



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

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OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Public Comments Processing
Attn: FWS-HQ-NWRS-2012-0086
Division of Policy, Performance, and Management Programs
U.S. Fish and Wildlife Service, MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

Dear Mr. Covington:

In accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), the Environmental Protection Agency (EPA) has reviewed the U.S. Fish and Wildlife Service's (FWS) Final Environmental Impact Statement (EIS) for the National Wildlife Refuge System Revision of Regulations Governing Non-Federal Oil and Gas Rights.

The EPA notes that, in response to our comments, the PEIS now includes EPA's Underground Injection Control Program permitting guidance as a reference for the USFWS and operators to further reduce the risks to groundwater. Additionally, the EPA acknowledges the supplemental information provided on induced seismicity. In particular, we note that the USFWS will use the most recent data and science to reduce the risk of increased seismicity for future site specific analyses.

The Council on Environmental Quality (CEQ) recently issued Final Guidance on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews (Guidance).^[1] This Guidance describes how agencies should meet their obligation under NEPA to consider the effects of greenhouse gas (GHG) emissions and climate change when evaluating proposed federal actions. The obligation to consider climate change includes programmatic NEPA documents, as well as subsequently tiered NEPA documents. As the Guidance points out, it makes sense to consider climate at the programmatic EIS stage, because that is the level at which these issues are more meaningfully reviewed, and it will save time in the end compared to evaluating the program through many individual permitting decisions. We strongly encourage the FWS to consider including an assessment of the potential range of GHG emissions and climate change impacts associated with the planned or foreseeably anticipated future actions that would prompt tiered documents for this PEIS and in the Record of Decision. All future PEIS reviews should include a robust consideration of climate change.

^[1] *Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews*, Footnote 42 p. 16. August 1, 2016.
https://www.whitehouse.gov/sites/whitehouse.gov/files/documents/nea_final_ghg_guidance.pdf

Although the PEIS does not evaluate GHG emissions from the project or alternatives, it does contain a number of statements about climate change that are not a correct statement of agency climate change analysis obligations.

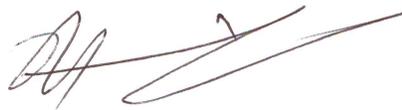
- It is not appropriate to draw conclusions from limited analysis or to dismiss the need to consider GHG emissions based on very limited analysis. The PEIS's conclusion that "because the action would have negligible beneficial impacts related to greenhouse gas contributions and associated climate change, GHG emissions related to climate change was dismissed from further detailed evaluation" (p.1-17) is not appropriate and we recommend it be removed. Without a thorough analysis of the direct, indirect and cumulative GHG emissions associated with the alternatives reviewed in this PEIS, such a statement is not justified. Even if the preferred alternative reflects a reduction in GHG emissions from other alternatives reviewed or the status quo, EISs should still quantify the GHG emissions associated with each alternative. To enable a full comparison of GHG emissions among alternatives and consider appropriate mitigation, a thorough NEPA analysis should quantify both the direct and indirect GHG emissions caused by the project and the alternatives. The CEQ Guidance clarifies that indirect effects of proposed actions involving fossil fuel extraction also includes GHG emissions associated with refining and combustion of the fossil fuel being extracted (CEQ, pp.13-16).
- The PEIS also inappropriately compares potential emissions from the wells that may be at issue here to national oil and gas emissions. Such comparisons are not appropriate for all of the reasons set out in the Guidance, and we strongly recommend that this language be deleted

Additionally, EPA's 2016 New Source Performance Standard (NSPS) Subpart OOOOa requires control of GHG emissions (methane) and VOC in the oil and gas industry for new and modified sources. Therefore, EPA recommends that subsequent project-specific NEPA documents include the measures that will reduce GHG and VOC emissions.

EPA would welcome the opportunity to engage further with you on this NEPA document and any subsequent ROD, including how best to address climate impacts at this stage of your analysis.

The EPA is available to answer any questions you may have regarding our comments. You can reach me at 202-564-7526, or you can contact Megan Barnhart of my staff at 202-564-5936.

Sincerely,



Robert Tomiak
Director
Office of Federal Activities