21 April 2016

COMMENTS FROM FRIENDS OF THE EARTH-US AND THE CENTER FOR BIOLOGICAL DIVERSITY ON PROPOSED BLM RULE TO LIMIT VENTING AND FLARING

RIN: 1004-AE14

Friends of the Earth and the Center for Biological Diversity are grateful for this opportunity to comment on the Bureau of Land Management's proposed rule to limit the venting and flaring of natural gas on public and tribal lands. This is an issue of crucial national importance. The effectiveness of these measures could have major implications for the ability of BLM to meet basic statutory obligations to both taxpayers and the lands over which it has responsibility.

Friends of the Earth (FOE) is a non-profit, tax exempt environmental advocacy group committed to protecting our shared environment from fossil fuel development and the threat of climate change. The Center for Biological Diversity ("the Center") is a nonprofit environmental organization dedicated to the protection of imperiled species and their habitats through science, education, policy, and environmental law. In furtherance of these missions, FOE and the Center jointly offer the following comments on the Bureau of Land Management's (BLM) proposed changes to 43 CFR Parts 3100, 3160, and 3170.

I. Introduction

The widespread flaring of natural gas on public and tribal lands is unacceptable: it hastens climate change, worsens air pollution, robs taxpayers of revenue, and harms the quality of life in impacted communities. This is also a problem that the oil and gas industry cannot be expected to solve of its own accord. Especially in a low price environment, the industry is anticipated to increase flaring as it works cut costs and extract enough of oil to service debt.[1] Ultimately, government intervention is required, and to that end we are glad that the BLM has chosen to address the matter through a proposed rule.

Unfortunately, the level of reform in the proposed rule is insufficient to properly address the problem. The following sections outline the environmental basis for a more stringent final rule, and the legal authority for enacting such reform. Specifically, the following sections address the proposed exceptions to the flaring caps, transparency in implementing the rule, onsite use, and the royalty adder. Based on these comments, we respectfully request that the BLM amend the final rule to ensure a fairer deal for the climate, taxpayers, and impacted communities.

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[1]Associated Press. 2015. "ND gas flaring goals jeopardized by low oil prices." http://bakken.com/news/id/241902/nd-gas-flaring-goals-jeopardized-by-low-oil-prices/, accessed 19 August 2015.

II. Exceptions

A rule is only as effective as the exceptions it allows—and it is our concern that this rule allows for such considerable exceptions as to negate its effectiveness. Existing wells would be phased into the new flaring limits at a leisurely pace, beginning at a rate of 7,200 mcfs per month over the first year and winding down to 3,600 mcfs and 1,800 mcfs over the following two. This is a tacit admission that significant amounts of flaring could continue royalty-free into the immediate future, to the detriment of taxpayers, the climate, and frontline communities. We encourage the BLM to pursue a speedier course to full implementation and include in the final rule its own suggested lower limit of 1,200 mcfs per well per month–although ultimately a more preferable royalty-free limit would be 0.

The plain language of the Mineral Leasing Act (MLA) calls for royalties to be charged on resources that are "removed or sold from the lease." While it is clear that flared and vented gas is not being brought to market, it is equally clear that it is being removed from the lease in a literal sense as it is combusted and destroyed. This represents a loss to taxpayers and a danger to the climate, and while we support the BLM efforts to limit the overall amount of flaring, we do not believe that there is an acceptable volume of flaring that should be conducted for free. The MLA gives the BLM broad authority to charge royalties on all lost gas and we strongly believe that authority should be used.

However, even the suggested limits on royalty-free flaring are moot if the BLM opts to raise them. The proposed rule specifically gives it such authority in cases where "...the flaring limit would impose such costs as to cause the operator to cease production and abandon significant recoverable reserves under the lease." Although we appreciate the qualifier that the "net costs" of compliance must represent "more than a negligible economic impact" in order to qualify, it is notable that this language is broadly similar to the criteria for exemption that already exists under Notice to Lessees-4A (NTL-4A).[2]

This is worrying because NTL-4A has not allowed widespread flaring because it is bad policy *per se*, but because it allows such wide discretionary power to permit it. The volume of requests to flare rose by a staggering 2400 percent between 2004 and 2014.[3] Clearly, operators have had no problem making the case to the BLM that their current flaring is justified under NTL-4A and that the choice is between burning gas and leaving oil in the ground. Our concern is that there is nothing to stop operators from flooding BLM field offices with a similar stream of requests for alternative flaring limits. In practice this could make the new rule nothing more than NTL-4A with an extra hurdle for many wells.

If there are significant opportunities for flexibility, it is our experience that it will be to the benefit of industry and the detriment of taxpayers and the climate. The more discretion there is to permit flaring the more flaring there will be. Therefore, we encourage you to remove the ability of BLM field offices to raise the flaring limits on wells from the final rule.

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[2] **Federal Register** / Vol. 81, No. 25 / Monday, February 8, 2016, pp.6640.

[3] Phil Taylor.2014. "Drilling companies flood BLM with proposals to burn, vent gas" http://www.eenews.net/stories/1060008351, accessed 7 March 2016

III. Limit flaring and venting through NEPA

Instead of creating opportunities for exemption and special treatment for wells after the fact, the BLM should address waste more proactively. The proposed rule acknowledges, yet does not address, the concern raised by the Government Accountability Office and other commenters that the agency fails to exercise its authority at the planning and leasing stages to address the waste of natural gas through venting, leakage, and flaring:

> The BLM is considering the integrated approach suggested by the commenters. The BLM agrees that the land use planning and NEPA processes are important to sound oil and gas development on Federal land. Flaring sometimes results from development of oil wells in advance of gas capture infrastructure. In other cases, flaring occurs when existing gas capture and processing infrastructure is inadequate, or when operators find flaring easier or less costly than connecting to existing gas capture infrastructure. Part of the solution to flaring, therefore, is to align the timing of well development with that of capture and processing infrastructure development, and to create incentives for operators to capture rather than flare. The land use planning and NEPA review processes could be used to achieve these improvements, but the BLM does not intend to make any changes to BLM land use planning regulations (43 CFR subparts 1601 and 1610) or to any BLM planning or NEPA guidance as part of this rulemaking.[4]

It is unclear why BLM has chosen this direction. The agency plainly possesses the authority both to prevent waste and to determine if, when, and how public lands should be leased for oil and gas development. The MLA, 30 U.S.C. § 226 confers on the Secretary considerable discretion whether or not to offer any particular lands for lease.[5] It is arbitrary to decline to exercise that authority to address the reasonably preventable waste of natural gas through continuing to lease for oil production absent gas capture infrastructure.

Broadly speaking, the proposed rule would charge royalties on associated gas flared from oil wells where there is existing capture infrastructure, leaving open a loophole that would allow royalty-free flaring, or alternative flaring limits, where there is no infrastructure. This could be unwise. Rather than creating a framework for exceptions that could easily be exploited, the BLM should use its planning authority proactively and limit the leasing of lands where infrastructure constraints are expected to be significant.

The statutory definition of "waste" is broad, providing that as a lease condition the lessee must "use all reasonable precautions to prevent waste of oil or gas developed in the land."[6] This clause appears to modify the definition of waste in two ways: (1) waste does not occur where "reasonable precautions" were taken and (2) the oil or gas that is lost is from developed fossil fuel sites. Given BLM's mandate to

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[4] **Federal Register** / Vol. 81, No. 25 / Monday, February 8, 2016, pp.6661

[5] *See, e.g.*, Udall v. Tallman, 380 U.S. 1, 4 (1965); United States ex rel. McLennan v. Wilbur, 283 U.S. 414, 417 (1931); McDonald v. Clark, 771 F.2d 460, 463 (10th Cir. 1985); McTiernan v. Franklin, 508 F.2d 885, 887 (10th Cir. 1975); Duesing v. Udall, 350 F.2d 748, 750 (D.C. Cir. 1965); Cont'l Land Res., 162 I.B.L.A. 1, 7 (2004).

[6] 30 USC § 225.

require "reasonable precautions," in conjunction with its broad discretion over when and if to lease, failure to, at a minimum, decline leasing absent capture infrastructure violates the MLA's mandate.

The purpose of the MLA is to "promote wise development of these natural resources and to obtain for the public a reasonable financial return on assets that 'belong' to the public."[7] What constitutes "wise development" does not have to include profitability for the operator, especially with our current awareness of the devastating impacts of climate change. Furthermore, a "reasonable financial return on assets" would certainly suggest that royalties should be assessed in cases where gas is flared merely because it is not profitable to the lessee to set up gas capture technology. In fact, the proposed waste rule references the expanding technological options for gas capture, even at oil wells not currently connected to gas infrastructure.[8]

BLM also has an environmental stewardship responsibility under the Federal Land Policy and Management Act ("FLPMA"). As the proposed waste rule notes,[9] FLPMA has broad policy statements supporting environmental protection with a long-term view of resources.[10] Furthermore, FLPMA defines "multiple use" to impose a balancing of interests that expressly demotes the importance of economic return.[11] While FLPMA primarily aspires to better land management planning, the land-management planning should be used to support intentional approaches to fossil fuel development that negate royalty-free flaring.[12]

In sum, there could still be a substantial amount of associated gas that could be routinely flared from developed wells that do not have sufficient collection infrastructure. The mere fact that infrastructure is not currently in place is arguably an "avoidable waste" circumstance, and thus should be subject to payment of royalties. Furthermore, leaving open a loophole for wells without capture infrastructure disincentivizes the development of capture systems.

IV. Transparency

The exemptions allowed for operators lead a second crucial area: the transparency with which the new rule will be implemented. We applaud the fact that "...the BLM is proposing to require operators to record and report information related to the venting and flaring of gas, and is taking comment on how best to make this information available to the public."[13]

To be clear, we implore the BLM to limit exceptions to the proposed flaring caps to every extent possible; however, should these exemptions remain in the final rule, the BLM should publish which wells have been granted this special treatment on an annual basis, including the name of the operator, the amount the cap has been raised by, and whether the exemption is for a raised flaring cap or for a renewable two-year waiver. Sunlight is a natural disinfectant, and operators pursuing these exemptions

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[7] *Devon Energy Corp. v. Kempthorne*, 551 F.3d 1030, 1033 (D.C. Cir. 2008).

[8] Dept. of Interior, Waste Prevention, Production Subject to Royalties, and Resource Conservation; Proposed Rule, 81 Fed. Reg. 6616, 6619 (Feb. 8, 2016) ("Proposed Rule").

[9] Proposed Rule at 6629.

[10] 43 USC § 1703.

[11] 43 USC § 1702.

[12] *See, e.g.,* Proposed Rule at 6661; 43 USC § 1712.

[13] **Federal Register** / Vol. 81, No. 25 / Monday, February 8, 2016, pp.6661

out of convenience rather than necessity may be less inclined to abuse the system if the information is eventually published.

Similarly, the proposed rule indicates that the most reliable operator-specific flaring and venting data for BLM-administered leases is held by the Office of Natural Resource Revenue (ONRR) through monthly Oil and Gas Operations Reports—Part B (OGOR-Bs).[14] Rather than reinvent the wheel, we encourage the BLM to work with ONRR to make these reports available in a searchable online database that can be queried by state, operator, lease, and time period. This data has already been provided by ONRR in response to various Freedom of Information Act (FOIA) requests—including a number filed by Friends of the Earth. The fact that that it has not yet been withheld should settle the matter of whether it is proprietary. Therefore, we encourage you to save ONRR the trouble of replying to future FOIA requests and coordinate in simply publishing the data online.

One significant addendum is that in publishing these records, we encourage BLM and ONRR to waste no time in isolating flaring volumes from the federal portions of mixed leases. The proposed rule states that an overwhelming majority of flaring—75.8 percent—comes from mixed leases that include various portions of federal, tribal, state, and private lands. It goes on to indicate that only a portion of that flaring represents the federal share, but does specify how much.[15] As FOE learned in a FOIA response letter dated 14 October 2015, this information is not provided because it does not exist. The original FOIA request from FOE specifically asked for only the federal portion from "commingled or split-estate leases," but in the final response it was revealed that the Department of the Interior was "...unable to separate the federal and Indian data on mixed leases"**(see attachment #1).**

This is somewhat worrying. The federal portion of these leases represents public property, and we encourage the BLM and ONRR to quickly develop a means of isolating the federal portion of that property so that the information can be shared with the taxpayers who are its ultimate owners.

V. Beneficial Use

The proposed rule concedes that the entire category of beneficial use is problematically vague. We agree and are glad that the BLM has come to this conclusion. Indeed, overly generous notions of what should constitute royalty-free onsite use have proven beneficial mainly to operators and detrimental to taxpayers, air quality, and the climate.

Purely from the perspective of volume, onsite usage of natural gas for electricity, equipment, and other purposes is a far more significant use of taxpayer-owned resources than flaring, venting, or indeed any other non royalty-bearing designation that ONNR uses to track onshore resources.[16] Consider the fact

[14] **Federal Register** / Vol. 81, No. 25 / Monday, February 8, 2016, pp. 6630
[15] Ibid, pp.6631
[16] Taxpayers for Common Sense. 2014. "Burning Money."
http://www.taxpayer.net/images/uploads/downloads/BurningMoney.pdf, accessed 7 March 2016.

that in 2014 in New Mexico, a FOIA request filed by FOE revealed that British Petroleum reported 150 mcfs of flaring and 2,439,304 mcfs of onsite use **(see attachment #2)**. Which of these volumes should concern the BLM more?

While purporting to move beyond the concept of beneficial use, the proposed rule leaves the basic principle largely intact. In fact, it readily admits the onsite criteria for royalty-free treatment is "generally similar"[17] to the current standard for beneficial use under NTL-4A. Creating new categories of royalty exemption for onsite use—instances that require no BLM approval, instances that require BLM approval, and instances that require BLM approval and a specified volume—creates no guarantee that more royalties will be collected. Our concern is that the BLM will continue to use its wide discretion to authorize onsite usage whenever an operator makes a written request through a Sundry Notice. This could result in the continuation of the NTL-4A status quo, whereby operators continue to enjoy billions of cubic feet worth of natural gas for free while producing emissions far more considerable than those associated with flaring.

Instead of creating additional administrative burdens for itself, we encourage the BLM to revisit its narrow reading of the MLA. In the proposed rule you outline the agency's view that because royalties under the MLA only apply to resources "removed or sold from the lease," the implication is the broad royalty-free treatment of gas used onsite.[18] We disagree. These resources are being removed from the lease in an absolute sense as they are combusted and emitted into the atmosphere. This robs taxpayers of potential revenue and future use of the resource, provides a significant benefit to the operators who might otherwise have to import fuel onto the lease, and adds to the bill that future generations will doubtless pay for climate disruption. Rather than create an entirely new layer of procedures that could effectively continue the regime of beneficial use, we encourage the BLM to exert the statutory authority it already has by simply charging royalties on all natural gas used on a lease site.

VI. Royalty Rate "adder"

We applaud the BLM for raising the issue of royalty rate flexibility in the proposed rule. Although we ultimately believe that royalty rates on new leases should be higher than 12.5 percent as a matter of course, we support mechanisms that would empower the BLM to impose an "adder" on leases culpable for excessive flaring. An increased royalty rate on leases operated by bad actors would disincentivize flaring, as well as raise additional revenue for taxpayers and bring the costs of extraction closer to the price of climate disruption. This is sound policy and some version of it ought to be included in the final rule.

[17] **Federal Register** / Vol. 81, No. 25 / Monday, February 8, 2016, p.6664

[18] Ibid, p.6658

The BLM has requested comments on the "proper factors"[19] it should consider in adjusting royalty rates. We believe that the cost of climate change is the most "proper factor" of all and that the BLM already has an appropriate and legally sound instrument for quantifying the adder—the social cost of carbon (SCC).

The Mineral Leasing Act, as amended, provides that "[a] lease shall be conditioned upon the payment of a royalty at a rate of <u>not less than</u> 12.5 percent in amount or value of the production removed or sold from the lease."[20] This statutory authority to set royalties sets a minimum level (12.5% of amount or value) and a basis for royalty assessment (either amount or value of production removed or sold from the lease).

The MLA, as amended by the Federal Onshore Oil and Gas Leasing Reform Act, provides for a competitive bidding process, whereby private parties obtain federal oil and gas lessees by making competitive bonus payment bids to obtain leases, then paying a royalty determined by regulation on production from those leases. The royalty rate itself is set by rule, not by auction. As the courts have repeatedly recognized, it reserves to the Secretary the broad authority to define by rule the means for determining "amount or value of production" and, importantly, determining the precise royalty on that amount or value.[21] Nothing in either the text of the MLA nor the cases interpreting the Secretary's rulemaking authority over the years limits the appropriate royalty rate to a flat percentage of production. So long as the Secretary presents a "textually plausible" and reasonable interpretation, courts defer to the agency's judgment.[22] One such textually plausible and reasonable interpretation is that, in order to ensure a socially, economically, and environmentally optimal level of production, the royalty rate should charge lessees for both a percentage of production, and for a supplemental charge based on the greenhouse gas impacts of said production.

In interpreting the Secretary's royalty-setting power under the MLA, the Court of Appeals for the District Columbia Circuit has explained:

> The purpose of the Mineral Leasing Act was not to obtain sales for the gas from these reserves on Government land at any price. The Act was intended to promote wise development of these natural resources and to obtain for the public a reasonable financial return on assets that 'belong' to the public. The Secretary of the Interior is the statutory guardian of this public interest. He has a responsibility to insure that these resources are not physically wasted and that their extraction accords with prudent principles of conservation. To protect the public's royalty interest he may determine that minerals are being sold at less than reasonable value. Under existing regulations he can restrict a lessee's production to an amount commensurate with market demand,

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[19] **Federal Register** / Vol. 81, No. 25 / Monday, February 8, 2016, pp.6660.
[20] 30 U.S.C. § 226(b)(1)(A) (emphasis added).
[21] *See, e.g.,Amoco Prod. Co. v. Watson*, 410 F.3d 722, 728-29 (D.C. Cir. 2005); *California Co. v. Udall*, 296 F.2d 384, 388 (D.C. Cir. 1961).

[22] *Amoco Prod. Co.*, 410 F.3d at 728-29.

> and thus protect the public's royalty interest by preventing depression of the market. He may also establish 'reasonable values' for royalty purposes.[23]

The Secretary's duty to protect the public interest calls for a "reasonable" financial return, not for maximizing financial return "at any price." If the adverse impact on the public at large – i.e., the externalized costs of fossil fuel production and combustion - outweighs the financial return from the royalty, it is unwise, unreasonable, and contrary to the Secretary's public interest duty to lease. It is both permissible under the express terms of 30 U.S.C. § 226(b)'s minimum royalty provision, and consistent with the Secretary's statutory duties, to adjust the royalty rate to include not only a percentage of production, but a per-barrel or per-cubic foot charge based on the lifecycle global warming potential of oil or gas production and combustion.

One such method for determining the appropriate level for such a "carbon adder" is the SCC. Pursuant to Executive Order 12866 and its directive that regulators "assess all costs and benefits of available regulatory alternatives," the SCC was developed in 2010 and modified in 2013 to provide an estimate for the monetary cost of emitting a ton of carbon dioxide. Although the $37 per ton estimate of the Interagency Working Group is very likely too low, it is still the best tool available for regulators in assessing the social and economic externalities of fossil fuel production.

The BLM should begin to price climate costs into leasing decisions, including the decision of where to set royalty rates. Factoring in these costs as part of the adder could serve as a potentially useful 'pilot program' for integrating the SCC into all future royalty and leasing decisions—something that BLM has both the authority and arguably the obligation to do.

VII. Conclusion

Although we are grateful to the BLM for recognizing the gravity of the problem and initiating the rulemaking process, the extent of reform proposed is a poor match for the severity of the situation. We therefore implore the BLM to pursue a more ambitious final rule less susceptible to abuse that would capture greater benefits for taxpayers and the climate, while ensuring that the BLM meets its statutory obligations to the lands over which it has responsibility.

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[23] *California Co.*, 296 F.2d 384

Attachment #1

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, DC 20240

IN REPLY REFER TO:
7202.4-OS-2016-00018

October 14, 2015

Via email: lross@foe.org

Lukas B. Ross
1100 15th Street NW
Washington, DC 20005

Dear Mr. Ross:

On October 8, 2015, you filed a Freedom of Information Act (FOIA) request seeking the following:

> [C]ompany-specific volumes reported on OGOR-Bs between 2004 and 2014 (yearly, as opposed to monthly, totals) for the following disposition codes: 8 (avoidably lost), 20 (beneficial use), 21(flared from oil well), 22 (flared from gas well), 23 (unavoidably lost), 61 (vented from oil well), 62 (vented from gas well).
>
> Crucially, I would like to request that any information from onshore mixed leases exclude tribal data. As such, with regard to commingled or split-estate leases, please include only the volumes from the federal portion of those agreements.

Your request was received in the Office of the Secretary FOIA office on October 9, 2015, and assigned control number **OS-2016-00018**. Please cite this number in any future communications with our office regarding your request. On July 30, 2015, you sent a FOIA request seeking this same data. On September 14, 2015, we provided a response with mixed or Indian data redacted from onshore leases under exemption 3. After a search reasonably calculated to uncover all relevant documents and a discussion with you to clarify your request, it has been determined that the Office of the Secretary is unable to separate the federal and Indian data on mixed leases. Therefore, the Office of the Secretary has no records responsive to your request. This completes the Office of the Secretary's response to your request.

Because your entitlements as an "other-use requester" (see 43 C.F.R. § 2.39) were sufficient to cover all applicable FOIA charges, there is no billable fee for the processing of this request. Although you requested a fee waiver, your entitlements were sufficient to cover all applicable FOIA fees.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered

Attachment #2

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, DC 20240

IN REPLY REFER TO:
7202.4-OS-2015-00421

September 14, 2015

Via email: lross@foe.org

Lukas B. Ross
1100 15th Street NW
Washington, DC 20005

Dear Mr. Ross:

On July 30, 2015, you filed a Freedom of Information Act (FOIA) request seeking the following:

> [P]ertaining to the flaring, venting, and beneficial use of natural gas on public lands. In particular, I would like to request the total volumes reported by specific companies, within specific states as well as the Outer Continental Shelf (OCS), in their OGORB filings between 2004 and 2014 (yearly, as opposed to monthly, totals) for the following disposition codes: • 8 (avoidably lost) • 20 (beneficial use) • 21(flared from oil well) • 22 (flared from gas well) • 23 (unavoidably lost) • 61 (vented from oil well) • 62 (vented from gas well) To summarize, this is a request for total yearly volumes reported by individual operators, organized so that the data can be viewed both a.) in terms of state totals and b.) in terms of disposition totals within individual states. If it is possible to separate reports from public and tribal lands, I would like to request totals for the same disposition codes but for tribal jurisdictions in addition.

On July 31, 2015, we acknowledged your request and advised you of your fee status under the FOIA. We are writing to respond to your request on behalf of the Office of the Secretary. Please find attached 2 files consisting of 275 pages. Of those 275 pages, 129 pages are being released in full and 146 pages contain redactions as described below.

Data subject to withholding under the Indian Mineral Development Act (25 U.S.C. § 2101 et seq.) is being withheld pursuant to Exemption 3 of the FOIA (5 U.S.C. § 552(b)(3)).

Exemption 3 allows the withholding of information prohibited from disclosure by another federal statute provided that either the statute "(A) requires that matters be withheld from the public in such a manner as to leave no discretion on the issue <u>or</u> (B) establishes particular criteria for

withholding or refers to particular types of matters to be withheld." 5 U.S.C. § 552(b)(3) (emphasis added).

The Indian Mineral Development Act of 1982 (IMDA) at 25 U.S.C. § 2103(c) requires the Department of the Interior to hold all commercial and financial information relating to IMDA leases/agreements as privileged and proprietary. It has therefore been withheld under Exemption 3 of the FOIA.

DeAnn Owen, Attorney-Advisor, in the Office of the Solicitor, was consulted in reaching this decision. Clarice Julka, Office of the Secretary FOIA Officer, is responsible for making this decision.

Appeals

You may appeal this decision to the Department's FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 PM Eastern time, Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

Attn: FOIA Appeals Officer
U.S. Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS6556 MIB
Washington, D.C. 20240

Fax: 202-208-6677

E-mail: FOIA.Appeals@sol.doi.gov

You must include with your appeal copies of all correspondence between you and the Office of the Secretary concerning your FOIA request, including a copy of your original FOIA request and the response letter. You must also include, in as much detail as possible, an explanation of why you believe the Office of the Secretary's response was in error. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. All communications concerning your appeal, including envelopes, should be clearly marked with the words "FREEDOM OF INFORMATION APPEAL." The appeal should include your name, mailing address, daytime telephone number (or the name and telephone number of an appropriate contact), email address, and fax number (if available) in case the Department needs additional information or clarification. For more information on FOIA Administrative Appeals, including how DOI will respond to your appeal, please refer to Subpart H of the Department's FOIA regulations, 43 C.F.R. § 2.57-§ 2.64.

Fees

Because the Office of the Secretary is granting your request for a fee waiver, there is no billable fee for the processing of this request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS in any of the following ways:

Office of Government Information Services (OGIS)
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: https://ogis.archives.gov
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

If you have any questions about our response to your request, you may contact Ryan McQuighan by phone at 202-513-0765, by fax at 202-219-2374, by email at os_foia@ios.doi.gov, or by mail at U.S. Department of the Interior, 1849 C Street, NW, MS-7328, Washington, D.C. 20240.

Sincerely,

Clarice Julka
Office of the Secretary
FOIA Officer

2013	BURLINGTON RESOURCES OIL & GAS	NM	20	Used on L/A-Native Production Only	STA	0	6623
2013	BURLINGTON RESOURCES OIL & GAS	NM	62	Vented Gas-Well Gas	STA	0	5333
2013	CHEVRON MID-CONTINENT LP	NM	20	Used on L/A-Native Production Only	STA	0	835
2013	CHEVRON U.S.A., INCORPORATED	WY	20	Used on L/A-Native Production Only	STA	0	209
2013	CONOCOPHILLIPS, INC.	NM	20	Used on L/A-Native Production Only	STA	0	228
2013	DEVON ENERGY PRODUCTION CO., LP	WY	20	Used on L/A-Native Production Only	STA	0	4095
2013	ENCANA OIL & GAS (USA) INC.	WY	20	Used on L/A-Native Production Only	STA	0	11614
2013	WPX ENERGY CORPORATION	NM	20	Used on L/A-Native Production Only	STA	0	13252
2013	WPX ENERGY CORPORATION	NM	62	Vented Gas-Well Gas	STA	0	1
2013	YATES PETROLEUM CORPORATION	NM	20	Used on L/A-Native Production Only	STA	0	1700
2014	A.G. ANDRIKOPOULOS RESOURCES	CO	20	Used on L/A-Native Production Only	FED	0	6390
2014	ABRAXAS PETROLEUM CORPORATION	ND	20	Used on L/A-Native Production Only	FED	0	8930
2014	ABRAXAS PETROLEUM CORPORATION	ND	21	Flared Oil-Well Gas	FED	0	1924
2014	ABRAXAS PETROLEUM CORPORATION	WY	20	Used on L/A-Native Production Only	FED	0	4279
2014	ABRAXAS PETROLEUM CORPORATION	WY	21	Flared Oil-Well Gas	FED	0	20704
2014	AERA ENERGY, LLC	CA	20	Used on L/A-Native Production Only	FED	0	654577
2014	ALBERTA GAS COMPANY	UT	20	Used on L/A-Native Production Only	FED	0	1884
2014	ALLISON BROS DRILLING	NE	20	Used on L/A-Native Production Only	FED	0	507
2014	AMERICO ENERGY RESOURCES LLC	NM	22	Flared Gas-Well Gas	FED	0	316
2014	ANADARKO E&P ONSHORE LLC	WY	20	Used on L/A-Native Production Only	FED	0	791229
2014	ANADARKO E&P ONSHORE LLC	WY	21	Flared Oil-Well Gas	FED	0	72956
2014	ANDERSON MANAGEMENT CO	WY	20	Used on L/A-Native Production Only	FED	0	1974
2014	ANSCHUTZ CORPORATION	WY	61	Vented Oil-Well Gas	FED	0	7951
2014	ANTELOPE ENERGY COMPANY, LLC	WY	21	Flared Oil-Well Gas	FED	0	9288
2014	ANTLER ENERGY LLC	CO	20	Used on L/A-Native Production Only	FED	0	307
2014	ANTLER ENERGY LLC	WY	20	Used on L/A-Native Production Only	FED	0	6393
2014	APACHE CORPORATION	NM	21	Flared Oil-Well Gas	FED	0	267983
2014	APACHE CORPORATION	NM	22	Flared Gas-Well Gas	FED	0	335
2014	APACHE CORPORATION	OK	20	Used on L/A-Native Production Only	FED	0	69815
2014	ARMSTRONG ENERGY CORPORATION	NM	61	Vented Oil-Well Gas	FED	0	718
2014	ARSENAL ENERGY USA INC.	ND	21	Flared Oil-Well Gas	FED	0	4581
2014	AXIS ENERGY CORPORATION LLC	NM	20	Used on L/A-Native Production Only	FED	0	2960
2014	B.W. ALLEN	WY	20	Used on L/A-Native Production Only	FED	0	9844
2014	BADLANDS PRODUCTION COMPANY	UT	20	Used on L/A-Native Production Only	FED	0	213360
2014	BALLARD PETROLEUM HOLDING LLC	WY	20	Used on L/A-Native Production Only	FED	0	11
2014	BALLARD PETROLEUM HOLDING LLC	WY	21	Flared Oil-Well Gas	FED	0	646
2014	BALLARD PETROLEUM HOLDING LLC	WY	61	Vented Oil-Well Gas	FED	0	352
2014	BAYTEX ENERGY USA LTD	WY	20	Used on L/A-Native Production Only	FED	0	5501
2014	BAYTEX ENERGY USA LTD	WY	21	Flared Oil-Well Gas	FED	0	7342
2014	BEARTOOTH OIL AND GAS COMPANY	NM	20	Used on L/A-Native Production Only	FED	0	1796
2014	BELL RESOURCES, INC.	WY	21	Flared Oil-Well Gas	FED	0	34
2014	BENSON-MONTIN-GREER DRLG CORP	NM	20	Used on L/A-Native Production Only	FED	0	30268
2014	BERENERGY CORPORATION	WY	20	Used on L/A-Native Production Only	FED	0	23003
2014	BERRY PETROLEUM COMPANY	UT	20	Used on L/A-Native Production Only	FED	0	227900
2014	BERRY PETROLEUM COMPANY	UT	62	Vented Gas-Well Gas	FED	0	1053
2014	BILL BARRETT CORPORATION	CO	20	Used on L/A-Native Production Only	FED	0	101760
2014	BILL BARRETT CORPORATION	UT	21	Flared Oil-Well Gas	FED	0	1194
2014	BILL BARRETT CORPORATION	WY	21	Flared Oil-Well Gas	FED	0	17160
2014	BLACK BEAR OIL CORPORATION	WY	20	Used on L/A-Native Production Only	FED	0	131840
2014	BLACK DIAMOND ENERGY OF DELAWARE INC.	WY	20	Used on L/A-Native Production Only	FED	0	3018
2014	BLACK HILLS EXPLOR & PROD INC	WY	20	Used on L/A-Native Production Only	FED	0	12100
2014	BLACK HILLS EXPLOR & PROD INC	WY	22	Flared Gas-Well Gas	FED	0	9293
2014	BLACK HILLS GAS RESOURCES, INC.	NM	20	Used on L/A-Native Production Only	FED	0	216
2014	BLACK HILLS PLATEAU PRODUCTION LLC	CO	20	Used on L/A-Native Production Only	FED	0	29843
2014	BLACK HILLS PLATEAU PRODUCTION LLC	CO	22	Flared Gas-Well Gas	FED	0	35414
2014	BLACK JACK LIMITD	MS	20	Used on L/A-Native Production Only	FED	0	1643
2014	BONANZA CREEK ENERGY OPERATING CO LLC	CO	61	Vented Oil-Well Gas	FED	0	17503
2014	BOPCO, LP	CO	20	Used on L/A-Native Production Only	FED	0	2166
2014	BOPCO, LP	NM	20	Used on L/A-Native Production Only	FED	0	87949
2014	BOPCO, LP	NM	21	Flared Oil-Well Gas	FED	0	161690
2014	BOPCO, LP	NM	22	Flared Gas-Well Gas	FED	0	5107
2014	BP AMERICA PRODUCTION COMPANY	CO	20	Used on L/A-Native Production Only	FED	0	53262
2014	BP AMERICA PRODUCTION COMPANY	CO	62	Vented Gas-Well Gas	FED	0	1597
2014	BP AMERICA PRODUCTION COMPANY	NM	20	Used on L/A-Native Production Only	FED	0	2439304
2014	BP AMERICA PRODUCTION COMPANY	NM	22	Flared Gas-Well Gas	FED	0	150
2014	BP AMERICA PRODUCTION COMPANY	NM	62	Vented Gas-Well Gas	FED	0	28357
2014	BP AMERICA PRODUCTION COMPANY	OK	20	Used on L/A-Native Production Only	FED	0	6733
2014	BP AMERICA PRODUCTION COMPANY	WY	20	Used on L/A-Native Production Only	FED	0	235160
2014	BP AMERICA PRODUCTION COMPANY	WY	22	Flared Gas-Well Gas	FED	0	987
2014	BP AMERICA PRODUCTION COMPANY	WY	62	Vented Gas-Well Gas	FED	0	27183