (IM) is an administrative statement of BLM policy.. While an IM could direct BLM Authorized Officers to implement processes with the utilities, the BLM cannot use an IM to direct the utilities to take specific actions absent a formal agreement (such as an executed ROW grant). Actions taken under an IM would still be subject to environmental laws, including the National Environmental Policy Act, the National Historic Preservation Act, and the ESA. For these reasons, an IM approach is not sufficient to ensure that the conservation and protection of resources is appropriately addressed.

As outlined in the response to question 3.a. above, the final draft of the O&M Plan was completed in November 2023, and will soon be implemented pending required consultation with FWS under the ESA. The O&M Plan cannot be fully implemented until this consultation is complete.

h. Is it possible for the O&M Plan to be a standalone guidance document rather than a term and condition of a ROW grant so that it can govern all of the utilities' operation and maintenance work regardless of the type of Rights- of-Way (easement, ROW Grant)?

Response: The BLM is working with the utilities to implement the O&M Plan on all of their ROWs on BLM-managed public lands throughout California. The O&M Plan has been developed as a term and condition of the reconciled grants to render the O&M Plan enforceable

and provide certainty to the parties. Failure to follow the Plan would be a violation of a term and condition, whereas failure to follow a standalone guidance document would not constitute a violation.

- i. As required by FLPMA 512 and the recently published NOPR, will the utilities easements be addressed in the O&M Plan?**

Response: Yes. The O&M Plan is designed to provide for a standardized approach to all routine utility operations and maintenance activities. The BLM is working with the utilities to develop a strategy to use the O&M Plan as a tool for facilities located within easements.

- j. How will claims of prescriptions be addressed in the O&M Plan?**

Response: Claims of prescriptions will be considered prescriptive easements where appropriate. The O&M Plan is intended to be used as a tool for any routine operations and maintenance activities for utility facilities located within those prescriptive easements.

- k. How will BLM maintain consistency throughout the state when the O&M Plan is shared with other Field Offices?**

Response: The O&M Plan is designed to be a standard term and condition of utility ROW grants. The document will be the same in every field office subject to any field office-specific grant stipulations and the field office-specific Appendix, wherein the Field Office Special Consideration Areas (FOSCA) are identified.

- l. Will the Field Office Special Consideration Areas (FOSCA) reduce consistency and predictability of implementation of the O&M Plan?**

Response: No. Each special consideration area is clearly identified to streamline the process by calling out any extraordinary conditions. In this way, both the utilities and the BLM have a clear understanding that these few exceptions need further discussion or additional consideration. There is no expectation that this process would result in reduced consistency or predictability; rather, it ensures that these FOSCA fit into the structure of the O&M Plan, special needs are identified, and that unnecessary delays do not occur.

- m. What will not be covered under this O&M Plan that is a requirement of FLPMA 512?**

Response: Emergencies are not covered under the O&M Plan. Any activity not identified and defined in the O&M Plan is not covered, although there are subsequent opportunities to incorporate such activities into the Plan, with the approval of the Authorized Officer.

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- n. Is the process outlined in O&M Plan a predictable process that adheres to the requirements of FLPMA 512?**

Response: Yes. The implementation of the MOMAC Project and the O&M Plan will establish a predictable process for the utilities and the BLM to meet and adhere to the requirements of FLPMA section 512.

- o. Does BLM feel that the draft O&M Plan with PG&E and SCE establishes a process that prevents wildfire starts to the best of its ability and allows them to address critical O&M activity with limited delay?**

Response: Yes. It is important to understand that in emergencies, utilities already have the authority to conduct critical activity without any delay. For long-term maintenance, the BLM and the utilities share the goal of reducing wildfire risk and addressing critical O&M activity with limited delay. Implementation of the O&M Plan will provide for the routine activities that maintain electrical infrastructure and the associated communication structure associated with that work. Working under existing law, the Plan minimizes, to the greatest extent possible, the need for utilities to come to BLM for approval to conduct routine maintenance activities.