

FS 2018-0051 and 0052 ANPRM comment extension requests

October 11, 2018

Victoria Christiansen,
Interim Chief, United States Forest Service
Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Re: Request for Public Hearings and a Sixty-Day Extension of the Public Comment Periods for the ANPRMs Revising 36 CFR 228 Parts A and E: Docket Nos. FS-2018-0052-0001 and FS-2018-0053-0001

The ___ undersigned public interest organizations hereby request a sixty-day extension of the public comment period for the recently published Advance Notices of Proposed Rulemaking (ANPRMs) on changes to the United States Forest Service (USFS) regulations at 36 CFR 228 Subparts A (Locatable Minerals) and E (Oil and Gas Resources).

We also respectfully request four public hearings, one in Washington, D.C. and three more in USFS regions most affected by oil, gas, and mining on Forest Service System lands – e.g., Denver, Albuquerque, and Seattle.

Public hearings for these regulatory revisions are particularly important in light of the 1872 Mining Law, which still governs locatable minerals mining within National Forests. Because the Forest Service believes that the 1872 Mining Law limits its discretion to balance valid locatable mineral claims with other potential land uses (which includes oil and gas), the importance upon both these regulatory revisions and the need for public hearings about them is especially acute. Further, both rulemakings are complicated and technical; public meetings are necessary so that the agency can explain in understandable terms what the current rules say and what changes are being contemplated.

USFS codified their regulations for mining locatable minerals (Subpart A) on National Forest lands in 1974. Except for one clarification, in 2005, these would be the first changes in 44 years. The Subpart E oil and gas regulations similarly have received only one minor change since USFS finalized them in 1990, two decades before the peak of the hydraulic fracturing boom.

In each ANPRM, USFS seeks comment on a broad variety of complex technical and legal issues. For example, USFS seeks comment on amending its mining regulations for consistency with the Department of Interior's Bureau of Land Management (BLM) mining regulations at 43 C.F.R. 3800-3809. These BLM regulations also have received no substantive changes since 2001. Similarly,

USFS solicits comments for consistency with BLM's oil and gas regulations at 43 C.F.R. 3100 et seq. Taken together, these ANPRMs effectively seek substantive responses to four established sets of technical regulations across two cabinet departments.

The areas of regulation identified by the Forest Service affect virtually all aspects of how oil and gas leasing and development would be conducted on our national forests and grasslands. Addressing just the questions posed by the Forest Service for the "54 national forests, 20 grasslands and 1 prairie in 43 states and Puerto Rico" in sufficient detail for these regulations is a substantial undertaking that justifies a chance to interact with the Forest Service to seek clarifications and additional time to provide substantive responses.

USFS also bases, in part, the impetus to revise the locatable minerals (Subpart A) regulations upon the President's Executive Order 13817 (EO). Requestors believe that both the EO and any revisions to Subpart A necessarily implicate Subpart E because valid mining claims can limit other lands uses. To meet the EO's objectives, the President directed the Department of Commerce to coordinate providing policy recommendations across six separate federal agencies. While this report was due to the President's desk in August, as far as Requestors are aware, it has not yet materialized. Without it, the public cannot intelligently comment on these ANPRMs' proposals for BLM/USFS interagency coordination on oil, gas, and mining.

In the absence of the policy recommendations required by the EO, the length of time since the last major Subparts A or E regulatory overhauls, and the complexity of the issues in play and the information sought, we respectfully request public hearings and an extension of these ANPRMs' comment periods.

Sincerely,

CC: Cheryl Nabahe, Minerals and Geology Management
Earnest Rawles
Sherri Thompson

SIGN ON

(*Required: Name of Organization)

Current Signatories:

Center for Biological Diversity
Western Watersheds Project
WildEarth Guardians
San Juan Citizens Alliance
Earthjustice
Uranium Watch
Natural Resources Defense Council (2)
Save Our Sky Blue Waters
Save Lake Superior Association
Friends of the Clearwater
Earthworks
Grand Canyon Trust
WaterLegacy
The Wilderness Society
Elders Climate Action
Southern Environmental Law Center
Clean Water Action
Center for Science in Public Participation
Friends of the Kalmiopsis
Soda Mountain Wilderness Council
Western Organization of Resource Councils
American Bird Conservancy
Atchafalaya Basinkeeper
Conservation Northwest
Friends of the Earth US
National Parks Conservation Association
Erik Schlenker-Goodrich
Western Environmental Law Center
Californians for Western Wilderness
SkyTruth
Wilderness Workshop
Los Padres ForestWatch
Arizona Mining Reform Coalition
New Mexico Sportsmen
Information Network for Responsible Mining
Black Hills Clean Water Alliance
Oil Change International
Minnesota Center for Environmental Advocacy
Ohio Environmental Council
High Country Conservation Advocates
Friends of the Inyo
California Environmental Law Project

Wilderness Workshop
Idaho Conservation League
West Virginia Rivers Coalition
Environmental Protection Information Center
Klamath Forest Alliance
Rock Creek Alliance
Save Our Cabinets
Angie Arden
Powder River Basin Resource Council
stephanie johnson
New Mexico Wilderness Alliance
OVEC-Ohio Valley Environmental Coalition
Brooks Range Council - John Gaedeke, Chairman
Yaak Valley Forest Council
Hip Hop Caucus
Breathe Project
West Virginia Wilderness Coalition
Wyoming Wilderness Association
Christians For The Mountains
Eight Rivers Council
Mountain Lakes Preservation Alliance
Sierra Club North Star Chapter
Duluth for Clean Water
Indian Creek Watershed Association
Voyageurs National Park Association
Kentucky Heartwood
Friends of Blackwater, Inc.