



National Park Service

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

Advanced Notice of Public Rulemaking

Public Comment Analysis

January 11, 2011

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INTRODUCTION AND GUIDE

INTRODUCTION

The National Park Service (NPS) has requested public comment through an Advanced Notice of Proposed Rulemaking (ANPR) on a proposal to revise regulations governing nonfederal oil and gas development within the boundaries of units of the national park system, known as the “9B Regulations.” The comment period opened on November 25, 2009. The following report analyzes all comments received on the ANPR.

Regulations governing nonfederal oil and gas development in national park units have been in effect for more than thirty years and have not been substantively updated during that period. The NPS is seeking public input on how to bring exempted operations under the scope of the regulations, and on how to improve resource protection aspects of the regulations, while accounting for advances in oil and gas technology and industry practices.

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 analysis for the rulemaking. The process used to analyze the comments on the ANPR 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, and is also a requirement of the rulemaking process. It also aids in identifying the topics and issues of concern to the public regarding the proposed rule.

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. 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. Two commenters provided attachments to their correspondences¹. These attachments were read and considered, but were not coded in this report.

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 form, note card, open house transcript, 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. All comments were considered substantive during this public comment analysis 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.

¹ “Appendix 6: Agreement Governing the Exercise of Reserved Oil and Gas Rights of Collier Enterprises and Barron Collier Company”; “Nonfederal Oil and Gas Wells in Units of the National Park System”; “Big South Fork National River and Recreation Area / Obed Wild and Scenic River Oil and Gas Management Plan/EIS”; “Frack Fluid Spill in Dimock Contaminates Stream, Killing Fish”; “Natural Gas Fracturing Task Force Report to the Sierra Club Board of Directors”; “Natural Gas Fracturing”; “Finding the Balance: The Role of Natural Gas in America’s Future”.

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	1	0.02%
AE19000	Affected Environment: Other Agencies' Land Use Plans	1	0.02%
AE25000	Affected Environment: Operating Standards	2	0.04%
AE7000	Affected Environment: Air Quality	1	0.02%
AL4000	Alternatives: New Alternatives Or Elements	9	0.19%
AL4200	Alternatives: Access Fees	11	0.24%
AL4300	Alternatives: Assessments for Non-Compliance	18	0.39%
AL4400	Alternatives: Directional Drilling	27	0.58%
AL4500	Alternatives: Financial Assurance	18	0.39%
AL4600	Alternatives: Areas of Exemption from 9B Regulations	1,501*	32.43%
AL4800	Alternatives: Operating Standards	17	0.37%
AL5000	Alternatives: Proposed Revisions to 9B Regulations	23	0.50%
AL5100	Alternatives: Support Revising 9B Regulations	2,978*	64.35%
AL5200	Alternatives: Oppose Revising 9B Regulations	3	0.06%
CC1000	Consultation and Coordination: General Comments	2	0.04%
GA3000	Impact Analysis: General Methodology For Establishing Impacts/Effects	3	0.06%
GR1000	Geologic Resources: Guiding Policies, Regs And Laws	2	0.04%
PN6000	Purpose And Need: Land Management Laws, Exec Orders	1	0.02%
PN8000	Purpose And Need: Objectives In Taking Action	2	0.04%
PO1000	Park Operations: Guiding Policies, Regs And Laws	13	0.28%
WH4000	Wildlife And Wildlife Habitat: Impact Of Proposal And Alternatives	1	0.02%
Total		4,628	100.00%

** This number is particularly high due to the 1,477 form letters that were received. In each of the form letters, there was one comment that fell under AL4600, and two comments that fell under AL5100.*

Table 2: Correspondence by Type

Type	# of Correspondences	% of Correspondences
Letter	1,501*	100%
Total	1,501	100%

* Includes 1,477 form letter signatures.

Table 3: Correspondence by Organization Type

Organization Type	# of Correspondences	% of Correspondences
Business	4	0.26%
University/Professional Society	2	0.13%
Conservation/Preservation	1,488*	99.13%
State Government	1	0.07%
Unaffiliated Individual	6	0.40%
Total	1501	100.00%
<i>*Note: Table includes one form letter containing a total of 1,477 signatures.</i>		

Table 4: Correspondence Distribution by State

State	# of Correspondences	% of Correspondences
UN	1,479*	98.53%
AK	2	0.13%
NM	3	0.20%
TN	1	0.07%
MD	4	0.27%
DC	4	0.27%
TX	4	0.27%
MO	2	0.13%
FL	1	0.07%
OR	1	0.07%
Total	1,501	100.00%
*Note: Distribution by State does not identify which state(s) the 1,477 form letter correspondences came from, because this was not identified in the correspondences.		

Table 5: Correspondence Distribution by Country

Country	# of Correspondences	% of Correspondences
United States of America	1,501	100%
Total	1,501	100%

***Natural Resources Program Center, Geologic Resources Division
Revision of 9B Regulations Governing Nonfederal Oil and Gas Activities
Advanced Notice of Public Rulemaking
Comment Report***

AE12000 - Affected Environment: Wildlife And Wildlife Habitat

Concern ID: 22937

CONCERN STATEMENT: One commenter noted that many nonfederal oil and gas operations take place within park units that are well known for their bird populations, and that four park units where nonfederal oil and gas operations take place are listed as Globally Important Bird Areas by the American Bird Conservancy.

Representative Quote(s): **Corr. ID:** 14 **Organization:** Maryland Ornithological Society

Comment ID: 121547 **Organization Type:** Conservation/Preservation

Representative Quote: Nonfederal oil and gas operations take place on privately owned mineral rights within 13 units of the National Park System, as listed in a news release from NPS dated December 22, 2009. Some of these parks are well known for their bird populations, especially Big Cypress National Preserve (FL), Big Thicket National Preserve (TX), Padre Island National Seashore (TX), and Tallgrass Prairie National Preserve (KS), all four 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.

AE19000 - Affected Environment: Other Agencies' Land Use Plans

Concern ID: 22938

CONCERN STATEMENT: One commenter stated that while it is expected that the NPS may have the most stringent regulations for oil and gas operations, the Bureau of Land Management and the U.S. Forest Service do not provide exemptions within their oil and gas regulations.

Representative Quote(s): **Corr. ID:** 10 **Organization:** National Parks Conservation Association

Comment ID: 121619 **Organization Type:** Conservation/Preservation

Representative Quote: The American public would expect that NPS would have the strongest regulations in place among the various federal land agencies. Surprisingly, however, this is not the case since the BLM and FS have in place no such exemptions for oil and gas operations.

AE25000 - Affected Environment: Operating Standards

Concern ID: 22939

CONCERN STATEMENT: One commenter noted that the Collier Resources Company has developed operating standards that avoid environmental impacts at the Big Cypress Preserve, and that these operating standards are an example of how resource-specific standards are the most

effective way to manage the impacts of oil and gas operations.

Representative Quote(s): **Corr. ID:** 9 **Organization:** Collier Resources Company
Comment ID: 121572 **Organization Type:** Business

Representative Quote: We believe that the Colliers, in working with the Service over the past several decades, have developed model operating standards that avoid significant environmental impacts in the Big Cypress. The 1988 land exchange that created the Big Cypress National Preserve Addition contains an appendix entitled, "Agreement Governing the Exercise of Reserved Oil and Gas Rights of Collier Enterprises and Barron Collier" ("Appendix 6"). This agreement sets forth a series of stipulations designed to avoid and minimize significant impacts in the Big Cypress, which incorporate knowledge developed as a result of prior decades of oil and gas activities in that location. Although Appendix 6 speaks for itself, highlights of its 43 standards governing the conduct of oil and gas operations include:

- A provision that operations will use technologically feasible methods least damaging to NPS resources and values of concern, (Para. B(7)(a)(4));
- A variety of provisions designed to avoid release or discharges of any contaminants, (e.g., Para. B(7)(b)(3), -(11), -(13)).
- A provision that vegetative clearings for roads, pads, and other above-ground structures will avoid, to the fullest extent possible, important resource areas such as Cypress stands, hardwood hammocks, and sloughs, (Para. B(7)(b)(38));
- Provisions designed to avoid impacts on threatened and endangered species, (e.g., Para. B(7)(a)(2), -(b)(37));
- A provision that areas of operations will be reclaimed or rehabilitated once the area is no longer needed for operations, (Para. B(7)(b)(39)); and
- A preference for using existing disturbed sites for new activities related to oil and gas development, (para. B(7)(b)(41), -(43)).

A copy of Appendix 6 is attached hereto as Exhibit 1. We believe that these stipulations are an example of how resource-specific standards are the most effective way to manage the impacts of oil and gas activities on the values for which each NPS unit was established.

AE7000 - Affected Environment: Air Quality

Concern ID: 22940

CONCERN STATEMENT: One commenter noted that oil and gas operations emit several air pollutants, which impact ecosystems and wildlife.

Representative Quote(s): **Corr. ID:** 10 **Organization:** National Parks Conservation Association
Comment ID: 121632 **Organization Type:** Conservation/Preservation

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.

AL4000 - Alternatives: New Alternatives Or Elements

Concern ID: 22941

CONCERN STATEMENT: Commenters suggested additional rules, stipulations, and elements that they felt should be included in the proposed 9B Regulations, such as returning to the same regulations the NPS used prior to 2001; requiring operators to comply with established mitigation measures, rather than keeping them voluntary; hiring additional staff members to help enforce the proposed 9B Regulations; regulating downhole operations; broadening the proposed 9B Regulations to include non-federally owned minerals other than oil and gas; acquiring the mineral rights within NPS park units (specifically within Big Thicket National Preserve); and conducting archaeological surveys specific to rock art on all areas slated for oil and gas exploration prior to any use of heavy machinery or drilling equipment.

Representative Quote(s): **Corr. ID:** 7 **Organization:** Lone Star Chapter of the Sierra Club

Comment ID: 121666 **Organization Type:** Conservation/Preservation

Representative Quote: NPS should determine the cost of mineral rights that exist under NPS lands. 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 BTNP can be and not what it is now. By acquiring mineral rights NPS will reduce the financial burden on BTNP. BTNP spends much of its resource protection budget on processing and monitoring oil/gas activities. Other more important resource protection issues get neglected like biodiversity, restoration, and adaptation to climate change.

Corr. ID: 7 **Organization:** Lone Star Chapter of the Sierra Club

Comment ID: 121664 **Organization Type:** Conservation/Preservation

Representative Quote: Currently, mitigation measures for exempted oil/gas activities are in most cases voluntary. For instance, in a September 12, 2002 letter from Karen P. Wade, then Director of the Intermountain Region, the NPS stated "We would like to take this opportunity to clarify that all but 2 of the 17 mitigation measures referred to in our May 28, 2002, letter ... are in fact mutually agreed on mitigation measures, not conditions of approval." Mitigation measures must in no way be made voluntary. Because if they are then the company has no responsibility to follow them and if the company does not follow voluntary mitigation measures it is very difficult to enforce compliance for violations of these voluntary mitigation measures.

Corr. ID: 7 **Organization:** Lone Star Chapter of the Sierra Club

Comment ID: 121669 **Organization Type:** Conservation/Preservation

Representative Quote: The Sierra Club agrees that limited NPS staff make it difficult to handle the degree of oil/gas activity work load that BTNP has. Additional staff has been

Representative Quote: But PEER suggests that the Rulemaking Team examine something that the ANPR does not mention - the regulation of operations in parks, in connection with nonfederal minerals, other than oil and gas.

If the NPS, under the Organic Act, may regulate all (or even some, as it now does under existing 9B) operations in parks in connection with nonfederal oil and gas, the same authority empowers the NPS to regulate nonfederal minerals, other than oil and gas, within the parks.

Operations in connection with mining claims are governed by 36 CFR Part 9, Subpart A. Operations in connection with nonfederal oil and gas are governed by 36 CFR Part 9, Subpart B. At present, there are no regulations that govern operations in parks in connection with nonfederal minerals, other than gas. Nonfederal mineral rights, other than oil and gas, exist in many areas of the national park system. Nonfederal mineral rights, other than oil and gas are being developed in several parks. These rights include sand and gravel and coal. Where the NPS governs these operations, if at all, the NPS must apply a patchwork of ill-fitting rules, such as 36 CFR 5.6 - Commercial Vehicles.

Corr. ID: 12

Organization: *Not Specified*

Comment ID: 121517

Organization Type: Unaffiliated Individual

Representative Quote: We also favor regulating downhole operations to make sure drilling does not intercept ground water, interfere with geothermal features, or trigger earthquakes. There could also be problems of ground water being contaminated, such as by salt, when an oil well opens a connection to a salt-bearing formation.

Corr. ID: 20

Organization: Conservation Committee of the American Rock Art Research Association

Comment ID: 121710

Organization Type: Conservation/Preservation

Representative Quote: We urge that provisions be made to prohibit oil and gas exploration and extraction on lands known to contain rock art (petro glyphs), or with a high potential for containing rock art. These areas include: Aztec Ruins NM, Alibates Flint Quarries NM, Lake Meredith, Big South Fork River Recreation Area, Obed Wild and Scenic River, and New River Gorge National River. Rock art sites have also been found near Big Cypress and Gauley River.

We request that an archaeological survey specific to rock art be completed on all areas slated for oil and gas exploration and development prior to any use of heavy machinery or drilling equipment. Standard archaeological clearance surveys are not adequate to identify rock art sites. Rock art survey requires special discovery techniques. All rock surfaces need to be examined by specialists familiar with types of rock art within the area. Unless the rock art is highly visible, such surveys may have to be done under a variety of lighting conditions. The recommendations of a rock art specialist are needed to determine adequate survey methods.

Finally, if permits are to be issued for areas containing rock art, we request that any permits provide for mitigation of potential impacts to rock art sites, including dust and abrasion from truck traffic, increased public access resulting from new road construction, and changes to rock outcrops that may result from moving water from or into aquifers. Repair and restoration of damaged rock art panels is expensive; bonds for such areas should be increased accordingly.

AL4200 - Alternatives: Access Fees**Concern ID:** 22942

CONCERN STATEMENT: Commenters noted that the NPS should charge a fee for access to federal lands, regardless of whether a road is already in place (as the Bureau of Land Management and the U.S. Forest Service require), that access fees should represent fair market value, and that fees should be calculated to cover the costs to natural resources and park users while the road is under construction and in use.

Representative Quote(s): **Corr. ID:** 5 **Organization:** *Not Specified*

Comment ID: 121526 **Organization Type:** Unaffiliated Individual

Representative Quote: I would like to see access fees charged for crossing national park lands. The Forest Service and BLM charge such fees on lands they manage, and so do private landowners. The fee should represent fair market value in the region of a given park.

Corr. ID: 7 **Organization:** Lone Star Chapter of the Sierra Club

Comment ID: 121673 **Organization Type:** Conservation/Preservation

Representative Quote: For Access Fees, the Sierra Club supports, a registration fee for vehicles used during oil/gas activities in BTNP.

Corr. ID: 12 **Organization:** *Not Specified*

Comment ID: 121519 **Organization Type:** Unaffiliated Individual

Representative Quote: Access Fees: 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. The regulations should require access fees at fair market value. NPS should be able to determine that value by inquiring what other federal and state agencies are charging. Usually the oil/gas operations in a park are part of a much larger drilling campaign following a geological formation that extends over many miles. Data on comparable fees should not be hard to find.

Corr. ID: 13 **Organization:** Tennessee Citizens for Wilderness Planning

Comment ID: 121579 **Organization Type:** Conservation/Preservation

Representative Quote: Access fees
TCWP strongly supports substantial fees for operator access across any federally owned lands to reach oil and gas rights. Such access, especially when new roads are constructed, takes a heavy toll on park resources and should be fully compensated.

Corr. ID: 14 **Organization:** Maryland Ornithological Society

Comment ID: 121554 **Organization Type:** Conservation/Preservation

Representative Quote: Access Fees
We endorse the ANPRM proposal to charge 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. Access fees are already charged by BLM and the Forest Service, by state land agencies, and by private landowners. The fee should reflect fair market value and be based on comparable access fee data NPS can obtain from other federal and state agencies in the vicinity.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121656 **Organization Type:** Conservation/Preservation

Representative Quote: Like the antiquated bonding cap, the vehicle registration fee system in the existing rules inappropriately subsidizes private oil and gas operators. As the Service explains, see 74 Fed. Reg. at 61,599, it presently charges a fee to operators who use existing park roads, but does not charge a fee for building new roads across park land. The Bureau of Land Management and USDA Forest Service instead follow the industry-standard practice of charging a fee for access to federal lands, whether or not a road is already in place. See *id.* The Service should follow this approach, rather than essentially giving away the right to cross federal lands.

We support the Service's proposal to use appraisal data to help determine the value of access rights, but this appraisal data should just be a starting point. A road imposes significant costs on park resources, ranging from basic maintenance costs to increasing run-off, road kills, truck noise, and pollution. The access fee should be calculated to cover the costs to natural resources and park-users while the road is under construction and in use. Removal and restoration costs should also be included, unless they are instead included in the reclamation bond.

Concern ID: 22943

CONCERN STATEMENT: One commenter suggested that access fees should be limited to the amount of money necessary to offset the costs incurred by the NPS as a result of that access, and that the access fees should vary based on the park unit and the costs incurred by the specific park unit.

Representative Quote(s): **Corr. ID:** 9 **Organization:** Collier Resources Company

Comment ID: 121575 **Organization Type:** Business

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 there are going to be access fees, they should be limited to the costs incurred by the NPS for the access. These "costs incurred by the NPS" will vary by location within the National Park System, so the calculation of the access fees should be done on a unit by unit location. 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.

We also recommend that the Service ensure that it does not impose fees to cover costs already addressed by another financial mechanism. For instance, depending on how they were calculated, the proposed access fee may overlap with the proposed bonding requirement. The stated intent of the proposed access fee is to "compensate the United States for an operator's access across federally-owned surface estates...." But, the Notice does not identify costs to the United States that would be defrayed by this access fee. Each operator is already required to provide a bond to account for the impacts caused by its oil and gas development, and there may be other ways that operators offset costs to the federal government. The Service should make sure that any access fee not seek compensation for costs already covered by other fees and financial assurances, such as

financial assurance bonds.

Concern ID: 22944

CONCERN STATEMENT: One commenter suggested that oil and gas companies should be exempt from any access fee imposed by the NPS, based on a preexisting right of access to oil and gas interests.

Representative Quote(s): **Corr. ID:** 9 **Organization:** Collier Resources Company

Comment ID: 121574 **Organization Type:** Business

Representative Quote: We do not believe that the proposed new access fees would apply to the Colliers' exercise of their oil and gas rights in the Big Cypress. 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, which are governed by Appendix 6. 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.

AL4300 - Alternatives: Assessments for Non-Compliance

Concern ID: 22945

CONCERN STATEMENT: Commenters favored implementing assessments for noncompliance. Some suggested that the "administrative assessment" fee should exceed \$500, or the fee should be high enough so the economic benefit of noncompliance is nullified and acts as a disincentive to the company regarding violations. Some commenters further suggest that the NPS should seek other ways to ensure compliance among oil and gas operators, similar to the way the U.S. Environmental Protection Agency handles noncompliance infractions, including notices of noncompliance, warning letters, and various types of administrative enforcement orders, which make the violator liable for a penalty in case of noncompliance.

Representative Quote(s): **Corr. ID:** 3 **Organization:** *Not Specified*

Comment ID: 121537 **Organization Type:** Unaffiliated Individual

Representative Quote: I am in favor of an assessment for noncompliance when any driller is not following the operating plan. With the oil industry, a trifling sum like the \$500 per day cited in your proposal is not enough to get their attention. Please set a high assessment fee and give park superintendents authority to shut down the operation, if necessary. Violators should be barred from bidding on federal oil and gas leases or federal contracts. That would get their attention.

Corr. ID: 5 **Organization:** *Not Specified*

Comment ID: 121527 **Organization Type:** Unaffiliated Individual

Representative Quote: I support the concept of assessing fees for noncompliance, where a driller has deviated from the operating plan and caused impacts against values of the national park. The park superintendent should be given a range of tools to stop violations quickly and inexpensively, without having to take a violator to court. The U.S.

Environmental Protection Agency has many years of experience with this, as does our Maryland Department of the Environment. NPS would be wise to seek their suggestions.

Corr. ID: 6 **Organization:** *Not Specified*

Comment ID: 121505 **Organization Type:** Unaffiliated Individual

Representative Quote: Assessments for non-compliance would be a good incentive for drillers to follow the operating plans approved by NPS. Violations can also be deterred by conducting unannounced inspections and issuing warning letters, notices of noncompliance, or formal enforcement orders comparable to those used by US EPA.

Corr. ID: 7 **Organization:** Lone Star Chapter of the Sierra Club

Comment ID: 121674 **Organization Type:** Conservation/Preservation

Representative Quote: For Assessments for Non-Compliance, for BTNP, the Sierra Club supports dealing with "minor regulatory infractions that do not rise to the level of suspension, revocation, or judicial intervention, by the use of administrative assessments. However, the devil is in the details with this proposal because what is defined as a "minor violation or regulatory infraction" will determine whether these administrative assessments are treated as a cost of doing business or are effective in getting operator compliance. For instance, a pad site that is larger than authorized should not be "minor regulatory infraction" because it has actual additional environmental costs.

The cost of the administrative assessment should be high enough so the economic benefit of non-compliance is nullified and the assessment acts as a disincentive to the company so that it does not violate provisions and pay the administrative assessment as part of the cost of doing business.

Corr. ID: 12 **Organization:** *Not Specified*

Comment ID: 121520 **Organization Type:** Unaffiliated Individual

Representative Quote: Assessments for Noncompliance: We favor the concept of assessments for noncompliance in cases of "minor infractions" that would not justify going to court. It is reasonable to charge a fee equal to the cost of damages to park resources due to the operator's violation of terms in the operating plan. However, the \$500 maximum charged by BLM is not enough. Setting a maximum would be repeating the mistake made in 1978 with the \$200,000 cap on bonding.

Corr. ID: 14 **Organization:** Maryland Ornithological Society

Comment ID: 121555 **Organization Type:** Conservation/Preservation

Representative Quote: Assessments for Noncompliance
The ANPRM contemplates a new provision to influence operators to comply with the terms of their operating plans. The idea is to charge 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. By way of example, the ANPRM refers to BLM penalties of up to \$500 per day for major violations, or \$250 per day for minor violations. We favor the concept of administrative assessments, but we question whether \$500 is high enough to influence oil and gas operators. A higher sum could be fully justified by the cost of damage to park resources in certain cases. No cap should be placed on these assessments, so the fee can reflect all damages.

We also urge NPS to look for other ways of obtaining compliance by oil and gas operators. The notice cites no statutory authority to levy penalties for noncompliance, comparable to those the Environmental Protection Agency and state agencies impose on violators of environmental laws. If more enforcement authority is needed, we urge NPS to ask Congress for it. Even with existing authorities, we urge NPS to look for additional

types of enforcement action that could be taken. US EPA uses a wide variety of enforcement actions, including notices of noncompliance, warning letters, and various types of administrative enforcement orders, which make the violator liable for a penalty in case of noncompliance. We encourage NPS to ask EPA's Office of Enforcement and Compliance Assurance for help in developing other options.

Corr. ID: 16 **Organization:** New Mexico Archeological Council

Comment ID: 121544 **Organization Type:** University/Professional Society

Representative Quote: III. Assessment for Non-Compliance

As stated in the ANPR, a park "Superintendent has no practical method for dealing with minor regulatory infractions that do not rise to the level of suspension, revocation, or judicial intervention." To address this lack of enforcement for minor infractions, NPS is proposing to empower superintendents to use administrative assessments whereby operators would pay the park a monetary fine "based on an estimate of the cost of damages to park resources due to the operator's violation of a term or condition of an approved permit. ANPR at 61599. NMAC believes this would be an effective means to address minor infractions and provide an incentive for operators to comply with the regulations. For these administrative assessments to work, however, NPS must also provide parks with the resources to enforce the regulations through regular monitoring of operations. The authority to impose administrative assessments on recalcitrant operators will be hollow if parks do not also have the budget and personnel to monitor the operations to ensure compliance with the regulations.

Corr. ID: 19 **Organization:** United Mountain Defense

Comment ID: 121713 **Organization Type:** Conservation/Preservation

Representative Quote: Higher per-day fines for conduct infractions are also needed to motivate large operators.

Concern ID: 22946

CONCERN STATEMENT: One commenter supported the proposed administrative assessments, but urged the NPS to add citizen enforcement tools to the regulations, and to design and use the administrative fee system to strengthen and broaden enforcement within park units.

Representative Quote(s): **Corr. ID:** 17 **Organization:** Sierra Club

Comment ID: 121657 **Organization Type:** Conservation/Preservation

Representative Quote: Currently, if an operator violates the rules, the Service gives notice and then, if the operator doesn't change its practices, suspends or revokes the approved operating plan. See 36 C.F.R. § 9.51. The Service does not, however, have clear enforcement tools for infractions that may not justify a plan suspension. It suggests developing a system of administrative fines to use for these minor infractions. See 74 Fed. Reg. at 61,599. We generally support this proposal, with some caveats.

If administrative fines are used to strengthen the Service's hand, by providing for quick penalties to redress minor problems, we support them. We caution the Service, however, that it should design and use an administrative fee system to strengthen and broaden enforcement. The system should not be used to reduce penalties on operators whose serious infractions would otherwise trigger plan suspension, or to delay more serious penalties where they would previously have been imposed. Instead, it should be used to extend enforcement to a new class of minor violations, which may previously have gone uncorrected because commensurate penalties were not available.

We also urge the Service to add citizen enforcement tools to the regulations. Because the

Service has limited enforcement resources, and an expanding drilling threat to address, allowing citizens to directly enforce the rules or, at a minimum, to easily report violations, will significantly strengthen protection for the park system.

Concern ID: 22947

CONCERN STATEMENT: One commenter suggested that surprise or unannounced inspections should be reinstated for any oil and gas activities as an aspect of the assessments for noncompliance.

Representative Quote(s): **Corr. ID:** 7 **Organization:** Lone Star Chapter of the Sierra Club
Comment ID: 121663 **Organization Type:** Conservation/Preservation

Representative Quote: Surprise or unannounced inspections should be reinstated for any oil/gas activities that affect BTNP, whether within or outside BTNP. According to a memo from Patrick O'Dell, Petroleum Engineer with NPS Geologic Resources Division, Denver, Colorado, on February 6, 2003, "The first concern is the language that describes how the Superintendent's access will occur. Monitoring for compliance is substantially compromised if the operator decides when monitoring will occur and is given a 5 day time frame to arrange it. To be workable, the timing of the Superintendent's access needs to be at the Superintendent's sole discretion and without prior notice to the operator. If the intent of this language was to advise Davis Brothers that the NPS may need assistance in physically gaining access to the site, then the language needs to be clarified. Omission of the new language is recommended as a means of clarification. The phrase "shall have reasonable access" is all that is needed. In my view, this item is serious enough to warrant a correction of clarification of the letter has already been set to Davis Brothers."

But Mr. O'Dell was overruled and currently inspections require a five day notice to oil/gas operators. When I was an air quality investigator for the City of Houston our policy before I retired in 2004 was not to notify companies before we conducted air quality investigations. Why tip off someone who may be in violation of their approval, exemption, or plan of operations? Restore the surprise inspections with this 9B regulatory effort.

AL4400 - Alternatives: Directional Drilling

Concern ID: 22948

CONCERN STATEMENT: One commenter preferred a new option regarding directional drilling, which would involve no increase in regulation for crossing federal land to get to oil and gas operations, as well as Option #3. The commenter further suggested that implementing increased regulations on directional drilling is unnecessary.

Representative Quote(s): **Corr. ID:** 1 **Organization:** AHTNA, INC.
Comment ID: 121603 **Organization Type:** Business

Representative Quote: The two present exemptions share the common element that no surface aspect of federally owned parks land is disturbed during operations. Because the National Parks Service's regulatory interest is in "protection of the park's natural and cultural resources and visitors," regulation of what happens solely on a private landholder's property within a park or below the surface of the park is not "necessary for the administration and management of the National Park System." 16 U.S.C. § 1,3. The National Parks Service concedes as much by stating in the Advance Notice, "Surface

effects. NPS should always scrutinize proposed drilling to guard against interruption of ground water flow that feeds water bodies within the park, and against contamination by fluids used in drilling. The field of geohydrology has made great advances since 1978, giving NPS a greater ability to predict impacts on ground water. (b) Option 2 also gives NPS control over indirect impacts such as disturbance of wildlife within park boundaries at nesting sites and at migration resting and feeding areas. Failure to regulate such impacts could do great damage to wildlife values within the parks.

Corr. ID: 16 **Organization:** New Mexico Archeological Council

Comment ID: 121543 **Organization Type:** University/Professional Society

Representative Quote: NPS cannot simply assume de minimus impacts to parks from directional drilling without confirmation that directional drilling never causes significant impacts to parks where it is currently ongoing. NPS views exemption from the 9B regulations as an incentive for operators to choose directional drilling and is concerned that submitting directional drill operations to the 9B regulations would decrease the incentive to choose directional drilling. This is a reasonable concern; however, the incentive is meaningless if directional drilling is significantly impacting park resources and values.

A potential solutions would be for NPS to examine a representative subset of the parks where directional drilling is occurring to assess the type and degree of impacts that those parks are experiencing from off-site drilling operations, particularly with respect to noise, air pollution, erosion, subsidence, and visual intrusions since these are usually some of the key values that contribute to the visitor experience. NPS may discover a relationship between the degree of indirect impacts to a park and the distance of the drilling operation from the park, for example. Such a finding could be used to require full compliance with the 9B regulations for facilities located within a certain radius of a park, with less stringent compliance requirement for facilities located further from parks. Without any direct evidence that directional drilling does not significantly impact parks, it is not reasonable for NPS to continue to exempt such facilities from compliance with the 9B regulations.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121637 **Organization Type:** Conservation/Preservation

Representative Quote: First, the 9B rules control only operations where "access is on, across or through federally owned or controlled lands or waters." 36 C.F.R. § 9.30. As a result, parcels at the margins of park units - inholdings -- can be drilled without following 9B procedures.109 operations use this loophole now. See 74 Fed. Reg. at 61,598. This loophole is open to abuse. Imminent shale gas extraction on extensive private land within park boundaries along the Upper Delaware, for instance, may escape Park Service oversight unless this loophole is closed.

Second, the rules generally exempt "any person conducting operations on January 8, 1979 in accordance with a Federal or State issued permit" until the permit expires or changes hands. 36 C.F.R. § 9.33. Turn-over rates have been far slower than predicted, and 255 operations presently enjoy this exemption. See 74 Fed. Reg. at 61,598.

Third, the Service, unfortunately, has interpreted a provision addressing directional drilling, 36 C.F.R. § 9.32(e), to artificially limit its authority over operators who access resources underneath parkland from off-site wellpads using slanting or horizontal well bores. See 74 Fed. Reg. at 61,598-99. According to the advance notice, "[s]urface activities associated with directional drilling operations outside the park are not within the scope of the jurisdiction provided to the NPS" under the current rules. Id. at 61,598. This exemption, as we discuss below, could pose major problems in the Marcellus region, where directional drilling is heavily used.

Corr. ID: 21 **Organization:** Texas State Historic Preservation Officer

Comment ID: 125490 **Organization Type:** State Government

Representative Quote: We support Option 2 by revising the regulations to make the drilling pad location a key factor in the operating plan approval decisions while retaining incentives to locate drilling pads off of park land. Serious impacts from directional drilling operations in Big Thicket National Preserve led to two recent court cases which highlight the need to reform the existing rules.

Concern ID: 22950

CONCERN STATEMENT: One commenter stated the preference for either Option #1 or Option #2 with the addition of identification and approval of any substances introduced into the subsurface, as well as careful regulation (or prohibition) of hydrofracture operations.

Representative Quote(s): **Corr. ID:** 13 **Organization:** Tennessee Citizens for Wilderness Planning

Comment ID: 121577 **Organization Type:** Conservation/Preservation

Representative Quote: Directional drilling TCWP supports either Option 1 (no change, i.e., retain existing scope that provides incentives to locate surface operations outside parks) or Option 2 (expand regulation to include surface operations outside parks that may impact park resources). We oppose Option 3 (entirely exempt directional drilling.)

At a minimum for either Option 1 or 2, requirements should include identification and approval of any substances introduced into the subsurface, as well as careful regulation (or prohibition) of hydrofracture operations.

Concern ID: 22951

CONCERN STATEMENT: One commenter suggested that the NPS should not reduce or remove the incentive to conduct directional drilling operations outside park boundaries because it would result in more wells within park units, and it is unclear that a directional drilling operation adversely impacts park resources.

Representative Quote(s): **Corr. ID:** 9 **Organization:** Collier Resources Company

Comment ID: 121570 **Organization Type:** Business

Representative Quote: We encourage the Service not to reduce or remove the incentive to conduct directional drilling. If the Service were to use the existence of an underground well passing below an NPS unit as an excuse to regulate off-site surface activities, then operators would face similar regulatory costs as if they had located their surface facilities within the park unit itself. The result could be the location of more surface facilities within the unit, which would have greater net impacts. The existence of a directional well should not be treated as an excuse to regulate off-site activities: oil and gas activities located on nonfederal land outside an NPS unit should be subject to the same regulation as other activities located on such lands. Moreover, it is unclear to us that a directional well passing hundreds or thousands of feet below the surface of an NPS unit has any discernible effect on park values, and therefore there is little factual justification for regulating such a well. If the Service is going to consider regulating such directional wells, then it should demonstrate that such directional wells themselves actually impact park values, and impose regulations that are tailored to address only the impacts of the directional wells themselves.

Concern ID: 22952

CONCERN STATEMENT: One commenter disagreed with the NPS assertion that directional drilling from outside park boundaries does not impact park resources, further stating that excluding oil and gas operations located outside park boundaries may be in violation of the Organic Act, especially in light of the shale gas boom.

Representative Quote(s): **Corr. ID:** 17 **Organization:** Sierra Club

Comment ID: 121648 **Organization Type:** Conservation/Preservation

Representative Quote: In *Sierra Club v. Mainella*, 2005 WL 3276264 (D.D.C. 2005) ("Mainella I"), the court declined to strike down a narrow new Service interpretation of these regulations. That policy directed park managers to determine whether a directional drilling operation posed a "significant threat of damage" by looking only at operations occurring within the park boundary. In other words, it allowed park managers to look only at what was going on in the portion of the drill hole passing beneath the park - rather than at the loud, noisy, and polluting drilling station just outside park boundaries. See *id.* at *12. As a result, directional drilling operations could be exempted from the 9B rules because their downhole operations did not pose a "significant threat", even if their above-ground facilities outside park boundaries impaired park resources.

This creative, if perverse, interpretation didn't have much staying power. In a second case, *Sierra Club v. Mainella*, 459 F. Supp. 2d 76 (D.D.C. 2006) ("Mainella II"), the court held that "notwithstanding § 9.32(e)," the Service still had to decide whether the entire drilling operation - from drill hole to drilling station - was consistent with the nonimpairment mandate of the Organic Act, and to properly analyze these impacts under the National Environmental Policy Act ('NEPA'). See *id.* at 98-99,103. Thus, the Service's decision as to whether a given operation fell into the 9B exemption itself triggered a larger nonimpairment analysis that embraced the very operations the regulations sought to exempt. See *id.* at 104 ("NPS has the ability under the Organic Act - although not under the 9B regulations - to prevent the activities causing the environmental impact by denying access to the Preserve").

The result is that, exemption or not, the Service must still carefully consider environmental impacts before allowing directional drilling. But, because the 9B regulations themselves may not apply, this consideration is not guided by the detailed process and carefully drawn operating standards that otherwise help the Service conduct such analyses. This odd state of affairs risks park resources and provides managers insufficient guidance.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121649 **Organization Type:** Conservation/Preservation

Representative Quote: Nonetheless, in the advance notice, the Service maintains that this approach is preferable because, by waiving the 9B regulations, it "retain[s] incentives for operators to locate their surface facilities outside park boundaries." See 74 Fed. Reg. at 61,598. While we agree, in the abstract, that such incentives are important, and that placing wellpads outside of the parks is, indeed, a "major park protection mitigation measure," see *id.*, we do not agree that wholly exempting these operators from the 9B regulations makes sense - and particularly not in light of the shale gas boom, which is driven by horizontal, e.g., directional, drilling.

First of all, the incentive that the Service emphasizes is not obvious after *Mainella II*. As the Service must, regardless, analyze all activities under NEPA and the Organic Act, it's not clear that waiving the 9B regulations will necessarily determine an operator's drilling pad choices. Certainly, the Service has presented no empirical data whatsoever that its analysis is correct.

And, even if such an incentive existed, it is arguably perverse - and possibly illegal. If a

wellpad is sitting right next to park unit's boundary - as was the case in the Mainella cases - putting on blinders to focus only on the wellbit, and not the entire operation, makes no practical or ecological sense. The park unit resources, and park visitors, will experience all the impacts, whether or not the Service officially acknowledges them. Worse, the exemption arguably gives operators an incentive to relax resource protection for operations just outside park boundaries, as they know the Service does not intend to enforce against them. Nothing in the Organic Act suggests the Service may simply ignore impacts to park resources because it thinks doing so creates positive incentives for outside-the-park-unit location -- quite to the contrary. Indeed, the court left open the question whether § 9.32(e) is "invalid under the Organic Act for excluding impacts from surface activities." 459 F. Supp. 2d at 97.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121650 **Organization Type:** Conservation/Preservation

Representative Quote: Maintaining or expanding this unstable exemption is particularly unwise as the shale gas boom ramps up. Because shale gas is extracted through a modified directional drilling process, in which long horizontal well bores may penetrate deep beneath public land, the existing exemption risks tying the Service's hands to a pressing threat. Surely the Service should consider the impacts of thousands of truck trips, millions of gallons of wastewater, and extensive pumping operations, whether or not the top of the hole happens to be within a park. Thus, we oppose options 1 and 3 in the advance notice, which would retain or expand this policy.

Nonetheless, we are sensitive to the general incentive problem. It is better if operators who have the choice locate outside the parks. Our quarrel is with the Service's methods, not its goals.

It would be simpler simply to revise the regulations to clearly make drilling pad location a key factor in the operating plan approval decision. The Service could deny pad placements in the park units if directional drilling made a less damaging location possible. This sort of requirement is plainly consistent with the existing 9B rules, which require operators to use the methods which are "least damaging to the federally-owned or controlled lands, water and resources." See, e.g., 36 C.F.R. § 9.37(a)(1). There is no need to set up 'incentives' where the Service can more directly drive the better result.

The Service can secure the advantages of off-site drilling without renouncing its oversight responsibilities.

AL4500 - Alternatives: Financial Assurance

Concern ID: 22953

CONCERN STATEMENT: One commenter noted that cash or its equivalent should be the preferred form of financial assurance, and further stated that surety bonds should not be recommended.

Representative Quote(s): **Corr. ID:** 15 **Organization:** Not Specified

Comment ID: 121510 **Organization Type:** Unaffiliated Individual

Representative Quote: Financial Assurance

6. It seems that only cash or its equivalent will provide adequate protection based on my reading of FILLING THE GAPS: HOW TO IMPROVE OIL AND GAS RECLAMATION AND REDUCE TAXPAYER LIABILITY available at <http://www.worc.org/userfiles/file/Filling%20the%20Gaps.pdf>.

7. The authors of the study in number 6 above state that cash or its equivalent is the preferred form of financial assurance, as it is the most secure and readily available in the event of operator default. Surety bonds are not recommended because all the funds may not be paid out at once--" surety companies are almost certain to make the payments as reclamation activities occur." It is pointed out that some surety companies have gone bankrupt.

Concern ID: 22954

CONCERN STATEMENT: Commenters suggested that a bonding requirement of no more than \$200,000 is too low, and that taxpayers should not be required to subsidize private companies through an inappropriately low performance bonding cap.

Representative Quote(s): **Corr. ID:** 10 **Organization:** National Parks Conservation Association

Comment ID: 121627 **Organization Type:** Conservation/Preservation

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.

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 company's 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."

Corr. ID: 12 **Organization:** *Not Specified*

Comment ID: 121518 **Organization Type:** Unaffiliated Individual

Representative Quote: Financial Assurance: We support the proposal to abolish the cap in the 9B regulations that limits bonding to \$200,000 per operator in any one NPS unit. Under that rule, a single operating company could be drilling a hundred wells within a given park with bonding at only \$200,000 for the whole works. Operators should be required to post bonding or other financial assurance equal to the costs of complete rehabilitation of the disturbed area and all impacts affecting the park. When inflation causes an increase in those costs, NPS should require an increase in the operator's bond coverage.

Corr. ID: 14 **Organization:** Maryland Ornithological Society

Comment ID: 121553 **Organization Type:** Conservation/Preservation

Representative Quote: Financial Assurance

We endorse the proposal in the ANPRM to eliminate the bonding cap of \$200,000 per operator per NPS unit and replace it with a variable amount of financial assurance equal to the reasonable estimated cost of reclamation and liability. This is needed to cover cases in which the operator goes bankrupt or defaults without completing shutdown and reclamation of impacts. MOS members have seen abandoned mining and drilling sites from decades past in many parts of the country. The regulation should make sure this will never happen in the parks.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121655 **Organization Type:** Conservation/Preservation

Representative Quote: The public should not have to bear the cost of accidents at private oil and gas drilling operations on public lands. The current regulations, unfortunately, force taxpayers to subsidize private companies through an inappropriately low performance bonding cap. We strongly support the Service's efforts to eliminate this artificial subsidy. See 74 Fed. Reg. at 61,599.20

Under the existing rules, operators must post a bond (or make a cash deposit) that covers the costs of reclaiming the site, plus an additional amount "to provide the means for rapid and effective cleanup." See 36 C.F.R. § 9.48. The intent is to assure that the total costs of protecting park resources from private extraction are borne by the parties profiting from the drilling. But the rules undercut themselves by capping the total bond at the unreasonably low amount of \$200,000 (and adding other subsidiary caps on the rapid cleanup bond amounts). We are aware of no private or public party using such a low bonding cap.

Reclamation and response costs can far exceed \$200,000; taxpayers could be left holding the bag for these additional costs, essentially subsidizing oil and gas operators by reducing their exposure to this risk. It is wholly inappropriate for the Service, operating under its strong Organic Act mandate, to provide this subsidy for activities which may endanger resources protected under the Act. We applaud its decision to end this practice.

Rather than setting a hard bonding limit, the regulations should provide for the bond amount to be determined by likely total reclamation costs, plus a sufficient amount to provide for emergency clean-up. Reclamation should be defined as restoring all ecosystem functions and services that the site provided prior to drilling, and should generally include the removal of all above-ground structures, undergrounds storage tanks, and roads, along with a carefully designed cap for the well itself.

Corr. ID: 19 **Organization:** United Mountain Defense

Comment ID: 121712 **Organization Type:** Conservation/Preservation

Representative Quote: More specifically, the NPS should remove the bonding cap in order to be able to hold enough money to keep operators to their commitments and also aid in clean up should they default on their responsibilities in any way.

Corr. ID: 21 **Organization:** Texas State Historic Preservation Officer

Comment ID: 125502 **Organization Type:** State Government

Representative Quote: Under the existing rules, operators must post a bond (or make a cash deposit) that covers the costs for rapid and effective site rehabilitation. Bonding is limited to \$200,000 per operator, not number of wells within a given park. The costs can far exceed the bond cap; the financial assurance should be equal to the costs of complete rehabilitation of the disturbed area and all impacts affecting the park, including possible mitigation of damages to significant cultural resources. Additionally, we support fee assessments for minor infractions, consistent with the cost of damages to park resources

rather than setting a maximum.

Concern ID: 22955

CONCERN STATEMENT: One commenter suggested that the imposition of administrative assessments should be combined with a bonding requirement to protect parks if operators should go out of business before paying an administrative assessment or completing reclamation.

Representative Quote(s): **Corr. ID:** 16 **Organization:** New Mexico Archeological Council
Comment ID: 121545 **Organization Type:** University/Professional Society

Representative Quote: Imposition of administrative assessments should be combined with requiring bonding and/or money put into a fund before operations begin to protect parks if operators should go out of business before payment of an administrative assessment or reclamation is possible. Requiring financial assurances by the operator prior to drilling activities inside or outside of parks would insure that parks are not left with the bill for remedying impacts from these operations long after the operator has abandoned the drilling site.

Concern ID: 22956

CONCERN STATEMENT: One commenter suggested that the NPS current \$200,000 bonding cap adequately protects taxpayers in the event an operator defaults on its responsibilities under its approved plan of operations, and thus no new regulations should be established regarding a bonding requirement.

Representative Quote(s): **Corr. ID:** 9 **Organization:** Collier Resources Company
Comment ID: 121573 **Organization Type:** Business

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: in the Big Cypress, the State of Florida requires an additional bond close to the same amount, and Appendix 6 has specific bonding provisions applicable to the Colliers. As such, the Colliers recommend that the NPS keep the current general bonding cap. If the NPS decides to change the general bonding cap, the Colliers suggest that the NPS allow operators to provide financial assurances in forms other than cash. For instance, the NPS should allow operators to provide financial assurances in the form of corporate guaranties, or security interests in equipment or extracted oil. Allowing operators to provide financial assurances in alternative forms will provide the NPS with the security it seeks without unnecessarily restricting an operator's ability to explore its oil and gas rights.

In addition, depending on the expected duration of an operator's exploration activities, the NPS should allow operators to provide financial assurance payments in installments. If an operator's plan of operation provides that the operations will last over an extended period of time, or that the operations will occur in identifiable phases, the revised regulation should not require the operator to provide all financial assurances at the beginning of the project. Financial assurances are intended to protect the NPS from shouldering the cost of reclaiming an area that an operator's oil and gas activities have altered. Until such alteration has begun, or is imminent, an operator should not be required to provide financial assurances.

AL4600 - Alternatives: Areas of Exemption from 9B Regulations**Concern ID:** 22957**CONCERN STATEMENT:** One commenter opposed Option #2 under Regulation of Exempt Operations, since the phased timeframe could delay necessary action.**Representative Quote(s):** **Corr. ID:** 15 **Organization:** *Not Specified***Comment ID:** 121506 **Organization Type:** Unaffiliated Individual**Representative Quote:** I think the phased timeframe part of Option # 2 should eliminate this option from consideration. Because the goal of the revisions is to improve resource protection, the sooner exempt oil and gas operations can be brought under regulation, the better.**Concern ID:** 22958**CONCERN STATEMENT:** Commenters preferred Option #1 under Regulation of Exempt Operations, stating that all drillers should submit operating plans with priorities set by the addition of new facilities, while one commenter also suggested a new option that would require a plan anytime an operator expands operations.**Representative Quote(s):** **Corr. ID:** 6 **Organization:** *Not Specified***Comment ID:** 121504 **Organization Type:** Unaffiliated Individual**Representative Quote:** The revision should end the "grandfather" exemption of 53 percent of drilling operations from regulation. Ideally all drillers should submit operating plans by a fixed date (Option 1). The highest priority should be those who propose to add new wells, pipelines or roads. NPS should be able to review the proposal before any new impacts are created.**Corr. ID:** 7 **Organization:** Lone Star Chapter of the Sierra Club**Comment ID:** 121668 **Organization Type:** Conservation/Preservation**Representative Quote:** The Sierra Club believes that no oil/gas activities should be exempt from regulatory requirements whether they occur inside or outside BTNP if they have the potential to affect BTNP. It should be the goal of the NPS to minimize potential environmental impacts from oil/gas activities as much as possible in BTNP. It would be much simpler if all oil/gas activities that had the potential to affect BTNP in any manner would have to submit a plan of operations so that maximum oversight and analysis, assessment, and evaluation would be exercised and environmental protection would be increased.

Of the options provided under Regulation of Exempt Operations, Option #1, which requires exempt operators to submit plans of operations, comply with operating standards, and provide financial assurance by a set date, is the best option; Option #2, which would phase in Option #1, is the next best option; and Option #3, is not acceptable because it relies on operators to "verify that their operations are being conducted in a manner that fulfills a defined set of operating standards which would be enforceable by park staff." "Trust, but verify" should be the NPS motto. Self-inspecting and reporting (I promise ...) or voluntary provisions should not be used as a replacement for direct NPS oversight and involvement.

Corr. ID: 16 **Organization:** New Mexico Archeological Council**Comment ID:** 121539 **Organization Type:** University/Professional Society

Representative Quote: I. Regulation of Exempt Operations

According to the ANPR, over half of all the wells in parks today are not subject to the requirements of the 9B regulations because of two broad exemptions that allow these wells to operate without requirements to protect park resources and values. The NPS proposes three options for requiring all previously exempt operations to comply with the 9B regulations. NMAC supports Option #1 as the most effective means for bringing exempt operations into compliance with the 9B regulations. This option would

Require presently exempt operators to submit plans of operations, comply with operating standards, and provide financial assurances by a set date. ANPR at 61598.

A date for requiring compliance should be set within a reasonable amount of time from the date on which the new 9B regulations take effect. This regulatory deadline must be enforceable by park staff to the extent that parks will require operators to shut down wells if these requirements are not met within the regulatory timeframe. A plan of operations is necessary for previously exempt operators to subject these operators to enforceable commitments to minimize impacts to parks and perform total restoration once oil and gas operations have ceased in the park. Such plans must be subject to the National Historic Preservation Act Section 106 process, and require consultation with State Historic Preservation Officers, Tribes, and the interested public. Therefore, NMAC believes that Option #1 will be most protective of park resources while still allowing for continued operation of existing operations.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121646 **Organization Type:** Conservation/Preservation

Representative Quote: It is unacceptable that over half of all wells in the units of the national park system are not covered by the Service's rules. The Service's most important charge is to finally close this gap - and it must do so quickly, before still more operations take advantage of the loopholes.

The two easiest exemptions to close are the grandfather clause for operations running under old permits and the exemption for operators on inholdings who do not have to cross federal land to reach their operations - even if those operations are within park boundaries. As the Service observes, these operations "may or may not have equipment on site that reflects current-day industry standards," and so pose a particularly acute threat to units of the national park system. See 74 Fed. Reg. at 61,598. This on-going risk directly conflicts with the Service's nonimpairment mandate and the Service cannot allow it to continue.

The Service offers three options for bringing these operators into the fold: (1) requiring them to submit compliant plans of operations, comply with operating standards, and post bonds by a set date; (2) requiring the same steps, but with a phased timeline; or (3) waiving the plan of operations requirement and instead requiring operators to comply with some baseline standard, with verification. The second and third options appear to be motivated largely by staff resource concerns.

We strongly favor option 1. Exempt operators have now enjoyed over thirty years without proper regulatory oversight in contravention of the Service's mandate. It is time for this free ride to end, even if this comes at some staff resource cost. The Service should not tolerate option 2's proposed lengthy partial compliance period, particularly because responsible operators should already be operating up to modern standards. Companies that have chosen to use sub-standard equipment and practices, which endanger park resources and now must finally be upgraded, should not benefit from their negligence through a grace period.

Corr. ID: 21 **Organization:** Texas State Historic Preservation Officer

Comment ID: 125484 **Organization Type:** State Government

Representative Quote: We strongly favor Option 1: submittal of operation plans, comply with improved NPS operating standards, and provide financial assurances by a set date.

Concern ID: 22959

CONCERN STATEMENT: Commenters preferred eliminating the exempt lands under the proposed 9B Regulations, using a phased approach with quickest action in cases of the most damage, to reduce unacceptable risks and costs. If operators would not comply with this change, one commenter recommended imposing closure requirements for such wells to avoid their abandonment.

Representative Quote(s): **Corr. ID:** 3 **Organization:** *Not Specified*

Comment ID: 121535 **Organization Type:** Unaffiliated Individual

Representative Quote: The exemption of half the oil and gas wells in the 13 parks should be ended by requiring all drillers to submit plans of operation. In setting deadlines, I suggest quickest action on cases involving the greatest damage to resources and to visitors' enjoyment of the park. A phased approach could be used, as in your Option 2, if the most urgent cases go first. Park superintendents probably know which those are.

Corr. ID: 7 **Organization:** Lone Star Chapter of the Sierra Club

Comment ID: 121665 **Organization Type:** Conservation/Preservation

Representative Quote: Presently, NPS does not require (although it once did), for exempted oil/gas activities, that other agency environmental requirements (federal requirements like those of the Environmental Protection Agency and Corps of Engineers and state environmental agency requirements like those of the Railroad Commission or Texas Commission on Environmental Quality) be incorporated into the NPS approval so that they are legally enforceable and provide NPS with the widest latitude for compliance and enforcement actions. NPS should again allow the incorporation into any approval, exemption, permit, plan of operations, or other legal approval mechanism, for oil/gas activities, other state, local, or federal agency environmental requirements.

Corr. ID: 10 **Organization:** National Parks Conservation Association

Comment ID: 121622 **Organization Type:** Conservation/Preservation

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.

Corr. ID: 13 **Organization:** Tennessee Citizens for Wilderness Planning

Comment ID: 121576 **Organization Type:** Conservation/Preservation

Representative Quote: We applaud the initiative to eliminate exemption from regulation of oil and gas operations within park units. These operations were exempted either because their access does not require crossing park-owned or -administered lands or they were grandfathered by virtue of coverage by valid state permits. Because over 360 wells (more than half) in our parks 30 years later are still exempted and may pose significant threats to park resources, ending these exemptions is proper and responsible stewardship. TCWP finds acceptable Option 1 (actions by a set date), Option 2 (actions

under a phased timeframe), and Option 3 (verify meeting standards and legal basis, and submit financial assurance), with due regard to be given to the demand on park staff and resources.

Some operations may cease rather than submit to the requirements. We recommend consideration of imposing closure requirements for such wells to avoid their abandonment.

Concern ID: 22960

CONCERN STATEMENT: Commenters stated preference for Option #2 under Regulation of Exempt Operations, which would require oil and gas operators to submit their plans of operations under a phased timeframe and to suggest specific times based partly on existing damage to park resources.

Representative Quote(s): **Corr. ID:** 12 **Organization:** Not Specified

Comment ID: 121515 **Organization Type:** Unaffiliated Individual

Representative Quote: Regulation of Exempt Operations: It is time to bring under regulation those operations that were exempted by the 9B regulations adopted in 1978. Some 53 percent of the wells now operating are still unregulated by NPS because of two exemptions in the 9B regulations. We urge you to require all operators to submit plans of operations and financial assurance within 1 year. Operations that are already known to be causing damage to park resources should be required to submit plans within 90 days. Any operators that are planning changes to their operations that will cause greater impact on the parks should be required to submit plans and receive approval from NPS before proceeding. These deadlines seem closest to your Option 2, the phased timeframe concept.

Corr. ID: 14 **Organization:** Maryland Ornithological Society

Comment ID: 121550 **Organization Type:** Conservation/Preservation

Representative Quote: We recommend Option 2, because it would allow NPS to set an early due date of 90 of 120 days for operations where damage to park resources is occurring or is about to occur. Less urgent cases could be assigned a later due date. No doubt NPS resource protection staff already know where the serious problems are. Within one year all operations should be covered by enforceable operating plans.

Concern ID: 22961

CONCERN STATEMENT: Commenters suggested implementing modified elements related to the Regulation of Exempt Operations, such as a combination of Option #1 and Option #2, and a combination of Option #1 and Option #3.

Representative Quote(s): **Corr. ID:** 10 **Organization:** National Parks Conservation Association

Comment ID: 121623 **Organization Type:** Conservation/Preservation

Representative Quote: 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: 15 **Organization:** *Not Specified*

Comment ID: 121507 **Organization Type:** Unaffiliated Individual

Representative Quote: I believe a combination of Option # 1 and Option # 3 is preferable. Park staff should have the power to enforce the operating standards. I believe that submission of plans of operation upfront would require an operator to immediately consider changes necessary to meet different operating standards, and it could be an opportunity to clear up any misinterpretations and matters of existing non-compliance sooner rather than later.

Concern ID: 22962

CONCERN STATEMENT: One commenter expressed concern that the number of park units exempted from the 9B Regulations could grow considerably in the coming years due to the increasing development of the "Marcellus Shale" deposit, which is found in New York, Pennsylvania, Virginia, West Virginia, Ohio, Tennessee, and Maryland.

Representative Quote(s): **Corr. ID:** 10 **Organization:** National Parks Conservation Association

Comment ID: 121620 **Organization Type:** Conservation/Preservation

Representative Quote: However, the number of park units who are exempted from the 9B regulation could grow considerably in the coming years due to the increasing development of the "Marcellus Shale" deposit, which is found in New York, Pennsylvania, Virginia, West Virginia, Ohio, Tennessee, and Maryland. The deposit underlies or is in close vicinity to 35 national park units and poses a particularly serious threat to Upper Delaware Scenic and Recreational River in New York and Pennsylvania.

Concern ID: 22963

CONCERN STATEMENT: One commenter suggested that Option #3 under Regulation of Exempt Areas may be in violation of the Organic Act because the NPS may not legally set a second-class standard for previously exempt oil and gas operators.

Representative Quote(s): **Corr. ID:** 17 **Organization:** Sierra Club

Comment ID: 121647 **Organization Type:** Conservation/Preservation

Representative Quote: Option 3 is also not acceptable. This plan would effectively give previously exempt operators a permanently privileged status by allowing them to operate under a generic "defined set of operating standards", see id., rather than using the careful individualized scrutiny that all other operators face on top of the baseline standards. There is no evidence that these operators' projects are less environmentally damaging than covered operations; nor is there any reason to think that their operations are less susceptible to improvement if the usual 9B scrutiny is applied. The Service may not, under the Organic Act, legally set a second-class standard for this class of operators.

In brief, every oil and gas operator should finally be made to compete on a level playing field. Starting from a strong set of operation standards, the Service should require each

operator to go further by submitting a detailed, site-specific plan of operations. This system depends, of course, upon careful and regular verification to keep operations moving forward properly.

AL4800 - Alternatives: Operating Standards

Concern ID: 22964

CONCERN STATEMENT: Commenters approved of establishing a set of operating standards under the proposed 9B Regulations, and suggested including specific items, such as alternative pumping units that reduce visual and noise impacts; a plan to recycle as much drilling mud, fracking fluid, and produced water as possible to reduce water withdrawal and treatment demands; full public disclosure of the volumes and identities of all substances in fracking fluids; a ban on any fracking fluid components that pose an unacceptable toxic risk to park resources; a fluid management plan demonstrating that all fracking fluids, produced water, and drilling muds will be contained and managed on site; an enforceable and rigorous reclamation and restoration plan; clustering wells on widely spaced well pads; including language calling for the avoidance and mitigation of air quality impacts; and updating the operating standards every two years to ensure the latest technology is included.

Representative Quote(s): **Corr. ID:** 7 **Organization:** Lone Star Chapter of the Sierra Club
Comment ID: 121671 **Organization Type:** Conservation/Preservation

Representative Quote: With regard to Operating Standards, the Sierra Club understands that in the case of BTNP that different oil/gas technology is now in use than was the case 30 years ago. However, this technology does not always mean that environmental impacts are less. For instance, 3D seismic surveys are more environmentally harmful directly than 2D seismic surveys because more vegetation is cut when lines are prepared and indirectly because the greater success of 3D surveys means more oil/gas wells are drilled.

If NPS wants to come up with operating standards for BTNP that are the minimum required, while keeping its authority to require more stringent standards on a case-by-case basis, the Sierra Club believes this is appropriate. However, this means that the operating standards book needs to be updated at least every two years to ensure that the most recent technology is included and used to protect BTNP. In addition, the value of case-by-case review is that alternatives, like using back-pack or rickshaw seismic surveys, can be reviewed for possible use while an operating standards book may look at these alternatives as viable but more costly and therefore less used mitigation measures.

Corr. ID: 10 **Organization:** National Parks Conservation Association
Comment ID: 121631 **Organization Type:** Conservation/Preservation

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: 10 **Organization:** National Parks Conservation Association
Comment ID: 121682 **Organization Type:** Conservation/Preservation

Representative Quote: 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.

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: 10 **Organization:** National Parks Conservation Association

Comment ID: 121629 **Organization Type:** Conservation/Preservation

Representative Quote: While stronger performance bonds based on the entirety of the costs in reclaiming and restoring park landscapes will help preserve park resources in the future, the mere operation of facilities has negative direct impacts of its own on wildlife and other park resources. As such, we encourage the NPS to require that the plan of operations include enforceable measures to avoid or mitigate adverse air quality or other environmental associated with all activities related to oil and gas development. To ensure that the park service may fulfill its obligation to conserve park resources by means that leave them unimpaired for the enjoyment of future generations, it is imperative that the adverse impacts on wildlife and their critical habitat, air and water quality, and other park resources will be avoided or mitigated throughout the life of the operation.

Corr. ID: 13 **Organization:** Tennessee Citizens for Wilderness Planning

Comment ID: 121578 **Organization Type:** Conservation/Preservation

Representative Quote: Operating Standards
Most state standards are heavily influenced by industry interests. While these interests often provide exceptional expertise, protection of park resources must take clear precedent over optimizing extraction yield and operational costs. TCWP supports maintaining or increasing the current levels of protection.

As noted for directional drilling, standards should include rigorous regulation of any substances introduced into the subsurface or used in surface operations, as well as any hydrofracture operations.

Corr. ID: 14 **Organization:** Maryland Ornithological Society

Comment ID: 121552 **Organization Type:** Conservation/Preservation

Representative Quote: Operating Standards
We endorse the proposal in the ANPRM to incorporate effective, enforceable operating standards that reflect the state of the art. The Bureau of Land Management (BLM) has drafted "best management practices" with special attention to wildlife in controversial areas such as the Roan Plateau (Colorado) and Otero Mesa (New Mexico). While these probably would not be stringent enough for the National Park System, they contain good points, such as clustering wells on widely spaced well pads, avoiding raptor nesting sites, and scheduling activities to avoid periods when wildlife are most vulnerable.

Corr. ID: 15 **Organization:** *Not Specified*

Comment ID: 121509 **Organization Type:** Unaffiliated Individual

Representative Quote: Operating Standards

5. Alternative pumping units that reduce visual and noise impacts are available. Low-profile pumping units have been used to replace some big pump-jacks in the Durango, Colorado, area. Earthworks offers alternatives to these obtrusive units at <http://www.earthworksaction.org/bpVisualImpacts3.cfm>. One alternative that stands 10 to 15 feet tall is a pneumatic pumping device that is reported to make little or no noise. According to the Earthworks site, a progressive cavity pump is another low-noise alternative that can be used when there are large amounts of produced water where the

pneumatic pump have been reported to not function right.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121653 **Organization Type:** Conservation/Preservation

Representative Quote: - A plan to recycle as much drilling mud, fracking fluid, and produced water as possible to reduce water withdrawal and treatment demands. Such closed loop systems can dramatically reduce pollution, and should be required for all operations where an engineering analysis suggests that they can be used.

- A demonstration that water withdrawals will not over-stress park unit ground or surface water.

- A comprehensive demonstration that groundwater resources will be protected through careful surface fluid management and excellent casing design.

- A commitment to take advantage of directional drilling technology by clustering wells together on single pads, rather than creating many separate well pads, thereby constraining habitat fragmentation.

- A prohibition on any projects that would have an adverse impact on air quality related values within a park system unit, individually or cumulatively when considered with other projects. This standard, presently used for Clean Air Act permitting under 42 U.S.C. § 7475 sets a useful baseline. Further, to help reduce impacts, operators should use clean fuels in drilling pumps and trucks and minimize truck trips.

- A safety plan that embraces worker and visitor safety and, in particular, carefully considers truck safety on any access roads to the drilling site.

- An enforceable and rigorous reclamation and restoration plan. The reclamation requirements already present in 36 C.F.R. § 9.39 are a strong start. The Service might build on them by, for instance, requiring operators to, at the outset, consider ways to minimize roadbuilding and to employ road design options which will allow roads - and their impacts - to be easily removed after they are used.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121654 **Organization Type:** Conservation/Preservation

Representative Quote: The Service should also carefully track other state and federal legislative and regulatory efforts to identify other important operating standards. EPA, for instance, has recently been charged with conducting a detailed scientific analysis of hydrofracturing. Colorado recently adopted regulations to address shale gas drilling. Pennsylvania is in the process of amending its water regulations to address total dissolved solids from produced water and New York is working on an environmental impact statement addressing fracking. Although none of these efforts are perfect, they may provide the Service with useful perspective.

Importantly, the Service cannot, and should not, rely on state regulatory efforts to protect the park units. Although these efforts are critical, the Service has an independent responsibility to protect the public's resources. As such, it should promulgate its own set of nationally-applicable operating standards, rather than relying on a patchwork of state standards to protect its resources. While compliance with these state standards might sometimes also fulfill federal standards, the Service should ensure that it has all the federally-enforceable tools it needs to protect national park lands, regardless of state efforts.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121651 **Organization Type:** Conservation/Preservation

Representative Quote: We strongly support the Service's plan to update the rules, not just close loopholes. See 74 Fed. Reg. at 61,599. The 9B rules contain operating standards that create a baseline for all operations, but "the formulation of the existing standard is 30 years old." *Id.* These standards should be updated to track new drilling techniques, including shale gas extraction.

The Service indicates that it will look to existing standards to inform its modernization effort. We are concerned, however, that many of these standards - particularly those written by industrial associations -- focus primarily on facilitating the commercial aspects of production, treating environmental and social costs as secondary considerations. We urge the Service to borrow strong points from these regulations but to maintain its own set of operating standards which avoid, and where impacts are inevitable, minimize harm to natural, cultural, and social resources and values.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121652 **Organization Type:** Conservation/Preservation

Representative Quote: Updated standards are important for shale gas operations, which are not directly addressed by the Service's existing rules. The Service can take a national leadership role on this issue, commensurate with its mandate to protect our most precious national treasures.¹⁹ We urge the Service to adopt operating standards that, at a minimum, require the following:

- Full public disclosure of the volumes and identities of all substances in fracking fluids. If park managers and the public do not know what is being injected into shale formations, they cannot protect public surface water and groundwater from spills or dangerous drilling practices.
- A ban on any fracking fluid components that pose an unacceptable toxic risk to park resources.
- A fluid management plan demonstrating that all fracking fluids, produced water, and drilling muds (collectively "wastewater") will be contained and managed on site. The Service cannot afford to allow any spills.
- A demonstration that sufficient treatment capacity exists for any and all waste water. In some Marcellus Shale region states, wells are being permitted even though no treatment plants can sufficiently process the total dissolved solids in the wastewater. The result has been insupportable pollutant loads throughout the watershed, including in the Susquehanna River, as inadequate treatment plants dump diluted - but not treated - waste directly into the rivers. No park project should go forward unless the operator can demonstrate that it will not contribute to this problem.

Concern ID: 22965

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

Representative Quote(s): **Corr. ID:** 10 **Organization:** National Parks Conservation Association

Comment ID: 121624 **Organization Type:** Conservation/Preservation

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: 22966

CONCERN STATEMENT: One commenter stated that a comprehensive list of operating standards should not be implemented under the proposed 9B Regulations, since each park unit is unique and may

have differing resource concerns.

Representative Quote(s): **Corr. ID:** 9 **Organization:** Collier Resources Company
Comment ID: 121571 **Organization Type:** Business

Representative Quote: The Colliers agree that carefully crafted operating standards may help to minimize environmental impacts within the National Park System. Nonetheless, a "comprehensive list" of operating standards may not adequately account for the individual characteristics of each resource area and the variable legal rights of private owners to access their oil and gas. 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. The best practices for oil and gas exploration will likely differ depending on location. Moreover, the Colliers have specific legal rights related to the oil and gas in the Big Cypress that may not be shared by owners of oil and gas underneath NPS units in other states. Any new operational standards must account for unique ownership structures. As such, the Colliers urge the NPS 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.

AL5000 - Alternatives: Proposed Revisions to 9B Regulations

Concern ID: 22967

CONCERN STATEMENT: Commenters stated that the state of Alaska should be exempt from any of the proposed 9B Regulations due to the Alaska Native Claims Settlement Act of 1971 (ANCSA) and the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

Representative Quote(s): **Corr. ID:** 1 **Organization:** AHTNA, INC.
Comment ID: 121594 **Organization Type:** Business

Representative Quote: A. ANILCA Guarantees that Private Lands Within National Parks In Alaska Are Exempt from Any Federal Regulation

A number of the 9B Regulations purport to regulate oil & gas operations on private land within national parks. Such present or future regulations would conflict with and be superseded by federal statute in the form of ANILCA. Under ANILCA section 103(c), Ahtna's lands within national parks in Alaska are not in fact part of national parks: "[n]o lands which, before, on, or after the date of enactment of this Act, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units." 16 U.S.C. § 3103(e). (emphasis added).

The import of these provisions, and particularly the legislative history underlying them has been extensively discussed by the Ninth Circuit in *City Of Angoon v. Marsh*, 749 F.2d 1413, 1417 (9th Cir. 1984) (emphasis in the original):

As Congressman Udall, the primary sponsor of ANILCA in the House of Representatives, stated prior to the passage of section 503(d):

[&]

I want to make clear that inclusion of these Native lands within the boundaries of conservation system units is not intended to affect any rights which the Corporations may have under this act, the Alaska Native Claims Settlement Act, or any other law, or to restrict use of such lands by the owning Corporations nor to subject the Native lands to

regulations applicable to the public lands within the specific conservation system unit.

125 Cong. Rec. 9905 (May 4, 1979).

Corr. ID: 1 **Organization:** AHTNA, INC.

Comment ID: 121598 **Organization Type:** Business

Representative Quote: C. The Existing and Proposed 9B Regulations are Inconsistent with the National Park Service's Editing Regulations Promulgated in Accordance with ANILCA

After the passage of ANILCA, the Department of the Interior promulgated regulations governing the management of conservation system units in Alaska. The purpose of these regulations is "to ensure adequate and feasible access across areas for any person who has a valid inholding. A right-of-way permit for access to an inholding pursuant to this section is required only when this pan does not provide for adequate and feasible access without a right-of-way permit." 43 CFR 36.1(b). In addition, these regulations establish the process for obtaining a right-of-way permit.

By contrast, the 9B regulations and its proposed changes generally prohibit the granting of access through federal lands or waters unless the operator has an approved "plan of operations." 36 CFR Section 9.32(a). Unlike the regulations governing mining operations in national parks that exclude Alaska, there is no such exemption in the regulations governing nonfederal oil and gas development.

The 9B regulations are similarly inconsistent with respect to temporary access to inholdings for purposes relating to survey and exploratory work. The Alaska specific regulation grants 'up to one year from the issuance of the permit....' for temporary access. 43 CFR Section 36.12(aX2). The regulation further states that:

This section is applicable to State and private landowners who desire temporary access across an area for the purposes of survey, geophysical, exploratory and other temporary uses of such non-federal lands.... 43 CFR Section 36.12(b).

The 9B regulations provide no such guarantee for temporary access.

It is apparent that the access restrictions under the 9B Regulations directly conflict with those governing access in conservation system units in Alaska.

Corr. ID: 1 **Organization:** AHTNA, INC.

Comment ID: 121595 **Organization Type:** Business

Representative Quote: In short, the 9B Regulations purport to apply to "all activities within any unit of the National Park System ... where access is on, across or through federally owned or controlled lands or waters." 36 C.F.R. § 9.30(a) (emphasis added). This falls afoul of the promise to Alaska Natives (and all pre-existing private landholders in Alaska) that pristine lands in Alaska National Park Service land would not "be subject to the regulations applicable solely to public lands within such units." 16 U.S.C. § 3103(c) (emphasis added)." Because ANILCA is a federal statute, in the present case it supersedes the inconsistent agency regulation. To find otherwise would allow the federal government to resolve Alaskan land claims in 1971, but turn around and undo the bargain by imposing massive regulatory conditions to the same ANCSA land in 1980 with ANILCA. As the Ninth Circuit concluded in *Angoon*, this cannot possibly have been what Congress intended. 749 F.2d at 1418.

Consequently, Ahtna seeks a general acknowledgement from the National Parks Service that none of the 9B Regulations apply to private oil and gas development within Alaska.

Corr. ID: 11 **Organization:** Doyon Limited

Comment ID: 121588 **Organization Type:** Business

Representative Quote: Two years after the NPS issued its existing 9B regulations, Congress enacted ANILCA to protect Alaska's natural resources and ensure economic development opportunities for Alaska Natives and other private landowners in the State. ANILCA included specific provisions to guarantee that such landowners would have reasonable access to inholdings so that they could make economic and other use of their property. These access provisions, as implemented through DOI's existing regulations at 43 C.F.R. Part 36, provide the governing authority for the regulation of nonfederal oil and gas development in Alaska. The 9B regulations and this rulemaking effort are outside the scope of authority granted by ANILCA and therefore are inapplicable to activities in Alaska. Accordingly, Doyon urges the NPS to explicitly recognize the inapplicability of the regulations and this rulemaking effort to nonfederal oil and gas development in Alaska's National Parks.

Concern ID: 22968

CONCERN STATEMENT: One commenter expressed concern that if the NPS seeks to increase its regulatory authority beyond that provided by the Organic Act, the chances that the regulations will interfere with property interests and result in a taking under the Fifth Amendment of the Constitution may increase.

Representative Quote(s): **Corr. ID:** 1 **Organization:** AHTNA, INC.

Comment ID: 121607 **Organization Type:** Business

Representative Quote: Finally, if the National Parks Service improperly seeks to increase its regulatory authority well beyond that provided by the National Parks Service Organic Act, the chances that the regulations will interfere with property interests to the extent that a taking under the Fifth Amendment of the Constitution will increase. This is expressly not the purpose of the 9B Regulations, see § 9.30(a), but may potentially have already occurred with regard to the Dunn McCampbell Royalty Interest, Inc. v. National Park Service case under the existing, arguably less expansive, 9B regulations. Please provide further information concerning this and any other takings disputes under the 9B Regulations in any forthcoming Federal Registers, so the public may properly gauge whether the jurisdictional scope of the regulations need (or can) be increased, maintained, or rolled back.

Concern ID: 22969

CONCERN STATEMENT: Commenters suggested that the proposed 9B Regulations should be extended to include all national park units that may be designated in the future, areas outside of park boundaries, and regulation of other nonfederal minerals (such as sand, gravel, coal, and shale gas).

Representative Quote(s): **Corr. ID:** 10 **Organization:** National Parks Conservation Association

Comment ID: 121633 **Organization Type:** Conservation/Preservation

Representative Quote: The legal authorities that provide for the NPS to regulate oil and gas activities within the boundaries of national park units also provide the authority, which we believe the NPS should invoke, to regulate other nonfederal minerals such as sand, gravel, and coal. As is the case with oil and gas, the extraction of sand, gravel, and coal can seriously harm and potentially impair park resources. Requiring a plan of operation, performance bond, and other management tools under 9B would transfer well to regulating these additional activities and could forgo the need to develop a separate regulation.

As such, do you agree that sand, gravel, and coal is currently putting park resources at risk and is in need of regulation? Moreover, do you believe that the extraction of these minerals could become part of a revised 9B regulation?

Corr. ID: 12 **Organization:** *Not Specified*

Comment ID: 121514 **Organization Type:** Unaffiliated Individual

Representative Quote: Affected Lands: While the rulemaking would immediately apply to 13 units of the park system, it could also apply within new units added to the system in the years ahead, if nonfederal oil/gas rights are within the park boundaries. This is especially urgent in the Appalachian region near us, where the gas industry has begun to explore and develop the Marcellus Shale formation, extending from western Maryland north as far as New York State and south as far as Tennessee. NPS units in these states serve more than half the population of the United States, who are within a day's drive of the Marcellus Shale. More units are likely to be added to the National Park System in this region. We want NPS to regulate oil and gas operations strictly to prevent any degradation of the natural resources and historic values of the parks.

Corr. ID: 14 **Organization:** Maryland Ornithological Society

Comment ID: 121548 **Organization Type:** Conservation/Preservation

Representative Quote: Those 13 units are not the end of the story. We expect that new units will be added to the National Park System in the coming years with privately owned oil and gas rights within their boundaries. Some are likely to be in the Appalachian region, where the gas industry has begun to develop gas from the Marcellus shale formation with the use of hydraulic fracturing. The revision of the 9B regulations should anticipate such oil and gas operations in new parks.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121658 **Organization Type:** Conservation/Preservation

Representative Quote: Because the shale gas boom is so pressing, we have focused our comments on the challenges it presents. Closing the regulatory loopholes and modernizing the 9B regulations will, though, benefit units of the national park system all across the country, not just in the Marcellus Shale region. The Service should be alive to opportunities to address other challenges in those regions.

For instance, in some regions of the country, coal-bed methane extraction may be proposed - including in Aztec Ruins National Monument. This practice is terribly destructive as it often involves hydrofracturing formations functioning as shallow aquifers, resulting in major threats to underground sources of drinking water and substantial wastewater challenges. The Park Service cannot allow this practice to damage public resources. Many of the new operating standards we have suggested will help ameliorate its effects, but further strictures are needed. The Service should carefully document units of the national park system where coal-bed methane extraction is possible, document why coalbed methane extraction is inconsistent with the purposes of these units, and use its regulatory authority to get ahead of the problem.

Similarly, some units of the national park system may be threatened by mineral extraction and mining outside of the oil and gas context.²¹ The Service does not currently have a clear regulatory structure for addressing these privately-held mineral rights, but it should. The Service should consider either expanding its rulemaking to embrace other mining threats, including coal, gravel, and sand mining or conducting a separate rulemaking on this topic. Any rulemaking on this front should, however, not delay the urgently-needed updates to the oil and gas rules.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121640 **Organization Type:** Conservation/Preservation

Representative Quote: The Service has what is likely among the most conservation-oriented mandates, and the most sweeping authority, of any federal land management agency. It is to do whatever is necessary and proper to protect extraordinary national resources under its control. This authority extends beyond the park unit's boundaries themselves to address external threats. As the Supreme Court signaled in *Kleppe*, the Property Clause powers are "broad enough to reach beyond territorial limits," 426 U.S. at 529, controlling activities on private lands that impact public property. See also *Burlison*, 533 F.3d at 432 (affirming that, at an absolute minimum, "Congress may regulate public land in a manner affecting private land"); *Duncan Energy Co. v. United States Forest Service*, 50 F.3d 584, 598 (8th Cir. 1995) ("Congress may regulate conduct occurring on or off federal land which affects federal land"); *Duncan Energy Co. v. United States Forest Service*, 109 F.3d 497, 499-500 (8th Cir. 1997) (recognizing this authority). Strong and broad 9B regulations are a natural extension of the Service's high obligations and extensive authority.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121638 **Organization Type:** Conservation/Preservation

Representative Quote: On top of these exemptions, the 9B rules themselves have not been designed to address the specific threats posed by shale gas extraction. Although the rules do give the Service broad authority to require an adequate plan of operations before drilling can begin, see 36 C.F.R. §§ 9.36 & 9.37, the explicit baseline operating standards and reclamation requirements do not provide adequate protection in the shale gas context, see *id.* §§ 9.39, 9.41. They do not, for instance, explicitly require baseline disclosure of fracking fluid components, or proper treatment of the large volume of wastewater frac'd wells produce.

Concern ID: 22970

CONCERN STATEMENT: One commenter inquired about the negative impacts on park resources as a result of oil and gas development activities, and whether these potential impacts should be avoided or mitigated for under the proposed 9B Regulations.

Representative Quote(s): **Corr. ID:** 10 **Organization:** National Parks Conservation Association

Comment ID: 121630 **Organization Type:** Conservation/Preservation

Representative Quote: We would like the NPS to respond to the following:

Do you agree that there are negative impacts on park resources, especially wildlife and air quality during the life of an oil or gas development activity that should be avoided or mitigated as an obligation under the 9B regulation?

Concern ID: 22971

CONCERN STATEMENT: One commenter expressed concern that any changes to the 9B Regulations should not undermine the commitments made by the federal government to the Colliers years ago regarding Big Cypress National Preserve.

Representative Quote(s): **Corr. ID:** 9 **Organization:** Collier Resources Company

Comment ID: 121569 **Organization Type:** Business

Representative Quote: While it does not appear to be the Service's intent, it is very important that any changes to the 9B Regulations not undermine the commitments made by the federal government to the Colliers years ago regarding the Big Cypress. We hope that when substantive revisions to the 9B Regulations are proposed by the Service (if

there are any), the Colliers' concerns on this point will be allayed.

AL5100 - Alternatives: Support Revising 9B Regulations

Concern ID: 22972

CONCERN STATEMENT: Commenters expressed their support for the proposed 9B Regulations.

Representative Quote(s): **Corr. ID:** 10 **Organization:** National Parks Conservation Association

Comment ID: 121612 **Organization Type:** Conservation/Preservation

Representative Quote: We understand that certain oil and gas rights predate the enabling statute that created a number of units of the National Park System. Accordingly, we believe that the NPS should use its 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, and sections 1 and 3 of NPS Organic Act (16 USC 1 and 3), to ensure that all oil and gas activities on NPS lands are conducted responsibly through guidelines provided under 36 CFR Part 9, Subpart B (or "9B" regulations).

Corr. ID: 12 **Organization:** *Not Specified*

Comment ID: 121513 **Organization Type:** Unaffiliated Individual

Representative Quote: We thank the National Park Service for initiating this valuable rulemaking. It is greatly needed to deal with impacts that can damage or degrade values people seek when they visit the National Park System.

Corr. ID: 14 **Organization:** Maryland Ornithological Society

Comment ID: 121556 **Organization Type:** Conservation/Preservation

Representative Quote: We expect that the rule will substantially reduce the impacts of oil and gas operations on the flora and fauna of the parks.

Again, MOS compliments the National Park Service for this constructive proposal, and we thank you for considering our comments.

Corr. ID: 16 **Organization:** New Mexico Archeological Council

Comment ID: 121538 **Organization Type:** University/Professional Society

Representative Quote: It is critical that the existing regulations are strengthened to protect the resources and values of those NPS units that overlay nonfederal oil and gas rights.

Corr. ID: 17 **Organization:** Sierra Club

Comment ID: 121635 **Organization Type:** Conservation/Preservation

Representative Quote: The Sierra Club, on behalf of its more than 1.3 million members and supporters, applauds the National Park Service's decision to better protect units of the national park system from poorly regulated oil and gas development. See 74 Fed. Reg. 61,596 (Nov. 25, 2009) (advance notice of proposed rulemaking). The National Park Service has a major opportunity to close a set of thirty-year old loopholes, which collectively exempt more than half of all wells on park system land from regulation. A huge natural gas boom, centered on the Marcellus Shale in the northeast, could threaten dozens of park system units if the Service does not have the right regulatory tools to respond. These parks include iconic landscapes, like the Flight 93 National Memorial, the Delaware Water Gap, and the Appalachian Trail.

But while we focus on shale gas, as the boom is of pressing concern, we also urge the Service to be ready to respond to other, even more destructive, extraction practices, including coalbed methane drilling, which essentially invariably produces unacceptable water quality impacts. By modernizing its regulations now, the Service can best protect the units of the national park system by setting the gold standard for oil and gas drilling regulation.

Corr. ID: 21 **Organization:** Texas State Historic Preservation Officer

Comment ID: 125482 **Organization Type:** State Government

Representative Quote: We support NPS' full authority under the Organic Act to govern all nonfederal oil and gas operations throughout the national park system. In the end, doing so will better protect the natural and cultural resources of the parks for future generations. The advance notice outlines several areas for improvement, noting three major loopholes, and requests comments regarding the 9B regulations. In addition to oil and gas, we believe all nonfederal minerals, such as sand, gravel, and coal, should be included in the revised regulations.

AL5200 - Alternatives: Oppose Revising 9B Regulations

Concern ID: 22973

CONCERN STATEMENT: Commenters expressed opposition to the proposed 9B Regulations, as a result of legislation passed in Alaska and Texas.

Representative Quote(s): **Corr. ID:** 1 **Organization:** AHTNA, INC.

Comment ID: 121589 **Organization Type:** Business

Representative Quote: On behalf of Ahtna, Incorporated ("Ahtna"), I am writing to request that Alaska be excluded from 36 CFR part 9, subpart B ("9B Regulations") or any revisions thereto, or that at a minimum, the scope of the 9B Regulations not be increased. In this respect, access issues and the jurisdictional scope of the 9B Regulations are of primary interest to Ahtna.

Corr. ID: 2 **Organization:** Dunn-McCampbell Royalty Interest, Inc

Comment ID: 121562 **Organization Type:** Business

Representative Quote: Dunn-McCampbell Royalty Interest, Inc. and Dunn Padre Corp. are mineral owners underneath the Padre Island National Seashore, and wish to provide comments on the above.

It is our continued position that the 9B Regulations, to the extent that they require a Plan of Operations to be approved before mineral owners conduct operations within the Padre Island National Seashore, are illegal and prohibited by the State of Texas Deed and the Texas Enabling Legislation which permitted the creation of the Padre Island National Seashore. This is because such approval of a Plan of Operations deprives us and other mineral owners of their rights of ingress and egress to their minerals, as defined by Texas law and guaranteed by the Deed and Legislation. Therefore, any such requirement of pre-approval of such a Plan of Operations should be eliminated from the revised 9B Regulations as to the Padre Island National Seashore.

GA3000 - Impact Analysis: General Methodology For Establishing Impacts/Effects**Concern ID:** 22974**CONCERN STATEMENT:** One commenter stated that the NPS has failed to implement a court ruling in favor of the Sierra Club about the assessment of impacts and the methodology used for impairment under NEPA.**Representative Quote(s):** **Corr. ID:** 7 **Organization:** Lone Star Chapter of the Sierra Club**Comment ID:** 121659 **Organization Type:** Conservation/Preservation

Representative Quote: The Sierra Club is very disappointed that NPS has failed to fully implement the court ruling in favor of the Sierra Club and against the NPS about assessment of impacts and the methodology used for impairment and National Environmental Policy Act (NEPA). United States District Judge John D. Bates ruled, in part, in *Sierra Club v. Mainella* the following:

"Because NPS's impairment analysis served as its NEPA analysis, the flaws in the impairment analysis also apply to the environmental assessment. Those shortcomings are, first, NPS's lack of explanation as to how it reached its conclusions, typically simply describing the impacts followed by a conclusion that the impact was not an impairment or, in the case of NEPA, that it was not "significant"; and second, the use of the descriptors "negligible", "minor", "moderate", and "major" that are largely undefined or are defined in a manner that includes few objective bounds ... nowhere explained the basis for its conclusion that potentially "moderate" impacts could not be significant under NEPA ... There is no basis in the administrative record for accepting NPS's conclusion that even a "minor" impact is not significant under NEPA, because there are no determinate criteria offered for distinguishing a "minor" impact from a "moderate" or "major" impact other than NPS's conclusory say-so ... the scoping regulations still require the agency to explain why they {dismissed issues} will not have a significant effect on the human environment ... Thus, the EA must provide a realistic evaluation of the total impacts and cannot isolate a proposed project, viewing it in a vacuum ... In short, NPS's three findings of no significant impact are, the court concludes, arbitrary and capricious for many of the same reasons as are the impairment determinations. In each decision, NPS has failed to take a "hard look" at impacts on the Preserve from adjacent surface activities, as evidenced by the lack of explanations supporting its conclusions and, in particular, its methodology of describing impacts using conclusory labels and then setting forth a bare conclusion without explanation as to the significance of an impact. NPS also failed to provide an adequate cumulative impacts analysis that included the other oil and gas operations in the Gore Baygall Unit ...

Corr. ID: 7 **Organization:** Lone Star Chapter of the Sierra Club**Comment ID:** 121660 **Organization Type:** Conservation/Preservation

Representative Quote: Since Judge Bates' decision NPS has failed to fully quantify in oil/gas EAs for BTNP many of the environmental impacts that may occur and the methodology NPS uses has not resulted in the removal of the "conclusory statements" that Judge Bates ruled against. Judge Bates stated 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 remain largely undefined and with few objective bounds in current BTNP oil/gas EAs. In addition, the NPS still does not explain the basis for its conclusion that potentially "moderate" impacts could not be significant under NEPA.

NPS has failed to take the "hard look" that Judge Bates admonished it to do. Ultimately, the Sierra Club asks the question "Why are moderate environmental impacts due to nonfederal oil/gas activities acceptable in the National Park System and in BTNP?" The

NTNP enabling act requires that the Secretary of the Interior 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 BTNP's natural ecological integrity in perpetuity? The NPS has never explained this dichotomy in any EA.

NPS Management Policies 2006 requires that NPS consider whether a proposal is suitable, proper, or fitting, and applies the stricter standard of "unacceptable impacts" which is described as "impacts that fall short of impairment but are still not acceptable within a particular park's environment." If NPS fully implemented Judge Bates' decision then proper mitigation and management of nonfederal oil/gas activities in BTNP would improve measurably.

Concern ID: 22975

CONCERN STATEMENT: [One commenter expressed concern that some NPS employees participating in the proposed 9B Regulations effort might be biased.](#)

Representative Quote(s): **Corr. ID:** 7 **Organization:** Lone Star Chapter of the Sierra Club

Comment ID: 121662 **Organization Type:** Conservation/Preservation

Representative Quote: It is of further concern that people within the Intermountain Region of NPS that assisted in the dismantling of the former protections required for oil/gas activities are in charge of or participating in this NPS effort. Two of those people include Ms. Carol McCoy and Ms. Linda Dansby, who still work in the Intermountain Region. Our concern is that these people may be biased and that others who did not actively participate in the previous dismantling of oil/gas protections should be in charge of the current NPS 9B regulations/rules effort.

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

Concern ID: 22978

CONCERN STATEMENT: [One commenter stated that any proposed 9B Regulations must first comply with the rights already established under the Alaska National Interest Lands Conservation Act.](#)

Representative Quote(s): **Corr. ID:** 11 **Organization:** Doyon Limited

Comment ID: 121587 **Organization Type:** Business

Representative Quote: As explained above, ANILCA 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.

PN8000 - Purpose And Need: Objectives In Taking Action

Concern ID: 22979

CONCERN STATEMENT: [Commenters stated that the NPS should implement the proposed 9B Regulations in order to simplify the existing rules, reclaim uncapped wells, and improve the natural and](#)

cultural values within national park units.

Representative Quote(s): **Corr. ID:** 8 **Organization:** Public Employees For Environmental Responsibility

Comment ID: 121558 **Organization Type:** Conservation/Preservation

Representative Quote: Now is an appropriate time for the NPS to exercise its full authority under the Organic Act to govern all nonfederal oil and gas operations throughout the national park system. True, doing so would impose a regulatory requirement on some operators. But doing so would also simplify and clarify the existing rules under which confusion as to which operations are exempt is inevitable. In the end, doing so will better protect the natural and cultural resources of the parks for future generations.

Corr. ID: 10 **Organization:** National Parks Conservation Association

Comment ID: 121621 **Organization Type:** Conservation/Preservation

Representative Quote: The challenge posed by the management of approximately 300 oil and gas wells within Big South Fork National River and Recreation Area illustrates why having a strong regulation in place is imperative. During the 1970s and 1980s there was considerable oil and gas activity in the park, but many of these companies soon faltered leaving behind a management conundrum for the NPS due to the considerable health, safety, and environmental risks associated with the uncapped wells, as well as the fact that financially appropriate bonds were not in place. Even though Tennessee has laws in place requiring that unattended oil and gas wells be capped, only limited funds from the state or park have been available until only recently.

PO1000 - Park Operations: Guiding Policies, Regs And Laws

Concern ID: 22980

CONCERN STATEMENT: Commenters stated that NPS operations regarding the proposed 9B Regulations must first comply with two overriding pieces of legislation within Alaska: The Alaska Native Claims Settlement Act of 1971 (ANCSA) and the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

Representative Quote(s): **Corr. ID:** 1 **Organization:** AHTNA, INC.

Comment ID: 121591 **Organization Type:** Business

Representative Quote: The National Park Service's development of a proposed rulemaking regarding nonfederal oil and gas development is a challenging one given the diversity that exists among the national parks it manages. Nowhere is this more evident than in Alaska. Throughout Alaska's history, the federal government has grappled with issues of land management, aboriginal land claims, and competing uses. Resolution of these issues was finally achieved through the passage of two landmark pieces of lands legislation-- The Alaska Native Claims Settlement Act of 1971 ("ANCSA") and the Alaska National Interest Lands Conservation Act of 1980 ("ANILCA").

Corr. ID: 1 **Organization:** AHTNA, INC.

Comment ID: 121597 **Organization Type:** Business

Representative Quote: In addition, ANILCA also ensures access for certain specified uses, including oil and gas activities. Section 1111 provides:

(a) IN GENERAL.--Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner

to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands.

(b) STIPULATIONS AND CONDITIONS.-- In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands. 16 U.S.C. Section 1111.

Further, ANILCA stipulates that "[n]othing in this title shall be construed to adversely affect any valid existing right of access." 16 U.S.C Section 1109.

ANILCA clearly demonstrates Congressional intent to secure statutory protection of access rights for exploration and development purposes on private land.

Corr. ID: 1 **Organization:** AHTNA, INC.

Comment ID: 121596 **Organization Type:** Business

Representative Quote: B. ANILCA's Access Provisions May Be Threatened By Changes to the 9B Regulations

As previously stated, Title XI of ANILCA contains specific guarantees of access to inholders.

Section 1110(b) provides:

Notwithstanding any other provisions 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. 16 U.S.C 1110(b).

Thus, unlike conservation units in the Lower 48, ANILCA guarantees a right of access for inholders.

Corr. ID: 11 **Organization:** Doyon Limited

Comment ID: 121584 **Organization Type:** Business

Representative Quote: Access to Inholdings Under ANILCA

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 the 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 provisions 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.

16 U.S.C. § 3170(b).

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: 11 **Organization:** Doyon Limited

Comment ID: 121586 **Organization Type:** Business

Representative Quote: In addition, Title XI of ANILCA established a specific set of procedures for federal agencies to follow when processing applications for "transportation or utility systems" (TUSs) in Alaska when any portion of the route of the system will be within a unit of the National Park System or other conservation system unit. 16 U.S.C. §§ 3161 - 3169. Recognizing that "the existing authorities to approve or disapprove applications for transportation and utility systems through public lands in Alaska are diverse, dissimilar, and, in some cases, absent," Congress sought to establish in ANILCA "a single comprehensive statutory authority for the approval or disapproval of applications for such systems." 16 U.S.C. § 3161. Accordingly, nonfederal oil and gas development activities proposed in Alaska, including oil and natural gas pipelines and related facilities, are properly subject to agency action under Title XI of ANILCA.

Corr. ID: 11 **Organization:** Doyon Limited

Comment ID: 121583 **Organization Type:** Business

Representative Quote: In enacting ANILCA, Congress intended that non-federal land within conservation system units in Alaska, including National Parks, would remain available for development. In setting forth the very purposes of the statute, section 101(d) of ANILCA expressly recognizes the balance struck 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.

Corr. ID: 11 **Organization:** Doyon Limited

Comment ID: 121585 **Organization Type:** Business

Representative Quote: Section 1111 of ANILCA further directs the Secretary of the Interior to grant temporary access to a private landowner to cross National Park System and other conservation system unit lands for exploratory or similar purposes, so long as, after compliance with the requirements of the National Environmental Policy Act (NEPA), the Secretary determines that such access will not result in "permanent harm" to the resources of the lands or unit. 16 U.S.C. § 3171(a). In providing such temporary access, the Secretary may include stipulations and conditions in the permit to ensure that the access granted is undertaken in a manner consistent with the purposes for which the area was established and to ensure that no permanent harm will result to the area's resources. 16 U.S.C. § 3171(b). DOI has adopted multi-agency regulations governing such temporary access under ANILCA section 1111 at 43 C.F.R. § 36.12.

Concern ID: 22981

CONCERN STATEMENT: One commenter stated that the NPS lacks the jurisdiction under the Organic Act to regulate activities that have marginal impact on federal lands within an NPS unit, such as implementing regulations on operators who access their oil and gas operations without crossing federal land.

Representative Quote(s): **Corr. ID:** 1 **Organization:** AHTNA, INC.

Comment ID: 121601 **Organization Type:** Business

Representative Quote: In addition to our general argument based on ANCSA and ANILCA, Ahtna specifically objects to increased regulation when: (1) operators get to operations without crossing federal land (36 C.F.R. § 9.30(a)) and (2) directional drilling to private holdings occurs outside of park boundaries, through federally owned subsurface (36 C.F.R. § 9.32(e)). The National Parks Service lacks jurisdiction under the National Parks Service Organic Act to regulate such activities that have marginal impact on federal lands within a national park.

Concern ID: 22983

CONCERN STATEMENT: One commenter expressed concern that existing oil and gas operations with various national park units are exempt to oil and gas regulations, and stated that current oil and gas operations prevent the NPS mandate to leave them "unimpaired."

Representative Quote(s): **Corr. ID:** 17 **Organization:** Sierra Club

Comment ID: 121636 **Organization Type:** Conservation/Preservation

Representative Quote: Oil and gas drilling is now underway in 13 park system units across the country, including the vast Big Cypress National Preserve in Florida and Padre Island National Seashore. Some parks have hundreds of wells, many of them exempt from any regulation due to loopholes in the existing 9B rules. Big South Fork National Recreation Area, for instance, which was created to preserve the South Fork of the Cumberland River as a "natural, free-flowing stream," see 16 U.S.C. § 460ee, must contend with over 300 wells, more than 200 of which are unregulated. These wells are "adversely impacting resources and values, human health and safety, and visitor use and experience" and "most are not in compliance with federal and state regulations," contaminating soil and endangering water quality. Likewise, Big Thicket National Preserve in Texas, created to preserve a unique and biodiverse forest, has had well operations roaring as loud as freeways just outside its boundaries. See *Sierra Club v. Mainella*, 459 F. Supp.2d 76, 85-86 (D.D.C. 2006). Oil and gas operations challenge the Service's mandate to protect the parks "unimpaired for the enjoyment of future

generations." See 16 U.S.C. § 1.

Concern ID: 22984

CONCERN STATEMENT: One commenter stated that certain oil and gas rights were retained by the original landowners when Big Cypress National Preserve and Addition were created, citing specific agreements that have provided them with the rights to these resources.

Representative Quote(s): **Corr. ID:** 9 **Organization:** Collier Resources Company

Comment ID: 121568 **Organization Type:** Business

Representative Quote: In considering the Notice, the focus of the Colliers is on the Big Cypress National Preserve and Addition ("Big Cypress"). More than half of the land within the boundaries of the Big Cypress was owned at one time by the Colliers. When the original Big Cypress National Preserve was created by Congress in 1974, the Colliers voluntarily sold their lands within the Preserve's boundaries to the federal government. When Congress created the Big Cypress National Preserve Addition in 1988, it did so through a land exchange in which the Colliers gave the federal government 83,000 acres for the Addition. The Colliers are proud of their role in creating this jewel of the National Park System.

The Colliers retained their oil and gas rights when they transferred their lands in the Big Cypress to the federal government. Oil and gas activities in the Big Cypress long predate the creation of that unit of the National Park System, and today there are two active oil fields in the Big Cypress which operate under approved plans of operation. The Colliers today own the oil and gas rights beneath approximately 400,000 acres in the Big Cypress, making them perhaps the largest single private owner of oil and gas interest in the National Park System. The Colliers' right to explore and develop their retained oil and gas interests was specifically negotiated when the Colliers turned over their lands to the federal government. Today, the rights of the Colliers to access their oil and gas interests in the Big Cypress are governed by various instruments specific to that unit of the National Park System, including the 1988 agreement regarding the transfer of lands for the Addition.

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

Concern ID: 22982

CONCERN STATEMENT: One commenter expressed concern regarding impacts to wildlife and wildlife habitat as a result of oil and gas development, but also stated that the proposed 9B Regulations can help to reduce those impacts.

Representative Quote(s): **Corr. ID:** 14 **Organization:** Maryland Ornithological Society

Comment ID: 121549 **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; and impairment of the quantity and quality of water sources on which wildlife depend. We have also seen those impacts minimized by wise land management in some drilling operations. The proposed changes in the 9B regulations can help to reduce those impacts.

APPENDIX 1: CORRESPONDENCE INDEX OF ORGANIZATIONS

Correspondence ID	Receipt Date	Form Letter	Org Type	Organization	Name
1	1/25/2010	No	Business	AHTNA, INC.	Martin, Kathryn
2	1/21/2010	No	Business	Dunn-McCampbell Royalty Interest, Inc	Altheide, Caroline D.
7	12/21/2009	No	Conservation/Preservation	Lone Star Chapter of the Sierra Club	Mannchen, Brandt
8	1/21/2010	No	Conservation/Preservation	Public Employees For Environmental Responsibility	Ruch, Jeffrey P.
9	1/21/2010	No	Business	Collier Resources Company	McAliley, Neal
10	1/25/2010	No	Conservation/Preservation	National Parks Conservation Association	Faehner, Bryan
11	1/22/2010	No	Business	Doyon Limited	Mery, James
13	1/24/2010	No	Conservation/Preservation	Tennessee Citizens for Wilderness Planning	Kendrick, Cindy
14	1/24/2010	No	Conservation/Preservation	Maryland Ornithological Society	Schwarz, Kurt
16	1/25/2010	No	University/Professional Society	New Mexico Archeological Council	Ruscavage-Barz, Samantha
17	1/25/2010	No	Conservation/Preservation	Sierra Club	Segall, Craig H.
18*	1/25/2010	Master (416992)	Conservation/Preservation	Sierra Club	N/A, N/A
19	2/11/2010	No	Conservation/Preservation	United Mountain Defense	Foster, Zach
20	2/11/2010	No	Conservation/Preservation	Conservation Committee of the American Rock Art Research Association	n/a, n/a
21	2/11/2010	No	State Government	Texas State Historic Preservation Officer	Wolfe, Mark

*Form letter with 1,477 signatures

APPENDIX 2: INDEX BY ORGANIZATION TYPE

Business

AHTNA, INC. - 1; AL4400 - Alternatives: Directional Drilling. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL5000 - Alternatives: Proposed Revisions to 9B Regulations. AL5200 - Alternatives: Oppose Revising 9B Regulations. PO1000 - Park Operations: Guiding Policies, Regs And Laws.

Collier Resources Company - 9; AE25000 - Affected Environment: Operating Standards. AL4200 - Alternatives: Access Fees. AL4400 - Alternatives: Directional Drilling. AL4500 - Alternatives: Financial Assurance. AL4800 - Alternatives: Operating Standards. AL5000 - Alternatives: Proposed Revisions to 9B Regulations. PO1000 - Park Operations: Guiding Policies, Regs And Laws.

Doyon Limited - 11; AL5000 - Alternatives: Proposed Revisions to 9B Regulations. PN6000 - Purpose And Need: Land Management Laws, Exec Orders. PO1000 - Park Operations: Guiding Policies, Regs And Laws.

Dunn-McCampbell Royalty Interest, Inc - 2; AL5200 - Alternatives: Oppose Revising 9B Regulations. GR1000 - Geologic Resources: Guiding Policies, Regs And Laws.

Conservation/Preservation

Conservation Committee of the American Rock Art Research Association - 20; AL4000 - Alternatives: New Alternatives Or Elements.

Lone Star Chapter of the Sierra Club - 7; 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. GA3000 - Impact Analysis: General Methodology For Establishing Impacts/Effects.

Maryland Ornithological Society - 14; AE12000 - Affected Environment: Wildlife And Wildlife Habitat. 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. AL5000 - Alternatives: Proposed Revisions to 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations. CC1000 - Consultation and Coordination: General Comments. WH4000 - Wildlife And Wildlife Habitat: Impact Of Proposal And Alternatives.

National Parks Conservation Association - 10; AE19000 - Affected Environment: Other Agencies Land Use Plans. AE7000 - Affected Environment: Air Quality. AL4400 - Alternatives: Directional Drilling. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL4800 - Alternatives: Operating Standards. AL5000 - Alternatives: Proposed Revisions to 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations. PN8000 - Purpose And Need: Objectives In Taking Action.

Public Employees For Environmental Responsibility - 8; AL4000 - Alternatives: New Alternatives Or Elements. AL5100 - Alternatives: Support Revising 9B Regulations. PN8000 - Purpose And Need: Objectives In Taking Action.

Sierra Club - 17; 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. AL5000 - Alternatives: Proposed Revisions to 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations. PO1000 - Park Operations: Guiding Policies, Regs And Laws. 18; AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations.

Tennessee Citizens for Wilderness Planning - 13; AL4200 - Alternatives: Access Fees. AL4300 - Alternatives: Assessments for Non-Compliance. AL4400 - Alternatives: Directional Drilling. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL4800 - Alternatives: Operating Standards.

United Mountain Defense - 19; AL4300 - Alternatives: Assessments for Non-Compliance. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations.

State Government

Texas State Historic Preservation Officer - 21; AE25000 - Affected Environment: Operating Standards. AL4400 - Alternatives: Directional Drilling. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations.

Unaffiliated Individual

N/A - 3; AL4300 - Alternatives: Assessments for Non-Compliance. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations. 4; 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. AL5100 - Alternatives: Support Revising 9B Regulations. 5; AL4200 - Alternatives: Access Fees. AL4300 - Alternatives: Assessments for Non-Compliance. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations. CC1000 - Consultation and Coordination: General Comments. 6; AL4300 - Alternatives: Assessments for Non-Compliance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. 12; 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. AL5000 - Alternatives: Proposed Revisions to 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations. 15; 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.

University/Professional Society

New Mexico Archeological Council - 16; AL4300 - Alternatives: Assessments for Non-Compliance. AL4400 - Alternatives: Directional Drilling. AL4500 - Alternatives: Financial Assurance. AL4600 - Alternatives: Areas of Exemption from 9B Regulations. AL5100 - Alternatives: Support Revising 9B Regulations.

APPENDIX 3: INDEX BY CODE

Code	Description	Organization	Corr. ID
AE12000	Affected Environment: Wildlife And Wildlife Habitat	Maryland Ornithological Society	14
AE19000	Affected Environment: Other Agencies Land Use Plans	National Parks Conservation Association	10
AE25000	Affected Environment: Operating Standards	Collier Resources Company	9
		Texas State Historic Preservation Officer	21
AE7000	Affected Environment: Air Quality	National Parks Conservation Association	10
AL4000	Alternatives: New Alternatives Or Elements	Conservation Committee of the American Rock Art Research Association	20
		Lone Star Chapter of the Sierra Club	7
		Public Employees For Environmental Responsibility	8
		N/A	12
AL4200	Alternatives: Access Fees	Collier Resources Company	9
		Lone Star Chapter of the Sierra Club	7
		Maryland Ornithological Society	14
		Sierra Club	17
		Tennessee Citizens for Wilderness Planning	13
		N/A	4
			5
			12
AL4300	Alternatives: Assessments for Non-Compliance	Lone Star Chapter of the Sierra Club	7
		Maryland Ornithological Society	14
		New Mexico Archeological Council	16
		Sierra Club	17
		Tennessee Citizens for Wilderness Planning	13
		United Mountain Defense	19
		N/A	3
			4
			5
			6
			12
			15
AL4400	Alternatives: Directional Drilling	AHTNA, INC.	1
		Collier Resources Company	9
		Lone Star Chapter of the Sierra Club	7
		Maryland Ornithological Society	14
		National Parks Conservation Association	10
		New Mexico Archeological Council	16
		Sierra Club	17
		Tennessee Citizens for Wilderness Planning	13
		Texas State Historic Preservation Officer	21
		N/A	4

			12
			15
AL4500	Alternatives: Financial Assurance	Collier Resources Company	9
		Lone Star Chapter of the Sierra Club	7
		Maryland Ornithological Society	14
		National Parks Conservation Association	10
		New Mexico Archeological Council	16
		Sierra Club	17
		Texas State Historic Preservation Officer	21
		United Mountain Defense	19
		N/A	3
			4
			5
			12
			15
AL4600	Alternatives: Areas of Exemption from 9B Regulations	AHTNA, INC.	1
		Lone Star Chapter of the Sierra Club	7
		Maryland Ornithological Society	14
		National Parks Conservation Association	10
		New Mexico Archeological Council	16
		Sierra Club	17
			18
		Tennessee Citizens for Wilderness Planning	13
		Texas State Historic Preservation Officer	21
		United Mountain Defense	19
		N/A	3
			4
			5
			6
			12
			15
AL4800	Alternatives: Operating Standards	Collier Resources Company	9
		Lone Star Chapter of the Sierra Club	7
		Maryland Ornithological Society	14
		National Parks Conservation Association	10
		Sierra Club	17
		Tennessee Citizens for Wilderness Planning	13
		N/A	15
AL5000	Alternatives: Proposed Revisions to 9B Regulations	AHTNA, INC.	1
		Collier Resources Company	9
		Doyon Limited	11
		Maryland Ornithological Society	14
		National Parks Conservation Association	10
		Sierra Club	17
		N/A	12
AL5100	Alternatives: Support Revising 9B Regulations	Maryland Ornithological Society	14

		National Parks Conservation Association	10
		New Mexico Archeological Council	16
		Public Employees For Environmental Responsibility	8
		Sierra Club	17
			18
		Texas State Historic Preservation Officer	21
		United Mountain Defense	19
		N/A	3
			4
			5
			12
AL5200	Alternatives: Oppose Revising 9B Regulations	AHTNA, INC.	1
		Dunn-McCampbell Royalty Interest, Inc	2
CC1000	Consultation and Coordination: General Comments	Maryland Ornithological Society	14
		N/A	5
GA3000	Impact Analysis: General Methodology For Establishing Impacts/Effects	Lone Star Chapter of the Sierra Club	7
GR1000	Geologic Resources: Guiding Policies, Regs And Laws	Dunn-McCampbell Royalty Interest, Inc	2
PN6000	Purpose And Need: Land Management Laws, Exec Orders	Doyon Limited	11
PN8000	Purpose And Need: Objectives In Taking Action	National Parks Conservation Association	10
		Public Employees For Environmental Responsibility	8
PO1000	Park Operations: Guiding Policies, Regs And Laws	AHTNA, INC.	1
		Collier Resources Company	9
		Doyon Limited	11
		Sierra Club	17
WH4000	Wildlife And Wildlife Habitat: Impact Of Proposal And Alternatives	Maryland Ornithological Society	14

