



National Park Service

**Revision of 9B Regulations Governing
Nonfederal Oil and Gas Activities**

Environmental Impact Statement

Public Scoping Comment Analysis

March 24, 2011

Table of Contents

INTRODUCTION AND GUIDE.....1
INTRODUCTION..... 1
THE COMMENT ANALYSIS PROCESS..... 2
DEFINITION OF TERMS..... 2
GUIDE TO THIS DOCUMENT 3
CONTENT ANALYSIS REPORT.....5
APPENDIX 1: CORRESPONDENCE INDEX OF ORGANIZATIONS..... 68
APPENDIX 2: INDEX BY ORGANIZATION TYPE70
APPENDIX 3: INDEX BY CODE 73

INTRODUCTION AND GUIDE

INTRODUCTION

The National Park Service (NPS) has requested public comment through a Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS) on proposed revisions to existing regulations governing the exercise of nonfederal oil and gas rights within the boundaries of units of the national park system, known as the “9B Regulations.” This is the second round of public involvement regarding the revision of the 9B Regulations.

The NPS first requested public comment through an Advanced Notice of Proposed Rulemaking (ANPR) on the proposal to revise the 9B Regulations on November 25, 2009. Following a review of the comments received regarding the ANPR, the NPS again engaged the public in the second round of public scoping to revise the 36 CFR 9B regulations by publishing the NOI to Prepare an Environmental Impact Statement in the Federal Register (75 FR 82362). This second public comment period opened on December 30, 2010 and closed on February 28, 2011. The following report analyzes all comments received on the NOI.

The current regulations at 36 CFR Part 9, Subpart B have been in effect for over 30 years and have not been substantively updated during that period. The NPS seeks to revise the regulations to update them to reflect current policies, legal requirements, and practices; improve the ease of applying the regulations for the NPS and industry; and increase the effectiveness of the regulations in order to ensure that all nonfederal oil and gas operations conducted in national park system units avoid or minimize, to the greatest possible extent, adverse effects on natural and cultural resources, visitor uses and experiences, park infrastructure and management, and public health and safety.

The NOI specifically solicited public comment on draft purpose and need statements, objectives, and issues and concerns related to revisions of the 9B Regulations. The NOI also requested public comment on possible alternatives the NPS should consider in revising the regulations. In addition, the NOI advised the public that the NPS did not plan to hold public scoping meetings

for this DEIS due to the programmatic, nationwide nature of the regulations and the widely dispersed locations of the 45 parks that could be affected by the revisions. However, the NOI noted that the NPS would decide whether, and if so, where to hold public meetings in conjunction with the release of the DEIS for public comment depending on the interest generated during the public scoping period.

THE COMMENT ANALYSIS PROCESS

Comment analysis is a process used to compile and correlate similar public comments into a format that can be used by decision makers and the Interdisciplinary Team (IDT) that is responsible for developing the proposed rule and for the environmental impact analysis for the rulemaking. The process used to analyze the comments on the NOI is similar to the process used to analyze comments received during the National Environmental Policy Act (NEPA) process.

Comment analysis assists the IDT in organizing, clarifying, and addressing technical information pursuant to NEPA regulations. It also aids in identifying the topics and issues of concern to the public regarding the proposed changes to the regulations.

The process includes five main components:

- developing a coding structure
- employing a comment database for comment management
- reading and coding of public comments
- interpreting and analyzing the comments to identify issues and themes
- preparing a comment summary

A coding structure was developed to help sort comments into logical groups by topics and issues. The coding structure was derived from the public comments themselves. The coding structure was designed to capture all comment content rather than to restrict or exclude any ideas.

The NPS Planning, Environment, and Public Comment (PEPC) database was used for management of the comments. The database stores the full text of all correspondence and allows each comment to be coded by topic and issue. Outputs from the database include the total number of correspondences and comments received, sorting and reporting of comments by a particular topic or issue, and demographic information for the sources of the comments.

Analysis of the public comments involved the assignment of the codes to statements made by the public in their letters or other correspondence. All comments were read and analyzed, including those of a technical nature; opinions, feelings, and preferences for one element or one potential option over another; and comments of a personal or philosophical nature.

Although the analysis process attempts to capture the full range of public concerns, this content analysis report should be used with caution. Comments from people who chose to respond do not necessarily represent the sentiments of the entire public. Furthermore, this was not a vote-counting process, and the emphasis was on the content of the comment rather than the number of times a comment was received.

DEFINITION OF TERMS

Primary terms used in the document are defined below.

Correspondence: A piece of correspondence is the entire document received from a commenter. It can be in the form of a letter, email, written comment entered into PEPC, note card, , or petition.

Comment: A comment is a portion of the text within a piece of correspondence that addresses a single subject. It could include such information as an expression of support or opposition to the use of a potential management tool, additional data regarding the existing condition, or an opinion debating the adequacy of an analysis.

Code: A code is a grouping centered on a common subject. The codes were developed during the scoping process and were used to track major subjects.

Concern: Concerns are statements that summarize the issues identified by each code. Each code was further characterized by concern statements to provide a better focus on the content of comments. Some codes required multiple concern statements, while others did not. For example, “AL4200 - Alternatives: Access Fees” was broken down into three concern statements, while “AE12000 - Affected Environment: Wildlife And Wildlife Habitat” did not need further refinement and only has one concern statement. In cases where no comments were received on an issue, the issue was not identified or discussed in this report.

Quotes: Representative quotes that have been taken directly from the text of public comments and further clarify the concern statements. Quotes have not been edited for grammar.

All comments were considered to be important as useful guidance and public input to the rulemaking process.

GUIDE TO THIS DOCUMENT

This report is organized as follows:

Content Analysis Report – This is the basic report produced from PEPC that provides information on the numbers and types of comments received, organized by code. The first section of the report provides a summary of the number of comments that were coded under each topic. The second section provides general demographic information, such as the states where commenters live, the number of letters received from different categories of organizations, etc.

Public Comment Summary – This report summarizes the substantive comments received during the public comment process. These comments are organized by codes and further organized into concern statements. Below each concern statement are representative quotes, which have been taken directly from the text of the public's comments and further clarify the concern statements.

Appendix 1: Correspondence Index of Organizations – This provides a listing of all affiliated organizations, as defined by PEPC, that submitted comments, including businesses, conservation/preservation groups, state governments, and university/professional societies. Each piece of correspondence was assigned a unique identification number upon entry into PEPC.

Appendix 2: Index By Organization Type – This list identifies all of the codes that were assigned to each individual piece of correspondence and is arranged by organization type. Individual commenters are also included in this report and are identified as Unaffiliated Individuals.

Appendix 3: Index by Code – This lists which commenters or authors (identified by PEPC organization type) commented on which topics, as identified by the codes used in this analysis. The report is organized by code, and under each code is a list of the authors who submitted comments that fell under that code, and their correspondence numbers. Those correspondences identified as N/A represent unaffiliated individuals.

CONTENT ANALYSIS REPORT

Table 1: Comment Distribution

(Note: Each comment may have multiple codes. As a result, the total number of comments may be different than the actual comment totals)

Code	Description	# of Comments	% of Comments
AE12000	Affected Environment: Wildlife And Wildlife Habitat	2	0.03%
AE19000	Affected Environment: Other Agencies' Land Use Plans	2	0.03%
AE7000	Affected Environment: Air Quality	1	0.02%
AL4000	Alternatives: New Alternatives Or Elements	225	3.41%
AL4200	Alternatives: Access Fees	21	0.32%
AL4300	Alternatives: Assessments for Non-Compliance	4	0.06%
AL4400	Alternatives: Directional Drilling	57	0.86%
AL4500	Alternatives: Financial Assurance	10	0.15%
AL4600	Alternatives: Areas of Exemption from 9B Regulations	56	0.85%
AL4700	Alternatives: Areas of Exemption from 9B Regulations (Non-Substantive)	2003*	30.39%
AL4800	Alternatives: Operating Standards	20	0.30%
AL5100	Alternatives: Support Revising 9B Regulations	2052*	31.13%
AL5200	Alternatives: Oppose Revising 9B Regulations	1	0.02%
CC1000	Consultation and Coordination: General Comments	48	0.73%
CC1500	Consultation and Coordination: General Comments (Non-Substantive)	1	0.02%
CL1000	Climate Change: Impact of Proposal and Alternatives	2	0.03%
GA1000	Impact Analysis: Impact Analyses	13	0.20%
GA3000	Impact Analysis: General Methodology For Establishing Impacts/Effects	6	0.09%
PN3000	Purpose And Need: Scope Of The Analysis	47	0.71%
PN6000	Purpose And Need: Land Management Laws, Exec Orders	7	0.11%

Code	Description	# of Comments	% of Comments
PN8000	Purpose And Need: Objectives In Taking Action	2008*	30.47%
SE4000	Socioeconomics: Impact Of Proposal And Alternatives	1	0.02%
TE4000	Threatened And Endangered Species: Impact Of Proposal And Alternatives	2	0.03%
VR4000	Vegetation And Riparian Areas: Impact Of Proposal And Alternatives	1	0.02%
WH4000	Wildlife And Wildlife Habitat: Impact Of Proposal And Alternatives	3	0.05%
WQ4000	Water Resources: Impact Of Proposal And Alternatives	5	0.08%
Total		6591	100.00%

**This number is particularly high due to the 2,000 form letters that were received. In each of the form letters, there was one comment that fell under AL4600, one comment that fell under AL5100, and one comment that fell under PN8000.*

Table 2: Distribution by Correspondence Type

Type	# of Correspondences	% of Correspondences
Web Form	17	0.82%
Letter	2057*	99.08%
Fax	2	0.10%
Total	2076	100.00%

** Includes 2,000 form letter signatures.*

Table 3: Signature Count by Organization Type

Organization Type	# of Correspondences	% of Correspondences
Business	6	0.30%
University/Professional Society	1	0.05%
State Government	8	0.39%
Conservation/Preservation	17	0.82%
Tribal Government	1	0.05%
Unaffiliated Individual	2,043*	98.41%
Total	2,076	100%

** Includes 2,000 form letter signatures.*

Table 4: Correspondence Distribution by State

State	# of Correspondences	% of Correspondences
AK	5	0.24%
British Columbia	1	0.05%
CA	3	0.14%
CO	3	0.14%
DC	1	0.05%
FL	10	0.48%
HI	1	0.05%
IL	2	0.10%
MD	8	0.39%
MO	2	0.10%
NJ	1	0.05%
NM	1	0.05%
NY	1	0.05%
OH	2	0.10%
OR	2	0.10%
PA	18	0.87%
SD	1	0.05%
TN	1	0.05%
TX	3	0.14%
UT	2	0.10%
VA	4	0.19%
VI	1	0.05%
WA	1	0.05%
WI	1	0.05%
WY	1	0.05%
Unknown	2000*	96.34%
Total	2076	100.00%
*Note: Distribution by State does not identify individual states from which the 2,000 form letter correspondences come because this was not identified in the correspondences.		

Natural Resources Program Center
Revision of 9B Regulations Governing Nonfederal Oil and Gas Activities
Notice of Intent to Prepare an Environmental Impact Statement
Concern Response Report

AE12000 - Affected Environment: Wildlife And Wildlife Habitat

Concern ID: 28246

**CONCERN
STATEMENT:**

One commenter described the damage witnessed due to oil and gas operations on federal lands, while another commenter provided specific wildlife habitat descriptions and suggested methods to mitigate damages to those wildlife habitats if oil and gas operations are permitted in these areas.

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187446 **Organization Type:** Conservation/Preservation

Representative Quote: MOS members have observed oil and gas operations on federal lands and have seen damage they cause to bird and wildlife habitat. Impacts include direct destruction of habitat by surface disturbance and clearing of vegetation; fragmentation of habitat by roads, pipelines and well pads; disturbance of birds and mammals by the passage of vehicles; impairment of the quantity and quality of water sources on which wildlife depend; and noise that makes habitat unsuitable for certain species. We have also seen those impacts minimized by wise land management in some drilling operations.

Corr. ID: 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187654 **Organization Type:** Unaffiliated Individual

Representative Quote: Crucial moose winter range is designated along the Snake, Buffalo Fork and Gros Ventre Rivers and elk move through many of the parcels during their seasonal movements to and from the National Elk Refuge. In addition, wolves and grizzly bears move through the larger parcels and sage-grouse use some of the inholdings for nesting, brood rearing, and winter habitat. Some of the private and State-owned parcels are in sage-grouse core area as designated by the Governor's Greater Sage-Grouse Core Area Protection Executive Order 2010-04.

Even though there is no active oil and gas development in the park, we recommend the NPS adopt No Surface Occupancy (NSO) stipulations in their regulations rather than timing stipulations to prevent habitat loss or displacement of wildlife from crucial habitat should development occur in the future. If the regulations allow drilling activity in some areas we recommend the following seasonal stipulations:

- a) Big game winter range: Avoid human activity from November 15 - April 30.
- b) Big game parturition areas: Avoid human activity from May 1 - June 15.
- c) Sage-grouse Non-Core Area ¼-mile NSO buffer from lek perimeter: Avoid human activity from March 1 - May 15.
- d) Sage-grouse Non-Core Area 2-mile buffer from lek perimeter or otherwise mapped nesting/early brood-rearing habitat: Avoid human activity from March

15 - June 30.

e) Sage-grouse Core Areas 0.6-mile NSO buffer from lek perimeter: Avoid human activity from March 1 - May 15.

f) Sage-grouse Core Areas (all of core area): Avoid human activity from March 15-June 30.

g) Sage-grouse winter concentration areas: Avoid human activity from November 15 - March 14.

h) Sharp-tailed grouse leks ¼-mile NSO buffer from lek perimeter: Avoid human activity from March 15 - May 31.

i) Sharp-tailed grouse 2-mile buffer from lek perimeter (nesting/early brood-rearing): Avoid human activity from April 15 - July 15.

AE19000 - Affected Environment: Other Agencies' Land Use Plans

Concern ID: 28247

**CONCERN
STATEMENT:**

One commenter stated that the NPS' bonding cap is insufficient and its standards are much weaker than those put into place by the Bureau of Land Management (BLM) and the Forest Service (FS). Other comments indicated that although the BLM and the FS do not have bonding caps, these agencies are unable to obtain a bond that is more than the total cost of plugging all of their wells and that their policies do not go far enough to ensure that all recovery costs are covered.

Representative Quote(s): **Corr. ID:** 14 **Organization:** National Parks Conservation Association

Comment ID: 187672 **Organization Type:** Unaffiliated Individual

Representative Quote: The current 9B Regulations are exceedingly outdated and problematic in that it places a bonding cap of up to only \$200,000 per operator, per NPS unit. This amount is entirely insufficient since capping and reclaiming even a single oil or gas site can easily exceed this amount and many operators have numerous sites in a particular park.

Amazingly, the NPS has much weaker standards than those already in place for the BLM and FS. Unlike the NPS, these two agencies attempt to set bonds based on the realistic costs of plugging wells, reclaiming and restoring the site, and cleaning up the sites, which includes disposing of potentially dangerous chemicals and equipment, such as oil tanks that can often hold anywhere between 100 and 500 barrels of oil or leftover sludge. However, even the BLM and FS policies fail to go far enough in that they are designed to ensure compliance, but not necessarily 100% of the of the necessary recovery costs.

Corr. ID: 14 **Organization:** National Parks Conservation Association

Comment ID: 187674 **Organization Type:** Unaffiliated Individual

Representative Quote: Depending on the operating agreement with the two agencies, companies can have bonds for specific sites, groupings of sites, sites within an entire state, or sites across the nation. In developing bonds, the agencies consider each companies operating record and whether they have a number of

inactive wells that, if the company folded, would pose a tremendous liability to land managers. Furthermore, the BLM has the authority to increase any bond at any time

"for factors, including but not limited to, a history of previous violations; a notice from the Minerals Management Service (MMS) that there are uncollected royalties due; the total number, location, and depth of wells; the age and production capability of the field; unique environmental issues; or the total cost of plugging existing wells and reclaiming lands exceeds the present bond amount by an unacceptable amount."

While neither the BLM nor FS have a bonding cap, they are unable to exact a bond that is more than the total cost of plugging all of their wells. Even this limit, however, is unrealistic since it does not cover associated financial needs that may be necessary to "kill" wells from building up perilous amounts of pressure and blowing out and putting the public and environment at even greater danger.

AE7000 - Affected Environment: Air Quality

Concern ID: 28248

CONCERN STATEMENT:

One commenter identified the pollutants that can be emitted as a result of oil and gas operations and suggested that mitigation measures should be implemented by the operators of such operations.

Representative Quote(s): **Corr. ID:** 14

Organization: National Parks Conservation Association

Comment ID: 187679

Organization Type: Unaffiliated Individual

Representative Quote: Oil and gas operations emit a cocktail of pollutants that adversely impact people and park resources. These air pollutants include: fine and course particulate matter (PM), nitrogen oxides (NOx), sulfur dioxide (SO2), hydrogen sulfide (H2S), carbon monoxide (CO), volatile organic compounds (VOCs), Polycyclic aromatic hydrocarbons (PAHs) and methane (CH4). NOx and VOCs, for example, are precursors to ground-level ozone or smog. The effects of ground level ozone include damage to plants and reductions in forest growth and crop yield. Ground level ozone also causes respiratory and other health problems as does H2S. PM, NOx, SO2 and VOCs are haze-causing pollutants that obscure scenic vistas in national parks by impairing a viewer's ability to see long distances, color and geologic formation. Methane is a greenhouse gas that is about 20 times more potent than carbon dioxide, thus emissions of this contaminant contribute to the impact of climate change on national park ecosystems and wildlife.

The impact of these emissions and strategies to avoid or minimize their harm must be accounted for by park managers, companies, and other stakeholders charged with designing the plan of operations for oil and gas development. In most instances, these parties have parallel responsibilities under a number of Clean Air Act programs designed to prevent or limit air quality degradation from new and existing sources of pollution. As such, we support the inclusion of language calling for the avoidance and mitigation of air quality impacts in this body of regulation that enhance and complement existing responsibilities of the park service.

AL4000 - Alternatives: New Alternatives Or Elements

Concern ID: 28294

CONCERN STATEMENT:

Several commenters provided suggestions regarding elements to the revised 9B Regulations that would be primarily standards to be followed by oil and gas operators, such as requiring operators to manage their well-sites until the sites have been fully rehabilitated; implementing capture and recapture technologies; prohibiting water withdrawals for shale gas extraction; requiring full disclosure of the identity and volume of all compounds in fracking fluids and drilling muds; using improved signage near drilling sites; and avoiding vegetation removal.

Representative Quote(s):

Corr. ID: 3 **Organization:** Florida Department of Environmental Protection

Comment ID: 187219 **Organization Type:** State Government

Representative Quote: I would like this Environmental Impact Statement Proposed Revision to also address Geophysical Surveys on National Park Land and follow the precedent set by the Mineral and Mining Service (MMS) now the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE). Specifically what is needed is a requirement that the DOI and NPS has the right to request a copy of the resultant Geophysical Data Sets produced whenever Geophysical Surveys are conducted on national park Service (NPS) Lands, only for that portion which occurred over the NPS lands. This information will be held in confidence by the Federal Government for internal government use only for a stated finite period of time (10 or 20 years are the usual time frames) at which time it will be made available to the public. This is needed because the Geophysical information obtained during Geophysical Surveys has great value in areas related and unrelated to oil exploration and researchers, regulators, and scientific analysts working for the National and State Governments on behalf of the Government can make great scientific, economic, and strategic use of this information. If this requirement is not built into the permit then this information has to be obtained by Government Representatives at some later date on the commercial market at commercial prices which is often prohibitive and opportunity is lost.

By promising not to disclose this information outside the government and to restrict its use to government purposes the economic risk to the permit holder and its investors is negligible and their incentives for conducting the surveys are intact as long as the held confidential period is sufficiently long (10 to 20 years). This data has many varied and valuable uses to the government and should not be undervalued or overlooked. The wording needs to be phrased correctly so that processed data sets fit for interpretation and in standard electronic formats is the required deliverable rather than raw data or unprocessed data provided in non-standard formats.

Corr. ID: 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187651 **Organization Type:** Unaffiliated Individual

Representative Quote: The preferred alternative should include components for accomplishing energy production with the smallest possible footprint of disturbance through project planning, siting, design, and the use of best management practices (BMPs). BMPs should be applied to the planning process; the design and construction of transportation systems; the drilling of wells; the construction of ancillary facilities and utilities; the production of noise, traffic, human activity, pollutants, dust, erosion, and sedimentation; monitoring conditions and evaluating the impacts of development, including undertaking research and special studies; the control of noxious and invasive plants; reclamation plans; and stream habitats and riparian corridors.

Corr. ID: 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187658 **Organization Type:** Unaffiliated Individual

Representative Quote: The application of seasonal use restrictions, BMPs, and appropriate mitigation, in coordination with a comprehensive and clear regulatory framework (i.e., 9B regulations), can provide the balance needed to develop resources while protecting the needs of the local wildlife.

Corr. ID: 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187648 **Organization Type:** Unaffiliated Individual

Representative Quote: Clustering well pads and associated infrastructure, directional drilling, the use of oak mats to reduce vegetation disturbance, and the installation of liquid gathering systems are examples of field design and management practices that should be considered in the revision of the regulations.

Corr. ID: 14 **Organization:** National Parks Conservation Association

Comment ID: 187678 **Organization Type:** Unaffiliated Individual

Representative Quote: The NPS's permitting of oil and gas operations should incorporate enforceable measures to reduce air pollution through stringent emission limits and state-of-the-art pollution controls. In addition, the plan of operations should include mitigation efforts to avoid or diminish impacts on air quality associated with planned or incidental development operations.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188584 **Organization Type:** Conservation/Preservation

Representative Quote: The operator shall post an upright sign not less than 12 inches by 24 inches with lettering not less than two inches in height in a conspicuous place on the fence surrounding the pit, closed-loop system or below-grade tank, unless the pit, closedloop system or below-grade tank is located on a site where there is an existing well, signed in compliance with 19.15.16.8

NMAC, that is operated by the same operator. The operator shall post the sign in a manner and location such that a person can easily read the legend. The sign shall provide the following information: the operator's name; the location of the site by quarter-quarter or unit letter, section, township and range; and emergency telephone numbers.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188585 **Organization Type:** Conservation/Preservation

Representative Quote: Of course, to adequately protect the public, park resources, and wildlife, from compounds in pits, drilling muds, fracking fluids, and produced and flowback water, the NPS and the public must know what these substances contain. The NPS must require full disclosure of the identity, and volume, of all compounds in fracking fluids and drilling muds, and regular sampling of the constituents of flowback and produced water. This disclosure should include the Chemical Abstract Service (CAS) number for each compound. Companies should disclose this information before any drilling occurs, and disclose any departure from their plans as soon as practicable after it occurs. All disclosure information - and all requests for trade secret protection - should be publicly posted on a centralized website.

Should any company seek trade secret protection of these compounds, the NPS should apply the strict standards found in the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11042, and its implementing regulations, 40 C.F.R. Pt. 350, to judge these claims.

The NPS should also examine the experience of similar disclosure programs now operating in Wyoming and Arkansas as it seeks to design its program.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188580 **Organization Type:** Conservation/Preservation

Representative Quote: The NPS should correct this serious flaw in the next round of rulemaking. Casing standards are highly technical, meaning that well-specified, and well-enforced, requirements are very important to maintaining sound well casing. Expert Susan Harvey has prepared a report summarizing critical regulatory parameters. That report, though prepared in response to a specific rulemaking in Pennsylvania, contains sound general advice, and we incorporate it by reference here. Among other central points, the report recommends that operators set surface casing at least 100 feet below the deepest freshwater zone and at least 100 feet into the bedrock, run cement bond logs to ensure that there is a continuous, connected ring of cement around the casing, always use at least surface and production casing, along with intermediate casing in sensitive areas, use American Petroleum Institute cement compressive strength standards of at least 1,200 psi over 72 hours, use centralizers to ensure that casing is ringed by cement properly, and pressure test all casing to at least 50% of the working pressure of the (required) blow-out preventer. In essence, the report offers a step-by-step guide to ensuring that each well is properly cased and monitored to prevent blow-outs and gas and fluid migration.

The American Petroleum Institute (API) likewise recognizes that "[m]aintaining well integrity is a key design principle and design feature," and has provided

thorough technical guidance on this point.¹⁸ The API's recommendations echo Susan Harvey's in many regards. It, too, emphasizes that casing strings must be multi-layered, centralized, pressure-tested, and well cemented. The API also provides useful detail on tests which can be used to ensure that cementing and casing operations have succeeded. The NPS should carefully review the API's discussion of well and cement integrity logging and require such testing in the 98 rules.

The NPS should carefully review the report, along with state regulations (such as the final Pennsylvania Chapter 78 casing rules, attached as Ex. 8), and industry standards, and take the highest standards resulting from that review and make them mandatory for all wells drilled on or beneath National Park System units.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188595 **Organization Type:** Conservation/Preservation

Representative Quote: Once drilling has ceased, the operator's obligations must continue until the site has been fully rehabilitated. The existing rules offer some sound requirements, especially in areas where the government owns the surface estate, but could be profitably expanded. See 36 C.F.R. § 9.39.

At present, operators working on a federally-owned surface estate must remove all aboveground structures and roads and all debris, cap all wells and fill in any pits or holes, regrade the land surface, replace topsoil, and revegetate. All these requirements are important, and the NPS should retain them. Going further, it should make transparently clear that no in situ waste disposal is acceptable - at present, the rule suggests waste may be removed or "neutraliz[ed]", 36 C.F.R. § 9.39(2)(iii).

The rule should also specify its revegetation requirements more clearly to better steer operators towards success. New Mexico's rules are, again, a good starting point. They provide, for instance, that requires the operator must maintain native, perennial cover, "consisting of at least three native plant species, including at least one grass, but not including noxious weeds," for "two successive growing seasons" without "artificial irrigation of the vegetation." NMAC 19.15.17.12{H).

The existing rule's general statement that restoration is "unacceptable unless it provides for the safe movement of native wildlife, the reestablishment of native vegetative communities, the normal flow of surface and reasonable flow of subsurface waters, and the return of the area to a condition which does not jeopardize visitor safety or public use of the unit," 36 C.F.R. § 9.39(b), provides a good baseline supplement to more specific requirements and should be retained or strengthened.

Rehabilitation rules should also carefully cover interim reclamation activities, which occur while a well continues to operate, but which can alleviate or mitigate many construction-related impacts and contribute to more successful final reclamation.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188589 **Organization Type:** Conservation/Preservation

Representative Quote: Happily, many control technologies are available. Dr. Armendariz's report, which we incorporate by reference, describes these technologies in detail. They include (1) vapor recovery units, which are "highly effective systems for capturing and separating vapors and gases produced by oil and condensate tanks (2) enclosed flares to reduce VOC, methane, and hazardous air pollutant emissions from tanks; (3) green completion techniques for well drilling, which can "capture 61% to 98% of the gases formerly competed during well completions (4) enhanced leak detection and repair programs, such as those in NSPS Subpart KKK, which can substantially reduce VOC and methane leaks, saving operators money while reducing emissions; and measures to eliminate or reduce the use of natural gas actuated pneumatic devices, which otherwise leak VOCs and methane whenever they are operated, and whose use can economically be reduced by at least 80%. Other capture and recapture techniques can help control emissions from dehydrators, processing facilities, and other facilities. The NPS should require these, and similar, technologies and practices on all oil and gas production facilities.

Concern ID: 28296

CONCERN STATEMENT:

Several commenters provided suggestions regarding elements to the revised 9B Regulations that would include various regulatory requirements, such as following the precedent set by the Bureau of Ocean Energy Management, Regulation and Enforcement; establishing stringent pipeline safety and siting requirements; banning oil and gas drilling in NPS units; imposing strict design requirements for pits and casing; structuring rules for producers to provide incentives for greater resource protection; prohibiting water withdrawals for shale gas extraction; limiting operating times to reduce noise and light pollution; implementing specific spacing and siting requirements; developing wetland mitigation plans and best management practices; mandating the use of closed-loop drilling systems; determining the cost of mineral rights that exist under NPS lands and acquiring those rights; disallowing drilling in any 9/11 Memorial Land or at any sites that were established in honor of American heroes; and eliminating the exemption for completing an operations plan.

Representative Quote(s):

Corr. ID: 8 **Organization:** Nine Mile Run Watershed Association

Comment ID: 187240 **Organization Type:** Unaffiliated Individual

Representative Quote: Please do not allow drilling in our National Parks. There are plenty of other federal lands that would be appropriate. There's enough risk of damage to our natural wilderness and aquatic ecosystems due to global climate change and human encroachment on places originally designated for the sole purpose of keeping them as they are for our children to know for themselves and not merely as historical artifacts. That would be a travesty. But you, dear reader, can prevent that from happening. Please help protect our natural assets from increased risk of damage and keep them safe for families to come.

Corr. ID: 10 **Organization:** Maryland Ornithological Society

Comment ID: 187520 **Organization Type:** Conservation/Preservation

Representative Quote: In some oil and gas developments, mitigation measures

have reduced the impact on wildlife. These may include: (1) phased development, in which one tract is developed and then rehabilitated to fully functioning wildlife habitat before the next tract is developed; (2) wells are clustered on fewer, more widely spaced well sites, with fewer roads and pipelines; (3) seasonal timing restrictions bar operations during periods critical for wildlife. The EIS should explain how different mitigation concepts can reduce the impacts of oil and gas operations. The new regulation should authorize NPS managers to require effective mitigation.

Corr. ID: 11 **Organization:** Citizen

Comment ID: 187247 **Organization Type:** Unaffiliated Individual

Representative Quote: I request none of our 911 Memorial land be touched as well as any Historic Park sites in honor of American Heroes, Warriors and Patriots.

Corr. ID: 14 **Organization:** National Parks Conservation Association

Comment ID: 187670 **Organization Type:** Unaffiliated Individual

Representative Quote: We strongly agree that it is generally preferable for operators to be outside park boundaries to preserve park resources. However, as the ANPR points out, these adjacent operations can have serious negative impacts on parks resources, including water and air quality. Accordingly, we believe that the current exemption for completing an operations plan or having a bond should be eliminated, with an alternative incentive developed.

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 188343 **Organization Type:** Unaffiliated Individual

Representative Quote: NPS should determine the cost of mineral rights that exist under NPS lands and include this in several alternatives in the EIS. After this is done then NPS should seek money to acquire these mineral rights and retire them so there are no problems with oil/gas activities in the future. After all, we should be looking to the future and envision what the National Park System can be and not what it is now. By acquiring mineral rights NPS will reduce the financial burden on the National Park System.

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 187729 **Organization Type:** Unaffiliated Individual

Representative Quote: In addition, NPS should state in the 9B regulations that it has the right to incorporate into its environmental approval process other natural resource agency's environmental requirements. For instance, the Corps of Engineers may require wetland mitigation requirements and it makes sense for NPS to adopt these as a way to further enforce natural resource protection in the National Park System. In this way, when NPS has no regulatory authority to cover other environmental issues (air pollution and the EPA, for instance) it can

adopt as a restriction what the other natural resource agency (state or federal) requires for other permits. We are talking about protection of the National Park System so no stone should go unturned in the provision of maximum protection for those public natural resources. In addition, unannounced inspections are needed to ensure that the typical operational status of oil/gas activities is assessed for compliance.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188368 **Organization Type:** Unaffiliated Individual

Representative Quote: Recommendation: TPWD recommends incorporating wetland avoidance and mitigation protocols into the updated regulations.

Recommendation: If wetlands would be impacted by proposed oil and gas activities on NPS properties, TPWD recommends that mitigation plans that provide compensatory mitigation, for those habitats where impacts cannot be avoided or minimized, be included in the updated regulations. This would include impacts to species and habitats covered under federal law (wetlands and associated habitats, threatened or endangered species) and state resource habitat types not covered by state or federal law (riparian areas, native prairies). At a minimum, TPWD recommends a replacement ratio of 1:1 for state resource habitat types. The wetland mitigation plans should be developed in consultation with TPWD.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188356 **Organization Type:** Unaffiliated Individual

Representative Quote: TXNDD records indicate that a nesting colony of the Great Blue Heron (*Ardea herodias*) has been documented in Saddle Horse Canyon adjacent to Lake Meredith National Recreation Area. Additional waterbird nesting colonies could be present within and adjacent to the unit.

Recommendation: If active rookeries are present within or near park lands, activities should be scheduled and implemented when the birds are not present, after nesting activities have ceased. TPWD recommends avoiding vegetation removal and other forms of disturbance near colonial waterbird rookeries.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188362 **Organization Type:** Unaffiliated Individual

Representative Quote: Recommendation: TPWD recommends that the updated regulations require that potentially impacted waterways within the range of state-listed mussels be assessed for rare mussel habitat. Where suitable habitat is present, mussel surveys should be conducted prior to construction. Direct disturbance of habitat and degradation of water quality should be avoided where threatened mussels or their habitat are found.

Recommendation: TPWD also recommends that the use of best management practices (BMPs) for riparian areas to minimize impacts on mussel and fish species, the mussel larval host, be incorporated into the regulations. BMPs would

include measures such as avoiding construction during fish and mussel spawning periods, completing construction through the streambed during periods of drought when the stream is dry, and use of double silt fences and doubling soil stabilization measures along the banks to avoid increasing the turbidity of the creek. If mussel populations are present within the limits of the proposed project area, those populations should be protected from disturbance to the greatest extent possible.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188366 **Organization Type:** Unaffiliated Individual

Representative Quote: TPWD recommends the revised regulations include provisions to ensure that non-native, invasive plant species are not spread by project activities. TPWD also recommends that reclamation regulations require operators to control invasive species on reclaimed areas in addition to reestablishing native vegetation.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188367 **Organization Type:** Unaffiliated Individual

Representative Quote: TPWD recommends the revised regulations include BMPs to control or prevent the introduction of sediment from disturbed sites into wetlands or waterbodies.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188363 **Organization Type:** Unaffiliated Individual

Representative Quote: TPWD recommends that updated regulations require operators to avoid direct and indirect impacts to threatened and endangered species. TPWD also recommends updated regulations specifically include the mitigation measures currently applied to all oil and gas operators at PINS. These measures include having drivers of oil/gas equipment attend sea turtle awareness training class; convoy all large trucks during the sea turtle nesting season; conducting NPS morning patrols before allowing large vehicles drive the beach; and establishing a "protected season" for the Kemp's Ridley sea turtles.

TPWD recommends that during preparation of the EIS, measures to protect Piping Plovers and their wintering habitat should be considered in the revised regulations.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188364 **Organization Type:** Unaffiliated Individual

Representative Quote: If active rookeries are present within or near park lands, activities should be scheduled and implemented when the birds are not present, after nesting activities have ceased. TPWD recommends avoiding vegetation removal and other forms of disturbance near colonial waterbird rookeries.

Corr. ID: 23

Organization: Sierra Club

Comment ID: 188583

Organization Type: Conservation/Preservation

Representative Quote: Where pits are used, the NPS should impose strict design requirements. In addition to the siting and setback requirements discussed above, the NPS should ensure that all pits cannot leak into their environment. All pits must have synthetic liners and leak detection systems. New Mexico's pit requirements are a good start in this regard. They provide that all pits shall have geomembrane liners:

The geomembrane liner shall consist of 30-mil flexible PVC or 60-mil HDPE liner. The geomembrane liner shall have a hydraulic conductivity of no greater than 1×10^{-9} cm/sec. The geomembrane liner shall be composed of an impervious, synthetic material that is resistant to petroleum hydrocarbons and acidic and alkaline solutions. The liner material shall be resistant to ultraviolet light. Liner compatibility shall comply with EPA SW-846 method 9090A.

NMAC 19.15.17.11 (G)(3). Pits should also be designed with sufficient freeboard to ensure that the most severe storm a given region might experience could not cause the pit to overflow. The API, similarly, emphasizes the importance of proper storage impoundment design.

Further, according to the U.S. Fish and Wildlife Service, waste pits can do serious harm to animal life, and the NPS should work to avoid these risks. Birds are especially likely to land in or near pits, but all animals are imperiled by pits, and can be killed even if they do not immediately drown, due to toxic chemicals in pits or cold stress if pit chemicals strip away insulating materials on their fur or hair. Pits that can attract and harm wild animals can also pose a risk to livestock, pets, and even small children.

This problem can be easily fixed. The NPS should require operators to securely fence their pits, cover any open pits with nets which will block birds, and to put up warning signs.

Corr. ID: 23

Organization: Sierra Club

Comment ID: 188581

Organization Type: Conservation/Preservation

Representative Quote: The NPS should not allow such pit pollution to occur on public lands or nearby in a way that will threaten public resources. The NPS should instead work to eliminate pits all together, through mandating the use of closed-loop drilling systems. Closed-loop drilling systems, which generally use closed tanks to contain fluids, significantly reduce contamination risks when operated effectively. Such tank systems, both for drilling and waste storage, are critical to addressing water contamination risks. Water contamination can occur most easily at the surface, where operators produce and manage large volumes of wastewater. Leaking pits are a primary contamination route, but tanks can solve this problem. As one recent study explains:

[O]ne of the problematic aspects of handling flowback water is the temporary storage and transport of such fluids prior to treatment or disposal. In many cases, fluids may be stored in lined or even unlined open evaporation pits. Even if the

produced water does not seep directly into the soil, a heavy rain can cause a pit to overflow and create contaminated runoff. Storing produced water in enclosed steel tanks, a practice already used in some wells, would reduce the risk of contamination while improving water retention for subsequent reuse.

The NPS should revise the rule to require a closed-loop system in all cases, except in the extremely limited instance where the operator can demonstrate that such a system is not physically or economically possible to install. We understand, in fact, that the NPS already requires tank storage rather than pits in many instances, but the 98 rules do not appear to require this everywhere. Such a requirement would, properly, put the burden on producers to use the safest technology available, or meet a high bar to show that they cannot do so.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188592 **Organization Type:** Conservation/Preservation

Representative Quote: In some instances, operators may seek to build pipelines across or in NPS property to carry gas and oil off site. In those instances, NPS must be deeply involved with very phase of design and construction, to ensure the pipelines are built safely, and in locations where they will not damage park resources. The 98 rules should establish stringent pipeline safety and siting requirements. Pipeline standards should also impose strict air pollution control requirements to control fugitive emissions from the pipelines themselves, and from associated equipment.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188586 **Organization Type:** Conservation/Preservation

Representative Quote: Shale gas extraction can require millions of gallons of water. The 9B rules are not well set-up to address these withdrawals. The NPS should update the "use of water" provision, 36 C.F.R. § 9.35, to establish resource-protective standards.

In particular, the rules now bar withdrawals, except where the operator holds senior water rights or where the withdrawal "will not damage the unit's resources." We recommend that the NPS ban water withdrawals from the unit's waterbodies altogether where the operator does not hold senior water rights. Massive water withdrawals for mineral extraction are simply inconsistent with the conservation mandate of the Organic Act.

If the NPS nonetheless does not bar such withdrawals, it should provide further regulatory guidance on which withdrawals do not harm unit resources. It should direct park managers to, for instance, consider the body of water the operator seeks to use, and establish that water body's seasonal hydrograph. Withdrawals should not be allowed which would substantially alter a water body's natural fluctuations, or imperil any species living in, or depending upon, a water body.

Corr. ID: 23

Organization: Sierra Club

Comment ID: 188576

Organization Type: Conservation/Preservation

Representative Quote: Further, well spacing should generally be designed to produce minimal resource impacts. Although designs will vary based upon a given park unit's configuration, this will generally mean clustering wellheads on a single pad, taking advantage of directional drilling to do so, and, depending on circumstances, either widely spacing pads to avoid dense development or clustering all pads in a single region to prevent habitat fragmentation. These design decisions should be guided by rules requiring that all well-spacing patterns minimize habitat fragmentation and impacts on particularly sensitive areas.

Setback requirements provide a useful supplement to these general siting rules. The rules now establish 500 foot setbacks from "the banks of perennial, intermittent or ephemeral watercourses," "the high pool shoreline of natural or manmade impoundments," the mean high tide line, or "any structure of facility (excluding roads) used for unit interpretation, public recreation or for administration of the unit," unless otherwise authorized. 36 C.F.R. § 9.41(a).

These setbacks are important, and should be retained and expanded: We recommend, first, that the NPS remove the wiggle room from the setback requirements, which allows them to be waived if "specifically authorized," and instead require that all operators observe the setbacks. Next, NPS should expand the setback list, as many states have done, to include other resources, such as, for instance, floodplains, sensitive ecosystems, and designated critical habitat for endangered species, water wells, wetlands, unstable slopes, areas with groundwater very near the surface, and historic properties (archaeological sites or above-ground standing structures). See, e.g., 19.15.17.10 NMAC (New Mexico pit siting and setback requirements with many of these restrictions). The setbacks, too, should be enlarged, to at least 1000 feet from any vulnerable resource, to ensure that pad pollution cannot reach these protected resources.

Corr. ID: 23

Organization: Sierra Club

Comment ID: 188579

Organization Type: Conservation/Preservation

Representative Quote: With regard to noise pollution, the NPS should require operators to limit operating times and to install noise protections. These protections include: steel sound barriers which can be placed around engines, pumps, compressors, and other noise-generating facilities; mufflers on vans and exhausts; remote monitoring systems designed to reduce vehicle visits to a site; and electric rather than gas-fired engines, among others. In addition to requiring technological solutions, the NPS should set maximum noise levels for oil and gas operators. These levels should be set with reference to a park's existing ambient noise levels, allowing increases of no more than a few decibels, at most, outside of the well site and compressor stations.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188582 **Organization Type:** Conservation/Preservation

Representative Quote: If the NPS does not adopt such a requirement, it should still structure its rules to give producers incentives to make good choices. For instance, it could impose higher application and penalty fees for companies using pits, rather than closed-loop systems, reflecting the higher risks and enforcement costs associated with pits. It might also consider lowering financial assurance requirements appropriately for closed-loop drillers to reflect lower contamination risks.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188574 **Organization Type:** Conservation/Preservation

Representative Quote: The 98 rules should be revised to incorporate specific, substantial spacing and siting requirements for all wells. At present, these requirements are vague. The rules contain a 500foot setback requirement for some water courses and structures, 36 C.F.R. § 9.41(a), and a general requirement for site maps, 36 C.F.R. § 9.36(a)(4), but do not go much further.

Initially, setback requirements alone are insufficient. There are portions of every park, whether from a natural or cultural resource standpoint, that are simply too sensitive for any oil and gas extraction to occur. Park managers should not be identifying these areas on an ad hoc basis, but, rather, should do so as part of the park land management planning process, which should, in all cases, require protection of certain sensitive areas. The 98 regulations, as revised, should require each manager to identify such sensitive areas, based upon binding national standards, through a public notice and comment process.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188578 **Organization Type:** Conservation/Preservation

Representative Quote: With regard to light pollution, the NPS should investigate requiring limited operating hours during breeding, nesting or migratory periods, lighting designs that do not shed excess light into the environment, and fixtures which produce light of a frequency and intensity less likely to be seen from afar. Notably, Mr. O'Dell records that the NPS has already sometimes used "daily, weekly, and seasonal timing restrictions" to address noise and light impacts. Formal consideration of these restrictions should be included in the revised rules.

Corr. ID: 61 **Organization:** *Not Specified*

Comment ID: 189165 **Organization Type:** Unaffiliated Individual

Representative Quote: Furthermore, the entire purpose of a national park is to preserve a patch of the US in pristine condition. Any resource exploitation is a form of changing the park, removing its pristine qualities. All resource development should be banned within the confines of the national parks, without

any exception except otherwise unresolvable national emergency.

AL4200 - Alternatives: Access Fees

Concern ID: 28249

***CONCERN
STATEMENT:***

Commenters stated their support for charging an access fee to oil and gas operators on NPS land. Many commenters suggested that this fee should be equal to those fees imposed by the BLM and the FS, and/or the fee should be sufficient to cover the costs of enforcing the rules and rehabilitating the site.

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187525 **Organization Type:** Conservation/Preservation

Representative Quote: Access Fees: We support charging an access fee to oil and gas operators for the privilege of access across lands managed by NPS. Under existing regulations, drillers have an extra incentive to use NPS lands for access to their operations, because it's free. The EIS should recognize that demand for access will drop off when drillers lose free access.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188596 **Organization Type:** Conservation/Preservation

Representative Quote: Our earlier comments made clear that the NPS should raise access fees to a level at least commensurate with those charged by the Bureau of Land Management and the USDA Forest Service and should eliminate its inappropriately low bonding cap. See Ex. 1 at 14-15. We reiterate that fees and bonds must be set to cover the true cost of fully enforcing all rules and rehabilitating the site, and should be set per well, with no cap. The public must not be made to bear the costs of private oil and gas extraction.

Corr. ID: 34 **Organization:** *Not Specified*

Comment ID: 188666 **Organization Type:** Unaffiliated Individual

Representative Quote: It makes no sense that oil/gas operators get free use of NPS roads for access to drilling sites, when other federal agencies, state agencies, and private landowners charge them for access.

Concern ID: 28250

CONCERN STATEMENT: Commenters expressed opposition to imposing access fees on oil and gas operators within Big Cypress National Preserve because of preexisting rights of access.

Representative Quote(s): **Corr. ID:** 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187564 **Organization Type:** Unaffiliated Individual

Representative Quote: The Notice states that "[b]oth the BLM and USFS charge fees for access where the operator has no pre-existing right to cross Federal land," implying that the Service would follow the same approach. The Colliers have a preexisting right of access to their oil and gas interests. For instance, under the 1988 Agreement between the Colliers and the federal government, the Colliers reserved their right of access to the retained oil and gas interests when they transferred the remaining estate to the federal government. We expect the Service to honor those commitments. Charging the Colliers now for a "right of access" to the property that they retained when they facilitated the creation and expansion of the Big Cypress would amount to a unilateral change to the terms of those transactions. The EIS also should analyze which environmental impacts would result from changing the rules on this issue.

Corr. ID: 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187575 **Organization Type:** Unaffiliated Individual

Representative Quote: In the case of the Big Cypress, we believe that the costs of the Colliers' access to their retained oil and gas interests were included in the federal government's acquisition price for the Colliers' land interests. The federal government and the Colliers conducted lengthy negotiations over the value of the Colliers' lands prior to agreeing on the price and terms, especially in relation to the Big Cypress Addition in 1988. The government acquired the Colliers' lands at a lower price than it otherwise would have incurred, because the Colliers retained the right to access their oil and gas interests. Charging the Colliers for "access rights" now could amount to a taking of a property interest retained by the Colliers decades ago. The EIS should analyze the environmental impacts of such action.

Corr. ID: 38 **Organization:** BreitBurn Florida LLC

Comment ID: 188676 **Organization Type:** Business

Representative Quote: "The existing regulations are not consistent with practices of other Federal agencies and private landowners by requiring compensation for privileged access across federally owned lands for operators accessing their leaseholds."

BreitBurn disagrees with the premise stated above as potentially applied to the Preserve. There is no "privileged access" here. As stated, the access existed prior to the land being acquired by the government and those rights were not sold, but were retained by the mineral owners and their lessees.

The NPS rights in the land are burdened by the access rights retained by the owners of those rights. The NPS is not providing access across federally owned lands in this case. The mineral owners are simply utilizing their own rights of access. No compensation is appropriate for access rights. BreitBurn is operating on leases that predate the federal ownership and the creation of the Big Cypress National Preserve.

Concern ID: 28251

CONCERN STATEMENT: One commenter recommended that the NPS limit the amount of any access fee to the amount of money necessary to offset costs that the NPS incurs as a result of that access.

Representative Quote(s): **Corr. ID:** 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187565 **Organization Type:** Unaffiliated Individual

Representative Quote: On the general subject of access fees, we recommend that the Service limit any access fees to the amount of money necessary to offset costs incurred by the Service as a result of that access. For more than a century, a guiding principle of the Service has been to facilitate free and open access to the National Park System for all Americans. NPS Management Policies state that the "National parks belong to all Americans, and the National Park Service will welcome all Americans to experience their parks." NPS Management Policies 2006 § 8. While fees are charged for some types of access, their rationale is that "people who use the parks should pay part of the cost incurred by the NPS for their visit. . . ." NPS Director's Order #22: Recreation Fees §1.1 (emphasis added). The Colliers believe that oil and gas operators should be treated the same way as everybody else. If the Service is proposing a different standard for property owners such as the Colliers, the EIS should analyze the environmental impacts of such a proposal.

If there are going to be access fees, they should be limited to the costs incurred by the Service for the access. Therefore, the proposed EIS should study the actual costs associated with accessing units of the National Park System to justify the imposition, and substantiate the amount, of any proposed access fee. The proposed EIS should also examine whether these costs are adequately covered by another financial mechanism, such as the financial assurance bond that operators already are required to provide to account for the impacts caused by their oil and gas activities. The alternative - basing the proposed access fees on the "fair market land values" or some other measure not linked to the costs of access itself - would mark a major departure from the values that govern the National Park System.

AL4300 - Alternatives: Assessments for Non-Compliance

Concern ID: 28252

CONCERN STATEMENT: Commenters suggested charging an administrative assessment in the event that an operator fails to comply with the rules and regulations set forth in the revised rule.

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187526 **Organization Type:** Conservation/Preservation

Representative Quote: Assessments for Noncompliance: We support charging an "administrative assessment" when an operator has failed to comply with a notice of noncompliance. The amount would reflect an estimation of the cost of damages to park resources due to the operator's violation of terms in an approved permit. The EIS should recognize that funds received as assessments will pay for more complete reclamation of damaged lands and waters.

Corr. ID: 34 **Organization:** *Not Specified*

Comment ID: 188667 **Organization Type:** Unaffiliated Individual

Representative Quote: We favor the concept of assessments for noncompliance in cases of "minor infractions" that would not justify going to court.

Corr. ID: 38 **Organization:** BreitBurn Florida LLC

Comment ID: 188674 **Organization Type:** Business

Representative Quote: BreitBurn supports an NPS plan to provide for a corrective action process for minor violations that does not require suspension of operations.

AL4400 - Alternatives: Directional Drilling

Concern ID: 28253

CONCERN STATEMENT: Commenters suggested that directional drilling should be allowed, if not encouraged, under the revised rule, but it should be strictly regulated in both surface and subsurface activities.

Representative Quote(s): **Corr. ID:** 23 **Organization:** Sierra Club

Comment ID: 188551 **Organization Type:** Conservation/Preservation

Representative Quote: The better course is simply to remove the directional drilling exemption, and make clear that all operators accessing resources beneath NPS units must comply with the 9B regulations. It can steer development out of the parks by adding siting requirements to the rules which favor the use of directional drilling where it will allow for well pad sites that cause minimum damage to park

resources. We ask NPS to analyze this option in its draft EIS, and to project the scope, and cumulative impacts, of directional drilling in and around NPS units.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188575 **Organization Type:** Conservation/Preservation

Representative Quote: Notably, the availability of directional drilling technology means that, in some instances, operators will be able to access minerals beneath sensitive areas without causing surface disturbances. The NPS should generally encourage such directional drilling to locate wellpads and associated operations, such as compressors and separators, far from sensitive areas, or outside of the unit altogether. The best way to do so, as we've discussed above, is to revise 36 C.F.R. § 9.32(e) from an exemption into a siting requirement, specifying that where resources can be reached by directional drilling from a less sensitive, or out of unit, area, they must be so accessed.

Corr. ID: 28 **Organization:** *Not Specified*

Comment ID: 187256 **Organization Type:** Unaffiliated Individual

Representative Quote: Directional drilling from outside park boundaries should be strictly regulated in both surface and subsurface activities. This will mean fewer impacts on ground water quantity and quality and on surface waters that flow from underground sources.

Corr. ID: 29 **Organization:** *Not Specified*

Comment ID: 187582 **Organization Type:** Unaffiliated Individual

Representative Quote: Underground activities in directional drilling should be fully regulated, to make sure toxic substances used in "fracking" in the Marcellus Shale will not contaminate ground water and streams in the parks.

Corr. ID: 31 **Organization:** *Not Specified*

Comment ID: 188420 **Organization Type:** Unaffiliated Individual

Representative Quote: Regulate directional drilling - Bringing underground activities under regulation will mean less impact on ground water and springs that wildlife and fish depend on. It will mean less contamination by toxic drilling fluids in ground water.

Corr. ID: 34 **Organization:** *Not Specified*

Comment ID: 188664 **Organization Type:** Unaffiliated Individual

Representative Quote: The use of directional drilling from well sites outside park boundaries is to be encouraged, but it should not exempt operators from regulation to minimize indirect surface impacts and impacts from downhole operations.

Concern ID: 28254

**CONCERN
STATEMENT:**

Commenters stated that even though the siting of directional drilling operations may be located outside of NPS boundaries, adverse impacts to resources inside the park may result. Furthermore, one commenter recommended requiring operators to be located a few hundred yards from park boundaries.

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187522 **Organization Type:** Conservation/Preservation

Representative Quote: Directional Drilling: In cases where operators use directional drilling from outside the park boundary, we favor regulation of all surface and subsurface activities because (1) subsurface impacts may affect wildlife habitat and wildlife water sources, and (2) activities immediately outside park boundaries can have an impact on wildlife inside the park, such as at nesting sites and at migration resting and feeding areas. The EIS should analyze these impacts and ways of reducing them through mitigation measures.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188547 **Organization Type:** Conservation/Preservation

Representative Quote: In 36 C.F.R. § 9.32(e), the existing rules initially provide that operators must comply with all 9B rules if they directionally drill into oil and gas deposits beneath the park, even if well pad operations are located outside park boundaries. However, the rule also provides that an operator "need not comply in those areas where, upon application of the operator or upon his own action, the Regional Director is able to determine from available data, that such operations pose no significant threat of damage to park resources, both surface and subsurface." Although courts have since made clear that these exemptions may only be granted when consistent with the Organic Act, and include consideration of all surface activities at the drill site which may impact the park, *Sierra Club v. Mainella*, 459 F. Supp. 2d at 97 et seq this exemption has sometimes been broadly and carelessly applied and risks limiting oversight of directional drilling projects.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188549 **Organization Type:** Conservation/Preservation

Representative Quote: Because shale gas extraction generally depends on directional drilling along long horizontal wells, this exemption is therefore highly troubling in parks in shale gas regions. Horizontal drilling is also used in other formations to access oil or gas. Although the NPS suggests in its advance notice that offering more limited regulatory oversight of directional drilling projects may encourage drillers to site pads outside of park boundaries, see 74 Fed. Reg. at 61,598, offsite projects can still substantially damage park resources. In Big Thicket National Preserve, for instance, impacts from wellheads just outside the park boundary included constant machinery noises, 24-hour-a-day lighting for thirty days, run-off into the park, including the "risk of spills of raw petroleum product and other chemicals ..., the potential for pipelines to leak or rupture, and the more typical discharges of sediment and pollutants," and the risks of catastrophic

incidents, such as fire, well blow-outs, or major spills." *Sierra Club v. Mainella*, 459 F. Supp. 2d at 87-88. There can also be substantial air quality impacts from operations outside a unit boundary, and there are potential impacts to groundwater as well as surface waters. The NPS should not accept these impacts, and waive regulatory oversight over them, in exchange for pushing operators a few hundred yards from park boundaries.

Concern ID: 28255

**CONCERN
STATEMENT:**

One commenter suggested that the NPS evaluate potential impacts to NPS resources from directional drilling activities on a case-by-case basis and recommended that the EIS evaluate whether there are depths at which directional wells cease to have any impact on park values.

Representative Quote(s): **Corr. ID:** 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187548 **Organization Type:** Unaffiliated Individual

Representative Quote: The Colliers suggest that the proposed EIS examine whether the existence of directional wells has any discernable effect, direct or indirect, on park resources and values. This will have to be a unit-by-unit analysis because conditions vary widely across the National Park System. Assuming that directional wells do have an effect on a given park or preserve's values (which has yet to be determined), the EIS should examine whether there are depths at which directional wells cease to have any impact on park values. Indeed, before the Service removes or restricts the incentives associated with directional wells, it should demonstrate that such directional wells actually impact values of the unit, and impose regulations that are tailored to address only the impacts of the directional wells themselves.

AL4500 - Alternatives: Financial Assurance

Concern ID: 28256

**CONCERN
STATEMENT:**

Commenters suggested that the NPS charge a fee to oil and gas operators to recover the costs associated with oil and gas operations. Furthermore, commenters suggested that the bonding cap of \$200,000 be eliminated so that the full cost of reclaiming operation sites can be recovered.

Representative Quote(s): **Corr. ID:** 2 **Organization:** University of Florida

Comment ID: 187218 **Organization Type:** Unaffiliated Individual

Representative Quote: The park service should be able to recover costs associated with processing and monitoring nonfederal oil and gas operations from the drilling company, this is especially critical in the current times of budget cuts.

Corr. ID: 10 **Organization:** Maryland Ornithological Society

Comment ID: 187524 **Organization Type:** Conservation/Preservation

Representative Quote: Financial Assurance: We support eliminating the bonding cap of \$200,000 per operator per NPS unit. MOS members have seen abandoned mining and drilling sites bearing impacts from decades past in many parts of the country. The regulation should make sure this will never happen in the parks. The EIS should analyze the favorable effects of this change, including more complete reclamation of disturbed lands and waters.

Corr. ID: 14 **Organization:** National Parks Conservation Association

Comment ID: 187675 **Organization Type:** Unaffiliated Individual

Representative Quote: In sum, NPCA supports putting in place a strong performance bond based on the realistic costs of plugging wells, reclaiming and restoring the site, cleaning up the sites, and undertaking broader efforts that may involve work to alleviate dangerous amounts of pressure that may be created below the ground surface. Bonds should also be set taking into consideration the company's operating history and be provided the same authority as the BLM to increase bonds at any time.

Corr. ID: 31 **Organization:** *Not Specified*

Comment ID: 188421 **Organization Type:** Unaffiliated Individual

Representative Quote: Eliminate the \$200,000 cap on bonding - This will mean less environmental impact because damage caused by drilling will be cleaned up and the land restored.

Corr. ID: 34 **Organization:** *Not Specified*

Comment ID: 188665 **Organization Type:** Unaffiliated Individual

Representative Quote: We support abolishing the cap that limits bonding to \$200,000 per operator in anyone NPS unit. Operators should be required to post bonding or other financial assurance equal to the costs of complete rehabilitation.

**CONCERN
STATEMENT:**

Commenters stated that the \$200,000 bonding cap is sufficient and adequately protects taxpayers in the event an operator defaults on its responsibilities under its approved plan of operations.

Representative Quote(s): **Corr. ID:** 12

Organization: Collier Resources Company c/o White & Case LLP

Comment ID: 187563

Organization Type: Unaffiliated Individual

Representative Quote: We believe that the Service's current \$200,000 bonding cap adequately protects taxpayers in the event an operator defaults on its responsibilities under its approved plan of operations. The Service must recognize that its general bonding requirements under the 9B regulations are not the only financial assurance requirements imposed on operators. For example, the State of Florida requires an additional bond in the same amount. Other states may have more or less in the way of financial assurance requirements. Any proposed regulation needs to acknowledge, and account for, the various State bonding requirements. As such, the proposed EIS should examine whether the various bonding requirements currently in place around the Country adequately protect the Service from shouldering the cost of reclaiming an area that an operator's oil and gas activities have altered. This analysis should calculate the total financial assurances that exist in each state with affected National Park System units, and then determine whether those amounts are sufficient. Unless it is clear that the current regime is inadequate, the Service should not alter the existing bonding requirements.

Corr. ID: 38

Organization: BreitBurn Florida LLC

Comment ID: 188670

Organization Type: Business

Representative Quote: The NPS should encourage the use of a financial assurance instrument already in place for state permits that specifically enumerate the conditions and process under which the instrument would be applied for unfulfilled obligations. This process would allow one instrument to cover the same risk.

AL4600 - Alternatives: Areas of Exemption from 9B Regulations

Concern ID:

28259

***CONCERN
STATEMENT:***

Commenters suggested that operations that have been exempt from regulations because they were "grandfathered" should be regulated under the revised rule.

**Representative
Quote(s):**

Corr. ID: 10

Organization: Maryland Ornithological Society

Comment ID: 187521

Organization Type: Conservation/Preservation

Representative Quote: Regulation of Exempt Operations: We favor regulation of operations that were exempt from regulation by NPS because they were "grandfathered" by the 1978 rule, now approximately 40 percent of existing operations. The EIS should analyze the impacts of the exempted operations and the likely reduction of those impacts if they are brought under regulation.

Corr. ID: 23

Organization: Sierra Club

Comment ID: 188466

Organization Type: Conservation/Preservation

Representative Quote: The first of these loopholes, 36 C.F.R. § 9.33, provides that any operations permitted before January 8, 1979, "may continue" until their permits expire. At the time this rule was promulgated, NPS believed that these residual permits would swiftly turn over. See 74 Fed. Reg. at 61,598. "[T]he rate of turnover and permit expiration has been much slower than anticipated," *id.*, and at least 255 operations are still grandfathered. As the NPS chart indicates, these wells comprise 37% of all operations on NPS lands, including 151 wells in Big South Fork National River & Recreation Area in Tennessee and Kentucky. That park, established to preserve the South Fork of the Cumberland River as a "natural free-flowing stream," see 16 U.S.C. § 460ee, has been left with wells which are "adversely impacting resources and values, human health and safety, and visitor use and experience," and which are causing serious pollution problems.

This sort of damage must cease. In its advance notice of rulemaking, the NPS agreed. It proposed three options for controlling these grandfathered wells: (1) requiring them to comply with the 9B rules or close by a date certain, (2) requiring 9B compliance on a phased schedule, or (3) waiving 9B rules provided the grandfathered sites comply with a "defined set of operating standards." 74 Fed. Reg. at 61,598. As we discussed in our earlier comments, only option 1 is acceptable. These grandfathered operations have enjoyed decades of unregulated operations, in contravention of the Organic Act and NPS policy. They do not deserve any more time to contaminate the parks, and must come into compliance, or close, immediately. We urge NPS to require compliance within months of the promulgation of the final 9B rules.

Corr. ID: 31

Organization: *Not Specified*

Comment ID: 188419

Organization Type: Unaffiliated Individual

Representative Quote: End the exemption - All operators should be required to submit a plan of operations. The EIS should discuss the improvement in environmental conditions that would result from this. The exemption of 53 percent of drilling operations has undoubtedly impaired park values; this should be analyzed.

Corr. ID: 34

Organization: *Not Specified*

Comment ID: 188663

Organization Type: Unaffiliated Individual

Representative Quote: Regulation of Exempt Operations. It is time to bring under regulation those operations that were exempted by the 1978 rule. All should be operating under approved plans of operation that minimize impacts on the parks.

Concern ID: 28260

CONCERN STATEMENT:

One commenter suggested that the revised rule should revoke the exemption for oil and gas operations that are within NPS units but can be reached without crossing federal land or water.

Representative Quote(s):

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188467 **Organization Type:** Conservation/Preservation

Representative Quote: The 9B rules apply to oil and gas operations "where access is on, across or through federally owned or controlled lands or waters." 36 C.F.R. § 9.30(a). This restriction leaves out oil and gas operations that are within NPS units, but which can be reached without crossing federal land or water. This situation is surprisingly common: in-holdings along park margins, or park units set up largely on private land (such as the Upper Delaware), escape 9B regulation.

As the NPS chart shows, these 'no federal access' exemptions already embrace 16% of all operations. The category may well grow as new park system units, many containing much private land, are affected by drilling. The NPS should document this likely future scope in its EIS for the rules.

The NPS proposes the same three options for closing this loophole as it does for the grandfathering loophole. Once again, we urge NPS to close the loophole immediately. This exemption is particularly dangerous as the gas boom expands, and should be taken off the books immediately.

Concern ID: 28261

CONCERN STATEMENT:

Commenters stated that the current 9B Regulations suffer from three loopholes that exempt roughly 53% of all NPS oil and gas operations from any NPS oversight and that these loopholes should be closed.

Representative Quote(s):

Corr. ID: 14 **Organization:** National Parks Conservation Association

Comment ID: 187668 **Organization Type:** Unaffiliated Individual

Representative Quote: Until the two exemptions under the 9B regulation are eliminated, Big South Fork National River and Recreation Area and the other 11 park units with exempted operations will continue to face unacceptable risks to park resources and public safety. It also leaves American taxpayers vulnerable to having to pay for reclaiming abandoned oil and gas operations whose ownership may have folded and did not have sufficient bonds in place to fund the necessary work.

In order to bring all oil and gas activities within park boundaries under the 9B regulation, NPCA supports a combination of the requirements found in Option # 2 and # 3 for Question # 1 in the ANPR. Specifically, we believe that all currently exempted operators should within 1 year

- Submit plans of operation;
- Provide documentation of the legal basis for their respective oil and gas activities within the park unit;
- Prove they are in compliance with operating standards, which would be enforceable by park staff; and
- Require companies to provide a performance bond to cover each of their drilling sites.

Requiring operators to prove they have legal authority to undertake any operations and verify that their operations will meet standards is reasonable, as is submitting a plan detailing their mining activities. Increasing bonds as necessary for each oil or gas site is also an appropriate requirement and will be detailed in the next section.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188465 **Organization Type:** Conservation/Preservation

Representative Quote: The 98 rules suffer from three serious loopholes that exempt at least 53% of all NPS oil and gas operations from any NPS oversight. NPS must close all three of them.

Concern ID: 28262

CONCERN STATEMENT:

Commenters suggested that inholdings and park-adjacent lands in Alaska should be exempt from the revised 9B Regulations, based on the provisions of the Alaska Native Claims Settlement Act (ANCSA) and the Alaska National Interest Lands Conservation Act (ANILCA).

Representative Quote(s):

Corr. ID: 15 **Organization:** Resource Development Council

Comment ID: 187688 **Organization Type:** University/Professional Society

Representative Quote: Two years after the NPS issued its 9B regulations, Congress passed ANILCA in an effort to protect special areas of Alaska and to strike a balance between conservation and economic development opportunities for Alaskans. In writing ANILCA, Congress attempted to accommodate the unique characteristics of Alaska and the Alaska way of life. It included numerous exemptions for Alaskans, known as the "Alaska Protections." These protections were for access and continued use of valid existing rights, lands and resources. Access was at the core of the protections - access to Native corporation lands, access to Native allotments, access to homesteads, and access to state-owned lands. These provisions were to guarantee that landowners would have access to their inholdings so they could not only use their lands, but make economic use of them, too. These access provisions provide the governing authority and direction for the regulation of oil and gas development in non-federal areas of Alaska park units.

In our view, access to inholdings in Alaska national park units is subject to regulations under the special provisions established by Congress through ANILCA, rather than under the NPS's 9B regulations. ANILCA's unique and specific provisions sought to encourage economic development on these lands by

creating a comprehensive and balanced regulatory regime governing the use and development of these lands. Congress intended through ANILCA that Alaska inholdings would remain available for development. As a result, the 9B regulations, this rulemaking, and associated EIS process are outside the scope of authority granted by ANILCA and are not applicable to Alaska activities. Efforts to regulate nonfederal oil and gas development under section 9B must yield to the regulatory regime and special provisions established under ANILCA. This should be acknowledged in ongoing rulemaking and the EIS process.

Corr. ID: 16 **Organization:** State of Alaska, ANILCA Implementation Program

Comment ID: 187694 **Organization Type:** State Government

Representative Quote: Contrary to the stated intent emphasized above, many of the reasons and objectives cited in the Notice of Intent as the basis for revising the 9B regulations may so interfere with a property owner's ability to develop their lands that these regulations could resemble a taking of property interest if applied in Alaska.

In addition, the State believes that many of the reasons and objectives for revising the 9B regulations have limited or no applicability in Alaska, and appear to be based on the Service's desire to extend its jurisdiction to non-federal land. As discussed above, ANILCA strongly protects inholder access and development rights. Thus, while the intent to revise the 9B regulations appears to be aimed at providing an opportunity for the Service to address previously grandfathered operations (all within the lower 48 states), or establish more "comprehensive and enforceable operating standards," or recover costs for administering inholder access, these "opportunities" exceed ANILCA 1110(b)'s limitation on regulation of access rights to that necessary to "protect the natural and other values" of Service lands in Alaska. These "opportunities" also may interfere with ANILCA 1110(b)'s direction to the Secretary of Interior to grant inholders "such rights as may be necessary to assure adequate and feasible access for economic and other purposes" to their land.

Corr. ID: 16 **Organization:** State of Alaska, ANILCA Implementation Program

Comment ID: 187695 **Organization Type:** State Government

Representative Quote: Building on ANILCA's intent to allow access to State and private inholdings for "economic" development purposes, the imposition in Alaska of the goals and objectives identified in the notice would likely severely constrain an inholder's ability to pursue such economic opportunities, and thus would not meet the "reasonable regulation" test in Section 1110(b).

Furthermore, some of the objectives identified in the Notice of Intent clearly conflict with ANILCA. For example, the Notice of Intent states that "[a]ll operations within the boundary of Park units are regulated under the 9B regulations." This objective conflicts with the provisions of ANILCA identified above, especially ANILCA Section 103(c). The State is also concerned that the stated objective to regulate directional drilling, when operations are outside of parks, extensively overreaches Park Service authority, especially in Alaska.

We therefore request the revised regulations exempt Alaska park units from its application and recognize that Department of Interior Title XI regulations at 43 CFR 36 as the applicable regulatory authority for oil and gas development activities on non-federal lands within park units in Alaska.

Corr. ID: 17 **Organization:** Citizens' Advisory Commission on Federal Areas

Comment ID: 187703 **Organization Type:** State Government

Representative Quote: The Commission requests clarification of the following statement in the November 25, 2009 ANPRM. (74 FR 61597):

"Non-federal oil and gas rights are the result of a conveyance of an interest in real property from a grantor other than the United States and may be held by individuals, companies, non-profit organizations, or state and local governments." (emphasis added)

In considering this explanation of what constitutes non-federal oil and gas rights, it appears that for those lands conveyed to the State of Alaska under the Alaska Statehood Act (Public Law 85-508) or lands conveyed to Native Regional Corporations under ANCSA (Public Law 92-203) the oil and gas rights included in those conveyances do not fall under this description since clearly those rights were conveyed by the United States, as grantor. This description on non-federal oil and gas rights further emphasizes that any oil and gas development occurring on State or private inholdings in Alaska park units are not subject to the Part 9B regulations.

Corr. ID: 18 **Organization:** Doyon Limited

Comment ID: 187714 **Organization Type:** Business

Representative Quote: As explained above, ANILCA-which, again, was enacted after the promulgation of the 9B regulations-includes specific provisions that govern access to private inholdings in Alaska, including for oil and gas development activities. Accordingly, with respect to nonfederal oil and gas development activity in Alaska, the NPS's efforts to regulate nonfederal oil and gas development under section 9B must yield to the comprehensive regulatory regime and specific access provisions established in ANILCA. It is essential that this be explicitly recognized in the context of the ongoing rulemaking and EIS process.

Corr. ID: 22 **Organization:** Ahtna, Inc.

Comment ID: 188373 **Organization Type:** Business

Representative Quote: Given Congressional intent, as it relates to ANCSA and ANILCA, and the unique provisions governing Native American lands in Alaska, Ahtna respectfully request that the National Park Service exempt Alaska when considering the intent to prepare an Environmental Impact Statement for a proposed revision regarding nonfederal oil and gas development within the boundaries of units of the National Park System.

AL4800 - Alternatives: Operating Standards

Concern ID: 28263

CONCERN STATEMENT: Commenters suggested that the revised rule apply stricter operating standards in order to comply with the non-impairment mandate of the Organic Act.

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187523 **Organization Type:** Conservation/Preservation

Representative Quote: Operating Standards: We support adding effective, enforceable operating standards to the 9B regulations to reflect the state of the art - in seismic exploration, in drilling, in production, and in reclamation. The EIS should analyze the effects of using stricter operating standards. The National Park System needs strict standards to comply with the nonimpairment mandate in the National Park Service Organic Act.

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 187731 **Organization Type:** Unaffiliated Individual

Representative Quote: In other words, I want mandatory protective operating stipulations proposed in the revised 9B regulations. This means that there would be no opportunity to remove or reduce protective operating stipulations which would increase the risk to natural resources via environmental impacts in the National Park System.

Corr. ID: 34 **Organization:** *Not Specified*

Comment ID: 188668 **Organization Type:** Unaffiliated Individual

Representative Quote: We favor applying the strictest operating standards available, reflecting the best available technologies for drilling and production and the best available reclamation methods for restoring disturbed lands. Operators drilling in the National Park System should be held to a higher standard than normal industry practice, and higher than the standards used by the Forest Service, BLM, or Fish and Wildlife Service, because the NPS Organic Act gives you a stricter mandate than those agencies have.

Concern ID: 28264

CONCERN STATEMENT: One commenter suggested that the revised rule should avoid overlapping and duplicative regulations from other agencies and authorities.

Representative Quote(s): **Corr. ID:** 38 **Organization:** BreitBurn Florida LLC

Comment ID: 188678 **Organization Type:** Business

Representative Quote: BreitBurn's operations in the Preserve are currently monitored by numerous agencies to assure that the public and others, including our own employees, are protected from health and safety hazards. Once again, BreitBurn believes that any updating of regulations should avoid overlapping and duplicative regulations. In addition, BreitBurn reiterates that its operations are in the Big Cypress National Preserve and not in an NPS "park" area. The lands of the Big Cypress National Preserve are open to many user groups including hunters, off-road vehicle users, and hikers. The access to field operations are limited use roads and, where multiple use occurs, signage directs the public or park staff as to what is to be expected at the operations. BreitBurn is not aware of any significant issues of health or safety related to the public or government employees.

Concern ID: 28265

CONCERN STATEMENT:

Commenters had suggestions regarding what should be included in the revised operating standards, such as relying on best management practices; implementing mitigation measures; developing and implementing stormwater and sediment control plans; using water-based drilling muds, where feasible; and storing all drilling fluids, cuttings, completion fluids and any other products of drilling in steel tanks or lined pits.

Representative Quote(s): **Corr. ID:** 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188347 **Organization Type:** Unaffiliated Individual

Representative Quote: TPWD asks the NPS consider the following recommendations be included in the proposed revisions.

Recommendation: TPWD recommends a closed drilling fluid system be used for all operations unless otherwise authorized by the site manager. TPWD also recommends the following stipulations be considered for inclusion:

- (1) Water-based drilling muds should be used where feasible.
- (2) All drilling fluids, cuttings, completion fluids and any other products of drilling or completion operations should be contained in steel tanks or lined pits. Any open pits should be covered with netting to prevent access by wildlife.
- (3) All ditches around the rig for the purpose of catching fluids involved in rig operations should be lined. These lined ditches will drain into a lined catch basin.

Corr. ID: 23 **Organization:** Sierra Club

Comment ID: 188577 **Organization Type:** Conservation/Preservation

Representative Quote: Well pads, seismic exploration, pits, road construction, and other extraction activities can leave large swaths of exposed sediment. Run-off from these sites can choke streams, lakes, and wetlands. Yet, the 9B operating standards, 40 C.F.R. § 9.41, do not require operators to develop and implement stormwater and sediment control plans. The NPS should do so, specifying that each operator must design and implement a water control system, including revegetation, ground cover, and fencing, as needed, to prevent sediment from extraction sites from entering park waters.

Mr. O'Dell's report observes, on this point, that "[r]oad and pad construction ...

often involves extensive earth disturbance that can speed erosion" and send sediment spilling into streams. Pennsylvania's Bureau of Forestry has also recognized as much, and requires an "approved site specific Erosion and Sedimentation Control Plan" before any disturbance goes forward. The NPS should do at least as well.

Corr. ID: 38 **Organization:** BreitBurn Florida LLC

Comment ID: 188669 **Organization Type:** Business

Representative Quote: NPS should consider operating protocols that rely on best management practices for field operations to reduce the amount of site specific fieldwork required. The operating protocols should recognize some surface impacts will occur to gain access to shot hole locations and such impacts can be mitigated.

Separately, 98 has generally been interpreted to prohibit any damage to cypress trees during seismic operations. This narrow reading would preclude the level of activity associated with 3D seismic which is needed to evaluate existing fields in the Big Cypress National Preserve. We believe that a mitigation process should be built into the regulations to balance the needs to allow for these new techniques to identify additional resources while reasonably protecting the cypress trees.

Concern ID: 28266

**CONCERN
STATEMENT:**

One commenter suggested that the NPS should not apply a single set of standards to all units of the National Park System because different NPS units will be uniquely affected by oil and gas operations.

Representative Quote(s): **Corr. ID:** 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187553 **Organization Type:** Unaffiliated Individual

Representative Quote: The Colliers do not believe that one "comprehensive list" of operating standards will adequately account for the individual characteristics of each resource area and the variable legal rights of private owners to access their oil and gas. For instance, oil and gas exploration and development in the semi-tropical freshwater wetland that is the Big Cypress pose different environmental issues than similar activities in a desert in the American West. Moreover, by Congressional design, the Big Cypress National Preserve allows for more uses than are generally permitted in a park unit of the National Park System. Because separate units of the National Park System are subject to different and specific rules, the service should not apply a single set of standards to all units of the National Park System. Nonetheless, to the extent the Service proposes to establish a comprehensive list of operating standards to be applied throughout the individual units of the National Park System, the proposed EIS should examine the likely effects of these standards in each resource area. To be sure, the net impacts of a new set of operating standards on a given resource area likely will vary greatly depending on the individual characteristics of that resource area. For this reason, the Colliers urge the Service not to adopt one inflexible list of operating standards to apply to all resource areas. Any operational standard should be tailored to address the environmental issues posed in each unit of the National Park System. The EIS also should identify site-specific alternative regulatory regimes at each unit of the

National Park System; the alternatives should not all be different national rules.

CC1000 - Consultation and Coordination: General Comments

Concern ID: 28267

CONCERN STATEMENT: One commenter expressed disappointment that the NPS would not accept public comments via email.

Representative Quote(s): **Corr. ID:** 1 **Organization:** *Not Specified*

Comment ID: 187215 **Organization Type:** Unaffiliated Individual

Representative Quote: WHY WOULD YOU NOT ACCEPT COMMENTS BY E MAIL? ARE YOU TRYING TO SHUT OUT THE AMERICAN PUBLIC, WHICH HAS ACCEPTED 2011 METHODS OF COMMUNICATION. WHY ARE YOU INSISTING ON 1935 METHODS OF COMMUNICATION LIKE SNAIL MAIL?

Concern ID: 28269

CONCERN STATEMENT: One commenter requested a 30-day extension to provide comments on the revision of the 9B Regulations.

Representative Quote(s): **Corr. ID:** 25 **Organization:** Collier Resources Company

Comment ID: 187250 **Organization Type:** Business

Representative Quote: We are writing on the Colliers' behalf to request a thirty (30) day extension of time to provide comments to the National Park Service regarding the scope of analysis in the proposed environmental impact statement regarding mineral management and nonfederal oil and gas development within the boundaries of units of the National Park System. The Colliers recognize and appreciate the National Park Service's attempt to engage the public early in the rulemaking process. However, they need more time to adequately address these important issues.

As such, we respectfully request that you allow the Colliers until March 30, 2011 to provide you with their comments. At your earliest convenience, please advise us as to whether your office can accommodate this request.

Concern ID: 28270

CONCERN STATEMENT: One commenter stated that the information available in the Federal Notice of Intent was very limited, thus making it hard for members of the public to provide meaningful comments.

Representative **Corr. ID:** 12 **Organization:** Collier Resources Company c/o White

Quote(s):

& Case LLP

Comment ID: 187538 **Organization Type:** Unaffiliated Individual

Representative Quote: The Notice indicates that the Service is considering regulating activities where the only work within a unit of the National Park System is from "directional drilling" from off-site locations to oil and gas deposits beneath the unit. The Notice does not specifically identify how it would change regulation of such activities. It is extremely difficult to provide comments on the scope of an EIS on this topic without a specific proposal.

Corr. ID: 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187529 **Organization Type:** Unaffiliated Individual

Representative Quote: The Service's request for scoping comments seeks "public comment on the draft purpose and need, objectives, and issues and concerns related to the NPS regulations governing nonfederal oil and gas development[.]" We are not aware that the Service has provided a draft purpose and need statement for its potential proposal. Since the Service is the entity that apparently seeks to change its regulation, it is incumbent on the Service to identify its objectives in doing so. The Service cannot reasonably expect the public to comment on the scope of a proposed EIS before the Service has stated its purpose and/or objectives of the project, because the public has nothing on which to comment.

Corr. ID: 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187527 **Organization Type:** Unaffiliated Individual

Representative Quote: As a threshold matter, the Colliers believe that the National Park Service's request for scoping comments is premature because the Service has yet to identify a proposed course of action, i.e. specific changes to the Service's regulations. As federal courts have recognized, "[i]t would be premature and serve no useful purpose to now require the preparation of an EIS when no specific federal action has been proposed." U.S. v. S. Fla. Water Mgmt. Dist., 28 F. 3d 1563, 1573 (11th Cir. 1994) (finding that the question of whether an EIS is required is addressed "[i]f and when [federal] activities are actually proposed"). Absent a specific proposal, "[t]here [is] no factual predicate for the production of an environmental impact statement of the type envisioned by NEPA." Kleppe v. Sierra Club, 427 U.S. 390, 402 (1976).

The Service has acknowledged that it needs a proposed rule regarding revisions to the current regulations found at 36 CFR Subpart 9B (the "9B Regulations"). Indeed, in its advanced notice of proposed rulemaking, dated November 25, 2009 (the "Notice"), the Service stated that it is "seeking comments to assist [it] in developing . . . a proposed rule to revise regulations governing nonfederal oil and gas development within the boundaries of units of the National Park System." The Notice identified issues that the Service considers to be shortcomings with the 9B Regulations, identified ideas that have been discussed as potential solutions, and requested public input on how to remedy the perceived problems. The Notice does not, however, identify any specific concrete proposals for revising the 9B Regulations. The details matter for preparation of an EIS, because they define the potential impacts on the environment and allow for identification of alternatives.

Nonetheless, instead of using the public comments solicited by the Notice to develop the proposed rule, the Service is now requesting scoping comments for an EIS regarding an unidentified proposal.

Corr. ID: 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187528 **Organization Type:** Unaffiliated Individual

Representative Quote: Soliciting public comments regarding the scope of an EIS without first unveiling a proposed plan is premature, for two reasons. First, without a concrete proposal on the Service's plans to revise the 9B Regulations, the public has no basis to determine the scope of issues that should be addressed in the EIS or to identify the potential strengths or weaknesses of the proposed action. Secondly, the public cannot possibly identify alternatives to an undefined proposal. Without the ability to identify alternatives, members of the public, such as the Colliers, are unable to identify measures that would achieve the Service's objectives, without causing the adverse effects of the (unidentified) proposal. Accordingly, the Colliers suggest that the Service identify a proposed course of action before it solicits scoping comments from the public or conducts an EIS. This will allow the Service to perform a targeted study and comply with NEPA. Furthermore, it will allow the public to more meaningfully participate in this process.

Corr. ID: 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187559 **Organization Type:** Unaffiliated Individual

Representative Quote: It is unclear what the Service will propose with regard to access fees, which makes it very difficult to provide scoping comments in the proposed EIS.

Concern ID: 28271

CONCERN STATEMENT:

Commenters suggested that the NPS consult with certain agencies and groups to coordinate with existing plans, regulations, and statutes before finalizing the revised 9B Regulations, such as the Wyoming Game and Fish Commission and its sage-grouse conservation strategy; state governments, including specific Florida statutes and the Comprehensive Everglades Restoration Plan; Native American Tribes; and the Upper Delaware Council.

Representative Quote(s):

Corr. ID: 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187660 **Organization Type:** Unaffiliated Individual

Representative Quote: Additionally, the Wyoming Game and Fish Department and Federal land management agencies in Wyoming are leading an effort to implement a statewide sage-grouse conservation strategy (Executive Order 2010-04) to prevent the Greater sage-grouse, which is currently a candidate species, from being listed as a federally threatened or endangered species. We recommend that state-led efforts such as these are taken into consideration while crafting new regulations for nonfederal oil and gas development within NPS units and adjacent

to NPS units, especially when units contain nonfederal leases that overlap high value or core habitats, such as in the case of Grand Teton National Park.

Corr. ID: 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187659 **Organization Type:** Unaffiliated Individual

Representative Quote: The Wyoming Game and Fish Commission has approved and published "Recommendations for Development of Oil and Gas Resources within Important Wildlife Habitats," which include scientifically-based recommendations to mitigate conflicts between oil and gas development and wildlife resources. These recommendations are available at <http://gf.state.wy.us/habitat/index.asp> and may be a useful resource in the revision of 9B regulations, particularly if development is anticipated on any park units in Wyoming. These recommendations outline seasonal use restrictions, standard management practices, BMPs, and habitat mitigation options that are relevant to wildlife and habitat in Wyoming.

Corr. ID: 20 **Organization:** ConocoPhillips Company - San Juan Business Unit

Comment ID: 188345 **Organization Type:** Business

Representative Quote: It is important the NPS consider the stakeholders and work collaboratively to include local and State governments, Native American Tribes, various Federal agencies, and special interest groups for the DEIS to identify issues and consider management options during the planning process to represent all of the interested parties affected by the DEIS.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188355 **Organization Type:** Unaffiliated Individual

Representative Quote: TPWD also recommends the NPS coordinate with the CRMWA during preparation of the EIS to ensure their efforts to minimize impacts to the Arkansas River Shiner are considered in the revised regulations.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188359 **Organization Type:** Unaffiliated Individual

Representative Quote: A review of records in the TXNDD indicates that occurrences of three federal- and state-listed species have been documented in the Big Thicket region. These species are: federal- and state-listed threatened Red-cockaded Woodpecker (*Picoides borealis*), federal candidate and state-listed threatened Louisiana Pine Snake (*Pituophis ruthveni*), and federal- and state-listed endangered Texas trailing phlox (*Phlox nivalis* spp. *texensis*).

Recommendation: TPWD recommends that updated regulations require operators to avoid direct and indirect impacts to threatened and endangered species potentially located in the Big Thicket. TPWD also recommends the NPS coordinate with the Big Thicket during preparation of the EIS to ensure their efforts to

minimize impacts to these species are considered in the revised regulations.

Corr. ID: 24 **Organization:** Florida Department of Environmental Protection

Comment ID: 188612 **Organization Type:** State Government

Representative Quote: Based on the information contained in the scoping notice and enclosed state agency comments, the state has determined that, at this stage, the proposed federal action is consistent with the Florida Coastal Management Program (FCMP). To ensure the project's continued consistency with the FCMP, the concerns identified by our reviewing agencies must be addressed prior to project implementation. The state's continued concurrence will be based on the activity's compliance with FCMP authorities, including federal and state monitoring of the activity to ensure its continued conformance, and the adequate resolution of issues identified during this and subsequent reviews. The state's final concurrence of the project's consistency with the FCMP will be determined during the environmental permitting process in accordance with Section 373.428, Florida Statutes.

Corr. ID: **Organization:** Florida Department of Environmental Protection
24

Comment ID: 188611 **Organization Type:** State Government

Representative Quote: The FWC recommends adherence to USFWS-Florida panther and red-cockaded woodpecker consultation zone guidelines; improved regulation and enforcement of oil and gas drilling techniques that may contaminate water quality or alter hydrological patterns; and maintenance of reasonable access for hunters and visitors.

Corr. ID: **Organization:** Florida Department of Environmental Protection
24

Comment ID: 188606 **Organization Type:** State Government

Representative Quote: The South Florida Water Management District (SFWMD) notes that the scope of work for the proposed EIS should ensure that activities are consistent with Comprehensive Everglades Restoration Plan (CERP) and other Everglades restoration projects that fall within or adjacent to the BCNP or other National Park Service units that may be subject to the proposed rules in the future.

Corr. ID: **Organization:** Florida Department of Environmental Protection
24

Comment ID: 188602 **Organization Type:** State Government

Representative Quote: Depending on the nature of the activity (wetlands and/or surface water impacts, dewatering activities, etc.), state authorizations for the proposed activities may be required under Chapters 253, 373, 377 and 403, Florida Statutes.

Corr. ID: 26 **Organization:** Upper Delaware Council

Comment ID: 188617 **Organization Type:** Unaffiliated Individual

Representative Quote: That said, the UDC would like to go on record as being an interested party because the Upper Delaware Scenic and Recreational River corridor is underlain by the Marcellus shale, and other shale formations, which will be targeted for natural gas development using horizontal drilling and hydraulic-fracturing. We welcome any science-based knowledge that can lead to improved best management practices and a better understanding of the issue. Please keep us informed on this matter.

Corr. ID: 38 **Organization:** BreitBurn Florida LLC

Comment ID: 188673 **Organization Type:** Business

Representative Quote: NPS should consider referencing applicable standards (rules) from state operations (e.g. Florida for the Big Cypress or the Bureau of Land Management (BLM) "Gold Book") or from standard protocols described by the American Petroleum Institute for operations in lieu of developing new NPS standards.

Corr. ID: 41 **Organization:** Tribal Historic Preservation Office - Rosebud Sioux Tribe

Comment ID: 188625 **Organization Type:** Tribal Government

Representative Quote: We, the RST, are interested in exactly what revisions your office may be considering regarding the numerous "reasonable alternatives" (para. I, sentence 3) and the analysis methodology that the NPS may seek to include in the proposed EIS. We are requesting that any changes to the current procedures used at present have Native American review prior to draft publication. Native American interest extends to the affected resources referenced within your notification document and announcement i.e. - water resources, vegetation, wetlands, air resources, night skies, wildlife, cultural resources* and cultural landscapes/geography, and soundscapes.

Each of the resources intimated above effect cultural norms, beliefs, plus the prior and present lifeway of Native people. Under Section 106 of the National Historic Preservation Act (1966), we, as Native American adherents to an indigenous lifeway have affinity to those resources in toto. The affects of oil and gas exploration within those lands set aside for public domain and use were and are part of our historical homelands. In essence, our concerns are the effects of exploitive industry and use of resources that potentially have an individual and cumulative effect upon our worldview, cosmology, and lifeway. Traditional utility of those resources are not separate, compartmentalized, or disconnected entities from an indigenous worldview that is all inclusive. Therefore, we are requesting that Tribes be included in this process of revision.

Concern ID: 28272

CONCERN STATEMENT: One commenter requested that public scoping meetings be held in rural Utah, areas that could be affected by the EIS and rulemaking.

Representative Quote(s): **Corr. ID:** 37 **Organization:** Office of the Governor - Utah

Comment ID: 188630 **Organization Type:** State Government

Representative Quote: The state requests public scoping meetings be held in rural Utah in areas that will be affected by the EIS and rulemaking.

Concern ID: 28273

CONCERN STATEMENT: One commenter asked if park resources would be better protected if the NPS issued specific guidelines regarding standards for how best to collaborate with appropriate federal and state agencies and other stakeholders.

Representative Quote(s): **Corr. ID:** 14 **Organization:** National Parks Conservation Association

Comment ID: 187669 **Organization Type:** Unaffiliated Individual

Representative Quote: Since there have been accidents in the past in capping wells within the National Park System that have inflicted considerable damage to park resources, we would like you to respond to the following question:

Would park resources be better protected if the NPS issued specific guidelines through the 9B regulation regarding standards for how best to collaborate with appropriate federal and state agencies and other stakeholders?

Concern ID: 28274

CONCERN STATEMENT: One commenter suggested that the NPS should be doing more to encourage and accept public input, such as providing copies of plans, maps, and other publications on the internet for public access; allowing public appeals; and holding a public hearing after the NPS releases the proposed EIS.

Representative Quote(s): **Corr. ID:** 23 **Organization:** Sierra Club

Comment ID: 188556 **Organization Type:** Conservation/Preservation

Representative Quote: The national park system is public property, held in perpetuity for future generations. As such, the public deserves a clear voice in how these resources are managed. The existing rules rightly ensure that the public has an opportunity to comment on plans of operations for oil and gas extraction, and that

all documents submitted in such plans shall be "available for public inspection at the office of the Superintendent during normal business hours." 36 .F.R. § 9.52. The NPS should work to broaden public involvement still further, including allowing for public appeals of operating plans.

Initially, now that the NPS has a substantial online presence, documents should not be available only at the office of the Superintendent. Instead, NPS should revise its rules to post all proposed plans of operation, and supporting documents, online, along with maps delineating where proposed drilling will occur. Comments on the documents should also be public, just as they are at www.regulations.gov. It should be easy for members of the public to compare draft and final plans, and to access plans to determine whether operators are complying with them. The rules should also clarify that any revisions to the plan will also be subject to public notice. Cf. 36 C.F.R. § 9.40.

Once a plan has been finalized, the NPS should be sure that appeals may be filed by either the public or operators, not operators alone. Unfortunately, at present, the rules appear to allow only "any operator" to appeal an operating plan, rather than members of the public. 36 C.F.R. § 9.49(a). If only operators are allowed to appeal, the body of law and guidance on plans of operation will be skewed, as the Regional Director will consider only efforts to weaken such plans. As a public agency, the NPS should, instead, hold itself accountable to all members of the public. It should amend 36 C.F.R. § 9.49 to include such public appeals.

Corr. ID: **Organization:** Sierra Club
23

Comment ID: 188599 **Organization Type:** Conservation/Preservation

Representative Quote: Further, although the NPS opted not to hold hearings during this NEPA scoping process, we encourage it to do so when it releases its proposed EIS, and to do so in regions directly affected by gas drilling, including in the Marcellus Shale region.

Concern ID: 28275

CONCERN STATEMENT:

One commenter noted that he and his wife own a portion of land that is under the scope of this EIS; he said they would entertain an offer from the NPS for rights to their land and minerals.

Representative Quote(s):

Corr. ID: **Organization:** *Not Specified*
40

Comment ID: 188626 **Organization Type:** Unaffiliated Individual

Representative Quote: RE: Oil, Gas & Mineral ownership S5,6&8, T49S, R32E, Collier County, Florida. (Big Cypress Preserve Addition)
Dear Sandy,

Three things you should know concerning the preserve near and around the above described ownership:

1) The oil, gas and mineral exploration and extraction rights are part of the public records of Collier County, Florida; negotiated and agreed as part of our condemnation settlement, July 1988.

2) What NPS refers to as "Bundschu Road" (OR Book 1122 at Page 1258) is owned and maintained by my wife and I and our OG&M Trust. This ownership has figured prominently in our most recent oil, gas and mineral lease negotiations.

3) Limitations to our oil, gas and mineral exploration and extraction rights, if any, would require either litigation or condemnation.

We have discussed this matter with our Trust Advisor and concluded to entertain an offer from NPS/DOI for our Oil, Gas & Mineral ownership and limitation of the Bundschu Road as an easement appurtenant to run with our life estate ownership.

Concern ID: 28276

CONCERN STATEMENT: One commenter asked whether former land owners with mineral rights would receive royalties under the revised regulations.

Representative Quote(s): **Corr. ID:** 39 **Organization:** *Not Specified*

Comment ID: 188627 **Organization Type:** Unaffiliated Individual

Representative Quote: What are the Rights of former land owners with mineral rights to get accurate information concerning the activities of oil companies and our right to get royalties for our mineral rights?

CL1000 - Climate Change: Impact of Proposal and Alternatives

Concern ID: 28277

CONCERN STATEMENT: One commenter stated that the EIS must estimate direct, indirect, and cumulative climate change gas emissions due to well drilling, as well as evaluate how this proposal will affect and be affected by climate change.

Representative Quote(s): **Corr. ID:** 19 **Organization:** *Not Specified*

Comment ID: 187772 **Organization Type:** Unaffiliated Individual

Representative Quote: NPS in the EIS should estimate direct and indirect CO2 emissions (for example, the approximate CO2 emissions due to the estimated amount of fossil fuel removed from the reservoir). NPS must estimate direct, indirect, and cumulative climate change gas emissions due to well drilling and put this information in the EIS so the public and decision-makers can review, comment on, and understand the total environmental impacts of this proposal The NPS must also provide mitigation measures to reduce climate change gases and the effects of climate change gases in the EIS.

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 188339 **Organization Type:** Unaffiliated Individual

Representative Quote: NPS must address questions like:

1. How will this proposal affect and be affected by climate change?
2. What can be done to create more resilient and resistant habitats and ecosystems?
3. What can NPS do to reduce CO2 or other greenhouse gas emissions within the National Park System?
4. What can be done to assist plants and animals in the National Park System so they can adapt to climate change?

GA1000 - Impact Analysis: Impact Analyses

Concern ID: 28278

CONCERN STATEMENT: One commenter suggested that the impact analysis of the EIS should focus on site-specific impacts at each location.

Representative Quote(s): **Corr. ID:** 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187531 **Organization Type:** Unaffiliated Individual

Representative Quote: Since the proposed new rule apparently will affect different units of the National Park System throughout the United States, the proposed EIS should analyze the site-specific impacts of the changed rule on each location. In particular, if the Service is going to change the rules governing oil and gas activities of the Big Cypress, then the EIS must analyze the environmental impacts of these changes specifically in the Big Cypress. The Big Cypress is unique among units of the National Park Service, and conditions there are quite different than conditions in units elsewhere, such as those in the arid western United States. The Service cannot realistically analyze the environmental impacts of any rule changes without looking at the unique conditions of each unit of the National Park System affected by the regulation, such as the Big Cypress. We do see little opportunity for tiering from this EIS, because the Service's proposal apparently is to make binding changes to its regulation which would immediately effect operations throughout the country. Accordingly, the proposed EIS needs to thoroughly analyze the impacts of the proposal on each unit, and not simply talk in generalities.

Concern ID: 28279

CONCERN STATEMENT: Commenters made suggestions about what should be included into the impact analysis within the EIS, such as impacts throughout the oil/gas development cycle; landscape scale cumulative impacts; impacts to resources when mitigation measures are applied; impacts to water, soil, air quality, solitude, light pollution, and aesthetics; surface water flows; wetland and wildlife habitat integrity; and

impacts to public recreational use.

Representative Quote(s): **Corr. ID:** 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187650 **Organization Type:** Unaffiliated Individual

Representative Quote: The NEPA analysis should include a landscape scale cumulative impacts assessment, and must evaluate the availability, arrangement, and condition of important habitats within potentially affected park units, as well as the effects of past, present, and reasonably foreseeable developments within park units.

Corr. ID: 14 **Organization:** National Parks Conservation Association

Comment ID: 187680 **Organization Type:** Unaffiliated Individual

Representative Quote: In addition, we encourage the NPS to consider the cumulative effects of the pollution created by oil and gas operations, especially class I area parks that could put park resources and visitor health at unacceptable risk.

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 187728 **Organization Type:** Unaffiliated Individual

Representative Quote: In many of the EAs that the NPS has released for BTNP voluntary mitigation measures often are found in greater numbers than mandatory mitigation measures. This should not be the case. In the EIS NPS should discuss how it will ensure that any mitigation measure that protects any National Park System unit must be one that NPS can enforce and is not voluntary in nature. From a legal perspective this makes great sense and there should be no argument about its implementation. Compliance must not rely on simply the good nature of a company to implement voluntary restrictions. NPS must require national, mandatory, restrictions to ensure protection of the National Park System.

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 188341 **Organization Type:** Unaffiliated Individual

Representative Quote: NPS must assess in the EIS the many wells have been drilled both in and under National Park System units and adjacent to them on private lands. Many pipelines, roads, logging operations, prescribed and wildfire burning, and other actions have occurred in the past, present, and will occur in the reasonably foreseeable future in National Park System units and adjacent to National Park System units. At minimum, an adequate cumulative effects analysis must:

1. Identify the past, present, and reasonably foreseeable actions of NPS and other parties affecting each particular aspect of the affected environment
2. Must provide quantitative information regarding past changes in habitat quality

and quantity, water quality, resource values, and other aspects of the affected environment that are likely to be altered by NPS actions

3. Must estimate incremental changes in these conditions that will result from NPS actions in combination with actions of other parties, including synergistic effects

4. Must identify any critical thresholds of environmental concern that may be exceeded by NPS actions in combination with actions of other parties

5. Must identify specific mitigation measures that will be implemented to reduce or eliminate such effects

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 187758 **Organization Type:** Unaffiliated Individual

Representative Quote: In the federal register, under the Summary, NPS lists park resources that may be affected by oil/gas activities. However, NPS fails to list several park resources that are very important. These natural resources include solitude, light pollution, aesthetics, and protection of important recreational experiences. These natural resources should be covered in the EIS and when rewriting the 9B regulations so that they are protected.

Corr. ID: 24 **Organization:** Florida Department of Environmental Protection

Comment ID: 188610 **Organization Type:** State Government

Representative Quote: Although more specific comments will be provided during review of the Draft EIS, the Florida Fish and Wildlife Conservation Commission (FWC) indicates that a number of listed wildlife species and their habitats occur in BCNP. Oil and gas activities should be evaluated for impacts to area water, soil and air quality; surface water flows; wetland and wildlife habitat integrity; and public recreational use of the preserve.

Corr. ID: 24 **Organization:** Florida Department of Environmental Protection

Comment ID: 188600 **Organization Type:** State Government

Representative Quote: The Florida Department of Environmental Protection (DEP) requests that oil and gas development activities be evaluated comprehensively for their direct and indirect impacts to surface water flow, water quality, wetlands, fish and wildlife habitat types, air quality, wilderness resources, recreational areas, listed species, and introduction or spread of invasive exotic species in Big Cypress National Preserve (BCNP).

Corr. ID: 24 **Organization:** Florida Department of Environmental Protection

Comment ID: 188613 **Organization Type:** State Government

Representative Quote: Oil and gas development activities should be evaluated comprehensively for their direct and indirect impacts to surface water flow, water quality, wetlands, habitat types (and their associated fish and wildlife resources), air quality, wilderness resources, recreational areas, listed and endangered species (including the Florida panther, eastern indigo snake, black bear, West Indian manatee and red-cockaded woodpecker) and the potential for introducing or disturbing areas that could lead to the spread of invasive exotic species.

Corr. ID: 32 **Organization:** *Not Specified*

Comment ID: 188623 **Organization Type:** Unaffiliated Individual

Representative Quote: The 2009 NPS report "Development of the Natural Gas Resources in the Marcellus Shale" identified major impacts of gas drilling against the values of national parks, including soils, surface and ground water, vegetation, air pollution, noise, reduction in roadless areas, and damage to the beautiful views we enjoy in the parks. It also identified ways of reducing those impacts. Your EIS should address these impacts and mitigation concepts. It should estimate how the revised rule will reduce the adverse impacts and achieve more effective mitigation.

Corr. ID: 36 **Organization:** *Not Specified*

Comment ID: 187589 **Organization Type:** Unaffiliated Individual

Representative Quote: The EIS should discuss impacts throughout the oil/gas development cycle. Those impacts occur during seismic surveys, exploration drilling, production drilling, full-field development, and shutdown and reclamation. Development typically includes step-out wells, pipelines, tanks, roads, and compressors. Each phase involves impacts that can impair many values of the parks.

GA3000 - Impact Analysis: General Methodology For Establishing Impacts/Effects

Concern ID: 28281

CONCERN STATEMENT: One commenter stated that the NPS must quantify the environmental impacts and the methodology used to define "negligible," "minor," "moderate," and "major" impacts and explain why "moderate" impacts are not significant under NEPA.

Representative Quote(s): **Corr. ID:** 19 **Organization:** *Not Specified*

Comment ID: 187765 **Organization Type:** Unaffiliated Individual

Representative Quote: Analyses in the EA's and the EIS that NPS has conducted in BTNP in the past was mostly based on "best professional judgment" which is

simply what a group of people think is important based on their experience and training. This level of assessment, analyses, and evaluation for environmental impacts and alternatives is an insufficient base for a programmatic EIS.

NPS must define what "best professional judgment" means so that the public can review, comment on, and understand what NPS is referring to. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ.

The use of "best professional judgment" is not a substitute when quantitative information is available to show what impacts are or could be. This is the concern that I have when NPS develops and uses the "Methodology for Assessing Impacts". This methodology is based on "best professional judgment" but the public is not told how this phrase is defined and what it means. The interaction of the "Methodology for Assessing Impacts" with the requirement in Section 1502.22 of the CEQ's NEPA implementing regulations must be discussed completely in the EIS.

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 187716 **Organization Type:** Unaffiliated Individual

Representative Quote: NPS must quantify in the EIS the environmental impacts and the methodology used must remove the "conclusory statements" that Judge Bates ruled against. Judge Bates states in his decision that the descriptors "negligible", "minor", "moderate", and "major" are largely undefined or are defined in a manner that includes few objective bounds. These descriptors must be defined with objective bounds. In addition, the NPS must explain the basis for its conclusion that potentially "moderate" impacts are not significant under NEPA.

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 187718 **Organization Type:** Unaffiliated Individual

Representative Quote: NPS must not fail to take the "hard look" that Judge Bates admonished it to do. Ultimately, the Sierra Club asks the question "Why are moderate environmental impacts acceptable in the National Park System to NPS? NPS has stated in oil/gas EAs for BTNP that "The authorizing legislation directs the Secretary of the Interior to administer the lands within the Preserve "in a manner which will assure their natural and ecological integrity in perpetuity". How can moderate environmental impacts assure the National Park System's natural ecological integrity in perpetuity? The NPS has never explained this dichotomy. The EIS must explain this dichotomy for the entire National Park System with regard to all potential oil/gas activities.

Concern ID: 28282

CONCERN STATEMENT: One commenter asked that the NPS explain how it will organize its expertise to review operating plans and conduct compliance inspections on active oil/gas operations.

Representative Quote(s): **Corr. ID:** 34 **Organization:** *Not Specified*

Comment ID: 188662 **Organization Type:** Unaffiliated Individual

Representative Quote: Please explain in the EIS how the National Park Service will organize its expertise to review operating plans and conduct compliance inspections on active oil/gas operations. In the 1970s and 80s the Bureau of Land Management had a shortage of qualified oil/gas inspectors, so they assigned unqualified staff from other activities to conduct compliance inspections. The results were not good. Does NPS maintain a centralized staff with experience in oil/gas drilling and production? If so, how will their expertise be provided to park superintendents? Will other agencies with oil/gas expertise be consulted? Which offices or staffs will be responsible for reviewing plans of operation? Who will be the responsible official for approving plans of operation? Who will be responsible for providing adequate inspections and monitoring?

Concern ID: 28283

CONCERN STATEMENT: One commenter suggested that the NPS define "indirect effects."

Representative Quote(s): **Corr. ID:** 24 **Organization:** Florida Department of Environmental Protection

Comment ID: 188608 **Organization Type:** State Government

Representative Quote: Regulation 9.36 (16)(ii) requests "the anticipated direct and indirect effects of the operations on the unit's natural, cultural, social, and economic environment." Please provide a definition of "indirect effects" to help ensure all potential indirect effects are addressed prior to approval (i.e., invasive exotic species introduction from movement of equipment).

PN3000 - Purpose And Need: Scope Of The Analysis

Concern ID: 28284

CONCERN STATEMENT: Commenters suggested topics they believe should be within the scope of the EIS, such as additional park units where oil and gas exploration/extraction is plausible; information on impacts that cannot be mitigated; detailed descriptions of which forms of seismic operations, exploratory well drilling, and wellpad construction will be acceptable; a climate change ecological resilience and resistance plan; and a discussion on fracking (hydraulic fracturing) and how it may be used under the revised 9B Regulations.

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187434 **Organization Type:** Conservation/Preservation

Representative Quote: The EIS should analyze the potential impacts of drilling in present and future units of the National Park System. Nonfederal oil and gas operations are now taking place within 11 units of the National Park System, as listed in a news release from NPS dated January 18, 2011. Some of these parks are well known for their bird populations, especially Big Cypress National Preserve (FL), Big Thicket National Preserve (TX), and Padre Island National Seashore (TX), all of which are listed as Globally Important Bird Areas by the American Bird Conservancy. Birders make long trips to visit these parks and observe their bird populations. Two of the 11 are in our neighboring state of West Virginia - New River Gorge and Gauley River National Rivers.

Those 11 units are not the whole story. A report issued by NPS entitled "Development of Natural Gas Resources in the Marcellus Shale," dated November 2009, lists 35 units of the National Park System that may be at risk of drilling within the Marcellus Shale, a deposit currently being developed for natural gas.

The EIS should list all units of the National Park System that have private inholdings with mineral development rights, and how many acres in each. Which units involve privately owned subsurface mineral rights (sometimes referred to as "split estate"), and how many acres in each? Here in the Appalachian region we have seen the results of oil and gas development in the Allegheny National Forest (Pennsylvania), where the Forest Service acquired only the surface estate, and drilling on nonfederal mineral rights has moved into areas the Forest Service had designated for protection.

Corr. ID: 19 **Organization:** *Not Specified*

Comment ID: 188340 **Organization Type:** Unaffiliated Individual

Representative Quote: NPS should prepare and include in the draft EIS a climate change ecological resilience and resistance plan (CCERRP) for the National Park System. The CCERRP would assess the biological and ecological elements in the National Park System and the effects that climate change has had and will have on them. The CCERRP would also assist plants, animals, and ecosystems in adapting to climate change and would require monitoring of changes and mitigation measure effectiveness. The CCERRP would be based on:

1. Protection of existing functioning ecosystems in the National Park System.
2. Reduction of stressors on the ecosystems in the National Park System.
3. Restoration of natural functioning ecological processes in the National Park System.
4. Use of natural recovery in the National Park System in most instances.
5. Acquire buffers and corridors to expand and ensure connectivity of ecosystems in the National Park System.
6. Intervene to manipulate (manage) ecosystems in the National Park System only as a last resort.
7. Reduce climate change gases that are emitted directly, indirectly, or cumulatively due to the National Park System.

Corr. ID: 19

Organization: *Not Specified*

Comment ID: 187730

Organization Type: Unaffiliated Individual

Representative Quote: The proposed EIS should clearly and fully describe fracing (hydraulic fracturing) and how NPS will ensure that groundwater under any NPS unit is not contaminated. As NPS is aware groundwater can find its way to the surface and flow into surface water. Thus a link for contamination exists unless NPS rigorously regulates fracing and the use diesel oil or other harmful constituents of fracing fluid.

Corr. ID: 23

Organization: Sierra Club

Comment ID: 188568

Organization Type: Conservation/Preservation

Representative Quote: Although the regulations suggest that plans of operation may cover the "exploratory phase," 36 C.F.R. § 9.30(c), they do not contain detailed descriptions of which forms of seismic operations, exploratory well drilling, and wellpad construction will be acceptable. This omission is a substantial flaw. Seismic lines - which may involve setting off explosives, massive thumper trucks, or other disruptive interventions - can fragment habitat, disturb wildlife, and open up channels for run-off and water pollution. The NPS must revise its regulations to address, and minimize, these impacts. We therefore attach a detailed report on seismic standards, compiled by oil and gas expert Susan Harvey, which sets out state-of-the-art requirements for these operations. We incorporate that report into these comments and ask that the NPS analyze and adopt each of its recommendations.

As part of seismic exploration and site characterization, the NPS should require careful baseline air and water quality and hydrogeological testing of ground and surface water, over a full year's hydrological cycle. This testing is essential to developing data on the resources oil and gas extraction could affect, and will be crucial to establishing operator liability should contamination occur.

Corr. ID: 23

Organization: Sierra Club

Comment ID: 188598

Organization Type: Conservation/Preservation

Representative Quote: The NPS should, in other words, include data in the EIS on all units with privately-owned mineral rights near or adjacent to them, and the acreage in each unit affected by these mineral rights. The NPS should look cumulatively across the system, carefully accessing direct, indirect, and cumulative impacts, see 40 C.F.R. §§ 1508.7-1508.8, to produce a full accounting of the cost to the system of business as usual, and the benefits the NPS could secure by updating the rules.

Corr. ID: 24 **Organization:** Florida Department of Environmental Protection

Comment ID: 188609 **Organization Type:** State Government

Representative Quote: Regulation 9.36 (16)(iii) states that there should be information on "steps to be taken to ensure minimum surface disturbance and to mitigate any adverse environmental effects, and a discussion of the impacts which cannot be mitigated." The Park Service should consider including information on impacts which cannot be mitigated.

Corr. ID: 30 **Organization:** *Not Specified*

Comment ID: 188621 **Organization Type:** Unaffiliated Individual

Representative Quote: The 9B rule affects 11 parks already undergoing drilling, it could affect 31 parks potentially at risk of drilling, and it could affect still other new parks that will be added to the system in the years ahead. The EIS should estimate the environmental impacts of drilling in these three categories, and discuss how those impacts would be reduced by a stricter rule.

Corr. ID: 33 **Organization:** *Not Specified*

Comment ID: 188432 **Organization Type:** Unaffiliated Individual

Representative Quote: In the EIS, please include a list of all units of the National Park System that have privately held mineral rights, and show them on a map. This will help readers understand the magnitude of the problem. Even if only 11 units of the system already are undergoing drilling, there could soon be many more as gas drilling expands in the Marcellus Shale region of the Appalachian Mountains. Still other oil and gas deposits may be found in different geological formations in the decades ahead.

Corr. ID: 34 **Organization:** *Not Specified*

Comment ID: 188655 **Organization Type:** Unaffiliated Individual

Representative Quote: While the rulemaking would immediately apply to 11 units of the park system, the EIS should also anticipate proposals for drilling in other units that have nonfederal mineral estate under federal surface. We would like to see a list in the EIS showing all units that involve such split estate lands and the affected acreage in each unit.

Corr. ID: 34 **Organization:** *Not Specified*

Comment ID: 188659 **Organization Type:** Unaffiliated Individual

Representative Quote: The rule could also apply to new units added to the system in the years ahead, if nonfederal oil/gas rights are within the park boundaries. Don't limit the analysis to the Marcellus Shale region, because oil and gas may be discovered in other parts of the country. Twenty years ago there was no talk of

drilling for natural gas in the Marcellus Shale, but now there is gas drilling throughout the Marcellus.

Concern ID: 28285

CONCERN STATEMENT: One commenter suggested that Big Cypress National Preserve should be considered outside the scope of this EIS because it is already being administered and monitored by other agencies.

Representative Quote(s): **Corr. ID:** 38 **Organization:** BreitBurn Florida LLC

Comment ID: 188677 **Organization Type:** Business

Representative Quote: The Big Cypress National Preserve was created as a "Preserve" not a "park" by Congress to allow for continued oil and gas operations. The regulatory functions of the Bureau of Mining and Mineral Resources (BMMR) of the Florida Department of Environmental Regulation (FDEP) administer the oil and gas program state-wide and over private and public lands including those in the Big Cypress National Preserve. FDEP also oversees wetlands resource permits for any surface disturbances in a joint program with the US Army Corps of Engineers. Water resource permits are handled by the South Florida Water Management District. The fees associated with these permits provide for oversight that includes inspection and monitoring programs that are carried out by State of Florida field personnel. The issue of proposing to charge to recover the costs of "processing and monitoring" in the context of the Preserve needs to be reviewed carefully to avoid the practical and legal problems arising from duplicative programs concerning retained private lands.

Corr. ID: 38 **Organization:** BreitBurn Florida LLC

Comment ID: 188675 **Organization Type:** Business

Representative Quote: Florida regulatory programs require permits to insure that wells are drilled correctly and maintained appropriately. There are no surface impacts within the Preserve from wells drilled from outside NPS jurisdiction from subsurface bottom hole locations beneath NPS surface lands. Consequently, NPS jurisdiction would be duplicative of state regulatory measures and potentially contradictory. BreitBurn believes that there is no need for NPS jurisdiction for wells drilled from private property outside federal surface lands to privately owned minerals.

PN6000 - Purpose And Need: Land Management Laws, Exec Orders

Concern ID: 28286

CONCERN STATEMENT: Commenters stated that the NPS, under the Organic Act and the Park System Resource Protection Act, has an obligation to protect the natural and cultural resources of the parks in perpetuity, and when there is a potential conflict, the resource must come first.

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187451 **Organization Type:** Conservation/Preservation

Representative Quote: The National Park Service has a strong mandate from Congress to protect designated wildlife and the ecological balance and integrity of the parks. The NPS Organic Act of 1916 directs the agency to "promote and

regulate" the use of the lands "by such means and measures as conform to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." Under this nonimpairment mandate, we believe NPS has an obligation to protect the natural and cultural resources of the parks in perpetuity, and when there is a potential conflict, the resource must come first.

Corr. ID: 14 **Organization:** National Parks Conservation Association

Comment ID: 187663 **Organization Type:** Unaffiliated Individual

Representative Quote: NPCA believes that the NPS should use its existing legal authority under the Property Clause (Art. IV, Section 3, cl. 2) the Commerce Clause (art. I, section 8, cl. 3) of the United States Constitution, Park System Resource Protection Act (PSPRA) and the Redwoods Amendments to the Organic Act, to ensure that all oil and gas activities on NPS lands are conducted responsibly through guidelines provided under 9B regulations.

PSPRA establishes an affirmative duty on the Secretary of the Interior and NPS to take any necessary actions to prevent or minimize harm to park resources. PSPRA supports the authority of NPS to make the revisions to 9B because the PSPRA requires NPS to do whatever actions are necessary to prevent harm to park resources. Therefore, NPS not only has the authority to establish stronger protections under 9B, but NPS also has an affirmative duty to establish regulations that better protect park resources. The PSPRA also supports the authority of NPS to increase the bonding requirements for drilling operations. The PSPRA allows NPS to recover the full response costs for damages to park resources that are caused by third parties.

The Redwoods Amendments to the Organic Act further support the proposed revisions to 9B. Under the Redwoods Amendments, NPS has a duty to adopt any regulations and take appropriate management decisions to protect park resources from both internal and external threats. Congress stated that the Redwoods Amendments are intended to establish an affirmative duty in NPS to take any actions that are reasonably necessary to protect park resources from internal threats and threats that occur beyond the boundaries of the parks.

Concern ID: 28287

CONCERN STATEMENT: [One commenter stated that the EIS must address the legal differences between different NPS units, such as National Preserves and National Parks, and how these differences may affect oil and gas operations.](#)

Representative Quote(s): **Corr. ID:** 12 **Organization:** Collier Resources Company c/o White & Case LLP

Comment ID: 187533 **Organization Type:** Unaffiliated Individual

Representative Quote: The EIS also must address the important legal differences between oil and gas rules in the various units of the National Park System affected by these rules. For instance, Big Cypress is a National Preserve, not a National Park, and Congress expressly authorized oil and gas activities there when the

Preserve was created. That makes Big Cypress different than the National Parks, which also will be affected by the forthcoming proposed rule. Given the fact that individual units of the National Park System have different rules agreements governing oil and gas operations, any substantive revisions to the 9B Regulations should address how they will apply to the different legal regimes that exist in the different units of the National Park System. As such, the proposed EIS should examine whether units of the National Park System possess legal regimes which may not be disturbed by revisions to the 9B Regulations and how those legal regimes will be accounted for. It is very important that any changes to the 9B Regulations not undermine the commitments made by the federal government years ago regarding oil and gas activities within units of the National Park System.

Concern ID: 28288

CONCERN STATEMENT: One commenter stated that the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) and Alaska Native Claims Settlement Act (ANCSA) makes an exemption from the 9B Regulations for lands within Alaska.

Representative Quote(s): **Corr. ID:** 22 **Organization:** Ahtna, Inc.

Comment ID: 188372 **Organization Type:** Business

Representative Quote: DOI has adopted multi-agency regulations governing access to inholdings under ANILCA subsection 1110(b) at 43 C.F.R. § 36.10. As the Department recognized in promulgating these regulations, the legislative history of ANILCA "clearly states that the grant of access must be broadly construed":

The Committee understands that the common law guarantees owners of inholdings access to their land, and that rights of access might also be derived from other statutory provisions, including other provisions of this title, or from constitutional grants. This provision is intended to be an independent grant supplementary to all other rights of access, and shall not be construed to limit or be limited by any right of access granted by the common law, other statutory provisions, or the Constitution.

Corr. ID: 22 **Organization:** Ahtna, Inc.

Comment ID: 188371 **Organization Type:** Business

Representative Quote: ANILCA includes specific and critically important provisions that ensure reasonable access to inholdings in National Parks in Alaska. Subsection 1110(b) of ANILCA, 16 U.S.C. § 3170(b) requires the Department of Interior (DOI) to provide "adequate and feasible" access to private inholdings within National Parks and other conservation system units in Alaska. Specifically subsection 1110(b) provides:

Notwithstanding any other provision of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for

economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

Corr. ID: 22 **Organization:** Ahtna, Inc.

Comment ID: 188370 **Organization Type:** Business

Representative Quote: In enacting ANILCA, Congress intended that nonfederal land within conservation system units in Alaska, which includes National Parks, would remain available for development. In section 101(d) of ANILCA it recognizes the balance between resource protection and development:

This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the preservation of national conservation system units and those public lands necessary and appropriate for intensive use and disposition ...

16 U.S.C. § 3101(d). Congress included special provisions in the Act to assist landowners in fulfilling this important, recognized economic need.

PN8000 - Purpose And Need: Objectives In Taking Action

Concern ID: 28289

***CONCERN
STATEMENT:***

Commenters had suggestions regarding the objectives of revising the 9B Regulations, such as avoiding and minimizing the adverse effects of nonfederal oil and gas operations on fish, wildlife, and associated habitat and the management of species and habitat within NPS unit boundaries and including carefully outlined reclamation objectives in the EIS. One commenter stated that the objectives should not be to accommodate the oil and gas industry by streamlining the approval process.

Representative Quote(s): **Corr. ID:** 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187647 **Organization Type:** Unaffiliated Individual

Representative Quote: Oil and gas exploration, development, and production on land and subsurface minerals under any ownership has the potential to impact terrestrial and aquatic wildlife and habitat. The impacts of oil and gas development may include the direct loss of habitat, physiological stress to wildlife, disturbance and displacement of wildlife, habitat fragmentation and isolation, alteration of environmental functions and processes, introduction of competitive and predatory organisms, and secondary effects created by work force assimilation and growth of service industries. The purpose set forth for the 9B regulations should explicitly state that the regulations are, in addition to other reasons listed, designed to avoid and minimize the adverse effects of nonfederal oil and gas operations on fish,

wildlife, and associated habitat and the management of species and habitat within NPS unit boundaries.

Corr. ID: 13

Organization: Wyoming Game and Fish Department

Comment ID: 187649

Organization Type: Unaffiliated Individual

Representative Quote: The draft objectives broadly address many of the concerns noted above. We recommend that the objectives for revising the 9B regulations also ensure that issues and concerns related to the potential impacts of nonfederal oil and gas development on terrestrial and aquatic wildlife and habitat (noted above) within park unit boundaries and adjacent to unit boundaries (in the case of directional drilling) are thoroughly analyzed and addressed in the EIS.

Corr. ID: 13

Organization: Wyoming Game and Fish Department

Comment ID: 187653

Organization Type: Unaffiliated Individual

Representative Quote: Requirements for reclamation plans should be carefully outlined in the revised regulations and should include both interim and final plans using defined benchmarks and comparisons to undisturbed reference sites to measure success. Reclamation plans should be developed as part of each well field plan of operations, and site-specific plans should be submitted with each Application for Permit to Drill (APD) or prior to installation of roads and pipelines. Reclamation objectives should focus on maintaining healthy, biologically active topsoil; controlling erosion; and restoring habitat, visual resources, and forage production on all areas not needed for long-term operation of the well field.

Corr. ID: 19

Organization: *Not Specified*

Comment ID: 187759

Organization Type: Unaffiliated Individual

Representative Quote: Reasons to change of the 9B regulations should not include the accommodation of the oil/gas industry by stream-lining the approval process. Stream-lining the approval process is code for making it friendly to industry and does not necessarily result in the protection of public natural resources in the National Park System. I have seen two good people in BTNP pressured by a superintendent to hurry up the oil/gas approval process. These two extremely competent NPS employees decided, due to this pressure, to either transfer to another NPS unit or quit because of the pressure they received from the NPS superintendent and an oil/gas company. I do not want to see public servants treated in this way. I don't want to see this ever happen again.

SE4000 - Socioeconomics: Impact Of Proposal And Alternatives

Concern ID: 28290

***CONCERN
STATEMENT:***

One commenter recommended that the EIS analyze the impacts of alternatives on non-federal lease holders and the economic impacts to local communities, impacts that include royalties; wages; and sales, income, and ad-valorem taxes.

Representative Quote(s): **Corr. ID:** 37 **Organization:** Office of the Governor - Utah

Comment ID: 188634 **Organization Type:** State Government

Representative Quote: The NOI primarily identifies rule revision as necessary to minimizing the impact of oil and gas activities on park visitors, infrastructure, and management. The state is also concerned with how this rule could affect non-federal mineral lease holders and their accompanying rights. In addition to the analysis suggested in the NOI, the state recommends the EIS analyze the impacts of alternatives on non-federal lease holders and the economic impacts to local communities. impacts that include royalties, wages, and sales, income, and ad-valorum taxes. A thorough sociological impact analysis should also be included.

TE4000 - Threatened And Endangered Species: Impact Of Proposal And Alternatives

Concern ID: 28291

CONCERN STATEMENT: [Commenters stated that special consideration should be given to Endangered Species Act-listed species.](#)

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187452 **Organization Type:** Conservation/Preservation

Representative Quote: The EIS should analyze the impacts of oil and gas operations on birds and other forms of wildlife in the parks. Special attention should be given to: (1) species listed under the Endangered Species Act and (2) species without ESA listing which have been identified as "species in need of conservation." We believe the Endangered Species Act gives NPS separate, stringent obligations to protect the habitat of ESA-listed species, going beyond the strong mandate in the 1916 Organic Act. This added authority should be recognized in the EIS and in the rule.

Corr. ID: 21 **Organization:** Texas Parks and Wildlife

Comment ID: 188353 **Organization Type:** Unaffiliated Individual

Representative Quote: A review of records in the Texas Natural Diversity Database (TXNDD) indicates that occurrences of the federal- and state-listed threatened Arkansas River shiner (*Notropis girardi*) have been documented in the Canadian River upstream and downstream of Lake Meredith National Recreation Area. Threats to the Arkansas River Shiner across its range include habitat destruction and modification from stream dewatering, habitat depletion due to diversion of surface water and groundwater pumping, construction of impoundments, competition with the non-native species, and water quality degradation. This species may occur within Lake Meredith National Recreation Area, and populations outside of the unit could be adversely affected by activities that impact water quality and flow.

WH4000 - Wildlife And Wildlife Habitat: Impact Of Proposal And Alternatives

Concern ID: 28292

CONCERN STATEMENT: Commenters suggested that the EIS carefully analyze impacts to wildlife and wildlife habitat as a result of the revised 9B Regulations.

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187518 **Organization Type:** Conservation/Preservation

Representative Quote: The EIS should take full account of noise impacts on bird habitat. We mention this because noise impacts are often overlooked. Noise from drilling equipment, machinery, and service vehicles can degrade bird habitat in several ways, among them: (1) noise exposes birds to increased predation by preventing them from hearing predators and from hearing alarm calls uttered by other birds, (2) it drowns out the songs used by birds in the breeding season to establish territory and attract mates, and (3) it drowns out the call notes used by birds for flock cohesion in migration and in winter habitat.

Corr. ID: 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187657 **Organization Type:** Unaffiliated Individual

Representative Quote: Bighorn Canyon NRA also contains portions of the Wyoming Game and Fish Commission's Yellowtail Wildlife Habitat Management Area (WHMA). Yellowtail WHMA was established to provide habitat for waterfowl and upland game birds, as well as for public recreational activities. We actively manage habitats at Yellowtail in cooperation with the NPS, Bureau of Land Management, and Bureau of Reclamation. If oil and gas development were to occur within the Bighorn Canyon NRA unit, we have concerns that it could negatively impact our habitat and recreation efforts, and the purposes for which Yellowtail WHMA was established.

Corr. ID: 13 **Organization:** Wyoming Game and Fish Department

Comment ID: 187655 **Organization Type:** Unaffiliated Individual

Representative Quote: The Wyoming Game and Fish Department encourages the NPS to evaluate the impacts of oil and gas development on wildlife species, habitats, and wildlife related recreational activities (e.g., hunting, wildlife viewing, etc.) within and near Bighorn Canyon National Recreation Area (NRA). Bighorn Canyon NRA, part of the National Park System, lies in Wyoming and Montana. The portion of the NRA in Wyoming contains habitat for bighorn sheep, mule deer, mountain lion, wild turkey, pheasant, waterfowl, and many species of non-game birds and mammals. No crucial habitats have been identified in Bighorn Canyon NRA by the Department, although the NPS may have those habitats delineated.

WQ4000 - Water Resources: Impact Of Proposal And Alternatives

Concern ID: 28293

CONCERN STATEMENT: Commenters suggested that the NPS more strictly regulate oil and gas operations in water and in wetlands compared to operations on land. Furthermore, commenters suggested that impacts to water resources should thoroughly be evaluated.

Representative Quote(s): **Corr. ID:** 10 **Organization:** Maryland Ornithological Society

Comment ID: 187519 **Organization Type:** Conservation/Preservation

Representative Quote: We recommend that the National Park Service regulate oil and gas operations more strictly in water and in wetlands than on land. The Deepwater Horizon oil spill in 2010 brought public attention to the ways wildlife habitat can be impaired by waterborne oil and substances used in drilling. MOS members have personal experience with many areas of essential bird habitat located in wetlands, along shorelines, and on bodies of water. We suggest that NPS has an obligation to provide more stringent protection in water and wetlands situations. The EIS should analyze alternatives for doing this and cite statutory authority in applicable laws aside from the Organic Act.

Corr. ID: 24 **Organization:** Florida Department of Environmental Protection

Comment ID: 188601 **Organization Type:** State Government

Representative Quote: In particular, the use of heavy equipment and construction of new facilities and infrastructure to support the drill sites have the potential to adversely affect water resources. The impacts of well construction and abandonment are important - efforts to monitor potential groundwater and surface water contamination through regular site inspection and sampling of local monitor wells should be maintained. In addition, reasonably foreseeable conditions (such as projects defined in the 1999 Central and South Florida Project Comprehensive Review Study) should also be evaluated to determine whether those projects would be affected by the proposed development activities.

Corr. ID: 24 **Organization:** Florida Department of Environmental Protection

Comment ID: 188614 **Organization Type:** State Government

Representative Quote: Well construction and abandonment are also important issues. Improperly cased or poorly abandoned wells may also adversely affect local groundwater and surface water quality, including potential upward saline intrusion from deeper parts of the aquifer system.

Corr. ID: 24

Organization: Florida Department of Environmental Protection

Comment ID: 188615 **Organization Type:** State Government

Representative Quote: In the case of BCNP, impact concerns primarily pertain to existing and potential water resources. Oil and gas exploration and production activities involve use of heavy equipment necessary to access, establish and maintain drill sites in addition to the construction and use of roads, pipelines, power lines, drilling pads, drilling-mud tanks, compressor stations, fluid treatment and storage facilities and related infrastructure. These activities have the potential to adversely affect nearby groundwater, surface water quality, surface water flow, aquifer recharge and air quality. In addition, reasonably foreseeable conditions (such as projects defined in the 1999 Central and South Florida Project Comprehensive Review Study) should also be evaluated to determine whether any of the projects would be affected by the proposed development activities.

APPENDIX 1: CORRESPONDENCE INDEX OF ORGANIZATIONS

Correspondence ID	Receipt Date	Form Letter	Org Type	Organization	Name
3	1/31/2011	No	State Government	Florida Department of Environmental Protection	Harcourt, James G.
5	2/23/2011	No	State Government	Florida State Clearinghouse	N/A, N/A
8	2/26/2011	No	Conservation/Preservation	Nine Mile Run Watershed Association	Kept Private
10	2/26/2011	No	Conservation/Preservation	Maryland Ornithological Society	Schwarz, Kurt R.
12	2/28/2011	No	Business	Collier Resources Company c/o White & Case LLP	McAliley, Neal
13	2/28/2011	No	State Government	Wyoming Game and Fish Department	Emmerich, John
14	2/28/2011	No	Conservation/Preservation	National Parks Conservation Association	Faehner, Bryan M.
15	2/28/2011	No	University/Professional Society	Resource Development Council	Portman, Carl
16	2/28/2011	No	State Government	State of Alaska, ANILCA Implementation Program	Magee, Susan E.
17	2/28/2011	No	State Government	Citizens' Advisory Commission on Federal Areas	Leaphart, Stan
18	1/26/2011	No	Business	Doyon Limited	Mery, James
20	2/25/2011	No	Business	ConocoPhillips Company - San Juan Business Unit	Robinson, Kristy
21	2/22/2011	No	State Government	Texas Parks and Wildlife	Wolf, Clayton
22	1/26/2011	No	Business	Ahtna, Inc.	Martin, Kathryn
23	2/28/2011	No	Conservation/Preservation	Sierra Club	Nardone, Deborah J.

Correspondence ID	Receipt Date	Form Letter	Org Type	Organization	Name
24	2/23/2011	No	State Government	Florida Department of Environmental Protection	Mann, Sally B.
25	2/3/2011	No	Business	Collier Resources Company	McAliley, Neal
26	2/3/2011	No	Conservation/Preservation	Upper Delaware Council	Keesler, Dolores A.
27	1/26/2011	No	Conservation/Preservation	Florida Wildlife Federation	Robertson, Preston T.
37	2/28/2011	No	State Government	Office of the Governor - Utah	Harja, John
38	2/24/2011	No	Business	BreitBurn Florida LLC	Williamson, Chris
41	1/7/2011	No	Tribal Government	Tribal Historic Preservation Office - Rosebud Sioux Tribe	Eagle Bear, Russell

APPENDIX 2: INDEX BY ORGANIZATION TYPE

Business

Ahtna, Inc. - 22; AL4600 - Alternatives: Areas of Exemption from 9B Regulations. PN6000 - Purpose And Need: Land Management Laws, Exec Orders.

BreitBurn Florida LLC - 38; AL4200 - Alternatives: Access Fees. AL4300 - Alternatives: Assessments for Non-Compliance. AL4500 - Alternatives: Financial Assurance. AL4800 - Alternatives: Operating Standards. CC1000 - Consultation and Coordination: General Comments. PN3000 - Purpose And Need: Scope Of The Analysis.

Collier Resources Company - 25; CC1000 - Consultation and Coordination: General Comments.

Collier Resources Company c/o White & Case LLP - 12; AL4200 - Alternatives: Access Fees. AL4400 - Alternatives: Directional Drilling. AL4500 - Alternatives: Financial Assurance. AL4800 - Alternatives: Operating Standards. CC1000 - Consultation and Coordination: General Comments. GA1000 - Impact Analysis: Impact Analyses. PN6000 - Purpose And Need: Land Management Laws, Exec Orders.

ConocoPhillips Company - San Juan Business Unit - 20; AL4200 - Alternatives: Access Fees. AL5100 - Alternatives: Support Revising 9B Regulations. CC1000 - Consultation and Coordination: General Comments.

Doyon Limited - 18; AL4600 - Alternatives: Areas of Exemption from 9B Regulations.

Conservation/Preservation

Florida Wildlife Federation - 27; AL5100 - Alternatives: Support Revising 9B Regulations.

Maryland Ornithological Society - 10; AE12000 - Affected Environment: Wildlife And Wildlife Habitat. AL4000 - Alternatives: New Alternatives Or Elements. AL4200 - Alternatives: Access Fees. AL4300 - Alternatives: Assessments for Non-Compliance. AL4400 - Alternatives: Directional Drilling. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL4800 - Alternatives: Operating Standards. AL5100 - Alternatives: Support Revising 9B Regulations. PN3000 - Purpose And Need: Scope Of The Analysis. PN6000 - Purpose And Need: Land Management Laws, Exec Orders. TE4000 - Threatened And Endangered Species: Impact Of Proposal And Alternatives. WH4000 - Wildlife And Wildlife Habitat: Impact Of Proposal And Alternatives. WQ4000 - Water Resources: Impact Of Proposal And Alternatives.

National Parks Conservation Association - 14; AE19000 - Affected Environment: Other Agencies? Land Use Plans. AE7000 - Affected Environment: Air Quality. AL4000 - Alternatives: New Alternatives Or Elements. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations. CC1000 - Consultation and Coordination: General Comments. GA1000 - Impact Analysis: Impact Analyses. PN6000 - Purpose And Need: Land Management Laws, Exec Orders. PN8000 - Purpose And Need: Objectives In Taking Action.

Nine Mile Run Watershed Association - 8; AL4000 - Alternatives: New Alternatives Or Elements.

Sierra Club - 23; AL4000 - Alternatives: New Alternatives Or Elements. AL4200 - Alternatives: Access Fees. AL4400 - Alternatives: Directional Drilling. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL4800 - Alternatives: Operating Standards. AL5100 - Alternatives: Support Revising 9B Regulations. CC1000 - Consultation and Coordination: General Comments. PN3000 - Purpose And Need: Scope Of The Analysis.

Upper Delaware Council - 26; CC1000 - Consultation and Coordination: General Comments.

State Government

Citizens' Advisory Commission on Federal Areas - 17; AL4600 - Alternatives: Areas of Exemption from 9B Regulations.

Florida Department of Environmental Protection - 3; AL4000 - Alternatives: New Alternatives Or Elements. 24; AL4200 - Alternatives: Access Fees. AL4500 - Alternatives: Financial Assurance. AL5100 - Alternatives: Support Revising 9B Regulations. CC1000 - Consultation and Coordination: General Comments. GA1000 - Impact Analysis: Impact Analyses. GA3000 - Impact Analysis: General Methodology For Establishing Impacts/Effects. PN3000 - Purpose And Need: Scope Of The Analysis. PN8000 - Purpose And Need: Objectives In Taking Action. WQ4000 - Water Resources: Impact Of Proposal And Alternatives.

Florida State Clearinghouse - 5; CC1500 - Consultation and Coordination: General Comments (Non-Substantive).

Office of the Governor - Utah - 37; CC1000 - Consultation and Coordination: General Comments. SE4000 - Socioeconomics: Impact Of Proposal And Alternatives.
State of Alaska, ANILCA Implementation Program - 16; AL4600 - Alternatives: Areas of Exemption from 9B Regulations.
Texas Parks and Wildlife - 21; AL4000 - Alternatives: New Alternatives Or Elements. AL4100 - Alternatives: New Alternatives Or Elements (Non-Substantive). AL4800 - Alternatives: Operating Standards. CC1000 - Consultation and Coordination: General Comments. TE4000 - Threatened And Endangered Species: Impact Of Proposal And Alternatives.
Wyoming Game and Fish Department - 13; AE12000 - Affected Environment: Wildlife And Wildlife Habitat. AL4000 - Alternatives: New Alternatives Or Elements. CC1000 - Consultation and Coordination: General Comments. GA1000 - Impact Analysis: Impact Analyses. PN8000 - Purpose And Need: Objectives In Taking Action. WH4000 - Wildlife And Wildlife Habitat: Impact Of Proposal And Alternatives.

Tribal Government

Tribal Historic Preservation Office - Rosebud Sioux Tribe - 41; CC1000 - Consultation and Coordination: General Comments.

Unaffiliated Individual

Citizen - 11; AL4000 - Alternatives: New Alternatives Or Elements. AL5100 - Alternatives: Support Revising 9B Regulations.
Sierra Club - 4; AL4000 - Alternatives: New Alternatives Or Elements.
University of Florida - 2; AL4500 - Alternatives: Financial Assurance. AL5100 - Alternatives: Support Revising 9B Regulations.
N/A - 1; AL5100 - Alternatives: Support Revising 9B Regulations. CC1000 - Consultation and Coordination: General Comments. 6; AL4000 - Alternatives: New Alternatives Or Elements. VR4000 - Vegetation And Riparian Areas: Impact Of Proposal And Alternatives. WQ4000 - Water Resources: Impact Of Proposal And Alternatives. 7; AL4000 - Alternatives: New Alternatives Or Elements. 9; AL4000 - Alternatives: New Alternatives Or Elements. AL5200 - Alternatives: Oppose Revising 9B Regulations. 19; AL4000 - Alternatives: New Alternatives Or Elements. AL4800 - Alternatives: Operating Standards. CL1000 - Climate Change: Impact of Proposal and Alternatives. GA1000 - Impact Analysis: Impact Analyses. GA3000 - Impact Analysis: General Methodology For Establishing Impacts/Effects. PN3000 - Purpose And Need: Scope Of The Analysis. PN8000 - Purpose And Need: Objectives In Taking Action. 28; AL4000 - Alternatives: New Alternatives Or Elements. AL4400 - Alternatives: Directional Drilling. AL5100 - Alternatives: Support Revising 9B Regulations. 29; AL4400 - Alternatives: Directional Drilling. AL4700 - Alternatives: Areas of Exemption from 9B Regulations (Non-Substantive). AL5100 - Alternatives: Support Revising 9B Regulations. PN3000 - Purpose And Need: Scope Of The Analysis. 30; AL5100 - Alternatives: Support Revising 9B Regulations. PN3000 - Purpose And Need: Scope Of The Analysis. 31; AL4400 - Alternatives: Directional Drilling. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations. PN3000 - Purpose And Need: Scope Of The Analysis. 32; AL5100 - Alternatives: Support Revising 9B Regulations. GA1000 - Impact Analysis: Impact Analyses. 33; AL5100 - Alternatives: Support Revising 9B Regulations. PN3000 - Purpose And Need: Scope Of The Analysis. 34; AL4200 - Alternatives: Access Fees. AL4300 - Alternatives: Assessments for Non-Compliance. AL4400 - Alternatives: Directional Drilling. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL4800 - Alternatives: Operating Standards. AL5100 - Alternatives: Support Revising 9B Regulations. GA3000 - Impact Analysis: General Methodology For Establishing Impacts/Effects. PN3000 - Purpose And Need: Scope Of The Analysis. 35; AL5100 - Alternatives: Support Revising 9B Regulations. PN3000 - Purpose And Need: Scope Of The Analysis. 36; AL4000 - Alternatives: New Alternatives Or Elements. AL5100 - Alternatives: Support Revising 9B Regulations. GA1000 - Impact Analysis: Impact Analyses. PN3000 - Purpose And Need: Scope Of The Analysis. PN8000 - Purpose And Need: Objectives In Taking Action. 39; CC1000 - Consultation and Coordination: General Comments. 40; CC1000 - Consultation and Coordination: General Comments. 42; AL4700 - Alternatives: Areas of Exemption from 9B Regulations (Non-Substantive). AL5100 - Alternatives: Support Revising 9B Regulations. PN8000 - Purpose And Need: Objectives In Taking Action. 43; AL4000 - Alternatives: New Alternatives Or Elements. 44; AL5100 - Alternatives: Support Revising 9B Regulations. 45; AL5100 - Alternatives: Support Revising 9B Regulations. 46;

AL5100 - Alternatives: Support Revising 9B Regulations. 47; AL5100 - Alternatives: Support Revising 9B Regulations. 48; AL4000 - Alternatives: New Alternatives Or Elements. 49; AL4000 - Alternatives: New Alternatives Or Elements. 50; AL5100 - Alternatives: Support Revising 9B Regulations. 51; AL5100 - Alternatives: Support Revising 9B Regulations. 52; AL5100 - Alternatives: Support Revising 9B Regulations. 53; AL4000 - Alternatives: New Alternatives Or Elements. 54; AL4000 - Alternatives: New Alternatives Or Elements. 55; AL5100 - Alternatives: Support Revising 9B Regulations. 56; AL4700 - Alternatives: Areas of Exemption from 9B Regulations (Non-Substantive). 57; AL5100 - Alternatives: Support Revising 9B Regulations. 58; AL5100 - Alternatives: Support Revising 9B Regulations. 59; AL5100 - Alternatives: Support Revising 9B Regulations. 60; AL4500 - Alternatives: Financial Assurance. 61; AL4000 - Alternatives: New Alternatives Or Elements. AL5100 - Alternatives: Support Revising 9B Regulations.

University/Professional Society

Resource Development Council - 15; AL4600 - Alternatives: Areas of Exemption from 9B Regulations.

APPENDIX 3: INDEX BY CODE

Code	Description	Organization	Corr. ID
AE12000	Affected Environment: Wildlife And Wildlife Habitat	Maryland Ornithological Society	10
		Wyoming Game and Fish Department	13
AE19000	Affected Environment: Other Agencies? Land Use Plans	National Parks Conservation Association	14
AE7000	Affected Environment: Air Quality	National Parks Conservation Association	14
AL4000	Alternatives: New Alternatives Or Elements	Citizen	11
		Florida Department of Environmental Protection	3
		Maryland Ornithological Society	10
		National Parks Conservation Association	14
		Nine Mile Run Watershed Association	8
		Sierra Club	4
		Sierra Club	23
		Texas Parks and Wildlife	21
		Wyoming Game and Fish Department	13
		N/A	6
			7
			9
			19
			28
			36
			43
			48
			49
			53
			54
			61
AL4100	Alternatives: New Alternatives Or Elements (Non-Substantive)	Texas Parks and Wildlife	21
AL4200	Alternatives: Access Fees	BreitBurn Florida LLC	38
		Collier Resources Company c/o White & Case LLP	12
		ConocoPhillips Company - San Juan Business Unit	20
		Florida Department of Environmental Protection	24
		Maryland Ornithological Society	10
		Sierra Club	23
		N/A	34

Code	Description	Organization	Corr. ID
AL4300	Alternatives: Assessments for Non-Compliance	BreitBurn Florida LLC	38
		Maryland Ornithological Society	10
		N/A	34
AL4400	Alternatives: Directional Drilling	Collier Resources Company c/o White & Case LLP	12
		Maryland Ornithological Society	10
		Sierra Club	23
		N/A	28
			29
			31
			34
AL4500	Alternatives: Financial Assurance	BreitBurn Florida LLC	38
		Collier Resources Company c/o White & Case LLP	12
		Florida Department of Environmental Protection	24
		Maryland Ornithological Society	10
		National Parks Conservation Association	14
		University of Florida	2
		N/A	31
			34
			60
AL4600	Alternatives: Areas of Exemption from 9B Regulations	Ahtna, Inc.	22
		Citizens' Advisory Commission on Federal Areas	17
		Doyon Limited	18
		Maryland Ornithological Society	10
		National Parks Conservation Association	14
		Resource Development Council	15
		Sierra Club	23
		State of Alaska, ANILCA Implementation Program	16
		N/A	31
			34
AL4700	Alternatives: Areas of Exemption from 9B Regulations (Non-Substantive)	N/A	29
			42
			56
AL4800	Alternatives: Operating Standards	BreitBurn Florida LLC	38

Code	Description	Organization	Corr. ID
		Collier Resources Company c/o White & Case LLP	12
		Maryland Ornithological Society	10
		Sierra Club	23
		Texas Parks and Wildlife	21
		N/A	19
			34
AL5100	Alternatives: Support Revising 9B Regulations	Citizen	11
		ConocoPhillips Company - San Juan Business Unit	20
		Florida Department of Environmental Protection	24
		Florida Wildlife Federation	27
		Maryland Ornithological Society	10
		National Parks Conservation Association	14
		Sierra Club	23
		University of Florida	2
		N/A	1
			28
			29
			30
			31
			32
			33
			34
			35
			36
			42
			44
			45
			46
			47
			50
			51
			52
			55
			57
			58
			59
			61
AL5200	Alternatives: Oppose Revising 9B Regulations	N/A	9

Code	Description	Organization	Corr. ID
CC1000	Consultation and Coordination: General Comments	BreitBurn Florida LLC	38
		Collier Resources Company	25
		Collier Resources Company c/o White & Case LLP	12
		ConocoPhillips Company - San Juan Business Unit	20
		Florida Department of Environmental Protection	24
		National Parks Conservation Association	14
		Office of the Governor - Utah	37
		Sierra Club	23
		Texas Parks and Wildlife	21
		Tribal Historic Preservation Office - Rosebud Sioux Tribe	41
		Upper Delaware Council	26
		Wyoming Game and Fish Department	13
		N/A	1
			39
			40
CC1500	Consultation and Coordination: General Comments (Non- Substantive)	Florida State Clearinghouse	5
CL1000	Climate Change: Impact of Proposal and Alternatives	N/A	19
GA1000	Impact Analysis: Impact Analyses	Collier Resources Company c/o White & Case LLP	12
		Florida Department of Environmental Protection	24
		National Parks Conservation Association	14
		Wyoming Game and Fish Department	13
		N/A	19
			32
			36
GA3000	Impact Analysis: General Methodology For Establishing Impacts/Effects	Florida Department of Environmental Protection	24
		N/A	19
			34
PN3000	Purpose And Need: Scope Of The Analysis	BreitBurn Florida LLC	38
		Florida Department of Environmental Protection	24
		Maryland Ornithological Society	10
		Sierra Club	23

Code	Description	Organization	Corr. ID
		N/A	19
			29
			30
			31
			33
			34
			35
			36
PN6000	Purpose And Need: Land Management Laws, Exec Orders	Ahtna, Inc.	22
		Collier Resources Company c/o White & Case LLP	12
		Maryland Ornithological Society	10
		National Parks Conservation Association	14
PN8000	Purpose And Need: Objectives In Taking Action	Florida Department of Environmental Protection	24
		National Parks Conservation Association	14
		Wyoming Game and Fish Department	13
		N/A	19
			36
			42
SE4000	Socioeconomics: Impact Of Proposal And Alternatives	Office of the Governor - Utah	37
TE4000	Threatened And Endangered Species: Impact Of Proposal And Alternatives	Maryland Ornithological Society	10
		Texas Parks and Wildlife	21
VR4000	Vegetation And Riparian Areas: Impact Of Proposal And Alternatives	N/A	6
WH4000	Wildlife And Wildlife Habitat: Impact Of Proposal And Alternatives	Maryland Ornithological Society	10
		Wyoming Game and Fish Department	13
WQ4000	Water Resources: Impact Of Proposal And Alternatives	Florida Department of Environmental Protection	24
		Maryland Ornithological Society	10
		N/A	6