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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



IN REPLY REFER TO:
7202.4-OS-2009-00308

April 8, 2011

Via Certified Mail

On May 9, 2009, you filed Freedom of Information Act (FOIA) request **OS-2009-00308**, stating:

“I hereby request a copy of each Weekly Departmental Report for the Department of the Interior produced between January 1, 2009 and May 1, 2009.”

On May 28, 2009, we acknowledged your request, advised you of your fee status as an “other-use” requester, and informed you that we were initiating a search for records responsive to your request.

On February 25, 2011, we contacted you to determine if you still wanted us to complete our work on your request, given that we were unable to complete its processing in a timely manner and a significant amount of time had already passed since you originally filed your request.

In a letter dated March 7, 2011, you indicated that you would like for us to continue processing your request to completion. Accordingly, we are writing today to respond to your request. Enclosed you will find a Compact Disk (CD) containing 9 scanned PDF documents, totaling 414 pages.

Portions of two of the enclosed documents have been redacted pursuant to Exemption 5 of the FOIA (5 U.S.C. § 552 (b)(5)).

Exemption 5 allows an agency to withhold “inter-agency or intra-agency memorandums or letters which would not be available by law to a party... in litigation with the agency” (5 U.S.C. § 552 (b)(5)). As such, the privilege “exempt[s] those documents... normally privileged in the civil discovery context.” National Labor Relations Bd. v. Sears, Roebuck & Co., 421 U.S. 132 (1975). The exemption incorporates several of these privileges from discovery in litigation, including the deliberative process privilege and the attorney work-product privilege. Id. at 149.

Deliberative Process Privilege

The deliberative process privilege “protect[s] the decisionmaking process of government agencies” and “encourage[s] the frank discussion of legal and policy issues” by ensuring that agencies are “not forced to operate in a fish bowl.” Mapother v. United States Dep’t of Justice, 3 F.3d 1533, 1537 (D.C. Cir. 1993) (citing Wolfe v. United States Dep’t of Health & Human Services, 839 F.2d 768, 773 (D.C. Cir. 1988) (en banc) (Mapother)). Three policy purposes have been advanced by the courts as the bases for this privilege: (1) to encourage open, frank discussions on matters of policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency’s action. See e.g., Russell v. United States Dep’t of the Air Force, 682 F.2d 1045, 1048 (D.C. Cir. 1982) (Russell); Coastal States Gas Corp. v. United States Dep’t of Energy, 617 F.2d 854, 866 (D.C. Cir. 1980).

The deliberative process privilege protects materials that are both predecisional and deliberative. Mapother, 3 F.3d at 1537; Access Reports v. United States Dep’t of Justice, 926 F.2d 1192, 1195 (D.C. Cir. 1991); Vaughn v. Rosen, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975). A “predecisional” document is one “prepared in order to assist an agency decisionmaker in arriving at his decision,” and may include “recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.” Maricopa Audubon Society v. United States Forest Service, 108 F.3d 1089, 1093 (9th Cir. 1997). A predecisional document is part of the “deliberative process” if “the disclosure of the materials would expose an agency’s decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its functions.” Id.

The portion of the document that has been withheld pursuant to the deliberative process privilege of Exemption 5 is both predecisional and deliberative. It constitutes subjective analysis which reflects the personal opinion of the author. It does not contain or represent formal or informal agency policies or decisions. It is the result of frank and open discussions among employees of the Department of the Interior. Therefore, its content has been held confidential by all parties. Public dissemination of this information would have a chilling effect on the agency’s deliberative processes; it would expose the agency’s decision-making process in such a way as to discourage candid discussion within the agency and thereby undermine its ability to perform its mandated functions.

Attorney Work-Product Privilege

The attorney work-product privilege protects documents and other memoranda prepared by an agency attorney in contemplation of litigation, including administrative proceedings. See Hickman v. Taylor, 329 U.S. 495, 509-10 (1947); Fed. R. Civ. P. 26(b)(3). Its purpose is to protect the adversarial trial process by insulating the attorneys’ preparation from scrutiny. It covers all litigation-related documents prepared by any attorney or under his/her direction, such as reports prepared by a consultant or a program employee, which were prepared in anticipation of litigation. Litigation need not have started but it must be reasonably contemplated. The privilege still applies after a case has ended or even if it never was begun, as long as it was

reasonably contemplated. The privilege “extends to documents prepared in anticipation of foreseeable litigation, even if no specific claim is contemplated.” Schiller v. NLRB, 964 F.2d 1205, 1208 (D.C. Cir. 1992). Attorney work-product documents may be withheld in their entirety because unlike the deliberative-process privilege, the attorney work-product privilege protects facts.

The portion of the document that has been withheld pursuant to Exemption 5 under the attorney work-product privilege consists of a draft correspondence from the Acting Solicitor to the Department of Justice. As such, it is a litigation-related document that contains conclusions, opinions, and recommendations of any agency attorney that were prepared in anticipation of litigation. Therefore, it is protected from disclosure by the attorney work-product privilege.

Jennifer Heindl, Attorney-Advisor in the Office of the Solicitor, was consulted in reaching this decision. Ray J. McInerney, Office of the Secretary FOIA Officer, is responsible for making this decision.

If you believe that the decision to withhold this information is incorrect, you may file a FOIA appeal by writing to the FOIA Appeals Officer, U.S. Department of the Interior, 1849 C Street, N.W., MS 6556 – MIB, Washington, D.C. 20240. Your appeal letter must be received no later than 30 workdays (excluding Saturdays, Sundays and legal holidays) after the date you receive our response (this letter). Your appeal letter must be marked, both on its envelope and at the top of its first page, with the legend “FREEDOM OF INFORMATION APPEAL.” Your appeal letter must be accompanied by a copy of your original FOIA request (a copy of which is enclosed with our response, for your convenience), and a copy of this letter, along with a brief explanation of why you believe that this decision is in error.

The FOIA fee for the processing of your request, before considering your entitlements, would have been \$80.00, calculated as follows:

2 hours	Professional Search Time	@	\$9.75 per ¼ hour
1 disk	Compact Disk	@	\$2.00 per disk

However, “other-use” requesters are entitled to up to 2 hours of search time and 100 photocopies before being charged for their FOIA requests. Therefore, there is no billable fee for the processing of this request.

This completes our response to your request.

If you have any questions regarding our response to your request, or any of the issues discussed in this letter, you may contact me by phone at 202-565-1076, by fax at 202-219-2374, by e-mail at osfoia@nbc.gov or by mail at U.S. Department of the Interior, 1951 Constitution Avenue, N.W., MS 116-SIB, Washington, D.C. 20240.

Within the Office of the Secretary, we are committed to providing you, our customer, with the highest quality of service possible.

Sincerely,



Ray J. McInerney
Office of the Secretary
FOIA Officer

Enclosures

PRIVACY ACT notice: Before you choose to contact us, electronically, there are a few things you should know. The information you submit, including your electronic address, may be seen by various people. We will scan a copy of your request into our electronic OS FOIA administrative/image file. We will key the information that you provide to us into our electronic OS FOIA tracking file. We may share it with other individuals, both within and without the Department, involved in Freedom of Information Act administration. You may be contacted by any of these individuals. In other limited circumstances, including requests from Congress or private individuals, we may be required by law to disclose some of the information you submit. Also, e-mail is not necessarily secure against interception. If your communication is very sensitive, or includes personal information like your bank account, charge card, or social security number, you might want to send it by postal mail, instead.

**NATIONAL PARK SERVICE
THREE WEEK AHEAD REPORT
May 3, 2009 – May 31, 2009**

SCHEDULES AND ACTIVITIES

Dan Wenk, Acting Director – NPS

NPS issues including:

National Leadership Council Meeting (5/5-5/7)

DOI Honors Convocation (5/6)

Partners in Conservation Awards (5/7)

National Park Foundation Board Meeting – Yosemite NP (5/8-5/10)

WEEK AHEAD

- **New: NPS – Point Reyes National Seashore (CA – Rep. Lynn Woolsey) – National Academy of Sciences Report:** In 2008, an ad hoc committee of the National Academy of Sciences was formed to produce two reports on shellfish mariculture in coastal areas. The first report is expected to be released on Tuesday, May 6, 2009. For this report, the committee assessed the scientific basis for the National Park Service presentations and the report (including revisions), “Drake’s Estero: A Sheltered Wilderness Estuary,” on the ecological effects of the Drake’s Bay Oyster Company operations on Drake’s Bay Estero, Point Reyes National Seashore, in California. The committee also addressed the following questions:
 - What is the body of scientific studies on the impact of the oyster farm on Drakes Estero, and what have they shown?
 - What effects can be directly demonstrated by research conducted in Drake’s Estero itself?
 - What effects can reasonably be inferred from research conducted in similar ecosystems?
 - What conclusions can be drawn from the body of scientific studies, and how do they compare with what the NPS presented to the public? Have these conclusions affected NPS decision making?
 - What are the most important subjects for future research to better understand the ecological consequences of anthropogenic influences on the estero, so as to inform NPS decision making?
- **No Change: NPS - Curecanti National Recreation Area (CO - Rep. John T. Salazar) - Limited Boat Launch Areas to Assist Mussel Prevention Efforts for Early-Season Boating at Blue Mesa.** Officials at Curecanti National Recreation Area have announced a change in operations at Blue Mesa Reservoir, effective immediately. The threat of quagga or zebra mussels continues to escalate as waters in and near Colorado report infestations of these invasive aquatic species. All vessels are required to be certified mussel-free prior to launch (this is a self-certification process). Vessels that have either been out of Colorado or in waters infested with zebra and/or quagga mussels in the past 30 days will not be allowed on Blue Mesa, Morrow Point or Crystal Reservoirs until being dried for a specified period of time or washed at a suitable wash facility.

Additionally, beginning immediately, satellite ramps will be closed, and, by mid-May, the only launch areas for the Blue Mesa Reservoir will be Elk Creek Marina, Lake Fork Marina and Stevens Creek Campground. This effort will allow better monitoring of launch areas for non-certified vessels and will increase the likelihood that Blue Mesa will remain quagga and/or zebra mussel free. *The self-certification procedure, which has been in place since April 2008, will remain in place until May 8, 2009. Beginning on May 8, 2009, the self-certification program will be replaced by a mandatory program that requires all motorized watercraft launching in Curecanti National Recreation Area to be inspected and, if necessary, decontaminated in accordance with procedures set by the Colorado Department of Wildlife.*

- **No Change: NPS – National Recreation Trails.** *Administrators of twenty-two trails in thirteen states* have requested designation as National Recreation Trails. A package recommending designation is currently being reviewed and circulated for signature and will ultimately be submitted for approval by the Secretary of the Interior. Traditionally, new National Recreation Trails are announced in time for National Trails Day, June 6, 2009.

ON THE HORIZON

- **New: NPS – Black Canyon of the Gunnison National Park (Rep. John Salazar) – Water Rights:** The Black Canyon water right has been decreed but issues remain regarding implementation. Over the next couple of months, the following issues will need to be resolved.
 1. Management of the Aspinall Unit to provide for the 2009 spring peak and shoulder flows. The potential debate involves whether or not to intentionally spill Morrow Point if side inflows are not sufficient to attain the designated one day peak flow. The Western Area Power Administration (WAPA) opposes this action, even if it means not meeting the designated flows. There may be ways to work with other water users to avoid spilling Morrow Point should side inflows be lower than expected.
 2. The Bureau of Reclamation (BOR) is finalizing an EIS on Aspinall Operations for downstream endangered fish. The impacts of flows to the fish were considered during negotiation of the water right. The EIS was drafted before the decree so BOR did not include providing the water right quantities in the alternatives. NPS sent comments on April 24, 2009 that the Final Environmental Impact Statement and Record of Decision (FEIS/ROD) needs to include a description of the water right, a commitment that its implementation will be included in all alternatives including the no action alternative, an analysis of the impacts of each revised alternative against the revised no action, and inclusion of NPS-related legal authorities in addition to Aspinall legal authorities. NPS will work with BOR to resolve any differences related to the FEIS/ROD.
 3. At the recommendation of the bureau solicitors, BOR, NPS, FWS, and WAPA will schedule meetings to develop a long term process to implement the water right each year.
- **New: NPS - Grand Canyon National Park (AZ – Rep. Ann Kirkpatrick) - New Photovoltaic System to be Dedicated at Grand Canyon Visitor Center:** On Monday, May 18, the National Park Service and its project partner Arizona Public Service (APS)

will dedicate a new photovoltaic system recently installed at the Grand Canyon Visitor Center. The system was donated to Grand Canyon National Park (GRCA) through a Memorandum of Understanding (MOU) with APS and was installed by Architectural & Environmental Associates, Inc. The 18kW (kilowatt) system, which went on line on April 9, is expected to produce approximately 30% of the energy used by the visitor center and to prevent 20,000 tons of carbon emissions from being released into the atmosphere each year. The system has 84 photovoltaic panels which are mounted on the roof of the visitor center and on ground-mounted platforms adjacent to the visitor center. Now that it is installed, the system will be operated and maintained by GRCA personnel who received training on its care and maintenance as part of the MOU. Public education and outreach was included as an important component of the project. An exhibit in the visitor center and signage next to the ground-mounted platforms will inform visitors about the mechanics of solar energy and about how they, themselves, can help increase the amount of electricity generated by the sun. Funding for the project came from APS customers through APS' Green Rates and the Arizona Corporation Commission's Renewable Energy Standard.

- **New: NPS - Grand Canyon National Park (AZ – Rep. Ann Kirkpatrick) – Implementation of New Program to Monitor and Improve Public Health on Commercial River Trips:** The National Park Service recently initiated a new program to monitor and improve public health during river trips on the Colorado River within Grand Canyon National Park. The program, "Grand Canyon National Park Public Health Related Backcountry River Operations," is based on quality assurance principles and was developed through collaboration between Grand Canyon National Park's River Ranger District and Concessions Office, and the National Park Service Office of Public Health. This documented program seeks consensus and partnership with commercial outfitters through a transparent system of education, outreach, and evaluation. Newly developed data collection capabilities will illuminate public health practice by commercially operated river trips throughout each season; and data trends will drive each successive round of education and outreach efforts. Future data will measure the effectiveness of these efforts, thus creating measurable continuous improvement of essential backcountry public health practice.
- **No Change: NPS - Grand Canyon National Park (AZ - Rep. Ann Kirkpatrick) – Hearing Set for Appeal of Colorado River Management Plan.** On June 10, 2009, oral arguments will be heard by the Ninth Circuit Court of Appeals in San Francisco regarding the plaintiffs' appeal of a November 28, 2007 decision in favor of the National Park Service by United States District Judge David G. Campbell of the United States District Court for the District of Arizona in the case of River Runners for Wilderness, et al. vs. Stephen P. Martin, et al. The plaintiff-appellants seek to overturn Grand Canyon National Park's 2006 Colorado River Management Plan, alleging that: NPS allowance of commercial motorized services on the Colorado River violates the Concessions Act; NPS failed to make a finding that motorized commercial services are necessary and appropriate as required by the Concessions Act; NPS failed to justify the amount of motorized uses; NPS's authorization of motorized uses violates the Organic Act; and NPS's allocation of use is arbitrary and capricious. Park staff are working with the Department of Justice to prepare for the hearing.

The following organizations have intervened in the case supporting the government's position: Grand Canyon River Outfitters Association and Grand Canyon Private Boaters Association. The following organizations have filed an amicus brief in support of the plaintiff-appellants' position: Sierra Club, Grand Canyon Hikers and Backpackers Association, Californians for Western Wilderness, Center for Biological Diversity, Friends of the Earth, Friends of Yosemite Valley, Great Old Broads For Wilderness, Mariposans for Environmental and Responsible Government, Roderick Nash, The North West Rafters Association, Olympic Park Associates, the Western Lands Project and the Southern Utah Wilderness Alliance.

- **No Change: NPS – Hamilton Grange National Memorial (NY – Rep. Charles Rangel) - Site Relocation.** Hamilton Grange, the home of Alexander Hamilton from 1802-1804, has been twice relocated, in 1889 from its original site to Convent Avenue at W 143rd Street and in 2008 to 141st Street & St. Nicholas Avenue in St. Nicholas Park. The building is expected to open to the public later this year. The park's 1993 GMP showed the house at its new site oriented to the southwest. The orientation of the building was changed, however, to be sensitive to the landscape as a whole. A lawsuit filed by Friends of Hamilton Grange sought to change the orientation of the house back to the southwest, among other requested relief. An amended complaint relating to 106 consultations and other procedural matters was filed and the issue of orientation was dropped from the complaint; however, the complaint does accuse NPS of unilaterally and secretly deciding not to build a publicly discussed community center on the Convent Avenue site. The relief requested is (1) NPS be found and declared guilty; (2) NPS be required to consult with the Friends of Hamilton Grange from this point on; and (3) that NPS be required to build the community center. A mandatory settlement conference was held on September 19, 2008, but did not result in resolution. The government presented declarations and its brief, plaintiffs submitted their rebuttal, and NPS responded by December 19, 2008. The US District Court, Southern District of New York, issued a 59-page Opinion and Order on March 12, 2009, dismissing the plaintiffs' lawsuit against the NPS. The USDOJ received a notice of appeal from the plaintiffs on April 15, 2009. It is not clear when the Court will issue a scheduling order setting forth the deadlines for a joint record and briefs to be filed and a date to hold the oral argument on the case. The USDOJ expects the appeals process to take a few months.
- **No Change: NPS – Statue of Liberty National Monument (NY – Rep. Jerrold Nadler) - Visitor Access to the Statue of Liberty's Crown:** Visitors are currently not able to climb to the crown of the Statue of Liberty because it does not meet fire and life safety codes. During the past several years, NPS contracted with several architectural and engineering firms that prepared life safety assessments for the Statue of Liberty. This analysis concluded that the area inside the Statue, between the observation deck and the crown, does not meet the minimum health and safety standards for public access. These reports also identified a number of fire safety issues within the pedestal. Some of the requirements of the fire code that are particularly difficult to overcome at the Statue are a second means of egress in case a fire or something else obstructs the first stairway, the steep double helix staircase and the ability of people to be able to get out the Statue in the required amount of time during an emergency. To ensure NPS was asking all the correct

questions of the outside subject matter specialists, Congress asked NPS, as part of a September 2007 oversight hearing, to conduct another study. A contract was awarded to Baltimore-based Hughes Associates (HAI) to study what physical changes to the structure would be required to bring the Statue's interior into code compliance, and if access cannot be made code compliant, how NPS could minimize the life and safety risks to staff, visitors, and emergency management personnel. NPS has received the final report from HAI and began briefings with the Secretary on April 21, 2009.

- **No Change: NPS - Yellowstone National Park (MT, WY, ID – Reps. Cynthia Lummis, Dennis Rehberg, and Mike Simpson) - Park Completes Plan which Addresses the Future of Wireless Communication in the Park.** Yellowstone National Park has completed a plan which addresses the future of wireless communications in the park. Wireless communications in Yellowstone will be allowed in very limited areas to provide for visitor safety and to enhance park operations. The plan restricts towers, antennas, and wireless services to a few limited locations in the park, in order to protect park resources and limit the impact on park visitors. Cell service is currently limited to the immediate vicinity of Canyon, Grant Village, Mammoth Hot Springs, and Old Faithful. The park would accept proposals to establish cell service for the Fishing Bridge/Lake Village area. No cell phone service will be allowed in the vast majority of Yellowstone. Changes to the preferred alternative contained in the Environmental Assessment were made in response to public comments. The plan calls for the future relocation of the cell tower at Old Faithful to reduce its visibility, and for the park to explore design options intended to reduce the visual impacts of equipment located on Mt. Washburn. While park concessioners would be allowed to offer Wi-Fi service in some buildings, Wi-Fi will be prohibited in historic lodging including the Old Faithful Inn and the Lake Hotel.
- **No Change: NPS – Glacier National Park. Open cut mine/gravel pit expansion proposed at park's western border (MT – Rep. Dennis Rehberg).** A controversial gravel pit expansion within ¼ mile of Glacier National Park's boundary near West Glacier is under consideration by the Montana Department of Environmental Quality. The park submitted written comments noting the inadequacy of the environmental review, the scope of the proposed expansion, the lack of a range of alternatives presented in the environmental assessment, and the need for an EIS to thoroughly examine a complex range of potential impacts. The park also is concerned with the State and US maintaining an international position urging full disclosure of potential resource impacts on the park with mine development plans in British Columbia, Canada, while inconsistently accepting a perfunctory environmental analysis that may ultimately permit a gravel mine operation so close to the same protected area. This issue has high local public and media interest.

West Glacier landowner Robert Spoklie wants to expand his open cut mine permit (gravel pit) from two disturbed acres to 24 acres and increase the actual active mine area from two to eight acres. The owner wants to increase the current depth from 30 feet to 70 feet and also run a wash plant in the pit. Mined volume would dramatically increase from 46,400 cubic yards to 1.8 million cubic yards over a 25-year period. Spoklie estimates that this proposed production increase could result in 22 gravel trucks/day,

22,000 gallons of water used per day, for the six-month operating period (over the next 25 years). This is a low estimate based on the total mine volume (a discrepancy noted in the environmental assessment). In addition to the mine being close to the park boundary and visible from the park, it is also only 500 feet from the Wild and Scenic River boundary of the Middle Fork of the Flathead River.

FISH AND WILDLIFE SERVICE May 10, 2009 – May 31, 2009

SCHEDULES AND ACTIVITIES

FWS Acting Director Rowan Gould

- May 11-15 Annual Leave

WEEK AHEAD

New: Neotropical Migratory Bird Conservation Act Grants (Nationwide): On May 8, 2009, in conjunction with International Migratory Bird Day, FWS will announce the approval of 36 projects for FY2009 funding under the Neotropical Migratory Bird Conservation Act. FWS will provide \$4.8 million to partners throughout the hemisphere, who will match these funds with more than \$18 million. Projects will implement habitat restoration, environmental education, monitoring of bird populations, and other priority activities within the ranges of these birds in 15 countries, including the U.S. The Division of Bird Habitat Conservation Communications Coordinator is working with the FWS Office of External Affairs to produce a press release to announce these grants.

New: Final Rule to Designate Critical Habitat for the Wintering Population of the Piping Plover in Texas (R2): During the comment period, the Texas General Land Office expressed concern with our method for mapping low water boundaries for some critical habitat units and for increasing the acreage we are designating. They are likely to view this rule negatively. The Center for Biological Diversity provided comments and articles regarding sea level rise due to climate change, and they requested we designate unoccupied land inland to accommodate future habitat shifts. Our response was that current data are insufficient for us to know what inland areas to designate. We are complying with a settlement agreement to make a final determination on critical habitat by May 8, 2009.

No Change: Determination of Endangered Status for the Gulf of Maine Distinct Population Segment of Atlantic Salmon: FWS and NOAA share jurisdiction over Atlantic salmon. The Services have coordinated with Governor Baldacci, Senators Snowe and Collins, and Representative Michaud, who have requested the GOM DPS be listed as threatened rather than endangered as proposed. The Services also participated in government-to-government consultation with the Maine Indian Tribes (Penobscot Indian Nation, Aroostook Band of Micmac Indians, Houlton Band of Maliseet Indians, and Passamaquoddy Tribes – Indian Township and Pleasant Point Reservations). Issues likely to be of greatest interest to the State are our position that water withdrawal is a stressor to the GOM DPS, our concern that water quality standards may not be protective of Atlantic salmon, and the rule's impact on fishing for Atlantic salmon in the Penobscot River. We are trying to deliver the final rule to the Federal Register by May 1, 2009.

No Change: Alabama sturgeon: Final critical habitat. FWS is currently preparing to designate approximately 326 miles of river as final critical habitat for the Alabama sturgeon. The proposed critical habitat unit includes portions of the Alabama and Cahaba Rivers in Autauga, Baldwin, Bibb, Clarke, Dallas, Lowndes, and Perry Counties in Alabama. This single, proposed unit was known to be occupied at the time of listing and

is currently occupied by the fish. In compliance with a court order, FWS is completing the final rule for delivery to the *Federal Register* by May 16, 2009.

ON THE HORIZON

New: Queen Charlotte Goshawk Proposed listing (AK; BC): The Queen Charlotte goshawk (*Accipiter gentilis laingi*) is a subspecies of hawk that nests in the coastal rainforests of Southeast Alaska and the Queen Charlotte and Vancouver islands in British Columbia, Canada (BC). In 1994, FWS was petitioned to list the subspecies. We found that listing was not warranted, but the finding was litigated and remanded several times over an approximately 12-year period. In April 2007, FWS completed a revised Status Review of the subspecies, and published its response to the court in the *Federal Register* in November 2007. FWS found that listing is warranted for the BC DPS, but not for Southeast Alaska. FWS is completing the proposed listing rule for delivery to the *Federal Register* by May 21, 2009.

Updated: Proposed Rule to List the Casey's June Beetle as Endangered and to Designate 784 Acres as Critical Habitat (CA-45 Bono-Mack): FWS will publish in the *Federal Register*, a proposed rule to list the Casey's June beetle as Endangered and to designate, as critical habitat, 394 acres of land belonging to the Agua Caliente Band of Desert Cahuilla Indians and 287 acres of privately owned land in the southern part of the City of Palm Springs, Riverside County, California. The Casey's June beetle is currently a Candidate species under the Endangered Species Act. This species is native to a small area in Riverside County and habitat for the species continues to be lost to development and other human activities. Projections indicate that almost all remaining habitat will be lost by 2020. The Casey's June beetle is not a covered species under the Coachella Valley Multiple Species Habitat Conservation Plan (HCP), nor is it proposed to be covered under the draft Agua Caliente Tribal HCP. FWS staff are in Government-to-Government consultation with the Agua Caliente Tribe pursuant to Secretarial Order 3206. The proposed rule was expected to go to the *Federal Register* in late April, but is now anticipated to be submitted to the *Federal Register* in mid May 2009.

Updated: Mono Basin Area Population of Greater Sage-grouse (CA/NV): 12-month finding. As the result of a settlement agreement, on April 29, 2008, the Service published a "substantial" 90-day finding on two petitions to list the Mono Basin area population of the greater sage-grouse and announced initiation of a status review. FWS has also initiated a rangewide status review of the entire species as a result of a separate settlement agreement, and intends to address questions regarding the taxonomy and status of the Mono Basin area population within the rangewide status review. FWS, through the Department of Justice, is working with plaintiffs in both cases on a coordinated renegotiation of the settlements so that the dates for both findings (Mono Basin and rangewide) can be the same. This entails an extension of the April 24, 2009, due date for the 12-month finding on the petition to list the Mono Basin area population, and FWS now expects to submit the findings to the *Federal Register* in late May. The status review work is still ongoing in the involved field offices.

LAND AND MINERALS MANAGEMENT

May 3 - May 9, 2009

SENIOR OFFICIALS ACTIVITIES

Ned Farquhar, Acting Assistant Secretary, Land and Minerals Management

Focus: Will travel to Chicago to attend the American Wind Energy Conference on Monday and Tuesday; in Washington, DC for the remainder of the week continuing to focus on priority items and attend regularly scheduled meetings.

Mike Pool, Acting Director, Bureau of Land Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Walter Cruickshank, Acting Director, Minerals Management Service

Focus: In Washington, DC most of the week, continuing to focus on priority items and attend regularly scheduled meetings. On May 6 – 7, he will travel to Houston to sign a MOU with the Norwegian Petroleum Directorate and to participate in the annual Industry Awards program.

Glenda Owens, Acting Director, Office of Surface Mining Reclamation and Enforcement

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

WEEK AHEAD

Bureau of Land Management (BLM)

- **Wind Power Conference:** The annual Wind Energy Conference, sponsored by the American Wind Energy Association (AWEA), is scheduled for May 5-7 in Chicago and expected to exceed 13,000 attendees this year. A major industry event, the BLM has been contacted by AWEA regarding a speaking invitation to the Department and BLM Director. Acting Assistant Secretary Ned Farquhar plans to attend.
- **House Natural Resources Subcommittee Hearing:** On May 5, the House Natural Resources Committee, Subcommittee on National Parks, Forests and Public Lands, is tentatively scheduled to hold a hearing on H. R. 980, the Northern Rockies Ecosystem Protection Act. A hearing was held on this bill in 2007. The legislation designates approximately 23 million acres of Federal land in Idaho, Montana, Oregon, Washington, and Wyoming as wilderness or other special designations. Approximately 2-3 million acres of the total are BLM-managed lands. The

remaining acres are managed by the National Park Service or U.S. Forest Service. While the BLM supports some of the designations, others are problematic in that they conflict with certain public uses. The BLM has offered to work with the Committee as the bill makes its way through the legislative process. Mike Nedd, acting Deputy Director of BLM, will be the witness.

- **Senate Appropriations Subcommittee Hearing:** On May 6, the Senate Appropriations Committee, Subcommittee on Interior, Environment and Related Agencies, will hold a hearing on the FY 2010 Budget Request. Secretary Salazar will be the witness.
- **Update: Upcoming Oil and Gas Lease Sales:**
 - BLM-Colorado lease sale May 14: 57 parcels covering 57,510.75 acres in Colorado. The list of parcels was posted for public review on March 13.
 - BLM-Wyoming lease sale June 2: 84 parcels covering 67,069.84 acres in Wyoming. The list of parcels was posted for public review on April 17.
 - BLM-Nevada lease sale June 9: 274 parcels covering 457,000 acres in Nevada. The list of parcels was posted for public review on April 24.
 - BLM-Montana lease sale June 16: 75 parcels covering 81,185.6 acres in Montana. The list of parcels will be posted for public review on May 1.
 - BLM-Oregon lease sale June 17: 8 parcels covering 15,333.45 acres in northwestern Oregon. The list of parcels will be posted for public review on May 1.
- **Public Comment Sought on Mining Exploration in Wilderness Study Area:**

An environmental assessment on a proposed mineral exploration project in the Bodie Wilderness Study Area will be released the week of April 27 for a 30-day review period, by BLM-California's Bishop Field Office. Also called the Paramount Mine, the plan of operations proposed by Cougar Gold LLC of Denver involves grandfathered mineral rights under the Federal Land Policy and Management (Section 603).
- **Geothermal Workshops Planned for BLM and FS Staff, State Agencies, and Industry:** The BLM began a series of workshops in the 11 Western States and Alaska in April to facilitate implementation of the recently signed ROD for the Geothermal PEIS. Workshops will be held on May 5-6 in Reno, Nevada. The BLM will hold a total of 29 workshops that will be targeted at three separate audiences: BLM and Forest Service employees, representatives of State agencies, and the geothermal industry and the general public.
- **Western Oregon Plan Revisions (WOPR) Challenged:** There are five active lawsuits in various stages of litigation with consolidated National Environmental Policy Act, Endangered Species Act, and/or O&C Act related claims for the Western Oregon RMPs. The first challenge below, AFRC v. Kempthorne, has a May 1 response deadline. The BLM is consulting with the Office of the Solicitor concerning the lawsuits and will submit a response to each accordingly.

- **American Forest Resource Council (AFRC) v. Kempthorne** (filed January 2); U.S. District Court, District of Columbia - Judge Ellen Huvelle. (DOJ filed an answer on the May 1 deadline.)
 - **Oregon Wild et al. v. Shepard/BLM** (filed January 14); U.S. District Court, Oregon - Judge Paul Papak. DUE May 18.
 - **Forest Service Employees for Environmental Ethics v. USFWS/BLM/DOI** (filed January 15); U.S. District Court, Oregon - Judge Ann Aiken. DUE May 18.
 - **Pacific Rivers Council et al. v. Shepard/BLM Districts/DOI** (filed January 14); U.S. District Court, Oregon - Magistrate Janice Stewart. DUE June 5.
 - **AFRC v. Caswell** (formerly AFRC v. Clarke and originally NFRC v. Dombeck); U.S. District Court, District of Columbia - Judge Thomas Penfield Jackson. Both parties have fully briefed the issues before the Court, and a Court response is pending.
- **Powder River Basin Interagency Working Group Meeting:** The Powder River Basin Interagency Working Group will conduct its regularly scheduled meeting in Sheridan, Wyoming, May 5-6. Topics will include air quality, aquatic, and wildlife issues, and whether fish and wildlife agencies can join the ICC. This group was established as a forum for government agencies to address and discuss issues of common concern to all parties involved in permitting and monitoring of coalbed natural gas development. Federal agency members include the BLM, Forest Service, Department of Energy, and Army Corp of Engineers, along with others. The Crow and Northern Cheyenne Tribes, several Montana and Wyoming state departments and commissions, and county governments are members as well.
 - **Pinedale Anticline Working Group Meeting:** BLM-Wyoming Pinedale Field Office will host the Pinedale Anticline Working Group meeting on May 7. The PAWG provides collaborative input and adaptive management recommendations to the BLM-Wyoming Pinedale Field Manager relating to the oil and gas development of the Pinedale Anticline. Members are appointed by the Secretary of the Interior from the oil and gas industry, the environmental community, local governments and the public-at-large. Agenda items include the Paradise 230kV Transmission Project, refinement of guidelines for the PAWG and related task groups, updates on the Pinedale Anticline Project Office and Monitoring and Mitigation Fund Board Meetings, updates on the Anticline Liquids Gathering System, the BLM response to recommendations made in the previous PAWG meeting, and nominations for the open public-at-large position on the PAWG. All PAWG meetings are open to the public and time is provided for comments.

Minerals Management Service (MMS)

- **Cape Wind Historic Preservation Consultation:** Tribal site visits with the Aquinnah and Mashpee Wampanoag Tribes have been rescheduled for the week of May 4 to accommodate a member of the Narragansett Tribe who would like to participate. In order to complete the Section 106 process, a memorandum of agreement (MOA) regarding the MMS's findings and mitigations must be reached by the MMS, Cape Wind Associates, the Army Corps of Engineers, the Massachusetts Historical Commission, and the Advisory Council on Historic Preservation. The MMS will circulate a draft MOA after the meeting and work toward conclusion of Section 106 process.

- **Norwegian Petroleum Directorate and MMS to Sign Memorandum of Understanding (MOU):** A non-binding MOU will be signed by the Directors of MMS and the Norwegian Petroleum Directorate May 7 at the Offshore Technology Conference in Houston prior to the SAFE awards. When Norway separated its oil and gas pre-tender resource evaluation processes from its post-tender safety management regime, the MMS was left without a mechanism for information sharing. Since Norway restructured its oil and gas regulatory regime, all cooperation has been held in conjunction with the Petroleum Safety Authority through the International Regulators Forum. Now there will be a cooperative mechanism for exchanges between Norway and the MMS on leasing, resource evaluation, and revenue management issues.
- **MMS SAFE Awards:** The MMS will hold its 26th annual national SAFE Awards program on May 7, 2009 in Houston, Texas. This is the longest continuous Federal awards program of its kind. The SAFE Awards recognize outstanding safety and pollution prevention performance by the offshore industry in four categories: drilling contractor, production contractor, high activity operator, and moderate activity operator. The MMS will also present Corporate Leadership Awards to outstanding individuals whose exceptional performance has raised the bar for safety achievement, improved environmental protection, enhanced resource recovery and conservation, or inspired innovation and outstanding performance by others. Up to 800 people may attend. The MMS is holding the event in combination with the industry's largest tradeshow event and conference, the Offshore Technology Conference (OTC). Additionally, a press conference will be held at the OTC on May 4 to announce the release of the MMS's Gulf of Mexico 2009 Deepwater Report and Production Forecast Report 2009 - 2018. On May 5 at the OTC, the MMS will meet with other industry personnel as part of a Program Committee to plan the next International Offshore Safety Conference to be held Canada in 2010.
- **Federal Offshore RIK Oil Sale:** The Royalty in Kind Program Office will hold a sale May 6-7, 2009, for approximately 27,000 barrels per day of royalty oil produced from Federal offshore leases in the Gulf of Mexico.

Office of Surface Mining (OSM)

- **West Virginia Watershed Network to be recognized at the Department of the Interior's Partners in Conservation Award Ceremony:** On May 7, in Washington, DC, Interior Secretary Ken Salazar will recognize the West Virginia Watershed Network (WVWN) as an award-winning finalist for the Partners in Conservation Award. A reception will follow the award ceremony. The honorary award was established by the Department to recognize conservation achievements that include collaborative activities among a diverse range of entities and individuals. Approximately two dozen projects selected from around the Nation, involving the work of approximately 600 groups and individuals, will be recognized during the awards ceremony. The WVWN is an informal association of interests including state and Federal agencies and nonprofit groups that support collaborative efforts to empower local residents to make decisions for sustainable management of their resources.

GRANTS

Bureau of Land Management (BLM)

- **Recreation Resource Management Assistant, Alaska:** This project is a partnership between BLM and an organization that can provide interns an opportunity to learn more about BLM Alaska and outdoor recreation inventories and planning. The interns will help develop and maintain public outreach, stewardship, and enhancement of public land resources. This project will be located in Fairbanks, Alaska with emphasis on the Steese National Conservation Area. Applications are due by May 4. One award is expected; total funding for the program is \$60,000.

Office of Surface Mining (OSM)

- **OSM to Award FY 2009 Abandoned Mine Land (AML) Grant to Wyoming:** On May 4, OSM plans to award an additional \$68,845,000 to the State of Wyoming for its FY 2009 AML Program Grant. OSM had previously awarded the State of Wyoming \$30,000,000 to administer its FY 09 AML Program. This additional funding will be used to address various projects addressing the impacts of mineral development that have been selected by the Wyoming State Legislature.
- **OSM to Award FY 2009 AML Grant to Ohio:** On May 7, OSM plans to award \$1,725,001 to the State of Ohio to provide additional support for the State's AML Emergency Program. The State's AML program employs over 38 full-time equivalents. This grant fully funds the costs of the administration and construction for emergency projects in Ohio.

ON THE HORIZON

Bureau of Land Management (BLM)

- **New: Congressional Hearings**
 - **House Natural Resources Subcommittee Hearing, May 11:** The House Natural Resources Committee, Subcommittee on Energy and Mineral Resources, has tentatively scheduled a field hearing in California on Solar Energy. Witness to be announced.
 - **House Appropriations Subcommittee Hearing, May 13:** The House Appropriations Committee, Subcommittee on Interior, Environment and Related Agencies, will hold a hearing on the Department's FY 2010 Budget Request. Secretary Salazar will be the witness.
 - **Senate Energy and Natural Resources Committee Hearing, May 13:** The Senate Energy and Natural Resources Committee has tentatively scheduled a hearing on the FY 2010 Interior Budget. Witness to be announced.

- **New: Restore New Mexico Program Reaches Milestone:** The BLM's Restore New Mexico Program is approaching its one millionth acre of accomplishment. The total number of acres treated since 2005 is 914,545. The BLM expects the Pecos District to treat an additional 43,000 acres of mesquite, and the Pelona Mountain prescribed burn will add 55,000 additional acres, weather permitting. By June 1, 2009, the grand total will be 1,012,545 acres. A celebration is being planned for the first week in June. Secretary Salazar has been invited to tour some of the restored areas as well as participate as the keynote speaker at the New Mexico Association of County's Annual Conference in Hobbs, New Mexico on June 3.
- **New: High Desert District to Hold RMP Implementation Workshop:** BLM-Wyoming Rawlins, Pinedale and Kemmerer Field Office planners will meet in Rock Springs with representatives from their cooperating agencies for a week-long Resource Management Plan Implementation Workshop, May 11-15. The three High Desert District field offices have recently completed RMP updates. BLM planning staff members from the Wyoming State Office are conducting the workshop. Cooperating agencies include conservation districts, other federal agencies, State of Wyoming agencies, county commissioners, municipal agencies, and Tribes.
- **New: Incompleted Timber Sales:** Timber harvesting has been suspended on several timber sales sold under the authority of the Northwest Forest Plan. Douglas County Forest Products (DCFP) purchased the Green Butte timber sale, with a sale volume of 5,841MBF valued at \$913,326.73. Approximately fifty-five percent of the sale has been yarded (felled timber moved to the loading location) with an unpaid balance of \$357,526.73. Three units are completed and four of the seven units have been partially logged. There is an estimated value of \$72,084 of timber cut and not paid for. The timeframe for cutting and removal of timber expires September 7, 2009. DCFP stopped yarding the sale in February and removed their equipment from the sale. They informed BLM by letter that "based on the lumber market decline and worsening economic conditions, Douglas County Forest Products (DCFP) can no longer operate the Green Butte Sale." DCFP requested negotiations regarding credit against any amount due on the contract per Section 11 of the timber sale contract. BLM responded with a letter explaining that Section 11 requires that the time of the contract removal rights be expired prior to evoking this section, and requested DCFP to provide a rationale of how Section 11 should apply at this time. DCFP has not responded to this letter to date. A similar issue emerged in the BLM-Oregon Salem District. DCFP paid for all the timber in the Hillock Timber Sale contract, which has expired. However, 53 acres remain unharvested, and there is some remaining road work to complete before the contract can be terminated. DCFP recently inquired about whether they are entitled to a credit or refund for the timber not removed (it has not been cut). The Salem District is seeking contract interpretation guidance on that issue.
- **New: Abandoned Mine Lands Programmatic Environmental Assessment:** The BLM-California Desert District is initiating a public scoping period for a programmatic environmental assessment to address remediation of physical safety hazards associated with abandoned mined lands (AML) on public lands in the CDD. Public meetings will be held on May 27 in Ridgecrest and on May 28 in Yucca Valley.

- **New: Youth Forestry Tour:** The Douglas County Glide Educational Forest will host 5th grade students from across the county for the annual Forestry Tour, May 12-15. The kids spend a day “in the field” learning from natural resource management professionals about tree identification, archaeology, wildlife, fisheries, forest products, fire, and forest management. This program has been a featured environmental education event for over 30 years. BLM-Oregon provides technical instructors and has always had a key role on the organizing committee. A host of other partner resource agencies participate, including: USDA Forest Service, Oregon State University Extension Service, Douglas County Land Department, Society of American Foresters, Douglas Timber Operators, Douglas Small Woodlands Association, Wolf-Creek Job Corp Center, Oregon Forest Resources Institute, area forest products companies, local wildlife and forest-related non-profits, the Oregon Department of Forestry and Douglas Forest Protective Association, NOAA Fisheries, Oregon Department of Fish and Wildlife and many other community partners.
- **New: Wyoming Landscape Conservation Initiative (WLCI) to hold Science Workshop:** The WLCI Science and Technical Advisory Committee and USGS are sponsoring a Science and Management Workshop, May 12-14, in Laramie, Wyoming. The Workshop will address scientific findings that have yielded efficient management actions in the WLCI area, highlighting scientific and management activities since the preceding WLCI Workshop in May 2007. Attendees to this USGS hosted event include BLM staff, other federal agencies (USFWS, BOR, NPS), the Wyoming Governor's office, state agencies, the University of Wyoming, county governments, conservation districts, contractors, NGOs, industry and conservationists.
- **New: Wyoming Landscape Conservation Initiative (WLCI) Executive Committee meeting to be held in Cheyenne:** The WLCI Executive Committee meeting will be held on May 15 in the BLM-Wyoming State Office. Members of the committee include representatives from the BLM, U.S. Fish and Wildlife Service, U.S. Geological Survey, U.S. Forest Service, various state agencies, conservation districts, and counties. Agenda items include Science Workshop update, State Wildlife Action Plan highlights, partnerships and outreach expansion, and easement processes update. The meeting is open to the public and usually has conservation groups represented.
- **New: Notice of Realty Action: Direct Sale of Public Land near the Fernley Airport in Lyon County, Nevada:** BLM-Nevada proposes to offer one parcel of approximately 320 acres of public land in northern Lyon County by non-competitive direct sale at the appraised fair market value to Toybox Enterprises, Inc. Toybox holds a public airport lease within the described area. The sale will be subject to the applicable provisions of Sections 203 and 209 of the Federal Land Policy and Management Act, 43 U.S.C. 1713 and 1719, respectively, and BLM land sale and mineral conveyance regulations at 43 CFR 2710 and 2720. Written comments will be accepted within 45 days after the date of publication of this notice in the *Federal Register*.
- **New: Notice of Realty Action: Recreation & Public Purposes Act Classification, Utah:** BLM-Utah has examined and found suitable for classification for lease to the City of Ferron, Utah, under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 – 869-4), 196.478 acres of public land in Emery County, Utah. The City of Ferron proposes to use the land for continuing operation and expansion of the Millsite Golf Course. This action reclassifies 149.360 acres from lease or conveyance to lease only and classifies an additional

47.118 acres for lease only. Comments will be accepted within 45 days after the date of publication of this notice in the *Federal Register*.

- **Update: Proponent Secures Financing for Wind Energy Project in Utah:** First Wind LLC announced that it *secured \$376 million in financing for the 203.5 MW* Milford Wind Corridor Phase I project in Milford, Utah. Slated as the largest wind energy project and one of the largest renewable energy facilities in Utah, the wind farm with its ninety-seven turbines is scheduled for completion by the end of this year. The project will include a 90-mile transmission line connecting the wind farm to the Intermountain Power Agency in Delta, Utah. Once completed, it will power about 44,000 homes. BLM assisted the proponent throughout the process by expediting right of way assignments clarifying First Wind sub-company responsibilities, along with documenting BLM authorization status and bonding requirements, including bond transfers, which were needed to finance the project.
- **No change: BLM-Nevada Carson City District Office to Draft Master Agreement with NV Energy:** In an effort to streamline the environmental review and permitting processes for multiple major ROW applications, the Carson City District Office is drafting a Master Agreement with NV Energy. NV Energy anticipates it will submit 2-4 major ROW proposals (major EAs or EISs) annually to the Carson City District Office during the next eight to 10 years. The office is piloting the development a Master Agreement with NV Energy that, if successful, could be used as a template for the other BLM-Nevada districts. A draft agreement is expected in May. The Master Agreement will be for all NV Energy projects in the District, including many renewable energy projects which will help NV Energy attain its state mandated renewable energy portfolio. The main benefit of the Master Agreement will be to establish a single cost recovery account that can be used for all of the projects. In the past, a cost recovery account had to be established for each project. This Master Agreement will be similar to one that is already established at the BLM's Southern Nevada District where there is a high volume of energy ROW projects.
- **No change: Southwest Intertie 500 KV Transmission Line Project (SWIP) Nearing Completion:** In November 1994, the BLM signed a Record of Decision and Land Use Plan amendment for the construction, operation, maintenance, and termination of the Southwest Intertie 500 kV electrical transmission line project (SWIP). The line would extend from near Las Vegas, Nevada, to near Burley, Idaho. The right-of-way grant was issued for the entire SWIP in December 1994. The project was divided into two segments: the southern portion (Ely to Las Vegas) and the northern portion (Ely to Burley). The proponent, Great Basin Transmission LLC, has completed the comprehensive Construction, Operation and Maintenance Plan (COMP) for the southern portion of the SWIP, which has been authorized for construction. BLM is currently reviewing the draft COMP for the northern half of the SWIP, and believes a determination of NEPA adequacy will be sufficient with no additional environmental analysis for the SWIP. BLM anticipates it will authorize the northern portion of the project midsummer 2009.
- **No change: BLM Will Oppose Stay to Sunrise Powerlink Decision:** The BLM will oppose a request for a stay in an appeal filed March 23 by three environmental groups before the Interior Board of Land Appeals regarding the Sunrise Powerlink project in Southern California. Two rights-of-way for the controversial 150-mile, 500kV powerline designed to bring renewable

energy into San Diego County were approved by the BLM-California State Director on January 20. The appellants are East County Community Action Coalition, Backcountry Against the Dump, and Protect Our Communities Foundation. The appeal alleges that the BLM failed to adequately conduct environmental reviews and therefore the decision to approve the project should be reviewed.

- **No change: BMPs for Air Resources related to Oil and Gas Development:** In an effort to continue and expand Best Management Practices (BMPs), the BLM fluid minerals program and the air resource management program have collaborated to develop a list and explanation of BMPs for air resources and oil and gas development in the form of a PowerPoint presentation. This presentation is not an exhaustive list of BMPs, nor is it a policy statement; rather, the intent is to provide an educational menu of options that are easily accessible and understandable for State and Field Office employees, industry personnel, and the public. The PowerPoint presentation will be put on the BLM's external BMP Website, and future training presentations to State and Field Office employees and the oil and gas industry will include its contents. It was sent out for two technical reviews and comment by members of the Western Regional Air Partnership, members of the Western States Air Resources Council Oil and Gas Work Group, and the US EPA.
- **No change: Notice of Availability of Canyons of the Ancients National Monument Proposed RMP and Final EIS:** BLM-Colorado has prepared for publication in the *Federal Register* a Notice of Availability of Canyons of the Ancients National Monument Proposed RMP and Final EIS. The notice was submitted to Exec Sec on April 23 and is currently under review. The planning area is located in southwest Colorado in Dolores and Montezuma Counties. The plan provides a framework to guide subsequent management decisions on approximately 166,000 acres managed by the BLM. Within the Monument boundary, there are approximately 400 acres of National Park Service lands (Hovenweep National Monument) and 17,560 acres of private inholdings. The Canyons of the Ancients National Monument is currently being managed under the BLM 1985 San Juan/San Miguel RMP and the Interim Guidance provided after the National Monument was established. The PRMP/FEIS will provide the management direction for the areas within the National Monument under BLM management.

Minerals Management Service (MMS)

- **Update: MMS and India's Directorate General of Hydrocarbons (DGH) to Sign Memorandum of Understanding (MOU):** DGH Director V.K. Sibal and MMS Acting Director Walter Cruickshank *had planned* to sign an MOU at the Offshore Technology Conference (OTC) in Houston, Texas during the week of May 4. *Director Sibal and Minister Deore had to return to Delhi due to a pending parliamentary election on April 17th; thus, will not be able to sign the MOU at OTC. The MMS anticipates the MOU signing will be rescheduled for June 2009.* The non-binding MOU addresses future cooperation in leasing/tendering, resource evaluation, and methane hydrates assessments and research. Cooperation with the DGH compliments the MMS's prior engagement with India's Oil Industry Safety Directorate (OISD) since the DGH focuses on pre-lease information while OISD focuses on post-sale exploration and production safety management.

- **New: Minerals Management Service Hosts Workplan Meeting in Denver.** The Minerals Management Service (MMS) will hold the MMS/State & Tribal Consolidated Workplan Meeting in Denver on May 12-13, 2009. The purpose of the meeting is to plan and coordinate the Fiscal Year 2010 royalty compliance activities among the MMS Compliance and Asset Management teams and the states and tribes.
- **New: Alaska Informational Meeting:** On May 18, MMS Alaska managers and staff are scheduled to conduct an informational meeting in Wainwright, Alaska, to address a request from local officials and residents with questions regarding resource evaluation methodology, clarification of recent legislation involving the oil and gas industry, spill prevention and spill response regulatory responsibilities.
- **New: MMS Schedules Outreach Meetings with Individual Indian Mineral Owners.** During the months of May, June, and July, MMS will continue its various forms of outreach with individual Indian mineral owners. The outreach is designed to resolve their royalty-related problems and to let them know how to contact us. These meetings enable MMS to answer their questions, listen to their concerns and suggestions for royalty accounting improvement, and identify and resolve mineral-related problems in partnership with the Bureau of Indian Affairs, the Bureau of Land Management, and the Office of the Special Trustee. The goal is to enhance MMS's trust responsibility and foster a positive working relationship with the Indian community.
- **No Change: MMS and Iraq Ministry of Oil (MoO) Policy and Processes Workshop:** MMS has been requested by the State Department to send representatives to Erbil, Iraq on June 7-10. The MMS is to present in-depth information covering the full process of leasing, valuing, producing, inspecting, and collecting revenue from oil and gas resources. This information is to be presented to 25-35 delegates from the MoO. Subsequently, eighteen Iraqi delegates will be identified for further on-the-job training over the following 3-6 months with their MMS counterparts in the U.S.

MRM Recurring Items

- **No Change: Indian Oil Valuation Rule -** The MMS expects to address issues regarding the "major portion" calculation for oil produced from Indian leases in a negotiated rulemaking committee. The notice establishing the committee and announcing the organizations from which members may be selected was published in the Federal Register on December 19, 2008. The former Secretary of the Interior signed the charter on January 16, 2009. The committee is expected to convene after the charter has been filed and membership nominations are finalized; MMS is waiting for Departmental approval to file the charter.
- **No Change: Proposed "Valuation of Federal Coal for Advance Royalty Purposes and Information Collection Applicable to All Solid Minerals" Rule:** The proposed rule would establish alternative methods to determine the value of coal for advance royalty purposes and amend various coal regulations in 30 CFR parts 203, 206, 210, and 218, to provide clarity and consistency with the other regulations in those parts. The MMS and BLM have companion regulations. In accordance with the Regulatory Review guidance received from the White

House, the rules were pulled from the Federal Register and were submitted to the Secretary of the Interior for review.

- **No Change: RIK Oil and Gas Sales:**
FY 2009 RIK Oil and Gas Sales Key Milestones:
 - Unrestricted GOM Crude Oil Sale May 6-7, 2009 for July deliveries
 - Tentative: Small Refiner GOM Crude Oil Sale August 4-5, 2009 for October deliveries
 - Tentative: Unrestricted GOM Crude Oil Sale August 5-6, 2009 for October deliveries

OEMM Recurring Items

- **New: Potential Application for Electromagnetic Surveys in Atlantic OCS:** On April 20, 2009, Electromagnetic Geoservices ASA (www.emgs.com) contacted the MMS Gulf of Mexico Region (GOMR) regarding the potential use of controlled source electromagnetic (CSEM) methods as a frontier exploration technique in the Atlantic OCS. Oil and gas reservoirs (traps) within the earth are electrically resistive as compared with salt water that is electrically conductive. CSEM technology uses tools towed close to the seabed that emit low-frequency energy into the formations below the seabed to detect resistivity contrasts as potential oil and gas reservoirs. The technique is used in support of seismic data acquisition to reduce the uncertainty in finding oil and gas traps and to high-grade the best prospects, but the technology is still not as effective as drilling a well. Electromagnetic Geoservices (EMGS) indicated they have used this technique successfully in environmentally sensitive areas such as the Barents Sea in Norway. The patented method uses CSEM methods immediately before or after 2D seismic to identify areas that show anomalous resistivity that could indicate oil and gas resources. The EMGS indicated using CSEM technology early in the resource evaluation process allows industry and governments to subsequently target 3D seismic data acquisition on the most prospective areas, thus reducing the cost of the 3D seismic, and the potential impact on marine mammals. The EMGS also noted their experience in working with several governments around the world indicates that frontier areas are most attractive to exploration and development companies when data is most readily available. The EMGS also inquired about the possibility of some type of public-private partnership to make U.S. frontier areas attractive, while minimizing the environmental impact of the data acquisition. The GOMR is checking to see if the CSEM technology could be fast tracked similar to aeromagnetic data acquisition.
- **No Change: AD06 Leasing of Sulphur or Oil and Gas and Bonding Requirements in the OCS (Proposed Rule):** The proposed rule is a rewrite of the existing rules. As the rules were last rewritten in 1982, the rewrite reorganizes and reorders the existing requirements to more logically reflect the leasing and bonding processes as they have evolved over time. Some minor changes are proposed. The rule was sent to OMB for review on January 6, 2009. In accordance with the Regulatory Review guidance received from the White House, the rule re-entered numbering in April 2009 and is currently moving through the system for the Secretary of the Interior's review and approval.
- **Update: Final Rule to Change Proprietary Term of Certain Geophysical Information:** This final rule extends the proprietary term of certain reprocessed geophysical

information submitted to the MMS under a permit. The rule gives up to 5 years of additional protection to reprocessed vintage geophysical information that the MMS retains, and is subject to release by the MMS 25 years after issuing the subject. The final rule will be sent to the ASLM for signature during the week of May 3 (*note, date change*).

- **Update: Renewable Energy Interim Policy Projects:** The MMS currently has several Interim Policy projects under consideration. Delaware has a single project proposed offshore Delaware. The environmental assessment (EA), consultations, and lease stipulations for this project are in progress. Contingent on the state CZM review and consultations with the National Oceanic and Atmospheric Administration (NOAA)-Fisheries, the lease issuance target is *mid-May 2009*. Florida has three remaining proposed projects offshore Florida. The MMS received a single project application from Turner Hunt Ocean Renewable (THOR) on January 28 and is awaiting project applications from Aquantis and Florida Atlantic University. Georgia has three proposed projects offshore Georgia. The MMS is awaiting a project application for these projects from Southern Company. New Jersey has six proposed projects offshore New Jersey. The MMS has received complete applications for four of the six projects *and has designated one of the three companies as qualified to hold an OCS renewable energy lease. The EA, consultations, and lease stipulations are in progress.* Contingent on qualification of the developers, state CZM review, and consultations with NOAA-Fisheries, the lease issuance target is *mid-May 2009* for Bluewater Wind, Deepwater Wind, and Fishermen's Energy of New Jersey.
- **Update: Cape Wind Project:** The MMS published the Cape Wind Final EIS on January 21, 2009. The comment period closed on March 21, 2009. MMS staff is reviewing comments and has begun drafting the Record of Decision and lease agreement (Decision Document). The Clean Air Act (CAA) Final Conformity and National Historic Preservation Act (NHPA) section 106 consultations must be completed before the MMS can issue the Decision Document. The MMS is working with the EPA *and Rhode Island (RI) to address some remaining issues with the CAA Final Conformity determination* regarding the use and availability of emission reduction credits (ERCs) in RI. Cape Wind needs to obtain the proper amount of emissions offsets before Final Conformity can be achieved. Tribal site visits with the Aquinnah and Mashpee Wampanoag Tribes have been rescheduled for the week of May 4 to accommodate a member of the Narragansett Tribe who would like to participate. The purposed of the next section 106 consultation meeting will be to discuss mitigation strategies to reduce project impacts on historical and tribal properties. In order to complete the 106 process, a memorandum of agreement (MOA) regarding the MMS's findings and mitigations must be reached by the MMS, Cape Wind Associates, the Army Corps of Engineers, the Massachusetts Historical Commission, and the Advisory Council on Historic Preservation. The MMS will circulate a draft MOA after the meeting and work toward conclusion of the 106 process.

OEMM Lease Sales

- **No Change: Sale Results for Central Gulf of Mexico Planning Area - Lease Sale 208 (March 2009):** The GOMR continues with their bid review and acceptance process. The Federal Trade Commission and the Department of Justice reviews are complete with favorable findings.

- **No Change: Beaufort Sea Sale 209 (February 2010):** The target date for the sale bid opening is February 2010. Public hearings on the Draft EIS have been completed.
Major Milestones:

Final EIS Available	September 2009
CD and PNOS Issued	September 2009
Governor's Comments due	November 2009
FNOS published in the <u>Federal Register</u>	January 2010
Public Bid Opening/Reading	February 2010

- **No Change: Western Gulf of Mexico Planning Area - Lease Sale 210 (August 2009):**
The target date for the sale bid opening is August 19, 2009. A Notice of Availability was published in the Federal Register for the Proposed Notice of Sale on March 31. The Section 19 letters to the Governors were sent out on March 25, 2009, their comments are due back on **May 26**. Surnaming of the FNOS documents will begin on May 14. A briefing for the Assistant Secretary's office is being arranged for the **week of May 11**.
Major Milestones:

Comments due on CDs	May 11, 2009
Final Notice of Sale package begins surnaming	May 14, 2009
Comments due on Section 19 letters	May 26, 2009
Final Notice of Sale to be published in the <u>Federal Register</u>	July 8, 2009
Public Bid Opening/Reading	August 19, 2009

- **No Change: Central Planning Area 213 (March 2010):** The target date for the sale bid opening is March 17, 2010.
Major Milestones:

Publish NOA for the NEPA document & PNOS	November 4, 2009
Publish FNOS	February 5, 2010
Public Bid Opening/Reading	March 17, 2010

- **No Change: North Aleutian Basin Sale 214 (November 2011):** The target date for the sale bid opening is November 2011.
Major Milestones:

Draft EIS	January 2010
Public Hearings	February/March 2010
Final EIS	January 2011
Consistency Determination/ Proposed Notice of Sale	January 2011
Governor's Comments Due	March 2011
Final Notice of Sale Published in <u>Federal Register</u>	October 2011
Public Bid Opening/Reading	November 2011

- **New: Western Planning Area 215 (August 2010):** The target date for the sale bid opening is August 18, 2010.
Major Milestones:

Publish NOP for the EA	July 28, 2009
Publish NOA for the EA & Proposed NOS	March 25, 2010
Publish FNOS	July 6, 2010

- **No Change: Cook Inlet Sale 219 (2011):** The MMS will issue a second Request for Information (RFI) in May 2009 to determine industry interest, and annually thereafter through the 5-Year schedule, until a sale is held or the 5-Year schedule expires. Since the current 2007-2012 sale schedule shows a potential Cook Inlet Sale 219 scheduled for 2011, and due to the time to complete the presale process, it will not be possible to hold an earlier scheduled Cook Inlet Sale 211 in 2010. The RFI scheduled to be issued in May 2009 will be for Sale 219 rather than Sale 211. If there is adequate industry interest, and the MMS proceeds with the presale process, only one Cook Inlet sale will be held in the current 2007-2012 Program.
- **No Change: Mid-Atlantic Offshore Virginia Sale 220 (2011):** The MMS continues its outreach to the Virginia State government.

Litigation

- **Update: Aera/Noble v. Salazar:** In 1999, the MMS determined that four Pacific OCS Region leases lacked hydrocarbon potential sufficient to justify their continued inclusion in Pacific OCS Units. As a result, they were excluded from units, not granted suspensions, and expired. The lessees appealed the MMS decision to Interior Board of Land Appeals (IBLA), and IBLA strongly affirmed the MMS decision. In September 2008, Aera, one of the lessees, filed for declaratory and injunctive relief in Federal District Court; Noble, which merged with Samedan, the lessee of one of the expired leases, filed likewise in November 2008. The Department of Justice (DOJ) filed for a consolidation of the cases in January 2009. The case was consolidated and the DOJ filed the Government's response motion on March 24. On April 14 the lessees filed a reply to the agency's opposition for summary judgment. The due date for the agency reply to the plaintiff's opposition to the agency's cross-motion for summary judgment is May 5.
- **Update: Pacific Energy Resources Ltd. (PERL) Interior Board of Land Appeals (IBLA) Appeal:** On March 18, PERL filed a Statement of Reasons (SOR) with the IBLA. The SOR contends that the MMS Final Decision to deny PERL's proposal to exchange the current lease specific abandonment account with 30 bonds from a surety company with a small underwriting limitation to satisfy a supplemental bond for decommissioning requirement of \$126.7 million was arbitrary and capricious. The DOI Office of the Solicitor will defend the agency's decision. Government's response due date has been extended until May 8.
- **Update: Amber Resources v. US - Nycal Issue:** The Amber case involves several plaintiffs. At one point, the judge in the claims court held that the plaintiffs were required to elect a remedy (restitution, reliance, or expectancy). All but one plaintiff elected restitution (repayment of bonus bids), but one plaintiff (Nycal) elected expectancy (lost profits). Although the rest of the case may be nearing conclusion, this issue will continue. According to SOL, the judge will want to review relevant files and there will likely be a trial on the issue before the end of the year. *The DOJ attorneys were in the MMS Pacific Region the week of April 27 to review records for Gato Canyon Unit, in which Nycal has an interest.*

- **No Change: Alaska Wilderness League v. Salazar (Shell Exploration Plan):** On November 20, 2008, the U.S. Court of Appeals for the Ninth Circuit issued a split decision concluding the MMS has violated the National Environmental Policy Act and Outer Continental Shelf Lands Act, vacated the MMS approval of Shell's Exploration Plan, and remanded the case to the agency to prepare a revised Environmental Assessment or an Environmental Impact Statement. Three amicus briefs had been filed with the U.S. Court of Appeals for the Ninth Circuit in support of Shell's petition for *en banc* review of the court's November 20, 2008 decision. On February 17, 2009, the Mountain States Legal Foundation, the National Association of Manufacturers, and the Chamber of Commerce of the United States of America filed an amicus brief. On February 13, 2009, the State of Alaska and the Alaska Oil and Gas Association both filed amicus briefs. On March 6, 2009, the Ninth Circuit panel vacated and withdrew its decision, and plans to rewrite its decision.
- **No Change: North Slope Borough and Alaska Eskimo Whaling Commission v. MMS (Sale 202):** All briefings have been completed in the case. The next actions in the case are assignment to the Ninth Circuit Court panel (the appellants have asked the court to assign the same panel that issued the decision in the Shell Exploration Plan case) and scheduling of oral arguments before the Court.
- **No Change: Native Village of Point Hope et al. (Sale 193):** A joint motion to extend the briefing schedule for 60 days was approved by Judge Beistline, U.S. District Court for the District of Alaska. The new briefing schedule will be: Government's Opposition Brief (May 26); Intervenor's Response Brief (June 9); and Plaintiffs Reply Brief (June 29). The lawsuit was filed on January 31, 2008, and one year later on January 30, 2009, the Plaintiffs filed their opening brief with the U.S. District Court for the District of Alaska. The plaintiffs alleged that the MMS and the DOI violated NEPA and that the DOI, the MMS, and the FWS violated the ESA. Staff in the MMS Alaska OCS Region are coordinating with the attorneys by reviewing and providing comments on the draft government's brief.
- **No Change: Amber Resources v. U.S.:** The DOI Office of the Solicitor (SOL) informed the MMS on April 3 that the Solicitor General will not petition Supreme Court review of this case. The MMS is still working with the SOL and the Department of Justice on the nuances of lease return. Issues to be resolved prior to rescinding the lease agreements include: record title holders that elected not to file a claim, plaintiffs that elected a remedy other than restitution (repayment of bonus bids), and outstanding decommissioning obligations on some of the leases.
- **No Change: Amber Resources v. U.S. 452 - Drainage Issue:** Amber Resources v. U.S. involves 36 undeveloped leases off the coast of California. Thirty-five of those leases are waiting for a decision from the Solicitor General with regards to petitioning the U.S. Supreme Court. One of the leases remained in the U.S. Court of Federal Claims because of allegations that it had been drained of hydrocarbon resources and therefore could not possibly be returned to its pre-lease state. The Claims Court determined that the lease had in fact been drained of resources, but that drainage was not substantial and therefore only lowered the amount of repayment from \$91.9 million to \$91.4 million. The MMS is discussing a recommendation for DOI Office of the Solicitor with regards to appealing this decision.

- **No Change: League for Coastal Protection (LCP) v. Salazar:** Substantive issues in this case will be mooted by resolution of Amber Resources. Only outstanding issues relate to attorney fees. The MMS recommended to the SOL and the Department of Justice (DOJ) that attempted settlement would be the preferred approach. The MMS has already paid interim fees out of agency funds and would offer to drop its appeal of the attorney fee award in return for no further payments. The DOJ will present that offer to the opposition in its next regularly scheduled mediation meeting.
- **No Change: Pacific Energy Resources Ltd. (PERL) Bankruptcy:** On April 7, the Department of Justice attorney attended a meeting with creditors in Delaware on behalf of the MMS.
- **No Change: Kerr McGee v. Salazar:** On March 30, 2009, the Department of Justice filed for an *en banc* review of the case with the 5th U.S. Circuit Court of Appeals (full panel of seventeen). In January, a smaller three-judge panel of the 5th U.S. Circuit Court of Appeals upheld a lower court ruling that said the Interior Department could not collect royalties from eight deepwater leases held by Anadarko Petroleum Corp. in the Gulf of Mexico as the Deep Water Royalty Relief Act statute did not provide authority for price thresholds. The *en banc* review was denied. The leases were obtained between 1996 and 2000 by Kerr-McGee Corp., which Anadarko later acquired. If this ruling is not overturned, it could prevent the U.S. Interior Department from collecting billions in royalties on oil and natural gas leases. A decision to further appeal this decision to the Supreme Court must be made by July.
- **No Change: Signal Hill Services, Inc. Supplemental Bond Appeal:** Signal Hill is the holder of one lease with decommissioning obligations in the Pacific OCS Region. In July 2007, the MMS ordered an increase in Signal's supplemental bond, from \$16 million to \$36 million, based on the 2004 Decommissioning Cost Report developed by the Pacific OCS Region. Signal appealed the order to the Interior Board of Land Appeals (IBLA) and petitioned the IBLA to stay compliance during litigation. The IBLA granted the stay in part and ordered the parties to attempt settlement. The MMS has approached Signal to determine whether there are issues that may be settled now while the MMS develops the 2009 Cost Report, which serves as the basis for assessing supplemental bond needs for decommissioning; the MMS would use the updated Cost Report to evaluate the need for increasing Signal's supplemental bond. The issue currently ripe for discussion and resolution is the date by which Signal's estimated decommissioning liability (\$21.9 million) would be funded.
- **No Change: 5-Year Program Litigation:** On April 17, the U.S. Court of Appeals for the District of Columbia ruling was issued on the Petition by Center for Biological Diversity charging the DOI with agency failures related to the OCS Oil and Gas Leasing Program 2007-2012. The ruling essentially vacates and remands the Program on the narrow issue of the environmental sensitivity analysis. The impacts of the ruling on the MMS's operations and program planning are being reviewed at this time. The MMS began working with the Solicitor's Office and the Department of Justice (DOJ) when the case was filed on June 29, 2007. The MMS has resumed work and is now evaluating OCS operations impacts and legal options available as a result of this ruling. Currently, at the direction of the DOI and the DOJ attorneys,

the MMS has put a hold on new MMS actions related to the 2007-2012 Program. The MMS has also drafted a plan for development of a new environmental sensitivity analysis and an amended 2007-2012 Program decision document for review and decision by the Secretary. The MMS is preparing a summary of operational data related to 2007-2012 leases, and a detailed schedule of the internal tasks needed to cure the deficiency found by the Court in the 2007-2012 Program. The DOJ will use the MMS information in any further legal action on this case.

Office of Surface Mining (OSM)

- **New: OSM Takes Steps to Implement Secretary Salazar's Request to Vacate the Stream Buffer Zone Rule:** Following Secretary Ken Salazar's April 27 determination that the Stream Buffer Zone Rule issued in January is legally defective, the Secretary directed the United States Department of Justice to file a pleading with the U.S. District Court in Washington D.C. requesting that the rule be vacated because it does not comply with ESA requirements. He also requested that the rule be remanded to the Department of the Interior for further action. OSM will now work to determine what guidance it will need to provide that is consistent with the Secretary's determination and the direction that comes from the U.S. District Court. As OSM works to determine the appropriate application of the 1983 rule, the bureau also intends to seek public input on whether new rules are needed, and if so, what form they should take.
- **New: Annual Technical Innovation Professional Services (TIPS) Steering Committee Meeting:** The TIPS Steering Committee plans to meet on May 18-21 in Nashville, Tennessee, to discuss implementation of solutions to enhance the technical skills of the states, tribes, and OSM staff. Meeting activities include an assessment of the advanced engineering and scientific software that TIPS provides, and the training and assistance necessary to use the software will be accomplished through technical success team reports and interactive regional panel discussions. A strategic thinking breakout session will guide solutions for future program development. The TIPS Steering Committee is appointed by the Interstate Mining Compact Commission, the Western Interstate Energy Board, and OSM leadership. It is composed of members from OSM and mining states across the Nation.
- **New: West Virginia Expected to Release Report on Coal Slurry Injection:** Around the end of May, the West Virginia Department of Environmental Protection (WVDEP) is expected to release a report that shows a need to improve how the state administers a program allowing the slurry rejected from coal processing to be pumped underground into old mine workings. OSM assisted WVDEP in the technical review of this study, which the West Virginia Legislature had requested. Since the report will be finalized and released by WVDEP, the actual release date is uncertain. Several citizen groups oppose the injection of slurry underground fearing that harmful slurry components will leach into water supplies.

May 1, 2009

To: Laura Davis, Associate Deputy Secretary

From: Donna Erwin, Acting Special Trustee

Re: May 4, 2009 staff meeting

OST Activities

Current Week April 27-May 3

- Over 840 people received answers to questions and information pertaining to trust accounts and services offered by OST at the “Gathering of Nations” Powwow, an annual event held in ABQ, NM, April 23-25.
- OST is working with the Colorado River Indian Tribe (CRIT) who has now agreed to the use of the Trust Asset and Accounting Management System (TAAMS) for Tribal and Individual member’s ownership and leasing data. This has been an ongoing issue since BIA Western Region converted to the realty leasing module in September 30, 2006 and the Tribal council passed a resolution requesting that BIA and OST not utilize or encode data for their Tribe or from Tribal members into TAAMS.
- As part of an ongoing effort to improve money management, OST’s Trust Accountability and the Division of Trust Funds Accounting are implementing the use of Pay.gov thru the U.S. Treasury. This initiative allows lessees throughout Indian country who are leasing or using trust land to make payments electronically rather than submitting paper checks.
- The Office of Trust Reporting and Reconciliation (OTRR) is implementing the new Statement of Federal Financial Accounting Standards (SFFAS) 31 for Fiduciary Activities. This standard implements new requirements for calculating accruals for fiduciary activity reporting that will be incorporated into the Department’s Financial Statements.
- A contingent of people from the various tribes with the Sioux nations has filed a class action lawsuit against Secretary Salazar and Ms. Donna Erwin, seeking to have the Black Hills judgment fund be disbursed to the nations. OST advised SOL that we had been served with a summons.

- The *Status Report to the Court Number Thirty-Six* (a requirement of the *Cobell, et al* litigation) interviews and review was completed by the Acting Special Trustee, Solicitors and the Department of Justice. The final document has been prepared and is scheduled for transmittal from the Department to the court, today. DOI is awaiting the document's approval from the Department of Justice.
- OST received an inquiry from Sen. Tom Udall's office regarding a \$195,000 overdraft of the Jicarilla Apache Nation trust account and is researching the information associated with the alleged overdraft.

Week Ahead -May 4-10

- OST's External Affairs Office has produced and will begin mailing check inserts to some 40,000 individual Trust Beneficiaries still receiving over 500,000 paper checks annually. This outreach effort is part of a National "Go Green" campaign to help increase the use of Debit Cards and Direct Deposit accounts by individuals currently receiving Individual Indian Money (IIM) funds by paper checks.
- OST's Office of Trust Review and Audit (OTRA) is continuing its review of the December 2-3, 2008 Anadarko Agency Oil and Gas sale.

Future Awareness – by date

- *Cobell v. Salazar* litigation oral arguments are scheduled for May 11, 2009, in the Washington DC District Court, Prettyman Building.
- OST's Office of Trust Review and Audit will conduct a review of the Agua Caliente Tribe on May 26-29, to determine whether allegations concerning accounting practices by a Tribal program called the Tribal Employee Supplemental Account (TESA) are valid and to provide recommendations as to corrective actions, if necessary. This program has certain responsibilities with respect to lease administration. Specific lease terms were allegedly not followed resulting in possible loss of income according to allegations by BIA Palm Springs officials.

- In a response to a request from Senator Christopher S. Bond (R-MO) the Office of the Special Trustee for American Indians (OST) provided information to the Senator's office on April 27th about its decision to terminate the contracted records indexing work at the American Indian Records Repository (AIRR) in Lenexa, Kansas, currently being performed by Labat-Anderson Inc. that initially began in 2002 in Albuquerque, New Mexico. OST has retired over 188,000 boxes of inactive records. Regular routine retirement of records is now occurring from the various BIA and OST offices and it is now in the best interests of OST to terminate this contract. OST has also determined that it would be cost effective to hire some 20 federal employees to continue indexing of inactive records. The contract is now set to terminate on June 30, 2009.
- New Mexico's Cabinet Secretary for Indian Affairs, Alvin Warren, will tour the Office of the Special Trustee's Masthead facility in ABQ, NM on May 14 or 15.
- An annual Tribal Self-Governance Conference is scheduled May 17-21 in Orlando, FL (Co-sponsored by DOI and HHS).

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending May 1, 2009

Reporting this period:

Week ahead activities: May 1 – 8, 2009.

- The Chief Information Officer, Sanjeev (Sonny) Bhagowalia co-Leads and will represent the Department at the Data.gov meeting scheduled for Tuesday, May 5, 2009 at the Executive Office Building with the Federal CIO, Vivek Kundra and OMB Deputy Director, EGov, Michael Howell.

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
PREVIOUSLY REPORTED - UPDATES IN BOLD					
Information Technology White House Data.Gov Initiative	DOI OCIO is continuing to support this initiative with scarce resources. Cannot continue supporting this effort without additional funding beyond May 22, 2009. Resource shortages have been identified to the OMB.	In response to the President's direction for "Open Government", we are continuing to support the first phase in accomplishing a single-stop shop for easily finding, accessing, downloading all Government data that is not sensitive.	May 22, 2009	OMB	White House

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending May 1, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Challenges	Interior has consistently faced continued Information Technology (IT) challenges and negative feedback from the Inspector General, General Accountability Office, Congress and the Government Reform Committee. Additionally, the DOI Office of Inspector General (OIG) issued a report ISD-EV-OSS-0017-2008 dated May, 2008, entitled "Compilation of IT Challenges at DOI - A blueprint for Change" which was shared with the New CIO in December 2008, the Transition Team and the New Secretary in January, 2009. The report was released by the OIG to all Bureau/Office CIOs in March 2009 (at the Department CIO's request). The OIG report makes several recommendations for improvements in IT in the DOI.	The OS and Bureau CIOs are continuing efforts to prepare for the Secretarial briefing. The CIOs have developed a strategic approach to accomplishing near term goals and outlined plans for longer term goals/objectives. The briefing is re-scheduled for May 4, 2009.	May 13, 2009 Follow-up briefing to the Secretary	Secretary, David Hayes, Laura Davis, Pam Haze, Department CIO, Office and Bureau CIOs	Secretary

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending May 1, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Freedom Of Information Act (FOIA)	On April 8, 2009, the DOI FOIA Officer briefed the Bureau/Office FOIA Officers on the President and Attorney General's new FOIA policy. Consistent with his responsibilities under the FOIA, the CIO/Chief FOIA Officer addressed the group, emphasizing the importance of "openness" in Government, being proactive in making discretionary disclosures and more information available on-line, reducing backlogs, and using technology to make the process more efficient. He also recognized the important role that the FOIA Officers play, but stressed that all employees are responsible for FOIA. The DOI CIO has been delegated authority by the Secretary to handle all FOIA matters for the DOI.	The DOI OCIO FOIA Office will prepare a memo for the Secretary's signature to be sent to all employees on the Administration's new FOIA policy requiring awareness and compliance with openness in Government and the changed direction from the previous administration. Memorandum in surname process.	June, 2009	Secretary	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending May 1, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Privacy Act Compliance	Due to insufficient resources or priority, DOI can not adequately protect privacy-related information or detect privacy data breaches. DOI needs dedicated privacy resources and personnel to fully comply with Privacy Laws. Upon completing a limited monitoring of DOI data traffic, OCIO has determined that DOI has hundreds of privacy-related violations occurring every day. Many of these violations can be prevented with proper tools and resources. The Secretary has delegated this Privacy Act compliance to the CIO and Government Officials are held personally liable for violations.	The OCIO has proposed additional FTE requirements in support of meeting mandatory program requirements. Discussions continue. No Change in issues or decision on funding.	2009 Funding Required	Secretary/Pam Haze	Secretary/OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

May 4, 2009

Memorandum

To: Laura Davis
Associate Deputy Secretary

From: Amy Holley
Chief of Staff for Water and Science

Subject: Weekly Meeting Issues

Bureau of Reclamation

New: San Luis Drainage legislative drafting request from Senator Feinstein/Administration bill, (California)

- Led by Reclamation, interested parties have been involved in drafting the requested bill
- Senator Feinstein advised Reclamation in February that she would like a bill that the administration can support, rather than just a drafting service as had been previously requested in March 2008.

Reclamation is leading the San Luis Unit (SLU) Drainage Collaborative Resolution Process in coordination with key stakeholders and congressional members. The process was initiated based upon preliminary analysis and high costs associated with Reclamation's Record of Decision (ROD) for the SLU Drainage Feature Re-Evaluation to explore an alternative solution to the SLU drainage problem. Reclamation is coordinating efforts resulting from a request by Congressional members to develop an alternative solution and draft proposed authorizing legislation.

The current draft legislation would authorize a viable option to the recommended Federal In-Valley/Water Needs Land Retirement Alternative as proposed in the SLU Drainage Feature Re-Evaluation ROD. As currently envisioned, this non-federal alternative would meet the needs of the contractors and other litigants for drainage service, while relieving the United States of the obligation to provide such service. In addition to those considerations, the proposed draft legislation would greatly speed the implementation of the drainage program, thereby helping to preserve the San Joaquin Valley's environment, agricultural productivity, economy, employment, and quality of life.

Senator Feinstein is aware that drafting of a legislative proposal has been completed, but wants a bill the administration can support. She is eager to be provided with the bill which Reclamation has prepared once DOI and the administration have vetted it. We are asked to provide the bill

very shortly, and this will likely be a topic of discussion during annual hill visits by Mid-Pacific Regional Director Don Glaser during the week of May 4.

New: Re-naming of Pump-Generating Facility at Grand Coulee Dam, (Washington)

On May 12, Reclamation will re-name the pump-generating plant at Grand Coulee Dam after the late Reclamation Commissioner John Keys. Department officials and local dignitaries (including Mrs. Keys) are expected to attend.

Update: Klamath Basin Restoration Agreement (KBRA)/Hydropower Agreement in Principle (AIP), (California/Oregon)

- Final Hydropower Agreement meetings scheduled for the week of April 27 in Washington, D.C. were postponed and are now tentatively scheduled for May 13-15.
- The group may ask to meet with Department of the Interior representatives to discuss whether the Federal government is willing to be the Dam Removal Entity (DRE) or dam removal agent.

Drafting committees are revising the draft Final Hydropower Agreement based on outcomes of meetings held April 20-21. May 13-15 meetings in Washington, DC will provide additional opportunity to build consensus on remaining items of concern. Technical meetings will be held with Hydropower Agreement parties on May 20 to provide information on the engineering and scientific approach to completing the Secretarial Determination. Technical workgroups will meet on May 21 to continue development of engineering and scientific needs for the Secretarial Determination.

Update: NOAA Fisheries Central Valley Project (CVP) Operations Section 7 Consultation, (California)

- About a week remains to stay on NOAA Fisheries' schedule to resolve remaining technical, legal, and policy issues associated with their new Biological Opinion for anadromous fish.

Reclamation and the California Department of Water Resources are working with NOAA Fisheries to resolve significant concerns with the spring export to inflow requirements from the San Joaquin River. Reclamation and NOAA Fisheries management will be reviewing the progress made on this issue on May 1st.

Update: Potential Exclusive Use Removal, (North Dakota)

- With high lake water levels at Lake Tschida in North Dakota, 49 private exclusive use trailer sites in the flood pool have been impacted at Reclamation recreation areas; 20 of these are totally flooded. Another 6 have water under their decks. Debris in the lake included propane bottles, decks, gas cans, tractors, boats, boat docks, storm shelters, and an ice house. There is additional danger from collapsed septic drain fields.
- Reclamation Regulation, 43 CFR Part 429, *Use of Bureau of Reclamation Land, Facilities, and Waterbodies*, subpart H, prohibits any use that would result in new private exclusive recreational or residential use of Reclamation lands or waterbodies. Relocating existing private exclusive recreational or residential uses that have been flooded to new

locations would be creating new private exclusive uses. Not allowing trailer sites that have been flooded to be relocated to new locations could bring political pressure to allow relocation.

As of April 1, 2009, 49 exclusive use trailer sites at Lake Tschida (Heart Butte Dam) have been impacted due to high water. Currently Regulation 43 CFR Part 429 prohibits replacement of those trailer sites that have been impacted by the high water levels. Access to trailer areas is still very difficult due to muddy roads. Trailer owners have cut down Reclamation fences to drive on private land around flooded roads. Fences were repaired and law enforcement was notified. An incident action plan has been prepared to deal with possible hazardous materials issues associated with the trailers. Flooding of these locations has occurred eight times since 1970. Reclamation is in regular communication with North Dakota's Congressional delegation and will meet with the Governor's office regarding this issue today or Monday, May 4th.

Update: Jamestown Dam Flood Control (North Dakota)

- Of interest to the Secretary because of possible flooding of homes in Jamestown, North Dakota.
- Jamestown Dam on the James River in central North Dakota has reached the highest elevation in its history. Reclamation is working with the U.S. Army Corps of Engineers and state and local entities to manage Jamestown Dam, Pipestem Dam (a Corps facility) and local levees to manage flood water, which appear to have peaked on April 27 and is slowly dropping.

At predicted flows, several homes in the area will sustain damage. The community and the federal and state agencies are working together to minimize damage. Some rain was forecast for the area Wednesday, April 29, which may increase the reservoir to a higher level. The City of Jamestown has requested that the total release from Jamestown Dam be limited as they are experiencing problems with groundwater, storm sewer, wastewater infrastructure, and the capacity of their dikes. Options for addressing these problems are being reviewed. Long term plans for evacuating storage from the flood pool are being discussed. Current estimates are that the flood pool will not be fully evacuated until late June or mid July.

No Change: Anniversary Event Recognizing Columbia Basin Fish Accords Memoranda of Agreement (Accords):

- On **May 8, 2009**, Reclamation's Pacific Northwest Region will participate in a special event recognizing the first anniversary of the signing of the Columbia Basin Fish Accords.

On May 2, 2008, the Colville, Umatilla, Warm Springs, and Yakama tribes, the Columbia River Inter-Tribal Fish Commission (CRITFC), along with the Bonneville Power Administration, Bureau of Reclamation, and the U.S. Army Corps of Engineers signed agreements that provide firm commitments to hydro, habitat and hatchery actions; greater clarity about biological benefits and secure funding for 10 years. In addition, the Federal agencies have also signed agreements with the states of Idaho, Montana, and Washington, and with the Shoshone-Bannock tribes.

The Columbia River Inter-Tribal Fish Commission (CRITFC) is hosting this event to acknowledge the importance of the Accords which are designed to supplement the actions required in the FCRPS biological opinion for listed salmon and steelhead, and the Northwest Power and Conservation Council's Fish and Wildlife program.

No Change: Federal Columbia River Power System (FCRPS) Biological Opinion (BiOp) Litigation (Oregon, Montana, Washington)

- District Court Judge James Redden is currently writing his opinion for this case. Additional questions from Judge Redden are anticipated.
- By **May 1**, the parties in the case are to respond to the Judge as to whether further discussions regarding the 2008 BiOp might be productive. This is in response to an April 2 closed door meeting between the Judge and the parties in the case.

A coalition of environmental and fishing groups, the state of Oregon, and the Nez Perce Tribe (as amicus) have challenged the 2008 FCRPS BiOp in Federal District Court claiming that the BiOp is arbitrary and capricious under the Administrative Procedure Act and fails to meet the requirements of the ESA and Clean Water Act.

U.S. Geological Survey

New: Tsunami Hazard on the U.S. East Coast: The USGS will issue a news release, date unknown, about an upcoming article in the journal *Marine Geology* that describes the likelihood and possible sources of a tsunami hitting the U.S. East Coast.

New: Caves Reveal New Life Forms: Scientists from the USGS, Northern Arizona University, National Park Service, and the Bureau of Land Management have begun an effort to inventory and study caves in northern Arizona and western New Mexico. Summarized in a new fact sheet, this research has identified unique communities of arthropods that include 3 new genera and at least 15 new species—some only known to exist in a single cave. This project is yielding information that will be used by resource managers to better understand and protect fragile and important Southwestern cave ecosystems.

New: USGS Mission-Related Work for DoD in Iraq: The Department of Defense has asked for USGS assistance on a project that is intended to affect the business transformation of Iraq's mineral sector. DoD recognizes that some parallel work in Iraq's water sector and in geospatial data will be needed to support this transformation. During the week of May 17, the USGS will send a 4-person team to Iraq to review the scope of the project for potential USGS participation. Security is of the highest priority. All USGS personnel would be working under DoD security rules should the USGS go forward with participation on the project.

Update: Pending Executive Order on Chesapeake Bay: A Presidential Executive Order is being prepared for Chesapeake Bay Restoration and Protection that will address Federal Leadership and Accountability, Water Quality, Climate Change, Public Access to the Bay, and Adaptive Management. The E.O proposes establishing a Federal Leadership Committee to be chaired by the USEPA Administrator and include representatives from DOI, NOAA, USDA, and DOD. If signed, the E.O. will likely be announced on May 11 or 12 at the annual Executive

Council meeting of the Chesapeake Bay Program. The Chesapeake Bay Program is a Federal-State partnership working to restore the Bay and its watershed with USEPA providing the lead for the Federal government. Three DOI Bureaus, U.S. Fish and Wildlife Service, the National Park Service, and the USGS, are leaders in addressing goals of the recently released Chesapeake Action Plan.

- On April 27, DOI officials met with the CEQ and other Federal agency and OMB leaders to discuss the content and plan for the E.O. DOI requested that language be added to the E.O. on living resources to balance a primary component of the E.O. that addresses water quality. DOI also requested co-leadership with DOC on climate change research and monitoring with increased emphasis on study in the Bay watershed. A new version of the E.O. was generated and submitted to OMB for approval. DOI has commented on this revised version (primarily modifying language on NPS role in public access to the Bay).

New: Northern Utah Valley Hydrology: The USGS has released reports detailing the hydrology of, and providing a 3-D numerical model for, the Northern Utah Valley area in Utah County, Utah. The publications describe conceptual and computer models of the valley's groundwater flow system and provide critical tools for future management of the valley's limited water resources. They were produced in cooperation with multiple State and local agencies and USGS scientists are continuing cooperative studies in the valley by applying mathematical management modeling techniques in the Northern Utah Valley.

New: Mount St. Helens Dome Building Eruption Publication: The USGS recently released USGS Professional Paper 1750, *A Volcano Rekindled: The Renewed Eruption of Mount St. Helens, 2004–2006*, describing eruptive activity of Mount St. Helens from September 2004 until December 2005. The Professional Paper contains contributions of 87 authors from 23 Federal, State and university institutions covering widely ranging topics from seismology, geology, geodesy, gas geochemistry, and petrology to the human endeavor required for managing the public volcanic lands. Mount St. Helens began a dome-building eruption in September 2004 after nearly two decades of quiescence following the catastrophic 1980 eruption. Dome growth was initially robust, became more sluggish with time, and ceased completely in late January 2008.

New: The Wildlife Professional: USGS scientist Mike Adams was notified by *The Wildlife Professional*, a magazine published by The Wildlife Society, that his article about short-term effects of cattle exclosures on Columbia spotted frogs will be featured in their summer 2009 issue. An exclosure is an area enclosed by a barrier, or fence, to prevent grazing. Livestock grazing is a common land use across the western United States, but concerns have been raised regarding its potential to affect amphibian populations.

No Change: USGS Response and Monitoring Continues at Redoubt: USGS Alaska Science Center staff at the Alaska Volcano Observatory (AVO) continues to respond to the ongoing eruption of Redoubt Volcano. The Aviation Color Code remains at ORANGE with the Alert Level at WATCH. A lava dome is actively growing in the summit crater and renewed explosive activity is likely. Data from real-time seismic networks, web cameras, ground-based radar, GPS stations, an infrasound instrument, and near-real imagery from satellites are monitored by AVO staff 24/7.

No Change: USGS-Reston Public Lecture “Watching Nature’s Clock”: On May 6 from 7-8 pm, the USGS in Reston will host a public lecture "Watching Nature's Clock: A Citizen-Scientist Effort to Track Seasonal Signs of Climate Change" by Jake Weltzin, USGS National Phenology Network Program Coordinator. USGS is recruiting volunteers to team up with scientists tracking the effects of climate change on seasonal patterns of plant and animal behavior.

No Change: *The New York Times* Inquires About Sea-level Falling Near Juneau, Alaska: On April 21, *The New York Times* contacted USGS Public Affairs about sea-level falling in the area of Juneau, Alaska. Although the USGS is not doing current work in this area, we provided the reporter with a report from the National Research Council (NRC) from the late 1980's. The NRC report explains this apparent drop in sea level is due to the land rising (rebounding) as the weight of the glacial ice on the land is lifted due to melting. The reporter also interviewed USGS scientists Bruce Molnia, an Alaska glacier expert, and Jeff Williams, an expert on coastal processes for an upcoming potential article – date unknown.

No Change: USGS Scientists Interviewed by *Newsweek*: Dan Fagre and Kate Kendall, were interviewed along with scientists from the U.S. Fish and Wildlife Service, and the University of Montana, by a reporter from *Newsweek*. The topic of the interview is the Crown of the Continent as a geographic focus for research. The article will feature USGS climate change research, U.S. Fish and Wildlife Service wolverine research, and aquatic research being done by the University of Montana. The reporter, Lily X. Huang, also met with Kate Kendall, USGS, regarding grizzly bear DNA. The article is still being written.

No Change: USGS High Plains Water Quality Assessment: A study on one of the Nation's most heavily used aquifers, the High Plains aquifer, will be released in July 2009. The study describes water-quality conditions in the aquifer, which underlies 175,000 square miles in parts of eight States (CO, KS, NE, NM, OK, SD, TX, and WY). Although most of the water pumped from the High Plains aquifer is used for irrigation, nearly two million people depend on it for drinking water. The study concludes that water produced by domestic, public-supply, and irrigation wells in the aquifer generally was acceptable for most uses. However, some contaminants did exceed Federal drinking-water standards, including arsenic, dissolved solids, fluoride, iron, manganese, and nitrate. This assessment is a companion report to the previously released USGS Professional Paper 1749, “*Water-quality assessment of the High Plains aquifer, 1999-2004.*” The assessment will be released at the Western States Water Council Meeting in July. A press release is planned.



UNITED STATES
DEPARTMENT OF THE INTERIOR

May 2, 2009

Memorandum

To: Laura Davis, Associate Deputy Secretary
Kat Pustay, Special Assistant

From: Pamela Haze, Acting AS-PMB *Pam Haze*

Subject: May 4, 2009, Staff Meeting – Policy and Other Issues

This provides major policy and other issues that fall under the purview of the Assistant Secretary – PMB. Note that the Chief Information Officer reports separately.

American Recovery and Reinvestment Act Status:

- All but Fire have been cleared and released. We are posting the plans on the web page and issuing them as part of the 2010 budget.
- Policies on acquisition, administration, human resources, and risk management have been released.
- OMB is pressing very hard for us to begin to obligated funds.

2010 Budget:

- Budget release on May 7. The press conference is scheduled for 11:30 am.

Upcoming Events:

- The Secretary will be at the May 6 convocation/awards ceremony, the May 7 Partnerships in Conservation event, and the May 7 press conference on the 2010 budget.
- The Secretary will testify on the budget with the House Appropriations Committee on May 13 and with Senate Appropriations on June 3.
- House Appropriations is holding budget hearings with NPS, FWS, and USGS.

Management Improvements/Cost Cutting:

- We have issued a data call to bureaus and offices on management improvements to respond to the President's call for cost cutting and efficiencies.

- Rather than identify cost savings, we are hoping to use this an opportunity to identify actual improvements in management of programs. Our data call asks for estimated cost avoidance and savings for specific improvements, solicits new ideas, and assigns timeframes for the improvements.
- The information we get back will be used to formulate a plan going forward that will allow us to track and report on improvements. I anticipate that we will form a small team of bureau representatives to help us with this.
- This should complement the actions underway by the CIO's to identify enterprise projects to improve IT performance.

Insular Affairs

- We have submitted a reprogramming for the new Assistant Secretary for Insular Affairs to the House and Senate Appropriations Committees for approval.

H1N1 Flu Preparedness

- An all employees memorandum was issued to raise awareness and to provide information.
- Interior is reporting daily to the Department of Homeland Security and the Homeland Security Council Domestic Readiness Group on Interior's status.
- Interior has restricted employee travel to Mexico, except for one employee on a long term detail assignment. One Fish and Wildlife Service employee that was reported to the CDC as a possible case has since been resolved.
- Information is being disseminated from CDC and OPM on Interior's website.
- Guidance has been issued by the HR Office on information sources and additional guidance on response actions will be issued shortly.

Annual Audit

- The process for the 2008 and 2009 financial audit has begun. A schedule of engagement with KPMG has been issued to all bureaus and offices.
- This year the consolidated audit will take the place of a number of individual bureau audits.

Other Significant Issues: See attached list
 Conferences/Meetings: See attached list.

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
HEARINGS WITH APPROPRIATIONS					
House Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	May 13, 2009 9:30 – 11:30 Rayburn 2359	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	NPS 2010 Budget Request	Preparing testimony	May 14, 2009 9:00 – 11:00 Rayburn B-308	NPS Director	AS-PMB
House Interior Appropriations Hearing	FWS 2010 Budget Request	Preparing testimony	May 14, 2009 1:30 – 3:30 Rayburn B-308	FWS Director	AS-PMB
House Interior Appropriations Hearing	USGS 2010 Budget Request	Preparing testimony	May 21, 2009 1:30 – 3:30 Rayburn B-308	USGS Director	AS-PMB
Senate Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	June 3, 2009 10:00 – 12:00 Dirksen 124	Secretary Salazar is the witness.	AS-PMB
RULES AND REGULATIONS					
American Indian Probate Reform Act (AIPRA) Rule	Interim final rule being issued to update procedures for Indian probate cases to reflect AIPRA amendments enacted in December 2008.	Ready for senior-level review. No OMB review needed.		Chief of Staff	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Hydropower Licensing Procedures Rule	Joint final rule being issued by the Departments of the Interior, Commerce, and Agriculture to revise procedures for trial-type hearings related to conditions and prescriptions for hydropower licenses and for the submission of alternative condition and prescriptions.	Rule signed by the three Departments, submitted to OMB, but not cleared for publication. No problems identified. Publication would facilitate the hydropower licensing process.	Rule should be re-submitted to OMB sooner rather than later; but it first has to be cleared by the three Departments.	Chief of Staff	AS-PMB
Indian Self-Determination Act (ISDA) Rule	Joint final rule being issued by the Departments of the Interior and Health and Human Services to update procedures for ISDA appeals.	Ready for senior-level review. No OMB review needed. Publication would facilitate the ISDA appeals process.	Should be cleared sooner rather than later.	Chief of Staff	AS-PMB
OTHER SIGNIFICANT ISSUES					
Interior Contact for Environmental Issues for Customs and Border Protection	We have received a request from CBP for an Interior contact for the Acting Commissioner concerning environmental coordination issues associated with border security.	Issues re. Organ Pipe Cactus National Monument, Cabeza Prieta National Wildlife Refuge, and adjacent public land administered by the Bureau of Land Management.	In the near future	Will Shafroth is the lead on this issue	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item	Summary of Issue	Status of Issue	Timeline	Key Participants	Sponsor
Recovery Act – Education State Fiscal Stabilization Fund	Interior is to be consulted on the allocation of \$268 million in Recovery Act funds for four U.S. territories - American Samoa, Guam, Northern Mariana Islands and the U.S. Virgin Islands.	Discuss allocation procedures. It is anticipated that Education will award the funds based on population.	Teleconference scheduled for May 1, with Education and Insular Affairs.	Recovery Coordinator	AS-PMB
International Year of Forests	Interior has been invited by the U.S. Forest Service to collaborate on opportunities for celebrating the United Nations-designated International Year of Forests in 2011.	The first meeting was March 31.	Next steps are to engage other partners and interested stakeholders.	PMB, OE-IA, USGS, NPS, OSM, BLM, BIA, FWS	AS/PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Environmental Assessment for the Hawaiian Home Lands Maili Land Exchange	The Secretary is required to approve land exchanges involving Hawaiian Home Lands. The Maili land exchange is subject to NEPA.	Upon DOI approval of the EA, we provide a 30 day notice to interested parties by posting the document on the Department of Hawaiian Home Lands website. Once the EA has been noticed, the Acting Deputy Assistant Secretary of Policy and Program Management, will sign the FONSI.	EA must be noticed and signed prior to exchange of properties. Once the land exchange packet is received, DOI will have 90 days to review and render a decision.	Director, Office of Hawaiian Relations	AS-PMB
Designation of Departmental representative on interagency sub-Cabinet level Trade Policy Review Group (TPRG)	The US Trade Representative (confirmed by the Senate on March 18) is expected to ask the Secretary to designate a Deputy Secretary or Assistant Secretary-level representative to the TPRG. TPRG is a FACA-chartered committee.	USTR communication was expected by the end of March.		Secretary, AS-PMB, DAS-Policy and Program Management; Director, Office of Policy Analysis	AS-PMB

5/2/2009

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Update of the Department-wide Strategic Plan is due for FY 2010	Secretarial strategic priorities and decisions needed to launch the plan revision process that includes Congressional consultation; public, Federal and Tribal comments; public meetings; and internal analysis and vetting of proposed revisions prior to formal publication and transmittal to Congress and OMB.	Briefing for Associate Deputy Secretary to be reviewed with Acting AS-PMB	Conduct meeting to coordinate start of first phase of planning process to collect public, employee and tribal input; final plan signed by Secretary needed by December 28, 2009 to comply with GPRA (P.L. 103-62).	AS-PMB	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item	Summary of Issue	Status of Issue	Timeline	Key Participants	Sponsor
U.S. - Palau Review of Compact of Free Association	Palau and the U.S., as represented by Defense, State and DOI (lead), have been in bilateral discussions on the financial provisions of the Compact with Palau since early 2008. The State Department submitted Circular 175 to OMB requesting permission to 1) extend the current Compact with Palau by a year to allow funding to continue at current levels and give time for bilateral negotiations to begin formally; and 2) request parameters within which the State Department (partnering with DOI and other federal agencies) may negotiate on behalf of the U.S. Government.	Anything negotiated with Palau will still have to pass the U.S. Congress.	Financial provisions of the Compact of Free Association relationship between the U.S. and Palau expire on September 2009.	Secretary	AS-PMB
Five Year Review of Compact with Micronesia and the Marshall Islands	The Secretary of the Interior is required by law to submit to the U.S. Congress a five-year review of the first five years under the Amended Compact	Insular Affairs met April 28 – 29 in Hawaii.	Due to Congress December 31, 2009.		AS-PMB

5/2/2009

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item	Summary of Issue	Status of Issue	Timeline	Key Participants	Sponsor
Second Triennial Report to Congress on the Federal Lands Recreation Enhancement Act (REA)	REA calls for a triennial report to Congress by May 1. The report provides: examples of past projects accomplished using REA fees; examples of planned projects and programs to be accomplished with REA fees; highlight the status of the REA program implementation, including budgetary data; and make recommendations for changes in the overall fee system.	A draft report is currently circulating for surname. As of 3/31 NPS, FWS, and OCL have surnamed. The draft is under review in A/S FWP, BLM, POB, SOL.	Report due to Congress on May 1, 2009	Assistant Secretaries, bureau directors	AS-PMB
2008 Federal Human Capital (HC) Survey Results, HC Strategic Plan	The departmental results from the government-wide 2008 FHCS administered by the Office of Personnel Management have been provided to agencies. Bureau/Office level results have also been received. This is followed by a "Best Places to Work" ranking of Federal agencies based on the results of the 2008 FHCS.	Action plans to address the FHCS results need to be developed once the lower level results are received and analyzed.	Results for organizational units below the Bureau/Office level were received on March 20, 2009, and distributed to bureaus. The "Best Places to Work" ranking of Federal agencies based on the results of the 2008 FHCS is expected to be released May 19, 2009.	Associate Deputy Secretary	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item	Summary of Issue	Status of Issue	Timeline	Key Participants	Sponsor
Continuity of Operations (COOP) Programs	The Secretary and leadership staff needs to be briefed on existing procedures for executing the mission essential functions of the Department during national security emergencies and catastrophic disaster situations. Input is required regarding emergency planning issues.	OEM coordinating with Chief of Staff's office to schedule briefings for Secretary and incoming officials at earliest possible time. Other actions await designation by the Secretary of an Assistant Secretary-level official as Departmental Continuity Coordinator.	Brief Secretary and key officials on emergency plans. April: Designate Assistant Secretary-level continuity coordinator. April: Review DOI "primary mission essential functions" in preparation for the 2009 update of the DOI COOP Plan. April-May: Update continuity team rosters as new officials arrive. June : COOP exercise	Secretary and senior leadership	AS-PMB

Current Policy, Management and Budget Requests for Secretarial Involvement – Summary Table

Date	Location	Event	Recommended DOI Participant	Requester/Office
May 4	EEOB	Department of Homeland Security Principal Level Exercise on Hurricane Preparedness	Deputy Secretary Nominee	AS-PMB
May 6 9:30 – 11:30	MIB	SES Awards Ceremony: Annual ceremony to honor SES, SL, and ST employees who received the Presidential Rank Awards and Secretary's Leadership Awards	Secretary - confirmed	AS-PMB
May 7 10 - noon	MIB	Partners in Conservation Awards Program	Secretary - confirmed	AS-PMB
May 7 11:30 – 1:00	MIB	FY 2010 Budget Press Conference	Secretary - confirmed	AS-PMB
May 12-13	DC	National Geospatial Advisory Committee Meeting. A request for the Secretary to provide remarks at this meeting will be submitted in the next few weeks	Secretary	AS-PMB
May 13 - 15	DC	National Police Week 2009: Annual event to include the 21st Annual Candlelight Vigil held at the Police Memorial, Interior's Annual Wreath Laying Ceremony in the MIB auditorium, and the 28th Annual National Peace Officer's Memorial Day Service on the west front lawn of the Capitol.	Secretary	AS-PMB

Date	Location	Event	Recommended DOI Participant	Requester/Office
Spring 2009		The Wildland Fire Leadership Council (WFLC) was established in April 2002 by the Secretaries of Agriculture and the Interior to provide an intergovernmental committee to support the implementation and coordination of Federal Fire Management Policy. The Council meets regularly to provide oversight and coordination of the National Fire Plan and the Federal Wildland Fire Management Policy.	Assistant Secretaries for Policy, Management and Budget, Land and Minerals, Fish Wildlife and Parks, Bureau Directors	AS-PMB
Fall 2009 or later	Mexico TBD	U.S. Mexico Joint Cabinet Meeting (Bi-National Commission): Previously DOI Secretary and Mexico counterpart and delegations met as the "Natural Resources Working Group" for 1.5-2 hours, then Secretaries would participate in plenary luncheon of all Cabinet members. A new format for next meeting is being developed by State Dept and Mexico, and date for meeting has not been set.	Secretary	AS-PMB
TBD	MIB	The National Geospatial Advisory Committee (NGAC) was formed as an advisory committee to the Secretary on geospatial issues. The current chair of NGAC is requesting a courtesy meeting with the Secretary.	Secretary and senior officials	AS-PMB

April 27, 2009

Memorandum

To: Laura Davis
Associate Deputy Secretary

From: Amy Holley
Chief of Staff for Water and Science

Subject: Weekly Meeting Issues

Bureau of Reclamation

New: California Bay Delta Conservation Plan (BDCP) Representatives (California)

- BDCP representatives to meet with key officials in Washington, D.C. the week of April 27, visiting DOI on April 29, at 9:30am.

A group of BDCP representatives (comprised of water managers and non-governmental organizations) will be in Washington, D.C. the week of April 27th for a series of hill briefings. On April 29, the representatives will also visit the DOI to brief members of DOI; additional Federal agencies including EPA, CEQ, and NOAA Fisheries have also been invited to attend. The group is expected to provide an overview and update of the BDCP process and will continue to seek senior level support for this effort. BDCP is pursuing solutions to the long-term conflicts between ecosystem sustainability and resource uses in and around the Delta led by the state of California.

BDCP representatives expected:

Ann Hayden, Environmental Defense Fund
Karla Nemeth, Resource Agency & Zone 7 Water Agency
Roger Patterson, Metropolitan Water District of Southern California (MWD)
Jason Peltier, Westlands Water District
Greg Zlotnick, Santa Clara Valley Water District
Kim Delfino, Defenders of Wildlife
Campbell Ingram, The Nature Conservancy
Michael Beane, Environmental Defense Fund
Brad Hiltshire, Washington Representative of MWD
Joe Findaro, Akerman Senterfitt
Dave Reynolds, Association of California Water Agencies

Note: In October 2008, many of the same individuals visited DOI for these briefings and met with the previous administration and career staff.

Update: Revision to 2009 Central Valley Project (CVP) Water Supply Allocation (California)

- California Congressional delegation and state government representatives and key CVP contractors were notified via conference call about the updated water allocations on April 21.
- Natural Resources Defense Council (NRDC) and other environmental stakeholders were briefed about the updated water allocations via conference call on April 21.

On April 21, Reclamation announced an increase in allocations to the Federal Central Valley Project (CVP) water service contractors. The allocation will be revised again in May as conditions warrant. Agricultural water service contractors north of the delta were allocated 15 percent supplies while those south of the Delta were allocated 10 percent, made possible by above-average March precipitation. This water supply update is based upon the April 1 runoff forecast from the California Department of Water Resources. Although the improved precipitation and snow pack have led to a small increase in supplies, difficult conditions remain in the region due to a third consecutive dry water year, restrictions on CVP operations to protect threatened and endangered fish, and requirements to meet water right permit terms and conditions. Reclamation continues to work with water contractors, State and Federal agencies, and others to make the most effective use of the limited water supplies available to the region.

New: Anniversary Event Recognizing Columbia Basin Fish Accords Memoranda of Agreement (Accords):

- On **May 8, 2009**, Reclamation's Pacific Northwest Region will participate in a special event recognizing the first anniversary of the signing of the Columbia Basin Fish Accords.

On May 2, 2008, the Colville, Umatilla, Warm Springs, and Yakama tribes, the Columbia River Inter-Tribal Fish Commission (CRITFC), along with the Bonneville Power Administration, Bureau of Reclamation, and the U.S. Army Corps of Engineers signed agreements that provide firm commitments to hydro, habitat and hatchery actions; greater clarity about biological benefits and secure funding for 10 years. In addition, the Federal agencies have also signed agreements with the states of Idaho, Montana, and Washington, and with the Shoshone-Bannock tribes.

Fish Accords

The Columbia River Inter-Tribal Fish Commission (CRITFC) is hosting this event to acknowledge the importance of the Accords which are designed to supplement the actions required in the FCRPS biological opinion for listed salmon and steelhead, and the Northwest Power and Conservation Council's Fish and Wildlife program.

New: Animas-La Plata Project Starts Pumping Water (Colorado)

On Monday, April 20, 2009, Reclamation marked a historic milestone in construction of the Animas-La Plata Project with starting up the Durango Pumping Plant and the first storage of water for the customers of the project. The new state-of-the-art facility lifts water from the Animas River up through the Ridges Basin Inlet Conduit into Lake Nighthorse. Following an initial pump burn-in process that will occur through late April, pumping at the plant will be increased to 280 cubic feet per second (cfs) on or around May 4th. Ultimately, the rate of

pumping from the Animas River will be governed by a series of factors including: downstream senior water right demands on the river, amount of flow available in the river, seasonal minimum bypass flow criteria, design-based reservoir filling criteria, and the capacity of the pumping plant itself.

Update: Briefing for the Council on Environmental Quality (CEQ)/Salmon Policy Team regarding Federal Columbia River Power System (FCRPS) Biological Opinion (BiOp) Litigation

- On April 24, Reclamation briefed the Department of the Interior in preparation for the CEQ briefing.
- On April 28, Department of Justice (DOJ), Bonneville Power Administration (BPA), NOAA Fisheries, Corps of Engineers (Corps), and Reclamation will brief CEQ on FCRPS litigation issues.

As follow-up to the April 7 meeting between CEQ, DOJ, BPA, NOAA Fisheries, Corps, and Reclamation, a briefing to CEQ has been scheduled on the subject of the FCRPS BiOp and litigation. The briefing will focus on the legal and consultation background/history, science of the BiOp, new and ongoing actions, environmental considerations, and economic considerations related to the FCRPS BiOp.

Update: Federal Columbia River Power System (FCRPS) Biological Opinion (BiOp) Litigation (Oregon, Montana, Washington)

- District Court Judge James Redden is currently writing his opinion for this case. Additional questions from Judge Redden are anticipated.
- By **May 1**, the parties in the case are to respond to the Judge as to whether further discussions regarding the 2008 BiOp might be productive. This is in response to an April 2 closed door meeting between the Judge and the parties in the case.

* [A coalition of environmental and fishing groups, the state of Oregon, and the Nez Perce Tribe (as amicus) have challenged the 2008 FCRPS BiOp in Federal District Court claiming that the BiOp is arbitrary and capricious under the Administrative Procedure Act and fails to meet the requirements of the ESA and Clean Water Act.

Update: Klamath Basin Restoration Agreement (KBRA)/Hydropower Agreement in Principle (AIP), (California/Oregon)

- AIP meetings are tentatively scheduled for the week of April 27 in Washington, D.C.
- The group may ask to meet with Department of the Interior representatives to discuss whether the Federal government is willing to be the Dam Removal Entity (DRE) or dam removal agent.

AIP meetings were in progress the week of April 20, 2009, to finalize those portions of the AIP that have yet to gain consensus. Additionally, the Federal agencies will present a draft strategy in the form of a Program Management Plan (PMP) to accomplish the Secretarial Determination no later than March 31, 2012. Workgroups continue to work on details of the PMP. If progress is sufficient in meetings the week of April 20, parties may ask to meet with Department of the

Interior representatives to discuss whether the Federal government is willing to be the "DRE" or dam removal entity.

Update: NOAA Fisheries Central Valley Project (CVP) Operations Section 7 Consultation, (California)

- About two weeks remain to stay on NOAA Fisheries' schedule to resolve remaining technical, legal, and policy issues associated with their new Biological Opinion for anadromous fish.

Reclamation and NOAA Fisheries scientific teams have continued meeting to review the Reasonable and Prudent Alternative (RPA) actions; determine which actions NOAA Fisheries and Reclamation agree are necessary to alleviate jeopardy to listed species; discuss actions of concern to Reclamation biologists and possible alternatives or modifications to those actions; and identify any remaining actions that cannot be resolved at the technical level.

U.S. Geological Survey

New: USGS Acting Director to Meet with Chairman Norm Dicks: On April 28, Chairman Norm Dicks (Subcommittee on Interior and Related Agencies, Committee on Appropriations), has invited USGS Acting Director Suzette Kimball to provide an update on USGS Global Climate Change activities, specifically the National Climate Change Wildlife Center.

No Change: USGS Acting Director to Meet with Rep. Maurice Hinchey: On April 28, Suzette Kimball, USGS Acting Director, will meet with Rep. Maurice Hinchey (NY), to discuss USGS programs, specifically the USGS Streamgauge Program. On March 19, Rep. Hinchey wrote to Dr. Kimball expressing concern over the more than 50 streamgages in New York scheduled to be discontinued over the next 2 years. The USGS informed Mr. Hinchey that it had committed its own funding recently received in the fiscal year 2009 budget allotment and that it had reached agreement with several of its partners to allow for 17 of the most critical streamgages to remain operational.

Update: USGS to Provide Trends on Endangered Humpback Chub Populations in Grand Canyon: On Monday, April 27, the USGS is planning to release the 1) approved press release; 2) peer reviewed and approved Open File Report; and 3) peer reviewed and approved USGS Fact Sheet about the current trends for the Grand Canyon population of endangered humpback. Interested parties include Bureau of Reclamation, the National Park Service, the U.S. Fish and Wildlife Service, as well as stakeholders such as the seven basin states, and the hydropower generating community. The trends will relate to ongoing management decisions, such as possible de-listing of the species and operation of the dam.

New: Rocky Mountain Peace and Justice Center Investigative Report of the Denver Federal Center: An investigative report was issued by the Rocky Mountain Peace and Justice Center (RMPJC), April 2009, raising concerns regarding site use, hazardous waste, and other contaminants on the Denver Federal Center (DFC) throughout its history dating back to the 1940's. The RMPJC report indicates USGS is a source of radioactive materials on the DFC. It

states incorrectly that the USGS Nuclear Regulatory Commission (NRC) license for its TRIGA Reactor expired, and implies that at various times since the 1960's radioactive waste was improperly disposed and standards set by either the Atomic Energy Commission or the NRC were not met by USGS while conducting operational activities of the Reactor. The USGS TRIGA Reactor has been operating safely and reliably for 40 years. No significant safety incidents occurred during its lifetime and the Reactor is still safely and productively utilized in accordance with all NRC regulations. The General Services Administration is responsible for addressing the report. The report is available publicly on the RMPJC website (<http://www.rmpjc.org>). It is our understanding Fox News interviewed the Colorado Department of Public Health and Environment (CDPHE) on April 23 regarding the report; we do not know if this interview will be televised. (Briefing paper submitted to DOI on April 23, 2009)

Update: Congressional Briefings on White-Nose Syndrome (WNS): On May 1, the U.S. Geological Survey (USGS), U.S. Fish and Wildlife Service, and National Park Service will hold briefings for the House and Senate about WNS in bats. Speakers will include Federal and State scientists working on White-Nose Syndrome. The same briefing will be provided to non-governmental organizations on April 29 at the Association of Fish and Wildlife Agencies' headquarters in Washington, D.C. White-Nose Syndrome, an infectious disease that depletes hibernating bats of vital energy reserves, has spread across 9 northeastern States in 2 years and has killed hundreds of thousands of cave bats. The briefings will highlight our efforts to monitor the expansion, transmission, characteristics and control of WNS. There is growing awareness by northeast congressional Members of this infection, the negative impacts on bat populations and the ramifications of reduced bat populations. A new web site was developed by the USGS in response to growing demand for publicly available information on WNS. The site includes current information about the history, suspected dynamics, and possible implications of the disease, highlighting the role of the USGS in response to this wildlife crisis (<http://www.fort.usgs.gov/WNS/>).

New: The Making of Artificial Moon Dirt: The USGS has created man-made moon dirt, also called regolith, to help NASA prepare for upcoming explorations of the moon. A media opportunity to watch a portion of the moon dirt creation process is being scheduled for sometime in May – exact date unknown – at the Zybek Advanced Products facility in Boulder, Colorado. A second media event is being scheduled for the end of May/beginning of June in Rye, Montana, at the Stillwater Mine, the site where rocks containing properties similar to those found on the moon, can be found.

New: *The New York Times* Inquires About Sea-level Falling Near Juneau, Alaska: On April 21, *The New York Times* contacted USGS Public Affairs about sea-level falling in the area of Juneau, Alaska. Although the USGS is not doing current work in this area, we provided the reporter with a report from the National Research Council (NRC) from the late 1980's. The NRC report explains this apparent drop in sea level is due to the land rising (rebounding) as the weight of the glacial ice on the land is lifted due to melting. The reporter also interviewed USGS scientists Bruce Molnia, an Alaska glacier expert, and Jeff Williams, an expert on coastal processes for an upcoming potential article – date unknown.

New: Status and Possible Future of the Mojave Desert : USGS scientists are among the editors and chapter authors of a new book, *The Mojave Desert: Ecosystem Processes and Sustainability*, addressing a number of specific ecosystem processes and threats to the Mojave Desert, as well as the potential for natural recovery and active restoration of this fragile environment. Published by the University of Nevada Press, this soon-to-be released book, presents new research by 38 scientists who are all specialists in desert ecology. USGS scientist Robert Webb is the lead editor.

New: Intersex Occurrence in Smallmouth Bass: USGS manuscripts relating to research findings on endocrine disruption in smallmouth bass from the upper Potomac River watershed will be published in the May issue of *Environmental Toxicology and Chemistry*. Lead authors Dr. David Alvarez, Dr. Luke Iwanowicz and their co-authors, detail the reproductive health of the bass and the seasonal occurrence of persistent and emerging organic contaminants. Further sampling is also being conducted in the mainstream upper Potomac River and the tidal area downriver of Washington, D.C. Partners in these studies include the U.S. Fish and Wildlife Service and the Maryland Department of Natural Resources.

New: USGS-Reston Public Lecture “Watching Nature’s Clock”: On May 6 from 7-8 p.m., the USGS will host a public lecture "Watching Nature's Clock: A Citizen-Scientist Effort to Track Seasonal Signs of Climate Change" by Jake Weltzin, USGS National Phenology Network (NPN) Program Coordinator. The lecture will be held at the USGS National Center in Reston, Virginia. The USGS is recruiting volunteers to team up with scientists tracking the effects of climate change on seasonal patterns of plant and animal behavior. The USA-NPN is a collaborative partnership that includes Federal agencies, the academic community, and the general public, all working together to monitor and understand the influence of seasonal cycles on the Nation’s biological resources.

New: Hurricane Preparedness: Abby Sallenger and Hilary Stockdon, USGS Florida Integrated Science Center, were interviewed for upcoming programs on the importance of hurricane preparedness and understanding the dangers of storm surge for KIII-TV (Corpus Christi, TX) – date of airing unknown.

Update: USGS Study About Mercury in the Pacific Ocean: USGS is working with the DOI Office of Communications on a possible press conference to announce recent findings about mercury in the Pacific Ocean. The findings improve our understanding of how mercury enters the North Pacific Ocean, the long-range transport of mercury within the ocean that originates in the western Pacific Ocean (off the coast of Asia), and ultimately how it transforms into methylmercury in Pacific Ocean waters and fish, including tuna. This is the first major study of the atmosphere as a pathway for mercury into the Pacific Ocean. (Briefing paper submitted to DOI on April 9, 2009.)

No Change: USGS and Bureau of Reclamation Testify on ARRA Activities: The House Natural Resources Subcommittee on Water and Power has tentatively scheduled a hearing on April 28 at 10 a.m., in 1334 Longworth. The purpose of the hearing is to examine USGS and Reclamation activities under the American Recovery and Reinvestment Act of 2009. USGS Associate Director for Water, Dr. Matthew Larsen, will testify for the USGS; Acting

Commissioner, Bill McDonald, will testify for Reclamation. The Subcommittee has asked for information on the criteria used to prioritize projects, the definition of "shovel ready" projects, and similar questions.

No Change: Congressional California Courtesy Visits: USGS California Water Science Center Director Eric Reichard is planning courtesy visits to various congressional staff of the California delegation during the week of April 27.

No Change: USGS High Plains Water Quality Assessment: A study on one of the Nation's most heavily used aquifers, the High Plains aquifer, will be released in July 2009. The study describes water-quality conditions in the aquifer, which underlies 175,000 square miles in parts of eight States (CO, KS, NE, NM, OK, SD, TX, and WY). Although most of the water pumped from the High Plains aquifer is used for irrigation, nearly two million people depend on it for drinking water. The study concludes that water produced by domestic, public-supply, and irrigation wells in the aquifer generally was acceptable for most uses. However, some contaminants did exceed Federal drinking-water standards, including arsenic, dissolved solids, fluoride, iron, manganese, and nitrate. This assessment is a companion report to the previously released USGS Professional Paper 1749, "*Water-quality assessment of the High Plains aquifer, 1999-2004.*" The assessment will be released at the Western States Water Council Meeting in July. A press release is planned.

No Change: USGS Response and Monitoring Continues at Redoubt: USGS Alaska Science Center staff at the Alaska Volcano Observatory (AVO) continues to respond to the ongoing eruption of Redoubt Volcano. The Aviation Color Code remains at ORANGE with the Alert Level at WATCH. A lava dome is actively growing in the summit crater and renewed explosive activity is likely. Data from real-time seismic networks, web cameras, ground-based radar, GPS stations, an infrasound instrument, and near-real imagery from satellites are monitored by AVO staff 24/7.

No Change: Climate Change Regional Workshop: USGS will host a regional workshop with conservation partners May 6-7 at the Patuxent Wildlife Refuge Visitors Center. This is one of three workshops to introduce the conservation community to the National Climate Change Wildlife Science Center (NCCWSC), the proposed Regional Climate Science Hubs and their role in providing response information for wildlife adaptation to climate change.

No Change: Walrus Radio Tagged for Satellite Tracking: USGS scientists are tracking walrus in the region of the St. Lawrence Island polynya for the next 4-6 weeks. The purpose of the tagging is to determine where walrus forage relative to the distribution of their benthic prey and conditions of sea ice. The radio-tags will provide estimates of walrus locations and hourly walrus foraging and haulout status information.

No Change: Pending Executive Order on Restoration of the Chesapeake Bay: With the target signing date of May 11, the U.S. Environmental Protection Agency is leading the effort for a Presidential Executive Order for Restoring the Chesapeake Bay. The Executive Order will reflect two primary items: Strengthen Planning and Accountability of Federal Activities, and Improving Water Quality. The Strengthening Planning and Accountability section will establish

a Federal Leadership Committee to be chaired by the USEPA Administrator and include representatives from DOI, NOAA, USDA, and DOD. The section will also contain bullets for activities to be led by different Federal Partners, including the NPS, FWS, and USGS. The water-quality section will have USEPA activities to further regulate sources of nutrients and sediment. ~~The draft Executive Order should be provided, through the Council on Environmental Quality, the week of April 20 for DOI and respective Bureau review and comment.~~ If signed beforehand, the Executive Order will be announced on May 12 at the annual Executive Council meeting of the Chesapeake Bay Program. This annual meeting includes the USEPA Administrator (representing the Federal Government); the Governors of Virginia, Maryland, and Pennsylvania, the Mayor of the District of Columbia, and the Chair of the Chesapeake Bay Commission. If the Executive Order is signed, there may be an opportunity for DOI involvement at the May 12 Executive Council meeting. The Chesapeake Bay Program is a Federal-State partnership working to restore the Bay and its watershed with USEPA providing the lead for the Federal government. Three DOI Bureaus, U.S. Fish and Wildlife Service, the National Park Service, and the USGS, are leaders in addressing goals of the recently released Chesapeake Action Plan (CAP). The goals of the CAP include restoration of fisheries, habitat, water quality; watershed protection, fostering stewardship; and providing science in an adaptive-management framework.

No Change: USGS Scientists Interviewed by *Newsweek*: Dan Fagre and Kate Kendall, were interviewed along with scientists from the U.S. Fish and Wildlife Service, and the University of Montana, by a reporter from *Newsweek*. The topic of the interview is the Crown of the Continent as a geographic focus for research. The article will feature USGS climate change research, U.S. Fish and Wildlife Service wolverine research, and aquatic research being done by the University of Montana. The reporter, Lily X. Huang, also met with Kate Kendall, USGS, regarding grizzly bear DNA. The article is still being written but is targeted for mid-April.

No Change: Afghan Minister of Mines Courtesy Visit with Secretary: Afghanistan Minister of Mines, Mr. Ibrahim Adel, will be visiting Washington on May 11-12, 2009, for discussions with various U.S. Government organizations. Minister Adel has specifically requested courtesy visits to the Department of the Interior and the U.S. Geological Survey (USGS) on Monday, May 11, 2009, where discussions would focus on past and potentially future natural resource assessment activities in Afghanistan. The USGS has worked closely with the Ministry of Mines and several other Afghan ministries since 2003; activities include preliminary assessments of water, mineral, coal, and oil and gas resources as well as earthquake hazards and capacity and institutional building. Funding for these activities has come from a variety of U.S. Government sources as well as the Afghanistan Government.

Memorandum

To: Associate Deputy Secretary

From: Deputy Assistant Secretary Policy and Economic Development

Re: Indian Affairs' Weekly Update

FOCUS FOR WEEK OF APRIL 26, 2009

BIA Office of Trust Services Fee-to-Trust Handbook Forum – The BIA and the American Indian Law Center, an independent policy organization affiliated with the University of New Mexico, will hold the first of the BIA's annual forum (Forum) on its Fee-to-Trust Handbook. The Forum will take place on April 30, 2009, at a BIA training center in Albuquerque, NM. Tribal leaders and representatives were asked to review the Handbook and to identify areas that require further discussion. The Forum presents a first opportunity for Indian Country to provide feedback on the Handbook's operation and to begin general discussions on the execution of the land into trust processes and the potential need for future working group meetings. Preregistration for the event exceeds 100 tribal and BIA staff members who work in the area of land to trust application submissions and review. Senior BIA staff as well as George Skibine plan to attend the meeting.

When the Handbook was released in the Fall of 2008, the BIA announced its plans to hold an annual forum that brought together federal and tribal practitioners to discuss their uses and implementation of the Handbook. The current version of the Handbook addresses the business practices for the BIA's review of applications for on-reservation acquisitions and will expand in the future to describe business practices for off-reservation and mandatory acquisitions.

INDIAN AFFAIRS

Gaming Matters with Hannahville Indian Community and State of Michigan – Indian Affairs' Office of Indian Gaming and the Office of the Solicitor will meet with Hannahville Indian Community's Chairman and the Office of the Counsel to the Governor of the State of Michigan to discuss the Tribe's intention to submit an application for the Department to take land into trust under 25 C.F.R. 151. The submission would include also an analysis of the land's status and eligibility for gaming under the Department's section 20 regulations.

Request to Re-Direct Navajo Indian Irrigation Project Funding – George Skibine will meet with representatives from Navajo Agriculture Products Industry (NAPI) to discuss the request he is making for Congressional appropriators to re-direct Navajo Indian Irrigation Project (NIIP) funding. If Congress granted the request for \$7.3 million to be re-directed, the current construction of the NIIP related facilities will be delayed which will increase the cost of the Project's completion.

George Skibine received a letter from Navajo Nation President Shirley following a March 20, 2009, letter in which Indian Affairs declined NAPI's proposal for the Department to request the re-programming. President Shirley expressed support for NAPI's proposal; and the New Mexico delegation has requested, too, for the Department make the request.

IEED Meetings with Northern Cheyenne Tribal Council and Crow Tribe – On April 28 and 29, 2009, the Office of Indian Energy and Economic Development (IEED) staff will meet with the Northern Cheyenne Tribal Council and Crow Tribe respectively. IEED Staff will discuss the Montana Indian Business Development Incubator (MIBDI) project, IEED services to tribes, and economic development issues raised by both Tribes.

The IEED Incubator projects promote business infrastructure development as a means of economic development. The IEED launched the MIBDI in response to a request this year from Senators Baucus and Tester. Montana's Senators asked that IEED bring the South Dakota Incubator project model to the Montana tribes during FY 2009.

IEED and USDA Forest Service Job Training Collaboration – The Office of Indian Energy and Economic Development (IEED) staff is working with the U.S. Department of Agriculture, Forest Service to coordinate job training and employment projects. The Forest Service has provided IEED with a map of Forest Service lands through its Geospatial Service and Technology Center. IEED staff will be overlaying tribal lands onto the existing map, and then IEED will discuss possibilities of joint projects with USDA.

IEED Collaboration with Building Trades Association – The Office of Indian Energy and Economic Development (IEED) staff continues to work with the Building Trades Association to develop opportunities for formal training, on-the-job training and job placement opportunities in the skilled trades. Staff believes it is necessary to provide educational material to tribes on the various 13 trades, skills required to advance in the profession, advantages of such training and general information regarding benefits and requirements of the professions, and is working with the Association to develop culturally sensitive educational materials. Staff is also negotiating a formal cooperative agreement with the Builders Trade Association.

Plumber and Pipefitting Training Program – A trade-training program in Chicago, IL is underway with 11 students. The training program staff is working with both trade unions and tribal "477" programs to determine if on-the-job training after completion of the formal 16-week training will provide opportunities for more competitive job placements. The program is coordinated through Indian Affairs' Indian Energy and Economic Development office.

Update on Secretary Salazar One-Stop-Shop Visit – The Secretary's trip to North Dakota includes a visit to the Ft. Berthold Reservation in New Town, ND. The Department established an Indian Energy Development Office (IEDO), or "One-Stop-Shop" on February 17, 2009, to coordinate energy development activities on the Fort Berthold Reservation. The IEDO reports to the Office of the Assistant Secretary-Indian Affairs; will oversee all energy development activity at Fort Berthold Reservation; and will coordinate procedures and processes that cross Bureau lines within the Department.

Permanent staff are being selected and relocated to New Town. The Deputy Manager will report on April 27, 2009; the Manager position has been advertised and a selection will be made by May 7, 2009; a tribal/allottee liaison position has been developed and will be advertise by May 1, 2009. The acting Manager will remain at New Town until a permanent manager has been transitioned into the position.

Update on National Indian Gaming Association Request to Secretary – The National Indian Gaming Association (NIGA) requested to meet with the Secretary about the Department's role in pending matters before the NIGC. In the same request, NIGA raised specific concerns with the national Gaming Commission (NIGC). NIGA's concerns include: proposed NIGC regulations published for comment in December 2008; the NIGC staffing and failure to implement an Indian-preference policy; the appointment of the NIGC Commission; NIGC's interpretation of consultation policies; and the independent nature of the NIGC under the Indian Gaming Regulatory Act. Indian Affairs has drafted a proposed response to address the matters NIGA raised.

Update on Meeting with Pueblo of Jemez on Fee to Trust and Water Settlement – The Jemez Pueblo leadership met with the Associate Deputy Secretary, Assistant Secretary – Indian Affairs Office, the Solicitor's Office, and the Secretary's Indian Water Rights Office on April 22, 2009. The Pueblo leadership discussed a pending request to bring off-reservation land into trust for the purpose of gaming. The Department denied the application when it announced its January 2008 guidance on off-reservation acquisitions. Indian Affairs' Office of Indian Gaming committed to coordinating with the BIA regional office to begin the completion of the Pueblo's Draft EIS. The meeting's discussion included an acknowledgment that the Department was reviewing and did not yet have a position on the January 2008 guidance.

The Pueblo leadership chose not to discuss its active water settlement negotiations during the meeting. The Pueblo had an earlier discussion with the Department, is aware funding is limited, and will likely renew its request for settlement support in the future.

Update on Congressional Hearings on Carcieri and Consultation – Only the House Natural Resources Committee has held a hearing on the decision. The Senate Committee on Indian Affairs' has tentatively set May 7, 2009, for a hearing. At this time the Committee has not expressed plans to ask the Department to testify. Additionally, Indian Affairs has cancelled its tentative plans to hold a formal consultation in May 2009 with tribes. However, Indian Affairs plans to participate in a panel discussion about the decision during the United South and Eastern Tribes' Annual meeting in Louisiana on May 12, 2009.

Upcoming 2009 Tribal Self-Governance Conference – The Self-Governance Tribes will hold their annual Tribal Self-Governance meeting on May 18 and 19, 2009, in Orlando, Florida. Self-Governance is fundamentally designed to provide Tribal governments with control and decision-making authority over the Federal financial resources provided for the benefit of Indian people. The Indian Affairs' Office of Self-Governance, BIA and Department of Health and Human Services Offices involved in Self-Governance programs will participate heavily in the meeting.

Upcoming Tribal Budget Advisory Committee (TBAC) – The TBAC will hold its next meeting on May 12 and 13, 2009. The focus of this session will include the FY 2010 Priorities and 2009 Recovery Act. The TBAC sessions provides a government to government forum for Tribal Participation into the BIA's budgetary process. There are two Tribal representatives from each of the 12 regions in attendance. The Assistant Secretary and a Tribal leader selected by the Tribe's chair eth TBAC session.

BUREAU OF INDIAN EDUCATION

BIE Senior Managers Meeting – BIE will hold a Senior Managers meeting in conjunction with the Haskell Indian Nations University graduation on May 7 and 8, 2009, in Lawrence, KS. In addition to meeting as a group, the Senior Managers will also hold a two hour meeting with representatives of the Indian Affairs Office of Chief information Officer's staff to discuss BIE's Bright Eagle IT project. The Project would forecast IT capacity in BIE schools.

Update on *Selected* BIE Leadership Positions – The Office of Personnel Management (OPM) ratified the selection of Dr. Jeff Hamley for the Deputy Director, Division of Performance & Accountability position on April 22, 2009. Dr. Hamley was previously the President of the Southwestern Polytechnic Institute (SIPI) in Albuquerque, NM. Dr. Hamley's office will be located at BIE's Albuquerque Service Center, and he is responsible for BIE's supplemental programs such as residential life, early childhood, reading, special education. This appointment creates a vacancy for the SIPI Presidency. BIE is beginning the process of advertising the SIPI position. Additionally, a selection has been made for Associate Deputy Director – Navajo position, and the selection is awaiting ratification from the Department Executive Resources Board (ERB). This position will be located in Gallup, NM and is the supervisor for the six Education Line Officers on the Navajo Reservation.

Update on *Vacant* BIE Leadership Positions – The BIE Director's position opened on April 17, 2009, and will remain open until June 19. In addition to being placed on the USAJOBS website, advertisements for this position will also be placed in the following publications: Education Week, Tribal College Journal, Winds of Change and Indian Country Today. The Associate Deputy Director – East position opened on April 17, 2009, and will be open for 30 days. This position will be located in Minneapolis, MN, and is the supervisor for the Southern & Eastern, Minneapolis

Update on Tribal Leaders Summits for BIE Systems of Support (SoS) – BIE sponsored an April 20, 2009, meeting in Albuquerque, NM and an April 15, 2009, meeting in Rapid City, SD. The meetings explained the SoS program—an existing a K-3 reading program BIE implemented in the 29 lowest performing BIE-funded schools on the Navajo Reservation. BIE believes the majority of schools in the Dakotas and many schools for the other regions will select to participate in the program based on information presented at the meetings. Schools must make their selections by May 15, so their school officials can attend a SoS training being offered during the BIE National Conference the week of June 22, 2009, in Phoenix, AZ.

Update BIE Schools Adequate Yearly Progress (AYP) - Annual reports of BIE and tribal/grant schools for the 2007-2008 school year continue to be received and processed by the Albuquerque Service Center. At the present time, 169 schools have reported, with 42 schools having achieved AYP for the 2007-2008 school year.

BUREAU OF INDIAN AFFAIRS

Tribal Justice, Safety and Wellness Sessions - Partners Evaluation Session – The BIA Director will attend the Tribal Justice, Safety and Wellness session on April 27, 2009. The Department of Justice sponsors the sessions. This particular session will review priority topics for the coming year. The National Congress of American Indians will present the consultation matrix it developed and presented to this group in the past. The DOI, HUD, HHS, DOJ, SBA and NCRS, several tribal leaders that are members of the Tribal Justice Advisory Group (about 15), and national tribal organization staff are invited to attend.

BIA Justice Center Suspension in Services – The BIA Office of Justice Services is compiling its assessment of the justice center facilities that may experience a suspension in service. The BIA's assessment of its capacity to adequately staff six detention centers to an acceptable level of safety is the reason for the potential suspension of services. The BIA would accommodate the need created by the suspension with neighboring BIA and non-BIA detentions centers and coordinate within the Department as its assessment progresses.

Update on Final EIS on an Oil Refinery Proposal for North Dakota Tribes – BIA
Region staff continue to work with EPA staff on a Final Environmental Impact Study for the Three Affiliated Tribes' proposed plan to build and operate an oil refinery on the Fort Berthold Reservation. The EPA will give a preliminary FEIS to the Tribes and cooperating agencies next week, and then hold consultation sessions with the tribes on May 7, 2009. The FEIS will be published in late June 2009.

Two federal actions are involved with the Tribes' proposed project, both requiring an EIS to satisfy NEPA requirements. The EPA action involves issuance of permit(s) for operation of the proposed refinery. The Department of the Interior's action involves the Tribes' request to take the land into trust. The EPA and BIA have been working together for years as co-leads to complete a joint EIS. The Department of the Interior and EPA will issue separate Records of Decision (ROD) based on the findings. The Department has communicated with the Tribes and with the EPA during the Department's analysis of its fee-to-trust application. That communication has included the BIA and Indian Affairs' central office; because the Assistant Secretary-Indian Affairs assumed decision making authority from the BIA Region on this matter in April 2008.

Update on Desert Rock Energy Project and Navajo Transmission Project Review –
Indian Affairs plans to hold a status meeting the week of April 26 to discuss developments in the Desert Rock project. This internal status meeting was originally scheduled for the week of April 19, 2009.

The BIA and Solicitor's office are continuing to collaborate on issues related to the IBLA and IBIA actions impacting the Navajo Transmission Project and the Desert Rock Energy Project. The Navajo Transmission Project is a proposed 500 kilovolt (kV) electric transmission line running from northwestern New Mexico to a terminus in Southern Nevada. At the request of the BLM and BIA, the IBLA and IBIA set aside and remanded to the BIA and BLM the NTP Record of Decisions. Issues on remand include the question of whether the NEPA analysis contained stale information and whether the NTP and the Desert Rock Project are connected actions under NEPA and should be combined in a single Environmental Impact Statement because of the projects' relationship to one another.

The Desert Rock Energy Project is a proposed 1500 megawatt (MW) coal-fired electrical generating plant located on the Navajo Reservation which will utilize Navajo coal located on existing mining operations. The proposed site is approximately thirty miles south of Farmington, NM, on the Navajo Reservation. The BIA is the lead agency for the development of the Desert Rock Project's Environmental Impact Statement.

The federal role in the Desert Rock Project consists of lease approval and grants of rights-of-way (BIA), the issuance of air and water permits (EPA, COE), and supervision of the mining operations (BLM, OSM).

Update on BIA Carbon Sequestration Presentation – The BIA presented on carbon sequestration on April 20, 2009, at the Intertribal Timber Council National Symposium. The National Symposium will present an official report of recommendations from the Timber Council's 60 tribes to the BIA. The BIA will plan subsequent meetings and responses to the range of natural resources management issues the report will raise.

Among the BIA's goals for climate change is its development of a biological carbon sequestration policy that can be used by tribes, the Intertribal Timber Council and other tribal groups. Current Indian Affairs programs address climate change matters. The BIA manages the Tribal Forest Protection Act programs, the Forest Thinning Program, and the Woody Biomass Utilization program. The Office of Indian Energy and Economic Development competitively funds tribal renewable energy assessment proposals and business plans.

Upcoming Indian Country Law Enforcement Officers' Memorial – The BIA Director will attend the Memorial to Law Enforcement Officers in Indian Country Who Have Died in the Line of Duty will be held at the Federal Law Enforcement Training Center in Artesia, NM. This memorial will be held on May 6, 2009.

Upcoming Indian Police Academy (IPA) Graduation – The IPA class graduation on May 7, 2009, will be at the Federal Law Enforcement Training Center in Artesia, NM. The 16-week Integrated Basic Police Training Program, designed for BIA and tribal law enforcement officers, provides instruction on Ethics and Conduct, Stress, Conflict Management, Narcotics, Collection and Preservation of Evidence, Officer Safety and Survival, Criminalistics, Civil Rights, Search and Seizure, Detention and Arrest, Indian Country Law, and BIA specialized training. Other basic law enforcement subjects include Driver, Firearms and Physical Training Programs.

Upcoming BIA-NBC Training on Indirect Cost Rates – The BIA Division of Self-Determination and the National Business Center (NBC) will hold training to Negotiate Indirect Cost Rates for Contract Support, May 13 – 14, 2009, at the National Indian Programs Training Center in Albuquerque, NM. This training will be the first of three trainings as a result of the Ramah Indirect Costs Class Action law suit.

The government fulfills its treaty and trust obligations through Self-determination contracts with tribes. Half Indian Affairs programs' operational control are contracted out to tribes or designated organizations. Shortfalls in the payment of required contract support costs (CSC) hinder tribes from realizing self-determination's full promise.

In 1990, the Ramah Navajo Chapter in New Mexico filed a class action to recover unpaid CSC. The Tribe relied on a 1988 amendment to Pub. L. 93-638 which required that the Secretary add to all 638 contracts full funding amounts of program operation. In later years, Ramah (and others) won a summary judgment. A partial settlement agreement between the class and the Department required the Department (NBC) provide adequate CSC training with focus on establishing special indirect cost rates in the calculation of CSC.

April 24, 2009

To: Laura Davis, Associate Deputy Secretary

From: Donna Erwin, Acting Special Trustee

Re: April 27, 2009 staff meeting

OST Activities

Current Week April 20-26

- The *Status Report to the Court Number Thirty-Six* (a requirement of the *Cobell, et al* litigation) interviews and review was complete by the Acting Special Trustee, Solicitors and the Department of Justice. The final draft was completed and forwarded to the Department for review prior to formal transmittal to DOJ.
- OST participated in The Intertribal Monitoring Association (ITMA) tribal-leader's meeting April 23-24 on the American Indian Probate Reform Act (AIPRA), estate planning and trust issues.
- OST Fiduciary Trust Officers and External Affairs representatives are supporting a major Indian Trust outreach activity at the "Gathering of Nations" Powwow, an annual event held in ABQ, NM, April 23-25.
- The following tribes requested meetings and met with OST managers in Albuquerque: The Confederated Salish and Kootenai Tribal Council, the Confederated Tribes of the Warm Springs Reservation's Chairman and council members, Sac & Fox Tribal Council members, and Tribal Council members of The Chippewa Cree Tribe of the Rocky Boy's Reservation.
- The Office of Appraisal Services met with the Tribal Council for Shoshone Bannock Tribes of Fort Hall Indian Reservation, BIA Fort Hall Agency line officials and the Fiduciary Trust Officer regarding the use of market analysis versus site specific appraisals for leasing activities. This will greatly reduce both time and money for leasing activities
- Office of Trust Review and Audit is performing a requested investigative review of Anadarko Agency Oil & Gas sales.
- OST sponsored bring your child to work day and had 38 participants.

Week Ahead – April 27 to May 3

- OST will participate and co-sponsor the third annual Native American career fair at the Anderson School of Management, University of New Mexico, Thursday, April 30, 2009. The career fair will include recruiters from Native American organizations and tribal entities, which are sometimes absent from mainstream career fairs. The fair will also feature non-Native organizations. The career fair is open to all people regardless of race or ethnicity.
- The *Status Report to the Court Number Thirty-Six* (a requirement of the *Cobell, et al* litigation) will require Departmental review and the Secretary's signature on the transmittal letter to the Department of Justice. The report is due to Justice no later than April 30. Report was delayed due to IT section requiring additional data and the Office of Historical Trust Accounting issues that needed further research.
- The Office of Trust Review and Audit will be conducting Indian Trust Evaluations at the Santa Clara and Taos Pueblos which are Self-Governance compact Tribes. A review team will also be conducting trust evaluations at the Spokane Agency and evaluations for Grande Ronde Community of Oregon.
- The Office of Trust Review and Audit will also be doing a trust examination at the BIA Spokane Agency and conducting self governance and compact evaluations with the Confederated Tribes of the Grande Ronde Community of Oregon.

Future Awareness – by date

- *Cobell, et al.* litigation oral arguments will be held on May 11, 2009, in the Washington DC District Court, Prettyman Building.
- New Mexico's Cabinet Secretary for Indian Affairs, Alvin Warren, will tour the Office of the Special Trustee's Masthead facility in ABQ, NM on May 15.
- An annual Tribal Self-Governance Conference is scheduled May 17-21 in Orlando, FL (Co-sponsored by DOI and HHS).
- A meeting to brief David Hayes and Laura Davis on the Office of Historical Trust Accounting (OHTA) activities is being requested prior to a meeting requested by OMB.

LAND AND MINERALS MANAGEMENT

April 26 – May 2, 2009

SENIOR OFFICIALS ACTIVITIES

Ned Farquhar, Acting Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Mike Pool, Acting Director, Bureau of Land Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings, including BLM's executive leadership team (ELT) meetings April 30 and May 1.

Walter Cruickshank, Acting Director, Minerals Management Service

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings. He also will meet with a delegation from Shell Oil for a briefing on their 2010 exploration plan.

Glenda Owens, Acting Director, Office of Surface Mining Reclamation and Enforcement

Focus: In Anchorage, Alaska, attending Interstate Mining Compact Commission semi-annual meeting. In Washington, DC on Thursday, continuing to focus on high-priority items and attend regularly scheduled meetings.

WEEK AHEAD

Bureau of Land Management (BLM)

- **Congressional Meetings:** On April 28-29, BLM State Directors from Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon/Washington, Utah, and Wyoming will conduct courtesy visits with their respective Congressional delegations to discuss various issues relating to their states. The BLM Division of Legislative Affairs staff will accompany them to these meetings.
- **BLM Executive Leadership Team Meeting:** The BLM's Executive Leadership Team (ELT) will meet in Washington, D.C., April 30-May 1. The 25-member BLM ELT is composed of the Acting Director, Acting Deputy Director, Chief of Staff, Assistant Directors, and State and Center Directors, who are ultimately responsible for developing policy and advancing the Administration's priorities of energy independence, landscape management, Native American

values, and ethical integrity. Agenda items will include new administration priorities, communications, budget, stimulus money, renewable energy, wild horses and burros, cadastral survey, climate change and NEPA.

- **Nevada Resource Advisory Council to Meet in Winnemucca:** On April 29-30, the BLM Sierra Front Northwestern RAC will meet in Winnemucca, Nevada. Agenda items include monitoring of the 2009 Burning Man event, the Southern Nevada Public Land Management Act Round 10 Nominations, and the status of the Winnemucca Resource Management Plan. The RAC and members of the public will participate in a field tour to discuss a variety of public land issues, with stops at the Tobin Range Wild Horse Herd Management Area and the Pumpernickel Grazing Allotment.
- **Weed Management Education Seminar:** On April 28, the BLM-Wyoming Buffalo Field Office is hosting a one day oil and gas weed management education seminar. The primary purpose of the seminar is to raise awareness of the noxious and invasive plant issues in the area. Attendees will be given an overview of the plants of concern, information and services offered by the three counties effected (Johnson, Sheridan, and Campbell), as well as the federal process for applying control treatments on the public land administered by the BLM. BLM's national integrated pest management specialist, Dr. Richard Lee and the BLM-Wyoming state weed coordinator, Ken Henke, along with the three county weed and pest supervisors will be among the speakers. Although the agenda is primarily geared to oil and gas companies, any parties involved with weed control on the public land are invited to attend.
- **Wasatch Wind Proposes a New Wind Farm in Cedar City:** The BLM-Utah Cedar City Field Office recently met with Wasatch Wind Intermountain LLC regarding its proposed 110 megawatt New Harmony Mountain wind farm, located northwest of New Harmony, Utah. The proposed facility would include approximately 5.6 miles of 138KV line and up to 51 wind turbines that would stand 262 feet tall at the hub, with blades extending an additional 142 feet, for a total tip height of 404 feet above existing grade. The proposed project encompasses BLM, State, and private lands. The Cedar City Field Office has received the Plan of Development and expects Wasatch Wind will file its application within the week.
- **Solar PEIS Briefing for Senator Reid's Staff:** On April 28, the BLM Division of Legislative Affairs staff will accompany Ray Brady, BLM Energy Team Leader, to brief Senator Harry Reid's (D-NV) staff on the Solar PEIS status. Expected to attend the briefing from Senator Reid's staff are: Neil Kornze (Public Lands Director), Alexander McDonough (Legislative Aid), Steve Lydick (Legislative Fellow), and Neysa Call (Legislative Fellow). The purpose of the briefing is to provide an overview of the Solar PEIS and describe the document's purpose, timeframe, and potential alternatives. The BLM has received 40 active applications for solar energy development in Nevada.

- **Upcoming Oil and Gas Lease Sales:**

- BLM-Colorado lease sale May 14: 57 parcels covering 58,071 acres in Colorado. The list of parcels was posted for public review on March 16.
- BLM-Wyoming lease sale June 2: 84 parcels covering 67,069.84 acres throughout Wyoming. The list of parcels was posted for public review on April 17.
- BLM-Nevada lease sale June 9: The number of parcels for sale will be determined and posted for public review on April 24.

- **Air Force Schedules Energy Summit:** BLM-Nevada has been invited to participate in a one-day energy summit sponsored by Nellis Air Force Base on April 28 in Las Vegas. The summit will focus on compatible renewable energy and expanding dialogue between the military and other agencies to help solve energy challenges in Nevada. BLM-Nevada staff to attend will include: Deputy State Director Mike Holbert, Las Vegas Field Manager Bob Ross, and Southern Nevada District Renewable Energy Coordinator Greg Helseth. Other entities that will be represented include: Senator Reid and Ensign staffers, Las Vegas and Clark County officials, DOE, NOAA, FAA, Navy, including Fallon Naval Air Station, solar and wind company representatives. BLM-Nevada will not be a presenter.

- **Western Oregon Plan Revisions (WOPR) Challenged:** On April 22, representatives from the BLM, MMS, ASFWP, and ASLM met with attorneys from the Justice Department to discuss legal strategies in connection with the WOPR litigation. There are five active lawsuits in various stages of litigation with consolidated National Environmental Policy Act, Endangered Species Act, and/or O&C Act related claims for the Western Oregon RMPs. The BLM is consulting with the Office of the Solicitor concerning the lawsuits and will submit a response to each accordingly. Responses are currently due on the following dates:

- **American Forest Resource Council (AFRC) v. Kempthorne** (filed January 2); U.S. District Court, District of Columbia - Judge Ellen Huvelle. DUE May 1.
- **Oregon Wild et al. v. Shepard/BLM** (filed January 14); U.S. District Court, Oregon - Judge Paul Papak. DUE May 18.
- **Forest Service Employees for Environmental Ethics v. USFWS/BLM/DOI** (filed January 15); U.S. District Court, Oregon - Judge Ann Aiken. DUE May 18.
- **Pacific Rivers Council et al. v. Shepard/BLM Districts/DOI** (filed January 14); U.S. District Court, Oregon - Magistrate Janice Stewart. DUE June 5.
- **AFRC v. Caswell** (formerly AFRC v. Clarke and originally NFRC v. Dombeck); U.S. District Court, District of Columbia - Judge Thomas Penfield Jackson. Both parties have fully briefed the issues before the Court, and a Court response is pending.

- **Bighorn Basin RMP Revision Cooperating Agency Meetings:** The BLM-Wyoming Cody and Worland Field Offices will host cooperating agency meetings April 29-May 1 in Worland, Wyoming. Cooperating agencies include the State of Wyoming, County Commissioners, County Conservation Districts, and the Governor's Office. RMP topics to be discussed include soil, water, fire, and fuels management (unplanned/wildland fire); cultural resources; paleontological resources; livestock grazing; and vegetation (forests, woodlands, forest products, grassland and shrubland communities, and riparian/wetland resources).

- **Monument Lease Buyout Requests Submitted:** With passage of the omnibus public lands bill and creation of the Soda Mountain Wilderness in the Cascade Siskiyou National Monument (BLM-Oregon Medford District), a third-party agreement to buy out grazing leases in the monument has been triggered. One of the lessees, Bob Miller, has asked the BLM to expedite the cancellation letter requests, due to the multiple extensions of the escrow fund that will remain open until April 30. He informed the BLM-Oregon Medford District that the letters from each of the lessees to request permit cancellation are on their way to the Secretary of the Interior, per the escrow instructions by the third party. Miller said that five lessees are relinquishing leases that make up the Soda Mountain and Keene Creek allotments. The District received copies of the letters to expedite the cancellation process. The Field Manager is authorized to terminate these grazing leases. The Medford District/Ashland Resource Area is prepared to respond immediately. In addition, Miller noted that more third party funds have become available that could allow the remainder of the monument lessees to be offered the same terms to relinquish their leases. Six other requests to participate in the third party "buyout" could be submitted.

Minerals Management Service (MMS)

- **AD06 Leasing of Sulphur or Oil and Gas and Bonding Requirements in the OCS (Proposed Rule):** The proposed rule is a rewrite of the existing rules. As the rules were last rewritten in 1982, the rewrite reorganizes and reorders the existing requirements to more logically reflect the leasing and bonding processes as they have evolved over time. Some minor changes are proposed. The rule was sent to OMB for review on January 6, 2009. In accordance with the Regulatory Review guidance received from the White House, the rule re-entered surnaming in April 2009 and is currently moving through the system for the Secretary of the Interior's review and approval.
- **Moroccan Oil and Gas Delegation to Visit MMS:** A delegation hosted by MT Energy Associates under contract from the U.S. Trade and Development Agency, will be bringing senior oil and gas officials from Morocco to the MMS Gulf of Mexico Region (GOMR) on April 27. While in Herndon on April 21, the delegation was briefed on the MMS's Offshore Energy and Minerals Management and Minerals Revenue Management Programs. While in the GOMR, they will be briefed on regional regulatory processes from lease sale to lease decommissioning activities, and a presentation in the GOMR Visualization Room. The initial Moroccan delegation list includes five members consisting of directors, managers and a geophysicist/engineer.
- **Notice to Lessees and Operators (NTL) on Global Positioning System (GPS) Devices for Real-Time Tracking and Location of Mobile Offshore Drilling Units (MODUs):** During the week of April 26, the MMS Gulf of Mexico Region will issue a NTL that will provide guidance and requirements for outfitting MODUs with GPS/Emergency Positioning Indicating Radio Beacon (EPIRB). The NTL will require that all MODUs be outfitted with GPS/EPIRB prior to July 1, 2009. The NTL will also require lessees and operators to provide the MMS/U.S. Coast Guard Response Team with real-time access to MODU location data if a MODU moves off location during a storm event.

- **MMS OCS Scientific Committee (OCSSC) Meeting:** On April 29-May 1, the OCSSC will meet in Anchorage, Alaska, at the Sheraton Anchorage Hotel. The OCSSC provides advice on the feasibility, appropriateness, and scientific value of the MMS Environmental Studies Program to the Secretary of the Interior through the Director of the MMS. The OCSSC reviews the relevance of the research and data being produced to meet MMS scientific information needs for decisionmaking and may recommend changes in scope, direction, and emphasis. Members include university, environmental, State and industry scientists. Biographical information is available at: <http://www.mms.gov/eppd/scicom/2008/PDF/MembersBiosOct6-2008.pdf>
- **Renewable Energy Rule:** The final framework was cleared by OMB and sent to the Federal Register on April 21; it is scheduled to be published on April 29, becoming effective 60 days thereafter. However, the President announced the finalization of the rule during his Earth Day address in Iowa on April 22, and therefore the text of the final rule has been made available to the public on the MMS website at: <http://www.mms.gov/offshore/AlternativeEnergy/PDFs/AD30RenewableEnergy04-22-09.pdf>.
- **Cape Wind Historic Preservation Consultation:** The next full section 106 consultation meeting is scheduled for April 28 in Cape Cod. The purpose of this meeting will be to discuss mitigation strategies to reduce project impacts on historical and tribal properties. Also, tribal site visits with the Aquinnah and Mashpee Wampanoag Tribes have been rescheduled for the week of May 4 to accommodate a member of the Narragansett Tribe who would like to participate. In order to complete the 106 process, a memorandum of agreement (MOA) regarding the MMS's findings and mitigations must be reached by the MMS, Cape Wind Associates, the Army Corps of Engineers, the Massachusetts Historical Commission, and the Advisory Council on Historic Preservation. The MMS will circulate a draft MOA after the meeting and work toward conclusion of the 106 process.
- **Final Rule to Change Proprietary Term of Certain Geophysical Information:** This final rule extends the proprietary term of certain reprocessed geophysical information submitted to the MMS under a permit. The rule gives up to 5 years of additional protection to reprocessed vintage geophysical information that the MMS retains, and is subject to release by the MMS 25 years after issuing the subject. The final rule will be sent to the ASLM for signature during the week of April 26.

Office of Surface Mining (OSM)

- **Pennsylvania Arbor Day Event:** On May 1, several hundred trees, including American chestnut and other hardwood and softwood species, will be planted near Minersville, Pennsylvania by volunteers, including the northeast Pennsylvania OSM Volunteers in Service to America (VISTA) team. This project, the last of a series of Arbor day events over the past 6 weeks, is a partnership that includes Mountaintop Coal Mining Company; Schuylkill County Commissioners; the Pennsylvania Game Commission; Schuylkill County Conservation District; Schuylkill Headwaters Association; Pennsylvania Department of Environmental Protection; the OSM VISTA Program; and OSM. On May 7, there will be an Appalachian Regional Reforestation Initiative (ARRI) award presentation, partner recognitions, discussions of the

reforestation program, and demonstrations of tree planting techniques. Representatives of The American Chestnut Foundation will also attend. OSM started ARRI in conjunction with Appalachian States to support reforestation of mine lands.

- **Cheat River Festival Planned in West Virginia:** On May 2, OSM's Charleston Field Office will host an information booth at the annual Cheat River Festival near the town of Albright, Preston County, West Virginia. This annual festival is intended to bring attention to the polluted condition of the Cheat River from acid mine drainage and to recognize the ongoing reclamation projects and resulting water quality improvements. The festival is sponsored by Friends of the Cheat, a local grassroots watershed organization. About 5,000 people are expected to attend the one-day event.

GRANTS

Bureau of Land Management (BLM)

- **BLM-Montana Challenge Cost Share Program:** The BLM-Montana Challenge Cost Share program is managed to maintain a variety of partnerships for wildlife, recreation, cultural resources, rare plants, plant community conservation, fisheries and riparian habitat at the local level. In 2009, the program will be managed to implement a variety of important projects that include resource inventory, monitoring and research, environmental education, habitat and plant community restoration, cultural site protection, special status species management, recreation and OHV management. Applications are due by April 28. Fifty awards are expected; total funding for the program is \$200,000.
- **Community Fire Assistance for Montana, North Dakota, and South Dakota:** The purpose of this grant is to promote community assistance programs that will be used to develop local capability including, but not limited to: Wildfire planning; wildfire mitigation actions; wildland fire education/prevention; and, promotion of community-wide wildfire protection planning to implement hazardous fuels reduction activities and related monitoring on federal land, or on adjacent non-federal land, that reduce the wildfire risk to communities and benefit resources on federal land. Applications are due by May 1. Ten awards are expected; total funding for the program is \$500,000.

Office of Surface Mining (OSM)

- **OSM to Award FY 2009 AML Grant Amendment to Ohio:** On May 7, OSM plans to award \$1,725,001, to the State of Ohio to provide additional support for the State's AML Emergency Program. The State's AML program employs over 38 full-time equivalents. This grant fully funds the costs of the administration and construction for emergency projects, in Ohio.

ON THE HORIZON

Bureau of Land Management (BLM)

- **New: House Natural Resources Subcommittee Hearing:** On May 5, the House Natural Resources Committee, Subcommittee on National Parks, Forests and Public Lands, is tentatively scheduled to hold a hearing on H. R. 980, Northern Rockies Ecosystem Protection Act. A hearing was held on this bill in 2007. The legislation designates approximately 23 million acres of Federal land in Idaho, Montana, Oregon, Washington, and Wyoming as wilderness or other special designations. Approximately 2-3 million acres of the total are BLM-managed lands. The remaining acres are managed by the National Park Service or U.S. Forest Service. Witness to be announced.
- **New: Senate Appropriations Subcommittee Hearing :** On May 6, the Senate Appropriations Committee, Subcommittee on Interior, Environment and Related Agencies, will hold a hearing on the FY 2010 Budget Request. Secretary Salazar will be the witness.
- **New: BLM-Nevada Prepares Mine Plan Amendment EA:** The BLM-Nevada Ely District is preparing an environmental assessment to amend the mine plan for the Winrock/Casino Mine, located about 10 miles south of the Ruby Marshes, in eastern Nevada. The amendment would provide for an additional 13.9 acres of disturbance within existing mine boundaries through mineral exploration. The cost of reclaiming the additional disturbed areas will be added to existing bond requirements. Site-specific clearances for archaeological resources, noxious weeds and wildlife will be provided by the mine owner as specific locations are developed. Exploration could take up to five years. The Winrock/Casino Mine was permitted in 1991 and reclaimed in 1993. Reclamation monitoring continues, though mine owner Barrick Gold, Inc. has since relocated most of the reclaimed leach pad to be used as base material for the Mooney Basin Mine, located further south.
- **New: Pinedale Anticline Working Group Meeting:** BLM-Wyoming Pinedale Field Office will host the Pinedale Anticline Working Group meeting on May 7. The PAWG provides collaborative input and adaptive management recommendations to the BLM-Wyoming Pinedale Field Manager relating to the oil and gas development of the Pinedale Anticline. Members are appointed by the Secretary of the Interior from the oil and gas industry, the environmental community, local governments and the public-at-large. Agenda items include the Paradise 230kV Transmission Project, refinement of guidelines for the PAWG and related task groups, updates on the Pinedale Anticline Project Office and Monitoring and Mitigation Fund Board Meetings, updates on the Anticline Liquids Gathering System, the BLM response to recommendations made in the previous PAWG meeting, and nominations for the open public-at-large position on the PAWG. All PAWG meetings are open to the public and time is provided for comments.
- **New: Decision Documentation for Two Timber Sales:** The BLM-Oregon Coos Bay District will conduct two timber sales in May, following the April 24 publication of the Decision Documentation for the North South Rethin Density Management (DM) and the Paradise Tie DM timber sales. North Soup DM proposes to thin 143 acres and produce 1.7 million board feet of

timber. The thinning will take place in a research area designed to study the effects of different silvicultural treatments on the development of old-growth stand characteristics. The sale was analyzed and developed in accordance with the 2008 Coos Bay District RMP. Paradise Tie DM proposes to thin 183 acres in the Late-Successional Management Area and Riparian Management Area land use allocations, producing 3.2 million board feet of timber. The sale was analyzed and developed under the Northwest Forest Plan. Both sales were determined to have no effect on Oregon Coast coho, and the USFWS concurred they are not likely to adversely affect northern spotted owls or marbled murrelets. Regional environmental groups commented on both sales, but the sales are not expected to be controversial.

- **New: Gordon Creek Timber Sale:** The Gordon Creek thinning will be offered at Salem BLM's May 27 timber sale, following public review the week of April 27. Gordon Creek is located seven miles southeast of the unincorporated community of Corbett, in Multnomah County, Oregon. The proposed action is to thin approximately 1724 acres including: 1514 acres of 55 to 74 year-old timber stands; and 210 acres of 52 year old two storied stands. Approximately 1324 of these acres are in the Matrix land use allocation, and 400 in the Riparian Reserve land use allocation. A number of environmental groups have made comment on the sale and may protest the May 27 sale.
- **New: Snake River Birds of Prey Festival Begins May 15:** The 2009 Snake River Birds of Prey Festival will begin May 15, and will include three days filled with events for both youth and adults. The festival is sponsored by the Western Heritage Foundation. Numerous lectures, tours and hikes will be taking place in the BLM-Idaho's newly renamed Morley Nelson Snake River Birds of Prey National Conservation Area.

Minerals Management Service (MMS)

- **No Change: MMS and India's Directorate General of Hydrocarbons (DGH) to Sign Memorandum of Understanding (MOU):** DGH Director V.K. Sibal and MMS Acting Director Walter Cruickshank plan to sign an MOU at the Offshore Technology Conference (OTC) in Houston, Texas during the week of May 4. The non-binding MOU addresses future cooperation in leasing/tendering, resource evaluation, and methane hydrates assessments and research. Cooperation with the DGH compliments the MMS's prior engagement with India's Oil Industry Safety Directorate (OISD) since the DGH focuses on pre-lease information while OISD focuses on post-sale exploration and production safety management.
- **No Change: The Norwegian Petroleum Directorate and the MMS to Sign Memorandum of Understanding (MOU):** When Norway separated its oil and gas pre-tender resource evaluation processes from its post-tender safety management regime the MMS was left without a mechanism for information sharing. Since Norway restructured its oil and gas regulatory regime, all cooperation has been held in conjunction with the Petroleum Safety Authority through the International Regulators Forum. Now there will be a cooperative mechanism for exchanges between Norway and the MMS on leasing, resource evaluation, and revenue management issues. The non-binding MOU is to be signed by both Directors on May 6 at the Offshore Technology Conference in Houston prior to the SAFE awards.

- **No Change: Federal Offshore RIK Oil Sale:** The Royalty in Kind Program Office will hold a sale May 6-7, 2009 for approximately 27,000 barrels per day of royalty oil produced from Federal offshore leases in the Gulf of Mexico.
- **No Change: MMS SAFE Awards:** The MMS will hold its 26th annual national SAFE Awards program on May 7, 2009 in Houston, Texas. This is the longest continuous federal awards program of its kind. The SAFE Awards recognize outstanding safety and pollution prevention performance by the offshore industry in four categories: drilling contractor, production contractor, high activity operator, and moderate activity operator. The MMS will also present Corporate Leadership Awards to outstanding individuals whose exceptional performance has raised the bar for safety achievement, improved environmental protection, enhanced resource recovery and conservation, or inspired innovation and outstanding performance by others. Up to 800 people may attend. The MMS is holding this event in combination with the industry's largest tradeshow event and conference, the Offshore Technology Conference (OTC). Additionally, a press conference will be held at the OTC on May 4 to announce the release of the MMS's Gulf of Mexico 2009 Deepwater Report and Production Forecast Report 2009 - 2018.
- **No Change: MMS and Iraq Ministry of Oil (MoO) Policy and Processes Workshop:** On June 7-10, the MoO intends to send 25-35 delegates to Erbil, Iraq. Eighteen delegates will be identified for further on-the-job training with the MMS counterparts in the U.S. over the following 3-6 months. Major areas to be explored are tendering, resource evaluation, field operations, and revenue management.

MRM Recurring Items

- **No Change: Indian Oil Valuation Rule -** The MMS expects to address issues regarding the "major portion" calculation for oil produced from Indian leases in a negotiated rulemaking committee. The notice establishing the committee and announcing the organizations from which members may be selected was published in the Federal Register on December 19, 2008. The former Secretary of the Interior signed the charter on January 16, 2009. The committee is expected to convene after the charter has been filed and membership nominations are finalized; MMS is waiting for Departmental approval to file the charter.
- **No Change: Proposed "Valuation of Federal Coal for Advance Royalty Purposes and Information Collection Applicable to All Solid Minerals" Rule:** The proposed rule would establish alternative methods to determine the value of coal for advance royalty purposes and amend various coal regulations in 30 CFR parts 203, 206, 210, and 218, to provide clarity and consistency with the other regulations in those parts. The MMS and BLM have companion regulations. In accordance with the Regulatory Review guidance received from the White House, the rules were pulled from the Federal Register and were submitted to the Secretary of the Interior for review.
- **No Change: RIK Oil and Gas Sales:**
 - Tentative: Unrestricted GOM Crude Oil Sale May 6-7, 2009 for July deliveries
 - Tentative: Small Refiner GOM Crude Oil Sale August 4-5, 2009 for October deliveries

- Tentative: Unrestricted GOM Crude Oil Sale August 5-6, 2009 for October deliveries

OEMM Recurring Items

- **Update: Atlantic Geological and Geophysical (G&G) Programmatic EIS:** On January 21, 2009, the MMS published a Notice of Intent (NOI) to prepare a programmatic EIS analyzing the potential for effects from the conduct of all types of G&G activities in the U.S. Atlantic OCS, mainly seismic surveys. To date, nine applications for seismic surveys in the Atlantic OCS have been received by the MMS, with an additional four companies expressing interest. In the NOI, the MMS acknowledged there is currently no existing funding for this EIS and welcomed participation from outside sources. The oil and gas industry is considering funding the EIS. *The MMS will be requesting Secretarial approval to begin the scoping process for the EIS.* A funding decision is expected in May 2009.
- **Update: Cape Wind Project:** The MMS published the Cape Wind Final EIS on January 21, 2009. The comment period closed on March 21, 2009. The MMS staff is reviewing comments and has begun drafting the Record of Decision and lease agreement (Decision Document). The Clean Air Act (CAA) Final Conformity and National Historic Preservation Act (NHPA) section 106 consultations must be completed before the MMS can issue the Decision Document. The CAA Final Conformity should be completed within the coming weeks, as the MMS is working closely with the EPA to resolve a few minor issues regarding the use and availability of emission reduction credits (ERCs) in Rhode Island. Cape Wind needs to obtain the proper amount of emissions offsets before Final Conformity can be achieved. The next full section 106 consultation meeting *is scheduled for April 28 in Cape Cod.* The purpose of this meeting will be to discuss mitigation strategies to reduce project impacts on historical and tribal properties. *Also, tribal site visits with the Aquinnah and Mashpee Wampanoag Tribes have been rescheduled for the week of May 4 to accommodate a member of the Narragansett Tribe who would like to participate.* In order to complete the 106 process, a memorandum of agreement (MOA) regarding the MMS's findings and mitigations must be reached by the MMS, Cape Wind Associates, the Army Corps of Engineers, the Massachusetts Historical Commission, and the Advisory Council on Historic Preservation. The MMS will circulate a draft MOA after the meeting and work toward conclusion of the 106 process.

OEMM Lease Sales

- **No Change: Sale Results for Central Gulf of Mexico Planning Area - Lease Sale 208 (March 2009):** The GOMR continues with their bid review and acceptance process. The Federal Trade Commission and the Department of Justice reviews are complete with favorable findings.
- **No Change: Beaufort Sea Sale 209 (February 2010):** The target date for the sale bid opening is February 2010. Public hearings on the Draft EIS have been completed. The MMS has extended the written comment period on the Arctic Multisale (Beaufort and Chukchi Sales 209, 212, 217, and 221) Draft EIS from March 16, 2009 to March 30, 2009. A request from EarthJustice for an additional 45-day comment period extension was denied.

Major Milestones:

Final EIS Available September 2009

CD and PNOS Issued
 Governor's Comments due
 FNOS published in the Federal Register
 Public Bid Opening/Reading

September 2009
 November 2009
 January 2010
 February 2010

- **Update: Western Gulf of Mexico Planning Area - Lease Sale 210 (August 2009):**

The target date for the sale bid opening is August 19, 2009. A Notice of Availability was published in the Federal Register for the Proposed Notice of Sale on March 31. The Section 19 letters to the Governors were sent out on March 25, 2009, their comments are due back on May 26. *Surnaming of the FNOS documents will begin on May 14. A briefing for the Assistant Secretary's office is being arranged for the week of May 11.*

Major Milestones:

Comments due on CDs	May 11, 2009
Final Notice of Sale package begins surnaming	May 14, 2009
Comments due on Section 19 letters	May 26, 2009
Final Notice of Sale to be published in the <u>Federal Register</u>	July 8, 2009
Public Bid Opening/Reading	August 19, 2009

- **No Change: Central Planning Area 213 (March 2010):** The target date for the sale bid opening is March 17, 2010.

Major Milestones:

Publish NOA for the NEPA document & PNOS	November 4, 2009
Publish FNOS	February 5, 2010
Public Bid Opening/Reading	March 17, 2010

- **No Change: North Aleutian Basin Sale 214 (November 2011):** The target date for the sale bid opening is November 2011.

Major Milestones:

Draft EIS	January 2010
Public Hearings	February/March 2010
Final EIS	January 2011
Consistency Determination/ Proposed Notice of Sale	January 2011
Governor's Comments Due	March 2011
Final Notice of Sale Published in <u>Federal Register</u>	October 2011
Public Bid Opening/Reading	November 2011

New: Western Planning Area 215 (August 2010): The target date for the sale bid opening is August 18, 2010. Critical Action Dates (CADs) for the sale are currently undergoing final review by the GOM Region management. The CADs package should be forwarded for the OEMM Associate Director's approval by the end of the April.

Major Milestones:

Publish NOP for the EA	July 28, 2009
Publish NOA for the EA & Proposed NOS	March 25, 2010
Publish FNOS	July 6, 2010
Public Bid Opening/Reading	August 18, 2010

- **No Change: Cook Inlet Sale 219 (2011):** The MMS will issue a second Request for Information (RFI) in May 2009 to determine industry interest, and annually thereafter through the 5-Year schedule, until a sale is held or the 5-Year schedule expires. Since the current 2007-2012 sale schedule shows a potential Cook Inlet Sale 219 scheduled for 2011, and due to the time to complete the presale process, it will not be possible to hold *an earlier scheduled Cook Inlet Sale 211* in 2010. The RFI scheduled to be issued in May 2009 will be for Sale 219 rather than Sale 211. If there is adequate industry interest, and the MMS proceeds with the presale process, only one Cook Inlet sale will be held in the current 2007-2012 Program.
- **No Change: Mid-Atlantic Offshore Virginia Sale 220 (2011):** The MMS continues its outreach to the Virginia State government.

Litigation

- **Update: Kerr McGee v. Salazar:** On March 30, 2009, the Department of Justice filed for an *en banc* review of the case with the 5th U.S. Circuit Court of Appeals (full panel of seventeen). In January, a smaller three-judge panel of the 5th U.S. Circuit Court of Appeals upheld a lower court ruling that said the Interior Department could not collect royalties from eight deepwater leases held by Anadarko Petroleum Corp. in the Gulf of Mexico *as the Deep Water Royalty Relief Act statute did not provide authority for price thresholds. The en banc review was denied.* The leases were obtained between 1996 and 2000 by Kerr-McGee Corp., which Anadarko later acquired. If this ruling is not overturned, it could prevent the U.S. Interior Department from collecting billions in royalties on oil and natural gas leases. *A decision to further appeal this decision to the Supreme Court must be made by July.*
- **Update: Signal Hill Services, Inc. Supplemental Bond Appeal:** Signal Hill is the holder of one lease with decommissioning obligations in the Pacific OCS Region. In July 2007, the MMS ordered an increase in Signal's supplemental bond, from \$16 million to \$36 million, based on the 2004 Decommissioning Cost Report developed by the Pacific OCS Region. Signal appealed the order to the Interior Board of Land Appeals (IBLA) and petitioned the IBLA to stay compliance during litigation. The IBLA granted the stay in part and ordered the parties to attempt settlement. The MMS has approached Signal to determine whether there are issues that may be settled now while the MMS develops the 2009 Cost Report, which serves as the basis for assessing supplemental bond needs for decommissioning; the MMS would use the updated Cost Report to evaluate the need for increasing Signal's supplemental bond. The issue currently ripe for discussion and resolution is the date by which Signal's estimated decommissioning liability (\$21.9 million) would be funded.
- **New: 5-Year Program Litigation:** On April 17, the U.S. Court of Appeals for the District of Columbia issued a ruling on the Petition by Center for Biological Diversity charging the DOI with agency failures related to the OCS Oil and Gas Leasing Program 2007-2012. The ruling essentially vacates and remands the Program on the narrow issue of the environmental sensitivity analysis. The impacts of the ruling on the MMS's operations and program planning are being reviewed at this time. The MMS began working with the Solicitor's Office and the Department of Justice (DOJ) when the case was filed on June 29, 2007. The MMS has resumed work and is now evaluating OCS operations impacts and legal options available as a result of this

ruling. Currently, at the direction of the DOI and the DOJ attorneys, the MMS has put a hold on certain MMS actions related to the 2007-2012 Program. The MMS has also drafted a plan for development of a new environmental sensitivity analysis and an amended 2007-2012 Program decision document for review and decision by the Secretary. The MMS is preparing a summary of operational data related to 2007-2012 leases, and a detailed schedule of the internal tasks needed to cure the deficiency found by the Court in the 2007-2012 Program. The DOJ will use the MMS information in any further legal action on this case.

Office of Surface Mining (OSM)

- **West Virginia Watershed Network to be Recognized at the Department of the Interior's Partners in Conservation Award Ceremony:** On May 7, at 10:00 am, in the Main Interior Auditorium, Washington, DC, Interior Secretary Ken Salazar will recognize the West Virginia Watershed Network (WVWN) as an award-winning finalist for the Partners in Conservation Award. A reception will follow the award ceremony in the South Penthouse. The honorary award was established by the Department to recognize conservation achievements that include collaborative activities among a diverse range of entities and individuals. Approximately two dozen projects selected from around the nation, involving work of approximately 600 groups and individuals, will be recognized during the awards ceremony. The WVWN is an informal association of interests including state and Federal agencies and nonprofit groups, which support collaborative efforts to empower local residents to make decisions for sustainable management of their resources. (Contact: Roger Calhoun, 304-347-7158)

**NATIONAL PARK SERVICE
THREE WEEK AHEAD REPORT
April 26, 2009 – May 24, 2009**

SCHEDULES AND ACTIVITIES

Dan Wenk, Acting Director – NPS

NPS issues including:

NPS EEO Conference (4/29)

NPF/Coca Cola/Trust for National Mall Event (4/29)

Hartzog Volunteer Awards (4/30)

WEEK AHEAD

- **New: NPS - Yellowstone National Park (MT, WY, ID – Reps. Cynthia Lummis, Dennis Rehberg, and Mike Simpson) - Park Completes Plan which Addresses the Future of Wireless Communication in the Park.** Yellowstone National Park has completed a plan which addresses the future of wireless communications in the park. Wireless communications in Yellowstone will be allowed in very limited areas to provide for visitor safety and to enhance park operations. The plan restricts towers, antennas, and wireless services to a few limited locations in the park, in order to protect park resources and limit the impact on park visitors. Cell service is currently limited to the immediate vicinity of Canyon, Grant Village, Mammoth Hot Springs, and Old Faithful. The park would accept proposals to establish cell service for the Fishing Bridge/Lake Village area. No cell phone service will be allowed in the vast majority of Yellowstone. Changes to the preferred alternative contained in the Environmental Assessment were made in response to public comments. The plan calls for the future relocation of the cell tower at Old Faithful to reduce its visibility, and for the park to explore design options intended to reduce the visual impacts of equipment located on Mt. Washburn. While park concessioners would be allowed to offer Wi-Fi service in some buildings, Wi-Fi will be prohibited in historic lodging including the Old Faithful Inn and the Lake Hotel.
- **Updated: NPS – National Recreation Trails.** *Administrators of twenty-two trails in thirteen states* have requested designation as National Recreation Trails. A package recommending designation is currently being reviewed and circulated for surname and will ultimately be submitted for approval by the Secretary of the Interior. Traditionally, new National Recreation Trails are announced in time for National Trails Day, June 6, 2009.
- **Updated: NPS – EPA to Reconsider Ozone National Ambient Air Quality Standards (NAAQS).** Information submitted by the NPS regarding the need for an ozone standard to protect vegetation was instrumental in EPA's decision to recommend a secondary ozone standard based on cumulative exposure. The previous Administration overruled EPA, and EPA was sued over the NAAQS decision. EPA has asked the court to delay the briefing schedule so EPA has time to reconsider the NAAQS. NPS prepared a letter to EPA to encourage them to reconsider and revise the NAAQS so they are adequate to

protect park resources, visitors and employees. *The letter was signed by Acting Director Wenk on April 17, 2009.*

ON THE HORIZON

- **New: NPS - Grand Canyon National Park (AZ - Rep. Ann Kirkpatrick) – Hearing Set for Appeal of Colorado River Management Plan.** On June 10, 2009, oral arguments will be heard by the Ninth Circuit Court of Appeals in San Francisco regarding the plaintiffs' appeal of a November 28, 2007 decision in favor of the National Park Service by United States District Judge David G. Campbell of the United States District Court for the District of Arizona in the case of River Runners for Wilderness, et al. vs. Stephen P. Martin, et al. The plaintiff-appellants seek to overturn Grand Canyon National Park's 2006 Colorado River Management Plan, alleging that: NPS allowance of commercial motorized services on the Colorado River violates the Concessions Act; NPS failed to make a finding that motorized commercial services are necessary and appropriate as required by the Concessions Act; NPS failed to justify the amount of motorized uses; NPS's authorization of motorized uses violates the Organic Act; and NPS's allocation of use is arbitrary and capricious. Park staff are working with the Department of Justice to prepare for the hearing.

The following organizations have intervened in the case supporting the government's position: Grand Canyon River Outfitters Association and Grand Canyon Private Boaters Association. The following organizations have filed an amicus brief in support of the plaintiff-appellants' position: Sierra Club, Grand Canyon Hikers and Backpackers Association, Californians for Western Wilderness, Center for Biological Diversity, Friends of the Earth, Friends of Yosemite Valley, Great Old Broads For Wilderness, Mariposans for Environmental and Responsible Government, Roderick Nash, The North West Rafter's Association, Olympic Park Associates, the Western Lands Project and the Southern Utah Wilderness Alliance.

- **New: NPS - Curecanti National Recreation Area (CO - Rep. John T. Salazar) - Limited Boat Launch Areas to Assist Mussel Prevention Efforts for Early-Season Boating at Blue Mesa.** Officials at Curecanti National Recreation Area have announced a change in operations at Blue Mesa Reservoir, effective immediately. The threat of quagga or zebra mussels continues to escalate as waters in and near Colorado report infestations of these invasive aquatic species. All vessels are required to be certified mussel-free prior to launch (this is a self-certification process). Vessels that have either been out of Colorado or in waters infested with zebra and/or quagga mussels in the past 30 days will not be allowed on Blue Mesa, Morrow Point or Crystal Reservoirs until being dried for a specified period of time or washed at a suitable wash facility. Additionally, beginning immediately, satellite ramps will be closed, and, by mid-May, the only launch areas for the Blue Mesa Reservoir will be Elk Creek Marina, Lake Fork Marina and Stevens Creek Campground. This effort will allow better monitoring of launch areas for non-certified vessels and will increase the likelihood that Blue Mesa will remain quagga and/or zebra mussel free. The self-certification procedure, which has been in place since April 2008, will remain in place until May 8, 2009. Beginning on

May 8, 2009, the self-certification program will be replaced by a mandatory program that requires all motorized watercraft launching in Curecanti National Recreation Area to be inspected and, if necessary, decontaminated in accordance with procedures set by the Colorado Department of Wildlife.

- **New: NPS – Natural Resource Stewardship and Science – White-nose Syndrome Congressional Briefings:** NPS staff will participate in congressional briefings on white-nose syndrome in bats on May 1, 2009. Briefings will be provided to House and Senate staff in coordination with USFWS and USGS. White-nose syndrome is a newly detected disease that is causing unprecedented mortality in bats in the northeastern US and may spread to other states.
- **New: NPS – Hamilton Grange National Memorial (NY – Rep. Charles Rangel) - Site Relocation.** Hamilton Grange, the home of Alexander Hamilton from 1802-1804, has been twice relocated, in 1889 from its original site to Convent Avenue at W 143rd Street and in 2008 to 141st Street & St. Nicholas Avenue in St. Nicholas Park. The building is expected to open to the public later this year. The park's 1993 GMP showed the house at its new site oriented to the southwest. The orientation of the building was changed, however, to be sensitive to the landscape as a whole. A lawsuit filed by Friends of Hamilton Grange sought to change the orientation of the house back to the southwest, among other requested relief. An amended complaint relating to 106 consultations and other procedural matters was filed and the issue of orientation was dropped from the complaint; however, the complaint does accuse NPS of unilaterally and secretly deciding not to build a publicly discussed community center on the Convent Avenue site. The relief requested is (1) NPS be found and declared guilty; (2) NPS be required to consult with the Friends of Hamilton Grange from this point on; and (3) that NPS be required to build the community center. A mandatory settlement conference was held on September 19, 2008, but did not result in resolution. The government presented declarations and its brief, plaintiffs submitted their rebuttal, and NPS responded by December 19, 2008. The US District Court, Southern District of New York, issued a 59-page Opinion and Order on March 12, 2009, dismissing the plaintiffs' lawsuit against the NPS. *The USDOJ received a notice of appeal from the plaintiffs on April 15, 2009. It is not clear when the Court will issue a scheduling order setting forth the deadlines for a joint record and briefs to be filed and a date to hold the oral argument on the case. The USDOJ expects the appeals process to take a few months.*
- **Updated: NPS – Statue of Liberty National Monument (NY – Rep. Jerrold Nadler) - Visitor Access to the Statue of Liberty's Crown:** Visitors are currently not able to climb to the crown of the Statue of Liberty because it does not meet fire and life safety codes. During the past several years, NPS contracted with several architectural and engineering firms that prepared life safety assessments for the Statue of Liberty. This analysis concluded that the area inside the Statue, between the observation deck and the crown, does not meet the minimum health and safety standards for public access. These reports also identified a number of fire safety issues within the pedestal. Some of the requirements of the fire code that are particularly difficult to overcome at the Statue are a second means of egress in case a fire or something else obstructs the first stairway, the steep double helix staircase and the ability of people to be able to get out the Statue in the

required amount of time during an emergency. To ensure NPS was asking all the correct questions of the outside subject matter specialists, Congress asked NPS, as part of a September 2007 oversight hearing, to conduct another study. A contract was awarded to Baltimore-based Hughes Associates (HAI) to study what physical changes to the structure would be required to bring the Statue's interior into code compliance, and if access cannot be made code compliant, how NPS could minimize the life and safety risks to staff, visitors, and emergency management personnel. *NPS has received the final report from HAI and began briefings with the Secretary on April 21, 2009.*

- **Updated: NPS/FWS Washington, DC – Preliminary Injunction on Final Rule on the Carry of Concealed Weapons in National Parks and National Wildlife Refuges.** On March 19, 2009, Judge Colleen Kollar-Kotelly of the US District Court in the District of Columbia issued a preliminary injunction on the final rule (73 FR 74966) which allowed the carry of concealed firearms on National Park Service and US Fish and Wildlife Service lands. *The Department of the Interior notified the court on April 17, 2009 that we “intend to prepare an environmental impact statement (EIS) analyzing the environmental effects of the enjoined regulation and a range of alternatives, and to reconsider what regulation is appropriate in light of the agency’s analysis.” We also stated that we “intend to file a motion seeking to stay this proceeding while Interior prepares an EIS and determines what regulation is appropriate in light of its analysis.”*
- **No Change: NPS/FWS Washington, DC – Secretary’s 90-day Review of Final Rule on Carry of Concealed Weapons in National Parks and National Wildlife Refuges.** Secretary Salazar directed the review team to identify environmental and visitor use considerations among the approximately 127,000 public comments submitted in 2008 on the proposed changes to the NPS and FWS regulations on firearms. The team identified 12 general categories that typified public responses related to the environment and visitor experience, as well as whether the person was “for” or “against” the new rule. The next phase of the review is to identify possible mitigation methods for the environmental and visitor use considerations identified.
- **No Change: NPS – Valley Forge National Historical Park (PA - Reps. Jim Gerlach, Joe Sestak) – American Revolution Center.** Public Law 106-86 of 1999 authorized the Secretary of the Interior to enter into a partnership with the American Revolution Center (ARC) to construct a museum on federal land within the boundary of Valley Forge National Historical Park. ARC terminated the partnership effective January 2006. In spring 2006, ARC asked to restart partnership negotiations and NPS concurred. On January 5, 2007, ARC notified NPS that they would again terminate the partnership and seek an alternate location on a park inholding – the St. Gabriel site in Lower Providence Township – ending negotiations. ARC acquired this 78-acre inholding in fall 2006 and worked with the local township to change the zoning to Commercial in order to build a museum, hotel, conference center, and other facilities on that land. This development will create adverse impacts both to the site and to the surrounding park. Five township residents and the National Parks Conservation Association (NPCA) filed a challenge to the zoning ordinance. The township Zoning Hearing Board upheld the ordinance in November 2008. The same plaintiffs filed suit in federal court. On April 8, 2009, the judge remanded the suit to a lower court. NPCA may or may not appeal. ARC also

announced that it would institute a 15-year moratorium on building the non-museum portions of the development, but did not define the terms of the moratorium. Two days later, ARC applied to the township for a building permit for the first building in the complex (a non-museum building). NPS has prepared a decision memorandum for the Secretary's consideration on this issue.

- **No Change: NPS – Glacier National Park. Open cut mine/gravel pit expansion proposed at park's western border (MT – Rep. Dennis Rehberg).** A controversial gravel pit expansion within ¼ mile of Glacier National Park's boundary near West Glacier is under consideration by the Montana Department of Environmental Quality. The park submitted written comments noting the inadequacy of the environmental review, the scope of the proposed expansion, the lack of a range of alternatives presented in the environmental assessment, and the need for an EIS to thoroughly examine a complex range of potential impacts. The park also is concerned with the State and US maintaining an international position urging full disclosure of potential resource impacts on the park with mine development plans in British Columbia, Canada, while inconsistently accepting a perfunctory environmental analysis that may ultimately permit a gravel mine operation so close to the same protected area. This issue has high local public and media interest.

West Glacier landowner Robert Spoklie wants to expand his open cut mine permit (gravel pit) from two disturbed acres to 24 acres and increase the actual active mine area from two to eight acres. The owner wants to increase the current depth from 30 feet to 70 feet and also run a wash plant in the pit. Mined volume would dramatically increase from 46,400 cubic yards to 1.8 million cubic yards over a 25-year period. Spoklie estimates that this proposed production increase could result in 22 gravel trucks/day, 22,000 gallons of water used per day, for the six-month operating period (over the next 25 years). This is a low estimate based on the total mine volume (a discrepancy noted in the environmental assessment). In addition to the mine being close to the park boundary and visible from the park, it is also only 500 feet from the Wild and Scenic River boundary of the Middle Fork of the Flathead River.

- **No Change: NPS – Long Walk National Historic Trail Feasibility Study.** The Draft Environmental Impact Statement for the Long Walk National Historic Trail Feasibility Study (online at: <http://parkplanning.nps.gov/ntsi>) is undergoing public review. This document proposes four alternatives regarding the suitability and feasibility of designating the routes known as the "Long Walk" of the Mescalero Apache and Navajo people (1862-1868) as a national historic trail. Under Alternative A, the No Action, the Long Walk would not be designated as a national historic trail. Under Alternative B, Congress would designate two national historic trails to separately recognize the Mescalero Apache Tribe and the Navajo Nation removal events. Under alternative C, Congress would designate one national historic trail, emphasizing the removal experiences common to both tribes. Under alternative D, Congress would provide a grant program to the tribes focusing on interpretation and education projects and resource protection on tribal lands. Public comments will be accepted for 60 days.

- **No Change: NPS – Death Valley National Park (CA – Rep. Howard (Buck) McKeon; NV – Rep. Dean Heller) Devil's Hole.** Johnson Controls has proposed that a Mercury Alpha Solar Plant be constructed on the Department of Energy's (DOE) Nevada Test Site in Mercury Valley, NV (groundwater basin near Devil's Hole). The Plan of Development calls for using 865 acre-feet per year of water for a wet-cooled system, which is about 10 times more water than needed by a dry-cooled system. Further, they plan to withdraw water from Army Well #1, for which NPS has data showing a direct link between pumping and the water level at Devil's Hole (the only natural habitat of the endangered Devil's Hole pupfish). NPS and the solicitor's office conferred with DOJ and DOE to outline NPS concerns and learned that BLM expects to issue a Notice of Intent (NOI) very soon for a fast-track EIS for this project, and that DOE prefers to deal with the cooling technology and water source issues via the NEPA process. NPS met with BLM on March 23, 2009, and on April 1, 2009, to recommend that the proposed action be modified at the outset of NEPA (i.e., before the NOI), if it includes the wet-cooled technology. NPS supports solar energy, but recommends environmentally responsible protections. Ongoing discussions between BLM and NPS at both the Washington and Field Office levels continue. BLM and NPS have agreed to schedule a meeting in the near future with the Nevada BLM Field Office, NPS Water Resources Division, and representatives from Johnson Controls.
- **No Change: NPS – Alaska Region (Rep. Don Young) – Adjustments in Land Entitlements for Sealaska Corporation.** Legislation may be introduced later this month by Senators Murkowski and Begich to make adjustments in the land entitlements for the Sealaska Corporation, one of 13 Alaska Native Regional Corporations. The NPS had serious concerns with a prior bill (S.3651) on the issue because of how it addressed Glacier Bay National Park. Among the concerns were the requirements for a cooperative management strategy between NPS, Sealaska and the local tribal government; the regional corporation and local tribal government have strained relations over this proposed legislation and other issues. Also, at least one version of the bill in the 110th Congress would have made NPS lands available for selection by the regional corporation, an action which NPS opposes. The earlier bills have also caused concern among other bureaus with regard to re-opening certain portions of ANCSA land selection terms.
- **No Change: NPS – Grand Canyon National Park (AZ – Rep. Ann Kirkpatrick) - Navajo Commercial Development on Colorado River within the Park.** In early February, 2009, Grand Canyon National Park received a letter from the Navajo Nation's Division of Economic Development requesting National Park Service (NPS) cooperation in order "to facilitate economic development projects on Navajo lands adjacent to the Grand Canyon and/or on the Colorado River." On April 4, 2009, Grand Canyon National Park staff, in conjunction with Glen Canyon and the Office of the Solicitor, responded with a letter stating that park managers look forward to working with the Navajo Nation and discussing possible economic and tourism development opportunities on tribal lands, but that all commercial river running opportunities on the Colorado River within the park are authorized under the Colorado River Management Plan (2006) and that, at this time, no additional opportunities exist. Several local and national media organizations have reported that the Navajo Nation has requested NPS permission to run commercial rafting operations on the Colorado River within the park.



UNITED STATES
DEPARTMENT OF THE INTERIOR

April 24, 2009

Memorandum

To: Laura Davis, Associate Deputy Secretary
Kat Pustay, Special Assistant

From: Pamela Haze, Acting AS-PMB *Pamela Haze*

Subject: April 27, 2009, Staff Meeting – Policy and Other Issues

This provides major policy and other issues that fall under the purview of the Assistant Secretary – PMB. Note that the Chief Information Officer reports separately.

American Recovery and Reinvestment Act Status:

- USGS, BOR, NPS, BIA, and FWS have been approved and transmitted to the Congress.
- BLM and Fire are not cleared yet.
- Policies on administration and acquisition are going to be released.

2010 Budget:

- Budget release on May 6 including the press conference.

Upcoming Events:

- The Secretary will be at the May 6 press conference on the 2010 budget, the May 6 convocation/awards ceremony, and the May 7 Partnerships in Conservation event.
- Because of schedule conflict with 2010 budget release, the Secretary's award ceremony will be re-scheduled from May 5 – new date TBD.

Reform/Cost Cutting:

- We will be conducting a data call to get bureau and office input on management improvement measures that we have taken, have underway and can plan. This will respond to the President's commitment to find \$100 million in reductions in the next 90 days.

Annual Financial Audit

- The opening audit conference with the auditors, KPMG, and the OIG was held this week. The schedule for the audit and production of the Performance and Accountability Report was released.

Small, Disadvantaged Business

- The Small, Disadvantaged Business Office has held training/business conferences in Atlanta, Portland and Hawaii. They have been very successful in promoting our small business goals. The Department's goal is to contract out 55 percent to small, disadvantaged businesses in 2009.

Other Significant Issues: See attached list
Conferences/Meetings: See attached list.

Current Policy, Management and Budget Requests for Secretarial Involvement – Summary Table

Date	Location	Event	Recommended DOI Participant	Requester/Office
April 28	MIB	Homeland Security Council “Tabletop” Exercises: Principal-level exercises	Secretary, Associate Deputy Secretary, AS-PMB or DAS-OLESEM	AS-PMB
May 6	MIB	FY 2010 Budget Press Conference – date not yet finalized by OMB	Secretary not confirmed due to the awards ceremony	AS-PMB
May 7 10 am	MIB - Yates	Partners in Conservation Awards Program	Secretary - confirmed	AS-PMB
May 12-13	DC	National Geospatial Advisory Committee Meeting. A request for Secretary to provide remarks at this meeting will be submitted in the next few weeks	Secretary	AS-PMB
May 13 - 15	DC	National Police Week 2009: Annual event to include the 21st Annual Candlelight Vigil held at the Police Memorial, Interior's Annual Wreath Laying Ceremony in the MIB auditorium, and the 28th Annual National Peace Officer's Memorial Day Service on the west front lawn of the Capitol.	Secretary	AS-PMB
Spring 2009		The Wildland Fire Leadership Council (WFLC) was established in April 2002 by the Secretaries of Agriculture and the Interior to provide an intergovernmental committee to support the implementation and coordination of Federal Fire Management Policy. The Council meets regularly to provide oversight and coordination of the National Fire Plan and the Federal Wildland Fire Management Policy.	Assistant Secretaries for Policy, Management and Budget, Land and Minerals, Fish Wildlife and Parks, Bureau Directors	AS-PMB

Date	Location	Event	Recommended DOI Participant	Requester/Office
Fall 2009 or later	Mexico TBD	U.S. Mexico Joint Cabinet Meeting (Bi-National Commission): Previously DOI Secretary and Mexico counterpart and delegations met as the "Natural Resources Working Group" for 1.5-2 hours, then Secretaries would participate in plenary luncheon of all Cabinet members. A new format for next meeting is being developed by State Dept and Mexico, and date for meeting has not been set.	Secretary	AS-PMB
TBD	MIB	The National Geospatial Advisory Committee (NGAC) was formed as an advisory committee to the Secretary on geospatial issues. The current chair of NGAC is requesting a courtesy meeting with the Secretary.	Secretary and senior officials	AS-PMB
TBD	MIB	SES Awards Ceremony: Annual ceremony to honor SES, SL, and ST employees who received the Presidential Rank Awards and Secretary's Leadership Awards	Secretary - confirmed	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
HEARINGS WITH APPROPRIATIONS					
House Interior Appropriations Hearing	USGS 2010 Budget Request	Preparing testimony	May 5, 2009	USGS Director	AS-PMB
Senate Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	May 6, 2009 SUBJECT TO CHANGE	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	May 13, 2009	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	NPS 2010 Budget Request	Preparing testimony	May 14, 2009	NPS Director	AS-PMB
House Interior Appropriations Hearing	FWS 2010 Budget Request	Preparing testimony	May 14, 2009	FWS Director	AS-PMB
RULES AND REGULATIONS					
American Indian Probate Reform Act (AIPRA) Rule	Interim final rule being issued to update procedures for Indian probate cases to reflect AIPRA amendments enacted in December 2008.	The rule should be ready for senior-level review. No OMB review needed.		Chief of Staff	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Hydropower Licensing Procedures Rule	Joint final rule being issued by the Departments of the Interior, Commerce, and Agriculture to revise procedures for trial-type hearings related to conditions and prescriptions for hydropower licenses and for the submission of alternative condition and prescriptions.	Rule signed by the three Departments, submitted to OMB, but not cleared for publication. No problems identified. Publication would facilitate the hydropower licensing process.	Rule should be re-submitted to OMB sooner rather than later; but it first has to be cleared by the three Departments, and Commerce does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB
Indian Self-Determination Act (ISDA) Rule	Joint final rule being issued by the Departments of the Interior and Health and Human Services to update procedures for ISDA appeals.	The joint final rule has been worked out at the staff level and is ready for senior-level review. (It does not require OMB review.)	Publication of the rule would facilitate the ISDA appeals process for the two Departments, and it should be cleared sooner rather than later; but HHS does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB
OTHER SIGNIFICANT ISSUES					

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Interior Contact for Environmental Issues for Customs and Border Protection	We have received a request from CBP for an Interior contact for the Acting Commissioner concerning environmental coordination issues associated with border security.	Commissioner may feel compelled to contact DOI counterpart to discuss progress on the current project located on Organ Pipe Cactus National Monument, Cabeza Prieta National Wildlife Refuge, and adjacent public land administered by the Bureau of Land Management.	In the near future	AS-FWP	AS-PMB
International Year of Forests	Interior has been invited by the U.S. Forest Service to collaborate on opportunities for celebrating the United Nations-designated International Year of Forests in 2011.	The first meeting was March 31.	Next steps are to engage other partners and interested stakeholders.	PMB, OE-IA, USGS, NPS, OSM, BLM, BIA, FWS	AS/PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Environmental Assessment for the Hawaiian Home Lands Maili Land Exchange	The Secretary is required to approve land exchanges involving Hawaiian Home Lands. The Maili land exchange is subject to NEPA.	Upon DOI approval of the EA, we provide a 30 day notice to interested parties by posting the document on the Department of Hawaiian Home Lands website. Once the EA has been noticed, the Acting Deputy Assistant Secretary of Policy and Program Management, will sign the FONSI.	EA must be noticed and signed prior to exchange of properties. Once the land exchange packet is received, DOI will have 90 days to review and render a decision.	Director, Office of Hawaiian Relations	AS-PMB
Designation of Departmental representative on interagency sub-Cabinet level Trade Policy Review Group (TPRG)	The US Trade Representative (confirmed by the Senate on March 18) is expected to ask the Secretary to designate a Deputy Secretary or Assistant Secretary-level representative to the TPRG. TPRG is a FACA-chartered committee.	USTR communication was expected by the end of March.		Secretary, AS-PMB, DAS-Policy and Program Management; Director, Office of Policy Analysis	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Update of the Department-wide Strategic Plan is due for FY 2010	Secretarial strategic priorities and decisions needed to launch the plan revision process that includes Congressional consultation; public, Federal and Tribal comments; public meetings; and internal analysis and vetting of proposed revisions prior to formal publication and transmittal to Congress and OMB.	Ready for briefing Acting Assistant Secretary – PMB and Associate Deputy Secretary	Briefing to be scheduled.	AS-PMB	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
U.S. - Palau Review of Compact of Free Association	Palau and the U.S., as represented by Defense, State and DOI (lead), have been in bilateral discussions on the financial provisions of the Compact with Palau since early 2008. The State Department submitted Circular 175 to OMB requesting permission to 1) extend the current Compact with Palau by a year to allow funding to continue at current levels and give time for bilateral negotiations to begin formally; and 2) request parameters within which the State Department (partnering with DOI and other federal agencies) may negotiate on behalf of the U.S. Government.	Anything negotiated with Palau will still have to pass the U.S. Congress.	Financial provisions of the Compact of Free Association relationship between the U.S. and Palau expire on September 2009.	Secretary	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Second Triennial Report to Congress on the Federal Lands Recreation Enhancement Act (REA)	REA calls for a triennial report to Congress by May 1. The Secretary of Agriculture is expected to sign the transmittal letter – we are preparing the letter for signature by Secretary Salazar.	A draft report is currently circulating for surname.	Report due to Congress on May 1, 2009	Assistant Secretaries, bureau directors	AS-PMB
2008 Federal Human Capital (HC) Survey Results, HC Strategic Plan	The Departmental results from the government-wide 2008 FHCS administered by the Office of Personnel Management have been provided to agencies. Bureau/Office level results have also been received. . This is followed by a “Best Places to Work” ranking of Federal agencies based on the results of the 2008 FHCS.	Action plans to address the FHCS results need to be developed once the lower level results are received and analyzed.	Results for organizational units below the Bureau/Office level were received on March 20 and distributed to bureaus. The “Best Places to Work” ranking of Federal agencies based on the results of the 2008 FHCS is expected to be released May 19.	Associate Deputy Secretary	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Continuity of Operations (COOP) Programs	The Secretary and leadership staff needs to be briefed on existing procedures for executing the mission essential functions of the Department during national security emergencies and catastrophic disaster situations. Input is required regarding emergency planning issues.	OEM coordinating with Chief of Staff's office to schedule briefings for Secretary and incoming officials at earliest possible time. Other actions await designation by the Secretary of an Assistant Secretary-level official as Departmental Continuity Coordinator.	Brief Secretary and key officials on emergency plans. April: Designate Assistant Secretary-level continuity coordinator. April: Review DOI "primary mission essential functions" in preparation for the 2009 update of the DOI COOP Plan. April-May: Update continuity team rosters as new officials arrive. June : COOP exercise	Secretary and senior leadership	AS-PMB

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 24, 2009

Reporting this period:

Week ahead activities: April 27 – May 1, 2009

- The OS, Chief Information Officer, Sanjeev "Sonny" Bhagowalia will serve as a plenary speaker at the GeoSpatial 2009 Conference in Snowbird, Utah. Focus of the meeting is on Healthy Forest, Healthy Lands & Healthy Earth, sponsored by the US DOI, Bureau of Land Management, Forest Service and National System of Public Lands.
- The OS, Deputy Chief Information Officer, Jerry E. Williams is traveling to Singapore, April 27 – May 1, 2009 as an invited guest to speak at the GovTech annual conference. The Conference is designed for leading CIO's, Heads/Directors and will be attended by the regions most active Information and Communications Technology (ICT) government industries. The Deputy CIO will share his expertise on DOI's award winning Enterprise Architecture program.

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
PREVIOUSLY REPORTED - UPDATES IN BOLD					
Information Technology White House Data.Gov Initiative	DOI OCIO is continuing to support this initiative with scarce resources. Cannot continue supporting this effort without additional funding beyond May 22, 2009. Resource shortages have been identified to the OMB.	In response to the President's direction for "Open Government", we are continuing to support the first phase in accomplishing a single-stop shop for easily finding, accessing, downloading all Government data that is not sensitive.	May 22, 2009	OMB	White House

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 24, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Challenges	Interior has consistently faced continued Information Technology (IT) challenges and negative feedback from the Inspector General, General Accountability Office, Congress and the Government Reform Committee. Additionally, the DOI Office of Inspector General (OIG) issued a report ISD-EV-OSS-0017-2008 dated May, 2008, entitled "Compilation of IT Challenges at DOI - A blueprint for Change" which was shared with the New CIO in December 2008, the Transition Team and the New Secretary in January, 2009. The report was released by the OIG to all Bureau/Office CIOs in March 2009 (at the Department CIO's request). The OIG report makes several recommendations for improvements in IT in the DOI.	The OS and Bureau CIOs are continuing efforts to prepare for the Secretarial briefing. The CIOs have developed a strategic approach to accomplishing near term goals and outlined plans for longer term goals/objectives. The briefing is scheduled for May 4, 2009.	May 4, 2009 Follow-up briefing to the Secretary	Secretary, David Hayes, Laura Davis, Pam Haze, Department CIO, Office and Bureau CIOs	Secretary

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 24, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Freedom Of Information Act (FOIA)	On April 8, 2009, the DOI FOIA Officer briefed the Bureau/Office FOIA Officers on the President and Attorney General's new FOIA policy. Consistent with his responsibilities under the FOIA, the CIO/Chief FOIA Officer addressed the group, emphasizing the importance of "openness" in Government, being proactive in making discretionary disclosures and more information available on-line, reducing backlogs, and using technology to make the process more efficient. He also recognized the important role that the FOIA Officers play, but stressed that all employees are responsible for FOIA. The DOI CIO has been delegated authority by the Secretary to handle all FOIA matters for the DOI.	The DOI OCIO FOIA Office will prepare a memo for the Secretary's signature to be sent to all employees on the Administration's new FOIA policy requiring awareness and compliance with openness in Government and the changed direction from the previous administration. Memorandum in surname process.	June, 2009	Secretary	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 24, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Capital Planning and Investment Process	The OCIO is currently conducting Fiscal Year (FY) 2010 Updates of Bureaus and Offices Business Cases (OMB Exhibit 300s) and DOI's IT Portfolio (OMB Exhibit 53) with limited resources – requiring detailees from bureaus. Good Business cases, scores and an accurate IT Portfolio are critical to success in obtaining needed funding approval and support from OMB for IT initiatives at the DOI and Bureaus/Offices. OMB submits their recommendations to Congress	The OCIO Portfolio Management Division is continuing efforts in close coordination with POB to ensure the Department's timely response to all OMB taskers. The April 10 response was submitted. No Change to Status.	Other milestones will follow within next five months to prepare for FY2011 submission to OMB in September, 2009.	OMB	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 24, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Privacy Act Compliance	Due to insufficient resources or priority, DOI can not adequately protect privacy-related information or detect privacy data breaches. DOI needs dedicated privacy resources and personnel to fully comply with Privacy Laws. Upon completing a limited monitoring of DOI data traffic, OCIO has determined that DOI has hundreds of privacy-related violations occurring every day. Many of these violations can be prevented with proper tools and resources. The Secretary has delegated this Privacy Act compliance to the CIO and Government Officials are held personally liable for violations.	The OCIO has proposed additional FTE requirements in support of meeting mandatory program requirements. Discussions continue.	2009 Funding Required	Secretary/Pam Haze	Secretary/OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 24, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Security Virus Attack "Conficker"	The DOI is working with various groups, including DHS, US Computer Emergency Readiness Team (US CERT) and Interior's Bureaus and Offices, to monitor the network for signs of the Conficker virus activity that started April 1, 2009. Several incidents of potentially infected computes have been reported. The DHS US CERT response team will analyze those affected and contain until further notice.	Although additional new virus infections may still occur, Interior believes existing security controls remain effective in detecting this virus and identifying potentially affected systems and has been requested by the DHS US-CERT to resume normal reporting through DOI-CIRC to US-CERT via our routine portal reporting processes. This status summary concludes our ad hoc reporting process relative to this virus threat.	Completed.	OCIO	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

FISH AND WILDLIFE SERVICE May 3, 2009 – May 24, 2009

SCHEDULES AND ACTIVITIES

FWS Acting Director Rowan Gould

- **FWS Fisheries Meeting – April 28-30, Minneapolis, MN**

WEEK AHEAD

New: USFWS - Public Comment Period Reopened on Final Critical Habitat Designation for Hine's Emerald Dragonfly (MI and MO): FWS is reopening the comment period on a 2006 proposal to designate critical habitat for the endangered Hine's emerald dragonfly. Comments will be accepted by FWS through June 22, 2009. FWS is reconsidering its decision to exclude some federal lands in Michigan and Missouri that were included in the 2006 proposal, but were excluded in the 2007 final designation. On March 10, 2008, six parties filed a complaint challenging the exclusion of U.S. Forest Service lands in Michigan and Missouri from the 2007 final designation of critical habitat for the dragonfly. FWS reached a settlement agreement with the plaintiffs in which we agreed to a remand without vacatur of the critical habitat designation in order to reconsider the Federal land exclusions.

New: USFWS - Wisconsin DCCO Environmental Assessment: An environmental assessment for double crested cormorants in Wisconsin is being finalized. Cormorant (DCCO) populations have increased significantly in the last 25 years, and there is growing concern about their impacts on natural resources, including impact to fish populations, vegetation, and habitat for birds of concern. The preferred alternative calls for implementation of an Integrated Cormorant Damage Management program. Partners involved include FWS, Wildlife Services, and Wisconsin DNR. The preferred alternative uses depredation orders, migratory bird permits, and non-lethal methods such as nest destruction and harassment to manage DCCO conflicts in the state, and provides the most management options.

Updated: USFWS - 90-day Finding for Tehachapi slender salamander (CA-Feinstein, Boxer; CDs 22 & 25): FWS is preparing a positive 90-day finding for the Tehachapi slender salamander. The finding is projected to be published in the *Federal Register* the week of April 20, 2009. The Tehachapi slender salamander occurs in Kern County in the Tehachapi mountain range and in a canyon in the southern foothills of the Sierra Nevada mountain range. The Tehachapi slender salamander is listed as threatened by the state of California.

No Change: USFWS - Eureka Valley Dunes Plants Proposed Delisting Rule (CA-Feinstein, Boxer; 25-McKeon): FWS is preparing a rule to propose the removal of the Eureka Valley evening primrose and Eureka Valley dunegrass from the list of Threatened and Endangered species. The FWS recommended delisting the two plants in a five-year review published in 2008. The plants occur in dune areas that are protected by Death Valley National Park. The rule had been projected to go to the *Federal Register* by mid-April 2009 but is now projected to be published at the end of May or early June.

Updated: USFWS - Severe flooding ongoing in North Dakota and in some parts of South Dakota (ND, SD): FWS is actively responding to flooding in North and South Dakota. The Region 6 flood support organization is fully functional within the FEMA and ND Department of Emergency Services organizations. The temporary levees protecting Valley City Fish Hatchery and WMD facilities appear to be holding, and the water level is receding. Water levels at Arrowwood NWR continue to rise, and several buildings will be lost despite levee construction efforts. The Red River appears to have reached its second crest and is falling, with nearly all USGS gauging stations reporting falling stages and flows. The Jamestown ND area and Sand Lake NWR continue to experience record flood conditions. Significant late season rainfall, which saturated the soil, and subsequent above normal snowpack have created the potential for severe flooding in these areas. FWS has activated a regional incident management team to manage FWS's flood relief response operations, which are focused on (a) impacts to Service lands and facilities, such as units of the National Wildlife Refuge System and National Fish hatchery system, and (b) assisting local, state, and federal emergency response efforts through deployment of FWS resources ranging from boats, heavy equipment, aircraft, law enforcement personnel and other emergency and technical resources. This approach is designed to both safeguard FWS trust resources and the infrastructure that support those resources to protect human health and safety in a flood scenario. Efforts to identify impacted infrastructure and resources is underway, however many structures will remain inaccessible until flood waters recede in July or August of 2009.

No Change: USFWS - Final Rule on regulations for the 2009 Alaska spring summer migratory bird subsistence hunt: The Final Rule establishing regulations is currently under review in the Washington Office/Solicitor's Office and a decision is expected soon. The spring/summer migratory bird subsistence hunt in Alaska traditionally opens on April 2nd. FWS continues to coordinate and cooperate with local stakeholders, including the development and signing of a MOU concerning Steller's eider conservation measures during the spring/summer subsistence hunt. However, it is still quite likely that Law Enforcement efforts on the North Slope during that hunt will result in significant local resistance. Birds have just begun to arrive in subsistence harvest areas.

Updated: USFWS - Proposal of Designation of Critical Habitat for Alabama Sturgeon (AL-1: Bonner; AL-2: Everett; AL-6: Bachus; and AL-7: Davis; Sens: Sessions and Shelby): The final critical habitat designation for the Alabama sturgeon is currently under review in the FWS' Washington Office. It includes one occupied unit in the Alabama and Cahaba Rivers encompassing approximately 326 river miles. FWS requested written comments from the public on the proposed designation of critical habitat for the Alabama sturgeon during two comment periods. FWS received 34 written comments. FWS also held a public hearing, during which FWS received comments from 11 individuals or organizations. Most comments related to navigation and dredging, flows and water management, science, or economics. This final rule went to the Washington Office on March 18, 2009, on schedule. It is due to the Federal Register on May 16, 2009.

April 20, 2009

Memorandum

To: Laura Davis
Associate Deputy Secretary

From: Amy Holley
Chief of Staff for Water and Science

Subject: Weekly Meeting Issues

Bureau of Reclamation

New: Jamestown Dam Flood Control (North Dakota)

- Jamestown Dam on the James River in central North Dakota has reached the highest elevation in its history. Reclamation is working with the Corps of Engineers and state and local entities to manage Jamestown Dam, Pipestem Dam (a Corps facility) and local levees to manage flood waters expected to crest Tuesday, April 21.

At predicted flows, several homes in the area will sustain damage. The community and the Federal and state agencies are working together to minimize damage. Although the weather forecast is for clear weather through the weekend, the ground is saturated from previous rain and snow and any additional precipitation will become problematic.

New: All-American Canal Lining Project (Project) Dedication (Southern California)

- On April 30, the Imperial Irrigation District and other entities will conduct a canal-side event to mark the beginning of operation of a new section of canal, although the project will not be fully completed until next year.
- The Project will conserve water that seeped out of a 23-mile section of the unlined canal. The conserved water – estimated at more than 67,000 acre-feet per year - will be used to settle tribal water rights claims and to assist California in eliminating its historic reliance on surplus water from the Colorado River.

The All-American Canal delivers more than 3.5 million acre-feet of Colorado River water to the Imperial and Coachella Valleys in southern California in a normal year. In 1988, Congress authorized the lining of a portion of this 80-mile long earthen canal to conserve water that was being lost to seepage, but prohibited the use of federal funds for the project. As a result of the drought that began in the Colorado River Basin in late 1999, California parties determined in 2005 to proceed with the lining project. Mexico opposed the project because some of the seepage water flowed under the U.S.-Mexico border immediately south of the canal, where it

was pumped and used by Mexican farmers. Several non-governmental organizations opposed the project, and tried through litigation to prevent damaged ecosystems and the agriculture in a vast area of the Mexicali valley. They were unsuccessful, and in 2007, the Imperial Irrigation District, with financing from the California Department of Water Resources and the San Diego County Water Authority, began a project to construct a 23-mile concrete lined canal parallel to the existing unlined earthen canal.

New: Briefing for the Council on Environmental Quality (CEQ)/Salmon Policy Team regarding Federal Columbia River Power System (FCRPS) Biological Opinion (BiOp) Litigation

- On April 24, Reclamation will brief the Department of the Interior in advance of an upcoming briefing for the CEQ.
- On April 28, Department of Justice (DOJ), Bonneville Power Administration (BPA), NOAA Fisheries, Corps of Engineers (Corps), and Reclamation will brief the CEQ on FCRPS litigation issues.

As follow-up to the April 7 meeting between CEQ, DOJ, BPA, NOAA Fisheries, Corps, and Reclamation, a briefing for the CEQ has been scheduled on the subject of the FCRPS BiOp and litigation. The briefing will focus on the legal and consultation background/history, science of the BiOp, new and ongoing actions, environmental considerations, and economic considerations related to the FCRPS BiOp.

Update: Federal Columbia River Power System (FCRPS) Biological Opinion (BiOp) Litigation (Oregon, Montana, Washington)

- District Court Judge James Redden is currently writing his opinion for this case. Additional questions from Judge Redden are anticipated.
- On April 3, the Joint Proposed Order for 2009 FCRPS spring spill operations was filed with the Court. The Court accepted the Joint Proposed Order.
- By May 1, the parties in the case are to respond to the Judge as to whether further discussions regarding the 2008 BiOp might be productive. This is in response to an April 2 closed door meeting between the Judge and the parties in the case.

A coalition of environmental and fishing groups, the State of Oregon, and the Nez Perce Tribe (as amicus) have challenged the 2008 FCRPS BiOp in Federal District Court claiming that the BiOp is arbitrary and capricious under the Administrative Procedure Act and fails to meet the requirements of the ESA and Clean Water Act.

Update: Klamath Basin Restoration Agreement (KBRA)/Hydropower Agreement in Principle (AIP), (California/Oregon)

Parties continue discussions to develop a final KBRA and AIP by June 30, 2009. The Hoopa Valley Tribe has withdrawn from the KBRA talks and has requested that any references to their Tribe be removed from the KBRA. Klamath Forest Alliance and Northwest Environmental Center announced that their entities cannot support several portions of the KBRA. It is unclear as to how or if these entities will continue to participate in the KBRA discussions.

AIP meetings will be held the week of April 20, 2009, to finalize those portions of the AIP that have yet to gain consensus.

Federal agencies continue work on a Program Management Plan/Plan of Study to outline the efforts required to complete the Secretarial Determination regarding dam removal no later than March 30, 2012. Work groups are developing and coordinating scopes of work and cost estimates for major areas of study including engineering, economics, biology, environmental compliance, recreation, cultural resources, public involvement, and real estate.

Update: NOAA Fisheries Central Valley Project (CVP) Operations Section 7 Consultation, (California)

Reclamation and NOAA Fisheries scientific teams have been working collaboratively over the past 2 weeks in several meetings to review the Reasonable and Prudent Alternative (RPA) actions; determine which actions NOAA Fisheries and Reclamation agree are necessary to alleviate jeopardy to listed species; discuss actions of concern to Reclamation biologists and possible alternatives or modifications to those actions; and identify if there are any remaining actions that cannot be resolved at the technical level. Based upon NOAA Fisheries' schedule, there are approximately 3 weeks left to resolve the remaining technical, legal, and policy issues.

Update: Truckee River Operating Agreement (TROA) (California and Nevada)

- A meeting between Reclamation and the TROA parties was held April 8 and 9, 2009, to gain approval from the TROA parties for Reclamation to proceed with negotiations.
- At these meetings, the TROA parties agreed that a planning study of the Newlands project should be completed to analyze various options for improving water conservation including rehabilitation of the Truckee Canal.
- Pyramid Lake Paiute Tribal representatives will need to seek a Tribal Council resolution for approval of a planning study. A council meeting was held Wednesday, April 15.
- Reclamation will meet with TCID by the end of April to discuss the planning study and a strategy for moving forward with the negotiations.
- Senator Reid is personally interested.

All parties on the Truckee River have signed the TROA except the Truckee-Carson Irrigation District (TCID). Meetings in January and February of 2009 between representatives of TCID and the United States confirmed that TCID was interested in proceeding to substantive negotiations and would meet the pre-conditions set by Reclamation for the conduct of such talks. TCID's primary interest in the agreement would be assistance with a comprehensive rehabilitation to the Truckee Canal, a Newlands Project feature which provides the irrigation project with a substantial portion of its water supply from the Truckee River. The canal breached in early 2008, and its operation is currently limited by Reclamation guidance and court order until rehabilitation occurs. Senator Harry Reid's office has expressed interest in the negotiations, in order to see the TROA successfully implemented. However, the office also expresses concern with the negotiations due to the fact that TCID is currently under indictment for alleged falsification of records supplied to the government.

U.S. Geological Survey

New: Spring Dust Storms Blanket Colorado Plateau Communities: Utah and other parts of the Colorado Plateau have experienced three large dust storms during the spring of 2009, including a massive dust storm that occurred on April 15, 2009. All three dust events during the spring of 2009 were captured by satellite sensors; in each instance, significant source plumes have been detected emanating from the northeast corner Arizona. Satellite imagery was compiled by USGS to show dust movement. The USGS has ongoing studies of dust phenomena in the southwest United States, and received numerous calls from the community following the April 15 event. Residents of Moab, Utah, have expressed tremendous concern about the causes and effects of these events.

New: USGS to Provide Trends on Endangered Humpback Chub Populations in Grand Canyon: USGS is planning to issue a news release on Wednesday, April 29, about the current trends for the Grand Canyon population of endangered humpback. Interested parties include Bureau of Reclamation, the National Park Service, the U.S. Fish and Wildlife Service, as well as stakeholders such as the seven basin States, and the hydropower generating community. The trends will relate to ongoing management decisions, such as possible de-listing of the species. The press release will immediately precede the USGS presentation of the findings at the Glen Canyon Adaptive Management Working Group (AMWG) public meeting, April 29-30, in Phoenix, Arizona. The AMWG is a Federal Advisory Committee of the Glen Canyon Adaptive Management Program.

New: Flood-Warning System Press Conference (OH): On April 23, the USGS will hold a press conference in Findlay, Ohio, to announce the success of the flood-warning system and that new flood-inundation maps for Findlay are available on the Web.

New: USGS Researchers Find Alternative Energy Sources to Measure Snowfall: The USGS will distribute a press release the week of April 20 highlighting how researchers are using a small-scale commercial solar-powered windmill that powers their snowfall measurements on windy and cloudy days, and solar panels that measure them on calm, sunny days. The new method saves money and energy, and in the long run, may even help save lives. The USGS needed to find alternative energy sources to measure snowfall in remote areas critical for accurate forecasts of spring flooding and water levels in reservoirs.

New: USGS and Bureau of Reclamation Testify on ARRA Activities: The House Natural Resources Subcommittee on Water and Power has tentatively scheduled a hearing on April 28 at 10 a.m., in 1334 Longworth. The purpose of the hearing is to examine USGS and Reclamation activities under the American Recovery and Reinvestment Act of 2009. USGS Associate Director for Water, Dr. Matthew Larsen, will testify for the USGS; Acting Commissioner, Bill McDonald, will testify for Reclamation. The Subcommittee has asked for information on the criteria used to prioritize projects, the definition of "shovel ready" projects, and similar questions. The draft statement is in review at USGS.

New: Climate Change Regional Workshop (MD): USGS will host a regional workshop with conservation partners May 6-7 at the Patuxent Wildlife Refuge Visitors Center. This is one of

sediment. The draft Executive Order should be available for Department and Bureau review and comment, through the Council on Environmental Quality, the week of April 20. If signed beforehand, the Executive Order will be announced on May 12 at the annual Executive Council meeting of the Chesapeake Bay Program. This annual meeting includes the EPA Administrator (representing the Federal Government); the Governors of Virginia, Maryland, and Pennsylvania; the Mayor of the District of Columbia; and the Chair of the Chesapeake Bay Commission. If the Executive Order is signed, there may be an opportunity for Department involvement at the May 12 Executive Council meeting. The Chesapeake Bay Program is a Federal-State partnership working to restore the Bay and its watershed with EPA providing the lead for the Federal government. Three Department Bureaus: FWS, NPS, and the USGS, are leaders in addressing goals of the recently released Chesapeake Action Plan (CAP). The goals of the CAP include restoration of fisheries, habitat, water quality; watershed protection, fostering stewardship; and providing science in an adaptive-management framework.

Update: USGS science is part of Frontline Program "Poisoned Waters" to be shown Tuesday, April 21, 9-11p.m. on PBS. This program will provide a status of America's waters since the Clean Water Act was signed in 1972. The program focuses on conditions and challenges in Chesapeake Bay and Puget Sound. Two USGS studies related to conditions in the Chesapeake Bay watershed are shown: (1) Intersex conditions of small mouth bass in the Potomac River Basin (USGS Scientist: Vicki Blazer); and (2) Contaminants in Washington, D.C., drinking water (USGS Scientists: Judy Denver and Linda Debrewer). The program airs on the eve of Earth Day, April 21 from 9-11 p.m. on local PBS stations. The PBS website mentions USGS work, and includes links to some USGS websites (www.pbs.org/frontline/poisonedwaters/). USGS and other invited guests previewed clips of the program on April 8. While the title and promotional trailer seem somewhat sensational, the program appears to be well done and factual information is presented. The USGS will probably receive additional media inquiries after the program is shown. The USGS is preparing talking points and supporting materials to address potential media inquiries. Additional information about USGS Chesapeake Bay Studies is available at: <http://chesapeake.usgs.gov/>.

Update: Mercury in the Pacific Ocean: USGS is planning to issue a news release in the next few weeks on the results of a study showing that the atmosphere is a source of mercury to Pacific Ocean waters and fish, including tuna. This is the first major study of the atmosphere as a pathway for mercury into the Pacific Ocean. (Briefing paper submitted to DOI on April 9, 2009)

No Change: Ongoing Eruption of Redoubt Volcano: USGS scientists at the Alaska Volcano Observatory (AVO) continue to respond to the ongoing eruption of Redoubt Volcano. On April 4, the nineteenth explosive event of the current eruption occurred sending ash to 50,000 feet and blanketing the southern Kenai Peninsula with ash. Recent fieldwork activities include a gas measurement and observation flight, ash collection and sampling and observations of eruptive deposits near the volcano. On April 6, the Aviation Color Code was lowered to ORANGE with the Alert Level to Watch. A lava dome is actively growing in the summit crater and renewed explosive activity is likely. Data from real-time seismic networks, web cameras, ground-based radar, GPS stations, an infrasound instrument, and near-real imagery from satellites are monitored by AVO staff 24/7.

three workshops to introduce the conservation community to the National Climate Change Wildlife Science Center (NCCWSC), the proposed Regional Climate Science Hubs and their role in providing response information for wildlife adaptation to climate change.

New: Walruses Radio Tagged for Satellite Tracking (AK): USGS scientists are tracking walruses in Alaska in the region of the St. Lawrence Island polynya for the next 4-6 weeks. The purpose of the tagging is to determine where walruses forage relative to the distribution of their benthic prey and conditions of sea ice. The radio-tags will provide estimates of walrus locations and hourly walrus foraging and haulout status information.

New: Congressional Courtesy Visits – Nebraska: USGS Nebraska Water Science Center Director Bob Swanson is planning visits to staff of the Nebraska delegation on April 21. Jane Griffin, Director of the Groundwater Foundation, will accompany him.

New: Congressional Courtesy Visits - California: USGS California Water Science Center Director Eric Reichard is planning courtesy visits to various congressional staff of the California delegation during the week of April 27. Visits will be scheduled with the offices of Senators Boxer and Feinstein, and Representatives Pelosi, Miller, Costa, Calvert, Lewis, McClintock, Woolsey, Matsui, Farr, Capps, Waxman, Napolitano, Baca, and Bono Mack.

New: USGS Circular--Water-Quality Assessment of the High Plains: The USGS plans to release a water-quality assessment study of the High Plains aquifer in July 2009. The assessment describes water-quality conditions in the aquifer, which encompasses an eight state region from South Dakota to Texas, and represents a major effort in one of the Nation's most heavily used aquifers. The availability and sustainability of water supplies in the High Plains aquifer are influenced by many factors, one of which is water quality. This water-quality assessment establishes a regional baseline against which water-quality conditions can be tracked over time and provides a process-level understanding to help explain the observed changes. Although most of the water pumped from the High Plains aquifer is used for irrigation, nearly two million people depend on it for drinking water. The study concludes that water produced by domestic, public-supply, and irrigation wells in the aquifer generally was acceptable for most uses. It is basically a good news story. However, some contaminants did exceed Federal drinking-water standards, including arsenic, dissolved solids, fluoride, iron, manganese, and nitrate. This assessment is a companion report to the previously released USGS Professional Paper 1749, *"Water-quality assessment of the High Plains aquifer, 1999-2004."* The assessment will be released at the Western States Water Council Meeting in July. A press release is planned.

New: Pending Executive Order on Restoration of the Chesapeake Bay: With a target signing date of May 11, the U.S. Environmental Protection Agency (EPA) is leading the effort for a Presidential Executive Order for Restoring the Chesapeake Bay. The Executive Order will comprise two primary sections: Strengthen Planning and Accountability of Federal Activities, and Improving Water Quality. The Strengthening Planning and Accountability section will establish a Federal Leadership Committee to be chaired by the EPA Administrator and include representatives from the Department, NOAA, USDA, and DOD. The section will also contain bullets for activities to be led by different Federal Partners, including the NPS, FWS, and USGS. The water-quality section will describe EPA activities to further regulate sources of nutrients and

No Change: USGS Acting Director to Meet with Rep. Maurice Hinchey: Suzette Kimball, USGS Acting Director will meet with Rep. Maurice Hinchey (NY), on April 28 to discuss USGS programs, specifically the USGS Streamgage Program. On March 19, Rep. Hinchey wrote to Dr. Kimball expressing concern over the more than 50 streamgages in New York scheduled to be discontinued over the next 2 years. The USGS informed Mr. Hinchey that it had committed its own funding recently received in the fiscal year 2009 budget allotment and that it had reached agreement with several of its partners to allow for 17 of the most critical streamgages to remain operational.

No Change: Congressional Briefings on White-Nose Syndrome: White-Nose Syndrome (WNS), an infectious disease that depletes hibernating bats of vital energy reserves, has spread across 9 northeastern States in 2 years and has killed hundreds of thousands of cave bats. Federal partners working on the issue of WNS mortality of hibernating bats in the Northeast are working together to present two congressional briefings on our efforts to monitor the expansion, transmission, characteristics and control of WNS. There is growing awareness by northeast congressional Members of this infection, the negative impacts on bat populations and the ramifications of reduced bat populations. Tentative congressional briefing date is May 1. In addition, there is a new web site on WNS in Bats. In response to growing demand for publicly available information on WNS, the USGS Fort Collins Science Center recently developed and launched a Web site entitled, *White-Nose Syndrome Threatens the Survival of Hibernating Bats in North America*. The site includes current information about the history, suspected dynamics, and possible implications of the disease, highlighting the role of the USGS in response to this wildlife crisis (<http://www.fort.usgs.gov/WNS/>).

No Change: Midwest Historic Flooding: The USGS has over 20 crews making emergency measurements of streamflow and assuring proper operation of streamgages in North Dakota, South Dakota, and Minnesota. Temporary streamgages and stage sensors have been deployed in response to the current flood emergency. Widespread flooding continues over much of the upper Midwest. Most of ND and western SD continue to be under flood warnings with many locations in the moderate to major flood level.

No Change: Flooding in the Southeast: USGS scientists continue to measure flooding in Mississippi, Florida, and Georgia and are working to maintain streamgages, which report critical information for flood forecasting. USGS is in daily contact with the National Weather Service Southeast River Forecast Center area, the Suwannee River Water Management District, and the Florida Emergency Management Office.

No Change: USGS Scientists Interviewed by Newsweek: Dan Fagre and Kate Kendall, were interviewed along with scientists from the U.S. Fish and Wildlife Service, and the University of Montana, by a reporter from Newsweek. The topic of the interview is the Crown of the Continent as a geographic focus for research. The article will feature USGS climate change research, U.S. Fish and Wildlife Service wolverine research, and aquatic research being done by the University of Montana. The reporter, Lily X. Huang, also met with Kate Kendall, USGS, regarding grizzly bear DNA. The article is still being written but is targeted for mid-April.

No Change: Afghan Minister of Mines Requests Courtesy Visit with Secretary:

Afghanistan Minister of Mines, Mr. Ibrahim Adel, will be visiting Washington on May 11-12, 2009, for discussions with various U.S. Government organizations. Minister Adel has specifically requested courtesy visits to the Department of the Interior and the U.S. Geological Survey (USGS) on Monday, May 11, 2009, where discussions would focus on past and potentially future natural resource assessment activities in Afghanistan. The USGS has worked closely with the Ministry of Mines and several other Afghan ministries since 2003; activities include preliminary assessments of water, mineral, coal, and oil and gas resources as well as earthquake hazards and capacity and institutional building. Funding for these activities has come from a variety of U.S. Government sources as well as the Afghanistan Government.

MEMORANDUM

To: Laura Davis
Associate Deputy Secretary

From: Richard T. Cardinale
Chief of Staff to the Assistant Secretary -
Land and Minerals Management

Re: Summary Report for April 20, 2009 Meeting

Date: April 17, 2009

Accompanying this memorandum is a report that combines key new and ongoing policy and regulatory decision items, and events that are either bureau-sponsored or at which there will be bureau representation by the Bureau of Land Management, Minerals Management Service, and Office of Surface Mining Reclamation and Enforcement.

A quarterly oil and gas lease sale is scheduled for Wednesday, April 22nd. It will encompass 87 parcels totaling nearly 45,000 acres in New Mexico, 8000 acres in Kansas, 700 acres in Oklahoma, and 8800 acres in Texas. This sale is not expected to be controversial.

On April 28, the BLM Division of Legislative Affairs staff will accompany Ray Brady, BLM Energy Team Leader, to brief Senator Harry Reid's (D-NV) staff on the Solar PEIS status. The purpose of the briefing is to provide an overview of the Solar PEIS and describe the document's purpose, timeframe, and potential alternatives. The BLM has received approximately 40 solar energy applications in Nevada.

BLM's Rawlins, WY field office will participate in a meeting of the South Central Reclamation Council on April 20th. The South Central Wyoming Reclamation Council is led by the Petroleum Association of Wyoming, which meets to informally discuss reclamation issues and share information. BLM specialists will meet with energy industry representatives, landowners, and reclamation contractors to discuss reclamation activities in oil and gas production areas. The new surface disturbance database and new state policy on reclamation will be among the issues discussed.

MMS has approved the State of Alabama's Coastal Impact Assistant Program (CIAP). On April 21, 2009, Acting Director Walter Cruickshank will announce the award of \$19,728,257 with \$12,823,367 going to the State and \$6,904,890 sent directly to the Coastal Political Subdivisions. A news conference is planned in Spanish Fort, Alabama. The Commissioner of the Alabama Department of Conservation and Natural Resources, M. Barnett Lawley, has been invited to participate.

A delegation of five senior oil and gas officials from Morocco, under the auspices of the U.S. Trade and Development Agency, will be meeting at MMS's Herndon office on April

21st and at the Gulf of Mexico (New Orleans, LA) office on April 27th to receive briefings on our Offshore Energy and Minerals Management Program and regulatory processes from lease sale to decommissioning.

Other matters are also listed. If you need any further information, please contact me at (202) 208-7214.

LAND AND MINERALS MANAGEMENT

April 19-25, 2009

SENIOR OFFICIALS ACTIVITIES

Richard Cardinale, Acting Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Ned Farquhar, Deputy Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Mike Pool, Acting Director, Bureau of Land Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Walter Cruickshank, Acting Director, Minerals Management Service

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings. He will also travel to Mobile, Alabama for the announcement of the approval of Alabama's Coastal Impact Assistance Program (CIAP) Plan.

Glenda Owens, Acting Director, Office of Surface Mining Reclamation and Enforcement

Focus: In Washington, DC, continuing to focus on high-priority items and attend regularly scheduled meetings.

WEEK AHEAD

Bureau of Land Management (BLM)

- **County Officials and BLM-Utah Staff Meet Regarding Possible Upgrades to Notom Road:** BLM-Utah will be meeting with representatives from Capitol Reef National Park and Garfield County on April 21 to discuss the County's proposal to upgrade 6.5 miles of Notom Road to decrease annual maintenance costs. Capitol Reef National Park has expressed a number of concerns, including: possible increases in traffic to an area of the park with historically low levels of use; increased lights at night; and safety concerns due to transitioning from a straight, paved road in the county portion, to native surface with tight turns in the park. Local landowners have voiced approval of the proposed upgrade, which would improve travel to and from their properties.

- **Lander Cooperating Agency Meetings:** On April 20-24, the BLM-Wyoming Lander Field Office will host several meetings with its cooperating agencies, including the State of Wyoming, County Commissioners, County Conservation Districts, and the Governor's Office. These meetings will focus on (1) the Beaver Creek coal bed natural gas development project, (2) the natural gas development EIS in the Lysite area, and (3), development of management alternatives for analysis in the RMP.
- **Nevada RAC to Meet in Caliente:** The BLM Mojave-Southern Great Basin Resource Advisory Council will meet in Caliente, NV on April 24. The agenda will include renewable energy, the BLM-Nevada Ely District travel management planning process, Southern Nevada Public Land Management Act Round 10 nominations, and public comment for items not on the agenda.
- **Coalition Group Continues South Steptoe Valley Travel Management Planning Effort:** The White Pine County travel management planning coalition has scheduled a public meeting at the BLM-Nevada Ely District Office on April 21 to continue developing a travel management plan for south Steptoe Valley. The coalition and BLM are preparing a proposed action and alternatives that, once drafted, will be made available to the public for review and comment. Coalition group members include the BLM, City of Ely, hunting and non-hunting wildlife advocates, grazing permittees, motorized and non-motorized recreationists, Native American interests, property owners, the public-at-large, and the White Pine County Sheriff's Office. The Northeastern Great Basin Resource Advisory Council, which advises BLM on public lands issues, is also represented.
- **Upcoming Oil and Gas Lease Sales:**
 - BLM-New Mexico lease sale April 22: 87 parcels covering 44,756.69 acres in New Mexico, 8,048.31 acres in Kansas, 710.25 acres in Oklahoma, and 8,828.04 acres in Texas. The list of parcels was posted for public review on March 4.
 - BLM-Colorado lease sale May 14: 57 parcels covering 58,071 acres in Colorado. The list of parcels was posted for public review on March 16.
 - BLM-Wyoming lease sale June 2: 84 parcels covering 67,069.84 acres throughout Wyoming. The list of parcels was posted for public review on April 17.
- **Earth Day Events:** BLM field offices will host various events commemorating Earth Day from April 18-27:
 - BLM-Arizona will host students and teachers from Yuma's Gwyneth Ham Elementary School in an April 21 event at Betty's Kitchen Watchable Wildlife Area, as well as a weekend event in Show Low featuring exhibits and presentation about sustainable living.
 - BLM-Oregon will host its 10th Annual Earth Celebration at the Oregon Garden in Silverton, Oregon, on April 18, as well as a Migratory Bird Day event in Roseburg, Oregon, on April 25, and a trail and recreation site maintenance project at Patos Island Lighthouse in Washington on April 19.
 - BLM-Nevada will celebrate Earth Day at the Red Spring Picnic Area in Las Vegas on April 25, in addition to staging displays at the Southern Nevada Agency Partnership Earth Day in

Las Vegas on April 21, and cleaning up the Great Unconformity Interpretive Site in Las Vegas on April 27.

- BLM-Idaho will clean up the Black Creeks Reservoir and surrounding area in Boise on April 25, clean up and paint the Snake River Birds of Prey NCA visitor's center on April 18, and stage displays at the Community Environmental Fair in Pocatello and the Tauphaus Park Zoo on April 25.
 - BLM-Colorado will clean up Hartman Rocks in Gunnison on April 26 and Hubbard Mesa in Rifle on April 25, and partner with other agencies and schools on an event at the Jackson County Outdoor Education Network in Walden on April 23.
 - BLM-Eastern States will stage displays and other events at the Elizabeth Hartwell Eagle Festival in Lorton, Virginia, on April 25, plant trees at the Meadowood Recreation Area in Virginia on April 25, and clean up Lynden Hill in Milwaukee, Wisconsin, on April 25.
- **Rawlins Field Office to Host South Central Reclamation Council Meeting:** BLM-Wyoming Rawlins Field Office will participate in the first 2009 meeting of the South Central Reclamation Council on April 20. BLM specialists will meet with energy industry representatives, landowners, and reclamation contractors to discuss reclamation activities in oil and gas production areas. The new surface disturbance database and new state policy on reclamation will be among the issues discussed. The South Central Wyoming Reclamation Council is an information-sharing forum led by the Petroleum Association of Wyoming, which meets to informally discuss reclamation issues and share information.
 - **Uranium Mining Site Tour for Mohave County Commissioner:** On April 24, BLM-Arizona staff and industry officials will conduct a tour for Mohave County Commissioner Gary Watson of sites associated with past and proposed uranium mining activities on the Arizona strip.

Minerals Management Service (MMS)

- **Approval of Alabama's Coastal Impact Assistance Program Plan:** MMS has approved Alabama's Coastal Impact Assistance Program Plan pursuant to Energy Policy Act of 2005. On April 21, 2009 Acting Director Walter Cruickshank will announce the award of \$19,728,257 with \$12,823,367 going to the State and \$6,904,890 sent directly to the Coastal Political Subdivisions. A news conference is planned for the 5 Rivers-Delta Resource Center in Spanish Fort, Alabama. The Commissioner of the Alabama Department of Conservation and Natural Resources, M. Barnett Lawley, has been invited to participate.
- **Invitation for Offer for Federal Offshore Leases.** The Royalty in Kind Program Office will issue an Invitation for Offer the week of April 20, 2009, to solicit offers to sell approximately 27,000 barrels per day of royalty oil produced from Federal offshore leases in the Gulf of Mexico. Offers for this sale will be due May 5, 2009, with the sale being held May 6-7, 2009.
- **Moroccan Oil and Gas Delegation to Visit MMS:** A delegation hosted by MT Energy Associates under contract from the U.S. Trade and Development Agency will bring senior oil and gas officials from Morocco to the MMS Herndon office on April 21 and to the MMS Gulf of Mexico Region (GOMR) on April 27. While in Herndon, the delegation will be briefed on the MMS's Offshore Energy and Minerals Management and Minerals Revenue Management

Programs. While in the GOMR, they will be briefed on regional regulatory processes from lease sale to lease decommissioning activities, and a presentation in the GOMR Visualization Room. The initial Moroccan delegation list includes 5 members consisting of directors, managers and a geophysicist/engineer.

- **Ugandan Oil and Gas Delegation to Visit MMS:** The Meridian International Center, under contract with the U.S. State Department, has asked the MMS to provide a briefing in Reston at the U.S. Geological Survey on MMS exploration and production for a senior delegation from the Ugandan oil sector on April 22.

Office of Surface Mining Reclamation and Enforcement (OSM)

Nothing new to report.

GRANTS

Bureau of Land Management (BLM)

- No new grants to report this week

Minerals Management Service

- **Update: Coastal Impact Assistance Program (CIAP) Grant Applications:** Since last reported, one new CIAP grant has been approved for Texas (first award to date). Total allocation to Texas is \$35,645,337 with \$23,169,469 going to the State and 12,475,867 being directed to the Coastal Political Subdivisions.

Office of Surface Mining (OSM)

- **New: OSM Increases the Texas Administration and Enforcement (A&E) Program Grant:** On April 24, OSM plans to award \$1,144,667 to Texas' FY 2009 A&E Program Grant, bringing the total funds awarded to \$1,747,598. The grant period runs from December 1, 2008, to November 30, 2009. Grant funds will be used for coal mine regulation and enforcement activities in Texas.
- **New: OSM Increases the Alabama A&E Program Grant:** On April 24, OSM plans to award \$787,522 to Alabama's FY 2009 A&E Program Grant, bringing the total funds awarded to \$1,326,592. The grant period runs from October 1, 2008, to September 30, 2009. Grant funds will be used for coal mine regulation and enforcement activities in Alabama.
- **New: OSM Increases the Arkansas A&E Program Grant:** On April 24, OSM plans to award \$85,131 to Arkansas's FY 2009 A&E Program Grant, bringing the total funds awarded to \$145,814. The grant period runs from October 1, 2008, to September 30, 2009. Grant funds will be used for coal mine regulation and enforcement activities in Arkansas.

- **New: OSM Increases Indiana A&E Program Grant:** On April 24, 2009, OSM plans to award \$1,094,955 to Indiana's FY 2009 A&E Program Grant, bringing the total funds awarded to \$1,890,286. The grant period runs from October 1, 2008, to September 30, 2009. Grant funds will be used for coal mine regulation and enforcement activities in Indiana.
- **New: OSM Increases the Louisiana A&E Program Grant:** On April 24, OSM plans to award \$124,873 to Louisiana's FY 2009 A&E Program Grant, bringing the total funds awarded to \$166,498. The grant period runs from January 1, 2009, to December 31, 2009. Grant funds will be used for coal mine regulation and enforcement activities in Louisiana.
- **New: OSM Increases the Mississippi A&E Grant:** On April 24, OSM plans to award \$75,078 to Mississippi's FY 2009 A&E Program Grant, bringing the total funds awarded to \$129,710. The grant period runs from October 1, 2008, to September 30, 2009. Grant funds will be used for coal mine regulation and enforcement activities in Mississippi.
- **New: OSM Increases the Oklahoma A&E Program Grant:** On April 24, OSM plans to award \$955,417 to Oklahoma's FY 2009 A&E Program Grant, bringing the total funds awarded to \$1,233,638. The grant period runs from January 1, 2009, to December 31, 2009. Grant funds will be used for coal mine regulation and enforcement activities in Oklahoma.

ON THE HORIZON *(updated information shown in italics)*

Bureau of Land Management (BLM)

- **New: Solar PEIS Briefing to Senator Reid Staff:** On April 28, the BLM Division of Legislative Affairs staff will accompany Ray Brady, BLM Energy Team Leader, to brief Senator Harry Reid's (D-NV) staff on the Solar PEIS status. Expected to attend the briefing from Senator Reid's staff are: Neil Kornze (Public Lands Director), Alexander McDonough (Legislative Aid), Steve Lydick (Legislative Fellow), and Neysa Call (Legislative Fellow). The purpose of the briefing is to provide an overview of the Solar PEIS and describe the document's purpose, timeframe, and potential alternatives. The BLM has received approximately 40 solar energy applications in Nevada.
- **New: Wind Project Dedication:** With work progressing smoothly on the Dry Lake Wind Project in northern Arizona, discussions are currently underway for a ceremony to celebrate the project's completion. Iberdrola Renewables, Salt River Project, and the BLM are tentatively planning an event at the project site for September. This is Arizona's first commercial wind-energy project. Contractors completed installation of the first turbine at the Dry Lake Wind Project site on March 20. When completed, the project will produce enough electricity to power approximately 15,000 average residential homes. Phase 1 of the project includes 30 turbines; future phases could bring the total to 239. Construction of the Dry Lake Wind Project employs between 23 and 55 people during Phase One construction. The Dry Lake Wind Project will be located approximately 18 miles northwest of Snowflake on a combination of BLM, state, and private lands; A map of phase 1 and subsequent phases may be accessed through the following link:

http://www.blm.gov/style/medialib/blm/az/pdfs/nepa/projects/sfo/08_proj/dry_lake_final.Par.97736.File.dat/2-1WindFarmPhases.pdf

- Note: This may be an event the Secretary would like to attend. Additional information has been sent to DOI Communications.
- **New: Air Force Schedules Energy Summit:** BLM-Nevada has been invited to participate in a one-day energy summit sponsored by Nellis Air Force Base on April 28 in Las Vegas. The summit will focus on compatible renewable energy and expanding dialogue between the military and other agencies to help solve energy challenges in Nevada. BLM-Nevada will not be a presenter. BLM-Nevada staff to attend will include: Deputy State Director Mike Holbert, Las Vegas Field Manager Bob Ross, and Southern Nevada District Renewable Energy Coordinator Greg Helseth. Other entities that will be represented include: Senator Reid and Ensign staffers, Las Vegas and Clark County officials, DOE, NOAA, FAA, Navy, including Fallon Naval Air Station, solar and wind company representatives.
- **New: Abandoned Mill Site Identified as Public Safety Risk:** A recent audit by the DOI Office of the Inspector General identified the United Comstock Merger Mill site (Storey County, NV), located on public lands at American Flat, as a high-risk liability to the U.S. Government. Built in 1922 and abandoned two years later, the mill processed gold and silver ore in what was then the largest concrete mill in the United States. With considerable support from Storey County, the Nevada Division of Environmental Protection, and Nevada Division of Minerals, BLM supports demolition of the site, which is an AML physical safety hazard responsible for one death and numerous injuries. BLM anticipates strong opposition from the State Historical Preservation Office and historians, the V&T Railroad, and various recreational users.
- **New: Monument Lease Buyout Requests Submitted:** With passage of the omnibus public lands bill and creation of the Soda Mountain Wilderness in the Cascade Siskiyou National Monument (BLM-Oregon Medford District), a third-party agreement to buy out grazing leases in the monument has been triggered. BLM Oregon's Medford District received copies of the letters from lessees requesting that the lease cancellation process be expedited. (Note: The Field Manager is authorized to terminate these grazing leases.) The Medford District/Ashland Resource Area is prepared to respond immediately. Additional third party funds have become available that could allow the remainder of the monument lessees to be offered the same terms to relinquish their leases. Six other requests to participate in the third party "buyout" could be submitted.
- **New: IBLA Upholds BLM-Nevada Decision for Trail Construction:** The Interior Board of Land Appeals has denied the petition of stay and dismissed the Sierra Club appeal to halt construction of an off-highway vehicle trail system in the Shoshone Mountain south of Battle Mountain for lack of standing. The IBLA is expected to adjudicate the merits of the appeal by spring 2009. The BLM-Nevada Mount Lewis Field Office plans to begin phase 1 of the trail construction in summer 2009. The Nevada Division of Parks and Recreation has approved \$87,000 of state funding for Lander County to assist in the development of this project. The BLM issued the decision in September 2008.

- **New: Molybdenum Project:** The BLM-Nevada Mount Lewis Field Office, with several cooperating agencies, is developing a preliminary draft EIS for the proposed Mount Hope Mine molybdenum mine project, located approximately 30 miles north of Eureka, Nevada. It is expected to be the largest producer of molybdenum in the United States. Additional data is being gathered to analyze regional and pit lake water models. A Record of Decision is currently scheduled to be signed in 2010.
- **New: BLM-Nevada Carson City District Office to Draft Master Agreement with NV Energy:** In an effort to streamline the environmental review and permitting processes for multiple major ROW applications, the Carson City District Office is drafting a Master Agreement with NV Energy. NV Energy anticipates it will submit 2-4 major ROW proposals (major EAs or EISs) annually to the Carson City District Office during the next eight to 10 years. The office is piloting the development a Master Agreement with NV Energy that, if successful, could be used as a template for the other BLM-Nevada districts. A draft agreement is expected in May. The Master Agreement will be for all NV Energy projects in the District, including many renewable energy projects which will help NV Energy attain its state mandated renewable energy portfolio. The main benefit of the Master Agreement will be to establish a single cost recovery account that can be used for all of the projects. In the past, a cost recovery account had to be established for each project. This Master Agreement will be similar to one that is already established at the BLM's Southern Nevada District where there is a high volume of energy ROW projects.
- **New: Bighorn Basin RMP Revision Cooperating Agency Meetings:** The BLM-Wyoming Cody and Worland Field Offices will host cooperating agency meetings April 29-May 1 in Worland, Wyoming. Cooperating agencies include the State of Wyoming, County Commissioners, County Conservation Districts, and the Governor's Office. The group will continue to develop alternatives for the RMP. RMP topics to be discussed for alternative development include soil, water, fire, and fuels management (unplanned/wildland fire); cultural resources; paleontological resources; livestock grazing; and vegetation (forests, woodlands, forest products, grassland and shrubland communities, and riparian/wetland resources).
- **New: Las Vegas Field Office to Complete EA for Clark County Shooting Park:** The BLM-Nevada Las Vegas Field Office declared in court it will develop an Environmental Assessment for 2,900 acres conveyed to Clark County for a shooting park. The land was legislatively conveyed to the County in 2003. The Las Vegas Field Office will complete the EA by August 3. A group of concerned citizens filed a lawsuit against Clark County and the BLM in an effort to stop the project.
- **New: Coal Lease Sales Postponed:** Two coal lease sales near the West Antelope mine in Wyoming and originally scheduled for late FY 2009 will be postponed until late 2010 or early 2011 at the request of the nominator. The BLM estimates that the two tracts contain approximately 430 million tons of mineable coal. The sale of these two tracts could result in bonus bids of approximately \$130 million to \$417 million and generate approximately \$600 million in royalty payments.

- **New: Jacobs Ranch Mine:** Arch Coal Inc., operator of the Black Thunder Mine, has announced acquisition of the Jacobs Ranch Mine from Rio Tinto Energy America. These two mines competed for coal tracts in the past. In 1998, Black Thunder Mine won the bidding for the Thundercloud tract even though Jacobs Ranch Mine was the applicant. Jacobs Ranch Mine won the bidding for the North Jacobs Ranch tract in 2002 in spite of a strong bid by Black Thunder Mine. With one company owning what are currently two adjoining and competing mines, there will be no competition for coal in the area. Because one company will have sufficient coal, the BLM's lease offering sales will need to be moved into out years. The current need for the West Hilight and West Jacobs Ranch LBAs (Lease By Application), containing nearly 1.4 billion tons of coal, is in question. The West Jacobs Ranch and West Hilight LBAs are scheduled for lease sales in 2012.

Litigation

- **Update: Motion to Dismiss Ninth Circuit Grazing Regulation Appeal:** On March 23, 2009, Judge Winmill, U.S District Court in Idaho, approved and adopted an order for *Settlement Agreement Re: Plaintiff WWP's Motion For An Award Of Attorney Fees And Litigation Expenses*. The Order stated that the United States shall pay \$216,000.00 for WWP's attorney fees and litigation expenses, with \$162,000 coming from BLM's operating accounts. The Public Lands Council (PLC) and the American Farm Bureau Federation (AFBF) had appealed the original decision of the Idaho District Court enjoining the BLM's July, 2006 grazing regulations. *The Department of Justice (DOJ) plans to file a motion to dismiss the PLC and AFBF appeals by April 27th to minimize the risk of precedent adverse to BLM and the United States.*
- **Update: Western Oregon Plan Revisions (WOPR) Challenged:** There are five active lawsuits in various stages of litigation with consolidated National Environmental Policy Act, Endangered Species Act, and/or Oregon and California Act-related claims for the Western Oregon RMPs. The BLM is consulting with the Office of the Solicitor concerning the lawsuits and will submit a response to each accordingly. Responses are currently due on the following dates:

American Forest Resource Council (AFRC) v. Kempthorne (filed January 2); U.S. District Court, District of Columbia - Judge Ellen Huvelle. Due: May 1.

Oregon Wild et al. v. Shepard/BLM (filed January 14); U.S. District Court, Oregon - Judge Paul Papak. Due: May 18.

Forest Service Employees for Environmental Ethics v. USFWS/BLM/DOI (filed January 15); U.S. District Court, Oregon - Judge Ann Aiken. Due: May 18.

Pacific Rivers Council et al. v. Shepard/BLM Districts/DOI (filed January 14); U.S. District Court, Oregon - Magistrate Janice Stewart. Due: June 5.

AFRC v. Caswell (formerly AFRC v. Clarke and originally NFRC v. Dombeck); U.S. District Court, District of Columbia - Judge Thomas Penfield Jackson. Both parties have fully briefed the issues before the Court, and a Court response is pending.

- **Update: IBLA Remand-Upper Missouri River Breaks National Monument RMP:** Two separate appeals were filed on the Record of Decision for the Upper Missouri River Breaks National Monument RMP. For first, filed by private landowners, contested the closure of a BLM

road providing access to private property. The BLM requested a remand of the appeal filed to correct an administrative error on a map. The second, filed by the Montana Wilderness Association and several other environmental organizations, contested the designation of the road system, authorization of six airstrips, and the allowance of motorized watercraft on the Upper Missouri Wild and Scenic River. *The IBLA consolidated the two appeals and remanded the ROD back to BLM. The BLM will file a petition to address several issues the issues raised.*

- **Update: Court Schedules Hearing for DOJ Motion Regarding Hage Claims Case:** *Senior Judge Loren A. Smith of the Federal Court of Claims has scheduled a hearing in Reno, Nevada, on June 23 to hear oral arguments on the DOJ's motion for partial reconsideration in the award of compensation for range improvements (238 miles of fences, 634 miles of roads and trails, and 44.7 miles of ditches and pipelines - No. 91-1470L). The DOJ's motion cites the plaintiffs for not providing sufficient evidence at trial to support the compensation, failed to prove a taking of any range improvements, and did not meet their burden of proof showing they are entitled to compensation under U.S.C. § 1752(g).*

Minerals Management Service (MMS)

Chronological MMS Events

- **Update: MMS and India's Directorate General of Hydrocarbons (DGH) to Sign Memorandum of Understanding (MOU):** DGH Director V.K. Sibal and MMS Acting Director Walter Cruickshank plan to sign an MOU at the Offshore Technology Conference (OTC) in Houston, Texas during the week of May 4. The non-binding MOU addresses future cooperation in leasing/tendering, resource evaluation, and methane hydrates assessments and research. Cooperation with the DGH compliments the MMS's prior engagement with India's Oil Industry Safety Directorate (OISD) since the DGH focuses on pre-lease information while OISD focuses on post-sale exploration and production safety management.
- **New: The Norwegian Petroleum Directorate and the MMS to Sign Memorandum of Understanding (MOU):** When Norway separated its oil and gas pre-tender resource evaluation processes from its post-tender safety management regime the MMS was left without a mechanism for information sharing. Since Norway restructured its oil and gas regulatory regime, all cooperation has been held in conjunction with the Petroleum Safety Authority through the International Regulators Forum. Now there will be a cooperative mechanism for exchanges between Norway and the MMS on leasing, resource evaluation, and revenue management issues. The non-binding MOU is to be signed by both Directors on May 6 at the Offshore Technology Conference in Houston prior to the SAFE awards.
- **Update: MMS SAFE Awards:** The MMS will hold its 26th annual national SAFE Awards program on May 7, 2009 in Houston, Texas. This is the longest continuous federal awards program of its kind. The SAFE Awards recognize outstanding safety and pollution prevention performance by the offshore industry in four categories: drilling contractor, production contractor, high activity operator, and moderate activity operator. The MMS will also present Corporate Leadership Awards to outstanding individuals whose exceptional performance has raised the bar for safety achievement, improved environmental protection, enhanced resource recovery and conservation, or inspired innovation and outstanding performance by others. Up to

800 people may attend. The MMS is holding this event in combination with the industry's largest tradeshow event and conference, the Offshore Technology Conference (OTC).

Additionally, a press conference will be held at the OTC on May 4 to announce the release of the MMS's Gulf of Mexico 2009 Deepwater Report and Production Forecast Report 2009 - 2018.

- **New: MMS and Iraq Ministry of Oil (MoO) Policy and Processes Workshop:** On June 7-10, the MoO intends to send 25-35 delegates to Erbil, Iraq. Eighteen delegates will be identified for further on-the-job training with the MMS counterparts in the U.S. over the following 3-6 months. Major areas to be explored are tendering, resource evaluation, field operations, and revenue management.

MRM Recurring Items

- **No Change: RIK Oil and Gas Sales:**
 - **FY 2009 RIK Oil and Gas Sales Key Milestones:**
 - Tentative: Unrestricted GOM Crude Oil Sale May 6-7, 2009 for July deliveries
 - Tentative: Small Refiner GOM Crude Oil Sale August 4-5, 2009 for October deliveries
 - Tentative: Unrestricted GOM Crude Oil Sale August 5-6, 2009 for October deliveries

- **No Change: Alternative Energy Interim Policy Projects:** A table below summarizes the status of each Interim Policy project under the MMS's consideration.

State	Total Projects	Developers	Applications Received	Project Review Status
Delaware	1	Bluewater Wind	1 – Bluewater Wind	EA, consultations, and lease stipulations in progress; developer is qualified to hold a lease; final negative determination submitted to DNREC on March 20; contingent on state CZM review and consultations with NOAA-Fisheries, lease issuance target is May 2009.
Florida	3	Aquantis; Florida Atlantic University (FAU); Turner Hunt Ocean Renewable (THOR)	1 – THOR	Of the three remaining proposed projects offshore Florida, the MMS received a single project application from Turner Hunt Ocean Renewable (THOR) on January 28. The MMS is awaiting project applications from Aquantis and FAU. Aquantis and THOR have been confirmed as qualified to hold a lease.
Georgia	3	Southern Company	0	The MMS is awaiting a project application from Southern Company for the three proposed projects offshore Georgia; developer is qualified to hold a lease.
New Jersey	6	Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	4 – Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	The EA, consultations, and lease stipulations for the six proposed projects offshore New Jersey are in progress. The MMS has received complete applications for four of the six projects, but has analyzed the effects of all six projects in its environmental analysis. The MMS has received additional information from Deepwater Wind (dated March 12) and FERN (dated March 23) to confirm whether these

State	Total Projects	Developers	Applications Received	Project Review Status
				<p>developers are qualified to hold OCS leases. The MMS has found that the information for FERN is insufficient and will need additional follow up. Bluewater has been confirmed qualified to hold a lease. The final consistency determination for the six proposed projects was submitted to NJDEP on March 6. Contingent on qualification of the developers, state CZM review and consultations with NOAA-Fisheries, lease issuance target is May 2009 for all three developers.</p>

The MMS is finalizing the draft EA for the seven proposed Interim Policy projects sited offshore Delaware and New Jersey in preparation for surnaming.

- Update: Cape Wind Project:** The MMS published the Cape Wind Final EIS on January 21, 2009. The comment period closed on March 21, 2009. The MMS staff is reviewing comments and has begun drafting the Record of Decision and lease agreement (Decision Document). The Clean Air Act (CAA) Final Conformity and National Historic Preservation Act (NHPA) section 106 consultations must be completed before the MMS can issue the Decision Document. The CAA Final Conformity should be completed *within the coming weeks, as the MMS is working closely with the EPA to resolve a few minor issues regarding the use and availability of emission reduction credits (ERCs) in Rhode Island. Cape Wind needs to obtain the proper amount of emissions offsets before Final Conformity can be achieved. The MMS has rescheduled tribal site visits with the Aquinnah and Mashpee Wampanoag Tribes for the week of April 27 to run concurrently with the next full section 106 consultation meeting.* The purpose of this meeting will be to discuss mitigation strategies to reduce project impacts on historical and tribal properties. In order to complete the 106 process, a memorandum of agreement (MOA) regarding the MMS's findings and mitigations must be reached by the MMS, Cape Wind Associates, the Army Corps of Engineers, the Massachusetts Historical Commission, and the Advisory Council on Historic Preservation. The MMS will circulate a draft MOA after the meeting and work toward conclusion of the 106 process.

OEMM Lease Sales

- Update: Sale Results for Central Gulf of Mexico Planning Area - Lease Sale 208 (March 2009):** The GOMR continues with their bid review and acceptance process. The Federal Trade Commission and the Department of Justice reviews are complete with favorable findings.

- **No Change: Beaufort Sea Sale 209 (February 2010):** The target date for the sale bid opening is February 2010. Public hearings on the Draft EIS have been completed. The MMS has extended the written comment period on the Arctic Multisale (Beaufort and Chukchi Sales 209, 212, 217, and 221) Draft EIS from March 16, 2009 to March 30, 2009. A request from EarthJustice for an additional 45-day comment period extension was denied.

Major Milestones:

- Final EIS Available September 2009
- CD and PNOS Issued September 2009
- Governor's Comments due November 2009
- FNOS published in the Federal Register January 2010
- Public Bid Opening/Reading February 2010

No Change: Western Gulf of Mexico Planning Area - Lease Sale 210 (August 2009): The target date for the sale bid opening is August 19, 2009. A Notice of Availability was published in the Federal Register for the Proposed Notice of Sale on March 31. The Section 19 letters to the Governors were sent out on March 25, 2009, their comments are due back on May 26. The GOM Region is working on the draft version of the Final Notice of Sale documents, which are due to start Headquarters review on April 10.

Major Milestones:

- Comments due on CDs May 11, 2009
- Final Notice of Sale package begins surnaming May 14, 2009
- Comments due on Section 19 letters May 26, 2009
- Final Notice of Sale to be published in the Federal Register July 8, 2009
- Public Bid Opening/Reading August 19, 2009

No Change: Cook Inlet Sale 211: See Sale 219.

No Change: Central Planning Area 213 (March 2010): The target date for the sale bid opening is March 17, 2010.

Major Milestones:

- Publish NOA for the NEPA document & PNOS November 4, 2009
- Publish FNOS February 5, 2010
- Public Bid Opening/Reading March 17, 2010

No Change: North Aleutian Basin Sale 214 (November 2011): The target date for the sale bid opening is November 2011.

Major Milestones:

- Draft EIS January 2010
- Public Hearings February/March 2010
- Final EIS January 2011
- Consistency Determination/ Proposed Notice of Sale January 2011
- Governor's Comments Due March 2011
- Final Notice of Sale Published in Federal Register October 2011
- Public Bid Opening/Reading November 2011

No Change: Cook Inlet Sale 219 (2011): The MMS will issue a second Request for Information (RFI) in May 2009 to determine industry interest, and annually thereafter through the 5-Year schedule, until a sale is held or the 5-Year schedule expires. Since the current 2007-2012 sale schedule shows a potential Cook Inlet Sale 219 scheduled for 2011, and due to the time to complete the presale process, it will not be possible to hold Sale 211 in 2010. The RFI scheduled to be issued in May 2009 will be for Sale 219 rather than Sale 211. If there is adequate industry interest, and the MMS proceeds with the presale process, only one Cook Inlet sale will be held in the current 2007-2012 Program.

No Change: Mid-Atlantic Offshore Virginia Sale 220 (2011): The Governor of Virginia sent a letter dated February 19, 2009, requesting that Sale 220 be postponed. The Lieutenant Governor sent a letter dated March 3, 2009, stating that he and others in Virginia disagree with the Governor's request for delay and instead would like to see Sale 220 held on schedule. Five members from Virginia's Congressional delegation sent a March 10, 2009, letter also requesting to hold the sale on schedule. The MMS continues its outreach to the Virginia State government. An internal presentation to the Office of the Deputy Secretary of the Interior regarding Sale 220 and Atlantic issues occurred on March 19. The Sale is scheduled for 2011, but will probably be no earlier than 2012.

MMS Litigation

- **Update: Native Village of Point Hope et al. (Sale 193):** *The Department of Justice motion to extend the briefing for 60 days was approved by the U.S. District Court for the District of Alaska. The government initiated and negotiated the joint motion with the Intervenor (companies) and the Plaintiffs. Upon court approval, the new briefing schedule is: Government's Opposition Brief (May 26); Intervenor's Response Brief (June 9); and Plaintiffs Reply Brief (June 29).* The lawsuit was filed on January 31, 2008, and one year later on January 30, 2009, the Plaintiffs filed their opening brief with the U.S. District Court for the District of Alaska. The plaintiffs alleged that the MMS and the DOI violated NEPA and that the DOI, the MMS, and the FWS violated the ESA. Staff in the MMS Alaska OCS Region is coordinating with the attorneys by reviewing and providing comments on the draft government's brief.
- **Update: Amber Resources v. U.S.:** *The Solicitor's office (SOL) informed the MMS on April 3 that the Solicitor General will not petition Supreme Court review of this case. The MMS is still working with the SOL and the Department of Justice on the nuances of lease return. Issues to be resolved prior to rescinding the lease agreements include: record title holders that elected not to file a claim, plaintiffs that elected a remedy other than restitution (repayment of bonus bids), and outstanding decommissioning obligations on some of the leases.*
- **Update: Amber Resources v. US - Nycal Issue:** The Amber case involves several plaintiffs. At one point, the judge in the claims court held that the plaintiffs were required to elect a remedy (restitution, reliance, or expectancy). All but one plaintiff elected restitution (repayment of bonus bids), but one plaintiff (Nycal) elected expectancy (lost profits).

Although the rest of the case may be nearing conclusion, this issue will continue. According to SOL, the judge will want to review relevant files and there will likely be a trial on the issue before the end of the year.

- **Update: Amber Resources v. US – Drainage Issue:** The decision in this case awarded the plaintiff (Delta) restitution with regard to one lease. The government argued that restitution was not appropriate because the lease had been partially drained by an operation on an adjacent lease. The government also argued that the plaintiff elected to treat the breach as “partial.” The court found that restitution was appropriate and awarded the plaintiff \$92 million, minus the minor offset of \$550,000. The government is assessing whether to appeal to the US Court of Appeals for the Federal Circuit. A Notice of Appeal would be due by April 27th.
- **New: League for Coastal Protection (LCP) v. Salazar:** Substantive issues in this case will be mooted by resolution of Amber Resources. The only outstanding issues relate to attorney fees. The MMS recommended to the SOL and the Department of Justice (DOJ) that attempted settlement would be the preferred approach. The MMS has already paid interim fees out of agency funds and would offer to drop its appeal of the attorney fee award in return for no further payments. The DOJ will present that offer to the opposition in its next regularly scheduled mediation meeting.
- **Update: Kerr McGee v. Salazar:** *On April 14, 2009 the court denied the March 30th request by the Department of Justice for an en banc review of the case with the 5th U.S. Circuit Court of Appeals (full panel of seventeen).* In January, a smaller three-judge panel of the 5th U.S. Circuit Court of Appeals upheld a lower court ruling that said the Interior Department could not collect royalties from eight deepwater leases held by Anadarko Petroleum Corp. in the Gulf of Mexico. The leases were obtained between 1996 and 2000 by Kerr-McGee Corp., which Anadarko later acquired. DOI needs to decide whether to recommend to Department of Justice that we seek cert. If this ruling is not overturned, it could prevent the U.S. Interior Department from collecting billions in royalties on oil and natural gas leases.
- **New: Jicarilla Apache Nation v. Department of the Interior, No. 07-803 (RJL) (D.D.C. Mar. 31, 2009).** In this case, the United States District Court for the District of Columbia denied the Jicarilla Apache Nation’s (Nation) Motion for Summary Judgment. In its Motion, the Nation alleged that the Assistant Secretary for Indian Affairs’ rejection of the Nation’s major portion methodology was arbitrary and capricious, departed from MMS precedent, violated the agency’s own regulations and Nation lease terms, and violated MMS’s fiduciary (trust) responsibilities. In *Jicarilla Apache Nation*, the DOI rejected a previous case in which it had upheld use of the Nation’s major portion methodology. *Robert L. Bayless*, MMS-98-0132-IND (2000). In denying the Nation’s Motion, the Judge held that DOI: (1) provided a “reasoned explanation” for its new determination; (2) clearly explained that MMS’s regulations were consistent with the Nation’s lease terms; (3) demonstrated how the Nation’s major portion method violated those regulations; and (4) did not violate its fiduciary duty to the Nation which requires DOI to choose the option that is in the best interests of the Nation

and is reasonable. Since the Nation's major portion method violated the MMS regulations it was not a reasonable option, and the DOI did not violate its fiduciary duty.

- **New: Union Oil C. of California v. Department of the Interior (Unocal), No. 06-cv-00434-MSK-CBS (C. Colo. Mar. 31, 2009).** In this case, the United States District Court for the District of Colorado affirmed an IBLA decision that held MMS might deny a lessee of Indian oil and gas leases' processing or transportation allowance when performing dual accounting if the lessee does not timely file the required allowance form. In *Unocal*, Union sold its unprocessed gas at arm's-length, reported, and paid royalties based on that sale without performing a dual accounting comparison. Upon MMS audit and notification of the requirement to perform dual accounting, Union performed dual accounting and took a processing deduction from the value of the processed gas. Because the value of the processed gas with the processing allowance was less than the value of the unprocessed gas, Union determined that its initial reporting was the "correct" one. The MMS disagreed. The MMS concluded that Union could not include the allowance because it did not timely file the required allowance form. Disallowance of the processing deduction resulted in the value of the processed gas being higher. Thus, MMS found that additional royalties were due. The Court held: (1) MMS regulations clearly state allowances must be filed at the same time as a Form MMS-2014; (2) the denial of the allowances not punitive in nature, but more like a lost benefit. By failing to comply with the rules, Union lost the benefit; (3) that while the result may be illogical (more money is owed now, only because of timeliness for filing and rejection of allowances), the fact remains that Union did not comply with the regulations and thusly created the situation. If the regulations had been followed this situation would not exist; and (4) The MMS "Dear Payor" issued in 1992 explaining "theoretical dual accounting" provides a way to calculate approximate value of post-processed gas but it does not limit the requirement to file forms.

Office of Surface Mining (OSM)

- **Upcoming Arbor Day Events:** OSM engages in reforestation efforts nationwide in an effort to re-establish natural forest systems on formerly mined lands or other deforested sites. To highlight these efforts, the bureau takes part in Arbor Day events each year. Below is a table listing some of the upcoming events that OSM is sponsoring or participating in for Arbor Day 2009.

2009 Arbor Day Events		
Date	Where	Who's Participating
April 23	Birch River Operation in Webster County, West Virginia	West Virginia Department of Environmental Protection, OSM's Charleston Field Office, and the ICG Eastern, LLC
April 23	Cove Chapter Senior Citizen Center on the Navajo Nations Reservation in Cove, Arizona	OSM Western Region and students from the environmental science class at a local Navajo preparatory school

April 24	Navajo Preparatory School in Farmington, New Mexico	OSM Western Region and students from the environmental science class at Navajo preparatory school
April 24	Spencer Fork Mine near Chavies, Kentucky	Kentucky Department for Natural Resources and OSM's Lexington Field Office and Applicant Violator System Office, and fourth- and fifth-grade students from elementary schools in Perry County, Kentucky
April 24 and 25	Outside Jerryville, West Virginia, in Webster County	OSM

OSM Litigation

- ***Update: Complaint Filed regarding OSM's Approval of West Virginia's Material Damage Definition (OVEC et al. v. Salazar, Civil Action Number 3:09-00149):*** On February 18, the Ohio River Valley Environmental Coalition (OVEC) and the West Virginia Highlands Conservancy (WVHC) filed a complaint with U.S. District Court in West Virginia regarding OSM's decision to approve a State program amendment that modified the State's definition of "material damage to the hydrologic balance and deleted the State's definition of "cumulative impact." *A draft OSM response to the complaint, which under review by the Department of Justice, is due to the Court on April 20.*

Memorandum

To: Associate Deputy Secretary

From: Deputy Assistant Secretary Policy and Economic Development

Re: Indian Affairs' Weekly Update

FOCUS FOR WEEK OF APRIL 19, 2009

Meeting with Cayuga Nation – George Skibine will meet with the Cayuga Indian Nation the week of April 19 to discuss the Tribe's concerns with the Department's handling of a recent Federal Register publication related to the Tribe's Draft Environmental Impact Statement (DEIS).

The Tribe's proposed fee-to-trust conveyance of property is pending currently with the Associate Deputy Secretary for her review. Although this DEIS was prematurely docketed for publication of its Notice of Availability during the week of April 5 and interested parties have received the DEIS; Indian Affairs has withdrew the publication request. EPA, will publish a withdrawal of the Notice of Availability, and is aware that it would be inappropriate to take public comment on the DEIS at this point, without final Interior approval, as the DEIS is still subject to change.

This DEIS examines the Tribe's proposal to acquire 125± acres within reservation boundaries established by Congress pursuant to a 1794 treaty. The State cannot extinguish the reservation boundaries under the Non-Intercourse Act, but had bought land within the boundaries and asserted jurisdiction over the land. The Tribe bought the land back and now seeks to take it into trust, so that the Tribe can assert jurisdiction.

While, in practice, the Tribe has not had a reservation, legally, the Tribe does have a reservation because the boundaries were never extinguished by Congress. As such, BIA is bound to process this application as an on-reservation acquisition. Ultimately, gaming may occur on this land. Because, in practice, the State has exercised its jurisdiction for many years, the State, Senator Schumer, and the community oppose taking this land into trust.

Annual National Indian Education Partnership Conference – Members of BIE's Senior Management Team will participate in the 2nd Annual Partners for Indian Education Conference on April 17-19, 2009, in Norman, OK. The conference themes focus on K-12 education, community wellness and higher education issues. The conference is sponsored by the Department of Education's Office of Indian Education.

House Appropriations Hearing on Law Enforcement – The House Appropriations Interior Subcommittee is having a hearing April 22, 2009, on law enforcement issues in Indian Country. BIA representatives met on April 15, 2009, with Subcommittee staff to prepare for the hearing. Indian Affairs' testimony will address law enforcement staffing, projects to address drug related crime, BIA support for staff training and justice centers.

One potential area of discussion at the hearing may be the BIA's plans to suspend detention services in at six locations. The BIA's assessment of its capacity to adequately staff six detention centers to an acceptable level of safety is the reason for the planned suspension of services. The BIA will accommodate the need created by the suspension with neighboring BIA and non-BIA detention centers.

INDIAN AFFAIRS

National Indian Gaming Association Request to Secretary – Indian Affairs will participate in a meeting with the Office of the Solicitor and Secretary's Office to discuss the Department's response the National Indian Gaming Association (NIGA) inquiry about the Department's plans for the National Indian Gaming Commission (NIGC). NIGA raised concerns with NIGC in a letter to the Secretary. Indian Affairs has drafted a proposed response to address the matters NIGA raised. NIGA's concerns include: proposed NIGC regulations published for comment in December 2008; the NIGC staffing and failure to implement an Indian-preference policy; the appointment of the NIGC Commission; NIGC's interpretation of consultation policies; and the independent nature of the NIGC under the Indian Gaming Regulatory Act.

Update on Ute Indian Tribe Meeting – Indian Affairs and the Office of the Solicitor will be met with the Ute Indian Tribe's Business Council from Fort Duchensne, UT. The Solicitor's office is now considering the Tribe's request for a Solicitor's opinion in the Tribe's efforts to invalidate an agreement between the Tribe and a financial consultant.

During the meeting the Tribe raised concerns that this financial planner has created similar business agreements with tribes having energy and mineral development potential. In the Tribe's circumstance, the financial planner claims he is entitled to lucrative participation rights in the Ute Indian Tribe's assets through companies organized by the financial consultant. The Tribe has filed a federal court action to defend its interpretation of the agreement. The Tribe would like a DOI opinion it may submit to the court on the potential validity of the agreement in light of Indian Reorganization Act and Non-Intercourse Act protections the Tribe has raised with the court.

Update on Congressional Hearings on Carciari and Consultation – Only the House Natural Resources Committee has held a hearing on the decision. The Senate Committee on Indian Affairs' has not set a date for a hearing, although the Chair said he plans to hold a hearing. Additionally, Indian Affairs has cancelled its tentative plans to hold a formal consultation in May 2009 with tribes.

Meeting with Pueblo of Jemez on Fee to Trust and Water Settlement – Indian Affairs and the Secretary's Office will meet with the Pueblo of Jemez's leadership on April 22, 2009. In 2004 the Pueblo filed an application for land into trust and a two-part determination under Section 20. Prior to the application's completion, the January 2008AS-IA guidance memorandum on the application of the 151.11 part was used to deny the Pueblo's application. The Pueblo believes its extreme hardship should be a consideration for allowing it to acquire an off-reservation parcel for gaming today. Additionally the Pueblo would like to present its position that the Treaty of Guadalupe Hidalgo shields it from an interpretation of Carceri that would limit its ability to acquire new trust land. Finally, the Pueblo will discuss its water settlement negotiations and the need for funding for technical and legal experts.

Request to Reprogram Funding for Navajo Irrigation Project – Indian Affairs declined a request from the Navajo Agriculture Products Industry (NAPI) for the Department to request that Congress reprogram funding for construction on the Navajo Indian Irrigation Project (NIIP) to fund rehabilitation for agricultural projects. NAPI relies on a House Committee report that contemplated whether construction funds would be used for rehabilitation activities on certain NAPI lands. The NAPI representatives met with the Assistant Secretary's office and requested that George Skibine reconsider the decision and make a request for construction funds to be used for rehabilitation purposes.

Kickapoo Tribe Meeting on IGRA – The Office of Indian Gaming will be meeting with the Kickapoo Tribe's representatives to discuss the Tribe's current plans for gaming operations. Specifically, the Tribe will be discussing the implications of a Fifth Circuit decision interpreting the Indian Gaming Regulatory Act's (IGRA) provision for the establishment of Secretarial Procedures.

Plumber and Pipefitting Training program – A trade-training program in Chicago, IL is underway with 11 students. The training program staff is working with both trade unions and tribal "477" programs to determine if on-the-job training after completion of the formal 16-week training will provide opportunities for more competitive job placements. The program is coordinated through Indian Affairs' Indian Energy and Economic Development office.

Meeting with Ft. Belknap Tribal Council – The Indian Affairs' Indian Energy and Economic Development office (IEED) staff will meet with the Ft. Belknap tribal leadership on April 22, 2009, to discuss the Montana Indian Business Development Incubator (MIBDI), IEED services, and economic development. IEED launched MIBDI in response to a request this year from Senators Baucus and Tester. During FY 2008, IEED conducted a South Dakota Indian Business Development Incubator as a demonstration project, focusing all of its programs for executive/entrepreneurial development, economic feasibility study grants, workforce training, capital development, procurement training, and energy/mineral development on one geographic area to achieve job creation and economic stimulus synergies. Montana's senators asked that IEED bring this successful South Dakota approach to the Montana tribes during FY 2009.

2009 Montana Indian Business Conference and Showcase, Missoula – Indian Affairs' Indian Energy and Economic Development office (IEED) is cosponsoring the 2009 Montana Business Conference and Showcase in Missoula on April 20-21, 2009. IEED staff will describe IEED's services, including SBA 8(a) business formation and procurement training and the Indian Affairs Loan Guaranty, Insurance, and Interest Subsidy program.

BUREAU OF INDIAN EDUCATION

Tribal Leaders Summit in Albuquerque, NM on Systems of Support (SoS) – BIE is sponsoring an April 20, 2009, meeting in Albuquerque, NM to explain the SoS program and share data it has collected. The existing project has been implemented in the 29 lowest performing BIE-funded schools on the Navajo Reservation, and is a K-3 reading program. The April 20 meeting is similar to an April 15, 2009, meeting in Rapid City, SD. Both meetings introduce the program to tribal leaders/educators for their consideration in possibly implementing the effort in their schools.

Follow-up on Rapid City, SD Tribal Leaders Summit on SoS – The April 15, 2009, BIE summit in Rapid City for the North and South Dakota Tribes to discuss BIE's Systems of Support (SoS) was well attended by tribal leaders and educators from throughout the Dakotas. Attendees were provided with information on SoS, and had an opportunity to question BIE staff and principals about the program. At the end of the Summit, a large majority of the leaders/educators in attendance expressed interest in pursuing the SoS program for their schools. BIE is provided a 30 day period of time for schools to decide on participating during the upcoming school year.

BIE Schools Adequacy Yearly Progress (AYP) - Annual reports of BIE and tribal/grant schools for the 2007-2008 school year continue to be received and processed by the Albuquerque Service Center. At the present time, 169 schools have reported, with 42 schools having achieved AYP for the 2007-2008 school year.

BIE Leadership Positions Advertised – The BIE Director's position opened on April 17, 2009, and will remain open for 60 days. The Associate Deputy Director – East position opened on April 17, 2009, and will be open for 30 days.

BIE Senior Managers Meeting – BIE will hold a Senior Managers meeting in conjunction with the Haskell Indian Nations University graduation on May 7-8, 2009, in Lawrence, KS. In addition to meeting as a group, the Senior Managers will also hold a two hour meeting with representatives of the Indian Affairs Office of Chief information Officer's staff to discuss BIE's Bright Eagle IT project. The Project would forecast IT capacity in BIE schools in the future.

BUREAU OF INDIAN AFFAIRS

Desert Rock Energy Project and Navajo Transmission Project Review – Indian Affairs plans to hold a status meeting the week of April 19 to discuss developments in the Desert Rock project.

The BIA and Solicitor's office are continuing to collaborate on issues related to recent IBLA and IBIA actions impacting the Navajo Transmission Project and the Desert Rock Energy Project. The Navajo Transmission Project is a proposed 500 kilovolt (kV) electric transmission line running from northwestern New Mexico to a terminus in Southern Nevada. At the request of the BLM and BIA, the IBLA and IBIA set aside and remanded to the BIA and BLM the NTP Record of Decisions. Issues on remand include the question of whether the NEPA analysis contained stale information and whether the NTP and the Desert Rock Project are connected actions under NEPA and should be combined in a single Environmental Impact Statement because of the projects' relationship to one another.

The Desert Rock Energy Project is a proposed 1500 megawatt (MW) coal-fired electrical generating plant located on the Navajo Reservation which will utilize Navajo coal located on existing mining operations. The proposed site is approximately thirty miles south of Farmington, NM, on the Navajo Reservation. The BIA is the lead agency for the development of the Desert Rock Project's Environmental Impact Statement.

The federal role in the Desert Rock Project consists of lease approval and grants of rights-of-way (BIA), the issuance of air and water permits (EPA, COE), and supervision of the mining operations (BLM, OSM).

Carbon Sequestration Presentation – The BIA will present its presentation on carbon sequestration on April 20, 2009 in Lewiston, ID at the Intertribal Timber Council National Symposium. The Timber Council is the only nationwide Indian Country resources management organization for timber resources in Indian Country.

Acquisition of Title to Land Held in Fee or Restricted Fee Forum – The BIA and the American Indian Law Center, an independent policy organization affiliated with the University of New Mexico, will hold the first of the BIA's annual forum (Forum) on its Fee-to-Trust Handbook. The Forum will take place on April 30, 2009, at a BIA training center in Albuquerque, NM. Tribal leaders and representatives were asked to review the Handbook and to identify areas that require further discussion. The Forum presents a first opportunity for Indian Country to provide feedback on the Handbook's operation and to begin general discussions on the execution of the land into trust processes and the potential need for future working group meetings.

When the Handbook was released in the Fall of 2008, the BIA announced its plans to hold an annual forum that brought together federal and tribal practitioners to discuss their uses and implementation of the Handbook. The current version of the Handbook addresses the business practices for the BIA's review of applications for on-reservation acquisitions and will expand in the future to describe business practices for off-reservation and mandatory acquisitions.

Recovery Act Awarding Officials Training – The BIA Office of Indian Services will hold a meeting to provide an overview on the implementation of the American Recovery and Reinvestment Act (ARRA) for involved Level II Awarding Officials, regional Road Engineers, and regional Housing Officers, at the Midwest Regional Office in Minneapolis, MN on April 22 – 23, 2009. The training will assist in the BIA's capacity to facilitate funding agreements and disbursements.

Final EIS on an Oil Refinery Proposal for North Dakota Tribes – BIA Region staff continue to work with EPA staff on a Final Environmental Impact Study for the Three Affiliated Tribes' proposed plan to build and operate an oil refinery on the Fort Berthold Reservation. The EPA will give a preliminary FEIS to the Tribes and cooperating agencies next week, and then hold consultation sessions with the tribes on May 7, 2009. The FEIS will be published in late June 2009.

Two federal actions are involved with the Tribes' proposed project, both requiring an EIS to satisfy NEPA requirements. The EPA action involves issuance of permit(s) for operation of the proposed refinery. The Department of the Interior's action involves the Tribes' request to take the land into trust. The EPA and BIA have been working together for years as co-leads to complete a joint EIS. The Department of the Interior and EPA will issue separate Records of Decision (ROD) based on the findings. The Department has communicated with the Tribes and with the EPA during the Department's analysis of its fee-to-trust application. That communication has included the BIA and Indian Affairs' central office; because the Assistant Secretary-Indian Affairs assumed decision making authority from the BIA Region on this matter in April 2008.

Update on BIA Region Data Call for Carcieri – Indian Affairs, BIA and the Office of the Solicitor meet to discuss a system for processing information provided as part of a data call related to Carcieri decision. The BIA Regional offices have provided assessments of land acquisitions made in the Regions. The BIA requested the assessment as part of a data call to gather information about the potential impact of the Carcieri decision on land acquisitions.

Decisions on land acquisitions in trust for parcels located within or contiguous to reservation boundaries are made typically by the BIA Regional Directors. As part of the BIA Regional Director's final decision, the Director specifies the specific authority for the Department to acquire the land in trust.

Indian Country Law Enforcement Officers Who Have Died in the Line of Duty –

The Director will attend the Memorial to Law Enforcement Officers in Indian Country will be held at the Federal Law Enforcement Training Center (FLETC) in Artesia, NM. This memorial will be held on May 6, 2009.

Indian Police Academy (IPA) Graduation – The BIA Director will attend the graduation of the upcoming IPA class on May 7, 2009, at the Federal Law Enforcement Training Center in Artesia, NM. This 16-week Integrated Basic Police Training Program, designed for BIA and tribal law enforcement officers, provides instruction on Ethics and Conduct, Stress, Conflict Management, Narcotics, Collection and Preservation of Evidence, Officer Safety and Survival, Criminalistics, Civil Rights, Search and Seizure, Detention and Arrest, Indian County Law, and BIA specialized training. Other basic law enforcement subjects include Driver, Firearms and Physical Training Programs.

BIA-NBC Training on Indirect Cost Rates – The BIA Division of Self-Determination and the National Business Center (NBC) will hold training to Negotiate Indirect Cost Rates for Contract Support, May 13 – 14, 2009, at the National Indian Programs Training Center in Albuquerque, NM. This training will be the first of three trainings as a result of the Ramah Indirect Costs Class Action law suit.

Self-determination contracts are the primary means by which the federal government fulfills its treaty and trust obligations to Indian tribes. Half of the operational control of the Indian Affairs programs are contracted out to Indian tribes or designated organizations. However, persistent shortfalls in the payment of required contract support costs (CSC) have prevented the Tribes from realizing the full promise of self-determination.

In 1990, the Ramah Navajo Chapter in New Mexico filed a class action to recover unpaid CSC. The Tribe relied on a 1988 amendment to Pub. L. 93-638 which required that the Secretary add to all 638 contracts full funding amounts of program operation. In later years, Ramah (and others) won a summary judgment. A partial settlement agreement between the class and the Department required the Department (NBC) provide adequate CSC training with focus on establishing special indirect cost rates in the calculation of CSC.

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 17, 2009

Reporting this period:

Week ahead activities: April 20 – 24, 2009

- The OS, Chief Information Officer, Sanjeev “Sonny” Bhagowalia and the Deputy Chief Information Office, Jerry Williams, will attend the Interagency Resources Management Conference (IRMCO), 2009 Conference, sponsored by GSA, April 19 – 22, 2009, Cambridge, MD. The conference will focus on transformation leadership and serve as an opportunity for our leadership to hear about the new administration’s plans and priorities.
- The OS, Chief Information Officer, Sanjeev “Sonny” Bhagowalia will serve as a guest panelist at the Armed Forces Communication and Electronics Association (AFCEA), Bethesda, MD on Thursday, April 23, 2009. Focus of meeting is on OMB’s new Open Government.

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
PREVIOUSLY REPORTED – UPDATES IN BOLD					
Information Technology White House Data.Gov Initiative	DOI OCIO is continuing to support this initiative with scarce resources. Cannot continue supporting this effort without additional funding beyond May 22, 2009. Resource shortages have been identified to the OMB.	DOI OCIO is continuing to co-chair this initiative. The effort is on schedule and Version 1.0 is expected be live May 21, 2009 and will be announced by the White House. There are five DOI resources currently involved.	May 22, 2009	OMB	White House

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 17, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Challenges	Interior has consistently faced continued Information Technology (IT) challenges and negative feedback from the Inspector General, General Accountability Office, Congress and the Government Reform Committee. Additionally, the DOI Office of Inspector General (OIG) issued a report ISD-EV-OSS-0017-2008 dated May, 2008, entitled "Compilation of IT Challenges at DOI - A blueprint for Change" which was shared with the New CIO in December 2008, the Transition Team and the New Secretary in January, 2009. The report was released by the OIG to all Bureau/Office CIOs in March 2009 (at the Department CIO's request). The OIG report makes several recommendations for improvements in IT in the DOI.	The OS, CIO, Bureau and Office CIOs met on Thursday, April 15, 2009, to continue addressing specific initiatives on how to move IT forward and ways to improve IT and IRM for the DOI.	Tentative date: May 4, 2009 - Follow-up briefing to the Secretary	Secretary, David Hayes, Laura Davis, Pam Haze, Department CIO, Office and Bureau CIOs	Secretary

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 17, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Radio Interoperability	DOI Fire, Law Enforcement and Emergency Management personnel lack the ability to reliably communicate with other Federal, State, Tribal and local organizations due to inadequate Radio Interoperability between separate systems. . Radio Interoperability Memorandums of Understanding (MOUs) between the Federal Government and State allow Federal, State, Tribal and Local first responders (responsible for supporting Fire, Law Enforcement and Emergency Management) to interoperate better thereby improving public safety.	An updated Radio Blueprint and a Unified PMO are required to better integrate diverse efforts in DOI. Recently awarded a \$1.2M contract to a small tribal 8a contractor called Tribalco. Contract designed to regionalize our Southwest border radio infrastructure in an effort to provide a holistic interoperable communication system.	December, 2009	OCIO	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 17, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Freedom Of Information Act (FOIA)	On April 8, 2009, the DOI FOIA Officer briefed the Bureau/Office FOIA Officers on the President and Attorney General's new FOIA policy. Consistent with his responsibilities under the FOIA, the CIO/Chief FOIA Officer addressed the group, emphasizing the importance of "openness" in Government, being proactive in making discretionary disclosures and more information available on-line, reducing backlogs, and using technology to make the process more efficient. He also recognized the important role that the FOIA Officers play, but stressed that all employees are responsible for FOIA. The DOI CIO has been delegated authority by the Secretary to handle all FOIA matters for the DOI.	The DOI OCIO FOIA Office will prepare a memo for the Secretary's signature to be sent to all employees on the Administration's new FOIA policy requiring awareness and compliance with openness in Government and the changed direction from the previous administration. Memorandum in progress.	June, 2009	Secretary	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 17, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Enterprise Services Network (ESN)	The DOI Enterprise Services Network (ESN) serving 2,400 offices is based on services provided through the General Services Administration (GSA) Federal Telecommunications Service (FTS)-2001 contract which expires in June 2010. This contract is being replaced with the GSA-Networx contract. Federal Agencies are required to transition all service procured from the contract to the GSA Networx contract by June 2010. DOI is in process of converting services to the new contract but lost six months due to a different approach mandated by previous management, which resulted in an unaffordable and unresponsive solution.	The DOI is on track for completing the 2010 transition. The Secretary could be asked about DOI's progress in this area.	Complete transition of the data network by June 2010, with Acquisition started in 3 rd Quarter, Fiscal Year 2009.	OCIO	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 17, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Government Accountability Office (GAO) Audit of High Risk DOI IT Projects	GAO initiated an informal inquiry to Federal Agencies regarding Agency Processes for Managing IT Projects on OMB's Management Watch List and High Risk List, particularly with respect to the role played by the department/agency executive level investment review board (IRB) in these processes. DOI has 12 projects on the high risk list. GAO chose a specific DOI project on the OMB high risk list (MMS OCS Connect) and wanted to study how OCIO was managing Governance of high-risk projects to successful completion and migration to common enterprise solutions.	The new OCIO is institutionalizing new Program Management Best Practices to help programs be successful. OCIO helped OCS connect comply with PM standards and processes and is working with MMS to ensure that they continue to follow enterprise practices. The OCIO developed response to the GAO assessment of the DOI executive-level investment review board (IRB), and specifically their assessment of MMS OCS Connect project. As a result, GAO provided a positive assessment for DOI.	GAO report expected to be released 3 rd Quarter, Fiscal Year 2009	GAO	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 17, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Capital Planning and Investment Process	The OCIO is currently conducting Fiscal Year (FY) 2010 Updates of Bureaus and Offices Business Cases (OMB Exhibit 300s) and DOI's IT Portfolio (OMB Exhibit 53) with limited resources – requiring detailees from bureaus. Good Business cases, scores and an accurate IT Portfolio are critical to success in obtaining needed funding approval and support from OMB for IT initiatives at the DOI and Bureaus/Offices. OMB submits their recommendations to Congress	The OCIO Portfolio Management Division is continuing efforts in close coordination with POB to ensure the Department's timely response to all OMB taskers. The April 10 response was submitted.	Revised 2010 Exhibit 53 and 300s due to OMB April 10, 2009. Other milestones will follow within next five months to prepare for FY2011 submission to OMB in September, 2009.	OMB	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 17, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Privacy Act Compliance	Due to insufficient resources or priority, DOI can not adequately protect privacy-related information or detect privacy data breaches. DOI needs dedicated privacy resources and personnel to fully comply with Privacy Laws. Upon completing a limited monitoring of DOI data traffic, OCIO has determined that DOI has hundreds of privacy-related violations occurring every day. Many of these violations can be prevented with proper tools and resources. The Secretary has delegated this Privacy Act compliance to the CIO and Government Officials are held personally liable for violations.	Continued discussions on resource issues. All of these programs carry civil and criminal penalties for non-compliance. Privacy data losses in other federal agencies have resulted in civil penalties, negative publicity and senior leadership changes. A budget request has been submitted for FY09-11.	Immediate (FY2009)	Secretary	Secretary/OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
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Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 17, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Security Virus Attack "Conficker"	The DOI is working with various groups, including DHS, US Computer Emergency Readiness Team (US CERT) and Interior's Bureaus and Offices, to monitor the network for signs of the Conficker virus activity that started April 1, 2009. Several incidents of potentially infected computes have been reported. The DHS US CERT response team will analyze those affected and contain until further notice.	The total number of hosts reported as potentially being infected by the Conficker virus (as a result of the use of the US-CERT provided Conficker Detection Tool and/or existing antivirus solutions to date) concluded minimum impact to the DOI computer desktop environment. Continuous monitoring is on-going.	On-going	OCIO	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

FISH AND WILDLIFE SERVICE April 26, 2009 – May 17, 2009

SCHEDULES AND ACTIVITIES

FWS Acting Director Rowan Gould

- **FWS Fisheries Meeting – April 28-30, Minneapolis, MN**

WEEK AHEAD

New: USFWS - American Rivers lists Beaver Creek with Yukon Flats National Wildlife Refuge, Alaska, as the 8th most endangered river in America (AK-Rep. Young; Senators Begich and Murkowski): FWS reports that American Rivers identified Beaver Creek within the Yukon Flats National Wildlife Refuge as the 8th most endangered river in America. The organization annually publishes a report of rivers they term most endangered in America. They listed Beaver Creek because of concerns about the proposed land exchange between the Service and Doyon, Ltd., an Alaska Regional Native Corporation. The proposed equal value land exchange involves 110,000 acres of Refuge lands that may hold developable oil and gas reserves and oil and gas rights to an adjacent 97,000 acres of Refuge lands. In exchange, the Refuge would receive a minimum of 150,000 acres of Doyon lands and Doyon would reallocate 56,500 acres of Alaska Native Claims Settlement Act land entitlements within the Refuge to lands outside the refuge. A draft environmental impact statement was released for public review in January 2008. Appraised values are needed to complete the final environmental impact statement. The Appraisal Services Directorate found the contractor-prepared appraisal not acceptable and is awaiting further direction from the agency.

New: FWS – Agreement on the Conservation of Albatrosses and Petrels (ACAP). ACAP is a multilateral agreement to improve seabird conservation that was developed under the auspices of the Convention on the Conservation of Migratory Species of Wild Animals (CMS). The U.S. currently participates in the ACAP as a non-voting Range State. Although the U.S. is not a Party to the CMS, it is actively considering accession to ACAP. There is a Meeting of the Parties (MoP3) that will be held from April 27- May 1. During this meeting, a resolution will be considered to add three North Pacific albatrosses; the Short-tailed Albatross, Laysan Albatross, and Black-footed Albatross to Annex 1 of the Agreement. Currently, the Agreement applies mainly to Southern Hemisphere species and the U.S. supports the addition of these three species. If added to the agreement, these species would benefit from enhanced cooperation towards the reduction of albatross bycatch mortality, especially with regards to ACAP's interactions with Regional Fisheries Management Organizations (RFMOs). ACAP works with RFMOs to adopt seabird bycatch reduction measures in international fisheries, which aids seabird conservation and helps U.S. fishers in American waters who already comply with strict seabird bycatch reduction rules.

New: USFWS - Multinational Species Conservation Funds (N/A) - Under the Rhinoceros and Tiger Conservation Fund (CF), FWS intends to award nine grants in the amount of \$444,803 with matching resources from partners totaling \$339,146. These

funds will assist with conservation of tigers in Russia, India, Indonesia, Lao PDR, Vietnam, and Cambodia. The estimated award date is April 27, 2009. Additionally, under the Great Ape CF, FWS intends to award three grants in the amount of \$205,759 with matching resources from partners totaling \$622,384. These funds will assist with conservation of chimpanzees and eastern gorillas in Guinea, Rwanda, and DRC. The estimated award date is April 27, 2009; and under the Asian Elephant CF, FWS intends to award ten grants in the amount of \$493,778 with matching resources from partners totaling \$531,161. These funds will be used for Asian elephants in Burma, Cambodia, India, Indonesia, Malaysia, Nepal, and Sri Lanka. The estimated award date is April 27, 2009.

New: Revised Final Designation of Critical Habitat for the Wintering Population of the Piping Plover in Texas: During the comment period, the Texas General Land Office expressed concern with our method for mapping low water boundaries for some critical habitat units and for increasing the acreage we are designating. They are likely to view this rule negatively. The Center for Biological Diversity provided comments and articles regarding sea level rise due to climate change, and they requested we designate unoccupied land inland to accommodate future habitat shifts. Our response was that current data are insufficient for us to know what inland areas to designate. The final rule is due to the Federal register on May 8, 2009.

Update: 12-Month Finding on Petition to List the Coaster Brook Trout as Endangered: FWS is preparing a 12-month finding on a petition to list the coaster brook trout as endangered. On March 1, 2006, the Service received a petition from the Sierra Club Mackinac Chapter and the Huron Mountain Club asking the Service to list the coaster brook trout as endangered and to designate critical habitat. Additional information was received on May 25, 2006. The Service announced in 2008 that it would study coaster populations to determine whether they should be listed as endangered. Under a court settlement with petitioners, FWS was required to submit its finding to the Federal Register by April 15, 2009. On April 15, 2009, DOJ submitted an unopposed motion to the Court for a 30-day extension. If granted, the finding will be due May 12, 2009.

ON THE HORIZON

New: Mono Basin Area Population of Greater Sage-grouse (CA/NV): 12-month finding. FWS plans to seek an extension of the April 24, 2009, court-approved deadline for its 12-month finding on the petition to list the Mono Basin area population of sage grouse. In December, 2006, FWS published a 90-day "not substantial" finding on two petitions to list the Mono Basin area population of the greater sage-grouse. The decision was challenged by a group of petitioners, including the Center for Biological Diversity, Sagebrush Sea Campaign, Western Watersheds Project, and Desert Survivors. Through a February 28, 2008, settlement agreement, the Service agreed to undertake a voluntary remand of the 2006 petition finding, make a new 90-day finding by April 25, 2008, and if appropriate to submit a 12-month finding to the *Federal Register* by April 24, 2009. FWS is currently conducting a rangewide status review of the entire sage grouse species,

and intends to address questions regarding the taxonomy and status of the Mono Basin area population within that rangewide status review, which addresses a remand of a 2005 12-month finding by a different court. DOI recently sent the Department of Justice a request to contact plaintiffs in both cases to seek coordinated renegotiation of the settlements so that the dates for both findings (Mono Basin and rangewide) can be the same. This will require an extension of the April 24, 2009, due date for the 12-month finding.

Update: FWS - Consultation at Ft. Benning (GA-2: Bishop; GA-3: Westmoreland; Sens. Chambliss and Isakson): Georgia Ecological Services Field Office staff are incorporating edits to the draft biological opinion for the Ft. Benning, Georgia Maneuver Center of Excellence based on additional input from the Solicitor's Office. FWS' Southeast Regional Office also is reviewing it. The Army is anxious to receive the draft Biological Opinion and is expected to need a week for review and comment. The draft may go to the Army this week, depending on the scope of additional Regional Office review.

Update: FWS - Eureka Valley Dunes Plants Proposed Delisting Rule (CA-Feinstein, Boxer; 25-McKeon): FWS is preparing a rule to propose the removal of the Eureka Valley evening primrose and Eureka Valley dunegrass from the list of Threatened and Endangered species. The FWS recommended delisting the two plants in a five-year review published in 2008. The plants occur in dune areas that are protected by Death Valley National Park. The rule had been projected to go to the Federal Register by mid-April 2009 but is now projected to be published at the end of May or early June.

Update: American pika (NM, UT, CO, WY, MT, ID, WA, OR, NV, CA; AB, BC): 90-day finding. FWS is preparing a 90-day finding on a petition to list the American pika (*Ochotona princeps*) as threatened or endangered. This small mammal inhabits talus fields fringed by suitable vegetation in alpine or subalpine habitats found from the Sierra Nevada of California and Rocky Mountains of New Mexico north to central Alberta and British Columbia, Canada. Among the principal threats reviewed in the petition is climate change. The petition requests that we review all 36 subspecies of the pika, including those in Canada (Alberta and British Columbia). As per the settlement agreement, we plan to deliver the finding to the *Federal Register* by May 1, 2009.

Update: FWS – 90-day Finding for Tehachapi slender salamander (CA-Feinstein, Boxer; CDs 22 & 25): FWS is preparing a positive 90-day finding for the Tehachapi slender salamander. The finding is projected to be published in the Federal Register in mid-May. The Tehachapi slender salamander occurs in Kern County in the Tehachapi mountain range and in a canyon in the southern foothills of the Sierra Nevada mountain range. The Tehachapi slender salamander is listed as threatened by the state of California.

Update: FWS - 12-Month Finding on Petition to List the Amargosa River population of the Mojave fringe-toed lizard (CA- Feinstein, Boxer; CD 25): FWS will publish a 12-month negative finding on a petition to list the Amargosa River population of the Mojave fringe-toed lizard in San Bernardino County in late April or early May. The Mojave fringe-toed lizard species is native to southern California deserts and a small area

of western Arizona. It is widespread geographically across this region in Inyo, San Bernardino, Los Angeles, and Riverside counties. In Arizona, the species occurs in La Paz County. A petition was submitted to the FWS from the Center for Biological Diversity and a private citizen in April 2006.



UNITED STATES
DEPARTMENT OF THE INTERIOR

April 17, 2009

Memorandum

To: Laura Davis, Associate Deputy Secretary
Kat Pustay, Special Assistant

From: Pamela Haze, Acting AS-PMB

Subject: April 20, 2009, Staff Meeting - Policy and Other Issues

This provides major policy and other issues that fall under the purview of the Assistant Secretary - PMB. Note that the Chief Information Officer reports separately.

American Recovery and Reinvestment Act Status:

- USGS and BOR have been approved and transmitted to the Congress.
- BLM, FWS, NPS, BIA, FWS, and Fire are currently under review at OMB.
- We expect NPS release on Earth Day April 22, with BIA, FWS, BLM and Fire to follow the end of the week/early next week.
- Chris Henderson and Tom Strickland met with the Department of Education on the allocation of funding to Insular Areas from the Education Stabilization Fund.
- We held a town hall on Wednesday to go over policies and procedures that we are issuing on acquisition, single audit act, and financial assistance.

2010 Budget:

- We are in a fast-paced budget presentation mode getting ready for budget release on May 5 including the press conference.

Upcoming Events:

- The Secretary will be at the May 5 press conference on the 2010 budget, the May 6 convocation/awards ceremony, and the May 7 Partnerships in Conservation event.
- Currently the Secretary's award ceremony is scheduled for May 5 - we will likely have to move that to accommodate the budget release.

Reform/Cost Cutting:

- The Secretary will attend a cabinet meeting where there will be discussion about reforms including elimination of unnecessary programs and cost cutting.
- We have been working with polity offices to summarize the actions we've taken and are planned. We will be going out to the bureaus soon on this.

Earmarks:

- The House has sent us an exercise to answer a set of questions on earmarks requested by members. OMB is aware of this drill and expects us to clear it through them and submit it timely. DOI had over 500 earmarks to evaluate.

House Hearing on Law Enforcement:

- The House appropriations committee is holding a hearing on BIA law enforcement on Wednesday, April 22. George Skibine and Jerry Gidner are testifying after a panel that includes Amnesty International and NCAI.

Other Significant Issues: See attached list

Conferences/Meetings: See attached list.

Current Policy, Management and Budget Requests for Secretarial Involvement – Summary Table

Date	Location	Event	Recommended DOI Participant	Requester/Office
April 17 and April 18	Tutuila, American Samoa	Invitation to the Secretary to be keynote speaker at American Samoa Flag Day. In a March 10 letter to the Secretary from American Samoa Governor Togiola Tulafono, the Secretary was invited to be keynote speaker at Flag Day.	Secretary's designee	AS-PMB
April 28	MIB	Homeland Security Council "Tabletop" Exercises: Principal-level exercises	Secretary, Associate Deputy Secretary, AS-PMB or DAS-OLESEM	AS-PMB
May 5	MIB	FY 2010 Budget Press Conference – date not yet finalized by OMB	Secretary not confirmed due to the awards ceremony	AS-PMB
May 5	MIB	SES Awards Ceremony: Annual ceremony to honor SES, SL, and ST employees who received the Presidential Rank Awards and Secretary's Leadership Awards	Secretary - confirmed	AS-PMB
May 7 10 am	MIB - Yates	Partners in Conservation Awards Program	Secretary - confirmed	AS-PMB
May 12-13	DC	National Geospatial Advisory Committee Meeting. A request for Secretary to provide remarks at this meeting will be submitted in the next few weeks	Secretary	AS-PMB
May 13 - 15	DC	National Police Week 2009: Annual event to include the 21st Annual Candlelight Vigil held at the Police Memorial, Interior's Annual Wreath Laying Ceremony in the MIB auditorium, and the 28th Annual National Peace Officer's Memorial Day Service on the west front lawn of the Capitol.	Secretary	AS-PMB

Date	Location	Event	Recommended DOI Participant	Requester/Office
Spring 2009		The Wildland Fire Leadership Council (WFLC) was established in April 2002 by the Secretaries of Agriculture and the Interior to provide an intergovernmental committee to support the implementation and coordination of Federal Fire Management Policy. The Council meets regularly to provide oversight and coordination of the National Fire Plan and the Federal Wildland Fire Management Policy.	Assistant Secretaries for Policy, Management and Budget, Land and Minerals, Fish Wildlife and Parks, Bureau Directors	AS-PMB
Fall 2009 or later	Mexico TBD	U.S. Mexico Joint Cabinet Meeting (Bi-National Commission): Previously DOI Secretary and Mexico counterpart and delegations met as the "Natural Resources Working Group" for 1.5-2 hours, then Secretaries would participate in plenary luncheon of all Cabinet members. A new format for next meeting is being developed by State Dept and Mexico, and date for meeting has not been set.	Secretary	AS-PMB
TBD	MIB	The National Geospatial Advisory Committee (NGAC) was formed as an advisory committee to the Secretary on geospatial issues. The current chair of NGAC is requesting a courtesy meeting with the Secretary.	Secretary and senior officials	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
HEARINGS WITH APPROPRIATIONS					
House Interior Appropriations Hearing	BIA Law Enforcement Issues in Indian Country	Preparing testimony	April 22, 2009	AS-IA BIA Director	AS-PMB
House Interior Appropriations Hearing	USGS 2010 Budget Request	Preparing testimony	May 5, 2009	USGS Director	AS-PMB
Senate Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	May 6, 2009	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	May 13, 2009	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	NPS 2010 Budget Request	Preparing testimony	May 14, 2009	NPS Director	AS-PMB
House Interior Appropriations Hearing	FWS 2010 Budget Request	Preparing testimony	May 14, 2009	FWS Director	AS-PMB
RULES AND REGULATIONS					
American Indian Probate Reform Act (AIPRA) Rule	Interim final rule being issued to update procedures for Indian probate cases to reflect AIPRA amendments enacted in December 2008.	The rule should be ready for senior-level review. No OMB review needed.		Chief of Staff	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Hydropower Licensing Procedures Rule	Joint final rule being issued by the Departments of the Interior, Commerce, and Agriculture to revise procedures for trial-type hearings related to conditions and prescriptions for hydropower licenses and for the submission of alternative condition and prescriptions.	Rule signed by the three Departments, submitted to OMB, but not cleared for publication. No problems identified. Publication would facilitate the hydropower licensing process.	Rule should be re-submitted to OMB sooner rather than later; but it first has to be cleared by the three Departments, and Commerce does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB
Indian Self-Determination Act (ISDA) Rule	Joint final rule being issued by the Departments of the Interior and Health and Human Services to update procedures for ISDA appeals.	The joint final rule has been worked out at the staff level and is ready for senior-level review. (It does not require OMB review.)	Publication of the rule would facilitate the ISDA appeals process for the two Departments, and it should be cleared sooner rather than later; but HHS does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB
OTHER SIGNIFICANT ISSUES					

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Meeting with the Department of Education on Education's ARRA funding for Insular areas	The Act directs the Secretary of Education to consult with the Secretary of the Interior on the allocation of the funds for education activities. Process and procedures are needed for the allocation of the DOE's State Fiscal Stabilization Fund and other Education Programs for the US territories.	DOI's Chief of Staff and Acting Deputy Assistant Secretary for Insular Affairs have had preliminary discussions with Education. The four territorial governors have requested funding.	Meeting is set for April 17, 2009	COS, OIA, and DOI's Recovery Coordinator	AS-PMB
Interior Contact for Environmental Issues for Customs and Border Protection	We have received a request from CBP for an Interior contact for the Acting Commissioner concerning environmental coordination issues associated with border security.	Commissioner may feel compelled to contact DOI counterpart to discuss progress on the current project located on Organ Pipe Cactus National Monument, Cabeza Prieta National Wildlife Refuge, and adjacent public land administered by the Bureau of Land Management.	In the near future	AS-FWP	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
International Year of Forests	Interior has been invited by the U.S. Forest Service to collaborate on opportunities for celebrating the United Nations-designated International Year of Forests in 2011.	The first meeting was March 31.	Next steps are to engage other partners and interested stakeholders.	PMB, OE-IA, USGS, NPS, OSM, BLM, BIA, FWS	AS/PMB
Environmental Assessment for the Hawaiian Home Lands Maili Land Exchange	The Secretary is required to approve land exchanges involving Hawaiian Home Lands. The Maili land exchange is subject to NEPA.	Upon DOI approval of the EA, we provide a 30 day notice to interested parties by posting the document on the Department of Hawaiian Home Lands website. Once the EA has been noticed, the Acting Deputy Assistant Secretary of Policy and Program Management, will sign the FONSI.	EA must be noticed and signed prior to exchange of properties. Once the land exchange packet is received, DOI will have 90 days to review and render a decision.	Director, Office of Hawaiian Relations	AS-PMB

4/17/2009

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Designation of Departmental representative on interagency sub-Cabinet level Trade Policy Review Group (TPRG)	The US Trade Representative (confirmed by the Senate on March 18) is expected to ask the Secretary to designate a Deputy Secretary or Assistant Secretary-level representative to the TPRG. TPRG is a FACA-chartered committee.	USTR communication was expected by the end of March.		Secretary, AS-PMB, DAS-Policy and Program Management; Director, Office of Policy Analysis	AS-PMB
Update of the Department-wide Strategic Plan is due for FY 2010	Secretarial strategic priorities and decisions needed to launch the plan revision process that includes Congressional consultation; public, Federal and Tribal comments; public meetings; and internal analysis and vetting of proposed revisions prior to formal publication and transmittal to Congress and OMB.	Ready for briefing Acting Assistant Secretary – PMB and Associate Deputy Secretary	Briefing to be scheduled.	AS-PMB	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
U.S. - Palau Review of Compact of Free Association	Palau and the U.S., as represented by Defense, State and DOI (lead), have been in bilateral discussions on the financial provisions of the Compact with Palau since early 2008. The State Department submitted Circular 175 to OMB requesting permission to 1) extend the current Compact with Palau by a year to allow funding to continue at current levels and give time for bilateral negotiations to begin formally; and 2) request parameters within which the State Department (partnering with DOI and other federal agencies) may negotiate on behalf of the U.S. Government.	Anything negotiated with Palau will still have to pass the U.S. Congress.	Financial provisions of the Compact of Free Association relationship between the U.S. and Palau expire on September 2009.	Secretary	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Second Triennial Report to Congress on the Federal Lands Recreation Enhancement Act (REA)	REA calls for a triennial report to Congress by May 1. The Secretary of Agriculture is expected to sign the transmittal letter – we are preparing the letter for signature by Secretary Salazar.	A draft report is currently circulating for surname.	Report due to Congress on May 1, 2009	Assistant Secretaries, bureau directors	AS-PMB
2008 Federal Human Capital (HC) Survey Results, HC Strategic Plan	The Departmental results from the government-wide 2008 FHCS administered by the Office of Personnel Management have been provided to agencies. Bureau/Office level results have also been received. . This is followed by a “Best Places to Work” ranking of Federal agencies based on the results of the 2008 FHCS.	Action plans to address the FHCS results need to be developed once the lower level results are received and analyzed.	Results for organizational units below the Bureau/Office level were received on March 20 and distributed to bureaus. The “Best Places to Work” ranking of Federal agencies based on the results of the 2008 FHCS is expected to be released May 19.	Associate Deputy Secretary	AS-PMB

4/17/2009

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Continuity of Operations (COOP) Programs	The Secretary and leadership staff needs to be briefed on existing procedures for executing the mission essential functions of the Department during national security emergencies and catastrophic disaster situations. Input is required regarding emergency planning issues.	OEM coordinating with Chief of Staff's office to schedule briefings for Secretary and incoming officials at earliest possible time. Other actions await designation by the Secretary of an Assistant Secretary-level official as Departmental Continuity Coordinator.	Brief Secretary and key officials on emergency plans. April: Designate Assistant Secretary-level continuity coordinator. April: Review DOI "primary mission essential functions" in preparation for the 2009 update of the DOI COOP Plan. April-May: Update continuity team rosters as new officials arrive. June : COOP exercise	Secretary and senior leadership	AS-PMB

Memorandum

To: Laura Daniel Davis
Principal Deputy Secretary

From: Arthur E. Gary
Acting Solicitor

Subject: Agenda Items for Monday, April 20, 2009 Senior Staff Meeting

New Mexico Legislative Delegation on Uranium Legacy

The New Mexico Uranium Mining and Tailings Task Force, made up of New Mexico state legislators, has requested a meeting with Departmental officials in early May to discuss the need for increased efforts by the federal government to address the cleanup of contaminated uranium mines and milling sites on federal lands within the State. The task force also expects to meet with the New Mexico members of Congress, the chairs of Senate and House committees with relevant jurisdiction, and representatives from several other federal agencies, including Acting Solicitor Arthur Gary, Acting-Assistant Secretaries Richard Cardinale and George Skibine, and Deputy Assistant Secretary Deanna A. Archuleta.

Kerr McGee Oil and Gas v. Interior (5th Cir.)

On April 14, 2009, the Fifth Circuit denied the government's Petition for Rehearing En Banc in this case involving the Secretary's authority to impose price thresholds on deep water royalty relief granted by Congress. The Fifth Circuit had previously ruled that the Secretary did not have such authority. The remaining options are for the Department to recommend that the Solicitor General file a cert. petition with the Supreme Court, or to allow the Fifth Circuit's decision to stand (resulting in up to a \$30 billion loss in royalties). The deadline for filing a cert. petition is July 13, and any recommendation from the Department to the Solicitor General's Office would need to be sent by May 29.

Center for Biological Diversity v. Interior (D.C. Cir.)

On April 17, 2009, the Court of Appeals for the D.C. Circuit issued a decision vacating Interior's 5-Year Offshore Leasing Program for 2007 to 2012. While the court's opinion is largely favorable to Interior on issues such as ripeness to challenge NEPA and the ESA compliance for OCS leasing, the court found that Interior's use of a NOAA assessment of the sensitivity of shorelines to oil spills could not be the sole basis for Interior's assessment of the environmental sensitivity of different areas of the outer Continental Shelf as required by section 18(a)(2)(G) of the OCS Lands Act. The court stated: "Interior provides no explanation for how the environmental sensitivity of coastal shoreline areas can serve as a substitute for the environmental sensitivity of OCS areas, when the coastline and proposed leasing areas are so distant from each other." Slip Op. at 34. We have not yet determined the impact of this decision on scheduled OCS lease sales. The decision is also notable for its treatment of standing and ripeness to challenge agency action on the basis of climate change considerations.

Palmyra Pacific Seafoods, LLC, et al. v. United States (Fed Cir.)

On April 9 2009, the Federal Circuit held that there was no taking of plaintiffs' property interests when the Secretary of the Interior designated tidal lands, submerged lands, and waters out to twelve miles surrounding the Palmyra Atoll as a national wildlife refuge and closed those waters to commercial fishing. Plaintiffs held licenses from the former owners of Palmyra to establish commercial fishing operations there. According to the court, the "fact that the government's regulation of activities in the waters surrounding Palmyra may have adversely affected the value of their contract rights to engage in activities on shore is not sufficient to constitute a compensable taking." Op. at 7-8. Plaintiffs presented no evidence that the government interpreted its regulation prohibiting commercial fishing within boundaries of the refuge to bar plaintiffs from reaching their facilities.

People of Bikini/Ismael John v. United States (Fed. Cir)

This case involves a claim by people and descendants of the Bikini and Enewetak Atolls for compensation relating to their relocation from the Atolls and other damage stemming from nuclear bomb testing on the atolls during the 1940s and 1950s. The Federal Circuit issued an opinion on January 29, 2009, denying the claims on the basis that the Nuclear Claims Tribunal created in the Compact of Free Association Act of 1985 is the agreed-upon sole source of compensation for the Atoll's inhabitants. The court found that the parties clearly and unambiguously agreed to extinguish any judicial jurisdiction over the claims presented in these appeals. The Plaintiff-Appellants have now filed a Combined Petition for Panel Rehearing and Rehearing En Banc. The court has invited a response from the Government to the Petition, which will be due April 29, 2009.

Memorandum

To: Associate Deputy Secretary

From: Deputy Assistant Secretary Policy and Economic Development

Re: Indian Affairs' Weekly Update

FOCUS FOR WEEK OF APRIL 12, 2009

Cayuga Nation DEIS – Indian Affairs will follow up with a Draft Environmental Impact Statement (DEIS) for Cayuga Indian Nation's proposed fee-to-trust conveyance of property pending the Associate Deputy Secretary review. Although this DEIS was prematurely docketed for publication of its Notice of Availability and interested parties have received it; Indian Affairs has withdrawn the publication request. EPA, who plans to publish a withdrawal of the Notice of Availability in next Friday's Federal Register, is aware that it would be inappropriate to take public comment on the DEIS at this point, without final Interior approval, as the DEIS is still subject to change.

This DEIS examines the Tribe's proposal to acquire 125± acres within reservation boundaries established by Congress pursuant to a 1794 treaty. The State cannot extinguish the reservation boundaries under the Non-Intercourse Act, but had bought land within the boundaries and asserted jurisdiction over the land. The Tribe bought the land back and now seeks to take it into trust, so that the Tribe can assert jurisdiction.

While, in practice, the Tribe has not had a reservation, legally, the Tribe does have a reservation because the boundaries were never extinguished by Congress. As such, BIA is bound to process this application as an on-reservation acquisition. Ultimately, gaming may occur on this land. Because, in practice, the State has exercised its jurisdiction for many years, the State, Senator Schumer, and the community oppose taking this land into trust.

Preparation for House Appropriations Hearing - The House Appropriations Interior Subcommittee is having a hearing April 22, 2009, on law enforcement issues in Indian Country. George Skibine, Congressional Affairs for Indian Affairs, and BIA representatives from the Office of Justice Services will be meeting with Subcommittee staff to prepare for the meeting. The Subcommittee has requested the final testimony by April 15, 2009.

INDIAN AFFAIRS

Ute Indian Tribe Meeting – Indian Affairs and the Office of the Solicitor will be meeting with the Ute Indian Tribe's Business Council to discuss the Tribe's request for a Solicitor's opinion. The Tribe would like a Solicitor's Office opinion on the validity of a financial agreement between the Tribe and a financial planner. The Tribe has filed a federal court action to defend its interpretation of the agreement. The Tribe would like a DOI opinion it may submit to the court on the potential validity of the agreement in light of Indian Reorganization Act protections. The Tribe is concerned in part, with the financial planners interpretation of the agreement to allow for him to claim certain property interests in the Tribe's assets.

Update on Congressional Hearings on Carcieri – The House Natural Resources Committee held an April 1, 2009, hearing on the Indian Reorganization Act and the Carcieri decision. Chairman Dorgan stated at a Senate Committee on Indian Affairs' April 2, 2009, hearing on non-Carcieri matters, that he planned to have a Committee hearing on Carcieri in the future.

477 Case Management Training – The Case Management Training Curriculum developed by the University of New Mexico in partnership with the Pub. L. 102-477 Tribal Work Group of the Indian Affairs' Indian Energy and Economic Development (IEED) Office has been finalized. The four week training program will be initiated at the National Indian Program Training Center in Albuquerque, NM. The first pilot course is scheduled as follows: May 4-8, May 18-22, June 8-12 and June 22-26.

Students including tribal case managers, BIA social workers, and others completing the full course will receive 4 college credits. IEED staff believes this pilot program and subsequent student evaluation will create a more concentrated effort towards preparing welfare clients for work, basic education, self-sufficiency plans, training, on-the-job training and job placements with careers.

Participation in Senator Reid's Event on the Recovery Act – Senator Reid will hold an April 16, 2009, public event on the Recovery Act's implementation. The event will take place in Las Vegas, NV. The Senator's office approximates 1000 people will attend to hear presentations from 25 agencies. Indian Affairs has committed tentatively to send a representative to participate in a break out session on public works and infrastructure opportunities under the Act. Program staff from the Departments of Transportation and Housing and Urban Development will present, too, at the breakout session.

Technical Assistance for Wind Turbine at Rosebud Tribe – Indian Affairs' Indian Energy and Economic Development (IEED) staff is assisting the Rosebud Tribe with a turbine engineer's analysis of the Tribe's wind turbine, which has been idle for some time. The inspection should determine the extent of existing problems and the necessary

repair work required to get the wind turbine to a working condition. To date, the turbine has not performed to the manufacturer's specifications and performance levels.

Request to Reprogram Funding for Navajo Irrigation Project – Indian Affairs declined a request from the Navajo Agriculture Products Industry (NAPI) for the Department to request that Congress reprogram funding for construction on the Navajo Indian Irrigation Project (NIIP) to fund rehabilitation for agricultural projects. NAPI relies on a House Committee report that contemplated whether construction funds would be used for rehabilitation activities on certain NAPI lands. The NAPI representatives met with the Assistant Secretary's office and requested that George Skibine reconsider the decision and make a request for construction funds to be used for rehabilitation purposes.

National Indian Gaming Association Request to Secretary – The National Indian Gaming Association (NIGA) raised concerns with National Indian Gaming Commission (NIGC) in a letter to the Secretary. Indian Affairs has drafted a proposed response to address the matters NIGA raised. NIGA's concerns include: proposed NIGC regulations published for comment in December 2008; the NIGC staffing and failure to implement an Indian-preference policy; the appointment of the NIGC Commission; NIGC's interpretation of consultation policies; and the independent nature of the NIGC under the Indian Gaming Regulatory Act.

BUREAU OF INDIAN EDUCATION

Annual National Indian Education Partnership Conference – Members of BIE's Senior Management Team will be participating in the 2nd Annual Partners for Indian Education Conference on April 17-19, 2009, in Norman, OK. The conference themes focus on K-12 education, community wellness and higher education issues. The conference is sponsored by the Department of Education's Office of Indian Education.

Presentation to Schools on BIE Project – On April 15, 2009, BIE will hold a summit in Rapid City for the North and South Dakota Tribes. BIE will present its Systems of Support for BIE schools, share data from the BIE's existing Navajo project, and introduce the opportunity for North and South Dakota schools who wish to bring the project to their schools. The Navajo project was a BIE decision to provide K-3 intensive reading. There are 29 Navajo schools who participated in this current school year and additional Navajo schools may join during the coming school year. A similar meeting to the Rapid City meeting will take place in Albuquerque, NM the week of April 20, 2009. The Albuquerque meeting will target all BIE and tribal schools and discuss what the System of Support project's intent is and reiterate the BIE school's ability to participate in the projects.

BIE Schools AYP - Annual reports of BIE and tribal/grant schools for the 2007-2008 school year continue to be received and processed by the Albuquerque Service Center. At the present time, 169 schools have reported, with 42 schools having achieved AYP for the 2007-2008 school year.

Choctaw Nation Request on behalf of Jones Academy – The Choctaw Nation has requested Congress to waive the September 1, 1996, Congressionally-mandated moratorium on funding additional BIE schools. Currently, Jones Academy is a tribally-operated dormitory for students in grades 1-12, and does not provide an academic program. Students who reside in the dorm attend the Hartshorne School District, a local public school. However, the Choctaw Nation has begun operating a tribally-funded school at Jones Academy, serving grades 1-6, and the Nation wants this school to become eligible for Indian School Equalization Program (ISEP) funding.

The House Appropriations Committee has requested input from BIE. The BIE has provided information on the budgetary impact of adding Jones Academy as an ISEP eligible institution, and we have stated that the school would also have to work with the BIA Office of Facilities Management and Construction to meet construction requirements and safety standards. Jones Academy reported a residential count of 77 students during the 2007-2008 school year and, if those figures were to remain constant, that would generate approximately \$275,000 under the current ISEP funding formula.

BUREAU OF INDIAN AFFAIRS

Desert Rock Energy Project and Navajo Transmission Project Review – The BIA and Solicitor's office are continuing to collaborate on issues related to recent IBLA and IBIA actions impacting the Navajo Transmission Project and the Desert Rock Energy Project. The Navajo Transmission Project is a proposed 500 kilovolt (kV) electric transmission line running from northwestern New Mexico to a terminus in Southern Nevada. At the request of the BLM and BIA, the IBLA and IBIA set aside and remanded to the BIA and BLM the NTP Record of Decisions. Issues on remand include the question of whether the NEPA analysis contained stale information and whether the NTP and the Desert Rock Project are connected actions under NEPA and should be combined in a single Environmental Impact Statement because of the projects' relationship to one another.

The Desert Rock Energy Project is a proposed 1500 megawatt (MW) coal-fired electrical generating plant located on the Navajo Reservation which will utilize Navajo coal located on existing mining operations. The proposed site is approximately thirty miles south of Farmington, NM, on the Navajo Reservation. The BIA is the lead agency for the development of the Desert Rock Project's Environmental Impact Statement.

The federal role in the Desert Rock Project consists of lease approval and grants of rights-of-way (BIA), the issuance of air and water permits (EPA, COE), and supervision of the mining operations (BLM, OSM).

Recovery Act Awarding Officials Training – The BIA Office of Indian Services will hold a meeting to provide an overview on the implementation of the American Recovery and Reinvestment Act (ARRA) for involved Level II Awarding Officials, regional Road Engineers, and regional Housing Officers, at the Midwest Regional Office in Minneapolis, Minnesota on April 22 – 23, 2009. The training will assist in the BIA's capacity to facilitate funding agreements and disbursements.

BIA Fee-to-Trust Handbook Forum – The BIA Office of Trust Services and the American Indian Law Center, an independent policy organization affiliated with the University of New Mexico, will hold the first of the BIA's annual forum (Forum) on its Fee-to-Trust Handbook. The Forum will take place on April 30, 2009, at a BIA training center in Albuquerque, NM. When the Handbook was released in the Fall of 2008, the BIA announced its plans to hold an annual forum that brought together federal and tribal practitioners to discuss their uses and implementation of the Handbook. The Forum will be an opportunity to discuss how tribal and BIA staff might seek ways to enhance the Handbook's use and impact. The current version of the Handbook addresses the business practices for the BIA's review of applications for on-reservation acquisitions and will expand in the future to describe business practices for off-reservation and mandatory acquisitions.

Final EIS on an Oil Refinery Proposal for North Dakota Tribes – BIA Region staff continue to work with EPA staff on a Final Environmental Impact Study for the Three Affiliated Tribes' proposed plan to build and operate an oil refinery on the Fort Berthold Reservation. The EPA will give a preliminary FEIS to the Tribes and cooperating agencies next week, and then hold consultation sessions with the tribes in late April. The FEIS will be published in late June 2009.

Two federal actions are involved with the Tribes' proposed project, both requiring an EIS to satisfy NEPA requirements. The EPA action involves issuance of permit(s) for operation of the proposed refinery. The Department of the Interior's action involves the Tribes' request to take the land into trust. The EPA and BIA have been working together for years as co-leads to complete a joint EIS. The Department of the Interior and EPA will issue separate Records of Decision (ROD) based on the findings. The Department has communicated with the Tribes and with the EPA during the Department's analysis of its fee-to-trust application. That communication has included the BIA and Indian Affairs' central office; because the Assistant Secretary-Indian Affairs assumed decision making authority from the BIA Region on this matter in April 2008.

Update on BIA Region Data Call for Carcieri – Indian Affairs, BIA and the Office of the Solicitor will meet on the week of April 12, 2009, to discuss a system for processing information provided as part of a data call related to Carcieri decision. The BIA Regional offices have provided assessments of land acquisitions made in the Regions. The BIA requested the assessment as part of a data call to gather information about the potential impact of the Carcieri decision on land acquisitions.

Decisions on land acquisitions in trust for parcels located within or contiguous to reservation boundaries are made typically by the BIA Regional Directors. As part of the BIA Regional Director's final decision, the Director specifies the specific authority for the Department to acquire the land in trust.

BIA-NBC Training on Indirect Cost Rates – The BIA Division of Self-Determination and the National Business Center (NBC) will hold training to Negotiate Indirect Cost Rates for Contract Support, May 13 – 14, 2009, at the National Indian Programs Training Center in Albuquerque, NM. This training will be the first of three trainings as a result of the Ramah Indirect Costs Class Action law suit.

Self-determination contracts are the primary means by which the federal government fulfills its treaty and trust obligations to Indian tribes. Half of the operational control of the Indian Affairs programs are contracted out to Indian tribes or designated organizations. However, persistent shortfalls in the payment of required contract support costs (CSC) have prevented the Tribes from realizing the full promise of self-determination.

In 1990, the Ramah Navajo Chapter in New Mexico filed a class action to recover unpaid CSC. The Tribe relied on a 1988 amendment to Pub. L. 93-638 which required that the Secretary add to all 638 contracts full funding amounts of program operation. In later years, Ramah (and others) won a summary judgment. A partial settlement agreement between the class and the Department required the Department (NBC) provide adequate CSC training with focus on establishing special indirect cost rates in the calculation of CSC.

Briefing: Cayuga Indian Nation –Draft EIS for Proposed Fee-to-Trust Conveyance of Property

April 10, 2009

Background:

The Federal Register Notice of Availability for the Draft Environmental Impact Statement (DEIS) for Cayuga Indian Nation's proposed fee-to-trust conveyance of property is currently pending Associate Deputy Secretary review.

The underlying DEIS examines the Tribe's proposal to acquire 125± acres within reservation boundaries established by Congress pursuant to a 1794 treaty. These boundaries were never extinguished, but the Cayuga Tribe traditionally lived with the Seneca Tribe. The State does not have the power to extinguish the reservation boundaries under the Non-Intercourse Act, but had bought land within the boundaries and asserted jurisdiction over the land. The Tribe bought the land back and now seeks to take it into trust, so that the Tribe can assert jurisdiction. While, in practice, the Tribe has not had a reservation, legally, the Tribe does have a reservation because the boundaries were never extinguished by Congress. As such, BIA is bound to process this application as an on-reservation acquisition.

Ultimately, gaming may occur on this land under the on-reservation exception to Section 20 of IGRA (25 USC 2719, as implemented by 25 CFR 292.4(a)).

There is no question that the land is on-reservation; the boundaries are not in dispute. However, because, in practice, the State has had jurisdiction all these years, the State, Senator Schumer, and the community oppose taking this land into trust.

Status

Due to an oversight, Indian Affairs submitted the signed Notice of Availability to the Federal Register in advance of the Associate Deputy Secretary's review. Upon realization of this error, Indian Affairs withdrew the document from publication. However, at that point, the BIA Eastern Oklahoma Region had already filed the DEIS with EPA and certified delivery to interested parties. EPA will publish a withdrawal of the Notice of Availability in next Friday's Federal Register. The withdrawal request to EPA stated:

BIA has withdrawn the DEIS to facilitate further review within the DOI, and not for any known material defect in the DEIS itself or the Tribal proposal. It is anticipated that the DEIS will be issued for public review at a later date and the public will be informed with a new NOA published in the Federal Register.

EPA is aware that it would be inappropriate to take public comment on the DEIS at this point, without final Interior approval, as the DEIS is still subject to change.

FISH AND WILDLIFE SERVICE and NATIONAL PARK SERVICE
THREE WEEK AHEAD REPORT April 12, 2009 – May 10, 2009

SCHEDULES AND ACTIVITIES

FWS Acting Director Rowan Gould

- **FWS Directorate Meeting – April 24-26, Shepherdstown, WV**

Dan Wenk, Acting Director – NPS

- NPS issues

WEEK AHEAD

- **New: FWS – Completion of 5-Year Reviews for 22 Species in California, Nevada, and Southern Oregon:** FWS will announce the completion of five-year reviews for 22 species in early April 2009. Of the reviews announced, FWS has recommended delisting the Indian Knob mountain balm, a small tree of the California Central Coast. FWS has recommended no change in status for the 21 other species reviewed. These 5-year reviews were undertaken as required by section 4(c)(2)(A) of the Endangered Species Act (Act). This list of completed reviews incorporates species that were noticed for review on March 22, 2006; February 14, 2007; and March 5, 2008. The 5-year review constitutes a recommendation by FWS. Any change in the listing status will require a separate rulemaking process. These reviews are not expected to be controversial.
- **New: NPS – North Cascades National Park (WA – Reps. Doc Hasting, Rick Larsen) – Fishery Management Plan.** The National Park Service has signed a Record of Decision for the North Cascades Fishery Management Plan/Environmental Impact Statement (Plan/EIS) to resolve the long-standing debate and conflict over fish stocking in the naturally fishless mountain lakes in North Cascades NP; and satisfy the terms of a 1991 Consent Decree on the issue.

91 of 245 naturally fishless mountain lakes have been stocked with non-native trout by the State since before the park was established. Under the preferred alternative, high densities of reproducing fish populations will be removed from the lakes, and continued stocking of select lakes will continue with trout species considered functionally sterile. This area is designated wilderness; if Congress does not provide legislative authorization by July 1, 2009, for stocking, NPS will cease stocking and remove reproducing populations of fish from lakes where it is feasible to do so. Representative Doc Hastings introduced legislation authorizing stocking in the 110th congress. This legislation was not passed and, to date, has not been reintroduced.

Implementation of the preferred alternative has the potential to be controversial and/or generate media attention. Interested parties include the North Cascades Conservation Council, the Washington Department of Fish and Wildlife, high mountain lake fishermen, and Representatives Hasting and Dicks. A Federal Register notice announcing the ROD

is being routed for surname and approval. The Pacific West Regional Director has committed to contacting the interested parties prior to the publication of the notice in the Federal Register.

- **Update: FWS – Final Listing Determination for Gulf of Maine DPS of Atlantic salmon (ME):** The FWS and the NOAA (Services) share jurisdiction over Atlantic salmon. The Gulf of Maine Distinct Population Segment of Atlantic salmon, listed as endangered since 2000, comprises salmon in small coastal rivers and salmon in the conservation hatcheries. Based on a status review and under NOAA lead, a proposed rule was published on September 3, 2008, to expand the range and to retain the endangered classification for the DPS. Finalization of the DPS revision prior to, or concurrent with, finalization of the critical habitat rule is necessary because critical habitat is proposed for the revised DPS rather than the currently listed DPS. The final listing is due to the Federal Register by April 30, 2009, because NOAA entered into a settlement agreement requiring publication of the critical habitat final rule by this date. *The Governor of Maine is opposed to listing the expanded DPS of Atlantic salmon as endangered; he wants it listed as threatened. Senators Snowe and Collins, and Congressman Michaud have supported the Governor's position. While supportive of salmon protection, the Penobscot Indian Nation has expressed concern over the effect of the listing on Tribal sovereignty. Hydropower interests are concerned that the listing will affect their ability to operate dams.*
- **New: NPS – Alaska Region (Rep. Don Young) – Adjustments in Land Entitlements for Sealaska Corporation.** Legislation may be introduced later this month by Senators Murkowski and Begich to make adjustments in the land entitlements for the Sealaska Corporation, one of 13 Alaska Native Regional Corporations. The NPS had serious concerns with a prior bill (S.3651) on the issue because of how it addressed Glacier Bay National Park. Among the concerns were the requirements for a cooperative management strategy between NPS, Sealaska and the local tribal government; the regional corporation and local tribal government have strained relations over this proposed legislation and other issues. Also, at least one version of the bill in the 110th Congress would have made NPS lands available for selection by the regional corporation, an action which NPS opposes. The earlier bills have also caused concern among other bureaus with regard to re-opening certain portions of ANCSA land selection terms.
- **New: FWS – 2009 Junior Duck Stamp Contest, Smithsonian's National Postal Museum, Washington, DC - April 22, 10:30 A.M. -** FWS -Federal Duck Stamp Program's National Junior Duck Stamp Contest will be held on Earth Day, April 22 at the Smithsonian's National Postal Museum in Washington, DC. Some 70 area schoolchildren will attend the contest and, after it concludes, learn not only about migratory bird conservation, but also how to draw waterfowl during a "master class" taught by Joshua Spies, the 2008 Federal Duck Stamp Contest winning artist. The event is open to the public. The National Conservation Training Center, National Wildlife Federation, and National Forest Service are partners in this event.
- **New: NPS – Grand Canyon National Park (AZ – Rep. Ann Kirkpatrick) - Navajo Commercial Development on Colorado River within the Park.** In early February,

2009, Grand Canyon National Park received a letter from the Navajo Nation's Division of Economic Development requesting National Park Service (NPS) cooperation in order "to facilitate economic development projects on Navajo lands adjacent to the Grand Canyon and/or on the Colorado River." On April 4, 2009, Grand Canyon National Park staff, in conjunction with Glen Canyon and the Office of the Solicitor, responded with a letter stating that park managers look forward to working with the Navajo Nation and discussing possible economic and tourism development opportunities on tribal lands, but that all commercial river running opportunities on the Colorado River within the park are authorized under the Colorado River Management Plan (2006) and that, at this time, no additional opportunities exist. In the last week, several local and national media organizations have reported that the Navajo Nation has requested NPS permission to run commercial rafting operations on the Colorado River within the park.

- **New: FWS – Award announcement for Competitive Component of State Wildlife Grants:** The FWS Director will announce awards for the nationally competitive component of the State Wildlife Grant Program. A total of \$9,556,704 in FY08 and FY09 funding will be awarded to 11 state fish and wildlife agencies for 12 projects to address landscape level conservation needs. The Federal grant funds will be matched by about \$7,204,755 from non-federal sources. This is the first award made in connection with this competitive component authorized by Congress in FY 08. The Wildlife and Sport Fish Restoration Program and External Affairs anticipate announcing the award selections by the second week of April.
- **Updated: NPS – Flight 93 National Memorial (PA - Rep. Bill Shuster) – Land Acquisition.** On September 24, 2002, Congress enacted the Flight 93 National Memorial Act. NPS has agreed to complete Phase 1 of the memorial by September 11, 2011, in time to commemorate the tenth anniversary of Flight 93 tragedy. In order to meet this ambitious schedule, eleven privately owned tracts must be acquired by the federal government by May 2009.

All parties previously agreed to a process that includes final and binding valuation that will be decided by the courts. *The property owner asked to reserve the oil and gas rights for the property. On April 6, 2009, the NPS notified the property owner that they were not going to honor the reservation request and instead would move forward with condemnation through declaration of taking, consistent with the agreement in principle, to acquire the all rights to the property. NPS is working with the Department to determine how to acquire the remaining ten parcels.* The NPS also requests a waiver of Departmental policy regarding the timeliness of Environmental Site Assessments. Assessments previously completed on some of the parcels have now exceeded their six month validity. Since no outside actions have influenced these tracts since the assessments were completed, NPS recommends that the current assessments be extended thus avoiding the additional time and cost of pursuing new ones

- **New: FWS – Wildlife Without Borders-Latin America and the Caribbean (N/A)** - Under the Wildlife Without Borders-Latin America and the Caribbean program, FWS intends to award eleven grants totaling \$295,033 with matching resources from partners totaling \$1,014,437. These funds will promote capacity

building – graduate-level training, in-service training, and site based technical assistance to strengthen protected area management and habitat conservation throughout Central America, South America, and the Caribbean. The estimated award date is April 20, 2009.

ON THE HORIZON

- **New: FWS – 90-Day Finding on a Petition to list the American pika (NM, UT, CO, WY, MT, ID, WA, OR, NV, CA; Canada):** FWS received a petition from the Center for Biological Diversity, dated October 1, 2007, requesting that we list the American pika, a small montane mammal, as threatened or endangered; it also requests that we conduct a status review of each of the 36 recognized subspecies of American pikas to determine if separately listing any subspecies as threatened or endangered may be warranted. We submitted a settlement agreement to the Court on February 12, 2009, agreeing to submit a 90-day finding to the *Federal Register* by May 1, 2009, and, if appropriate, to submit a 12-month finding to the *Federal Register* by February 1, 2010. This is a short time frame to review 36 subspecies. The petition states that global climate change is the gravest threat to the pika's long-term survival, thus expanding the issue of habitat loss from climate change to the lower 48 states. None of the affected states have issued an official position.
- **New: NPS - Grand Canyon National Park (AZ – Rep. Ann Kirkpatrick) - South Rim Visitor Transportation Plan – Phase I Construction to Begin.** The National Park Service (NPS) will begin implementing the first phase of the South Rim Visitor Transportation Plan at Grand Canyon National Park in April and expects to complete phase I by the end of November 2009. Currently, visitor needs and experiences at the South Rim are underserved by parking shortages, resource degradation and safety risks at and around Mather Point due to pedestrian/vehicular conflicts; and by difficulty accessing the Visitor Center. Phase I construction will include realignment of the South Entrance Road to provide easy access to three new visitor parking lots; a new separate parking lot for 40 commercial tour buses; and construction of a centralized shuttle bus staging area at the existing Canyon View Information Plaza (CVIP) transit pavilion. Visitors will continue to have access to Mather Point and CVIP during the entire construction period.
- **New: FWS – Cooperative Endangered Species Conservation Fund (Section 6 Grants to States):** The cooperative endangered species conservation fund for fiscal year 2009 provides \$7.6 million to 11 projects in over a dozen states through the Habitat Conservation Planning Assistance Grants Program, \$36 million to 9 projects in 5 states through the Habitat Conservation Plan Land Acquisition Grants Program, and \$14.1 million to 21 projects in 17 states through the Recovery Land Acquisition Grants Program. The three programs were established to help reduce potential conflicts between the conservation of threatened and endangered species and land development and use. Award selections have been cleared by the Director and are awaiting final clearance from

the Assistant Secretary for Fish and Wildlife and Parks for Congressional notification and a public announcement.

- **New: NPS – National Recreation Trails.** Twenty-two trails in thirteen states have requested designation as National Recreation Trails. A package recommending designation is currently being reviewed and circulated for signature and will ultimately be submitted for approval by the Secretary of the Interior. Traditionally, new National Recreation Trails are announced in time for National Trails Day, which is on June 6, 2009 this year.
- **New: FWS – Fisheries, Wildlife and Oceans Subcommittee Hearing scheduled for April 23 on the Non-Native Wildlife Invasion Prevention Act (Guam – Bordallo, entire U.S.):** The “Non-native Wildlife Invasion Prevention Act” (HR669) was re-introduced in the House in January 2009 by Congresswoman Bordallo (Guam). The Bill directs FWS to develop “approved for importation” and “unapproved for importation” species lists, as well as a risk assessment process for new species proposed for importation. It is expected that Assistant Director Gary Frazer will be asked to testify regarding: 1) the risks and costs associated with invasive species; 2) the need for a risk assessment process for imported animal species; and, 3) the proposed Non-native Wildlife Invasion Prevention Act. The Department should expect to receive an invitation letter from the Subcommittee during the week of March 30. Congressional and Legislative Affairs will work with Fisheries and Habitat Conservation, Management Authority, the Solicitor’s Office, and the Office of Law Enforcement to prepare the Assistant Director. Beginning April 1, Vic Serveiss (U.S. EPA) will be detailed to the Branch of Aquatic Invasive Species to help with this workload.
- **Updated: NPS – Valley Forge National Historical Park (PA - Reps. Jim Gerlach, Allyson Schwartz, Joe Sestak) – American Revolution Center.** Public Law 106-86 of 1999 authorized the Secretary of the Interior to enter into a partnership with the American Revolution Center (ARC) to construct a museum on federal land within the boundary of Valley Forge National Historical Park. ARC terminated the partnership effective January 2006. In spring 2006, ARC requested to restart negotiations for a partnership, and NPS concurred. On January 5, 2007, ARC notified NPS that they would again terminate the partnership and seek an alternate location on a park in-holding – the St. Gabriel site in Lower Providence Township – ending negotiations. ARC acquired this 78-acre in-holding in fall 2006 and worked with the local township to change the zoning to Commercial in order to build a museum, hotel, conference center, and other facilities on that land. This development will create adverse impacts both to the site and to the surrounding park. Five township residents and the National Parks Conservation Association (NPCA) filed a challenge to the zoning ordinance. The township Zoning Hearing Board upheld the ordinance in November 2008. The same plaintiffs have filed suit in federal court. ARC has filed a motion to dismiss. *On April 8, 2009, NPS learned that the judge will not hear the case. NPCA may or may not appeal.* NPS has prepared a decision memorandum for the Secretary’s consideration on this issue.
- **New: FWS – Marine Mammal Protection Act Stock Assessment Reports (Alaska Begich, Murkowski, and Young):** In October 2007, the Center for

Biological Diversity (CBD) filed a lawsuit against the Department for failure to update Stock Assessment Reports (SARs) for the 10 marine mammal stocks, under the management jurisdiction of FWS. The Department of Justice, on behalf of the Department, entered into a settlement agreement with the plaintiffs in May 2008, which committed FWS to specific completion dates for each of the SARs. In accordance with the CBD settlement, a Notice of Availability for the Pacific walrus stock and two stocks of polar bears, must be submitted to the Office of the Federal Register (OFR) within 90 days of receiving all comments from the Alaska Scientific Review Group (AKSRG), but no later than June 18, 2009. MMM is incorporating the AKSRG comments into the draft SARs and FWS expects to receive a review package by April 24, 2009.

- **Updated: NPS – Death Valley National Park (CA – Rep. Howard (Buck) McKeon; NV – Rep. Dean Heller) Devil’s Hole.** Johnson Controls has proposed that a Mercury Alpha Solar Plant be constructed on the Department of Energy’s (DOE) Nevada Test Site in Mercury Valley, NV (groundwater basin near Devil’s Hole). The Plan of Development calls for using 865 acre-feet per year of water for a wet-cooled system, which is about 10 times more water than needed by a dry-cooled system. Further, they plan to withdraw water from Army Well #1, for which NPS has data showing a direct link between pumping and the water level at Devil’s Hole (the only natural habitat of the endangered Devil’s Hole pupfish). NPS and the solicitor’s office conferred with DOJ and DOE to outline NPS concerns and learned that BLM expects to issue a Notice of Intent (NOI) very soon for a fast-track EIS for this project, and that DOE prefers to deal with the cooling technology and water source issues via the NEPA process. NPS met with BLM on March 23, 2009 and on April 1, 2009 to recommend that the proposed action be modified at the outset of NEPA (i.e., before the NOI), if it includes the wet-cooled technology. NPS supports solar energy, but recommends environmentally responsible protections. *Ongoing discussions between BLM and NPS at both the Washington and Field Office levels continue. BLM and NPS have agreed to schedule a meeting in the near future with the Nevada BLM Field Office, NPS Water Resources Division, and representatives from Johnson Controls.*
- **Updated: NPS - Prince William Forest Park (VA – Reps. Gerry Connolly, Rob Wittmann) – Quantico Marine Corps Base Requests Permission to Install Security Fencing on Park Land.** On February 17, 2009, the NPS received a request from the Quantico Marine Corps Base to construct 600 feet of security fencing on park land in order to enhance base security adjacent to new gates on the Base. The request came in the form of a draft NEPA Categorical Exclusion (CE) that the Marine Corps wanted the NPS to sign off on. The Marine Corps had prepared an Environmental Assessment (EA) in July 2008 but failed to submit it to the NPS for comment and review. Park staff later observed and stopped a contractor who was beginning preparations to install the fencing at two locations on NPS land in early February, 2009. Tree clearing had begun and at least one hole was dug to prepare for fence pole installation. On March 20, 2009, the NPS denied the CE prepared by the Marine Corps as being insufficient. *The NPS suggested other alternatives in order to avoid ground disturbing activities*

associated with the installation of fencing or bollards, including the placement of large locally quarried stone at close intervals adjacent to the new gates. On March 30, 2009, the Marine Corps advised the NPS that they concurred with the NPS comments and would explore the alternative to use large native stone in lieu of any ground disturbing activities.

- **No Change: NPS – Statue of Liberty National Monument (NY – Rep. Jerrold Nadler) - Visitor Access to the Statue of Liberty’s Crown:** Visitors are currently not able to climb to the crown of the Statue of Liberty because it does not meet fire and life safety codes. A final report on Code Compliance Options and Mitigation Strategies, expected mid-April 2009. Once NPS has received the completed report, briefings will be scheduled with NPS and Department of Interior senior management. During the week of March 30, 2009 Secretary Salazar was briefed on homeland security issues related to the Statue.
- **No Change: NPS - Grand Canyon National Park (AZ – Rep. Ann Kirkpatrick) – Mule Use on Corridor Trails.** NPS is currently undertaking a major reconstruction project on the South Kaibab Trail that will significantly improve the condition of that trail for both hikers and mule users. The project is expected to take from two to four years. While this project is underway, mule use will be diverted to the Bright Angel Trail. Once work is completed, mule use on the South Kaibab Trail would resume. Additionally, the NPS will keep a half-day ride on the North Kaibab Trail, but will temporarily suspend an all-day ride. Due to years of continuous use, limited funds, and limited time to work on the trails, the corridor trails have fallen into disrepair making them difficult for both hikers and mules. Future mule and stock use for both the North and South Rims will be addressed in an environmental assessment under the direction of the Park’s 1995 General Management Plan. This plan would determine the levels of commercial and non-commercial stock use appropriate for corridor trails.
- **No Change: NPS - Chesapeake and Ohio Canal National Historical Park (DC – Rep. Eleanor Holmes Norton, MD – Rep. Roscoe Bartlett, Chris Van Hollen, WV – Rep. Alan Mollohan) - Washington Canoe Club, Building Ownership.** On April 10, 2007, the Department of the Interior, Office of the Inspector General (OIG), issued a report entitled *Private Use of Public Lands*. This report outlined instances where the NPS had allowed private individuals or exclusive clubs to monopolize locations near major metropolitan areas to the exclusion of the general public. The report recommended that each NPS unit not issue special park use permits that allow an individual or group exclusive use of park lands, or facilities normally available for public use. The Washington Canoe Club (Club) was specifically identified within the report as a private club that has “erected fences and created other impediments to preclude the access to facilities or public lands described on the permits.” Following the report, NPS conducted extensive research about the land, which is in federal ownership, and discovered that there was uncertainty about the ownership of the Club’s boathouse building. Since the Club is a non-profit 501 (c) 3 enterprise, the NPS was able to enter into

a short-term lease subject to payment of a fair market rental rate and enhancement of public use while a resolution of the building ownership issue was completed and a long-term disposition arranged. Effective January 1, 2008, the NPS issued a 15-month lease for the Club's continued use of the facility which expired on March 31, 2009. The 15-month time period was established to conduct an appraisal of the clubhouse and associated lands, pursue resolution of the building ownership, determination of a long term use of the structure, and completion of the environmental impact statement for the proposed land exchange with Georgetown University (GU) for the purposes of establishing a collegiate rowing boathouse.

The issue regarding ownership of the building has not been resolved; however the legal analysis suggests three possible conclusions with regard to ownership of the building: NPS Ownership, Inconclusive Ownership, or Club Ownership. NPS amended the lease for an additional 12 months on March 31, 2009 to allow for the resolution of the building ownership issue and long-term disposition of the building, which could include a land exchange, a long-term lease, or concession operation of boathouse activities from the clubhouse. Additionally, determination of the fair market rental rate requires consultation with the Club, which is expected to occur in April 2009. *A substantial increase in fees is expected based on the appraisal of the land, and the Club would also be responsible for back payments from January 2008 to present. This issue is expected to be highly controversial.*

- **No Change: NPS – Cape Hatteras National Seashore (NC –Rep. Walter B. Jones) Off-Road Vehicle (ORV) Management.** The regulatory negotiation advisory committee submitted its final report to NPS on March 30, 2009. The report provides diverse stakeholder input on a full spectrum of ORV management issues. Many of the recommendations submitted reflect the many topics and options explored by the committee. The report has been distributed to committee members and is being posted on PEPC for the public. Even though the committee did not reach a consensus, which is reflected in sometimes conflicting recommendations within the final report, NPS will utilize the committee's input to create an additional ORV management action alternative for consideration in the draft environmental impact statement (DEIS) that is scheduled for release in the fall of 2009. Breeding shorebirds have returned to the Seashore and the first beach closures have been implemented as required by the court approved consent decree. Three deliberate violations of resource protection area fencing have already occurred, which under the consent decree requires that NPS automatically expand the buffer distance that had been established at the respective sites. NPS is working on establishing a Park Watch program and is working with local businesses that have expressed interest in establishing a reward for information leading to the apprehension of the violators. As the breeding season progresses, NPS will implement mandatory buffers around observed shorebird breeding activity and sea turtle nests, which will likely result in increased areas of beach being closed to access until the breeding season subsides (typically in August).

- **No Change: NPS - Gulf Islands National Seashore (MS – Rep. Gene Taylor) – Mississippi Coastal Improvements Program (MsCIP) – Current review of “Draft Comprehensive Plan and Integrated Programmatic Environmental Impact Statement (IPEIS)” ends March 30, 2009.** The US Army Corps of Engineer’s Draft MsCIP Comprehensive Plan and IPEIS, was released for public/agency review on February 13, 2009 through March 30, 2009. Sections describing island restoration concepts and approaches of NPS and its partners are included. NPS has completed a review of the Draft Plan/IPEIS and compiled agency comments, which were submitted to the US Army Corps of Engineers. According to current schedule, a 30-day state and agency review of the Final Comprehensive Plan will begin June 5, 2009, with the Final Chief’s Report submitted to the Assistant Secretary of the Army (ASA) on July 20, 2009. After the ASA/Administration review, the report will be transmitted to Congress on November 20, 2009. A Federal Principals Meeting is scheduled for March 26, 2009, at which time a copy of the Draft Chief of Engineers Report will be discussed. MsCIP project funds are still being sought at the highest levels of Mississippi’s State Government.
- **No Change: NPS – Wrangell-St. Elias National Park and Preserve (AK – Rep. Don Young) – Off-Road Vehicle Use.** The National Park Service (NPS) is preparing an EIS on the use of off-road vehicles (ORV) in the Nabesna area of Wrangell-St. Elias National Park and Preserve, Alaska. The EIS was initiated as part of a settlement to a lawsuit filed in 2006 which challenged the permitting of recreational ORV use; the final EIS is to be completed by 2010. The original scope for the EIS was on the recreational use of ORVs along nine trails. It has become evident that a significant proportion of ORV use is related to subsistence activities in the park and preserve. Of the three trails located in this area of park, approximately 70% of the use is related to subsistence. NPS has decided to expand the scope of the EIS to include, within the range of alternatives, reasonable regulation of subsistence ORV use. A new Notice of Intent expanding the scope must be published in the Federal Register. NPS is currently accepting bids for the contractor to prepare the EIS, with an expected start date in April 2009. NPS recommends clearance and publication of this notice in advance of initiating this next phase of work on the EIS.

MEMORANDUM

To: Laura Davis
Associate Deputy Secretary

From: Richard T. Cardinale
Chief of Staff to the Assistant Secretary -
Land and Minerals Management

Re: Summary Report for April 13, 2009 Meeting

Date: April 10, 2009

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Accompanying this memorandum is a report that combines key new and ongoing policy and regulatory decision items, and events that are either bureau-sponsored or at which there will be bureau representation by the Bureau of Land Management, Minerals Management Service, and Office of Surface Mining Reclamation and Enforcement.

On April 15, Enel North America will host the commissioning/ribbon cutting for the Stillwater II and Salt Wells 10-megawatt binary cycle geothermal power plants in Churchill County, Nevada. The Salt Wells facility is the first geothermal plant sited entirely on public lands within the last two decades. BLM completed the environmental assessment and authorized development of the Salt Wells geothermal plant in 2005. There are currently 77 leases for geothermal sites totaling 124,626 acres in Churchill County, which holds 20 percent of all geothermal acres leased in Nevada. A number of dignitaries, including Senators Harry Reid and John Ensign of Nevada, are currently scheduled to attend.

The release of the Draft Solar Energy Development Programmatic EIS was originally scheduled for spring of 2009, but is now anticipated in late summer or early fall (although the new schedule has not been finalized). The BLM and the Department of Energy have agreed to postpone completion of the Draft EIS in order to consider preliminary results of the Western Governor's Association's Western Renewable Energy Zone transmission study and to more closely align the proposed alternatives in the Draft EIS with the Secretary of the Interior's recently announced policies for renewable energy development on public lands. BLM is continuing to fine-tune the alternatives in the Programmatic EIS to identify, as much as possible, those areas with the fewest resource conflicts where development could proceed ahead more quickly.

In November of 1994, BLM signed a Record of Decision (ROD) and Land Use Plan amendment for the construction, operation and maintenance, and termination of the Southwest Intertie 500 kV electrical transmission line project (SWIP). The line would extend from near Las Vegas, Nevada, to near Burley, Idaho. The right-of-way grant was issued for the entire SWIP in December 1994. The project was divided into two segments: the southern portion (Ely to Las Vegas) and the northern portion (Ely to Burley). The proponent, Great Basin Transmission LLC, has completed the comprehensive Construction, Operation and Maintenance Plan (COMP) for the southern

portion of the SWIP, which has been authorized for construction. BLM is currently reviewing the draft COMP for the northern half of the SWIP, and believes a determination of NEPA adequacy will be sufficient with no additional environmental analysis for the SWIP. BLM anticipates it will authorize the northern portion of the project midsummer 2009.

First Wind has secured financing for the Milford Wind Corridor project and has started construction on both the wind farm and transmission line. The 300-megawatt project will include a 90-mile transmission line connecting the wind farm to the Intermountain Power Agency in Delta, Utah. First Wind anticipates completing the transmission line by the end of August, and placement of all turbine foundations by late summer. First Wind has notified BLM-Utah of its goal to have the project in operation by the end of 2009.

BLM-Colorado has prepared for publication in the *Federal Register* an NOA of Canyons of the Ancients National Monument PRMP and FEIS; the notice is currently undergoing Departmental review. The planning area is located in southwest Colorado in Dolores and Montezuma Counties. The plan provides a framework to guide subsequent management decisions on approximately 166,000 acres managed by BLM. Within the Monument boundary, there are approximately 400 acres of NPS lands (Hovenweep National Monument) and 17,560 acres of private inholdings. The Canyons of the Ancients National Monument is currently being managed under the BLM 1985 San Juan/San Miguel RMP and the Interim Guidance provided after the National Monument was established. The PRMP/FEIS will provide the management direction for the areas within the National Monument under BLM management.

Finally, OSM will be continuing to hold events throughout the Country to celebrate Arbor Day. Participants will include local field office officials, local government officials and local students. Events will include planting of American chestnut seeds, presentations on reforestation, the Forest Reclamation Approach, and the reintroduction of the American chestnut.

Other matters are also listed. If you need any further information, please contact me at (202) 208-7214.

LAND AND MINERALS MANAGEMENT

April 12 – April 18 2009

SENIOR OFFICIALS ACTIVITIES

Richard Cardinale, Acting Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Ned Farquhar, Deputy Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Mike Pool, Acting Director, Bureau of Land Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Walter Cruickshank, Acting Director, Minerals Management Service

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings. Speak at the FY 2011 MMS Budget Formulation Workshop, the Second Annual Global Marine Renewable Energy Conference, and the National Ocean Industries Association (NOIA) Annual Meeting.

Glenda Owens, Acting Director, Office of Surface Mining Reclamation and Enforcement

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

WEEK AHEAD

Bureau of Land Management (BLM)

- **Ribbon Cutting Ceremony for the Stillwater and Salt Wells Geothermal Plants:** On April 15, Enel North America will host the commissioning/ribbon cutting for the Stillwater II and Salt Wells 10-megawatt binary cycle geothermal power plants in Churchill County, Nevada. The Salt Wells facility is the first geothermal plant sited entirely on public lands within the last two decades. BLM completed the environmental assessment and authorized development of the Salt Wells geothermal plant in 2005. There are currently 77 leases for geothermal sites totaling 124,626 acres in Churchill County, which holds 20 percent of all geothermal acres leased in Nevada. A number of dignitaries, including Senators Harry Reid and John Ensign of Nevada, are currently scheduled to attend.

- **BLM Proposes Withdrawal of Public Lands within Gold Point and Ione Mining Townsites:** BLM-Nevada proposes to withdraw 672 acres of public lands in Esmeralda and Nye counties, Nevada, from location and entry under mining laws for a period of five years. The lands would remain open to the public land laws, mineral material, and geothermal leasing laws. A temporary segregation on this withdrawal application will expire April 12. The withdrawal is requested in anticipation of legislation to be introduced in the U.S. Congress that would resolve land ownership conflicts and protect historic and cultural resources. The Regional Solicitor's Office has reviewed and approved the public land order for legal sufficiency. The Nevada Division of State Lands strongly supports the proposed withdrawal.
- **Solar Energy Development Programmatic Environmental Impact Statement (EIS):** The release of the Draft Solar Energy Development Programmatic EIS was originally scheduled for spring of 2009, but is now anticipated in late summer or early fall (although the new schedule has not been finalized). The BLM and the Department of Energy have agreed to postpone completion of the Draft EIS in order to consider preliminary results of the Western Governor's Association's Western Renewable Energy Zone transmission study and to more closely align the proposed alternatives in the Draft EIS with the Secretary of the Interior's recently announced policies for renewable energy development on public lands. BLM is continuing to fine-tune the alternatives in the Programmatic EIS to identify, as much as possible, those areas with the fewest resource conflicts where development could proceed ahead more quickly.
- **Geothermal Workshops Planned for BLM and Forest Service (FS) Staff, State Agencies, and Industry:** The BLM plans a series of workshops in the 11 Western States and Alaska starting in April to facilitate implementation of the recently signed Record of Decision (ROD) for the Geothermal PEIS. The BLM will hold a total of 29 workshops that will be targeted at three separate audiences: BLM and Forest Service employees, representatives of State agencies, and the geothermal industry and the general public. Workshops will be held on April 14 in Cheyenne, Wyoming, and April 16 in Helena, Montana.
- **Interagency Junior Ranger Day:** On April 15, BLM staff will help conduct educational activities for approximately 120 fourth grade students at the Tonaquint Nature Center in St. George, Utah. Interagency partners include the FS, National Park Service (NPS), and State agencies (Grand Canyon-Parashant National Monument, Pipe Springs National Monument, Zion National Park, Dixie National Forest, Utah Division of Wildlife Resources, Red Cliffs Desert Reserve and the City of St. George).
- **Dakotas Resource Advisory Council to Meet:** The Dakotas Resource Advisory Council will meet April 16-17 in Spearfish, South Dakota. Agenda topics include sage-grouse conservation studies, recreation fees, resource management planning issues and ongoing efforts.
- **Upcoming Oil and Gas Lease Sales:**
 - BLM-Montana State lease sale April 14: BLM posted 67 parcels for sale, totaling 53,530.84 acres. There are 51 parcels in Montana and 16 in North Dakota. Of the 51 in Montana, 36 parcels contain split estate lands. BLM notified private surface owners by mail. BLM posted the list of parcels on February 27, 2009.

- BLM-New Mexico lease sale April 22: There are 87 parcels for sale, totaling 44,756.69 acres in New Mexico, 8,048.31 acres in Kansas, 710.25 acres in Oklahoma, and 8,828.04 acres in Texas. BLM posted the list of parcels on March 4.
- BLM-Colorado lease sale May 14: There are 57 parcels, totaling 58,071 acres, located in areas under the management of four BLM Colorado Field Offices – Royal Gorge (Canon City), Little Snake (Craig), White River (Meeker) and the Dolores Public Lands Office. The list of parcels was posted on March 16.
- BLM-Utah lease sale May 19: There are 91 parcels for sale, totaling 141,569 acres in the Fillmore, Monticello, Price, and Vernal Field Offices. The final list will be posted April 3, once Wyoming has approved the parcels.

Minerals Management Service (MMS)

- **Informal Request for Review of Decision on Denial of Julia Discovery Suspension of Production (SOP):** MMS has denied a request for a SOP, an extension of a lease beyond the primary term of 10 years, by ExxonMobil for their Julia discovery on February 10, 2009. The request for a SOP was denied due to a lack of “commitment to production” as required by regulation (i.e., no executed contract for subsea tieback to a potential Jack/St. Malo floating production facility; and no commitment by ExxonMobil to a stand-alone development for the Julia discovery). ExxonMobil is the designated operator of the Julia Unit, and StatoilHydro is a partner in the Julia Unit discoveries. On March 20, the MMS Gulf of Mexico Region met with representatives and legal counsel from ExxonMobil to discuss an informal request by ExxonMobil to review the decision by the MMS to deny a requested SOP. On March 25, MMS Headquarters met with representatives and legal counsel from ExxonMobil to discuss the informal request. ExxonMobil plans to appeal the decision by the MMS on April 9, but would prefer to resolve the matter through informal meetings.
- **Secretary’s Meetings – New 5-Year Program:** The Request for Comments on the Draft Proposed Program was published in the *Federal Register* on January 21, 2009. Based on the Secretary’s guidance announced on Tuesday, February 10, a *Federal Register* notice was published on March 4, 2009, that extends the comment period for the 5-Year Draft Proposed Program (DPP) by an additional 180 days (from March 23, 2009 to September 21, 2009). About 6,000 citizen comments have been received on the DPP. The Secretary will host meetings in April on each coast and in Alaska to allow for input from states, stakeholders and affected communities to help develop an offshore energy plan for conventional and renewable resources. The remaining meetings will take place in Anchorage, Alaska (April 14); and San Francisco, California (April 16). A *Federal Register* notice about these meetings was published on March 18.

Office of Surface Mining (OSM)

- **Coal and Coffee Industries Collaborate to Reduce Decline of Cerulean Warbler Habitat:** On April 14, the Coal, Coffee, and Cerulean Warbler Partnership will conduct a scoping meeting regarding the establishment of habitat for the Cerulean Warbler. The Cerulean Warbler is a small migratory songbird that breeds in mature deciduous forests of eastern North America, migrates across the Gulf of Mexico and through Central America, and winters in evergreen

forests of the northern Andes Mountains in South America. The population of the Cerulean Warbler has declined from an estimated 1.4 million in the mid-1960s to about 400,000 today due to habitat loss and habitat degradation, which translates to a three percent decline each year over the past 40 years. The scoping meeting will explore ways that both the coffee and coal industries can modify their practices to prevent further loss of habitat. The meeting will take place in Charleston, West Virginia.

GRANTS

Bureau of Land Management (BLM)

- **BLM-Montana Challenge Cost Share Program:** The BLM-Montana Challenge Cost Share program is managed to maintain a variety of partnerships for wildlife, recreation, cultural resources, rare plants, plant community conservation, fisheries and riparian habitat at the local level. In 2009, the program will be managed to implement a variety of important projects that include resource inventory, monitoring and research, environmental education, habitat and plant community restoration, cultural site protection, special status species management, recreation and OHV management. Applications are due by April 28. Fifty awards are expected; total funding for the program is \$200,000.

Minerals Management Service (MMS)

No new grants to report this week.

Office of Surface Mining (OSM)

- **New: OSM Increases Emergency Funds in the Oklahoma Abandoned Mine Lands (AML) Program Grant:** On April 13, OSM will award \$64,167 to increase funding of Oklahoma's FY 2009 AML Emergency Program. The Emergency Program grant period runs from December 1, 2008, to November 30, 2010. The Oklahoma Conservation Commission will use the grant funds for emergency AML program administration and reclamation activities within the state.
- **New: OSM Increases the Arkansas AML Program Grant:** On April 13, OSM plans to award \$15,000 to fund Arkansas's FY 2009 AML Emergency Program. The Emergency Program grant period runs from December 1, 2008, to November 30, 2010. The Arkansas Department of Environmental Quality will use the grant funds for AML Emergency Program administration and reclamation activities within the state.
- **New: OSM Increases the Indiana AML Program Grant:** On April 13, OSM plans to award \$338,516 to fund Indiana's FY 2009 AML Emergency Program. The Emergency Program grant period runs from April 1, 2009, to March 31, 2010. The Indiana Department of Natural Resources will use the grant funds for AML Emergency Program administration and reclamation activities within Indiana.
- **New: OSM Increases Alabama's AML Grant:** On April 13, OSM plans to award \$400,000 to fund Alabama's FY 2009 AML Emergency Program. The Emergency Program grant period

runs from April 1, 2009, to March 31, 2010. The Alabama Department of Industrial Relations will use the grant funds for AML Emergency Program administration and reclamation activities in Alabama.

- **New: AML Grant to State of Alaska.** On April 16, OSM plans to award the State of Alaska its Fiscal Year 2009 AML Grant. This three-year grant award totals \$1,723,541. The funding will enable the state to continue administering its AML Program to protect the public and property from the adverse effects of past mining practices.

ON THE HORIZON

**Updates are shown in italics*

Bureau of Land Management (BLM)

- **New: Southwest Intertie 500 KV Transmission Line Project (SWIP) Nearing Completion:** In November of 1994, BLM signed a Record of Decision (ROD) and Land Use Plan amendment for the construction, operation and maintenance, and termination of the Southwest Intertie 500 kV electrical transmission line project (SWIP). The line would extend from near Las Vegas, Nevada, to near Burley, Idaho. The right-of-way grant was issued for the entire SWIP in December 1994. The project was divided into two segments: the southern portion (Ely to Las Vegas) and the northern portion (Ely to Burley). The proponent, Great Basin Transmission LLC, has completed the comprehensive Construction, Operation and Maintenance Plan (COMP) for the southern portion of the SWIP, which has been authorized for construction. BLM is currently reviewing the draft COMP for the northern half of the SWIP, and believes a determination of NEPA adequacy will be sufficient with no additional environmental analysis for the SWIP. BLM anticipates it will authorize the northern portion of the project midsummer 2009.
- **New: Construction Begins on Milford Wind Corridor Project:** First Wind has secured financing for the Milford Wind Corridor project and has started construction on both the wind farm and transmission line. The 300-megawatt project will include a 90-mile transmission line connecting the wind farm to the Intermountain Power Agency in Delta, Utah. First Wind anticipates completing the transmission line by the end of August, and placement of all turbine foundations by late summer. First Wind has notified BLM-Utah of its goal to have the project in operation by the end of 2009.
- **New: The House Appropriations Committee Requests Review of the Coal Management Program:** On March 24, the House Appropriations Committee sent a letter to Acting Director, Mike Pool, initiating a review of the Coal Management program. The Committee's Surveys and Investigations staff will be conducting the review and will provide a report to the House Appropriations Committee.
- **New: BLM Requests Clarification from Department of Energy (DOE) regarding the Yucca Mountain Right-of-Way (ROW) application:** On March 25, the BLM-Nevada Ely District Manager sent a letter to Ned Larson, DOE, requesting clarification regarding the processing of DOE's ROW application for construction of the Yucca Mountain railroad. If DOE requests that

the BLM suspend processing the application, then the BLM-Nevada State Director will request the ROW application, as well as *Federal Register* package for the withdrawal, be remanded back to BLM-Nevada.

- **New: BLM Will Oppose Stay to Sunrise Powerlink Decision:** BLM will oppose a request for a stay in an appeal filed March 23 by three environmental groups before the Interior Board of Land Appeals (IBLA) regarding the Sunrise Powerlink project in Southern California. Two rights-of-way for the controversial 150-mile, 500kV powerline designed to bring renewable energy into San Diego County were approved by the BLM-California State Director on January 20. The appellants are East County Community Action Coalition, Backcountry Against the Dump, and Protect Our Communities Foundation. The appeal alleges that the BLM failed to adequately conduct environmental reviews and therefore the decision to approve the project should be reviewed.
- **New: Earth Day Events:** BLM field offices will host various events commemorating Earth Day from April 18-27. BLM-Arizona will host students and teachers from Yuma's Gwyneth Ham Elementary School in an April 21 event at Betty's Kitchen Watchable Wildlife Area, as well as a weekend event in Show Low featuring exhibits and presentation about sustainable living. BLM-Oregon will host its 10th Annual Earth Celebration at the Oregon Garden in Silverton, Oregon, on April 18, as well as a Migratory Bird Day event in Roseburg, Oregon, on April 25, and a trail and recreation site maintenance project at Patos Island Lighthouse in Washington on April 19. BLM-Nevada will celebrate Earth Day at the Red Spring Picnic Area in Las Vegas on April 25, in addition to staging displays at the Southern Nevada Agency Partnership Earth Day in Las Vegas on April 21, and cleaning up the Great Unconformity Interpretive Site in Las Vegas on April 27. BLM-Idaho will clean up the Black Creeks Reservoir and surrounding area in Boise on April 25, clean up and paint the Snake River Birds of Prey NCA visitor's center on April 18, and stage displays at the Community Environmental Fair in Pocatello and the Tauphaus Park Zoo on April 25. BLM-Colorado will clean up Hartman Rocks in Gunnison on April 26 and Hubbard Mesa in Rifle on April 25, and partner with other agencies and schools on an event at the Jackson County Outdoor Education Network in Walden on April 23. BLM-Eastern States will stage displays and other events at the Elizabeth Hartwell Eagle Festival in Lorton, Virginia, on April 25, plant trees at the Meadowood Recreation Area in Virginia on April 25, and clean up Lynden Hill in Milwaukee, Wisconsin, on April 25.
- **New: Notice of Availability of Canyons of the Ancients National Monument Proposed Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS):** BLM-Colorado has prepared for publication in the *Federal Register* an NOA of Canyons of the Ancients National Monument PRMP and FEIS; the notice is currently undergoing Departmental review. The planning area is located in southwest Colorado in Dolores and Montezuma Counties. The plan provides a framework to guide subsequent management decisions on approximately 166,000 acres managed by BLM. Within the Monument boundary, there are approximately 400 acres of NPS lands (Hovenweep National Monument) and 17,560 acres of private inholdings. The Canyons of the Ancients National Monument is currently being managed under the BLM 1985 San Juan/San Miguel RMP and the Interim Guidance provided after the National Monument was established. The PRMP/FEIS will provide the management direction for the areas within the National Monument under BLM management.

- **New: DOI Agencies Not to Pursue Settlement Agreement with Southern Nevada Water Authority's (SNWA) water rights applications in Snake Valley:** In March, DOI agencies, after much discussion, decided not to pursue settlement talks with SNWA to develop a stipulated agreement that would allow the DOI agencies to withdraw protests to SNWA water applications in Snake Valley. DOI agencies (BLM, FWS, NPS and BIA) have signed stipulated agreements with SNWA to withdraw agency protests in two other basins with SNWA agreeing to design and implement monitoring, management and mitigation plans for the basins. SNWA filed the applications in 1989 for groundwater development in three basins for 180,000 acre feet per year of unappropriated groundwater in White Pine, Lincoln, and Clark counties: Spring Valley; Delamar, Dry Lake, and Cave Valley; and Snake Valley. DOI agencies protested the applications. In 2004, SNWA filed rights-of-way applications with BLM to construct pipelines and ancillary facilities across public lands to develop and transport water from these basins to southern Nevada.
- **New: BLM to Publish *Federal Register* Notice on Livestock Grazing Regulations:** The BLM plans to publish in the *Federal Register* later this month a notice making clear that the BLM is applying livestock grazing regulations that were in effect prior to July 12, 2006, when the agency published a set of grazing regulations intended to revise the existing 1995 rangeland regulations. Implementation of the 2006 regulations was subsequently enjoined by a ruling of the U.S. District Court for the District of Idaho in *Western Watersheds Project v. Kraayenbrink*. The *Federal Register* notice makes clear that the pre-July 12, 2006, livestock grazing regulations, with a limited exception, have been and will continue to be enforced on BLM-managed lands, and that any future changes to these regulations would occur through a new rulemaking effort. Publication of the notice will not have any practical effect on the BLM's current management of livestock grazing on BLM-managed public lands, as none of the July 12, 2006, regulatory amendments were implemented because of the ongoing *Kraayenbrink* litigation against the intended revisions. The BLM has been applying, and will continue to apply, the pre-July 12, 2006, regulations except for provisions that sought to allow "conservation use" of grazing permits. These provisions were struck down in 1999 by the U.S. Court of Appeals for the 10th Circuit in the *Public Lands Council v. Babbitt* lawsuit.
- **New: Grazing Lease Relinquishment Requests Expected:** BLM-Oregon Medford District expects to receive two or more requests to relinquish leases in the Cascade-Siskiyou National Monument as a result of the Omnibus Lands Bill. Response/acknowledgement letters have been drafted, and requests to terminate leases will be processed as rapidly as possible. A third-party cash incentive to relinquish leases ends on April 30, so most activity will occur by then. Current environmental analysis work to renew the monument leases has been postponed pending the potential relinquishment requests.
- **New: State of Nevada/Commission for the Preservation of Wild Horses Considers Lawsuit Against BLM-Nevada:** Plaintiffs have asked for BLM-Nevada to establish and maintain Appropriate Management Level (AML) on all Herd Management Areas in Nevada, which is currently estimated at approximately 6,000 animals over AML. Plaintiffs will ask the Court to issue an injunction ordering the BLM and the Department to "immediately allocate agency

funding to Nevada's BLM field offices in proportion to the number of excess horses which the Nevada districts contain as compared to the national total."

- **New: Motion to Dismiss Ninth Circuit Grazing Regulation Appeal:** Public Lands Council (PLC) and the American Farm Bureau Federation (AFBF) have appealed a decision of the Idaho District Court enjoining grazing regulations published by the Bureau of Land Management on July 12, 2006. DOI also filed an appeal, but has since filed a voluntary motion for dismissal of its appeal which was granted. The Department of Justice (DOJ), in the absence of objections from DOI, plans to file a motion to dismiss the PLC and AFBF appeals to minimize the risk of precedent adverse to BLM and the United States. This is a fairly common practice for DOJ and prevents the Court of Appeals from opining on the meaning of an agency's governing statute, regulation, program, etc. where the agency has not appealed. Western Watersheds Project has already filed a motion to dismiss the appeals, arguing that neither group has independently established jurisdiction to appeal. The filing of a motion to dismiss the PLC and AFBF appeals may be of interest to the Secretary since the motion to dismiss might be perceived negatively by PLC and the AFBF. DOJ plans to file its motion on or before April 27, 2009.
- **Update: Powder River Basin Interagency Working Group Meeting:** The Powder River Basin Interagency Working Group will conduct its regularly scheduled meeting in Sheridan, Wyoming, May 5-6. Topics will include air quality, aquatic, and wildlife issues, and whether fish and wildlife agencies can join the ICC. This group was established as the forum for government agencies to address and discuss issues of common concern to all parties involved in permitting and monitoring of coalbed natural gas development. Federal agency members include the BLM, FS, Department of Energy (DOE), and Army Corp of Engineers, among others. The Crow and Northern Cheyenne Tribes, several Montana and Wyoming state departments and commissions, and county governments are members as well.
- **Update: Notice of Establishment of Interim Supplementary Rules within the South Spit Cooperative Management Area:** BLM-California Arcata Field Office has prepared for publication in the *Federal Register* interim final supplementary rules for the South Spit Cooperative Management Area (CMA). The notice was submitted to the BLM Director's office on March 26 and is currently under review. They will apply to approximately seven acres of BLM managed public lands within the South Spit CMA known as Lighthouse Ranch, and to approximately 600 acres where the State of California, through a deed of conservation easement, conveyed to BLM an interest in and the right to manage the South Spit in all aspects of its use in perpetuity. The public use limits proposed under these rules have been enforced for the past six years under state and local authorities granted to the BLM under cooperative agreements with Humboldt County and the California Department of Fish and Game. This enforcement has been widely supported and accepted by area users, based on knowledge of the sensitive species issues, and the past history of misuse prior to government acquisition. The primary purpose of the creation of these supplementary rules is to clarify public use requirements and ensure long-term enforcement capability by providing BLM rangers with federal authority under 43 CFR.
- **Update: Congressional Meetings:** On April 28-29, BLM State Directors from Arizona, California, Idaho, Montana, New Mexico, Oregon/Washington, Utah, and Wyoming will

conduct courtesy visits with their respective Congressional delegations to discuss various issues relating to their states.

- **Update: Resource Advisory Councils (RACs) Call for Nominations:** On February 27, the BLM published in the *Federal Register* the 2009 Call for Nominations for RACs, which begins the process to fill upcoming vacancies. All nominations are due to BLM state offices by April 13, and to the Washington Office by June 5. BLM has formed 24 RACs in 12 western states and Alaska to provide advice on the management of public lands and resources. Each RAC consists of 12 to 15 members from diverse interests in local communities, including environmental groups, tribes, ranchers, State and local government officials, academics, and other public land users. As citizen-based committees, the RACs provide an opportunity for individuals from all backgrounds and interests to have a voice in the management of the public lands. RAC recommendations address all public land issues, including: land use planning, recreation, noxious weeds, and wild horse and burro herd management areas.

Minerals Management Service (MMS)

Chronological MMS Events

- **New: Statoil Exploration Plan (EP) in Alaminos Canyon Area, Block 810:** On March 5, MMS Field Operations (FO) Plans Section received an Initial Exploration Plan (EP) from Statoil Gulf of Mexico LLC, to drill Subsea Wells C, H and I in Alaminos Canyon Area, Block 810, Lease OCS-G 31199. The well site locations are within 15 miles of the US/Mexican border. The MMS reviews have commenced. The plan has been submitted to the States of Louisiana and Texas Coastal Zone Management offices. MMS final action due date is May 1, 2009.

MRM Recurring Items

- **No Change: RIK Oil and Gas Sales:** FY 2009 RIK Oil and Gas Sales Key Milestones:
 - Tentative: Unrestricted GOM Crude Oil Sale May 6-7, 2009 for July deliveries
 - Tentative: Small Refiner GOM Crude Oil Sale August 4-5, 2009 for October deliveries
 - Tentative: Unrestricted GOM Crude Oil Sale August 5-6, 2009 for October deliveries

Offshore Energy and Minerals Management Program (OEMM) Recurring Items

- **New: MMS Request for Upcoming Sand and Gravel Projects Using OCS Resources:** During the week of April 6, the MMS Sand and Gravel Program sent letters to state government officials, state geologists, state project planners, local representatives, and Federal agencies requesting information pertaining to upcoming beach nourishment projects. The letter specified the need for information specific to the next five years as well as further informing interested parties about the new streamlined negotiated noncompetitive agreement process, the updated website, and the introduction of the rolling calendar. Responses are due to the Leasing Division Chief by June 1, 2009.
- **Update: Cape Wind Project:** The MMS published the Cape Wind Final EIS on January 21, 2009. The comment period closed on March 21, 2009. The MMS staff is reviewing comments

and has begun drafting the Record of Decision and lease agreement (Decision Document). The Clean Air Act (CAA) Final Conformity and National Historic Preservation Act (NHPA) section 106 consultations must be completed before the MMS can issue the Decision Document. The CAA Final Conformity should be completed *within the coming weeks, as the MMS is working closely with the EPA to resolve a few minor issues regarding emissions from vessels during construction and servicing of the proposed wind facility*. The NHPA section 106 consultation process remains the most challenging regulatory aspect for the project. The MMS has scheduled additional site visits with the Aquinnah and Mashpee Wampanoag Tribes for the week of April 13 and a full section 106 consultation meeting for the week of April 27. The purpose of this meeting will be to discuss mitigation strategies to reduce project impacts on historical and tribal properties. In order to complete the 106 process, a memorandum of agreement (MOA) regarding the MMS's findings and mitigations must be reached by the MMS, Cape Wind Associates, the Army Corps of Engineers, the Massachusetts Historical Commission, and the Advisory Council on Historic Preservation. The MMS will circulate a draft MOA after the meeting and work toward conclusion of the 106 process.

OEMM Lease Sales

- **No Change: Beaufort Sea Sale 209 (February 2010):** The target date for the sale bid opening is February 2010. Public hearings on the Draft EIS have been completed. MMS is extending the written comment period on the Arctic Multisale (Beaufort and Chukchi Sales 209, 212, 217, and 221) Draft EIS from March 16, 2009 to March 30, 2009. A request from EarthJustice for an additional 45-day comment period extension was denied.

Major Milestones:

Final EIS Available	September 2009
CD and PNOS Issued	September 2009
Governor's Comments due	November 2009
FNOS published in the <i>Federal Register</i>	January 2010
Public Bid Opening/Reading	February 2010

- **No Change: Western Gulf of Mexico Planning Area - Lease Sale 210 (August 2009):** The target date for the sale bid opening is August 19, 2009. A Notice of Availability was published in the *Federal Register* for the Proposed Notice of Sale on March 31st, 2009. The Section 19 letters to the Governors were sent out on March 25, 2009, their comments are due back on May 26. The GOM Region is working on the draft version of the Final Notice of Sale documents, which are due to start Headquarters review on April 10.

Major Milestones:

<i>Comments due on CDs</i>	<i>May 11, 2009</i>
<i>Final Notice of Sale package begins surnaming</i>	<i>May 14, 2009</i>
<i>Comments due on Section 19 letters</i>	<i>May 26, 2009</i>
Final Notice of Sale to be published in the <i>Federal Register</i>	July 8, 2009
Public Bid Opening/Reading	August 19, 2009

- **No Change: Central Planning Area 213 (March 2010):** The target date for the sale bid opening is March 17, 2010.

Major Milestones:

Publish NOA for the NEPA document & PNOS
Publish FNOS
Public Bid Opening/Reading

November 4, 2009
February 5, 2010
March 17, 2010

- **No Change: North Aleutian Basin Sale 214 (November 2011):** On March 3, MMS met with the Aleutians East Borough, a cooperating agency for the EIS, to discuss Fisheries Compensation. The target date for the sale bid opening is November 2011.

Major Milestones:

Draft EIS	January 2010
Public Hearings	February/March 2010
Final EIS	January 2011
Consistency Determination/ Proposed Notice of Sale	January 2011
Governor's Comments Due	March 2011
Final Notice of Sale Published in <i>Federal Register</i>	October 2011
Public Bid Opening/Reading	November 2011

- **No Change: Cook Inlet Sale 219 (2011):** MMS will issue a second Request for Information (RFI) in May 2009 to determine industry interest, and annually thereafter through the 5-Year schedule, until a sale is held or the 5-Year schedule expires. Since the current 2007-2012 sale schedule shows a potential Cook Inlet Lease (sale 219) scheduled for 2011, and due to the time to complete the presale process, it will not be possible to hold Sale 211 in 2010. The RFI scheduled to be issued in May 2009 will be for Sale 219 rather than Sale 211. If there is adequate industry interest, and MMS proceeds with the presale process, only one Cook Inlet sale will be held in the current 2007-2012 Program.
- **Update: Mid-Atlantic Offshore Virginia Sale 220 (2011):** The Governor of Virginia sent a letter dated February 19, 2009, requesting that Sale 220 be postponed. The Lieutenant Governor sent a letter dated March 3, 2009, stating that he and others in Virginia disagree with the Governor's request for delay and instead would like to see Sale 220 held on schedule. Five members from Virginia's Congressional delegation sent a March 10, 2009, letter also requesting to hold the sale on schedule. Response letters are being drafted. The MMS continues its outreach to the Virginia State government. *An internal presentation to the Deputy Secretary regarding Sale 220 and Atlantic issues occurred on March 19. The Sale is scheduled for 2011, but will probably be no earlier than 2012.*

Litigation

No new or updated litigation.

Office of Surface Mining

- **Update: Excess Spoil Minimization–Stream Buffer Zone Rule Final Rule:** The *Federal Register* published the rule on December 12, 2008, which is related to the practice of mountaintop mine removal. The publication of the rule was the "record of decision" for the October 17, 2008, Final Environmental Impact Statement (FEIS). Legal action to enjoin implementation of the rule on both substantive and procedural (National Environmental Policy

Act compliance) grounds was filed in the District Court for the District of Columbia Circuit on December 22, 2008, by eight environmental advocacy organizations, and by two additional plaintiffs related to Endangered Species Act compliance on January 16. *The Department of Justice (DOJ) will request that the deadline for filing initial responses to the complaint be extended to May 6.*

- **Upcoming Arbor Day Events:** OSM engages in reforestation efforts nationwide in an effort to re-establish natural forest systems on formerly mined lands or other deforested sites. To highlight these efforts, the bureau takes part in Arbor Day events each year. Attached is a table listing some of the events that OSM is sponsoring or participating in for Arbor Day 2009.

2009 Arbor Day Events		
Date	Where	Who's Participating
April 15	Near Barton, Allegany County, Maryland	Maryland Department of the Environment, Bureau of Mines, in partnership with the Department of Natural Resources, Power Plant Research Program and Students from Georges Creek Elementary School and the Westmar Middle School
April 18	Barnesville Area Reforestation Kommittee (BARK), Ohio	BARK members, volunteers from the Barnesville area, and local schools
April 18	Columbiana County, Ohio	OSM and AmeriCorps/VISTA, and Little Beaver Creek Land Foundation
April 18	Little Beaver River (a Wild and Scenic River) in Ohio	OSM, Ohio Columbiana Park Commission and the Little Beaver Creek Watershed Association
April 23	Birch River Operation in Webster County, West Virginia	West Virginia Department of Environmental Protection, OSM's Charleston Field Office, and the ICG Eastern, LLC
April 23	Cove Chapter Senior Citizen Center on the Navajo Nations Reservation in Cove, Arizona	OSM Western Region and students from the environmental science class at the Navajo Preparatory School,
April 24	Navajo Preparatory School in Farmington, New Mexico	OSM Western Region and students from the environmental science class at the Navajo Preparatory School
April 24	Spencer Fork Mine near Chavies, Kentucky	Kentucky Department for Natural Resources and OSM's Lexington Field Office and Applicant Violator System Office, and fourth- and fifth-grade students

		from elementary schools in Perry County, Kentucky
April 24 and 25	Outside Jerryville, West Virginia, in Webster County	OSM
May 7	Minersville, Pennsylvania, near the Schuylkill County Airport	OSM, OSM/VISTA Schuylkill Headwaters Association, and media

April 10, 2009

To: Laura Davis, Associate Deputy Secretary

From: Donna Erwin, Acting Special Trustee

Re: April 13, 2009 staff meeting

The following items for the Secretary's attention are from either the Office of the Special Trustee for American Indians (OST) or the Office of Historical Trust Accounting (OHTA).

Current Week April 6-12

- The Office of Trust Records hosted a Records Management Awareness Month "kick off" event on April 7, 2009. Mr. Luke Fields, from the Petroglyph National Monument, was the featured speaker at the event. Mr. Fields spoke of the significance of the petroglyphs as records of Pueblo life some 400 - 700 years ago. We would like to thank the National Park Service for allowing Mr. Fields to participate in this notable event. Mr. Fields reinforced the value and significance that federal employees play in preserving valuable documents which contribute to the historical record.
- OMB proposed a last minute appropriations language change to the Office of the Special Trustee's FY 2010 budget.
Background: OMB's proposal was designed to replace the existing provision that extends the statute of limitations. There has been an existing provision, inserted since 1990, tolling the statute of limitations until the individual or Tribe receives an accounting to determine if there is a claim. OMB's intent was to provide a compromise versus the complete elimination of the tolling of the statute of limitation and preventing time-barred claims from being reactivated.

OST recommends deleting the provision, a proposal suggested for the previous three years. Deleting the provision avoids trying to legislatively redefine how far back claims can go, since cases have already been decided under the existing language and current cases are in various courts. OST feels OMB's change in its appropriations language will be very controversial with the Tribes. In the final submission to OMB, OST's original text was used and OMB's proposed language was deleted. This will probably be a discussion item with OMB in the next few weeks

Week Ahead – April 13-19

- Tribal litigation document production requirements continue to take away from Trust Bureau's daily operations and resources.

Future Awareness – by date

- The *Status Report to the Court Number Thirty-Six*, a requirement of the *Cobell, et al.* litigation will require Departmental review the week of April 20-24, and the Secretary's signature on the transmittal letter to the Department of Justice.
- An InterTribal Monitoring Association meeting is scheduled April 23-24. Topics will include administration initiatives, budget, fractionation, estate planning and strategic planning on trust issues.
- OST Fiduciary Trust Officers and External Affairs representatives are preparing to support Indian Trust outreach activities at the "Gathering of Nations" Powwow, an annual event held in ABQ, NM, April 23-25.
- *Cobell, et al.* litigation oral arguments will be held on May 11, 2009, in the Washington DC District Court, Prettyman Building.
- An annual Tribal Self-Governance Conference is scheduled May 17-21 in Orlando, FL (Co-sponsored by DOI and HHS).



UNITED STATES
DEPARTMENT OF THE INTERIOR

April 10, 2009

Memorandum

To: Laura Davis, Associate Deputy Secretary
Kat Pustay, Special Assistant

From: Pamela Haze, Acting AS-PMB

Subject: April 13, 2009, Staff Meeting - Policy and Other Issues

This provides major policy and other issues that fall under the purview of the Assistant Secretary - PMB.

American Recovery and Reinvestment Act Status:

- The USGS Recovery plan was released on Friday, April 10.
- Reclamation will roll out the week of April 13.
- BIA is expected to roll out the week of April 20.
- The roll out of NPS, FWS, BLM and Fire is expected no later than the week of April 27.
- We are meeting with the Department of Education on the allocation of funding to Insular Areas from the Education Stabilization Fund.
- We are working with the Solicitor and bureaus on key issues - youth programs that are executed through cooperative agreements with third parties and FWS consultation.

2010 Budget:

- OMB has locked down their allocations and language for the 2010 budget.
- We are in a fast-paced budget presentation mode getting ready for budget release on May 5 including the press conference.
- A 2010 supplemental was released on Thursday, April 9. It contains \$50 million for Interior fire suppression and \$200 million for Forest Service.

Events:

- The Secretary will be at the May 5 press conference on the 2010 budget, the May 6 convocation/awards ceremony, and the May 7 Partnerships in Conservation event.

Other:

- A request went out for additional Senior Executive and Senior Level slots on April 7. The Executive Resources Board will be evaluating those along with multiple SES actions the week of April 13.
- The Secretary asked us to convene a team of people to consider ways to improve the building. We will be scheduling our first meeting in the next couple weeks.

Other Significant Issues: See attached list

Conferences/Meetings: See attached list.



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Conferences/Meetings: See attached list.

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
HEARINGS WITH APPROPRIATIONS					
House Interior Appropriations Hearing	BIA Law Enforcement Issues in Indian Country	Preparing testimony	April 22, 2009	AS-IA BIA Director	AS-PMB
House Interior Appropriations Hearing	USGS 2010 Budget Request	Preparing testimony	May 5, 2009	USGS Director	AS-PMB
Senate Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	May 6, 2009	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	May 13, 2009	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	NPS 2010 Budget Request	Preparing testimony	May 14, 2009	NPS Director	AS-PMB
House Interior Appropriations Hearing	FWS 2010 Budget Request	Preparing testimony	May 14, 2009	FWS Director	AS-PMB
RULES AND REGULATIONS					
American Indian Probate Reform Act (AIPRA) Rule	Interim final rule being issued to update procedures for Indian probate cases to reflect AIPRA amendments enacted in December 2008.	The rule should be ready for senior-level review. No OMB review needed.		Chief of Staff	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Hydropower Licensing Procedures Rule	Joint final rule being issued by the Departments of the Interior, Commerce, and Agriculture to revise procedures for trial-type hearings related to conditions and prescriptions for hydropower licenses and for the submission of alternative condition and prescriptions.	Rule signed by the three Departments, submitted to OMB, but not cleared for publication. No problems identified. Publication would facilitate the hydropower licensing process.	Rule should be re-submitted to OMB sooner rather than later; but it first has to be cleared by the three Departments, and Commerce does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB
Indian Self-Determination Act (ISDA) Rule	Joint final rule being issued by the Departments of the Interior and Health and Human Services to update procedures for ISDA appeals.	The joint final rule has been worked out at the staff level and is ready for senior-level review. (It does not require OMB review.)	Publication of the rule would facilitate the ISDA appeals process for the two Departments, and it should be cleared sooner rather than later; but HHS does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB
OTHER SIGNIFICANT ISSUES					

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Interior Contact for Environmental Issues for Customs and Border Protection	We have received a request from CBP for an Interior contact for the Acting Commissioner concerning environmental coordination issues associated with border security.	Commissioner may feel compelled to contact DOI counterpart to discuss progress on the current project located on Organ Pipe Cactus National Monument, Cabeza Prieta National Wildlife Refuge, and adjacent public land administered by the Bureau of Land Management.	In the near future	In the past, either the Deputy Secretary or the Associate Deputy Secretary served as the primary contact with the Commissioner.	AS-PMB
Recovery Act – Education State Fiscal Stabilization Fund	Interior is to be consulted on the allocation of \$268 million in Recovery Act funds for Insular Areas	Planning meeting of Recovery Coordinator with Education	As soon as possible	Recovery Coordinator	AS-PMB
International Year of Forests	Interior has been invited by the U.S. Forest Service to collaborate on opportunities for celebrating the United Nations-designated International Year of Forests in 2011.	The first meeting was March 31.	Next steps are to engage other partners and interested stakeholders.	PMB, OE-IA, USGS, NPS, OSM, BLM, BIA, FWS	AS/PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Environmental Assessment for the Hawaiian Home Lands Maili Land Exchange	The Secretary is required to approve land exchanges involving Hawaiian Home Lands. The Maili land exchange is subject to NEPA.	Upon DOI approval of the EA, we provide a 30 day notice to interested parties by posting the document on the Department of Hawaiian Home Lands website. Once the EA has been noticed, the Acting Deputy Assistant Secretary of Policy and Program Management, will sign the FONSI.	EA must be noticed and signed prior to exchange of properties. Once the land exchange packet is received, DOI will have 90 days to review and render a decision.	Director, Office of Hawaiian Relations	AS-PMB
Designation of Departmental representative on interagency sub-Cabinet level Trade Policy Review Group (TPRG)	The US Trade Representative (confirmed by the Senate on March 18) is expected to ask the Secretary to designate a Deputy Secretary or Assistant Secretary-level representative to the TPRG. TPRG is a FACA-chartered committee.	USTR communication was expected by the end of March.		Secretary, AS-PMB, DAS-Policy and Program Management; Director, Office of Policy Analysis	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Update of the Department-wide Strategic Plan is due for FY 2010	Secretarial strategic priorities and decisions needed to launch the plan revision process that includes Congressional consultation; public, Federal and Tribal comments; public meetings; and internal analysis and vetting of proposed revisions prior to formal publication and transmittal to Congress and OMB.	Briefing for Acting Assistant Secretary - PMB	Briefing on Strategic Plan schedule	AS-PMB	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
U.S. - Palau Review of Compact of Free Association	Palau and the U.S., as represented by Defense, State and DOI (lead), have been in bilateral discussions on the financial provisions of the Compact with Palau since early 2008. The State Department submitted Circular 175 to OMB requesting permission to 1) extend the current Compact with Palau by a year to allow funding to continue at current levels and give time for bilateral negotiations to begin formally; and 2) request parameters within which the State Department (partnering with DOI and other federal agencies) may negotiate on behalf of the U.S. Government.	Anything negotiated with Palau will still have to pass the U.S. Congress.	Financial provisions of the Compact of Free Association relationship between the U.S. and Palau expire on September 2009.	Secretary	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Second Triennial Report to Congress on the Federal Lands Recreation Enhancement Act (REA)	REA calls for a triennial report to Congress by May 1. The report provides: examples of past projects accomplished using REA fees; examples of planned projects and programs to be accomplished with REA fees; highlight the status of the REA program implementation, including budgetary data; and make recommendations for changes in the overall fee system.	A draft report is currently circulating for surname. As of 3/31 NPS, FWS, and OCL have surnamed. The draft is under review in A/S FWP, BLM, POB, SOL.	Report due to Congress on May 1, 2009	Assistant Secretaries, bureau directors	AS-PMB
2008 Federal Human Capital (HC) Survey Results, HC Strategic Plan	The departmental results from the government-wide 2008 FHCS administered by the Office of Personnel Management have been provided to agencies. Bureau/Office level results have also been received. . This is followed by a “Best Places to Work” ranking of Federal agencies based on the results of the 2008 FHCS.	Action plans to address the FHCS results need to be developed once the lower level results are received and analyzed.	Results for organizational units below the Bureau/Office level were received on March 20, 2009, and distributed to bureaus. The “Best Places to Work” ranking of Federal agencies based on the results of the 2008 FHCS is expected to be released May 19, 2009.	Associate Deputy Secretary	AS-PMB

**Assistant Secretary—Policy, Management and Budget
Significant Issues Summary**

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Continuity of Operations (COOP) Programs	The Secretary and leadership staff needs to be briefed on existing procedures for executing the mission essential functions of the Department during national security emergencies and catastrophic disaster situations. Input is required regarding emergency planning issues.	OEM coordinating with Chief of Staff's office to schedule briefings for Secretary and incoming officials at earliest possible time. Other actions await designation by the Secretary of an Assistant Secretary-level official as Departmental Continuity Coordinator.	Brief Secretary and key officials on emergency plans. April: Designate Assistant Secretary-level continuity coordinator. April: Review DOI "primary mission essential functions" in preparation for the 2009 update of the DOI COOP Plan. April-May: Update continuity team rosters as new officials arrive. June : COOP exercise	Secretary and senior leadership	AS-PMB

Current Policy, Management and Budget Requests for Secretarial Involvement – Summary Table

Date	Location	Event	Recommended DOI Participant	Requester/Office
April 17 and April 18	Tutuila, American Samoa	Invitation to the Secretary to be keynote speaker at American Samoa Flag Day. In a March 10 letter to the Secretary from American Samoa Governor Togiola Tulafono, the Secretary was invited to by keynote speaker at Flag Day.	Secretary's designee	AS-PMB
April 28	MIB	Homeland Security Council "Tabletop" Exercises: Principal-level exercises	Secretary, Associate Deputy Secretary, AS-PMB or DAS-OLESEM	AS-PMB
May 5	MIB	FY 2010 Budget Press Conference	Secretary - confirmed	AS-PMB
May 6	MIB	SES Awards Ceremony: Annual ceremony to honor SES, SL, and ST employees who received the Presidential Rank Awards and Secretary's Leadership Awards	Secretary - confirmed	AS-PMB
May 7 10 am	MIB - Yates	Partners in Conservation Awards Program	Secretary - confirmed	AS-PMB
May 12-13	DC	National Geospatial Advisory Committee Meeting. A request for Secretary to provide remarks at this meeting will be submitted in the next few weeks	Secretary	AS-PMB

Date	Location	Event	Recommended DOI Participant	Requester/Office
May 13 - 15	DC	National Police Week 2009: Annual event to include the 21st Annual Candlelight Vigil held at the Police Memorial, Interior's Annual Wreath Laying Ceremony in the MIB auditorium, and the 28th Annual National Peace Officer's Memorial Day Service on the west front lawn of the Capitol.	Secretary	AS-PMB
Fall 2009 or later	Mexico TBD	U.S. Mexico Joint Cabinet Meeting (Bi-National Commission): Previously DOI Secretary and Mexico counterpart and delegations met as the "Natural Resources Working Group" for 1.5-2 hours, then Secretaries would participate in plenary luncheon of all Cabinet members. A new format for next meeting is being developed by State Dept and Mexico, and date for meeting has not been set.	Secretary	AS-PMB
Spring 2009		The Wildland Fire Leadership Council (WFLC) was established in April 2002 by the Secretaries of Agriculture and the Interior to provide an intergovernmental committee to support the implementation and coordination of Federal Fire Management Policy. The Council meets regularly to provide oversight and coordination of the National Fire Plan and the Federal Wildland Fire Management Policy.	Assistant Secretaries for Policy, Management and Budget, Land and Minerals, Fish Wildlife and Parks, Bureau Directors	AS-PMB

TBD	MIB	The National Geospatial Advisory Committee (NGAC) was formed as an advisory committee to the Secretary on geospatial issues. The current chair of NGAC is requesting a courtesy meeting with the Secretary.	Secretary and senior officials	AS-PMB
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Office of the Chief Information Officer (OCIO)
Significant Issues Summary
Week Ending April 10, 2009
(Secretarial Requests Reported Separately)

Reporting this period:

BBM					DAS							PMB				
POB	PFM	PAM	PSD	NBC	BBM	HCPP	LESEM	PPM	IA	OCIO		GIO	SNV	B-L	OCC	CPM
X	X	X	X			X	X		X	X		X				

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
PREVIOUSLY REPORTED - UPDATES IN BOLD					

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology White House Data.Gov Initiative	The White House has thirteen new Open and Transparent Government initiatives planned for Fiscal Year 2009. These include Recovery.gov, Data.gov. Cloud Computing, e-rulemaking amongst other initiatives. OMB plans on asking Departmental CIOs (on the Federal CIO Council) to lead these initiatives to help OMB implement the President's vision. DOI has been selected to lead (due to its excellent work and reputation with the Enterprise Architecture Program and can-do spirit) this initiative called Data.gov for the new single website for Government Data to be announced to go live by White House on May 22, 2009. DOI OCIO is having to use scarce resources to apply effort to make this successful, but cannot support this effort without additional funding beyond May 22, 2009. Resource shortages have been identified to the OMB.	DOI OCIO is co-chairing a Government-wide team to establish the infrastructure and hosting; website design and look/feel; data set selection for population on the site; security; and communications and outreach. GSA has been selected to assist with the program along with representatives from OMB and other agencies. The effort is on schedule and Version 1.0 is expected be live before the launch date to be announced by the White House. There are five DOI resources currently involved.	May 22, 2009	OMB	White House

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Challenges	Interior has consistently faced continued Information Technology (IT) challenges and negative feedback from the Inspector General, General Accountability Office, Congress and the Government Reform Committee. Additionally, the DOI Office of Inspector General (OIG) issued a report ISD-EV-OSS-0017-2008 dated May, 2008, entitled "Compilation of IT Challenges at DOI - A blueprint for Change" which was shared with the New CIO in December 2008, the Transition Team and and the New Secretary in January, 2009. The report was released by the OIG to all Bureau/Office CIOs in March 2009 (at the Department CIO's request). The OIG report makes several recommendations for improvements in IT in the DOI.	The Department CIO, OS, Bureau and Office CIOs met with the Secretary on Friday, March 20 th and presented a White Paper with a vision of "oneDOI ²⁰¹² " - "How can DOI Transform itself to Become One of the Best in Gov't with Effective and Efficient IT and Information Resource Management (IRM)?" Understandably, the Department and Bureau/Office CIOs have differing views on their assessment of the OIG report and how to implement the change required to transform DOI. The Secretary requested a follow-up meeting in the next month or so. CIOs are collaborating on a unified action plan on how to move forward to improve IT and IRM for the DOI.	Tentative date: May 4, 2009 - Briefing set up for the Secretary	Secretary, David Hayes, Laura Davis, Pam Haze, Department CIO, Office and Bureau CIOs	Secretary

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.

Decision maker: Secretary or designate other official that should make the decision

Sponsor: Which DAS, office is responsible

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Radio Interoperability	DOI Fire, Law Enforcement and Emergency Management personnel lack the ability to reliably communicate with other Federal, State, Tribal and local organizations due to inadequate Radio Interoperability between separate systems. . Radio Interoperability Memorandums of Understanding (MOUs) between the Federal Government and State allow Federal, State, Tribal and Local first responders (responsible for supporting Fire, Law Enforcement and Emergency Management) to interoperate better thereby improving public safety.	DOI OCIO signed a Radio MOU with the State of Wisconsin on April 9, 2009 paving the way for DOI use of the new statewide radio system. The DOI OCIO signed A MOU with State of South Dakota on March 10, 2009. Previously, DOI signed MOUs with the State of Nebraska in 2008 and the States of Montana, Wyoming in 2007. An updated Radio Blueprint and a Unified PMO are required to better integrate diverse efforts in DOI.	December, 2009	OCIO	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.

Decision maker: Secretary or designate other official that should make the decision

Sponsor: Which DAS, office is responsible

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Freedom Of Information Act (FOIA)	On April 8, 2009, the DOI FOIA Officer briefed the Bureau/Office FOIA Officers on the President and Attorney General's new FOIA policy. Consistent with his responsibilities under the FOIA, the CIO/Chief FOIA Officer addressed the group, emphasizing the importance of "openness" in Government, being proactive in making discretionary disclosures and more information available on-line, reducing backlogs, and using technology to make the process more efficient. He also recognized the important role that the FOIA Officers play, but stressed that all employees are responsible for FOIA. The DOI CIO has been delegated authority by the Secretary to handle all FOIA matters for the DOI.	The DOI OCIO FOIA Office will prepare a memo for the Secretary's signature to be sent to all employees on the Administration's new FOIA policy requiring awareness and compliance with openness in Government and the changed direction from the previous administration.	June, 2009	Secretary	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Enterprise Services Network (ESN)	<p>The DOI Enterprise Services Network (ESN) serving 2,400 offices is based on services provided through the General Services Administration (GSA) Federal Telecommunications Service (FTS)-2001 contract which expires in June 2010. This contract is being replaced with the GSA-Networkx contract. Federal Agencies are required to transition all service procured from the contract to the GSA Networkx contract by June 2010. DOI is in process of converting services to the new contract but lost six months due to a different approach mandated by previous management, which resulted in an unaffordable and unresponsive solution.</p>	<p>On April 1, 2009, the OCIO briefed Bureau and Office CIOs on the revised Statement of Work strategy for completing fair opportunity of the enterprise network portion of the GSA Networkx contract transition. This strategy has been endorsed by DOI and GSA Acquisitions. The Secretary should be aware that DOI plans to complete the transition on time, in spite of the 6 months lost pursuing the Statement of Objectives approach. Congress and OMB have requested status from GSA of agencies status towards completing this transition. The Secretary could be asked about DOI's progress in this area</p>	Complete transition of the data network by June 2010, with Acquisition started in 3 rd Quarter, Fiscal Year 2009.	OCIO	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Government Accountability Office (GAO) Audit of High Risk DOI IT Projects	GAO initiated an informal inquiry to Federal Agencies regarding Agency Processes for Managing IT Projects on OMB's Management Watch List and High Risk List, particularly with respect to the role played by the department/agency executive level investment review board (IRB) in these processes. DOI has 12 projects on the high risk list. GAO chose a specific DOI project on the OMB high risk list (MMS OCS Connect) and wanted to study how OCIO was managing Governance of high-risk projects to successful completion and migration to common enterprise solutions.	The new OCIO is institutionalizing new Program Management Best Practices to help programs be successful. OCIO helped OCS connect comply with PM standards and processes and is working with MMS to ensure that they continue to follow enterprise practices. The OCIO developed response to the GAO assessment of the DOI executive-level investment review board (IRB), and specifically their assessment of MMS OCS Connect project. As a result, GAO provided a positive assessment for DOI	GAO report expected to be released 3 rd Quarter, Fiscal Year 2009	GAO	OCIO

Timeline: Indicate if the item is urgent or time sensitive and when a decision is needed.
Decision maker: Secretary or designate other official that should make the decision
Sponsor: Which DAS, office is responsible

Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Capital Planning and Investment Process	The OCIO is currently conducting Fiscal Year (FY) 2010 Updates of Bureaus and Offices Business Cases (OMB Exhibit 300s) and DOI's IT Portfolio (OMB Exhibit 53) with limited resources – requiring detailees from bureaus. Good Business cases, scores and an accurate IT Portfolio are critical to success in obtaining needed funding approval and support from OMB for IT initiatives at the DOI and Bureaus/Offices. OMB submits their recommendations to Congress	OCIO provided DOI bureau and office capital planners with OMB feedback on Exhibit 300s for FY2010. Corrections, updates and remediation plans for long-term issues are underway. An updated Exhibit 53, reflecting corrections to the 2010 Exhibit 300s, is due to OMB on April 10, 2009. The OCIO Portfolio Management Division is working in close coordination with POB to ensure the Department's timely response to this OMB tasker.	Revised 2010 Exhibit 53 and 300s due to OMB April 10, 2009. Other milestones will follow within next five months to prepare for FY2011 submission to OMB in September, 2009.	OMB	OCIO

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Item:	Summary of Issue:	Status of Issue:	Timeline:	Decision maker:	Sponsor:
Information Technology Privacy Act Compliance	Due to insufficient resources or priority, DOI can not adequately protect privacy-related information or detect privacy data breaches. DOI needs dedicated privacy resources and personnel to fully comply with Privacy Laws. Upon completing a limited monitoring of DOI data traffic, OCIO has determined that DOI has hundreds of privacy-related violations occurring every day. Many of these violations can be prevented with proper tools and resources. The Secretary has delegated this Privacy Act compliance to the CIO and Government Officials are held personally liable for violations.	Other than a single FTE at the Department and despite yearly budget request submissions, the DOI Privacy Program has been zero funded for the last 10 years while numerous privacy violations go undetected and uninvestigated. With a resource deficiency at the Department level, DOI has relied on bureau privacy officers to perform privacy protection and detection functions. However, the bureau privacy officers often wear a triple-hat responsibility that combines Privacy with FOIA and Records program responsibilities. All of these programs carry civil and criminal penalties for non-compliance. Privacy data losses in other federal agencies have resulted in civil penalties, negative publicity and senior leadership changes. A budget request has been submitted for FY09-11.	Immediate (FY2009)	Secretary	Secretary/OCIO

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Information Technology Security Virus Attack "Conficker"	The DOI is working with various groups, including DHS, US Computer Emergency Readiness Team (US CERT) and Interior's Bureaus and Offices, to monitor the network for signs of the Conficker virus activity that started April 1, 2009. Several incidents of potentially infected computes have been reported. The DHS US CERT response team will analyze those affected and contain until further notice.	The total number of hosts reported as potentially being infected by the Conficker virus (as a result of the use of the US-CERT provided Conficker Detection Tool and/or existing antivirus solutions to date) concluded minimum impact to the DOI computer desktop environment. Continuous monitoring is on-going.	On-going	OCIO	OCIO

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Decision maker: Secretary or designate other official that should make the decision

Sponsor: Which DAS, office is responsible



UNITED STATES
DEPARTMENT OF THE INTERIOR

April 4, 2009

Memorandum

To: Laura Davis, Associate Deputy Secretary
Kat Pustay, Special Assistant

From: Pamela Haze, Acting AS-PMB

Subject: April 6, 2009, Staff Meeting - Policy and Other Issues

This provides major policy and other issues that fall under the purview of the Assistant Secretary - PMB.

American Recovery and Reinvestment Act Status:

- USGS and Reclamation plans are moving through the OMB approval process.
- Events are planned for rolling out USGS on Friday, April 10.
- Reclamation will roll out the week of April 13.
- BIA has some issues that need resolution with the potential to roll out the week of April 20.
- We are encountering some delays in NPS, FWS, BLM and Fire.
- Requested Secretary call Education Secretary to encourage the allocation of funding to Insular Areas from the Education Stabilization Fund.
- Requested bureaus identify cooperative agreement plans and authorities for coordination with Solicitor.

2010 Budget:

- Passback was provided on Friday, April 6. The changes impact Reclamation, BIA and NPS.
- Final numbers will be provided on Monday, April 6.
- We anticipate budget release on May 5.

Appropriations and Other Hearings/Briefings:

- A schedule of budget/appropriations hearings is attached.

Rules:

- Hydropower Licensing Procedures – Need to issue joint final rule that was signed by the three Departments last fall and submitted to OMB.
- Indian Self Determination -- A joint final rule on Indian Self Determination has been worked out at the staff level but is ready for senior level review. It does not require OMB review.

Other:

- The Office of Environmental Policy Compliance is preparing an Environmental Assessment for the Hawaiian Home Lands Maili Land Exchange.
- The State Department is requesting a one year extension of the financial provisions of the Compact of Free Association with Palau.
- Interior has been invited by the U.S. Forest Service to collaborate on opportunities for celebrating the United Nations-designated International Year of Forests in 2011.

Other Significant Issues: See attached list

Conferences/Meetings: See attached list.

April 6, 2009

Memorandum

To: Laura Davis
Associate Deputy Secretary

From: Amy Holley
Chief of Staff for Water and Science

Subject: Weekly Meeting Issues

Bureau of Reclamation

New: Trailer Site Flooding and Potential Removal (North Dakota)

- As of April 1, 2009, 24 trailer sites at Lake Tschida are threatened due to high water with an estimated 11 of these trailers being flooded. Should the water continue to rise and reach a peak projected elevation, 60 trailer sites will be compromised with an unknown number of the trailers being flooded.
- There may be political pressure to allow relocation of the impacted trailer sites.

Currently, regulations prohibit any use that would result in new private exclusive recreational or residential use of Reclamation lands or waterbodies. Reclamation is considering not renewing the trailer permits, because they are considered private use on public lands. Relocating existing private exclusive recreational or residential uses that have been flooded to new locations would be creating new private exclusive uses. There may be political pressure to allow relocation of the trailer sites.

New: Public Roll Out of Memorandum of Agreement (MOA) with the State of Washington (Washington)

- On **April 3**, Bonneville Power Administration is expected to publically release a draft MOA between the Action Agencies and the State of Washington.
- Public comment on the MOA will be accepted until early **May 2009**.
- The signing of the MOA is likely to occur in early summer 2009.

In early summer 2009, Bonneville Power Administration (BPA), Corps of Engineers, Reclamation (collectively referred to as the Action Agencies), and the State of Washington are planning to sign a MOA that is designed to improve estuary habitat and strengthen fish stocks in the Columbia River Basin over the next 9 years. The parties have also committed to good faith negotiations for a long-term agreement to address issues associated with effects of the FCRPS

and Reclamation's Upper Snake Projects, including implementation of the 2008 Federal Columbia River Power System and Upper Snake River Biological Opinions.

Update: NOAA Fisheries Central Valley Project (CVP) Operations Section 7 Consultation (California)

- Reclamation, NOAA Fisheries, and the Fish and Wildlife Service met on April 1, 2009 to discuss the status of the consultation, identify areas of agreement, and identify issues yet to be resolved.
- The Federal Court granted a ninety-day extension for the completion of the final NOAA Fisheries Biological Opinion (BiOp), now due by June 2, 2009.
- NOAA Fisheries has agreed to work with Reclamation to resolve outstanding issues between now and the beginning of May.

As a result of litigation in *PCFFA v Gutierrez*, the NOAA Fisheries' CVP Operations BiOp completed on October 2004, was declared inadequate by the Federal District Court and returned to NOAA Fisheries with the order to produce a new BiOp. Reclamation, in consultation with DWR, will need to formally notify NOAA Fisheries of our decision as to whether Reclamation will accept the Reasonable and Prudent Alternatives (RPA) as something that can be implemented consistent with our proposed action, is within the scope of our legal authority, and is economically and technically feasible. Many of the technical, legal, and operational issues raised by the draft BiOp and RPA remain unresolved. The current version of the RPA requires actions that are beyond Reclamation's legal authority, including actions that conflict with Reclamation's other regulatory obligations.

Update: Truckee River Operating Agreement (TROA) (California and Nevada)

- A meeting between Reclamation and the TROA parties is scheduled for April 8 and 9, 2009, to gain approval from the TROA parties for Reclamation to proceed with negotiations.
- Senator Reid is personally interested.

The 1990 Settlement Act for the Pyramid Lake Paiute Tribe, sponsored by Senator Harry Reid, directed the Secretary of the Interior to negotiate an operating agreement (Agreement) for the federal reservoirs on the Truckee River upstream of Reno, Nevada. On September 6, 2008, Secretary Kempthorne joined 16 other parties in signing the TROA in Reno. The Final TROA Rule became effective on January 5, 2009. The final Agreement is intended to assure comprehensive coordination of the operation of those reservoirs for the purposes of storage, release, and exchange of water. The Agreement provides storage space which will increase municipal drought supplies, benefit instream flows for threatened and endangered fish species of Pyramid Lake and for water quality purposes, and enhance reservoir levels for recreation use.

All parties on the Truckee River have signed the TROA except the Truckee-Carson Irrigation District (TCID). Meetings in January and February of 2009 between representatives of TCID and the United States confirmed that TCID was interested in proceeding to substantive negotiations and would meet the preconditions set by Reclamation for the conduct of such talks. TCID's primary interest in the settlement agreement would be assistance with a comprehensive rehabilitation to the Truckee Canal, a Newlands Project feature which provides the irrigation

project with a substantial portion of its water supply from the Truckee River. The canal breached in early 2008, and its operation is currently limited by Reclamation guidance and court order until rehabilitation occurs. Senator Harry Reid's office has expressed interest in the negotiations, in order to see the TROA successfully implemented. However, the office also expresses concern with the negotiations due to the fact that TCID is currently under indictment for alleged falsification of records supplied to the government.

Update: Consultations with Mexico on proposed Yuma Desalting Plant pilot run (Arizona and California)

- The Government of Mexico is concerned about the potential impacts of this proposed action on the Ciénega de Santa Clara wetlands in Mexico.
- The Department has previously met with Mexico's Ambassador to discuss this and other Colorado River management issues, and the Ambassador will likely request a meeting with Secretary Salazar.

On April 8, Reclamation will conduct a third consultation with the Mexican government, through the International Boundary and Water Commission (IBWC), on the proposed pilot run of the Yuma Desalting Plant. Mexico is concerned about the impacts of the pilot run on the Cienega de Santa Clara, a 40,000 acre wetland located on the eastern edge of Mexico's Colorado River Delta. U.S. and Mexican Non-Governmental Organizations (NGO's) have also expressed their concerns about the impact of the pilot run on the Cienega. Reclamation expects to release for public review and comment a voluntary Environmental Assessment of the potential impacts by mid-April; the findings of this EA could prove controversial in the NGO community. Discussions on the pilot run, which would be jointly funded by Reclamation and three major municipal water organizations from Arizona, California and Nevada, began in early 2008.

No Change: Lake Berryessa (California)

- There has been some Congressional focus on the topic and Lake Berryessa is a very prominent federal resources issue in Napa County.

The Solicitor's Office has determined that new concession contracts at Lake Berryessa are likely in violation of the Antideficiency Act because they promise to reimburse contractors fair market value in 2038 for new improvements or pay interest if payment is delayed. Because of this potential statutory violation and the significant litigation risks associated with bilateral contract modifications, Reclamation is embarking on a process to re-initiate bidding and provide the recreational business community, the public, local governments, and interested members of Congress with updates on the situation. A briefing was provided to Congressman Mike Thompson's local office. Congressman Thompson has supported Reclamation's significant efforts to revitalize Lake Berryessa recreation concessions. The Congressman requested a meeting with Acting Commissioner Bill McDonald, and on Thursday, March 19, the meeting was held with the Acting Commissioner and John Bezdek of the Solicitor's Office. The Congressman expressed his dissatisfaction with the contract determination and the process. Bill McDonald and John Bezdek lead a discussion to explain the process to the Congressman. If there are any additional requests from Congressman Thompson, we expect they will be directed to the Acting Commissioner rather than to the Secretary.

No Change: Federal Columbia River Power System (FCRPS) Biological Opinion (BiOp) Litigation (Oregon, Montana, Washington)

- District Court Judge James Redden is writing his opinion for this case. *It is anticipated this opinion will be completed in April.* Questions from Judge Redden are anticipated during this time.
- The parties are near agreement for 2009 FCRPS spring spill operations.
- On **April 2**, a closed door meeting between the Judge and parties in the case will be held to follow-up on issues raised during the March 6th hearing.

A coalition of environmental and fishing groups, the State of Oregon, and the Nez Perce Tribe (as amicus) have challenged the 2008 FCRPS BiOp in Federal District Court claiming that the BiOp is arbitrary and capricious under the Administrative Procedure Act and fails to meet the requirements of the ESA and Clean Water Act.

U.S. Geological Survey

New: National Press Club Presents Special Preview Documentary on Chesapeake Bay and Puget Sound: On April 8, a special preview of a documentary, *Poisoned Waters*, will be shown at the National Press Club. USGS scientists doing research in the Chesapeake Bay were interviewed for the documentary. The documentary is narrated by FRONTLINE correspondent Hedrick Smith who examines the rising hazards to human health and the ecosystem of Chesapeake Bay and Puget Sound, and why it is so hard to keep these waters clean. USGS scientists and leaders will be invited to attend the preview showing. This preview event includes a symposium with a discussion on new pollution challenges led by EPA Administrator Lisa Jackson, William Ruckelshaus, founding EPA Administrator (under President Nixon), Dr. Robert Lawrence, Johns Hopkins University School of Public Health, and Ron Sims, Deputy Secretary of Housing and Urban Development. The media and environmental organizations have been invited to attend. The USGS is preparing a one-page information sheet to give to reporters or others if there is an opportunity to further explain our science or clarify any information that may be in the documentary.

Update: Historic Upper Midwest Flooding: USGS has 15 crews deployed in Minnesota, North Dakota, and South Dakota making special direct measurements of streamflow and repairing streamgages in the Red River Valley, Missouri River, and James River. The USGS is deploying special temporary streamgages to help to define the water surface profile along the Red from Fargo to the Canadian/U.S. border. This additional data will be used with digital elevation models and the remotely sensed satellite and photography images of the flood peaks to construct an inundation map. USGS continues to feed direct measurements of streamflow to the North Central River Forecast Center. Southern Red River valley and much of Southern North Dakota have received between 10 to 13 inches of snow with local amounts as much as 20 inches. The Red River continues to drop at Fargo, ND and crested at nearly 50 feet on Apr. 1 at Grand Forks, ND. Access Videos and Imagery at http://www.usgs.gov/homepage/science_features/flooding_march09.asp

Update: Explosive Eruptive Activity at Mount Redoubt (Alaska): USGS staff at the Alaska Volcano Observatory (AVO), continue to respond to volcanic unrest at Redoubt Volcano. AVO

staff has deployed broadband seismometers at Redoubt to improve the current monitoring network. Data from real-time seismic networks, web cameras, ground-based radar, GPS stations, an infrasound instrument, and near-real imagery from satellites are monitored by AVO staff 24/7. Damage to Drift River Oil Terminal has yet to become public knowledge, although no spillage appears to have occurred and the facility has been shut down. Redoubt volcano lies within Lake Clark National Park, which includes shoreline environments near the volcano and the oil terminal. On March 22, the Aviation Color Code was elevated to RED and the Alert Level to WARNING based on the onset of explosive eruptive activity. Explosive eruptions have generated ash plumes 20,000-60,000 feet above sea level, with minor to trace amounts of ash fall reported by communities north of the volcano as far as Healy, AK. AVO continues to post daily updates of Redoubt's condition at <http://www.avo.alaska.edu/activity/Redoubt.php>

New : Glacier Retreat on Antarctica Ice Shelf - The USGS is working on a press release regarding a new report and map on glacier retreat along Antarctica's Larsen Ice Shelf from 1940-2005. This research for the first time studies the entire Antarctic coastline and provides insight into the extent of coastal and glacier change. This is one of three projects studying glacier extent in the Antarctic Peninsula and these projects are part of a larger USGS series reviewing glaciers at every continent. Glacier retreat in Antarctica's Wordie and Larsen Ice Shelves is among the most profound examples of global warming effects. These ice shelves are especially sensitive to climate change, so their rapid retreat may be a forecast for melting of land-based ice in other parts of Antarctica if warming continues, which could result in sea-level rise, threatening low-lying coastal communities and islands.

Update: USGS Scientist Publishes Paper, "Mercury Sources, Distribution, and Bioavailability in the North Pacific Ocean": On or about April 1, the journal *Global Biogeochemical Cycles* will publish on-line the subject paper by USGS scientist, David Krabbenhoft. Currently, national and international groups are seeking the most effective ways to minimize human mercury exposure. This paper has three significant findings. First, it provides the first published data on methylmercury for the Pacific Ocean. The acquisition of these data provided the opportunity to document, for the first time in any ocean, an in-ocean methylation cycle, which provides a source of methylmercury to marine fish that has not previously been identified. Second, the paper documents a substantial increase in Pacific Ocean mercury levels over the past two decades and links these increases to rising global mercury emission inventories and transport via both atmospheric and in-ocean pathways. Third, the linked atmospheric deposition and ocean cycling model resulting from this project allows us to infer Pacific Ocean response times of food web contamination levels to changes in mercury loading. In combination, these findings have far ranging implications for both scientists and decision makers. A science reporter is writing a news piece to highlight the paper in a high profile outlet (i.e., *Science*, *Nature*, *American Scientific*, or *Environmental Science and Technology*). This spring, the USGS is briefing the U.S. Environmental Protection Agency on these results along with other recent mercury related findings. A similar sampling effort of the Southern Indian Ocean commenced on March 16, 2009. Briefings will be held for USGS and DOI leadership.

Update: Afghan Minister of Mines Courtesy Visit with Secretary: Afghanistan Minister of Mines, Mr. Ibrahim Adel, will be visiting Washington on May 11-12, 2009, for discussions with

various U.S. Government organizations. Minister Adel has specifically requested courtesy visits to the Department of the Interior and the U.S. Geological Survey (USGS) on Monday, May 11, 2009, where discussions would focus on past and potentially future natural resource assessment activities in Afghanistan. The USGS has worked closely with the Ministry of Mines and several other Afghan ministries since 2003; activities include preliminary assessments of water, mineral, coal, and oil and gas resources as well as earthquake hazards and capacity and institutional building. Funding for these activities has come from a variety of U.S. Government sources as well as the Afghanistan Government.

Update: Pending AP Article on Pharmaceuticals in Wastewater Treatment Plant

Effluents: The Associated Press (AP) is expected to run an article in the near future, date unknown, about the potential source of pharmaceuticals to the environment from pharmaceutical manufacturing facilities (PMFs) across the Nation. [March 27, 2009, AP article not yet released.] The AP interviewed USGS scientist Herb Buxton and took photographs of the USGS National Water Quality Laboratory. The story is likely to feature information from a paper published a few years ago with data from a wastewater treatment facility near Hyderabad, India, that has 90 PMFs discharging to it. Their data shows extremely high levels of pharmaceuticals in the wastewater effluent. The USGS has an ongoing study on PMFs with a very strong preliminary dataset that shows similar results, that is, significantly higher levels of pharmaceuticals in wastewater treatment plant effluent that receives discharge from PMFs in the United States. These preliminary results are important because USGS reports and other studies have reported low levels of pharmaceuticals in the Nation's water. This research was conducted as a joint study between the USGS and the New York State Department of Environmental Conservation. The USGS has submitted a paper from this ongoing study to the Environmental Science and Technology journal. Shortly after receiving a publication date the USGS will brief the U.S. Food and Drug Administration. USGS scientists briefed the U.S. Environmental Protection Agency (EPA), Office of Water, on March 26, 2009, on this topic. EPA appreciated the meeting and new contacts were made in the EPA Office of Wastewater Management.

Update: Students to track land use change in parts of the Chesapeake Bay: On April 20, USGS scientist Peter Claggett will meet with the Stewart Bruce, GIS Program Manager at Washington College in Chestertown, Maryland, to discuss having students track land use change in parts of the Chesapeake Bay watershed and to prototype the USGS Resource Mapper tool. The Resource Mapper is semi-automated classification software designed for use with Color Infrared aerial imagery and high resolution satellite imagery. The tool is designed to classify forest canopy, impervious surfaces, herbaceous vegetation and bare ground for an entire image scene.

Congressional

Update: Congressional Courtesy Visits – Iowa: USGS Iowa Water Science Center Director Rob Middlemis-Brown is planning courtesy visits to staff of the Iowa delegation on April 7-8; he will likely be joined by a partner, Cheryl Schreier, Superintendent of the NPS Herbert Hoover Historical Site.

Update: Water Quality 101 – Congressional Briefing: The USGS has been invited to present a "Water-Quality 101" briefing for Senate Environment and Public Works Committee staff.

USGS scientists Greg Mohrman, Donna Myers, and Herb Buxton will discuss USGS work on emerging contaminants, other research, USGS capabilities, and how to find water-quality information and reports on the USGS website. The briefing is tentatively scheduled for April 13 or 14.

Update: Postponed: USGS to brief House Interior Appropriation Subcommittee on old growth tree mortality in western United States: Associate Director for Biology Sue Haseltine and USGS scientists Phil Van Mantgem and Nate Stephenson have been invited to brief staff on the House Committee on Appropriations, Subcommittee on Interior, Environment and Related Agencies, about research showing the doubling of tree death rates in old-growth forests of the western United States. The findings link this trend to regional warming. Date TBD.

Media

Update: USGS Scientists Interviewed by Newsweek: Dan Fagre and Kate Kendall, were interviewed along with scientists from the U.S. Fish and Wildlife Service, and the University of Montana, by a reporter from Newsweek. The topic of the interview is the Crown of the Continent ecosystem as a geographic focus for research. The article will feature USGS Climate change research, U.S. Fish and Wildlife Service wolverine research, and aquatic research being done by the University of Montana. The reporter, Lily X. Huang, also met with Kate Kendall, USGS, regarding grizzly bear DNA. The article is still being written but is targeted for early to mid-April.

Memorandum

To: Associate Deputy Secretary

From: Deputy Assistant Secretary Policy and Economic Development

Re: Indian Affairs' Weekly Update

FOCUS FOR WEEK OF APRIL 5, 2009

Box Canyon Ceremony – George Skibine will participate in an April 10, 2009, event to publicize an agreement between parties impacted by a FERC licensing. The Box Canyon Hydroelectric Project occupies a portion of the Kalispel Indian Reservation in Washington. Multiple parties, including Kalispel and Interior, agreed to a settlement to resolve litigation pertaining to the relicensing of the Project. The Tribe's leadership is hosting the event. The Tribe's Chairman and George Skbinie will make statements in addition to the General Manger for the Public Utility. FERC must still make amendments to the initial license. However, all parties have agreed to the commitments by the Public Utility to ensure certain impacts by the utility project on wildlife are mitigated. Improved fish passage, tributary habitat restoration plan, and recreation projects improvements on the Kalispel Reservation are all a result of this agreement

National Pub. L. 102-477, 2009 Conference – The Office of Indian Energy and Economic Development will facilitate a national meeting in Orlando, FL from April 5 to 10, 2009. At least 400 attendees will attend the conference. The conference will feature a wide variety of training sessions and opportunities for case managers to hear inspirational speakers who support the case manger's community work. Pub. L. 102-477, (477) allows tribes to combine employment, training, education, child-care and related programs from 11 different Federal programs, 3 different Departments into one single comprehensive resource to assist tribes to train and obtain jobs for tribal members. Tribes report on the use of funds through OMB approved financial and program reporting procedures. The forms were developed with tribes, Department of Labor, Department of Health and Human Services and Bureau of Indian Affairs cooperatively. Instead of 166 pages a year of forms and instructions, tribes submit one comprehensive report specifically identifying how the funds were spent, what activities were engaged, and how successful they were in meeting education, training and employment goals.

INDIAN AFFAIRS

Update on Congressional Hearings on Carcieri – The House Natural Resources Committee held an April 1, 2009, hearing on the Indian Reorganization Act and the Carcieri decision. Chairman Dorgan stated at a Senate Committee on Indian Affairs' April 2, 2009, hearing on non-Carcieri matters, that he planned to have a Committee hearing on Carcieri in the future.

Request to Reprogram Funding for Navajo Irrigation Project – Indian Affairs declined a request from the Navajo Agriculture Products Industry (NAPI) for the Department to request that Congress reprogram funding for construction on the Navajo Indian Irrigation Project (NIIP) to fund rehabilitation for agricultural projects. NAPI relies on a House Committee report that contemplated whether construction funds would be used for rehabilitation activities on certain NAPI lands. The NAPI representatives met with the Assistant Secretary's office and requested that George Skibine reconsider the decision and make a request for construction funds be used for rehabilitation purposes.

National Indian Gaming Association Request to Secretary – The National Indian Gaming Association (NIGA) raised concerns with National Indian Gaming Commission (NIGC) in a letter to the Secretary. Indian Affairs is drafting a proposed response to address the matters NIGA raised. NIGA's concerns include: proposed NIGC regulations published for comment in December 2008; the NIGC staffing and failure to implement an Indian-preference policy; the appointment of the NIGC Commission; NIGC's interpretation of consultation policies; and the independent nature of the NIGC under the Indian Gaming Regulatory Act.

Plumber and Pipefitting Training program – A trade-training program in Chicago, IL is underway with 11 students. The training program staff is working with both the unions and the tribal "477" programs to determine if on-the-job training after completion of the formal 16-week training will provide opportunities for more competitive job placements.

Pueblo of Isleta Sand and Gravel Potential – The Office of Indian Energy and Economic Development has been working with the Pueblo of Isleta to assess the Pueblo's sand and gravel production potential. Regional resource studies and marketing analysis reveal that the Pueblo of Isleta, just 20 miles south of Albuquerque, has extraordinary potential for development of sand & gravel, crushed rock and cinders into this rapidly-growing urban market. Other aggregate sources around the Albuquerque area are becoming depleted and rapidly stretched out, and an Isleta source of rock materials could easily enter the Albuquerque Metro aggregate market and become the dominant supplier for the principal area of urban growth through Belen along the I-25-commuter rail corridor.

Crow/Blackfeet and IEED Wind Forum – The Office of Indian Energy and Economic Development (IEED) staff is planning a wind conference for the week of April 6, 2009 for the Crow and Blackfeet Tribes. A representative from the Cherokee Nation has been contacted to speak at the meetings.

BUREAU OF INDIAN EDUCATION

BIE Partnership Meeting - BIE will be meeting with representatives of the National Indian Education Association, the Department of Education's Office of Indian Education, the American Indian Higher Education Consortium and the National Congress of American Indians on Wednesday, April 8, 2009, to discuss issues of educational importance to all entities. This is a regular monthly meeting hosted by NCAI.

Annual National Indian Education Partnership Conference - Members of BIE's Senior Management Team will be participating in the 2nd Annual Partners for Indian Education Conference on April 17-19 in Norman, OK. The conference themes focus on K-12 education, community wellness and higher education issues. The conference is sponsored by the Department of Education's Office of Indian Education.

Presentation to Schools on BIE Project – On April 15, 2009, BIE will hold a summit in Rapid City for the North and South Dakota Tribes. BIE will present its Systems of Support for BIE schools, share data from the BIE's existing Navajo project, and introduce the opportunity for North and South Dakota schools who wish to bring the project to their schools. The Navajo project was a BIE decision to provide K-3 intensive reading. There are 29 Navajo schools who participated in this current school year and additional Navajo schools may join during the coming school year. A similar meeting to the Rapid City meeting will take place in Albuquerque, NM the week of April 20, 2009. The Albuquerque meeting will target all BIE and tribal schools and discuss what the System of Support project's intent is and reiterate the BIE school's ability to participate in the projects.

BIE Schools AYP - Annual reports of BIE and tribal/grant schools for the 2007-2008 school year continue to be received and processed by the Albuquerque Service Center. At the present time, 169 schools have reported, with 42 schools having achieved AYP for the 2007-2008 school year.

HINU Administrative Degree Practice – The number of Haskell Indian Nations University (HINU) students receiving administratively issued degrees is increasing. BIE received a written inquiry from Sen. Roberts of Kansas regarding HINU administratively awarding a degree to a student who needed one course to complete her degree. HINU's Vice-President of Academic Affairs felt the student demonstrated proficiency in this particular class, waived the requirement to take the class, and awarded her a Bachelors Degree at the completion of the 2008 Fall Semester. The student disputed the awarding of the degree, and appealed the decision to HINU's Academic Review Committee, requesting she be allowed to enroll in the 2009 Spring Semester and complete the class. The Academic Review Board upheld the Vice-President's decision. Sen. Roberts is requesting the clarification of HINU's actions. BIE will have a response drafted by the end of the week.

BUREAU OF INDIAN AFFAIRS

Update on BIA Region Data Call for Carcieri – The BIA Regional offices continue to provide assessments of land acquisitions made in their region. BIA requested the assessment as part of a data call to gather information about the potential impact of the Carcieri decision on land acquisitions. Decisions on land acquisitions in trust for parcels located within or contiguous to reservation boundaries are made typically by the BIA Regional Directors. As part of the BIA Regional Director's final decision, the Director specifies the specific authority for the Department to acquire the land in trust.

Emergency Response to Dakota Tribes – The BIA Great Plains Regional Office and BIA-Office of Indian Services will continue to provide emergency response support to tribes in the Great Plains region impacted by flooding in North and South Dakota. This week, the BIA has deployed staff to the Standing Rock Reservation in anticipation of damage beyond the existing flood damage to 20 homes and road ways. The BIA staff is coordinating the FEMA regional staff and local law enforcement to maintain law and order. BIA has put in place an incident command center and coordinated with the Red Cross to help provide food, shelter, general assistance, and other emergency services.

BIA Fee-to-Trust Handbook Forum – The BIA Office of Trust Services and the American Indian Law Center, an independent policy organization affiliated with the University of New Mexico, will hold the first of the BIA's annual forum (Forum) on its Fee-to-Trust Handbook. The Forum will take place on April 30, 2009, at a BIA training center in Albuquerque, NM. When the Handbook was released in the Fall of 2008, the BIA announced its plans to hold an annual forum that brought together federal and tribal practitioners to discuss their uses and implementation of the Handbook. The Forum will be an opportunity to discuss how tribal and BIA staff might seek ways to enhance the Handbook's use and impact. The current version of the Handbook addresses the business practices for the BIA's review of applications for on-reservation acquisitions and will expand in the future to describe business practices for off-reservation and mandatory acquisitions.

Update on BIA Commendation – Bodie Shaw, BIA Deputy Fire Director represented the BIA and other USDA and DOI firefighters at the Firefighter Appreciation event requested by the Australian Prime Minister. Mr. Shaw received an appreciation plaque from Prime Minister Rudd. He received also individual praise from the Prime Minister for his role as liaison to the Australian government for the American firefighters deployed there during the worst natural disaster in the history of Australia. BIA deployed seven employees to participate in the Australian wildfire effort.

BIA-NBC Training on Indirect Cost Rates – The BIA Division of Self-Determination and the National Business Center (NBC) will hold training to Negotiate Indirect Cost Rates for Contract Support, May 13 – 14, 2009, at the National Indian Programs Training Center in Albuquerque, NM. This training will be the first of three trainings as a result of the Ramah Indirect Costs Class Action law suit.

Self-determination contracts are the primary means by which the federal government fulfills its treaty and trust obligations to Indian tribes. Half of the operational control of the Indian Affairs programs are contracted out to Indian tribes or designated organizations. However, persistent shortfalls in the payment of required contract support costs (CSC) have prevented the Tribes from realizing the full promise of self-determination.

In 1990, the Ramah Navajo Chapter in New Mexico filed a class action to recover unpaid CSC. The Tribe relied on a 1988 amendment to Pub. L. 93-638 which required that the Secretary add to all 638 contracts full funding amounts of program operation. In later years, Ramah (and others) won a summary judgment. A partial settlement agreement between the class and the Department required the Department (NBC) provide adequate CSC training with focus on establishing special indirect cost rates in the calculation of CSC.

Final EIS on an Oil Refinery Proposal for North Dakota Tribes – BIA Region staff continue to work with EPA staff on a Final Environmental Impact Study for the Three Affiliated Tribes' proposed plan to build and operate an oil refinery on the Fort Berthold Reservation. The EPA will give a preliminary FEIS to the Tribes and cooperating agencies next week, and then hold consultation sessions with the tribes in late April. The FEIS will be published in late June 2009.

Two federal actions are involved with the Tribes' proposed project, both requiring an EIS to satisfy NEPA requirements. The EPA action involves issuance of permit(s) for operation of the proposed refinery. The Department of the Interior's action involves the Tribes' request to take the land into trust. The EPA and BIA have been working together for years as co-leads to complete a joint EIS. The Department of the Interior and EPA will issue separate Records of Decision (ROD) based on the findings. The Department has communicated with the Tribes and with the EPA during the Department's analysis of its fee-to-trust application. That communication has included the BIA and Indian Affairs' central office; because the Assistant Secretary-Indian Affairs assumed decision making authority from the BIA Region on this matter in April 2008.

MEMORANDUM

To: Laura Davis
Associate Deputy Secretary

From: Richard T. Cardinale
Chief of Staff to the Assistant Secretary -
Land and Minerals Management

Re: Summary Report for April 6, 2009 Meeting

Date: April 3, 2009

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Accompanying this memorandum is a report that combines key new and ongoing policy and regulatory decision items, and events that are either bureau-sponsored or at which there will be bureau representation by the Bureau of Land Management, Minerals Management Service, and Office of Surface Mining Reclamation and Enforcement.

On April 7th, Senator Dianne Feinstein will tour portions of the California Desert with Acting BLM Director Mike Pool. The tour, still in the planning stages, will be by car to give the Senator a better idea of the areas that may be included in the proposed Mother Road National Monument bill. BLM will provide the Senate with a list of points of interest in the area.

Also April 7, BLM-Wyoming will be conducting an Oil and Gas Lease Sale. There are 102 parcels for sale, totaling 98,195.24 acres in Wyoming and 40 acres in Nebraska.

On April 20, Governor Jon M. Huntsman Jr. will tour renewable energy project sites in Utah. The field tour is sponsored by the State of Utah, and will likely include visits to the wind turbines at Spanish Fork, Camp Williams, and Milford Wind, as well as the Blundell geothermal plant operations, including facilities on BLM land. The participants will likely also be updated on the recent activities of the Governor's renewable energy task force, including work completed to date in the preliminary identification of Utah Renewable Energy Zones (UREZ), and how they relate to the Western Renewable Energy Zone designations being considered by the Western Governors Association, and recent legislative action in Utah concerning renewable energy. It has not been determined whether BLM will have a specific role in this event. No formal request has been sent to the Secretary.

Finally, OSM will be holding a number of events throughout the Country to celebrate Arbor Day. Participants will include local field office officials, local government officials and local students. Events will include planting of American chestnut seeds, presentations on reforestation, the Forest Reclamation Approach, and the reintroduction of the American chestnut.

Other matters are also listed. If you need any further information, please contact me at (202) 208-7214.

LAND AND MINERALS MANAGEMENT

April 5 – April 11 2009

SENIOR OFFICIALS ACTIVITIES

Richard Cardinale, Acting Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Ned Farquhar, Deputy Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Mike Pool, Acting Director, Bureau of Land Management

Focus: Travel to California with Senator Feinstein to tour California desert on April 7th. Returning to Washington, DC continuing to focus on priority items and attend regularly scheduled meetings.

Walter Cruickshank, Acting Director, Minerals Management Service

Focus: On Annual Leave. Bob Brown to serve as Acting Director in Washington, DC. Continue to focus on priority items and attend regularly scheduled meetings.

Glenda Owens, Acting Director, Office of Surface Mining Reclamation and Enforcement

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

WEEK AHEAD

Bureau of Land Management (BLM)

- **Senator Feinstein to Tour Desert:** Senator Dianne Feinstein will tour portions of the California Desert on April 7 with Acting BLM Director Mike Pool. The tour, still in the planning stages, will be by car to give the Senator a better idea of the areas that may be included in the proposed Mother Road National Monument bill. BLM will provide the Senate with a list of points of interest in the area.
- **Congressional Staff Tour:** At the request of the U.S. Fish and Wildlife Service (FWS), BLM-Arizona will provide a tour to Senate Appropriations staff member Scott Dalzell on April 9. Dalzell has requested that “wolves and the border” be the focus of the tour. An itinerary is under development that includes visits to the Las Cienegas National Conservation Area and the Ironwood Forest National Monument.

- **Arizona Water Quality Public Meeting:** The Arizona Department of Environmental Quality (ADEQ) is working with the Gila Watershed Partnership (GWP) to provide the public with preliminary results of the Gila River Total Maximum Daily Load (TMDL) program. The BLM-Arizona Safford Field Office is a member of the GWP; their combined efforts are of particular importance to the Gila Box Riparian National Conservation Area and the San Simon Watershed staff. The TMDL presentation will be held on April 8 to provide timely dissemination of the research data. GWP and its affiliates are in a better position to secure grant funding from the Environmental Protection Agency 319 TMDL program by having a water quality baseline.
- **Nevada Resource Advisory Council (RAC) to Meet in Battle Mountain:** The BLM Northeastern Great Basin RAC will meet at the BLM-Battle Mountain District Office on April 9. Primary agenda topics include the Southern Nevada Public Land Management Act Round 10 Nominations and the Battle Mountain Resource Management Plan (RMP). BIA will provide updates on the Ely District RMP implementation, range/permit renewals, OHV trails, and mining activities.
- **Geothermal Workshops Planned for BLM and Forest Service (FS) Staff, State Agencies, and Industry:** The BLM plans a series of workshops in the 11 Western States and Alaska starting in April to facilitate implementation of the recently signed Record on Decision (ROD) for the Geothermal Programmatic Environmental Impact Statement (PEIS). BLM will hold a total of 29 workshops in 12 Western states. Workshops will be targeted at five separate audiences: BLM and Forest Service employees, representatives of State agencies, the geothermal industry, and the general public. The first workshop will be held in Grand Junction, Colorado on April 7 and the last in Salt Lake City, Utah, on June 11.
- **Pinedale Anticline Operators Meeting:** BLM-Wyoming Pinedale Field Office will host a quarterly planning meeting with the Pinedale Anticline Operators on April 8. The focus of the meeting is to refine the 2009/2010 annual development and delineation plans, as well as the 10-year rolling forecast for development of the Pinedale Anticline natural gas field. Members include representatives from the State of Wyoming Office of the Governor, the Town of Pinedale, the oil/gas operators active in the Pinedale Anticline area, statewide or local environmental groups, the landowners within or bordering the Pinedale Anticline area, livestock operators operating within or bordering the Pinedale Anticline area, and the public-at-large.
- **Upcoming Oil and Gas Lease Sales:**
 - BLM-Wyoming lease sale April 7: There are 102 parcels for sale, totaling 98,195.24 acres in Wyoming and 40 acres in Nebraska. The list of parcels was posted for public review on February 20.
 - BLM-Montana State lease sale April 14. BLM posted the 67 parcels for sale, totaling 53,530.84 acres. There are 51 parcels in Montana and 16 in North Dakota. Of the 51 in Montana, 36 parcels contain split estate lands. BLM notified private surface owners by mail. BLM posted the list of parcels on February 27, 2009.
 - BLM-New Mexico lease sale April 22. There are 87 parcels for sale, totaling 44,756.69 acres in New Mexico, 8,048.31 acres in Kansas, 710.25 acres in Oklahoma, and 8,828.04 acres in Texas. BLM posted the list of parcels on March 4.

- BLM-Colorado lease sale May 14: There are 57 parcels, totaling 58,071 acres, located in areas under the management of four BLM Colorado Field Offices – Royal Gorge (Canon City), Little Snake (Craig), White River (Meeker) and the Dolores Public Lands Office. The list of parcels was posted on March 16.
- BLM-Utah lease sale May 19: There are 91 parcels for sale, totaling 141,569 acres in the Fillmore, Monticello, Price, and Vernal Field Offices. The final list will be posted April 3, once Wyoming has approved the parcels.
- **Mine Safety Meeting:** On April 8, the Mine Safety & Health Administration, National Institute for Occupational Safety and Health, and BLM-Utah State Office will meet in Salt Lake City to discuss issues related to deep coal mine safety.

Minerals Management Service (MMS)

- **Informal Request for Review of Decision on Denial of Julia Discovery Suspension of Production (SOP):** MMS has denied a request for a SOP, an extension of a lease beyond the primary term of 10 years, by ExxonMobil for their Julia discovery on February 10, 2009. The request for a SOP was denied due to a lack of “commitment to production” as required by regulation (i.e., no executed contract for subsea tieback to a potential Jack/St. Malo floating production facility; and no commitment by ExxonMobil to a stand-alone development for the Julia discovery). ExxonMobil is the designated operator of the Julia Unit, and StatoilHydro is a partner in the Julia Unit discoveries. On March 20, the MMS Gulf of Mexico Region met with representatives and legal counsel from ExxonMobil to discuss an informal request by ExxonMobil to review the decision by the MMS to deny a requested SOP. On March 25, MMS Headquarters met with representatives and legal counsel from ExxonMobil to discuss the informal request. ExxonMobil plans to appeal the decision by the MMS on April 9, but would prefer to resolve the matter through informal meetings.

Office of Surface Mining (OSM)

No new items to report.

GRANTS

Bureau of Land Management (BLM)

Redding Open Space Mgt and Development Program: BLM-California is accepting applications through April 15 to build new trails, roads, and parking lots, and maintain existing trails/roads within the Interlakes Special Recreation Management Area, Swasey Recreation Area and Clear Creek Greenway. There will be one award totaling \$2,000,000. Eligible applicants include nonprofits having a 501(c)(3) status.

Minerals Management Service (MMS)

No new grants to report this week.

Office of Surface Mining (OSM)

No new grants to report this week.

ON THE HORIZON

**Updates are shown in italics*

Bureau of Land Management (BLM)

- **New: Oil Shale/Tar Sands Land Use Plan Amendments and Regulations:** BLM is discussing options with the Office of the Solicitor concerning *Colorado Environmental Coalition v. Salazar*, Case No. 1:09cv00085 (D. Colo.) (filed January 16, 2009). Plaintiff environmental organizations challenge the adoption of land use plan amendments allocating certain public lands in Utah, Wyoming and Colorado as available for application to lease oil shale and tar sands resources. Plaintiffs allege FLPMA (failure to hold a protest period) and NEPA (inadequate range of alternatives) violations in arguing that the adoption of the amendments was arbitrary and capricious. The Government's response is currently due June 2, 2009. In a separate case, plaintiffs have challenged the adoption of regulations governing the leasing of oil shale on public lands, claiming violations of the Energy Policy Act, FLPMA, and NEPA.
- **New: Western Oregon Plan Revisions (WOPR) Challenged:** As of April 3, there are five active lawsuits in various stages of litigation with consolidated National Environmental Policy Act, Endangered Species Act, and/or Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act of 1937 (O&C Act) related claims for the Western Oregon Resource Management Plans (RMPs). The BLM is consulting with the Office of the Solicitor concerning the lawsuits and will submit a response to each accordingly. Responses are currently due on the following dates:
 1. American Forest Resource Council (AFRC) v. Kempthorne (filed January 2); U.S. District Court, District of Columbia – Judge Ellen Huvelle; DUE May 1
 2. Oregon Wild et al. v. Shepard/BLM (filed January 14); U.S. District Court, Oregon – Judge Paul Papak; DUE May 18
 3. Forest Service Employees for Environmental Ethics v. USFWS/BLM/DOI (filed January 15); U.S. District Court, Oregon – Judge Ann Aiken; DUE May 18
 4. Pacific Rivers Council et al. v. Shepard/BLM Districts/DOI (filed January 14); U.S. District Court, Oregon – Magistrate Janice Stewart; DUE June 5
 5. AFRC v. Caswell (formerly AFRC v. Clarke and originally NFRC v. Dombeck); U.S. District Court, District of Columbia – Judge Thomas Penfield Jackson; Both parties have fully briefed the issues before the Court, and a Court response is pending.
- **New: Use of Categorical Exclusions:** BLM is discussing options with the Solicitor in *Western Watersheds Project v. Lane*, No. 07-cv-394-BLW (D. Idaho) (filed Dec. 11, 2007), a case challenging the adoption and use of 3 categorical exclusions (CE): the vegetation management CE, the grazing permit/lease issuance CE, and the Department's hazardous fuels reduction CE. Plaintiff is asking that BLM discontinue issuance nationwide of decisions relying upon these

three CE. Plaintiff also asks that BLM withdraw seven grazing decisions in Idaho that have already been issued using one of the CE.

*****Possible Secretarial Visit***

- **New: Utah Renewable Energy Zone Field Trip:** On April 20, Governor Jon M. Huntsman Jr. will tour renewable energy project sites in Utah. The field tour is sponsored by the State of Utah, and will likely include visits to the wind turbines at Spanish Fork, Camp Williams, and Milford Wind, as well as the Blundell geothermal plant operations, including facilities on BLM land. The participants will likely also be updated on the recent activities of the Governor's renewable energy task force, including work completed to date in the preliminary identification of Utah Renewable Energy Zones (UREZ), and how they relate to the Western Renewable Energy Zone designations being considered by the Western Governors Association, and recent legislative action in Utah concerning renewable energy. It has not been determined whether BLM will have a specific role in this event. No formal request has been sent to the Secretary.
- **New: Idaho Earth Day Event Blacks Creek Reservoir Clean-up:** On April 25, as part of Earth Day, volunteers from BLM-Idaho Boise District Office, BLM-Idaho State Office, Golden Eagle Audubon Society and several other interest groups will spend the day cleaning up Blacks Creek Reservoir and the surrounding area. The Reservoir is located approximately 20 minutes east of Boise. Participants may include local Boy Scout Troops. Local media are being contacted and have expressed interest in covering the event.
- **New: Powder River Basin Interagency Working Group Meeting:** The Powder River Basin Interagency Working Group will conduct its regularly scheduled meeting in Sheridan, Wyoming, May 5-6. This group was established as the forum for government agencies to address and discuss issues of common concern to all parties involved in permitting and monitoring of coalbed natural gas development. Current Working Group members include BLM, Forest Service (FS), Environmental Protection Agency (EPA), Fish and Wildlife Service (FWS), National Park Service (NPS), Bureau of Indian Affairs (BIA), Department of Energy (DOE) and U.S. Geological Service (USGS). Also included are representatives from the State of Wyoming Department of Environmental Quality, Game and Fish Commission, Oil and Gas Conservation Commission, State Engineer, State Historic Preservation Office, Planning Office; representatives from the State of Montana Board of Oil and Gas Conservation, Bureau of Mines and Geology, Department of Environmental Quality, Department of Natural Resources & Conservation, Fish, Wildlife & Parks; The Crow Tribe and Northern Cheyenne Tribe; and various other local government officials.
- **New: Paleontology Conference:** On May 22-23, the BLM-Utah Grand Staircase-Escalante National Monument, in partnership with the Utah Museum of Natural History, the Utah Friends of Paleontology, Grand Staircase-Escalante Partners and the Glen Canyon Natural History Association, is sponsoring a research conference on the Late Cretaceous period. The conference will include geology and paleontology of the U.S. Western Interior. More than 65 scientists from as far as Canada and the Czech Republic will be presenting their work at the two day conference, to be held in St. George, Utah.

- **New: Notice of Availability of Record of Decision (ROD) for the Alabama and Mississippi Resource Management Plan/Environmental Impact Statement (RMP/EIS):** BLM-Eastern States has prepared for publication in the Federal Register a Notice of the ROD for the Alabama and Mississippi RMP/EIS. The Eastern States Director signed the ROD on January 30. The approved RMP includes broad land use plan decisions that provide overall direction for management of resources and resource uses within the BLM-Eastern States Jackson Field Office. The RMP covers areas in Alabama and Mississippi and includes approximately 333 acres of public land surface and mineral estate, and 704,850 acres of Federal minerals where the surface estate is in non-Federal ownership. The BLM also has responsibility for 126,570 acres of mineral estate where the surface is managed by other Federal agencies.

*****Possible Secretarial Visit***

- **New: BLM “Making a Difference” National Volunteer Awards:** The BLM Division of Education, Interpretation & Partnerships has received more than 60 nominations for 2009’s “Making a Difference” National Volunteer Awards. The awards ceremony will be held on May 14 in Main Interior’s South Penthouse, in conjunction with the spring meeting of the BLM Field Committee. Secretary Salazar has been invited to speak at the ceremony.
- **New: Notice of Establishment of Interim Supplementary Rules within the South Spit Cooperative Management Area (CMA):** BLM-California Arcata Field Office has prepared for publication in the *Federal Register* interim final supplementary rules for the South Spit Cooperative Management Area (CMA). The rules will be effective upon publication and remain in effect until the publication of final supplementary rules. They will apply to approximately seven acres of BLM managed public lands within the South Spit CMA known as Lighthouse Ranch, and to approximately 600 acres where the State of California, through a deed of conservation easement, conveyed to BLM an interest in and the right to manage the South Spit in all aspects of its use in perpetuity. BLM has determined these interim final supplementary rules are necessary to enhance the safety of visitors, protect natural resources, and protect public health.
- **Update: Oregon Natural Desert Association (ONDA) Appeals BLM’s Geothermal Leases:** Eleven geothermal lease parcels near Glass Buttes, Oregon, which were included at the December 19, 2008 auction lease sale, are the subject of an ONDA appeal. ONDA is challenging BLM’s wilderness characteristics inventory, and whether the BLM gave adequate consideration of sensitive species in the area, such as the sage-grouse and the pygmy rabbit. ONDA also desires a greater look at cumulative impacts of project actions on the ground. BLM’s draft response to ONDA’s appeal was sent to BLM-WO Solicitor on March 21. The Solicitor will prepare the final response to ONDA’s Statement of Reasons.
- **Update: Rawlins Field Office to Host South Central Reclamation Council Meeting:** BLM-Wyoming Rawlins Field Office will participate in the first 2009 meeting of the South Central Reclamation Council, on April 20. BLM specialists will meet with energy industry representatives, landowners and reclamation contractors to discuss reclamation activities in oil and gas production areas. The new surface disturbance database and new state policy on reclamation will be some of the issues discussed. The South Central Wyoming Reclamation

Council is an information sharing forum led by the Petroleum Association of Wyoming, which meets to informally discuss reclamation issues and share information.

Minerals Management Service (MMS)

Chronological MMS Events

No new items to report.

MRM Recurring Items

- **No Change: RIK Oil and Gas Sales:** FY 2009 RIK Oil and Gas Sales Key Milestones:
 - Tentative: Unrestricted GOM Crude Oil Sale May 6-7, 2009 for July deliveries
 - Tentative: Small Refiner GOM Crude Oil Sale August 4-5, 2009 for October deliveries
 - Tentative: Unrestricted GOM Crude Oil Sale August 5-6, 2009 for October deliveries

Offshore Energy and Minerals Management Program (OEMM) Recurring Items

- **New: Potential Offshore Wind Projects off Newport and Tillamook, Oregon:** On March 18, Columbia Power met with the Oregon Department of Land Conservation and Development (DLCD) to discuss development of an offshore wind project to be located off Newport, Oregon. The project would straddle state and federal waters. Principle Power also met with DLCD and informed the agency that they are working with Tillamook People's Utility District (signed memorandum of understanding on November 24, 2008) for a 150 MW floating wind project to be located fully on the OCS off Tillamook, Oregon. Principle Power intends to request an OCS lease when the MMS renewable energy rule is final.
- **Update: Cape Wind Project:** *MMS published the Cape Wind Final EIS on January 21, 2009. The comment period closed on March 21, 2009. MMS staff is reviewing comments and has begun drafting the Record of Decision and lease agreement (Decision Document). The Clean Air Act (CAA) Final Conformity and National Historic Preservation Act (NHPA) section 106 consultations must be completed before MMS can issue the Decision Document. MMS continues to work on the CAA Final Conformity. The NHPA section 106 consultation process remains the most challenging regulatory aspect for the project. The MMS has scheduled additional site visits with the Aquinnah and Mashpee Wampanoag Tribes for the week of April 13 and a full section 106 consultation meeting for the week of April 27. The purpose of this meeting will be to discuss mitigation strategies to reduce project impacts on historical and tribal properties. In order to complete the 106 process, a memorandum of agreement (MOA) regarding MMS's findings and mitigations must be reached by MMS, Cape Wind Associates, the Army Corps of Engineers, the Massachusetts Historical Commission, and the Advisory Council on Historic Preservation. MMS will circulate a draft MOA after the meeting and work toward conclusion of the 106 process.*
- **Update: Letter to Secretary Salazar from US Offshore Wind Collaborative (USOWC):** On February 18, a letter was sent to Secretary Salazar from USOWC requesting the formation of a formal New England-Mid Atlantic States Joint Planning Agreement with the MMS. The

agreement would not negate the need for individual states to address specific situations or timeframes. An initial teleconference was held with the Collaborative Group on March 12, 2009. Participants included MMS, Good Harbor Consulting (GHC) and the USOWC. *The states group convened the week of March 16, and the USOWC anticipates presenting MMS with a proposed agenda for the group the week of April 20th that will be put in the context of regional councils and task forces regarding how we can best work efficiently.*

- **Update: Alternative Energy Interim Policy Projects:** A table below summarizes the status of each Interim Policy project under MMS's consideration.

State	Total Projects	Developers	Applications Received	Project Review Status
Delaware	1	Bluewater Wind	1 – Bluewater Wind	EA, consultations, and lease stipulations in progress; developer is qualified to hold a lease; <i>final negative determination submitted to DNREC on March 20</i> ; contingent on state CZM review and consultations with NOAA-Fisheries, lease issuance target is <i>May 2009</i> .
Florida	3	Aquantis; Florida Atlantic University (FAU); Turner Hunt Ocean Renewable (THOR)	1 – THOR	Environmental review of THOR's recently submitted project application (1/28/09) has just begun. The MMS is awaiting additional information to confirm the developers are qualified to hold leases; the MMS is awaiting project applications from Aquantis and FAU. Aquantis has been confirmed as qualified to hold a lease.
Georgia	3	Southern Company	0	MMS awaiting project application from Southern Company; developer is qualified to hold a lease.
New Jersey	6	Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	4 – Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	EA, consultations, and lease stipulations in progress; the MMS has received additional information from Deepwater Wind (dated March 12, 2009) to confirm whether this developer is qualified; the MMS is awaiting additional information from FERN to confirm if the developer is qualified to hold leases; Bluewater is confirmed qualified to hold a lease; final consistency determination submitted to NJDEP on March 6;

State	Total Projects	Developers	Applications Received	Project Review Status
				contingent on <i>qualification of the developers</i> , state CZM review and consultations with NOAA-Fisheries, lease issuance target is <i>May 2009 for all three developers</i> .

MMS is finalizing the draft EA for the seven proposed Interim Policy projects sited offshore Delaware and New Jersey in preparation for surnaming.

OEMM Lease Sales

- **No Change: Beaufort Sea Sale 209 (February 2010):** The target date for the sale bid opening is February 2010. Public hearings on the Draft EIS have been completed. MMS is extending the written comment period on the Arctic Multisale (Beaufort and Chukchi Sales 209, 212, 217, and 221) Draft EIS from March 16, 2009 to March 30, 2009. *A request from EarthJustice for an additional 45-day comment period extension was denied.*

Major Milestones:

Final EIS Available	September 2009
CD and PNOS Issued	September 2009
Governor's Comments due	November 2009
FNOS published in the <i>Federal Register</i>	January 2010
Public Bid Opening/Reading	February 2010

- **Update: Western Gulf of Mexico Planning Area - Lease Sale 210 (August 2009):** The target date for the sale bid opening is August 19, 2009. A Notice of Availability was published in the *Federal Register* for the Proposed Notice of Sale on *March 31st, 2009*. *The Section 19 letters to the Governors were sent out on March 25, 2009, their comments are due back on May 26. The GOM Region is working on the draft version of the Final Notice of Sale documents, which are due to start Headquarters review on April 10.*

Major Milestones:

<i>Comments due on CDs</i>	<i>May 11, 2009</i>
<i>Final Notice of Sale package begins surnaming</i>	<i>May 14, 2009</i>
<i>Comments due on Section 19 letters</i>	<i>May 26, 2009</i>
Final Notice of Sale to be published in the <i>Federal Register</i>	July 8, 2009
Public Bid Opening/Reading	August 19, 2009

- **No Change: Central Planning Area 213 (March 2010):** The target date for the sale bid opening is March 17, 2010.

Major Milestones:

Publish NOA for the NEPA document & PNOS	November 4, 2009
Publish FNOS	February 5, 2010
Public Bid Opening/Reading	March 17, 2010

- **No Change: North Aleutian Basin Sale 214 (November 2011):** On March 3, MMS met with the Aleutians East Borough, a cooperating agency for the EIS, to discuss Fisheries Compensation. The target date for the sale bid opening is November 2011.

Major Milestones:

Draft EIS	January 2010
Public Hearings	February/March 2010
Final EIS	January 2011
Consistency Determination/ Proposed Notice of Sale	January 2011
Governor's Comments Due	March 2011
Final Notice of Sale Published in <i>Federal Register</i>	October 2011
Public Bid Opening/Reading	November 2011

- **No Change: Cook Inlet Sale 219 (2011):** The MMS will issue a second Request for Information (RFI) in May 2009 to determine industry interest, and annually thereafter through the 5-Year schedule, until a sale is held or the 5-Year schedule expires. Since the current 2007-2012 sale schedule shows a potential Cook Inlet Lease (sale 219) scheduled for 2011, and due to the time to complete the presale process, it will not be possible to hold Sale 211 in 2010. The RFI scheduled to be issued in May 2009 will be for Sale 219 rather than Sale 211. If there is adequate industry interest, and the MMS proceeds with the presale process, only one Cook Inlet sale will be held in the current 2007-2012 Program.
- **Update: Mid-Atlantic Offshore Virginia Sale 220 (2011):** The Governor of Virginia sent a letter dated February 19, 2009, requesting that Sale 220 be postponed. The Lieutenant Governor sent a letter dated March 3, 2009, stating that he and others in Virginia disagree with the Governor's request for delay and instead would like to see Sale 220 held on schedule. *Responses have been drafted and are being reviewed.* MMS continues its outreach to the Virginia State government.

Litigation

- **Update: Native Village of Point Hope et al. (Sale 193):** *A joint motion to extend the briefing schedule for 60 days is scheduled to be filed with the U.S. District Court for the District of Alaska on March 26, 2009, by the Department of Justice. The government initiated and negotiated the joint motion with the Intervenor (companies) and the plaintiffs. It is anticipated that Judge Beistline will approve the joint motion. Upon court approval, the new briefing schedule will be: Government's Opposition Brief (May 26); Intervenor's Response Brief (June 9); and Plaintiffs Reply Brief (June 29). The lawsuit was filed on January 31, 2008, and one year later on January 30, 2009, the Plaintiffs filed their opening brief with the U.S. District Court for the District of Alaska. The plaintiffs alleged that the MMS and the DOI violated NEPA and that the DOI, the MMS, and the FWS violated the ESA. Staff in the MMS Alaska OCS Region are coordinating with the attorneys by reviewing and providing comments on the draft government's brief.*
- **Update: Pacific Energy Resources Ltd. (PERL) Interior Board of Land Appeals (IBLA) Appeal:** *On March 18, PERL filed a Statement of Reasons (SOR) with the IBLA. The SOR contends that the MMS Final Decision to deny PERL's proposal to exchange the current lease*

specific abandonment account with 30 bonds from a surety company with a small underwriting limitation to satisfy a supplemental bond for decommissioning requirement of \$126.7 million was arbitrary and capricious. The DOI Office of the Solicitor will defend the agency's decision. A response is due by April 18th.

Office of Surface Mining

- **New: Coal and Coffee Industries Collaborate to Reduce Decline of Cerulean Warbler Habitat:** On April 14, the Coal, Coffee, and Cerulean Warbler Partnership will conduct a scoping meeting regarding the establishment of habitat for the Cerulean Warbler. The Cerulean Warbler is a small migratory songbird that breeds in mature deciduous forests of eastern North America, migrates across the Gulf of Mexico and through Central America, and winters in evergreen forests of the northern Andes Mountains in South America. The population of the Cerulean Warbler has declined from an estimated 1.4 million in the mid-1960s to about 400,000 today due to habitat loss and habitat degradation, which translates to a three percent decline each year over the past 40 years. The scoping meeting will explore ways that both the coffee and coal industries can modify their practices to prevent further loss of habitat. The meeting will take place in Charleston, West Virginia.
- **Update: Excess Spoil Minimization–Stream Buffer Zone Rule Final Rule:** The *Federal Register* published the rule on December 12, 2008, which is related to the practice of mountaintop mine removal. The publication of the rule was the “record of decision” for the October 17, 2008, Final Environmental Impact Statement (FEIS). Legal action to enjoin implementation of the rule on both substantive and procedural (National Environmental Policy Act compliance) grounds was filed in the District Court for the District of Columbia Circuit on December 22, 2008, by eight environmental advocacy organizations, and by two additional plaintiffs related to Endangered Species Act compliance on January 16. The Department of Justice (DOJ) will request that the deadline for filing initial responses to the complaint be extended to May 6.

Upcoming Arbor Day Events

2009 Arbor Day Events		
Date	Where	Who's Participating
April 3	Jockey Hollow-West mine site, Ohio	Ohio Division of Mineral Resources Management, Division of Wildlife, OSM, Oxford Mining Company, and other volunteers
April 3	Clintwood Elkhorn Mining, Virginia	Tom Shope, OSM Appalachian Regional Director; Earl Bandy, OSM Knoxville Field Office Director; Dr. Jim Burger and Dr. Carl Zipper of Virginia

		Tech; Ed Stoots of Virginia Department of Forestry; Carl Campbell, Kentucky Department for Natural Resources Commissioner; and Butch Lambert, Virginia Department of Mines, Minerals and Energy Director
April 4	North Cumberland Wildlife Management Area site, near the footpath of the Cumberland Trail State Park, Tennessee	OSM's Knoxville Field Office and partners from The Nature Conservancy, Tennessee Wildlife Resources Agency, Tennessee Division of Forestry, Tennessee State Parks, Lexington Coal Company, Coal Creek Foundation, and The American Chestnut Foundation
April 15	Near Barton, Allegany County, Maryland	Maryland Department of the Environment, Bureau of Mines, in partnership with the Department of Natural Resources, Power Plant Research Program and Students from Georges Creek Elementary School and the Westmar Middle School
April 18	Barnesville Area Reforestation Kommittee (BARK), Ohio	BARK members, volunteers from the Barnesville area, and local schools
April 18	Columbiana County, Ohio	OSM and AmeriCorps/VISTA, and Little Beaver Creek Land Foundation
April 18	Little Beaver River (a Wild and Scenic River) in Ohio	OSM, Ohio Columbiana Park Commission and the Little Beaver Creek Watershed Association
April 23	Birch River Operation in Webster County, West Virginia	West Virginia Department of Environmental Protection, OSM's Charleston Field Office, and the ICG Eastern, LLC
April 23	Cove Chapter Senior Citizen Center on the Navajo Nations	OSM Western Region and students from the

	Reservation in Cove, Arizona	environmental science class at the Navajo Preparatory School,
April 24	Navajo Preparatory School in Farmington, New Mexico	OSM Western Region and students from the environmental science class at the Navajo Preparatory School
April 24	Spencer Fork Mine near Chavies, Kentucky	Kentucky Department for Natural Resources and OSM's Lexington Field Office and Applicant Violator System Office, and fourth- and fifth-grade students from elementary schools in Perry County, Kentucky
April 24 and 25	Outside Jerryville, West Virginia, in Webster County	OSM
May 7	Minersville, Pennsylvania, near the Schuylkill County Airport	OSM, OSM/VISTA Schuylkill Headwaters Association, and media

SOL

April 3, 2009

Memorandum

To: Laura Daniels Davis
Associate Deputy Secretary

From: Art Gary
Acting Solicitor

Subject: Weekly Meeting Items for April 6, 2009 Meeting

Hawaii v. Office of Hawaiian Affairs (S. Ct., No. 07-1372, decided March 31, 2009)

This Supreme Court decision involves the effect of a Federal statute, the Apology Resolution of 1993, in which Congress apologized for the overthrow of the Hawaiian Monarchy in 1893. In litigation in the Hawaii State Courts between the State of Hawaii and the State Office of Hawaiian Affairs (OHA), which represents Native Hawaiians, the Supreme Court of Hawaii ruled that the Apology Resolution had the legal effect of preventing the State of Hawaii from selling lands that the United States deeded to the Hawaii in the 1959 Hawaii Statehood Act. The State Supreme Court enjoined the State from selling the lands until claims of Native Hawaiians to the lands were resolved through the political process. The United States Supreme Court agreed to hear the case, and the United States filed an amicus brief supporting the State of Hawaii.

In its March 31, 2009, decision, a unanimous Supreme Court through Justice Alito reversed the decision of the State Supreme Court. The Supreme Court held that the Apology Resolution did not deprive the State of Hawaii of the right that Congress had granted in earlier statutes to alienate lands that Congress had granted to the State upon its admission to the Union.

NATIONAL PARK SERVICE - FISH AND WILDLIFE SERVICE

April 5 – April 26, 2009

SCHEDULES AND ACTIVITIES

Dan Wenk, Acting Director – NPS

Annual Leave (4/6/09 – 4/8/09)

NPS issues

WEEK AHEAD

- **New: NPS – Statue of Liberty National Monument (NY – Rep. Jerrold Nadler) - Visitor Access to the Statue of Liberty's Crown:** Visitors are currently not able to climb to the crown of the Statue of Liberty because it does not meet fire and life safety codes. During the past several years, NPS contracted with several architectural and engineering firms that prepared life safety assessments for the Statue of Liberty. This analysis concluded that the area inside the Statue, between the observation deck and the crown, does not meet the minimum health and safety standards for public access. These reports also identified a number of fire safety issues within the pedestal. Some of the requirements of the fire code that are particularly difficult to overcome at the Statue are a second means of egress in case a fire or something else obstructs the first stairway, the steep double helix staircase and the ability of people to be able to get out the Statue in the required amount of time during an emergency. To ensure NPS was asking all the correct questions of the outside subject matter specialists, Congress asked NPS, as part of a September 2007 oversight hearing, to conduct another study. A contract was awarded to Baltimore-based Hughes Associates (HAI) to study what physical changes to the structure would be required to bring the Statue's interior into code compliance, and if access cannot be made code compliant, how NPS could minimize the life and safety risks to staff, visitors, and emergency management personnel. HAI has completed a draft report on Code Compliance Options and Mitigation Strategies. The final report, expected mid-April 2009, will evaluate potential alternatives and cost estimates for accommodating public access in the statue's interior up to and including the crown. Once NPS has received the completed report, briefings will be scheduled with NPS and Department of Interior senior management. During the week of March 30, 2009 Secretary Salazar was briefed on homeland security issues related to the Statue.
- **Updated: NPS – Death Valley National Park (CA – Rep. Howard (Buck) McKeon; NV – Rep. Dean Heller) Devil's Hole.** Johnson Controls has proposed that a Mercury Alpha Solar Plant be constructed on the Department of Energy's (DOE) Nevada Test Site in Mercury Valley, NV (groundwater basin near Devil's Hole). The Plan of Development calls for using 865 acre-feet per year of water for a wet-cooled system, which is about 10 times more water than needed by a dry-cooled system. Further, they plan to withdraw water from Army Well #1, for which NPS has data showing a direct link between pumping and the water level at Devil's Hole (the only natural habitat of the endangered Devil's Hole pupfish). NPS and the solicitor's office conferred with DOJ and DOE to outline NPS concerns and learned that BLM expects to issue a Notice of Intent (NOI) very soon for a fast-track EIS for this project, and that DOE prefers to deal with the

NATIONAL PARK SERVICE - FISH AND WILDLIFE SERVICE

April 5 – April 26, 2009

SCHEDULES AND ACTIVITIES

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NPS issues

FWS Acting Director Rowan Gould

FWS Directorate Meeting – April 24-26, Shepherdstown, WV

WEEK AHEAD

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- **New: FWS - Petition from the Center for Biological Diversity to amend Federal Regulations to enhance the recovery of endangered species and address the growing impacts of global warming:** The Department of the Interior and U.S. Fish and Wildlife received a petition from the Center for Biological Diversity (CBD) on February 1, 2007 to amend Federal Regulations to enhance the recovery of Endangered Species and address the growing impacts of global warming on imperiled species under the Administrative Procedures Act. The Service does not follow the same process for evaluating petitions under the Administrative Procedure Act as the Endangered Species

Act. Under the APA, the Service may respond to the petitioners via a letter, and there is not the same timeframe imposed for responding to a petition. On January 15, 2009, CBD then filed a lawsuit for failing to respond to the petition. In order to negate the litigation, the Department of Justice has requested the Service issue a response to CBD by close of business Friday April 3. A response is denying the petition, closely coordinated with Justice, other Federal agencies and the White House climate change coordinator is awaiting release pending final NOAA approval of a similar letter.

- **New: FWS – Availability of Coastal Barrier Resources Act Digital Mapping Pilot Project for Public Comment: (Congressional Districts: DE-Kaufman, Carper, and Castle; NC-Hagan, Burr, 3-Jones, and 7-McIntyre; SC-Graham, DeMint, and 1-Brown; FL-Nelson, Martinez, 2-Boyd, 4-Crenshaw, 7-Mica, 10-Young, 11-Castor, 13-Buchanan, 14-Mack, 15-Posey, 16-Rooney, 18-Ros-Lehtinen, 20-Wasserman Schultz, 22-Klein, and 24-Kosmas; and LA-Landrieu, Vitter, and 3-Melancon):** On April 7, 2009, FWS plans to release to the public its *Report to Congress: John H. Chafee Coastal Barrier Resources System Digital Mapping Pilot Project* and announce the start of a 90-day public comment period. The Congressionally-directed report highlights the benefits of updating Coastal Barrier Resources System (CBRS) maps with more accurate and precise digital maps to better protect people, coastal areas and natural resources. The 70 pilot project units are located in DE, NC, SC, FL, and LA. The public release of the report and draft maps will coincide with the publication of a Notice of Availability in the *Federal Register* and a virtual press event on April 7. The report to Congress and draft maps will be made available for viewing and download on the FWS website. FWS will distribute hard-copies of the report and maps to members of Congress, other Federal agencies, Governors, local officials, and numerous other stakeholders.
- **Updated: NPS – Death Valley National Park (CA – Rep. Howard (Buck) McKeon; NV – Rep. Dean Heller) Devil’s Hole.** Johnson Controls has proposed that a Mercury Alpha Solar Plant be constructed on the Department of Energy’s (DOE) Nevada Test Site in Mercury Valley, NV (groundwater basin near Devil’s Hole). The Plan of Development calls for using 865 acre-feet per year of water for a wet-cooled system, which is about 10 times more water than needed by a dry-cooled system. Further, they plan to withdraw water from Army Well #1, for which NPS has data showing a direct link between pumping and the water level at Devil’s Hole (the only natural habitat of the endangered Devil’s Hole pupfish). NPS and the solicitor’s office conferred with DOJ and DOE to outline NPS concerns and learned that BLM expects to issue a Notice of Intent (NOI) very soon for a fast-track EIS for this project, and that DOE prefers to deal with the cooling technology and water source issues via the NEPA process. *NPS met with BLM on March 23, 2009 and on April 1, 2009 to recommend that the proposed action be modified at the outset of NEPA (i.e., before the NOI), if it includes the wet-cooled technology.* NPS supports solar energy, but recommends environmentally responsible protections. *BLM and NPS have agreed to try to schedule a meeting for next week with the Nevada BLM Field Office, NPS Water Resources Division, and representatives from Johnson Controls.*
- **Update: FWS - White-nose syndrome (WNS) in bats (Alabama, North Carolina, Kentucky, and Tennessee Congressional Delegation:** At least 59 sites in seven

northeastern states have been affected by WNS. Following the lead of Region 5, Regions 4 and 3 have put out an advisory seeking a voluntary moratorium on caves in the affected and adjacent states. In Region 4, the advisory affects the States of Kentucky, Tennessee, and North Carolina. The Southeast Region also is taking action at Wheeler National Wildlife Refuge Complex in Alabama where there are several caves. The advisory may be modified as additional information is received.

- **Updated: NPS – Valley Forge National Historical Park (PA - Reps. Jim Gerlach, Allyson Schwartz, Joe Sestak) – American Revolution Center.** Public Law 106-86 of 1999 authorized the Secretary of the Interior to enter into a partnership with the American Revolution Center (ARC) to construct a museum on federal land within the boundary of Valley Forge National Historical Park. The National Park Service (NPS) subsequently worked in partnership with ARC toward the goal of building a museum of the American Revolution that would feature the collections of both partners. The partners chose a site for the museum adjacent to the current park Welcome Center, developed the interpretive and educational underpinning for the museum, planned and designed the museum, and assessed environmental impacts of the museum. ARC terminated the partnership effective January 2006. In spring 2006, ARC requested to restart negotiations for a partnership, and NPS concurred. After five years of planning for a site adjacent to the park's Welcome Center, on January 5, 2007, ARC notified NPS that they would terminate the partnership and seek an alternate location on a park in-holding – the St. Gabriel site in Lower Providence Township – ending negotiations. ARC acquired this 78-acre in-holding within Valley Forge National Historical Park in fall 2006 and worked with the local township to change the zoning to Commercial in order to build a museum, hotel, conference center, and other facilities on that land. This development will create adverse impacts both to the site and to the surrounding park. Five township residents and the National Parks Conservation Association (NPCA) filed a challenge to the zoning ordinance. The township Zoning Hearing Board upheld the ordinance in November 2008. The same plaintiffs have filed suit in federal court. ARC has filed a motion to dismiss.

Since ARC's termination of the partnership, NPS has made several overtures to ARC to renew discussions of a partnership to build the museum on the original site adjacent to the Welcome Center, offering solutions to ARC's concerns about both the lease and endowment. ARC has announced a groundbreaking date in May 2009, although it will not be able to obtain necessary permits by that time: none of the storm water, erosion & sedimentation control, or building permits have been applied for or obtained. ARC may soon announce a 15-year moratorium on the construction of the hotel and conference facility. Such a moratorium, however, is irrelevant to NPS concerns over adverse resource impacts, since ARC does not intend to either preserve the land or to renounce the zoning that allows by-right a footprint of over half a million square feet of commercial development on the site. NPS has prepared a decision memorandum for the Secretary's consideration on this issue.

- **Updated: NPS – Flight 93 National Memorial (PA - Rep. Bill Shuster) – Land Acquisition.** On September 24, 2002, Congress enacted the Flight 93 National Memorial Act (P.L. 107-226, 116 Stat. 1345), which authorized "a national memorial to commemorate the passengers and crew of Flight 93, who, on September 11, 2001, gave

their lives thereby thwarting a planned attack on our National Capital . . .” The Act specifically designated the crash site of Flight 93, located in Stonycreek Township, Somerset County, Pennsylvania. The Act authorizes the Secretary of the Interior and the National Park Service to “acquire from willing sellers lands or interest in the land for the Memorial site by donation, purchase with donated or appropriated funds, or exchange....” A subsequent amendment authorized the use of condemnation if necessary. NPS, Families of Flight 93 (Families), the Flight 93 Advisory Commission and congressional delegation have agreed to complete Phase 1 of the memorial by September 11, 2011 in time to commemorate the tenth anniversary of Flight 93 tragedy. A press conference attended by all the major partners was held on February 20, 2009 at which time the completion date was affirmed along with the critical project execution milestones listed below. In order to meet this ambitious schedule, eleven privately owned tracts must be acquired by the federal government by May 2009. NPS, working in concert with its partners the Families of Flight 93 and the Conservation Fund, have actively pursued the purchase of land at Flight 93 National Memorial for more than five years. Efforts have concentrated on the eleven parcels critical to construction of Phase I of the memorial design.

On Friday, January 16, 2009, the National Park Service, the Families of Flight 93 and Svonavec, Inc. jointly announced that they had reached an agreement in principle to allow timely development of the 274-acre parcel of land, which is the heart of the planned Flight 93 Memorial and the sacred ground that contains most of the remains of the heroic passengers and crew. The agreed-to process provided the National Park Service with access to the site and allows NPS to conduct activities necessary to plan and construct the Memorial. All parties also agreed to a process that includes final and binding valuation that will be decided by the courts. NPS is working with the Department to use condemnation authority. To date, no properties are in federal ownership, yet all eleven tracts are needed in order to begin construction in November, 2009. NPS and their partners reached an impasse or insurmountable legal impediments with each of the eleven properties. In order to meet the construction timeframes widely publicized and accepted by all major parties, the NPS recommended that the Secretary agree to allow the NPS to proceed with condemnation through Declaration of Taking on each of the eleven tracts. Through this process, the NPS receives near immediate ownership of the properties and agrees to binding valuation decided by the courts. The Department of Justice stands ready to file the necessary legal actions. The NPS also requests a waiver of Departmental policy regarding the timeliness of Environmental Site Assessments. Assessments previously completed on some of the parcels have now exceeded their six month validity. Since no outside actions have influenced these tracts since the assessments were completed, NPS recommends that the current assessments be extended thus avoiding the additional time and cost of pursuing new ones.

- **No Change: NPS - George Washington Memorial Parkway (VA – Reps. Jim Moran, Frank Wolfe) – National Work Zone Awareness Week 2009 Special Event.** NPS has issued a public gathering permit to the Federal Highway Administration to conduct a National Work Zone Awareness Week media event on April 7, 2009, at Lady Bird Johnson Park. This special event is conducted every year at the start of the construction season to attract national attention to drive carefully through highway

construction and repair sites. With the enactment of the President's economic recovery package, 2009 could be one of the most active highway repair seasons in recent memory. Secretary of Transportation Ray LaHood may attend this event.

ON THE HORIZON

- **New: NPS - Great Basin National Park (NV – Rep. Dean Heller):** The NPS, FWS, BLM and BIA agreed to a unified DOI approach of not pursuing settlement negotiations and going to a Nevada State Engineer hearing scheduled for ground water application by Southern Nevada Water Authority (SNWA) for Snake Valley Nevada. The SNWA applications request 50,000 acre-feet along the Utah-Nevada state line in a valley immediately east of Great Basin National Park. However, the Snake Valley situation is different than other areas where NPS has settled with SNWA because many of the SNWA applications are so close in proximity to the park that any level of pumping may cause damage to park resources. The bureaus are working toward a June 19, 2009 deadline for hearing document exchange.
- **New: FWS - 12-Month Finding on Petition to List the Coaster Brook Trout as Endangered** - FWS is preparing a 12-month finding on a petition to list the coaster brook trout as endangered. On March 1, 2006, FWS received a petition from the Sierra Club Mackinac Chapter and the Huron Mountain Club asking FWS to list the coaster brook trout as endangered and to designate critical habitat. Additional information was received on May 25, 2006. FWS announced in 2008 that it would study coaster populations to determine whether they should be listed as endangered. Under a court settlement with petitioners, FWS must submit its finding to the Federal Register by April 15, 2009.
- **New: NPS - Grand Canyon National Park (AZ – Rep. Ann Kirkpatrick) – Mule Use on Corridor Trails.** NPS is currently undertaking a major reconstruction project on the South Kaibab Trail that will significantly improve the condition of that trail for both hikers and mule users. The project is expected to take from two to four years. While this project is underway, mule use will continue, but will be diverted to the Bright Angel Trail. Once work is completed, mule use on the South Kaibab Trail would resume. A similar project would then be considered for the Bright Angel Trail if funding is available. Additionally, the NPS will keep a half-day ride on the North Kaibab Trail, but will temporarily suspend an all-day ride. Although the NPS and concessioner have worked to reduce impacts on the North Kaibab trail, conditions have continued to deteriorate, thus resulting in the temporary elimination of this service. Grand Canyon National Park has more than 630 miles of trails, including 415 miles of inner canyon backcountry trails and 42 miles of inner canyon corridor trails which are made up of Bright Angel, River, South Kaibab and North Kaibab Trails. Mule and stock use is currently allowed on the park's corridor trails. Due to years of continuous use, limited funds, and limited time to work on the trails, the corridor trails have fallen into disrepair making them difficult for both hikers and mules. Future mule and stock use for both the North and South Rims will be addressed in an environmental assessment under the direction of the Park's 1995 General Management Plan. This plan would determine the levels of commercial and non-commercial stock use appropriate for corridor trails.

- **New: FWS - Reopening Comment Period on Hine's Emerald Dragonfly Critical Habitat** - FWS is reopening the comment period on a 2006 proposal to designate critical habitat for the endangered Hine's emerald dragonfly. FWS is reconsidering its decision to exclude some public lands in Michigan and Missouri that were included in the 2006 proposal, but were excluded in the 2007 final designation. FWS is now reconsidering those exclusions, as well as considering including additional land on Mark Twain National Forest that was not known to contain the dragonfly at the time of the 2007 designation. Lands under consideration total about 13,295 acres in Michigan and Missouri. The current designation of 13,221 acres of critical habitat in Illinois, Michigan, Missouri, and Wisconsin for the Hine's emerald dragonfly will remain in effect. A final decision on whether to revise the designation will be made by April 15, 2010. This action is not expected to be controversial.
- **New: NPS - Chesapeake and Ohio Canal National Historical Park (DC – Rep. Eleanor Holmes Norton, MD – Rep. Roscoe Bartlett, Chris Van Hollen, WV – Rep. Alan Mollohan) – Private Use of Public Facilities.** In 1990, NPS issued a special use permit to Mr. and Mrs. Lyburn for use and occupancy of one of the park's historic structures for purposes of a personal recreational weekend residence. In lieu of paying fair market value for this use, the Lyburns committed to rehabilitation of the structure. On February 20, 2008, the park sent Mr. Lyburn a letter informing him that his permit had expired and urging him to contact the park to discuss the expired permit. An onsite meeting was held shortly afterwards, but in March 2008, Mr. Lyburn's wife passed away. The park allowed Mr. Lyburn to attend to his affairs without further NPS attempts to assure compliance with the expired permit until December 2008. At that time, the park established an April 30, 2009 deadline for Mr. Lyburn to vacate the premises. NPS has had multiple meetings and discussions with Mr. Lyburn to discuss applicable laws, regulations and policies related to their special use permit, including a Director's memo regarding implementation of the April 10, 2007 DOI-Office of Inspector General's report on private exclusive long term use of public lands and facilities. This memo instructed parks not to issue any new or renew any expiring permits for private exclusive long term uses of park lands or facilities. The park has determined that this is one of 18 such special use permits that are or were inappropriate and represented a private exclusive use of public lands and facilities. As permits expire in similar cases the private facilities are being removed from public lands and exclusive uses are being terminated and public access and use restored. The most recent meeting between NPS and Mr. Lyburn established what built-in features of the house could be removed and what would have to remain. At this time, the Mr. Lyburn is planning to hold a 'yard sale' to sell or give away items in the house prior to their move-out date of April 30, 2009. On March 26, 2009 the NPS received a meeting request from Congressman Bartlett to discuss this matter; a time and date for this discussion are being scheduled.
- **New: FWS - National Casting Call event scheduled for April 26-27:** National Casting Call promotes youth and family fishing and environmental awareness on Sunday, April 26 and recognizes partners in the National Fish Habitat Action Plan on Monday, April 27. Hosted by the American Fly Fishing Trade Association, the event is held on the bank of the Potomac River in the C&O Canal National Historical Park during the spring shad run.

American shad, caught by participants, are a fish conservation success story accomplished through partnerships that serve as a model for fisheries nationwide. "Family & Youth Day" (April 26) will expose hundreds of children to recreational fishing and conservation. The National Fish Habitat Board will announce its National Fish Habitat Awards and the annual list of "10 Waters to Watch" on April 27. FWS is one of many partners in the event.

- **Updated: NPS –Yukon-Charley Rivers National Preserve (AK – Rep. Don Young) Predator Control Adjacent to the Preserve.** On March 19, the state of Alaska ended a six-day effort which used helicopters and sharpshooters to advance predator control on state lands bordering Yukon-Charley Rivers National Preserve in northeastern Alaska. By that date, 84 wolves had been killed in the control area. *Prior to the predator control effort implemented by State employees, approximately 30 wolves had been shot by private pilot/gunner teams with predator control permits from the Alaska Dept of Fish & Game.* The goal of the program was to make a significant reduction (60-80%) in the estimated 300 wolves that live in the control area. Several packs (totaling about 25 animals) use the preserve, but spend some time outside the conservation unit where they would be subject to aerial shooting. All of the packs that use the Preserve as part of their home range are believed to be currently outside Preserve boundaries. NPS received notice of the control actions approximately 36 hours before flights began. NPS successfully negotiated with the Alaska Department of Fish and Game to employ methods to prevent radio-collared preserve wolves from being shot. Those efforts were apparently successful; no NPS radio-collared wolves were killed this past week. *However, on March 25, 2009, one collared alpha female from the upper Charley River was found dead in a (legal) snare. (Her mate and three yearlings had been snared earlier this winter.) Two remaining yearlings survive from that pack that numbered seven last fall. Once an alpha female is removed, the two yearlings would normally disperse; leaving the preserve with four packs instead of five for this breeding season. The total number of wolves harvested by trapping within the Yukon Charley Rivers National Preserve is now up to seven for the year--which is an average harvest level for that Preserve.* The issue of predator control and intensive management (high harvest levels) of predators on state lands and in national preserves is an on-going issue between the NPS and state of Alaska and has the interest of many conservation groups. Predator control efforts adjacent to the Preserve represent one of six predator control areas across the state. It remains to be seen whether future efforts will include other control areas.
- **New: FWS – Draft paper assessing the taxonomic relationships among gray wolf subspecies:** The Service has prepared a draft paper assessing the taxonomic relationships among gray wolf subspecies and plans to send that paper out for scientific peer review. The paper that the Service has drafted will be shared with about 10 scientists with expertise in wolf biology or mammalian taxonomy. Eventually, we intend to publish the paper in a peer-reviewed journal. Clarifying the taxonomic status of gray wolf subspecies is an important step to identify the proper ESA listing status for gray wolves in the lower 48 States following the recent delisting of the Northern Rocky Mountains and Western Great Lakes distinct population segments.

- **Updated: NPS - Chesapeake and Ohio Canal National Historical Park (DC – Rep. Eleanor Holmes Norton, MD – Rep. Roscoe Bartlett, Chris Van Hollen, WV – Rep. Alan Mollohan) - Washington Canoe Club, Building Ownership.** On April 10, 2007, the Department of the Interior, Office of the Inspector General (OIG), issued a report entitled *Private Use of Public Lands*. This report outlined instances where the NPS had allowed private individuals or exclusive clubs to monopolize locations near major metropolitan areas to the exclusion of the general public. The report recommended that each NPS unit determine the extent to which special-use permits limit long-term public access and not issue special park use permits that allow an individual or group exclusive use of park lands, or facilities normally available for public use. The Washington Canoe Club (Club) was specifically identified within the report as a private club that has “erected fences and created other impediments to preclude the access to facilities or public lands described on the permits.” Following the report, NPS conducted extensive research about the land, which is in federal ownership, and discovered that there was uncertainty about the ownership of the Club’s boathouse building. Since the Club is a non-profit 501 (c) 3 enterprise, the NPS was able to enter into a short-term lease subject to payment of a fair market rental rate and enhancement of public use while a resolution of the building ownership issue was completed and a long-term disposition arranged. *Effective January 1, 2008, the NPS issued a 15-month lease for the Club’s continued use of the facility which expired on March 31, 2009.* The 15-month time period was established to conduct an appraisal of the clubhouse and associated lands, pursue resolution of the building ownership, determination of a long term use of the structure, and completion of the environmental impact statement for the proposed land exchange with Georgetown University (GU) for the purposes of establishing a collegiate rowing boathouse.

The issue regarding ownership of the building has not been resolved; however the legal analysis suggests three possible conclusions with regard to ownership of the building: NPS Ownership, Inconclusive Ownership, or Club Ownership. *NPS amended the lease for an additional 12 months on March 31, 2009 to allow for the resolution of the building ownership issue and long-term disposition of the building, which could include a land exchange, a long-term lease, or concession operation of boathouse activities from the clubhouse.* Additionally, determination of the fair market rental rate requires consultation with the Club, which is expected to occur in April 2009. A *substantial* increase in fees is expected based on the appraisal of the land, and the Club would also be responsible for back payments from January 2008 to present. This issue is expected to be highly controversial.

- **Updated: NPS – EPA to Reconsider Ozone National Ambient Air Quality Standards (NAAQS).** Information submitted by the NPS regarding the need for an ozone standard to protect vegetation was instrumental in EPA's decision to recommend a secondary ozone standard based on cumulative exposure. The previous Administration overruled EPA, and EPA was sued over the NAAQS decision. EPA has asked the court to delay the briefing schedule so EPA has time to reconsider the NAAQS. NPS plans to encourage EPA to reconsider and revise the NAAQS so they are adequate to protect park resources, visitors and employees. The draft letter to EPA is under review within the

NPS. Director Bomar signed the previous comment letter, after advising the Assistant Secretary's office.

- **Updated: NPS – Cape Hatteras National Seashore (NC –Rep. Walter B. Jones) Off-Rod Vehicle (ORV) Management.** *The regulatory negotiation advisory committee submitted its final report to NPS on March 30, 2009. The 1,654 page report provides diverse stakeholder input on a full spectrum of ORV management issues. Many of the recommendations submitted reflect the many topics and options explored by the committee. The report has been distributed to committee members and is being posted on PEPC for the public. Even though the committee did not reach a consensus, which is reflected in sometimes conflicting recommendations within the final report, NPS will utilize the committee's input to create an additional ORV management action alternative for consideration in the draft environmental impact statement (DEIS) that is scheduled for release in the fall of 2009. Breeding shorebirds have returned to the Seashore and the first beach closures have been implemented as required by the court approved consent decree. Three deliberate violations of resource protection area fencing have already occurred, which under the consent decree requires that NPS automatically expand the buffer distance that had been established at the respective sites. NPS is working on establishing a Park Watch program and is working with local businesses that have expressed interest in establishing a reward for information leading to the apprehension of the violators. As the breeding season progresses, NPS will implement mandatory buffers around observed shorebird breeding activity and sea turtle nests, which will likely result in increased areas of beach being closed to access until the breeding season subsides (typically in August).*
- **Updated: NPS - Gulf Islands National Seashore (MS – Rep. Gene Taylor) – Mississippi Coastal Improvements Program (MsCIP) – Current review of “Draft Comprehensive Plan and Integrated Programmatic Environmental Impact Statement (IPEIS)” ends March 30, 2009.** *The US Army Corps of Engineer's Draft MsCIP Comprehensive Plan and IPEIS, was released for public/agency review on February 13, 2009 through March 30, 2009. Sections describing island restoration concepts and approaches of NPS and its partners are included. NPS has completed a review of the Draft Plan/IPEIS and compiled agency comments, which were submitted to the US Army Corps of Engineers by the Southeast Regional Director. Included was a cover letter summarizing the salient points of the agency's comments regarding four topics: “SEIS Required before Project Implementation”, “Restoration of the Sediment Transport and Budget System”, “Monitoring, Quality Assurance, Quality Control & Adaptive Management”, and “Cat Island”. According to current schedule, a 30-day state and agency review of the Report of the Chief of Engineers and Final Comprehensive Plan Report will begin June 5, 2009, with the Final Chief's Report submitted to the Assistant Secretary of the Army (ASA) on July 20, 2009. After the ASA/Administration review, the report will be transmitted to Congress on November 20, 2009. A Federal Principals Meeting is scheduled for March 26, 2009, at which time a copy of the Draft Chief of Engineers Report will be discussed. MsCIP project funds are still being sought at the highest levels of Mississippi's State Government.*

- Updated: NPS – Jefferson National Expansion Memorial (MO – Reps. Russ Carnahan, William Lacy Clay) – Revitalization of the Riverfront:** The Danforth Foundation, working with the City of St. Louis, investigated the feasibility of revitalizing the downtown riverfront area and concluded that riverfront development alternatives were not technically or economically feasible without utilizing land currently within the boundaries of Jefferson Expansion National Memorial (Memorial). In March 2008, the National Park Service (NPS) was tasked with internal scoping in preparation for potentially undertaking a GMP to assess if a range of feasible preliminary alternatives existed that would not detract from the National Historic Landmark (NHL). Four preliminary alternatives were the subject of public meetings and scoping process between June 19 and July 15, 2008: Connections, Expanded Programming, Portals, and Park into the City, as well as a preliminary review of environmental, cultural, and economic impacts. The alternatives were assessed for their potential impacts to the Memorial. Over 700 individuals attended public meetings indicating a high interest in the planning effort. NPS evaluated public comment and refined the preliminary alternatives, taking into consideration a variety of solutions to resolve access to the Memorial from downtown St. Louis and the riverfront. *The draft GMP/EIS was released for public review from January 16, 2009 through March 23, 2009 and NPS is currently reviewing comments.*
- Updated: NPS - Prince William Forest Park (VA – Reps. Gerry Connolly, Rob Wittmann) – Quantico Marine Corps Base Requests Permission to Install Security Fencing on Park Land.** On February 17, 2009, the NPS received a request from the Quantico Marine Corps Base to construct 600 feet of security fencing on park land in order to enhance base security adjacent to new gates on the Base. The request came in the form of a draft NEPA Categorical Exclusion (CE) that the Marine Corps wanted the NPS to sign off on. The Marine Corps had prepared an Environmental Assessment (EA) in July 2008 but failed to submit it to the NPS for comment and review. Park staff later observed and stopped a contractor who was beginning preparations to install the fencing at two locations on NPS land in early February, 2009. Tree clearing had begun and at least one hole was dug to prepare for fence pole installation. *On March 20, 2009, the NPS denied the CE prepared by the Marine Corps as being insufficient.* The NPS will suggest other alternatives in order to avoid ground disturbing activities associated with the installation of fencing or bollards, including the placement of large locally quarried stone at close intervals adjacent to the new gates.
- No Change: NPS – Wrangell-St. Elias National Park and Preserve (AK – Rep. Don Young) – Off-Road Vehicle Use.** The National Park Service (NPS) is preparing an EIS on the use of off-road vehicles (ORV) in the Nabesna area of Wrangell-St. Elias National Park and Preserve, Alaska. The EIS was initiated as part of a settlement to a lawsuit filed in 2006 which challenged the permitting of recreational ORV use. Continued progress is necessary for NPS to fulfill its commitment to complete the EIS by 2010. A Notice of Intent was published in the Federal Register for this project in December 2007. The original scope for the EIS was on the recreational use of ORVs along nine trails. As the planning process has progressed, it has become evident that a significant proportion of ORV use is related to subsistence activities in the park and preserve. Of the three trails located in this area of park, approximately 70% of the use is related to subsistence.

Additionally, a significant portion of public comments on the project have requested that NPS analyze impacts from and, if necessary, reasonably regulate, subsistence ORV use. Based on this information, NPS has decided to expand the scope of the EIS to include, within the range of alternatives, reasonable regulation of subsistence ORV use.

Preliminary discussions about this scope expansion have been occurring as part of the ongoing public outreach the park conducts with stakeholders, including the two Federal regional subsistence councils and the park's subsistence commission. A new Notice of Intent expanding the scope must be published in the Federal Register. NPS is currently accepting bids for the contractor to prepare the EIS, with an expected start date in April 2009. NPS recommends clearance and publication of this notice in advance of initiating this next phase of work on the EIS.

April 3, 2009

To: Laura Davis, Associate Deputy Secretary

From: Donna Erwin, Acting Special Trustee

Re: April 7, 2009 staff meeting

The following items for the Secretary's attention are from either the Office of the Special Trustee for American Indians (OST) or the Office of Historical Trust Accounting (OHTA).

Current Week - Items of Interest

1. The Acting Special Trustee and Senior Executive managers, Office of the special Trustee for American Indians (OST) in Albuquerque met with Sen. Tom Udall's New Mexico staff to discuss OST's mission/vision and trust reform accomplishments. The Senator's staff toured the facility, received directorate briefings, and reviewed trust reform operations.
2. The Acting Special Trustee, met with the Chairman and Tribal council members from the Confederated Tribes of the Warm Springs Reservation. The Acting Special Trustee received an invitation to visit the Reservation, discussed the review of the tribal Geographic Information System and the investment of approximately \$68 million of tribal settlement monies.
3. OST met with Intertribal Monitoring Association Executive Board members to provide current reform accomplishments and to discuss future actions necessary to ensure the fulfillment of the remaining trust reforms.
4. OST has completed a special investigation of a tribally-managed forestry program administered under a PL 93-638 contract. This review pointed out certain deficiencies that the Bureau of Indian Affairs is currently working with the Tribe to complete a corrective action plan to resolve any deficiencies.
5. OST issued 26 policies and procedures related to trust funds management.

Week Ahead - Items of Interest

1. OST, Office of Solicitors, and Department of Justice representatives will begin a review with of the *Status Report to the Court Number Thirty-Six*, a requirement of *Cobell, et al.* litigation. This report covers status of Individual Indian Money reforms for the period January 1, 2009 through March 31, 2009.

Future Awareness

1. The *Status Report to the Court Number Thirty-Six*, a requirement of the *Cobell, et al.* litigation will require Departmental review the week of April 20, 2009, and the Secretary's signature on the transmittal letter to the Department of Justice.
2. Tribal litigation document production requirements continue to take away from Trust Bureau's daily operations.

NATIONAL PARK SERVICE - FISH AND WILDLIFE SERVICE

March 30, 2009 – April 26, 2009

SCHEDULES AND ACTIVITIES

Dan Wenk, Acting Director – NPS
NPS issues

Rowan Gould Acting Director – FWS
FWS Directorate Meeting – April 21-23, Shepherdstown, WV

Brigings
-Valley Forge

WEEK AHEAD

- **New: NPS - George Washington Memorial Parkway (VA – Reps. Jim Moran, Frank Wolfe) – National Work Zone Awareness Week 2009 Special Event.** NPS has issued a public gathering permit to the Federal Highway Administration to conduct a National Work Zone Awareness Week media event on April 7, 2009, at Lady Bird Johnson Park. This special event is conducted every year at the start of the construction season to attract national attention to drive carefully through highway construction and repair sites. With the enactment of the President's economic recovery package, 2009 could be one of the most active highway repair seasons in recent memory. Secretary of Transportation Ray LaHood may attend this event.
- **New: FWS - Cave advisory to protect hibernating bats from white-nose syndrome (NH, VT, NY, MA, CT, PA, NJ, WV, VA):** The Northeast Region issued an advisory asking that recreational activities in caves and mines be curtailed to protect hibernating bats from the spread of white-nose syndrome, a wildlife health crisis of unknown origin that has killed hundreds of thousands of bats from Vermont to West Virginia and is continuing unchecked. The advisory recommends a voluntary moratorium on caving activity in states with WNS and adjoining states; requests that cavers entering mines and caves in states where WNS has not been detected use equipment that has never been in hibernacula in an affected state; recommends review of scientific activity in bat hibernacula; and requests that scientists entering mines and caves in unaffected states use equipment that has never been in hibernacula in affected states. States are issuing their own cave advisories. Biologists believe that human activity may be partially responsible for spreading WNS. There is no known human health risk associated with white-nose syndrome in bats.
- **New: FWS – Flooding in Upper Midwest:** FWS staff have been mobilized to protect people and property affected by severe flood conditions in parts of North and South Dakota. The flooding is expected to have serious effects on communities in these areas and to impact several Service facilities, including units of the National Wildlife Refuge System and National Fish Hatchery System. The flood event is anticipated to last for many weeks and there will be a need for clean up and restoration activities after the flood waters subside. Service personnel are assisting local, State and Federal emergency response efforts through deployment of Service resources ranging from boats, heavy

equipment, aircraft, law enforcement personnel and other emergency and technical resources

- **New: NPS - National Mall and Memorial Parks (DC – Rep. Eleanor Holmes Norton) – 2009 National Cherry Blossom Festival and Press Conference.** The National Cherry Blossom Festival will take place in the park and other areas in Washington, DC, from March 28-April 12, 2009. A press conference to announce the variety of services available to visitors will be held on Thursday, March 26. Dignitaries at the press conference will include Ken Salazar, Secretary of the Interior, and Diana Mayhew, President of the National Cherry Blossom Festival, Inc. Various dignitaries are also expected for the March 29 Japanese Lantern lighting ceremony. Major activities during the festival will include a parade and a Japanese street fair. The NPS is expecting over 1 million visitors during the 16-day event. During the festival, the NPS and a large number of partners will provide expanded visitor services including information tents and ranger guided talks, shuttle service and bicycle valet, food, gift and book sales, picnic areas, first aid, recycling, and temporary restrooms. The NPS will also deploy an educational outreach service to remind visitors to not pick the cherry blossoms.
- **New: NPS - Gulf Islands National Seashore (MS – Rep. Gene Taylor) – Mississippi Coastal Improvements Program (MsCIP) – Current review of “Draft Comprehensive Plan and Integrated Programmatic Environmental Impact Statement (IPEIS)” ends March 30, 2009.** The US Army Corps of Engineer’s Draft MsCIP Comprehensive Plan and IPEIS, which was released for public/agency review on February 13, 2009, and extends to March 30, 2009. Sections describing island restoration concepts and approaches of NPS and its partners are included. NPS has completed a review of the Draft Plan/IPEIS and compiled agency comments, which will be submitted to the Corps by the Southeast Regional Director. According to current schedule, the Final Chief’s Report will be submitted to the Assistant Secretary of the Army (ASA) on July 20, 2009. After the ASA/Administration review, the report will be transmitted to Congress on November 20, 2009. A Federal Principals Meeting is scheduled for March 26, 2009, at which time a copy of the Draft Chief of Engineers Report will be discussed. MsCIP project funds are still being sought at the highest levels of Mississippi’s State Government.
- **Updated: NPS – EPA Reopens Comment Period on Desert Rock Power Plant.** NPS prepared comments to EPA in response to a new public comment period on greenhouse gas (GHG) emissions from the Desert Rock coal-fired power plant, located on the Navajo Nation in Northwestern New Mexico. The plant could affect air quality at several NPS areas, including Grand Canyon NP. EPA's decision to issue a permit for the plant has been challenged before the Environmental Appeals Board; however, EPA has indicated it will reconsider its decision to not consider alternative technologies or requirements related to green house gases. NPS had commented on the benefits of using CO2 capture-ready technology at the proposed plant, and negotiated a mitigation agreement that included projects to offset emissions of criteria pollutants and/or GHGs. The latter agreement was not included in the permit issued by EPA. The comment period ended March 25, 2009.

- **Updated: NPS – EPA to Reconsider Ozone National Ambient Air Quality Standards (NAAQS).** Information submitted by the NPS regarding the need for an ozone standard to protect vegetation was instrumental in EPA's decision to recommend a secondary ozone standard based on cumulative exposure. The previous Administration overruled EPA, and EPA was sued over the NAAQS decision. EPA has since indicated that it will revisit the NAAQS decision and has asked for a delay in court proceedings. NPS is preparing a letter to EPA renewing its support for a secondary standard.
- **Updated: NPS – Death Valley NP (CA – Rep. Howard (Buck) McKeon; NV – Rep. Dean Heller) Devil's Hole.** Johnson Controls has proposed that a Mercury Alpha Solar Plant be constructed on the Department of Energy's (DOE) Nevada Test Site in Mercury Valley, NV (groundwater basin near Devil's Hole). The Plan of Development calls for using 865 acre-feet per year of water for a wet-cooled system, which is about 10 times more water than needed by a dry-cooled system. Further, they plan to withdraw water from Army Well #1, for which NPS has data showing a direct link between pumping and the water level at Devil's Hole (the only natural habitat of the endangered Devil's Hole pupfish). NPS and the solicitor's office conferred with DOJ and DOE to outline NPS concerns and learned that BLM expects to issue a Notice of Intent (NOI) very soon for a fast-track EIS for this project, and that DOE prefers to deal with the cooling technology and water source issues via the NEPA process. NPS met with BLM on March 23, 2009 and recommended that the proposed action be modified at the outset of NEPA (i.e., before the NOI), if it includes the wet-cooled technology. NPS supports solar energy, but recommends environmentally responsible protections.

ON THE HORIZON

- **New: NPS – Wrangell-St. Elias National Park and Preserve (AK – Rep. Don Young) – Off-Road Vehicle Use.** The National Park Service (NPS) is preparing an EIS on the use of off-road vehicles (ORV) in the Nabesna area of Wrangell-St. Elias National Park and Preserve, Alaska. The EIS was initiated as part of a settlement to a lawsuit filed in 2006 which challenged the permitting of recreational ORV use. Continued progress is necessary for NPS to fulfill its commitment to complete the EIS by 2010. As the planning process has progressed, it has become evident that a significant proportion of ORV use is related to subsistence activities in the park and preserve. Of the three trails located in this area of park, approximately 70% of the use is related to subsistence. Additionally, a significant portion of public comments on the project have requested that NPS analyze impacts from and, if necessary, reasonably regulate, subsistence ORV use. Based on this information, NPS has decided to expand the scope of the EIS to include, within the range of alternatives, reasonable regulation of subsistence ORV use. Preliminary discussions about this scope expansion have been occurring as part of the ongoing public outreach the park conducts with stakeholders, including the two Federal regional subsistence councils and the park's subsistence commission. A new Notice of Intent expanding the scope must be published in the Federal Register. NPS is currently accepting bids for the contractor to prepare the EIS, with an expected start date in April 2009.
- **New: FWS - Chinese Fisheries Delegation to Visit U.S.:** FWS will be hosting a visit of 10 senior fisheries administrators and scientists from China, April 16-30, 2009. The

tentative itinerary includes visiting fish conservation offices and field sites in the Columbia River Basin and the upper Mississippi River Basin, with a close-out meeting in Minnesota with leadership of the Fisheries and Habitat Conservation program. The delegation will visit under auspices of the U.S. - China Nature Conservation Protocol, and follows a similar visit by an American fisheries delegation to China in October 2008.

- **Updated: NPS -Yukon-Charley Rivers NPRES (AK - Rep. Don Young) Predator Control Adjacent to the Preserve.** On March 19, the state of Alaska ended a six-day effort which used helicopters and sharpshooters to advance predator control on state lands bordering Yukon-Charley Rivers National Preserve in northeastern Alaska. By that date, 84 wolves had been killed in the control area. The goal of the program was to make a significant reduction (60-80%) in the estimated 300 wolves that live in the control area. Several packs (totaling about 25 animals) use the preserve, but spend some time outside the conservation unit where they would be subject to aerial shooting. All of the packs that use the Preserve as part of their home range are believed to be currently outside Preserve boundaries. NPS received notice of the control actions approximately 36 hours before flights began. NPS successfully negotiated with the Alaska Department of Fish and Game to employ methods to prevent radio-collared "preserve wolves" from being shot. Those efforts were apparently successful; no NPS radio-collared wolves were killed this past week. The issue of predator control and intensive management (high harvest levels) of predators on state lands and in national preserves is an on-going issue between the NPS and state of Alaska and has the interest of many conservation groups. Predator control efforts adjacent to the Preserve represent one of six predator control areas across the state. It remains to be seen whether future efforts will include other control areas.
- **Updated: NPS - Valley Forge NHP (PA - Rep. Jim Gerlach) Widening of the Pennsylvania Turnpike Adjacent to Park.** The Pennsylvania Turnpike forms a 1.9-mile boundary of Valley Forge NHP. The Turnpike Commission planned to widen a six-mile segment, doubling the paved surface. This segment lies within the watershed of Valley Creek, a state-designated Exceptional Value, Class-A Wild Trout stream and one of the park's fundamental natural resources. The widening would take place on commission-owned land and it would be challenging, but possible, for the commission to install storm water facilities on its own land to meet current regulations. Seeking an alternate solution, the commission requested that the park allow construction of storm water basins on park land. The park declined, and was in continuing discussions with the commission about other alternatives. In January, however, the commission released plans indicating that it intended to condemn seven residential properties in entirety and over 90 partial properties in order to build storm water facilities, implying that condemnation was necessary because park lands could not be used for detention basins. Congressman Jim Gerlach and numerous local and state elected officials became involved in the issue. On March 20, the commission announced that it has suspended the widening project. While no additional statement has been issued, it is likely that the commission's difficulty in complying with environmental regulations that protect water resources will be identified as the reason for suspension.

March 30, 2009

Memorandum

To: Laura Davis
Associate Deputy Secretary

From: Amy Holley
Chief of Staff for Water and Science

Subject: Weekly Meeting Issues

Bureau of Reclamation

Update: Lake Berryessa, California

- There has been some Congressional focus on this topic and Lake Berryessa is a very prominent federal resources issue in Napa County.

The Solicitor's Office has determined that new concession contracts at Lake Berryessa are likely in violation of the Antideficiency Act because they promise to reimburse contractors fair market value in 2038 for new improvements or pay interest if payment is delayed. The promises to pay were modeled on National Park Service statutory authority that is inapplicable to Reclamation.

Because of this potential statutory violation and the significant litigation risks associated with bilateral contract modifications, Reclamation is embarking on a process to re-initiate bidding and provide the recreational business community, the public, local governments, and interested members of Congress with updates on the situation. On March 13 and 16, representatives from Reclamation and the Solicitor's Office met with the impacted concession contractors to advise them of the contract determination. A briefing was also provided to Congressman Mike Thompson's local office as Congressman Thompson has supported Reclamation's significant efforts to revitalize Lake Berryessa recreation concessions. The Congressman immediately requested a meeting with Acting Commissioner Bill McDonald. On Thursday, March 19, the Acting Commissioner and John Bezdek of the Solicitor's Office met with Congressman Thompson. The Congressman expressed great dissatisfaction with the contract determination and the process; however, Bill McDonald and John Bezdek talked him through it. If there are any additional requests from Congressman Thompson, we expect they will be directed to the Acting Commissioner rather than to the Secretary. Reclamation is working to expand recreation opportunities at government-operated areas of Lake Berryessa in the interim for 2009.

Update: Central Valley Project (CVP) Water Allocations, California

- Updated CVP water allocations announced on March 20 generated calls from Congressional offices, sensitive about the human impacts. Improved inflow into Shasta

Reservoir will trigger an increase of the allocation to senior water rights holders and wildlife refuges north and south of the Delta. The increased allocations will be announced March 27.

With the improved inflow into Shasta Reservoir since March 1, Reclamation is able to increase the water allocation to senior water rights holders and wildlife refuges north and south of the Delta from 75% to 100%. In addition, improved inflows also allow the Friant Division Class 1 allocation to be increased from 65% to 85%. Reclamation's conservative water supply forecast remains at zero percent water supply for agricultural water service contractors and a 50% of historic use allocation for municipal and industrial (M&I) contractors south of the Delta; 5% for agricultural water service contractors and 55 percent allocation for M&I contractors north of the Delta. Reclamation is coordinating with M&I contractors to determine if any adjustments to meet public health and safety requirements are necessary. The increased supply to senior water rights holders will encourage water transfers between willing sellers and willing buyers and increase supplies available to the Water Bank. Reclamation and the wildlife refuges are developing schedules that allow the refuges to delay their allocation deliveries until after the irrigation season, increasing the reliability of delivery to agriculture and M&I users. These measures are key to Reclamation's ability to maximize water availability for all CVP purposes despite the limited allocation. Reclamation, in collaboration with the State and other Federal agencies, is making every effort to minimize the hardships resulting from water shortages on the citizens of California.

Update: NOAA Fisheries Central Valley Project (CVP) Operations Section 7 Consultation, California

- Reclamation provided comments on NOAA Fisheries draft Biological Opinion (BO) on March 20.
- The Federal Court granted a ninety-day extension for the completion of the final NOAA Fisheries BO, now due by June 2, 2009.

As a result of litigation in *PCFFA v Gutierrez*, the NOAA Fisheries' CVP Operations BO completed on October 2004, was declared legally invalid and remanded without vacatur by the Court on April 16, 2008. With the agencies under Court order to conclude the consultation by March 2, 2009, Reclamation reinitiated consultation with NMFS on October 1, 2008. On February 23, 2009, the Court granted an extension of ninety days and ordered completion of the consultation by June 2, 2009. On March 3, 2009, NOAA Fisheries delivered a revised draft BO to Reclamation. A large number of technical, legal, and operational issues raised by the draft BO and proposed Reasonable and Prudent Alternatives (RPA) remain unresolved. The proposed RPA requires actions that are beyond Reclamation's legal authority, including actions that conflict with Reclamation's other regulatory obligations.

Update: Federal Columbia River Power System (FCRPS) Biological Opinion (BiOp) Litigation (Oregon, Montana, Washington)

- District Court Judge James Redden is writing his opinion for this case. *It is anticipated this opinion will be completed in April.* Questions from Judge Redden are anticipated during this time.
- The parties are near agreement for 2009 FCRPS spring spill operations.

- On **April 2**, a closed door meeting between the Judge and parties in the case will be held to follow-up on issues raised during the March 6th hearing.

Background:

The FCRPS facilities are operated by the Corps of Engineers and the Bureau of Reclamation. Power from the system is marketed by the Bonneville Power Administration. The FCRPS provides about 30% of the electric power in the Pacific Northwest. There are 13 ESA listed species of salmon and steelhead in the Columbia River.

A coalition of environmental and fishing groups, the State of Oregon, and the Nez Perce Tribe (as amicus) have challenged the 2008 FCRPS BiOp in Federal District Court claiming that the BiOp is arbitrary and capricious under the Administrative Procedure Act and fails to meet the requirements of the ESA and Clean Water Act. On March 6, oral arguments on the Plaintiff's motion for summary judgment were heard. Judge Redden did not take further action on permanent injunctive relief during the March 6 hearing.

New: Grand Canyon Trust Case - Hearing April 9th

A hearing on cross-motions for Summary Judgment in *Grand Canyon Trust v. Bureau of Reclamation* is scheduled for April 9 in U.S. District Court for the District of Arizona. The subject matter of the case relates to very important operating procedures at Glen Canyon Dam. The hearing will address all remaining issues in this case. Specific issues include: 1) whether operations under the 1994 Biological Opinion comply with the ESA; 2) the validity of 2008 NEPA and ESA compliance; and 3) whether Glen Canyon Dam operations comply with the Grand Canyon Protection Act.

Reclamation Congressional Tour - April 2009 (California)

During the April Congressional Recess from April 6 through April 17, Reclamation will host two groups of Congressional staffers on a two-day tour of selected areas within the Central Valley Project (CVP) in California. Focus will be on export facilities in the Bay-Delta, San Luis Reservoir, San Joaquin River restoration, and drainage-impaired lands in the San Luis Unit of the CVP. Participation from House and Senate staff, committee and personal offices, is expected.

U.S. Geological Survey

Update: Redoubt Volcano Erupts: Mount Redoubt Volcano, 106 miles southwest of Anchorage, Alaska, erupted again explosively March 26, 2009, at approximately 09:24 AKDT, sending ash as high as 65,000 feet into the air. Scientists from the Alaska Volcano Observatory (AVO) are monitoring the volcano closely as the eruption continues. Post-eruption photos are now available on the Web at: <http://www.avo.alaska.edu/activity/Redoubt.php>. USGS scientists from the Alaska Volcano Observatory have hosted a number of news conferences, which are being picked up by a wide variety of national and international media outlets including; CNN, the Washington Post, Associated Press, Time Magazine, the New York Times, Reuters, and Discovery Online. The AVO is a cooperative program of the USGS, the University of Alaska Fairbanks Geophysical Institute, and the Alaska Division of Geological and Geophysical Surveys.

Update: USGS Responds to Red River Flooding: The DOI will issue a press release on March 27 to highlight DOI activities related to the flooding, this includes on-site video footage of USGS scientists conducting flood measurements. A producer from Discovery Earth indicated they will post USGS video on their website. USGS has approximately 21 hydrographer crews deployed in MN, ND, and SD making special direct measurements of streamflow using acoustic Doppler technology. In addition, USGS real-time streamgages have seen numerous peaks of record, including 6 peaks of record in Minnesota, 4 peaks of record in South Dakota, and 15 peaks of record in North Dakota. The Red River is still on the rise, with several record peaks expected at select locations along the Red River. All USGS streamgages in the Red River basin are operational and providing real-time data to the National Weather Service River Forecast Center, Army Corps of Engineers, and numerous State and local emergency management agencies. The National Weather Service continues to predict a crest that will be at or exceed record stages for the Red River at Fargo, North Dakota. The USGS has 4 additional crews making streamflow measurements in the basins of the Minnesota River, Missouri River, and Upper Mississippi River. The USGS is disseminating geospatial data for the Red River valley (<http://hdds.usgs.gov>) to the U.S. Air Force to be used to collect satellite data of the inundated area for emergency management use. The USGS is facilitating the invocation of the International Charter at the request of the state of North Dakota, which enables access to flood zone satellite data from foreign satellites.

Update: April 2 Release of USGS Assessment of the In-place Oil Shale Resource in the Green River Formation, Piceance Basin, Colorado - The USGS plans to release its assessment of in-place oil shale resources of the Piceance Basin of the Green River Formation of Colorado, Utah, and Wyoming on April 2. A press release is planned for trade and technical journals. Published oil shale assessments are nearly 20 years old and need to be updated in order to understand the potential of oil shale to contribute to the U.S. energy mix. The Energy Policy Act of 2005 (P.L. 109-58 §369) recognized this need, and the USGS, in support of this Act, began a new national assessment of oil shale resources, focusing specifically on the Green River Formation. Of the multiple basins in the Green River Formation, the Piceance Basin contains the thickest and richest oil shale deposits and is the focus of most on-going R&D extraction projects. The Secretary has been briefed on the plans for releasing the assessment.

Update: Pending AP Article on Pharmaceuticals in Wastewater Treatment Plant Effluents: The Associated Press (AP) is expected to run an article in the near future, date unknown, about the potential source of pharmaceuticals to the environment from pharmaceutical manufacturing facilities (PMFs) across the Nation. [As of March 27, 2009, AP article not yet released.] The story may feature information from a paper published a few years ago with data from a wastewater treatment facility near Hyderabad, India, that has 90 PMFs discharging to it. Their data shows extremely high levels of pharmaceuticals in the water. This is important because the argument most often made by those who do not think pharmaceuticals in the environment is a problem is that the levels are all very low. The USGS has an ongoing study on PMFs with a very strong preliminary dataset that shows a similar problem in the United States. This research was conducted as a joint study between the USGS and the New York State Department of Environmental Conservation. The USGS has submitted a paper from this ongoing study to the Environmental Science and Technology journal. Shortly after receiving a

publication date the USGS will brief the U.S. Food and Drug Administration. USGS scientists briefed the U.S. Environmental Protection Agency (EPA), Office of Water, on March 26, 2009, on this topic.

Update: Ranking Watershed Delivery of Nitrogen and Phosphorus to the Gulf of Mexico: On April 1, the USGS and the U.S. Environmental Protection Agency are issuing an article in the Journal of American Water Resources Association that identifies watersheds and ranks their delivery of nitrogen and phosphorus yields to the Gulf of Mexico. Excessive nutrients have resulted in a zone of low dissolved oxygen, or hypoxia, that can stress or cause death to aquatic life, thereby impacting the economic and ecological health of one of the Nation's largest and most productive fisheries. The ranking of nitrogen and phosphorus delivery can be useful in developing cost-effective nutrient reduction strategies in watersheds throughout the Mississippi/Atchafalaya River Basin. The article is titled, Incorporating Uncertainty into the Ranking of SPARROW Model Nutrient Yields from the Mississippi/Atchafalaya River Basin Watersheds.

New: USGS Scientist Publishes Paper, "Mercury Sources, Distribution, and Bioavailability in the North Pacific Ocean": On or about April 1, the journal Global Biogeochemical Cycles will publish on-line the subject paper by USGS scientist, David Krabbenhoft. Currently, national and international groups are seeking the most effective ways to minimize human mercury exposure. This paper has three significant findings. First, it provides the first published data on methylmercury for the Pacific Ocean. The acquisition of these data provided the opportunity to document, for the first time in any ocean, an in-ocean methylation cycle, which provides a source of methylmercury to marine fish not previously identified. Second, the paper documents a substantial increase in Pacific Ocean mercury levels over the past two decades and links these increases to rising global mercury emission inventories and transport via both atmospheric and in-ocean pathways. Third, the linked atmospheric deposition and ocean cycling model resulting from this project allows us to infer Pacific Ocean response times of food web contamination levels to changes in mercury loading. In combination, these findings have far ranging implications for both scientists and decision makers. A science reporter is writing a news piece to highlight the paper in a high profile outlet (i.e., Science, Nature, American Scientific, or Environmental Science and Technology). This spring, the USGS is briefing the U.S. Environmental Protection Agency on these results along with other recent mercury related findings. A similar sampling effort of the Southern Indian Ocean commenced on March 16, 2009.

New: NSTC Work Group Report--Federal Interagency Pharmaceuticals in the Environment Research Strategy. This significant report provides (1) an overview of the current state of knowledge regarding pharmaceuticals in the environment, (2) a summary of priority information needs and science questions, and (3) an interagency research strategy for addressing those priorities. It was compiled by the Pharmaceuticals in the Environment Work Group comprising a team of scientists and science managers from EPA, FDA, USGS, CDC, FWS, NIEHS, NOAA, and USDA. The USGS, EPA, and FDA co-chair the Work Group and have been lead authors. As a result of this Work Group, FDA is re-evaluating its requirements for environmental assessments and is assisting EPA and USGS with access to information on

human health testing developed as part of the drug approval process. The Senate Environment and Public Works Committee has had testimony on this issue, requested all documents, emails, etc., related to the Work Group that prepared this report and requested a copy of the document as soon as it is available. They were refused copies of drafts on the basis that they were pre-decisional. The press has an extremely high level of interest in the issue of pharmaceuticals in the environment. An article is expected to be released by the Associated Press very soon regarding pharmaceutical manufacturing facilities as sources of drugs to the environment. This is a publication of the Pharmaceuticals in the Environment Work Group, of the Toxics and Risk Subcommittee, Committee on Environment and Natural Resources. The report is currently under review by the CENR. It is not clear if this will be released as a public document.

New: Afghan Minister of Mines Courtesy Visit with Secretary: Afghanistan Minister of Mines, Mr. Ibrahim Adel, will be visiting Washington on May 11-12, 2009, for discussions with various U.S. Government organizations. Minister Adel has specifically requested courtesy visits to the Department of the Interior and the U.S. Geological Survey (USGS) on Monday, May 11, 2009, where discussions would focus on past and potentially future natural resource assessment activities in Afghanistan. The USGS has worked closely with the Ministry of Mines and several other Afghan ministries since 2003; activities include preliminary assessments of water, mineral, coal, and oil and gas resources as well as earthquake hazards and capacity and institutional building. Funding for these activities has come from a variety of U.S. Government sources as well as the Afghanistan Government.

New: USGS Public Lecture Series: On April 1, USGS headquarters in Reston, Virginia, will host its first public lecture series. The lecture, presented by USGS scientist John W. Jones, and is entitled "From Knee High to Bird's Eye - Multi-scale Remote Sensing of Vegetation Dynamics," will be held at 7 p.m., in the Dallas Peck Memorial Auditorium, USGS National Center, 12201 Sunrise Valley Drive, Reston, Virginia.

New: Eighth Annual Civil Commercial Imagery Evaluation Workshop: The USGS and the Joint Agency Commercial Imagery Evaluation (JACIE) team partners will host the Civil Commercial Imagery Evaluation Workshop March 31 – April 2 in Fairfax, VA. The event is co-sponsored by the JACIE team, the USGS, the National Aeronautics and Space Administration, the National Geospatial-Intelligence Agency, and the U.S. Department of Agriculture. These organizations exchange information regarding the characterization and application of civil commercial imagery used by the Government to support independent system and product validation. The workshop represents the U.S. Government's continuing commitment to remote sensing technology as an important tool in providing information interoperability for Earth observation.

New: Students to track land use change in parts of the Chesapeake Bay: On April 20, USGS scientist Peter Claggett will meet with the Stewart Bruce, GIS Program Manager at Washington College in Chestertown, Maryland, to discuss having students track land use change in parts of the Chesapeake Bay watershed and to prototype the USGS Resource Mapper tool. The Resource Mapper is semi-automated classification software designed for use with Color Infrared aerial imagery and high resolution satellite imagery. The tool is designed to classify

forest canopy, impervious surfaces, herbaceous vegetation and bare ground for an entire image scene.

New: USGS Research on CO₂ and Marsh Gain: A joint study by USGS and the Smithsonian Environmental Research Center on CO₂ and Marsh Gain will be published in the *Proceedings of the National Academy of Sciences* during the week of March 23. The title of the article is *Elevated CO₂ stimulates marsh elevation gain, counterbalancing sea-level rise*.

New: USGS Collaborates with University on Carbon Sequestration: The USGS is collaborating with Tennessee State University to begin work on a preliminary study of carbon sequestration potential in groundwater. The study will evaluate the chemical reaction between injected carbon dioxide and deep limestone aquifers in Middle Tennessee. Carbon dioxide will be injection into a limestone aquifer 1,000 to 2,000 deep and a sandstone aquifer below that (5,000 to 6,000 feet deep). The initial phases of study will focus on finding appropriate wells for sampling and the compilation of available water-quality data for both aquifers.

Congressional

New: USGS To Conduct Midwest Area Congressional Courtesy Visits: Dr. Leon Carl, USGS Regional Executive for the Midwest Area, will be in Washington, D.C., on April 1 and 2 to meet with Congressional staff from the Members representing Midwest States. Dr. Carl will provide updates on research at the USGS Great Lakes Science Center (GLSC) and the USGS Upper Midwest Environmental Sciences Center, along with briefings on activities and resources at the USGS National Wildlife Health Center, the Midwest States Water Science Centers, and the Energy and Mineral Resources Teams.

New: Hearing on California Drought: The House Natural Resources Committee (Chairman Rahall, D-W.Va.) will hold a hearing titled "The California Drought: Actions by Federal and State Agencies to Address Impacts on Lands, Fisheries, and Water Users," on March 31. Matt Larsen, USGS Associate Director for Water, is scheduled to be a backup witness.

New: Congressional Courtesy Visits – Iowa: USGS Iowa Water Science Center Director Rob Middlemis-Brown is planning courtesy visits to staff of the Iowa delegation on April 7-8; he will likely be joined by a partner, Cheryl Schreier, Superintendent of the NPS Herbert Hoover Historical Site.

New: Senator McCaskill's "Kitchen Table Discussion" at Rolla, Missouri: The USGS will provide Senator McCaskill and her staff with the use of the large conference room at the USGS Rolla office as a forum to hold a "Kitchen Table Discussion" with the general public to address issues and answer questions. The USGS has offered to give a tour of the Center.

New: Water Quality 101 – Congressional Briefing: The USGS has been invited to present a "Water-Quality 101" briefing for Senate Environment and Public Works Committee staff. USGS scientists Greg Mohrman, Donna Myers, and Herb Buxton will discuss USGS work on emerging contaminants, other research, USGS capabilities, and how to find water-quality information and reports on the USGS website. The briefing is tentatively scheduled for April 13 or 14.

Update: Postponed: USGS to brief House Interior Appropriation Subcommittee on old growth tree mortality in western United States.: Associate Director for Biology Sue Haseltine and USGS scientists Phil Van Mantgem and Nate Stephenson have been invited to brief staff on the House Committee on Appropriations, Subcommittee on Interior, Environment and Related Agencies, about research showing the doubling of tree death rates in old-growth forests of the western United States. The findings link this trend to regional warming. Date TBD.

Media

New: Glacier Retreat along Antarctica's Larsen Ice Shelf: The USGS is working on a press release regarding a new report and map on glacier retreat along Antarctica's Larsen Ice Shelf from 1940-2005. This is one of three projects studying glacier extent in the Antarctic Peninsula and these projects are part of a larger USGS series reviewing glaciers at every continent. Glacier retreat in Antarctica's Larsen Ice Shelf is among the most profound examples of global warming effects. Loss of glacier ice enhances the already warming climate and contributes to sea level rise, threatening coastal communities.

New: USGS Science Featured on CNN online: Ms. Jessica Zelt, contractor for USGS, and Sam Droege, USGS, were interviewed on March 26, 2009, about the North American Bird Phenology Program. Ninety years of birdwatchers notes are going online for public access.

New: USGS Wildlife Biologist interviewed on National Public Radio: Mr. David Ziolkowski was interviewed by Elizabeth Shogren on National Public Radio about the State of the Birds report recently released by the Department of the Interior. The report warns that scores of the 800 U.S. bird species are declining.

Memorandum

To: Associate Deputy Secretary

From: Deputy Assistant Secretary Policy and Economic Development

Re: Indian Affairs' Weekly Update

FOCUS FOR WEEK OF MARCH 30, 2009

Congressional Hearing on Carcieri – The House Natural Resources Committee will hold an April 1, 2009, hearing on the Indian Reorganization Act and the Carcieri decision. Indian Affairs does not anticipate the Department will receive an invitation to testify. However, there will likely be inquiries from Tribes about measures the Bureau of Indian Affairs and Solicitor's Office are taking to assess the impact of the decision.

Federal Indian Bar Association Meeting – George Skibine will present to a national Indian Law conference in New Mexico on emerging issues in Indian gaming.

Emergency Response to Dakota Tribes – The BIA Great Plains Regional Office and BIA-Office of Indian Services will continue to provide emergency response support to tribes in the Great Plains region impacted by flooding in North and South Dakota. This week, the BIA has deployed staff to the Standing Rock Reservation in anticipation of damage beyond the existing flood damage to 20 homes and road ways. The BIA staff is coordinating the FEMA regional staff and local law enforcement to maintain law and order. BIA has put in place an incident command center and coordinated with the Red Cross to help provide food, shelter, general assistance, and other emergency services.

INDIAN AFFAIRS

Request to Reprogram Funding for Navajo Irrigation Project – Indian Affairs declined a request from the Navajo Agriculture Products Industry (NAPI) for the Department to request that Congress reprogram funding for construction on the Navajo Indian Irrigation Project (NIIP) to fund rehabilitation for agricultural projects. NAPI relies on a House Committee report that contemplated whether construction funds would be used for rehabilitation activities on certain NAPI lands. The NAPI may continue to voice within the Department its desire for the Department to request that construction funds be used for rehabilitation purposes.

National Indian Gaming Association Request to Secretary – The National Indian Gaming Association (NIGA) raised concerns with National Indian Gaming Commission (NIGC) in a letter to the Secretary. Indian Affairs is drafting a proposed response to address the matters NIGA raised. NIGA's concerns include: proposed NIGC regulations published for comment in December 2008; the NIGC staffing and failure to implement an Indian-preference policy; the appointment of the NIGC Commission; NIGC's interpretation of consultation policies; and the independent nature of the NIGC under the Indian Gaming Regulatory Act.

Plumber and Pipefitting Training program – A trade-training program in Chicago, IL is underway with 11 students. The training program staff is working with both the unions and the tribal "477" programs to determine if on-the-job training after completion of the formal 16-week training will provide opportunities for more competitive job placements.

Pueblo of Isleta Sand and Gravel Potential – The Office of Indian Energy and Economic Development has been working with the Pueblo of Isleta to assess the Pueblo's sand and gravel production potential. Regional resource studies and marketing analysis reveal that the Pueblo of Isleta, just 20 miles south of Albuquerque, has extraordinary potential for development of sand & gravel, crushed rock and cinders into this rapidly-growing urban market. Other aggregate sources around the Albuquerque area are becoming depleted and rapidly stretched out, and an Isleta source of rock materials could easily enter the Albuquerque Metro aggregate market and become the dominant supplier for the principal area of urban growth through Belen along the I-25-commuter rail corridor.

National Pub. L. 102-477, 2009 Conference – The Office of Indian Energy and Economic Development will facilitate a national meeting in Orlando, FL from April 5 to 10, 2009. At least 400 attendees will attend the conference. The conference will feature a wide variety of training sessions and opportunities for case managers to hear inspirational speakers who support the case manager's community work. Pub. L. 102-477, (477) allows tribes to combine employment, training, education, child-care and related programs from 11 different Federal programs, 3 different Departments into one single comprehensive resource to assist tribes to train and obtain jobs for tribal members. Tribes report on the use of funds through OMB approved financial and program reporting procedures. The forms were developed with tribes, Department of Labor, Department of Health and Human Services and Bureau of Indian Affairs cooperatively. Instead of 166 pages a year of forms and instructions, tribes submit one comprehensive report specifically identifying how the funds were spent, what activities were engaged, and how successful they were in meeting education, training and employment goals.

Crow/Blackfeet and IEED Wind Forum – The Office of Indian Energy and Economic Development (IEED) staff is planning a wind conference for the week of April 6, 2009 for the Crow and Blackfeet Tribes. A representative from the Cherokee Nation has been contacted to speak at the meetings.

BUREAU OF INDIAN EDUCATION

Discussion on Juvenile Detention – BIE will hold an internal meeting the week of March 30, 2009, with the BIA's Office of Justice Services, the Office of the Solicitor, and Indian Affairs to discuss the existing Juvenile Detention Center policy and the role the BIE and the Office of Justice Services have in ensuring educational services are provided to incarcerated youth in BIA detention centers.

BIE Literacy Meeting – From March 31 to April 2, 2009, BIE will hold its Literacy Leadership Institute in Phoenix, AZ. About 300 educators from BIE and tribally operated schools will participate and focus on best reading practices. BIE has scheduled the schools training during the institute and placed each school on tracks with in the workshops. The tracks are based on needs and existing programs, the training will be designed to meet the schools' needs and existing program offerings.

Presentation to Schools on BIE project – On April 15, 2009, BIE will hold a summit in Rapid City for the North and South Dakota Tribes. BIE will present its Systems of Support for BIE schools, share data from the BIE's existing Navajo project, and introduce the opportunity for North and South Dakota schools who wish to bring the project to their schools. The Navajo project was a BIE decision to provide K-3 intensive reading. There are 29 Navajo schools who participated in this current school year and additional Navajo schools may join during the coming school year. A similar meeting to the Rapid City meeting will take place in Albuquerque, NM the week of April 20, 2009. The Albuquerque meeting will target all BIE and tribal schools and discuss what the System of Support project's intent is and reiterate the BIE school's ability to participate in the projects.

BUREAU OF INDIAN AFFAIRS

BIA Region Data Call for Carcieri – The BIA Regional offices continue to provide assessments of land acquisitions made in their region. BIA requested the assessment as part of a data call to gather information about the potential impact of the Carcier decision on land acquisitions. Decisions on land acquisitions in trust for parcels located within or contiguous to reservation boundaries are made typically by the BIA Regional Directors. As part of the BIA Regional Director's final decision, the Director specifies the specific authority for the Department to acquire the land in trust.

Navajo-San Juan settlement/Northern NM Pipeline project – Congress passed the Navajo-San Juan settlement/Northern NM pipeline project and it will now be before the President. The BIA, in coordination with Congressional Affairs and the Solicitor's office, will be working to understand the legislation's provisions that relate to tribes. In addition to the substantial settlement related to the Navajo-San Juan settlement, the legislation addresses the Duck Valley water settlement.

Final EIS on an Oil Refinery Proposal for North Dakota Tribes – BIA Region staff continue to work with EPA staff on a Final Environmental Impact Study for the Three Affiliated Tribes' proposed plan to build and operate an oil refinery on the Fort Berthold Reservation. The EPA will give a preliminary FEIS to the Tribes and cooperating agencies next week, and then hold consultation sessions with the tribes in late April. The FEIS will be published in late June 2009.

Two federal actions are involved with the Tribes' proposed project, both requiring an EIS to satisfy NEPA requirements. The EPA action involves issuance of permit(s) for operation of the proposed refinery. The Department of the Interior's action involves the Tribes' request to take the land into trust. The EPA and BIA have been working together for years as co-leads to complete a joint EIS. The Department of the Interior and EPA will issue separate Records of Decision (ROD) based on the findings. The Department has communicated with the Tribes and with the EPA during the Department's analysis of its fee-to-trust application. That communication has included the BIA and Indian Affairs' central office; because the Assistant Secretary-Indian Affairs assumed decision making authority from the BIA Region on this matter in April 2008.

BIA-NBC Training on Indirect Cost Rates – The BIA Division of Self-Determination and the National Business Center (NBC) will hold training to Negotiate Indirect Cost Rates for Contract Support, May 13 – 14, 2009, at the National Indian Programs Training Center in Albuquerque, NM. This training will be the first of three trainings as a result of the Ramah Indirect Costs Class Action law suit.

Self-determination contracts are the primary means by which the federal government fulfills its treaty and trust obligations to Indian tribes. Half of the operational control of the Indian Affairs programs are contracted out to Indian tribes or designated organizations. However, persistent shortfalls in the payment of required contract support costs (CSC) have prevented the Tribes from realizing the full promise of self-determination.

In 1990, the Ramah Navajo Chapter in New Mexico filed a class action to recover unpaid CSC. The Tribe relied on a 1988 amendment to Pub. L. 93-638 which required that the Secretary add to all 638 contracts full funding amounts of program operation. In later years, Ramah (and others) won a summary judgment. A partial settlement agreement between the class and the Department required the Department (NBC) provide adequate CSC training with focus on establishing special indirect cost rates in the calculation of CSC.

BIA Fee-to-Trust Handbook Forum – The BIA Office of Trust Services and the American Indian Law Center, an independent policy organization affiliated with the University of New Mexico, will hold the first of the BIA's annual forum (Forum) on its Fee-to-Trust Handbook. The Forum will take place on April 30, 2009, at a BIA training center in Albuquerque, NM. When the Handbook was released in the Fall of 2008, the BIA announced its plans to hold an annual forum that brought together federal and tribal practitioners to discuss their uses and implementation of the Handbook. The Forum will be an opportunity to discuss how tribal and BIA staff might seek ways to enhance the Handbook's use and impact. The current version of the Handbook addresses the business practices for the BIA's review of applications for on-reservation acquisitions and will expand in the future to describe business practices for off-reservation and mandatory acquisitions.

Briefing Paper: Review of the Three Affiliated Tribes' (Tribes) Proposal to Take Land in Trust for an Oil Refinery

Date: March 27, 2009

Background: The Tribes have requested that the Department accept 469 acres located within the boundaries of the Fort Berthold Indian Reservation in trust for the Tribes. The Tribes proposed constructing and operating a petroleum refinery on 190 acres to produce approximately 13,000 barrels of gasoline and diesel fuel per day.

The BIA and EPA, as co-lead agencies, are finalizing the Final Environmental Impact Statement (FEIS) for the project. While the BIA is using the FEIS to determine whether to take the land into trust, the EPA is using the FEIS to determine whether to issue a National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit for the refinery under the Clean Water Act.

The EPA analyzed several alternatives related to its decision on the issuance of the NPDES permit. The BIA analyzed related but different alternatives for the trust acquisition. The alternatives that the BIA analyzed in the FEIS are:

Alternative 1 (Proposed Action) – Acquisition of land in trust for the refinery and buffalo forage.

Alternative 2 – Acquisition of land in trust without construction of the refinery.

Alternative 3 – Construction of the refinery without acquisition of land in trust.

Alternative 4 – Modification of Proposed Action to reduce impacts to wetlands and revise the design of the refinery to reduce regulatory requirements under RCRA.

Alternative 5 – No Action.

The EPA will issue its own ROD memorializing its decision on the NPDES permit. After issuance of the FEIS and prior to issuing its own ROD, the BIA must complete its analysis of the Tribes' fee-to-trust application for inclusion in the ROD.

The Assistant Secretary's office assumed jurisdiction from the BIA Region and retains decision making authority over this matter per Carl Artman's April 2008 memorandum.

Recent Actions: In a memorandum prepared by the Office of the Solicitor and in a July 2008 meeting involving the BIA, the Solicitor, the Assistant Secretary- Indian Affairs, and the Associate Deputy Secretary the following concerns with the Tribes' application were discussed:

- Whether the land must be in trust for the refinery project to proceed.
- Whether the Tribes can finance the project and operate the refinery.
- Potential environmental impacts and the resulting liability to the United States if the land is taken into trust.
- The BIA's trust responsibilities and its ability to meet them if the land is taken in trust without a clear picture of the use.
- The security and law enforcement needs for the refinery.

It was decided at the July 2008 meeting that many of these issues are unresolved, and that the refinery presents unique and substantial environmental liabilities to the United States. It was also decided that the Department should select the No Action Alternative in the FEIS and deny the request to take the land into trust to build a refinery.

Following the July 2008 meeting, the Office of the Solicitor, the EPA and BIA Great Plains Regional Office worked to finalize the FEIS and ROD. The EPA will give a preliminary FEIS to the Tribes and cooperating agencies at the end of March, 2009, and then hold consultation sessions with the tribes in late April. The FEIS will be published in late June 2009. The BIA is in the early stages of drafting its ROD which will include its analysis and decision under 25 CFR Part 151 to review the Tribes' trust application.

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**Notice of Availability –
Final Environmental Impact Statement for
the Proposed Enterprise Rancheria Gaming Facility
and Hotel Fee-to-Trust Acquisition Project,
Yuba County, California**

Description

This Federal Register notice announces the filing of a final environmental impact statement (FEIS) with the U.S. Environmental Protection Agency (EPA). This FEIS identifies a proposed gaming facility and hotel as the preferred alternative on land that the Enterprise Rancheria has applied to take into trust status. BIA, the National Indian Gaming Commission (NIGC), EPA, Yuba County, and the Enterprise Rancheria of Estom Ymeka Maidu Tribe are cooperating agencies, and the Bureau of Indian Affairs is the lead agency.

History

The Tribe has requested that the BIA take into trust 40 acres currently held in fee, on which the Tribe proposes to construct a gaming facility, hotel, parking facilities, and other facilities. The proposed 40-acre site is located in unincorporated Yuba County, California.

- July 7, 2004 - Environmental Assessment (EA) published.
- August 7, 2004 - Public comment period on the EA closed.
- May 20, 2005 - BIA published a notice of intent to prepare the draft EIS (DEIS) for the proposed action in the Federal Register (70 FR 29363).
- June 9, 2005 - BIA held a public scoping meeting on the DEIS in Marysville, California.
- March 21, 2008 – Notice of Availability for the DEIS was published in the Federal Register (73 FR 15191).
- April 9, 2008 – BIA held a meeting to receive public comments on the DEIS in Marysville, California.
- May 5, 2008 – Public comment period on the DEIS closed.

Interested Parties

Several individuals have commented in opposition to the proposed casino project throughout the environmental review process. The following are notable opposition groups or agencies that have expressed opposition during the environmental process:

- Citizens for a Better Way and Citizens Against the Casino (local citizens groups) have expressed opposition to the casino project due to a claimed negative influence on the community and due to various claims that the

fee to trust transfer would not comport with federal or state law. The Wheatland School District and Yuba County Board of Education passed resolutions in 2002 opposing the proposed casino project due to stated social, political, and environmental impacts on the community.

- Dan Logue, a former Yuba County Supervisor and current member of the State Assembly has expressed opposition several times over the years in the media and in a letter sent during the DEIS scoping period. His opposition is based on moral/religious reasons and due to various claims that the fee to trust transfer would not comport with federal or state law.
- The Mooretown Rancheria, a local tribe with an existing casino, has expressed opposition due to the claim that the proposed site is not within the Enterprise tribe's historical territory.
- The Strawberry Valley Rancheria, a local tribe (not federally recognized), has expressed opposition due to the claim that the proposed site is not within the Enterprise tribe's historical territory.
- The United Auburn Indian Community (UAIC) has expressed opposition in the media but has not done so formally during the environmental process. The UAIC hired a local environmental consulting firm to conduct a critique of the EA, however.
- The Picayune Rancheria of Chukchansi Indians, a Central California tribe with an existing casino, has expressed opposition due to the claim that the proposed site is not within the Enterprise tribe's historical territory.

No Congressional representatives have expressed interest to our knowledge.

Senior and Solicitor Reviewers of Underlying Document

- Paula Hart, Acting Director, Office of Indian Gaming
- Maria Wiseman, Office of the Solicitor – Division of Indian Affairs

BUREAU: Indian Education (BIE)

ISSUE: Systems of Support (SoS) Tribal Summit in Rapid City, SD on April 15

BIE is hosting this summit for tribal educators and leaders in North and South Dakota to discuss Phase II of the SoS implementation. Briefly, SoS is a highly structured, K-3 reading program that was implemented this school year within 29 of the lowest performing schools on the Navajo Reservation. BIE officials will share data and best practices information from the Navajo venture (Phase I) with the tribal leaders/educators from the Dakotas on April 15, and will discuss opportunities for these schools to join in the Phase II rollout, if they so desire. Some tribal educators from the area have portrayed this session as a BIE effort to "force" the tribal schools into becoming a part of the Phase II implementation, and have indicated they would encourage their leadership to oppose this initiative. BIE wants to emphasize that no tribal school will be forced to join the Phase II rollout, and that the summit is to provide information and data on how the program has progress on the Navajo Reservation. We bring this to your attention in the event the Secretary's office receives any complaints from tribal leaders in the Dakotas regarding the summit.

Coincidentally, BIE received a letter from the Oglala Sioux Tribal Chairperson last week indicating their willingness to attend the summit and learn more about SoS. Furthermore, the Chairperson also indicated that their Tribal Education Director had been replaced, and would no longer be involved in interacting with BIE. The Director who was replaced was one of the leading critics of BIE's efforts.

March 26, 2009

To: Laura Davis, Associate Deputy Secretary

From: Donna Erwin, Acting Special Trustee

Re: March 30, 2009 staff meeting

The following items for the Secretary's attention are from either the Office of the Special Trustee for American Indians (OST) or the Office of Historical Trust Accounting (OHTA).

Week Ahead Items of Interest

1. Members of Senator Tom Udall's staff in New Mexico will be touring OST's facilities in Albuquerque on Thursday, April 2. The tour will be preceded by a slide presentation that provides an overview of operations and staffing.

Future Awareness

1. OST will be submitting the "Status Report to the Court Number, Thirty-Six" for the quarter ending March 31, 2009. Previously, the Secretary has signed the transmittal letter that accompanies delivery of the report to the Department of Justice. The transmittal letter will be ready for the Secretary's signature per the following timeline:
 - **April 14** (Tuesday) - First draft of the report from the subject matter experts goes for review to Department of Justice, DOI's Office of the Solicitor and the Acting Special Trustee
 - **April 20** (Monday) - Report is transmitted to DOI's Executive Secretariat for review by the Secretary and for his signature on the transmittal letter
 - **April 27** (Monday) - Signed transmittal letter is returned to DOJ
 - **April 29** (Wednesday) - DOJ delivers the report with the transmittal letter to the Court
2. U.S. District Court Judge Hewitt has approved a joint motion in the *Pembina* case requesting a delay in the production of documents ordered by the Court. Lists of beneficiaries receiving judgment payments are now due on July 15, 2009, production.
3. The Government's motion to dismiss *Tonkawa Tribe of Indians of Oklahoma v Kempthorn* was denied on March 17, 2009. The tribe seeks an accounting of Indian trust funds.
4. Information on the debit card program and instructions for enrolling were added to the OST public website on Friday March 20, 2009.

MEMORANDUM

To: Laura Davis
Associate Deputy Secretary

From: Richard T. Cardinale
Chief of Staff to the Assistant Secretary -
Land and Minerals Management

Re: Summary Report for March 30, 2009 Meeting

Date: March 26, 2009

Accompanying this memorandum is a report that combines key new and ongoing policy and regulatory decision items, and events that are either bureau-sponsored or at which there will be bureau representation by the Bureau of Land Management, Minerals Management Service, and Office of Surface Mining Reclamation and Enforcement.

On April 2, Acting MMS Director Walter Cruickshank will testify at a Hearing of the House Appropriations Subcommittee on the Interior and the Environment regarding MMS management issues (Chairman Norm Dicks, WA). Walter also will meet with FERC Chairman Jon Wellinghoff next week to discuss offshore alternative energy issues and the draft Memorandum of Understanding.

Also April 2, BLM-Arizona will celebrate a major land acquisition for the Hell's Canyon Wilderness located 25 miles northwest of Phoenix, Arizona. BLM officials also will recognize the Wilderness Land Trust, which originally acquired the parcel for retention until BLM could complete the purchase (\$2.9 million). This 640-acre parcel represents the only private land inholding in the 9,900-acre wilderness area; it is one of the largest wilderness in-holding purchases completed nationwide.

Finally, on March 31, OSM's Tulsa Field Office and Phoenix Coal Company will sponsor a Reforestation and Student Outreach Event at Phoenix Coal Company's Kelly Ranch surface mine located near the town of Alluwe, Oklahoma (approximately one hour north of Tulsa). One hundred and ninety high school students from Oologah High School in Oologah, Oklahoma will plant bare seedlings of several species of trees, including Black Walnut, American Plum, Native Northern Pecan, Austrian Pine, Sycamore, Loblolly Pine, and Bald Cypress on a reclaimed portion of an active (Title V) mine site.

Other matters are also listed. If you need any further information, please contact me at (202) 208-7214.

LAND AND MINERALS MANAGEMENT

March 29 – April 4, 2009

SENIOR OFFICIALS ACTIVITIES

Richard Cardinale, Acting Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Mike Pool, Acting Director, Bureau of Land Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Walter Cruickshank, Acting Director, Minerals Management Service

Focus: In Washington, DC. Testify at a Hearing of the House Appropriations Subcommittee on the Interior and the Environment and meet with FERC Chairman Jon Wellinghoff to discuss offshore alternative energy issues and the draft Memorandum of Understanding.

Glenda Owens, Acting Director, Office of Surface Mining Reclamation and Enforcement

Focus: On Annual Leave.

WEEK AHEAD

Bureau of Land Management (BLM)

- **Congressional Tour of Oil and Gas Lease Parcels in Moab, Utah:** Pam Juliano, a field representative for Congressman Matheson (D-Utah) who has expressed concern with the cancellation of the oil and gas lease parcels sold at the December 19, 2008, lease sale, requested a field tour of the Moab area. The tour is scheduled for the morning of March 31. In addition to the tour, field staff will provide Ms. Juliano with information on how oil and gas lease sales are conducted with respect to the Resource Management Plan (RMP) framework, and the stipulations that were applied to the parcels in question.
- **Tribal Youth Assist with Restoration Project:** Approximately a dozen Kaibab Paiute Environmental Program students will participate in a riparian restoration project at Pakoon Springs in the Grand Canyon-Parashant National Monument on April 3-4. The students will assist BLM-Arizona and Grand Canyon Wildlands Council staff with replanting native species as part of the ongoing rehabilitation of this natural spring's environment. Prior to BLM acquisition of this property, it had been converted into several ponds utilized for ranching and agricultural purposes. A BLM archeologist and tribal elders will also guide participants to visit several of the cultural sites associated with this important Mojave Desert water source.

- **BLM-Alaska at the Great Alaska Sportsman Show:** On April 2-5, BLM will participate in the largest sporting trade show in Alaska where vendors and exhibitors will promote outdoor equipment and activities. The theme of BLM's exhibit booth will be "BLM Celebrates 50 years of Alaska Statehood and 142 years of Partnership."
- **Western Montana Resource Advisory Council (RAC) Meeting:** The Western Montana RAC will meet March 31 in Butte. Agenda topics include cooperative rangeland monitoring, forest health issues, and a review of Forest Service fee proposals.
- **Western Regional Partnership Meeting:** The second Western Regional Partnership (WRP) Principals' meeting will be held in Reno, Nevada, March 31–April 1. WRP committees are working to improve regional and interagency collaboration to address regional issues such as population growth, economic health, and planning for long term and sustainable public health and safety. The BLM-Nevada State Director and Deputy State Director will attend the meeting.
- **BLM-Alaska Central Yukon Field Office to host Dalton Highway Corridor Meeting:** On April 2, representatives from BLM, National Park Service (NPS), Fish and Wildlife Service (FWS), State of Alaska Department of Transportation, Alaska State troopers, Northwest Arctic Borough, and the University of Alaska Fairbanks, will meet to discuss their current projects and land management issues within the corridor, which may also affect other agencies and users of the highway.
- **Arizona Celebrates Nation's Largest Land Acquisitions for Hell's Canyon Wilderness:** On April 2, BLM officials will celebrate the acquisition of 640 acres of land for the Hell's Canyon Wilderness Area and recognize the Wilderness Land Trust, which originally acquired the acreage for retention until BLM could complete the purchase. The purchase price is \$2,880,000, and it represents one of the largest wilderness in-holding purchases completed nationwide
- **Volunteer Shrub Plantings Planned for Magic Valley Area in Southern Idaho:** BLM-Idaho Twin Falls District and Idaho Department of Fish and Game are planning to conduct four volunteer shrub plantings in the Magic Valley Area in Southern Idaho in March and April. These include shrub plantings on an area burned by the Clover Fire (March 28 and April 4); at Indian Springs or Cherry Springs (April 11); and an area burned by the Nature Fire (April 18). Participation by local high school students in the Magic Valley area will occur on weekdays depending on school schedules and class availability.
- **Upcoming Oil and Gas Lease Sales:**
 - BLM-Wyoming lease sale April 7: There are 102 parcels for sale, totaling 98,195.24 acres in Wyoming and 40 acres in Nebraska. The list of parcels was posted for public review on February 20.
 - BLM-Montana State lease sale April 14. BLM posted the 67 parcels for sale, totaling 53,530.84 acres. There are 51 parcels in Montana and 16 in North Dakota. Of the 51 in Montana, 36 parcels contain split estate lands. BLM notified private surface owners by mail. BLM posted the list of parcels on February 27, 2009.

- BLM-New Mexico lease sale April 22. There are 87 parcels for sale, totaling 44,756.69 acres in New Mexico, 8,048.31 acres in Kansas, 710.25 acres in Oklahoma, and 8,828.04 acres in Texas. BLM posted the list of parcels on March 4.
- BLM-Colorado lease sale May 14: There are 57 parcels, totaling 58,071 acres, located in areas under the management of four BLM Colorado Field Offices – Royal Gorge (Canon City), Little Snake (Craig), White River (Meeker) and the Dolores Public Lands Office. The list of parcels was posted on March 16.
- BLM-Utah lease sale May 19: There are 91 parcels for sale, totaling 141,569 acres in the Fillmore, Monticello, Price, and Vernal Field Offices. The final list will be posted April 3, once WO has approved the parcels.

Minerals Management Service (MMS)

- **Secretary's Report on a Comprehensive Offshore Energy Program:** As a follow up to the Secretary's February 10 announcement, MMS and US Geological Service (USGS) are preparing the information that the Secretary requested on conventional and renewable resources as well as identifying information regarding sensitive areas and resources in the Outer Continental Shelf (OCS). MMS and USGS briefed their Directors and Assistant Secretaries on March 23. A briefing for the Secretary was held on March 25. The goal is to publish the report on the Department's website during the week of March 30 in preparation for the Secretary's Regional meetings.
- **Borderland Wind Project:** Borderland Wind met with MMS in Camarillo to discuss a potential deepwater wind project off southern California. Borderland is testing the prototype of their new confidential technology for a meteorological spar buoy in state waters offshore Ventura County. Following favorable results, Borderland would like to install several of the devices on the OCS for resource assessment purposes. Borderland submitted a brief proposal for the study which was sent to the Solicitor's office for review. A follow-up meeting is set for March 30 in Herndon, Virginia with MMS Alternative Energy Program staff.
- **Annual Meeting of Northeast Area Region Executives:** On March 30-31, Executives from USGS, Fish and Wildlife Service (FWS), National Park Service (NPS), and MMS will meet in Philadelphia. The goal is to enhance the capabilities of these DOI bureaus to achieve mutual goals and make efficient use of shared resources. Attendees include: the USGS Regional Director (Region 5), the FWS Regional Director (Northeast Region); the NPS Associate Director, and MMS Offshore Energy and Minerals Management Associate Director and Deputy Associate Director. The MMS will offer opening remarks and a presentation on Offshore Wind Development. Other MMS representatives in attendance include Steve Textoris (Alternative Energy Program), James Kendall (Environmental Division) and Rodney Cluck (Environmental Sciences).
- **Onshore RIK Natural Gas Sales.** RIK completed the successful sale of approximately 125,500 Million British Thermal Units (MMBtu) per day from Federal leases located in the State of Wyoming and approximately 10,000 MMBtu per day from the Bureau of Land Management's Cliffside Helium Enrichment Unit located near Amarillo, Texas. Twelve companies submitted

bids for the five packages of gas. Four companies received awards with deliveries to begin April 1, 2009 for terms of 7 or 12 months.

- **Bureau of Indian Affairs Fort Berthold Agency Leases:** The MRM Financial Management's Indian Financial Liaison will participate in a meeting in Dickinson, North Dakota, on April 2, 2009, with Bureau of Indian Affairs, Bureau of Land Management, Office of the Special Trustee, and Office of Indian Energy and Economic Development staff. The purpose of the meeting is to discuss coordination issues resulting from the increased oil and gas leasing activity on the Fort Berthold reservation. The DOI agency coordination meetings occur on a quarterly basis.
- **Sale Results for Central Gulf of Mexico Planning Area - Lease Sale 208 (March 2009):** 70 companies submitted 476 bids on 348 tracts. MMS received \$703,048,523 in high bids for the 348 tracts, and the total value of all of the 476 bids was \$933,649,315. The highest bid was \$65,611,235 submitted by Shell Gulf of Mexico Inc. on Mississippi Canyon Block 721, located to the north of Shell's prolific Mars-Ursa field. The newly available "181 South Area" received 13 bids on 13 tracts, and the high bids for these tracts totaled \$6,476,545. Shell was the high bidder on 11 tracts and Anadarko was the high bidder on two tracts in the "181 South Area".

Office of Surface Mining (OSM)

- **OSM Charleston Field Office Director to Make Presentation at the 30th Annual West Virginia Mine Drainage Task Force Symposium:** The symposium, sponsored by a multi-interest task group, is scheduled for March 30-April 1, in Morgantown, West Virginia. About 300 people from industry, the environmental community, government, and academia will attend this event. The main topics deal with water issues related to mining.
- **Reforestation Event in Oklahoma:** On March 31, OSM's Tulsa Field Office and Phoenix Coal Company will sponsor a Reforestation/Student Outreach Event at Phoenix Coal Company's Kelly Ranch surface mine located near the town of Alluwe, Oklahoma, approximately one hour north of Tulsa. One hundred and ninety high school students from Oologah High School in Oologah, Oklahoma will plant bare seedlings of several species of trees, including Black Walnut, American Plum, Native Northern Pecan, Austrian Pine, Sycamore, Loblolly Pine, and Bald Cypress on a reclaimed portion of an active (Title V) mine site. The Outreach Program will also include the following activities to provide the students with a fun filled and educational experience: soils identification, erosion control, re-vegetation with grass and legumes, hydrology, GPS and related technology, seismographs & blasting. The students will witness an overburden blast before leaving for the day. In case of inclement weather, the event will be held one week later, on April 7. A minimum of two local newspapers will be provided a Media Advisory and encouraged to attend the event.

GRANTS

Bureau of Land Management (BLM)

- **Lacks Creek Management Area:** BLM-California is accepting applications through April 3 to decommission up to 28 miles of former logging roads, improve drainage on up to 15 miles of

existing access roads, and convert up to 15 miles of former logging roads to public access trails. There will be one award totaling \$3,500,000. Eligible applicants include nonprofits having a 501(c)(3) status.

Minerals Management Service (MMS)

No new grants to report this week.

Office of Surface Mining (OSM)

- **OSM Awards Virginia Fiscal Year 2009 Title IV Abandoned Mine Land (AML) Grant:** On March 31, OSM plans to award Virginia's FY 2009 Title IV AML Grant in the amount of \$9,087,952. This action will provide funding for the following activities: Non-Emergency Administrative Costs (\$1,108,314.); Non-Water Supply Project Costs (\$4,357,694); and Water Supply Project Costs (\$3,621,944) for a total award of \$9,087,952.
- **OSM Awards FY 2009 Crow Tribe Fiscal Year 2009 AML Grant:** On April 1, OSM plans to award Crow Tribe's FY 2009 AML Grant in the amount of \$1,580,977. This action will provide funding to the Crow AML Program.

ON THE HORIZON

**Updates are shown in italics*

Bureau of Land Management (BLM)

- **New: BLM Executive Leadership Team Meeting:** BLM's Executive Leadership Team (ELT) will meet in Washington, D.C., April 30-May 1. The 25-member BLM ELT is composed of the Acting Director, Acting Deputy Director, Assistant Directors, and State and Center Directors. These individuals are ultimately responsible for developing policy and advancing the Administration's priorities of energy independence, landscape management, Native American values, and ethical integrity.
- **New: Congressional Meetings:** On May 29-30, several BLM State Directors will meet with their respective Congressional delegations to discuss various issues relating to their states. BLM Legislative Affairs staff will accompany the State Directors of Arizona, New Mexico, and Idaho; however, this list is not final. BLM Legislative Affairs will provide more details as they are confirmed.
- **New: BLM Planning Division to collect NEPA data related to Recovery Act projects:** BLM's Planning Division is drafting field guidance for the collection of data to comply with Section 1609(c) of the Recovery Act, which ensures transparency and accountability in government actions. The Council on Environmental Quality (CEQ) has directed agencies to report every 90 days on Recovery Act-funded projects or activities experiencing substantial delays in completing NEPA review. BLM's Planning Division will consolidate responses for transmission through channels to CEQ.

- **New: Wyoming County to Plan for Wind Energy Development:** BLM Wyoming Rock Spring's Field Office has received several applications for wind farms. Sweetwater County Commissioners, who are part of the Rock Spring Field Office, are planning a public open house, tentatively set for April 22, to discuss the county's wind planning regulations. County officials will address public comments on which types of regulations it would prefer for future wind development within Sweetwater County. Local BLM representative will attend but will not participate in the panel.
- **New: Outdoor Week at BLM-Alaska Campbell Tract:** On May 12-15, BLM Campbell Creek Science Center and the Anchorage School District will host the 35th annual Outdoor Week. This education event will bring nearly 2,000 area sixth-grade students to the outdoor classrooms of the 730-acre Campbell Tract in the heart of Anchorage for a hands-on look at the natural world.
- **New: Dakotas Resource Advisory Council to Meet:** The Dakotas RAC will meet April 16-17 in Spearfish, South Dakota. Agenda topics include sage-grouse conservation studies, recreation fees, and resource management planning issues and ongoing efforts.
- **New: Uranium Mining Site Tour for Mohave County Commissioner:** On April 24, BLM-Arizona staff and industry officials will conduct a tour for Mohave County Commissioner Gary Watson of sites associated with past and proposed uranium mining activities on the Arizona strip.
- **New: Interagency Junior Ranger Day:** On April 15, BLM staff will help conduct educational activities for approximately 120 fourth grade students at the Tonaquint Nature Center in St. George, Utah. Interagency partners include Grand Canyon-Parashant National Monument, Pipe Springs National Monument, Zion National Park, Dixie National Forest, Utah Division of Wildlife Resources, Red Cliffs Desert Reserve and the City of St. George.
- **New: Rawlins Field Office to Host South Central Reclamation Council Meeting:** On April 7, BLM-Wyoming Rawlins Field Office will host the first 2009 meeting of the South Central Reclamation Council. BLM specialists will meet with energy industry representatives, landowners, and reclamation contractors to discuss reclamation activities in oil and gas production areas. Discussions will include the new surface disturbance database and new state policy on reclamation.
- **New: Mine Safety Meeting:** During the week of April 6, the Mine Safety & Health Administration, National Institute for Occupational Safety and Health, and BLM-Utah State Office will meet in Salt Lake City to discuss issues related to deep coal mine safety.

Minerals Management Service (MMS)

Chronological MMS Events

No new items to report.

MRM Recurring Items

- **No Change: RIK Oil and Gas Sales:** FY 2009 RIK Oil and Gas Sales Key Milestones:
 - Tentative: Unrestricted GOM Crude Oil Sale May 6-7, 2009 for July deliveries
 - Tentative: Small Refiner GOM Crude Oil Sale August 4-5, 2009 for October deliveries
 - Tentative: Unrestricted GOM Crude Oil Sale August 5-6, 2009 for October deliveries

Offshore Energy and Minerals Management Program (OEMM) Recurring Items

- **New: Geological Permit Pending in Atlantic OCS:** MMS has received several permit requests for conducting seismic activity along the Atlantic coast. While most permits are for shooting seismic reflections, one permit seeks only to conduct an aeromagnetic survey. This permit does not involve any seismic activity and would consist of an airplane flying over the area and collecting magnetic pulse information. MMS will be evaluating whether this permit can be approved shortly because it does not involve seismic activity. There is a good chance that it can be approved very quickly.
- **Update: New 5-Year Program – 2010-2015:** The Draft Proposed Program was published in the *Federal Register* on January 21, 2009. Based on the Secretary's guidance announced on Tuesday, February 10th, a *Federal Register* notice was published on March 4, 2009, that extends the comment period for the 5-Year Draft Proposed Program (DPP) by an additional 180 days (from March 23, 2009 to September 21, 2009). *Over 5,700 comments have been received on the DPP.* Additionally, plans are underway for the Secretary to host meetings in April on each coast and in Alaska to allow for input from states, stakeholders and affected communities to help develop an offshore energy plan for conventional and renewable resources. MMS is leading the planning efforts for these meetings which are to take place in Atlantic City, New Jersey (April 6); New Orleans, Louisiana (April 8); Anchorage, Alaska (April 14); and San Francisco, California (April 16). A *Federal Register* notice providing the public with this information was published on March 18th.
- **Update: Alternative Energy Interim Policy Projects:** A table below summarizes the status of each Interim Policy project under MMS's consideration.

State	Total Projects	Developer	Applications Received	Project Review Status
Delaware	1	Bluewater Wind	1 – Bluewater Wind	EA, consultations, and lease stipulations in progress; developer is qualified to hold a lease; contingent on State CZM review and consultations with NOAA-Fisheries; lease issuance target is April 2009.
Florida	3	Aquantis; Florida Atlantic University (FAU); Turner Hunt Ocean	1 – THOR	Environmental review of THOR's recently submitted project application (1/28/09) has just begun. MMS awaiting additional

State	Number of Projects	Developer(s)	Applications Received	Project Review Status
		Renewable (THOR)		information to confirm the developers are qualified to hold leases; MMS awaiting project applications from Aquantis and FAU. Aquantis has been confirmed as qualified to hold a lease.
Georgia	3	Southern Company	0	MMS awaiting project application from Southern Company; developer is qualified to hold a lease.
New Jersey	6	Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	4 – Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	EA, consultations, and lease stipulations in progress; <i>MMS has received additional information from Deepwater Wind (dated March 12, 2009) to confirm whether this developer is qualified;</i> MMS awaiting additional information FERN to confirm the developers are qualified to hold leases, while Bluewater is confirmed qualified to hold a lease; final consistency determination submitted to NJDEP on March 6; contingent on state CZM review and consultations with NOAA-Fisheries, lease issuance target is April 2009.

MMS is finalizing the draft EA for the seven proposed Interim Policy projects sited offshore Delaware and New Jersey in preparation for surnaming.

OEMM Lease Sales

- **No Change: Beaufort Sea Sale 209 (February 2010):** The target date for the sale bid opening is February 2010. Public hearings on the Draft EIS have been completed. MMS is extending the written comment period on the Arctic Multisale (Beaufort and Chukchi Sales 209, 212, 217, and 221) Draft EIS from March 16, 2009 to March 30, 2009. *A request from EarthJustice for an additional 45-day comment period extension was denied.*

Major Milestones:

Final EIS Available
CD and PNOS Issued
Governor's Comments due
FNOS published in the *Federal Register*
Public Bid Opening/Reading

September 2009
September 2009
November 2009
January 2010
February 2010

- **No Change: Western Gulf of Mexico Planning Area - Lease Sale 210 (August 2009):** The target date for the sale bid opening is August 19, 2009. A Notice of availability will be published in the *Federal Register* for the Proposed Notice of Sale by the end of March, 2009.
Major Milestones:

CDs sent to States	March 11, 2009
Proposed Notice of Sale NOA published in <i>Federal Register</i>	March 30, 2009
Final Notice of Sale to be published in the <i>Federal Register</i>	July 8, 2009
Public Bid Opening/Reading	August 19, 2009
- **No Change: Central Planning Area 213 (March 2010):** The target date for the sale bid opening is March 17, 2010.
Major Milestones:

Publish NOA for the NEPA document & PNOS	November 4, 2009
Publish FNOS	February 5, 2010
Public Bid Opening/Reading	March 17, 2010
- **No Change: North Aleutian Basin Sale 214 (November 2011):** On March 3, MMS met with the Aleutians East Borough, a cooperating agency for the EIS, to discuss Fisheries Compensation. The target date for the sale bid opening is November 2011.
Major Milestones:

Draft EIS	January 2010
Public Hearings	February/March 2010
Final EIS	January 2011
Consistency Determination/ Proposed Notice of Sale	January 2011
Governor's Comments Due	March 2011
Final Notice of Sale Published in <i>Federal Register</i>	October 2011
Public Bid Opening/Reading	November 2011
- **Update: Cook Inlet Sale 219 (2011):** *The MMS will issue a second Request for Information (RFI) in May 2009 to determine industry interest, and annually thereafter through the 5-Year schedule, until a sale is held or the 5-Year schedule expires. Since the current 2007-2012 sale schedule shows a potential Cook Inlet Lease (sale 219) scheduled for 2011, and due to the time to complete the presale process, it will not be possible to hold Sale 211 in 2010. The RFI scheduled to be issued in May 2009 will be for Sale 219 rather than Sale 211. If there is adequate industry interest, and the MMS proceeds with the presale process, only one Cook Inlet sale will be held in the current 2007-2012 Program.*
- **No Change: Mid-Atlantic Offshore Virginia Sale 220 (2011):** The Governor of Virginia sent a letter dated February 19, 2009, requesting that Sale 220 be postponed. The Lieutenant Governor sent a letter dated March 3, 2009, stating that he and others in Virginia disagree with the Governor's request for delay and instead would like to see Sale 220 held on schedule. MMS continues its outreach to the Virginia State government.

Litigation

- **Update: Amber Resources v. U.S. Appeal:** The United States was sued by several companies owning interests in Pacific OCS Region leases claiming that the lease agreements were breached as a result of 1990 amendments to the Coastal Zone Management Act, which created new procedural requirements for development. The U.S. Federal Claims Court held that the lease agreements were breached and the Federal Government must repay original bonus bids totaling more than \$1 billion. The U.S. Court of Appeals for the Federal Circuit upheld that decision, and on *December 5, 2008*, denied the Government's hearing for a rehearing *en banc*. No decision has been made as to whether to seek Supreme Court review. The Solicitor General has received favorable recommendations from the Civil Division and the DOI and an unfavorable recommendation from his staff. The DOI and the Department of Justice met with the Deputy Solicitor General to discuss the legal issues and decide the next course. The DOI Office of the Solicitor and the DOJ Civil Division have both recommended petitioning the US Supreme Court, but the Deputy Solicitor General and his staff have recommended not petitioning. *The Acting Solicitor General has not made a final appeal decision and may not until the position is permanently filled. If the appeal process is complete, leases must be returned to pre-lease condition. The Region is determining what decommissioning requirements remain outstanding on the leases. DOJ has requested the plaintiff companies provide their proposal for returning the leases to their pre-lease condition prior to receiving repayment.*

Office of Surface Mining

No new items to report.

March 27, 2009, 2009

Memorandum

To Laura Daniels Davis
Associate Deputy Secretary

From: Art Gary
Acting Solicitor

Subject: Weekly Meeting Items for March 30, 2009 Meeting

Appeal Recommendation in *State of Nebraska v. Salazar*, (S.D. Iowa) – Ponca Litigation:
Report on status of issue post meeting with Tribal representatives Friday, March 27, 2009. The Department of Justice is awaiting our recommendation whether or not to appeal.

DRAFT

John C. Cruden
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Ave., NW, Room 2143
Washington DC 20530

Re: Appeal Recommendation in *State of Nebraska v. Salazar*, 1-08-cv-6-CRW-CFB
(S.D. Iowa).

Dear Mr. Cruden:

Ex. 5

Ex. 5

Sincerely,

**Arthur E. Gary
Acting Solicitor**

NATIONAL PARK SERVICE - FISH AND WILDLIFE SERVICE

March 23, 2009 – April 19, 2009

SCHEDULES AND ACTIVITIES

Dan Wenk, Acting Director – NPS
NPS issues

Rowan Gould Acting Director – FWS
National Fish and Wildlife Foundation Board Meeting – San Francisco, CA,
March 23-25, 2009

WEEK AHEAD

- **New: NPS – EPA Reopens Comment Period on Desert Rock Power Plant.** NPS will be preparing comments to EPA in response to a new public comment period on greenhouse gas (GHG) emissions from the Desert Rock coal-fired power plant, located on the Navajo Nation in Northwestern New Mexico. The plant could affect air quality at several NPS areas, including Grand Canyon NP. EPA's decision to issue a permit for the plant has been challenged before the Environmental Appeals Board; however, EPA has indicated it will reconsider its decision to not consider alternative technologies or requirements related to green house gases. NPS had commented on the benefits of using CO2 capture-ready technology at the proposed plant, and negotiated a mitigation agreement that included projects to offset emissions of criteria pollutants and/or GHGs. The latter agreement was not included in the permit issued by EPA. The comment period ends March 25, 2009. NPS plans to prepare comments that will highlight concerns regarding climate change impacts in parks, reiterate the benefits of switching the project to integrated gasification combined cycle (carbon capture-ready) technology, and renew the recommendation for an offset requirement.
- **New: FWS – Western Oregon Plan Revision:** The Service is working with BLM to define options and course of action regarding Western Oregon Plan Revision litigation issues including the Northern Spotted Owl Recovery Plan and Critical Habitat.
- **New: NPS – EPA to Reconsider Ozone National Ambient Air Quality Standards (NAAQS).** Information submitted by the NPS regarding the need for an ozone standard to protect vegetation was instrumental in EPA's decision to recommend a secondary ozone standard based on cumulative exposure. The previous Administration overruled EPA, and EPA was sued over the NAAQS decision. EPA has since indicated that it will revisit the NAAQS decision and has asked for a delay in court proceedings. NPS will be preparing a letter to EPA renewing its support for a secondary standard.
- **New: FWS - Cave advisory to protect hibernating bats from white-nose syndrome (NH, VT, NY, MA, CT, PA, NJ, WV, VA):** The Northeast Region will be issuing an advisory the week of March 16 asking that recreational activities in caves and mines be curtailed to protect hibernating bats from the spread of white-nose syndrome, a wildlife

health crisis of unknown origin that has killed hundreds of thousands of bats from Vermont to West Virginia and is continuing unchecked. The advisory recommends a voluntary moratorium on caving activity in states with WNS and adjoining states; requests that cavers avoid caves and mines with bats during the hibernation period; requests that cavers entering mines and caves in regions where WNS has not been detected use equipment that has never been in hibernacula in an affected state; requires review of scientific activity in bat hibernacula; and requires that scientists entering mines and caves in unaffected counties use equipment that has never been in hibernacula in affected counties. States are issuing their own cave advisories. While biologists believe WNS is spread from bat to bat, they believe that human activity also may be responsible for spreading WNS.

- **New: NPS – Death Valley NP (CA – Rep. Howard (Buck) McKeon; NV – Rep. Dean Heller) Devil's Hole.** Johnson Controls has proposed that a Mercury Alpha Solar Plant be constructed on the Department of Energy's (DOE) Nevada Test Site in Mercury Valley, NV (groundwater basin near Devil's Hole). The Plan of Development calls for using 865 acre-feet per year of water for a wet-cooled system, which is about 10 times more water than needed by a dry-cooled system. Further, they plan to withdraw water from Army Well #1, for which NPS has data showing a direct link between pumping and the water level at Devil's Hole (the only natural habitat of the endangered Devil's Hole pupfish). NPS and the solicitor's office conferred with DOJ and DOE to outline NPS concerns and learned that *BLM expects to issue a Notice of Intent (NOI) very soon for a fast-track EIS for this project*, and that DOE prefers to deal with the cooling technology and water source issues via the NEPA process. NPS is recommending that the proposed action be modified at the outset of NEPA (i.e., before the NOI), if it includes the wet-cooled technology. NPS supports solar energy, but recommends environmentally responsible protections.
- **New: FWS - Boating Infrastructure Grants (BIG) Awards (States-all):** The Service will announce award selections for the Boating Infrastructure Grants (BIG) Competitive Program in late March. Fourteen proposals have been approved by the Service Director based on ranked scores from a national review panel consisting of Service personnel and members of the Sport Fishing and Boating Partnership Council's "BIG Tier 2 Review Team." The 14 selected projects total \$12,441,788 in federal funds which will be matched by \$35,598,670 in nonfederal funds. The BIG awards will fund projects in 11 States to construct, renovate, or maintain tie-up facilities and associated amenities for non-trailerable, transient boats 26-feet or greater in length.
- **New: NPS – Hamilton Grange NMem (NY – Rep. Charles Rangel), Site Relocation.** Hamilton Grange, the home of Alexander Hamilton from 1802-1804, has been twice relocated, in 1889 from its original site to Convent Avenue at W 143rd Street and again, in 2008, to 141st Street & St. Nicholas Avenue in St. Nicholas Park. It has been permanently placed on its new foundation. The building is expected to open to the public in 2009. The park's 1993 GMP showed the house at its new site oriented to the southwest. The orientation of the building was changed, however, to be sensitive to the landscape as a whole. A lawsuit filed by Friends of Hamilton Grange sought to change the orientation of the house back to the southwest, among other requested relief. On August 8, an

amended complaint relating to 106 consultations and other procedural matters was filed, and the issue of orientation was dropped from the complaint. However, the complaint does accuse NPS of unilaterally and secretly deciding not to build a publicly discussed community center on the Convent Avenue site. The relief requested is (1) NPS be found and declared guilty; (2) that NPS be required to consult with the Friends of Hamilton Grange from this point on; and (3) that NPS be required to build the community center. A mandatory settlement conference was held on September 19, but did not result in resolution. The government presented declarations and its brief, plaintiffs submitted their rebuttal, and NPS responded. The US District Court, Southern District of New York, issued a 59-page Opinion and Order on March 12, 2009, dismissing the plaintiffs' lawsuit against the NPS. The plaintiffs have 60 days to file an appeal.

- **No Change: FWS - 12-Month Finding on Petition to List the Coaster Brook Trout as Endangered** - FWS is preparing a 12-month finding on a petition to list the coaster brook trout as endangered. On March 1, 2006, the Service received a petition from the Sierra Club Mackinac Chapter and the Huron Mountain Club asking the Service to list the coaster brook trout as endangered and designate critical habitat. Additional information was received on May 25, 2006. FWS announced in 2008 that it would study coaster populations to determine whether they should be listed as endangered. Under a court settlement with petitioners, FWS must submit its finding to the *Federal Register* by April 15, 2009. The finding is being reviewed by the Washington Office.
- **New: NPS -Yukon-Charley Rivers NPRES (AK - Rep. Don Young) Predator Control Adjacent to the Preserve.** On March 14, the state of Alaska began using helicopters and sharpshooters to advance a predator control program on state lands bordering Yukon-Charley Rivers National Preserve in northeastern Alaska. The goal of the program is to make a significant reduction (60-80%) in the estimated 300 wolves that live in the control area. Several packs (totaling about 25 animals) use the preserve, but spend some time outside the conservation unit where they would be subject to aerial shooting. All of the packs that use the Preserve as part of their home range are believed to be currently outside Preserve boundaries. NPS received notice of the control actions approximately 36 hours before flights began. NPS successfully negotiated with the Alaska Department of Fish and Game to employ methods which, if successful, may prevent radio-collared "preserve wolves" from being shot. As of Monday morning, March 16, 2009, 30 wolves had been killed in the control area. The issue of predator control and intensive management (high harvest levels) of predators on state lands and in national preserves is an on-going issue between the NPS and State of Alaska and has the interest of many conservation groups. Predator control efforts adjacent to the Preserve represent one of six predator control areas across the State. It remains to be seen whether future efforts will include other control areas. Media coverage of predator control topics is frequently significant.
- **No Change - FWS - Final critical habitat for the Peninsular bighorn sheep (CA):** The Service is designating three units totaling approximately 376,938 acres in Riverside, San Diego, and Imperial counties, California, as final critical habitat for Peninsular bighorn sheep. The Service has excluded approximately 4,790 acres of Agua Caliente Band of Cahuilla Indians Tribal lands and approximately 38,759 acres of private and

permittee-owned or controlled lands covered by the Coachella Valley Multiple Species Habitat Conservation Plan. In completing this action, the Service is complying with the court's remand of the 2001 critical habitat designation back to the Service for new rulemaking with a settlement agreement which calls for a March 30, 2009, deadline. The rule is currently under review in the Service's Washington Office.

- **No Change: NPS – Fire Island NS (NY – Rep. Tim Bishop) Tick Study.** (see last week's report)
- **No Change: NPS – National Mall and Memorial Parks (DC – Rep. Eleanor Holmes Norton), National Mall Plan.** (see last week's report)

ON THE HORIZON

- **Updated: NPS – Fredericksburg & Spotsylvania NMP (VA – Reps. Eric Cantor, Rob Wittmann) Wilderness Battlefield.** The Route 20/Route 3 intersection, which serves as the primary gateway to Wilderness Battlefield, has become the focal point for intense development efforts. A developer recently filed for a special-use permit which would allow a 138,000-square-foot Walmart Supercenter. Although the land is zoned commercial, any major development in this area would impact the rural character of the area and would significantly increase traffic and pressure to expand Route 20 to four lanes through the park. A Wilderness Battlefield Coalition has formed to oppose out-sized commercial development in the area. The Battlefield Coalition and the NPS met with Orange County officials and the owner of 900 acres adjacent to the proposed Walmart on January 5. One result of the meeting was that the Coalition and the NPS offered to fund a preliminary concept plan for low impact commercial development at the Wilderness Battlefield gateway which will include the Walmart property and the adjacent land, which the Orange County Board of Supervisors rejected. Nevertheless, the Coalition has hired a landscape architect to develop a plan. The Deputy Regional Director and Park Superintendent expressed concern to Walmart executives about the intense development via teleconference on January 27. Congressman Peter Welch of Vermont has joined Congressman Ted Poe of Texas and the Vermont legislature in asking Orange County and Walmart to consider other locations for the store. *Congressmen Welch and Poe intend to go to the House floor on March 19, 2009 at 10:00 to address the Walmart issue.*
- **Updated: NPS - Valley Forge NHP (PA – Rep. Jim Gerlach) Widening of the Pennsylvania Turnpike Adjacent to Park.** The Pennsylvania Turnpike forms a 1.9-mile boundary of Valley Forge NHP. The Turnpike Commission plans to widen a six-mile segment of the roadway and paved shoulders, doubling the paved surface. This segment lies within the watershed of Valley Creek, a state-designated Exceptional Value, Class-A Wild Trout stream and one of the park's fundamental natural resources. The widening will take place on commission-owned land and it will be challenging for the commission to install storm water detention basins to meet storm water regulations on its remaining land. Seeking an alternate solution, the commission requested that the park allow construction of storm water basins on park land. The commission was informed

that this would not be possible, however the park would consider spray irrigation of cleaned water on existing park meadows, for the protection of Valley Creek by slowing the rate and volume of release of storm water into the creek. The commission has yet to respond. In late January, the commission released plans indicating that it intends to condemn seven residential properties in their entirety and over 90 partial properties in order to build storm water facilities. Congressman Jim Gerlach has been approached by constituents; park staff and Tredyffrin Township supervisors met with him to answer questions and provide background. *At the township's request, Mr. Gerlach will schedule a meeting among the various parties, including the park to consider engineering alternatives that meet community objectives (including the preservation of the park and Valley Creek).*

- **No Change: NPS – Assateague Island NS (MD – Rep. Frank Kratovil), Environmental Assessment of Horse Management Alternatives.** (See last week's report – no change).
- **No Change: NPS – Dinosaur NM – (CO – Rep. John Salazar) Department of Justice opposes application by Shell Oil to divert water from the Yampa River for Oil Shale Development.** (See last week's report – no change).

MEMORANDUM

To: Laura Davis
Associate Deputy Secretary

From: Richard T. Cardinale
Chief of Staff to the Assistant Secretary -
Land and Minerals Management

Re: Summary Report for March 23, 2009 Meeting

Date: March 20, 2009

Accompanying this memorandum is a report that combines key new and ongoing policy and regulatory decision items, and events that are either bureau-sponsored or at which there will be bureau representation by the Bureau of Land Management, Minerals Management Service, and Office of Surface Mining Reclamation and Enforcement.

Acting BLM Director Mike Pool will testify on Tuesday, May 24th, before the House Resources Natural Resources Subcommittee on National Parks (Grijalva) on two bills, H.R. 1275 and H.R. 689, both of importance to BLM. H.R. 1275 (Mattheson), the Utah Recreational Land Exchange Act of 2009, would transfer approximately 46,300 acres of land and subsurface estate managed by the State Institutional Trust Lands Administration (SITLA) to BLM for management as wilderness in exchange for 35,700 acres of BLM-managed lands with high mineral potential for oil and gas development purposes. While our testimony supports the exchange, we have indentified recommended changes to the bill, principally in the area of land appraisals and valuation. H.R. 689 (Herger) would transfer administrative jurisdiction of 11,760 acres of U.S. Forest Service land to the BLM to consolidate management within the Chappie-Shasta (CA) Off Highway Vehicle (OHV) Area to enable more streamlined administration of the area for recreational use. The BLM already manages 25,000 acres in this same area for OHV use and supports this transfer. It is our understanding that the Forest Service supports the transfer as well.

BLM-Arizona anticipates the installation of the State's first wind turbine on public lands the week of March 23. Iberdrola Renewables' Dry Lake Wind Project in Navajo County, Arizona is moving forward and all access roads and turbine foundations in Phase 1 are already constructed. The installation of the first turbine will mark the first commercial wind project in Arizona. When the project is operational, it will provide electric power sufficient for nearly 10,000 homes.

The annual Wind Energy Conference sponsored by the American Wind Energy Association (AWEA) is scheduled for May 5-7 in Chicago. This conference is a major industry event and is expected to exceed 13,000 attendees this year. BLM has been contacted by AWEA regarding a speaking invitation to the Department and BLM Director. I have asked BLM to examine whether this might be an appropriate event for

participation by the Secretary. If not, this may be worthwhile for the ASLM if one is confirmed by that time.

Finally, as noted in last week's report, the BLM-Utah State Office will conduct an oil and gas lease sale on March 24th. The protest period on the proposed list of parcels closed on March 9, and the final list will be available today. In addition, in preparation for the May 19th oil and gas lease sale, the State Office is preparing draft documentation of NEPA Adequacies for the preliminary list of 91 parcels that encompass 141,569 acres. The final list of available parcels will be posted on April 3.

Other matters are also listed. If you need any further information, please contact me at (202) 208-7214.

LAND AND MINERALS MANAGEMENT

March 22 – March 28, 2009

SENIOR OFFICIALS ACTIVITIES

Richard Cardinale, Acting Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Mike Pool, Acting Director, Bureau of Land Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Walter Cruickshank, Acting Director, Minerals Management Service

Focus: Travel to Houston, Texas to participate in a panel discussion on offshore energy issues, March 23th- 24th. Return to Washington, DC to attend regularly scheduled meetings. On annual leave Thursday.

Glenda Owens, Acting Director, Office of Surface Mining Reclamation and Enforcement

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

WEEK AHEAD

Bureau of Land Management (BLM)

- **Wind Project Marks Milestone:** BLM-Arizona anticipates the installation of the state's first wind turbine on public lands the week of March 23. Iberdrola Renewables' Dry Lake Wind Project in Navajo County, Arizona, is moving forward, and all access roads and turbine foundations in Phase 1 are already constructed. The installation of the first turbine will mark the first commercial wind project in Arizona. When the project is operational, it will provide electric power that is equivalent to powering nearly 10,000 homes.
- **Timber Sale Biological Assessment to be Submitted:** BLM-Oregon Coos Bay District will submit its first timber sale biological assessment to the U.S. Fish and Wildlife Service (FWS) since the District's new RMP was signed in December 2008. The BLM is consulting with the U.S. Fish and Wildlife Service on the East Fork Coquille 2009 Environmental Assessment (EA). The EA analyzes the impacts of silvicultural treatments and associated road work on approximately 434 acres under the management direction of the Northwest Forest Plan (NWFP) and the Western Oregon Plan Revisions (WOPR). Some harvest activities would occur within disturbance and disruption distances of northern spotted owl and marbled murrelet sites and suitable habitat. East Fork Coquille is a transition EA in which components of the NWFP and

WOPR are incorporated at the manager's discretion. All 10 units proposed for treatment are in the timber management area and riparian management area land use allocations, and contain timber less than 80 years old. BLM is currently consulting with U.S. Fish and Wildlife Service regarding impacts of the timber sale activities to these ESA listed species. Throughout the WOPR development process, many environmental organizations have expressed concern over a wide range of issues, including decreases in species protection and riparian buffer width, and increases in timber harvest.

- **BLM Solicits Public Comment on SNPLMA Round 10 Nominations:** BLM-Nevada Southern Nevada District Office will hold a public comment period from March 23 through May 6 on the Round 10 preliminary recommendations for expenditure of more than \$68 million through the Southern Nevada Public Land Management Act (SNPLMA). Detailed information about the expenditures will be available to the public on the SNPLMA website. SNPLMA funds are derived from land sales in the Las Vegas Valley. The law directs that funds be used for purposes such as the development of parks, trails, and natural areas in Clark and Lincoln counties; capital improvements at the Red Rock Canyon National Conservation Area and other areas managed by BLM in Clark and Lincoln counties; conservation initiatives on Federal lands in Clark and Lincoln counties managed by the Department of Interior and Department of Agriculture; and acquisition of environmentally sensitive land in Nevada. SNPLMA, passed in 1998, is a tool to allow the City of Las Vegas to expand while using the funds to support conservation and other projects in Nevada. The law has attracted strong bipartisan delegation support.
- **Nevada State Director to Brief Nevada Assembly Committee on Natural Resources:** On March 25, the BLM-Nevada State Director will present an overview to the Nevada Legislature's Assembly Committee on Natural Resources, Mining, and Agriculture regarding BLM's management of public lands in Nevada. This is a standing annual invitation for land management agencies to provide updates to the Committee.
- **Notice of Availability of the Final Supplemental Environmental Impact Statement (EIS) for the Betze Pit Expansion Project, Eureka, and Elko Counties:** BLM-Nevada has prepared for publication in the *Federal Register* a Notice of Availability (NOA) of the Final Supplemental EIS for the Betze Pit Expansion Project, Eureka, and Elko Counties. The notice will publish in the *Federal Register* on March 27.
- **District Timber Sales:** BLM's Oregon Coos Bay District Office will conduct two timber sale auctions on March 27th. The timber sales, *Cherry Wall Density Management Thinning* and *Pink Panther Commercial Thinning*, were developed under the management direction of the 1995 Coos Bay District RMP. Volume from the two sales totals approximately 5.7 million board feet. BLM consulted ESA for owls and merriam and received a 'no effect' opinion from NOA and FWS in a Biological Opinion. The timber sales include thinning operations and are not expected to be controversial.
- **Volunteer Shrub Plantings Planned for Magic Valley Area in Southern Idaho:** BLM-Idaho Twin Falls District and Idaho Department of Fish and Game are planning to conduct four volunteer shrub plantings in the Magic Valley Area in Southern Idaho in March and April. These include shrub plantings on an area burned by the Clover Fire (March 28 and April 4); at

Indian Springs or Cherry Springs (April 11); and an area burned by the Nature Fire (April 18). Participation by local high school students in the Magic Valley area will occur on weekdays depending on school schedules and class availability.

- **Upcoming Oil and Gas Lease Sales:**

- BLM-Utah State Office will conduct an oil and gas lease sale on March 24. The protest period on the proposed list of parcels closed on March 9, and the final list was available on March 20. In addition, in preparation for the May 19 oil and gas lease sale, the State Office is preparing draft documentation of NEPA Adequacies, which was due March 13, for the preliminary list of 91 parcels that encompass 141,569 acres. The final list will be post on April 3.
- BLM-Montana State lease sale April 14. BLM posted the 67 parcels to be offered on February 27. There are 51 parcels in Montana and 16 in North Dakota. Of the 51 in Montana, 36 parcels contain split estate lands. BLM notified private surface owners by mail. BLM posted the list of parcels on February 27, 2009.
- BLM-New Mexico lease sale April 22. There are 87 parcels for sale, covering 44,756.69 acres in New Mexico, 8,048.31 acres in Kansas, 710.25 acres in Oklahoma, and 8,828.04 acres in Texas. BLM posted the list of parcels on March 4.
- BLM-Utah lease sale May 19. There are 91 parcels containing 141,569 acres which have been nominated. BLM is currently working on NEPA adequacy documents. BLM will provide further briefing material to BLM-Wyoming by March 13, and will post the final list April 3, once Wyoming has approved the parcels.
- BLM-Oregon lease sale June 17. BLM-Oregon is finalizing a Decision of NEPA Adequacy for the sale. Briefing material will be submitted to BLM-Wyoming by April 23.

Minerals Management Service (MMS)

- **Cooperative Agreement Reviews Scheduled with Texas:** Staff from the Texas State and Tribal Contract Administrator's Office will be conducting a Cooperative Agreement Review of the Texas General Land Office in Austin, Texas, on March 23-24, 2009. These annual reviews fulfill regulatory requirements and are held to enhance our partnership with the State of Texas.

Office of Surface Mining (OSM)

- **United Nations Environmental Programme (UNEP) Representatives to Attend OSM Tree-Planting Event:** On March 28th, Elisabeth Guilbaud-Cox, Deputy Director of UNEP's Regional Office for North America, and other representatives of UNEP will be honored guests at a tree-planting ceremony in Kentucky. The tree-planting ceremony is one of 10 such events being organized by the Appalachian Regional Reforestation Initiative (ARRI), the Appalachian Coal Country Watershed Team, and OSM's Volunteers in Service to America. The appearance of UNEP in the Appalachia coal fields is a follow-up to the December 2008 signing ceremony on Governors Island in New York City, where ARRI made a pledge to plant 38 million trees over three years as part of UNEP's Seven Billion Tree Campaign. This represents the first time that UNEP is taking part in Arbor Day events in coal country. The March 28 tree-planting

ceremony will be on previously mined private land prepared for tree planting by the James River Coal Company near Red Fox (Letcher County), Kentucky.

GRANTS

Bureau of Land Management (BLM)

- **Job Training Partnerships:** BLM-Utah is accepting applications through March 31 to establish job training partnerships to enhance job training experience for college students. There will be one award totaling \$75,000. The intent is to identify various resource management and restoration projects on public lands throughout the Utah BLM Moab Fire Zone of the Canyon Country District. Work to be completed through this agreement would expose students to various natural resource related projects. Gaining exposure and skills by working on the various projects through this agreement would provide an opportunity for students to learn about public lands and build upon classroom learning within the field of natural resources.

Minerals Management Service (MMS)

No new grants to report this week.

Office of Surface Mining (OSM)

- **OSM Increases Illinois Abandoned Mine Lands Program Grant:** On March 27, OSM will increase the FY 2008 Illinois Abandoned Mine Lands (AML) emergency project category by \$55,000. The grant period runs from July 1, 2008, to June 30, 2011, but the performance period end date for the emergency award is June 30, 2009. The increase is required to fund additional emergency projects throughout the State.
- **OSM to Award Indiana AML Program Grant:** On March 27th, OSM plans to award \$9.3M under the FY 2009 AML distribution to fund Indiana's FY 2009 AML Program. The grant period runs from April 1, 2009, to March 31, 2012. The Indiana Department of Natural Resources will use the grant funds for AML program administration and reclamation activities within Indiana.

ON THE HORIZON

**Updates are shown in italics*

Bureau of Land Management (BLM)

- **New: Wind Power Conference:** The annual Wind Energy Conference sponsored by the American Wind Energy Association (AWEA) is scheduled for May 5-7 in Chicago. This conference is a major industry event and is expected to exceed 13,000 attendees this year. BLM has been contacted by AWEA regarding a speaking invitation to the Department and BLM Director.

- **New: Congressional Meeting:** On April 29-30, the BLM Division of Legislative Affairs staff will accompany BLM-Arizona State Director Jim Kenna to a meeting with the Arizona Congressional delegation to discuss various issues pertaining to the state.
- **New: Pinedale Anticline Operators Meeting:** BLM-Wyoming Pinedale Field Office will host a quarterly planning meeting with the Pinedale Anticline Operators on April 8. The focus of the meeting is to refine the 2009/2010 annual development and delineation plans, as well as the 10-year rolling forecast for development of the Pinedale Anticline natural gas field.
- **New: County to Regulate Oil and Gas Development:** Rio Arriba County, New Mexico, is in the process of drafting a county ordinance to exercise the "County's independent right" to regulate oil and gas development. If passed, the ordinance would apply to all lands within the county, including federal lands. The process would be largely duplicative of the permitting requirements that BLM already incorporates. Many of the county's requirements, however, could be interpreted as excessive and principally designed to prevent all oil and gas development in certain areas. This would directly affect oil and gas development on BLM public lands and its Resource Management Plan.
- **New: Oregon Natural Desert Association (ONDA) Appeals BLM's Geothermal Leases:** Eleven geothermal lease parcels near Glass Buttes, Oregon, which were included at the December 19, 2008 auction lease sale are the subject of an ONDA appeal. ONDA is challenging BLM's wilderness characteristics inventory, and whether BLM gave adequate consideration to sensitive species in the area, such as the sage-grouse and the pygmy rabbit. ONDA also desires a greater look at cumulative impacts of project actions on the ground. ORMAT Technologies, Inc. and Magma Energy (U.S.) Corp., the proponents that were issued leases at this sale, have filed a petition with the court to intervene in support of BLM.
- **New: Notice of Emergency Closure to Recreational and Target Practice Shooting on Public Lands along Dog Canyon Road in Central Otero County, Las Cruces District Office:** BLM-New Mexico Las Cruces District Office is implementing an emergency closure to recreational and target practice shooting to provide for public safety near residential areas and the Oliver Lee Memorial State Park. The closure is needed in order to prevent damage to property or life in the vicinity of the gravel pit and Dog Canyon Road in central Otero County, New Mexico. The closure will be effective upon the date of the notice's publication in the *Federal Register* and will remain in effect for no more than two years. BLM-New Mexico will, through public involvement, develop long-term management resolution of the safety issue in this area.
- **New: BLM-Alaska Central Yukon Field Office to host Dalton Highway Corridor Meeting:** On April 2, the BLM-Alaska Central Yukon Field Office will host the fifth annual Dalton Highway corridor meeting in Fairbanks. Representatives from the BLM, National Park Service, Fish and Wildlife Service, State of Alaska Department of Transportation, Alaska State Troopers, Northwest Arctic Borough, and the University of Alaska Fairbanks will meet to discuss their current projects and land management issues within the corridor, which may also affect other agencies and users of the highway. The Dalton Highway, originally the "Haul Road" to the

North Slope, begins 84 miles north of Fairbanks and ends at Deadhorse, Alaska, 498 miles north of Fairbanks.

Minerals Management Service (MMS)

Chronological MMS Events

- **New: Cooperative Agreement Review Scheduled with Oklahoma.** Staff from the State and Tribal Contract Administrator's Office will be conducting a Cooperative Agreement Review of the State of Oklahoma, with the Oklahoma State Auditor and Inspector, Oklahoma City, Oklahoma, on April 7-8, 2009. This annual review fulfills regulatory requirements and is held to enhance our partnership with the State of Oklahoma.
- **New: Energy Policy Act of 2005 Section 965-C Report to Congress:** The MMS has a biennial report to Congress due in July 2009 which will provide updated offshore oil and gas resource data.
- **Update: U.S.-Mexico Transboundary Issues and Seismic Data Acquisition Request from PEMEX within Eastern Gap:** The Government of Mexico contacted the State Department proposing to establish a bilateral agreement addressing the exploitation of transboundary oil and gas reservoirs along the entire U.S.-Mexico border. *A meeting with Mexican Government officials is scheduled for March 31.* The preliminary goal of this meeting is to discuss an informal information sharing agreement.
- **Update: Approval of Alabama's Coastal Impact Assistance Program Plan:** Alabama submitted its revised Plan January 26, 2009. An email informing the state of the review results was sent February 25, 2009; two projects must be removed from the Plan. The state submitted a final version of the Plan on March 6, 2009. *The final Plan is being reviewed to confirm required changes. A briefing package will be sent to the Acting Director recommending Plan approval the week of April 16. A Plan signing event is expected to take place in Alabama in late-April 2009.*

MRM Recurring Items

- **No Change: RIK Oil and Gas Sales:** FY 2009 RIK Oil and Gas Sales Key Milestones:
 - Tentative: Unrestricted GOM Crude Oil Sale May 6-7, 2009 for July deliveries
 - Tentative: Small Refiner GOM Crude Oil Sale August 4-5, 2009 for October deliveries
 - Tentative: Unrestricted GOM Crude Oil Sale August 5-6, 2009 for October deliveries

OEMM Recurring Items

- **Update: New 5-Year Program – 2010-2015:** The Draft Proposed Program was published in the *Federal Register* on January 21, 2009. Based on the Secretary's guidance announced on Tuesday, February 10th, a *Federal Register* notice was published on March 4, 2009, that extends the comment period for the 5-Year Draft Proposed Program (DPP) by an additional 180 days (from March 23, 2009 to September 21, 2009). Additionally, the Plans are being made for the

Secretary to host meetings in April on each coast and in Alaska to allow for input from states, stakeholders and affected communities to help develop an offshore energy plan for conventional and renewable resources. MMS is leading the planning efforts for these meetings which are to place in Atlantic City, New Jersey (April 6); New Orleans, Louisiana (April 8); Anchorage, Alaska (April 14); and San Francisco, California (April 16). A Federal Register notice providing the public with this information was published on *March 18th*.

- **Update: Atlantic Seismic EIS:** On January 21, 2009, MMS published a *Federal Register* Notice of Intent to prepare an Atlantic area seismic EIS. The comment period closes on March 23, 2009. Three companies have formally submitted applications to MMS to conduct seismic surveys in the U.S. Atlantic OCS with an additional nine companies expressing interest in applying for permits to perform similar surveys in the Atlantic. MMS lacks the funds for the EIS. The oil and gas industry is considering funding the EIS and their decision is anticipated by *April 2009*.
- **Update: Alternative Energy Interim Policy Projects:** A table below summarizes the status of each Interim Policy project under MMS's consideration.

State	Total Projects	Developers	Applications Received	Project Review Status
Delaware	1	Bluewater Wind	1 – Bluewater Wind	EA, consultations, and lease stipulations in progress; developer is qualified to hold a lease; <i>contingent on State CZM review and consultations with NOAA-Fisheries</i> ; lease issuance target is April 2009.
Florida	3	Aquantis; Florida Atlantic University (FAU); Turner Hunt Ocean Renewable (THOR)	1 – THOR	Environmental review of THOR's recently submitted project application (1/28/09) has just begun. MMS awaiting additional information to confirm the developers are qualified to hold leases; MMS awaiting project applications from Aquantis and FAU. Aquantis has been confirmed as qualified to hold a lease.
Georgia	3	Southern Company	0	MMS awaiting project application from Southern Company; developer is qualified to hold a lease.

State	Total Projects	Developers	Applications Received	Project Review Status
New Jersey	6	Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	4 – Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	EA, consultations, and lease stipulations in progress; MMS awaiting additional information from Deepwater and FERN to confirm the developers are qualified to hold leases, while Bluewater is confirmed qualified to hold a lease; final consistency determination submitted to NJDEP on March 6; contingent on state CZM review and consultations with NOAA-Fisheries, lease issuance target is April 2009.

MMS is finalizing the draft EA for the seven proposed Interim Policy projects sited offshore Delaware and New Jersey in preparation for surnaming.

- **Update: Cape Wind Project:** *The Clean Air Act (CAA) Final Conformity and National Historic Preservation Act (NHPA) section 106 consultations must be completed before MMS can issue the Record of Decision (ROD). The CAA Final Conformity should be completed by the end of March, as there are no major outstanding issues to resolve. The NHPA section 106 consultation process remains the most challenging regulatory aspect for the project. In order to complete the process, a memorandum of agreement regarding findings and mitigations must be reached by MMS, Cape Wind Associates, the Army Corps of Engineers, the Massachusetts Historical Commission, and the Advisory Council on Historic Preservation (ACHP). The key issue is "requiring additional fieldwork" which could take months to complete, with no guarantee that in the end the parties will actually concur on findings and mitigation. The Department will need to determine the best option for moving forward if difficulties continue.*

OEMM Lease Sales

- **Update: Beaufort Sea Sale 209 (February 2010):** The target date for the sale bid opening is February 2010. Public hearings on the Draft EIS have been completed. MMS is extending the written comment period on the Arctic Multisale (Beaufort and Chukchi Sales 209, 212, 217, and 221) Draft EIS from March 16, 2009 to March 30, 2009. *A request from EarthJustice for an additional 45-day comment period extension was denied.*

Major Milestones:

Final EIS Available	September 2009
CD and PNOS Issued	September 2009
Governor's Comments due	November 2009
FNOS published in the <i>Federal Register</i>	January 2010
Public Bid Opening/Reading	February 2010

- **No Change: Western Gulf of Mexico Planning Area - Lease Sale 210 (August 2009):** The target date for the sale bid opening is August 19, 2009. A Notice of availability will be published in the Federal Register for the Proposed Notice of Sale by the end of March, 2009.

Major Milestones:

CDs sent to States	March 11, 2009
Proposed Notice of Sale NOA published in <i>Federal Register</i>	March 30, 2009
Final Notice of Sale to be published in the <i>Federal Register</i>	July 8, 2009
Public Bid Opening/Reading	August 19, 2009

- **No Change: Cook Inlet Sale 211 (2010):** MMS will issue a second Request for Information (RFI) in May 2009, to determine industry interest, and annually thereafter through the 5-Year schedule, until a sale is held or the 5-Year schedule expires.

- **No Change: Central Planning Area 213 (March 2010):** The target date for the sale bid opening is March 17, 2010.

Major Milestones:

Publish NOA for the NEPA document & PNOS	November 4, 2009
Publish FNOS	February 5, 2010
Public Bid Opening/Reading	March 17, 2010

- **No Change: North Aleutian Basin Sale 214 (November 2011):** On March 3, MMS met with the Aleutians East Borough, a cooperating agency for the EIS, to discuss Fisheries Compensation. The target date for the sale bid opening is November 2011.

Major Milestones:

Draft EIS	January 2010
Public Hearings	February/March 2010
Final EIS	January 2011
Consistency Determination/ Proposed Notice of Sale	January 2011
Governor's Comments Due	March 2011
Final Notice of Sale Published in <i>Federal Register</i>	October 2011
Public Bid Opening/Reading	November 2011

- **No Change: Mid-Atlantic Offshore Virginia Sale 220 (2011):** The Governor of Virginia sent a letter dated February 19, 2009, requesting that Sale 220 be postponed. The Lieutenant Governor sent a letter dated March 3, 2009, stating that he and others in Virginia disagree with the Governor's request for delay and instead would like to see Sale 220 held on schedule. MMS continues its outreach to the Virginia State government.

Litigation

- **Update: Native Village of Point Hope et al. (Sale 193):** On January 30, 2009, the Plaintiffs filed their opening brief with the U.S. District Court for the District of Alaska. The plaintiffs alleged that MMS and the Department violated NEPA and that the Department, MMS, and FWS violated the ESA. *The Government was granted a 14-day extension to file a response in*

opposition (due March 27, 2009). Staff in the MMS Alaska OCS Region are coordinating with the attorneys by reviewing and providing comments on the draft government's brief.

- **Update: Native Village of Point Hope et al. v. MMS and NMFS (Seismic Activities in the Beaufort and Chukchi Seas):** On March 4, 2009, the U.S. Court of Appeals for the Ninth Circuit acted on the joint motion filed in February and dismissed the appeal as moot.

Office of Surface Mining

- **Update: Court Requires West Virginia to obtain National Pollution Discharge Elimination System (NPDES) Permits for Acid Mine Drainage Treatment at Bond Forfeiture Sites:** A hearing is set for March 25th, in the U.S. District Court for the Northern District of West Virginia, to address remaining issues in a case with potentially significant ramifications for addressing water quality issues at bond forfeiture sites. On January 14, Judge Irene Keeley, U.S. District Court for the Northern District of West Virginia, had found that West Virginia Department of Environmental Protection (WVDEP) is violating the Clean Water Act by emitting pollutants into navigable waterways of the United States from a point source without a permit and ordered the WVDEP to apply for and obtain NPDES permits for discharges from 18 bond forfeiture sites in the northern part of the State. The case began in 2007 when environmental groups filed complaints alleging that the WVDEP had failed to appropriately treat discharges of acid mine drainage at 21 bond forfeiture sites throughout the State.

FW: OST's updated briefing materials/updates

James Barham

to:

Kat Pustay

03/20/2009 02:41 PM

Cc:

"Germain E. Palmer", James Barham, Donna Erwin

Show Details

Kat - Here are OST's updated briefing materials/updates, for the Associate Deputy Secretary's meeting for Monday.

March 20, 2009

Memorandum

To: Associate Deputy Secretary

From: Donna Erwin
Acting Special Trustee

Subject: Weekly Meeting Report – Monday, March 23, 2009

1. I would like to report that there are no items for the Secretary's attention from either the Office of the Special Trustee for American Indians or the Office of Historical Trust Accounting.
2. Additionally, I would like to mention the following items which may be of significant interest to the Secretary:
 - Three members of Senator Tom Udall's (D-NM) New-Mexico based staff are scheduled to tour OST's Masthead facility on April 2, 2009 from 9 a.m. to 2 p.m.
 - OST's debit card program is a 2009 winner in the "Best Government Funded Prepaid Program" category of the Paybefore Awards. **Robert Winter (Acting Deputy Special Trustee of Trust Services), Rien Heymering (Trust Reform Specialist, Probate), Margaret Williams (Deputy Special Trustee of Trust Accountability), Bryan Marozas (Trust Beneficiary Call Center Program Manager, received the award for OST.**

If you have any questions, please contact me at 505-235-4519 (mobile), 208-4866 (DC office) or 505-816-1312 (NM office).

Dr. J. P. Barham/ DOI/OST/Director, Office of External Affairs



UNITED STATES
DEPARTMENT OF THE INTERIOR
Director, Office of Budget

March 20, 2009

Memorandum

To: Laura Davis, Associate Deputy Secretary

From: Pam Haze, Acting AS-PMB

Subject: March 23, 2009 Staff Meeting - Policy and Other Issues

This provides major policy and other issues that fall under the purview of the Assistant Secretary - PMB.

American Recovery and Reinvestment Act Status:

- During the week of March 23, we will be meeting with OMB to review Recovery program plans. The focus of these meetings is on the program selection process and criteria. Meetings with OMB have already been held with BLM, BIA, FWS and USGS.
- Senior policy meetings have been held with USGS, BIA, BLM, and are planned for NPS, FWS, Reclamation, and Fire.
- We are developing implementation guidance, working with OMB and The Task Force on reporting and monitoring, financial management and risk management, human resources, administration, and other issues required for execution of the program.

2010 Budget:

- The 2010 budget release is likely delayed until the first week on May.

Appropriations and Other Hearings/Briefings:

- The Secretary has 2010 budget hearings with House and Senate appropriations committees scheduled for April 29 and May 6, respectively.
- A schedule of budget/appropriations hearings is attached.

Rules:

- Hydropower Licensing Procedures - Need to issue joint final rule that was signed by the three Departments last fall and submitted to OMB.

- Indian Self Determination -- A joint final rule on Indian Self Determination has been worked out at the staff level but is ready for senior level review. It does not require OMB review.

Other Significant Issues: See attached list

Conferences/Meetings: See attached list.

Assistant Secretary—Policy, Management and Budget
Significant Issues Summary
March 19, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
HEARINGS WITH APPROPRIATIONS					
House Interior Appropriations Hearing	Wildland Fire Budgetary Strategy	Preparing testimony – not joint with FS	April 1, 2009	Deputy Secretary	AS-PMB
House Interior Appropriations Hearing	MMS Recent Issues Identified by the Office of Inspector General (OIG)	Preparing testimony	April 2, 2009	MMS & OIG	AS-PMB
House Interior Appropriations Hearing	BIA Law Enforcement Issues in Indian Country	Preparing testimony	April 22, 2009	AS-IA	AS-PMB
House Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	April 29, 2009	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	USGS 2010 Budget Request	Preparing testimony	May 5 or 6, 2009	USGS Director	AS-PMB
Senate Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	May 6, 2009	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	FWS 2010 Budget Request	Preparing testimony	May 7, 2009	FWS Director	AS-PMB

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
House Interior Appropriations Hearing	NPS 2010 Budget Request	Preparing testimony	May 14, 2009	NPS Director	AS-PMB
RULES AND REGULATIONS					
Hydropower Licensing Procedures Rule	Joint final rule being issued by the Departments of the Interior, Commerce, and Agriculture to revise procedures for trial-type hearings related to conditions and prescriptions for hydropower licenses and for the submission of alternative condition and prescriptions.	The joint final rule was signed by the three Departments last fall and submitted to OMB for review, but it was not cleared for publication before the end of the Administration (because it wasn't a high enough priority, not because any problem was identified).	Publication of the rule would facilitate the hydropower licensing process for the three Departments, and it should be re-submitted to OMB sooner rather than later; but it first has to be cleared by the three Departments, and Commerce does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Indian Self-Determination Act (ISDA) Rule	Joint final rule being issued by the Departments of the Interior and Health and Human Services to update procedures for ISDA appeals.	The joint final rule has been worked out at the staff level and is ready for senior-level review. (It does not require OMB review.)	Publication of the rule would facilitate the ISDA appeals process for the two Departments, and it should be cleared sooner rather than later; but HHS does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB
American Indian Probate Reform Act (AIPRA) Rule	Interim final rule being issued to update procedures for Indian probate cases to reflect AIPRA amendments enacted in December 2008.	The interim final rule is being drafted at the staff level and is not yet ready for senior-level review. (It will not require OMB review.)	The rule should be ready for senior-level review in mid- to late March.	Chief of Staff	AS-PMB

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
OTHER SIGNIFICANT ISSUES					
Update of the Department-wide Strategic Plan is due for FY 2010	Secretarial strategic priorities and decisions needed to launch the plan revision process that includes Congressional consultation; public, Federal and Tribal comments; public meetings; and internal analysis and vetting of proposed revisions prior to formal publication and transmittal to Congress and OMB.	Developing a strawman for review by the senior policy team.	Strawman should be available in a week.	Secretary's senior policy team	AS-PMB
U.S. - Palau Review of Compact of Free Association	Financial provisions of the Compact of Free Association relationship between the U.S. and Palau is ending on September 2009. Palau and the U.S. as represented by Defense, State and DOI, have been in bilateral discussions with Palau since early 2008. The U.S. (State, Defense and DOI lead) need to revisit OMB's initial decision on Palau.	Discuss this issue with the Secretary in the very near future.	Secretary met with Palau President Toribiong on March 12, 2009.	Secretary	AS-PMB

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Second Triennial Report to Congress on the Recreation Enhancement Act (REA)	REA calls for a triennial report to congress. The report is to provide: examples of past projects accomplished using REA fees; examples of planned projects and programs to be accomplished with REA fees; highlight the status of the REA program implementation, including budgetary data; and make recommendations for changes in the overall fee system.	A draft report is currently circulating for surname.	Report due to Congress on May 1, 2009	Assistant Secretaries, bureau directors	AS-PMB
2008 Federal Human Capital Survey Results, HR Strategic Plan	The departmental results from the government-wide 2008 FHCS administered by the Office of Personnel Management have been provided to agencies. Bureau/Office level results have also been received. . This is followed by a "Best Places to Work" ranking of Federal agencies based on the results of the 2008 FHCS.	Action plans to address the FHCS results need to be developed once the lower level results are received and analyzed.	Results for organizational units below the Bureau/Office level are expected to be available the week of March 9, 2009. The "Best Places to Work" ranking of Federal agencies based on the results of the 2008 FHCS is expected to be published in April/May.	Associate Deputy Secretary	AS-PMB

Current Policy, Management and Budget Requests for Secretarial Involvement – Summary Table

Date	Location	Event	Recommended DOI Participant	Requester/Office
April 6-8	Honolulu HI	Fifth Business Opportunities Conference. The 2009 Island Business Opportunities Conference is hosted by Interior to promote business investment and economic development opportunities in the U.S. Territories and freely associated states. The main theme of the 2009 conference is renewable energies for small island economies. The Governor of Hawaii has been invited. Dr. Stephen Schneider, recognized for his contributions to the United Nation's Intergovernmental Panel on Climate Change, which shared the 2007 Nobel Peace Prize with former vice president Al Gore, will be speaking at this year's conference.	Secretary or designee	AS-PMB
April 28	MIB	Homeland Security Council "Tabletop" Exercises: Principal-level exercises	April 28 - Secretary or Deputy Secretary	AS-PMB
May 7,12, or 13	MIB	Partners in Conservation Awards Program To maximize media coverage of conservation efforts. Need decision 6 weeks ahead of date.	Secretary or designee	AS-PMB
May 12-13	DC	National Geospatial Advisory Committee Meeting. A request for Secretary to provide remarks at this meeting will be submitted in the next few weeks	Secretary	AS-PMB

Date	Location	Event	Recommended DOI Participant	Requester/Office
5/13 - 15	DC	National Police Week 2009: Annual event to include the 21st Annual Candlelight Vigil held at the Police Memorial, Interior's Annual Wreath Laying Ceremony in the MIB auditorium, and the 28th Annual National Peace Officer's Memorial Day Service on the west front lawn of the Capitol.	Secretary	AS-PMB
May 6	MIB	Secretary's Honor Awards Convocation: Annual ceremony to honor employees and DOI partners who have received distinguished service and bravery awards.	Secretary	AS-PMB
Fall 2009 or later	Mexico TBD	U.S. Mexico Joint Cabinet Meeting (Bi-National Commission): Previously DOI Secretary and Mexico counterpart and delegations met as the "Natural Resources Working Group" for 1.5-2 hours, then Secretaries would participate in plenary luncheon of all Cabinet members. A new format for next meeting is being developed by State Dept and Mexico, and date for meeting has not been set.	Secretary	AS-PMB

Date	Location	Event	Recommended DOI Participant	Requester/Office
Spring 2009		The Wildland Fire Leadership Council (WFLC) was established in April 2002 by the Secretaries of Agriculture and the Interior to provide an intergovernmental committee to support the implementation and coordination of Federal Fire Management Policy. The Council meets regularly to provide oversight and coordination of the National Fire Plan and the Federal Wildland Fire Management Policy.	Assistant Secretaries for Policy, Management and Budget, Land and Minerals, Fish Wildlife and Parks, Bureau Directors, and the U. S. Department of Agriculture counterparts.	AS-PMB
TBD	MIB	The National Geospatial Advisory Committee (NGAC) was formed as an advisory committee to the Secretary on geospatial issues. The current chair of NGAC is requesting a courtesy meeting with Secretary in the future.	Secretary and senior officials	AS-PMB

March 23, 2009

Memorandum

To: Laura Davis
Associate Deputy Secretary

From: Amy Holley
Chief of Staff for Water and Science

Subject: Weekly Meeting Issues

Bureau of Reclamation

Update: Lake Berryessa, California

The Solicitor's Office has determined that new concession contracts at Lake Berryessa are likely in violation of the Antideficiency Act because they promise to reimburse contractors fair market value in 2038 for new improvements or pay interest if payment is delayed. The promises to pay were modeled on National Park Service statutory authority that is inapplicable to Reclamation.

Because of this potential statutory violation and the significant litigation risks associated with bilateral contract modifications, Reclamation is embarking on a process to re-initiate bidding and provide the recreational business community, the public, local governments, and interested members of Congress with updates on the situation. On March 13 and 16, representatives from Reclamation and the Solicitor's Office met with the impacted concession contractors to advise them of the contract determination. A briefing was also provided to Congressman Mike Thompson's local office as Congressman Thompson has supported Reclamation's significant efforts to revitalize Lake Berryessa recreation concessions. The Congressman immediately requested a meeting with Acting Commissioner Bill McDonald, which took place Thursday, March 19 and included John Bezdek of the Solicitor's Office. Reclamation is working to expand recreation opportunities at government-operated areas of Lake Berryessa in the interim for 2009.

Update: Central Valley Project (CVP) Water Allocations, California

California's drought situation remains severe despite the recent storms. The initial February water allocations were based on the February 1 State Runoff Forecast, which did not include subsequent storms. The storms resulted in higher outflows at the end of February, moving smelt further into the Delta and triggering smelt protections that influenced pumping operations. Water that cannot be pumped counts as water obligated under CVPIA Section 3406b(2).

- The March water allocations to municipal and industrial users, wildlife refuges, and agricultural users north and south of the Delta will be announced late in the day on

March 20. Phone briefings are being held on March 20 prior to the announcement for interested state legislative and congressional staff, water users, conservation groups, and Tribes.

- The impacts of the drought are adding to the general economic distress facing California and the nation. On February 27, California Governor Arnold Schwarzenegger issued a State of Emergency Proclamation in response to the continuing drought conditions.

Reclamation continues to work with Federal, State, and local agencies on a daily basis to minimize drought impacts.

Update: Northwest Area Water Supply Project, North Dakota

- The U.S. District Court consolidated the recently filed complaints of Province of Manitoba, Canada and the State of Missouri.
- Reclamation is expected to request an extension to provide the Administrative Record which is due to the court by March 27, 2009.

The Northwest Area Water Supply Project (NAWS) is a municipal and rural water project authorized by the Garrison Diversion Reformulation Act of 1986 and the Dakota Water Resources Act as part of the statewide municipal, rural, and industrial grant program. When complete, the project would deliver water from the Missouri River to communities and rural water systems in North Dakota located in the Hudson Bay Basin. Upon completion of an environmental assessment and signing of a Finding of No Significant Impact in 2001, construction of NAWS began in April 2002. In October 2002, the Province of Manitoba, Canada, filed a legal challenge in U.S. District Court in Washington, D.C. to compel the Department of the Interior to complete an EIS on the project and sought an injunction to prohibit the United States from authorizing or expending Federal funds on the project. A Court Order dated February 3, 2005, remanded the case to Reclamation for completion of additional environmental analysis. A subsequent Court Order issued April 15, 2005, denied in part the request for an injunction. The Court has allowed construction to continue on project features that will not prejudice future decisions on water treatment.

New: Draft Environment Assessment (EA) for the Lake Roosevelt, Washington

- Reclamation released a Draft EA for implementation of the Lake Roosevelt Incremental Storage Release Project which is meant to meet the objectives established by the State of Washington's Columbia River Water Management Act.
- The proposed action includes water deliveries from Lake Roosevelt behind Grand Coulee Dam to relieve a critical groundwater shortage in the Odessa area of the Columbia Basin Project. This action also increases flows in the Columbia River that will help protect migrating salmon during the spring and summer seasons.
- Water provided to the Odessa area would be available to individuals currently irrigating with a valid State groundwater right. This water delivery to the Odessa area would also involve construction to enlarge two siphons which is estimated to produce a significant number of local jobs in the fall of 2009.

New: Reclamation Congressional Tour - April 2009

During the April Congressional Recess from April 6 through April 17, Reclamation will host two groups of Congressional staffers on a two-day tour of selected areas within the Central Valley Project (CVP) in California. Focus will be on export facilities in the Bay-Delta, San Luis Reservoir, San Joaquin River restoration, and drainage-impaired lands in the San Luis Unit of the CVP. Participation from House and Senate staff, committee and personal offices, is expected.

U.S. Geological Survey

NEW: Associated Press to Publish Story about the Impact to the Environment from Pharmaceutical Manufacturing Facilities: The *Associated Press* (AP) is expected to run an article in the near future, date unknown, about the potential source of pharmaceuticals to the environment from pharmaceutical manufacturing facilities (PMFs) across the Nation. The AP interviewed USGS scientist Herb Buxton and took photographs of the USGS National Water Quality Laboratory. The story is likely to feature information from a paper published a few years ago with data from a wastewater treatment facility near Hyderabad, India, that has 90 PMFs discharging to it. Their data show extremely high levels of pharmaceuticals in the wastewater effluent. The USGS has an ongoing study on PMFs with a very strong preliminary dataset that shows similar results, that is, significantly higher levels of pharmaceuticals in wastewater treatment plant effluent that receives discharge from PMFs in the United States. These preliminary results are important because USGS reports and other studies have reported low levels of pharmaceuticals in the Nation's water. USGS scientists will be briefing the U.S. Environmental Protection Agency (EPA), Office of Water, the week of March 23, 2009, on this topic.

New: Congressional Visits – Illinois Flooding: USGS Illinois Water Science Director Doug Yeskis and a partner from the Illinois Department of Natural Resources will be conducting courtesy visits to the Illinois Congressional delegation during the week of March 23 to discuss flooding issues in northeastern Illinois.

New: USGS at the Association of American Geographers Conference, Nevada: Over 60 USGS researchers will participate in the Association of American Geographers conference, March 22-27, in Las Vegas, Nevada, by chairing sessions and presenting scientific papers about landscape and land use changes, ecosystems, climate change, glacier studies, phenology, and endangered species. USGS scientists will display current products and services, showcase recent publications, and lead field trips to observe desert vegetation, wildlife, and the Grand Canyon.

New: Ranking Watershed Delivery of Nitrogen and Phosphorus to the Gulf of Mexico: The USGS and the U.S. Environmental Protection Agency are issuing an article in the *Journal of American Water Resources Association* on April 1 that identifies watersheds and ranks their delivery of nitrogen and phosphorus yields to the Gulf of Mexico. Excessive nutrients have resulted in a zone of low dissolved oxygen, or hypoxia, that can stress or cause death to aquatic life, thereby impacting the economic and ecological health of one of the Nation's largest and most productive fisheries. The ranking of nitrogen and phosphorus delivery can be useful in developing cost-effective nutrient reduction strategies in watersheds throughout the

Mississippi/Atchafalaya River Basin. The article is titled, *Incorporating Uncertainty into the Ranking of SPARROW Model Nutrient Yields from the Mississippi/Atchafalaya River Basin Watersheds*.

Update: PBS Broadcast, "On Thin Ice in the Bering Sea": On March 24, the PBS science program NOVA will broadcast the documentary "On Thin Ice in the Bering Sea," about northern Bering Sea integrated ecosystem research projects conducted aboard the U.S. Coast Guard ice breaker Healy by USGS and National Science Foundation partners.

Update: Congressional Briefing – Water Quality in Domestic Drinking-Water Wells: On March 27, the Water Environment Federation (WEF) will sponsor a Congressional briefing 9:30 a.m. to 11:30 a.m. in the Cannon Caucus Room of the Cannon House Office Building to discuss new USGS findings about the quality of our Nation's private drinking water wells. USGS will release findings on 2,100 wells sampled in 48 States from 30 of the Nation's 62 major aquifers. Speakers include Dr. Leslie Demimonde, USGS; Mr. Kevin McCray, Executive Director, National Ground Water Association; and Dr. Kenneth Cantor, Senior Investigator, National Institutes of Health, National Cancer Institute. They will describe how cooperating Federal agencies and scientists are using the information to answer important questions about the overall quality and safety of private well water and to address public health issues, including research by the National Cancer Institute on arsenic in drinking water and relations to bladder cancer. In addition, the briefing will provide guidance on State well drilling and well testing requirements, maintenance and testing, and water treatment options. USGS Associate Director for Water, Matthew Larsen, will serve as moderator. Additionally, a briefing for staff of the Senate Environment and Public Works (EPW) Committee is scheduled from 1:30 p.m. – 3:00 p.m. on March 27, in the EPW hearing room.

Update: USGS to Brief House Interior Appropriations Subcommittee on Old Growth Tree Mortality: Associate Director for Biology, Sue Haseltine, USGS scientists Phil Van Mantgem, and Nate Stephenson were invited to brief staff on the House Committee on Appropriations, Subcommittee on Interior, Environment and Related Agencies about research showing the doubling of tree death rates in old-growth forests of the western United States. The findings link this trend to regional warming. Date of briefing is unknown but likely to be before mid-April.

BRIEFING PAPER

FOR: Associate Deputy Secretary

SUBJECT: Guidiville Band of Pomo Indians – Restored Lands Request

DATE: March 18, 2009

ISSUE: Whether lands should be taken into trust as part of the restoration of lands for the Guidiville Band of Pomo Indians, a restored tribe.

BACKGROUND: The Guidiville Band of Pomo Indians (Band) seeks to have lands in Richmond, California (Point Molate Parcel or Parcel) taken into trust in order to conduct gaming. Since this Parcel would be acquired by the Secretary in trust for the benefit of the Band after October 17, 1988, it can only be eligible for gaming if it meets one of the exceptions within 25 U.S.C. Section 2719. Here, the Band seeks a determination from the Department of the Interior (Department) that the Parcel is eligible for gaming pursuant to 25 U.S.C. section 2719(b)(1)(B)(iii) (Restored Lands Exception) of the Indian Gaming Regulatory Act (IGRA) and the implementing regulations set forth in 25 C.F.R. Part 292.

The Restored Lands Exception says that the general gaming prohibition on newly acquired lands “will not apply when – lands are taken into trust as part of – the restoration of lands for an Indian tribe that is restored to Federal recognition.” 25 U.S.C. § 2719(b)(1)(B)(iii). The statute requires two inquiries: 1) is the tribe a “restored tribe,” and 2) will the lands be taken into trust as part of the restoration of lands for a restored tribe? A positive determination will be very controversial because both the state of California and Contra Costa County are opposed to this proposed gaming establishment.

CURRENT STATUS: A legal determination has been made that the Guidiville Band is a restored tribe under IGRA’s regulations, 25 C.F.R. sections 292.7(a)-(c). Since the Band is a restored tribe, the Secretary may address the second inquiry; namely, whether the lands will be taken into trust as part of the restoration of lands for a restored tribe. A draft recommendation has been developed.

Senator Feinstein has written opposing this Tribe on January 9, 2009 and March 3, 2009. The letters are attached.

CONTACT: George T. Skibine (202) 219- 0440

Briefing Paper for the Notice of Availability –
Draft Environmental Impact Statement / Environmental Impact Report
for the Proposed Point Molate Resort Casino and Fee-to-Trust
Acquisition Project, Contra Costa County, California

Description

This notice advises the public that the Bureau of Indian Affairs (BIA) as lead agency, with the Guidiville Band of Pomo Indians (Tribe), the National Indian Gaming Commission (NIGC), the U.S. Environmental Protection Agency (EPA), and Contra Costa County as cooperating agencies, intends to file a Joint Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) with the EPA for the approval of a 266-acre trust acquisition and subsequent development of a mixed-use tribal destination resort and casino project (Proposed Project). The City of Richmond (City) is serving as the Lead Agency for compliance with the California Environmental Quality Act (CEQA). The Proposed Project is located within the City of Richmond, Contra Costa County, California.

History

Point Molate is a former Navy facility that was closed through the Base Realignment and Closure process in the 1990's. In 2003, the Navy transferred the property to the City of Richmond.

The Tribe has requested that the BIA take this land (266 acres) into trust. The Tribe proposes to construct a mixed-use resort facility with a number of components that include a casino, two hotels, parking facilities, retail establishments, tribal government offices, parkland, and other amenities.

The BIA published a Notice of Intent (NOI) to prepare an EIS in the *Federal Register* on March 11, 2005. The City issued the Notice of Preparation (NOP) of an EIR on March 15, 2005.

Local public notices announcing the Proposed Action and the joint scoping meeting were published in *The Contra Costa Times* on March 16, 2005, and *The West County Times* on March 15, 2005. The scoping meeting was held on March 31, 2005, at the Richmond Memorial Auditorium, 403 Civic Center Plaza, Richmond, California. The meeting was conducted jointly by the BIA and the City and was attended by members of the public, including representatives of local organizations and public agencies.

The Administrative Draft Environmental Impact Statement/Environmental Impact Report (ADEIS/EIR) was provided to the Cooperating Agencies for their review on September 29, 2008. All comments were received by November 14, 2008.

The Office of the Solicitor, Division of Indian Affairs provided a legal review of the ADEIS/EIR in February 2009.

Interested Parties

A total of 141 comments were received during the scoping period either in written form or verbally at the public scoping meeting. Interested parties include private citizens, local environmental groups, local government officials, and regional agencies. No comments were received by state or federal legislators.

Issues raised during scoping included concern for potential impacts related to the following: socioeconomics, transportation/circulation, the City of Richmond's regulatory process, hazardous materials, biological resources, land use (including bay trails and shoreline access), public services (including fire and emergency response and proximity to the Chevron Richmond Refinery), air quality, visual/aesthetic resources, hydrology and water quality, cultural resources, noise, alternatives analysis, federal and state regulatory compliance, as well as cumulative and growth-inducing impacts.

All relevant comments received during the scoping period were considered in the preparation of the Administrative Draft EIS/EIR. Cooperating agencies' comments on the ADEIS/EIR have been considered in the preparation of the Draft EIS/EIR for public review.

We understand that a suit may be filed in California state court by the Citizens for East Shore Parks and another environmental group claiming that the proposed action violates a 2006 settlement that resolved lawsuits brought by the State Attorney General, East Bay Regional Park District and Citizens for East Shore Parks regarding the transfer of the land by the City of Richmond.

Next Steps

The Draft EIS/EIR will be released for public comment for 45 days as required by NEPA. All comments received on the Draft EIS/EIR will be reviewed by the BIA Regional Office. Changes and additions will be made to the Draft EIS/EIS in response to the comments as appropriate. Once prepared, the Final EIS will receive a final legal review by Solicitor's Office, Division of Indian Affairs, and a draft Record of Decision (ROD) will be prepared by the BIA Regional Office. The draft ROD will include the Department's final decision on the Tribe's trust application. It will likely take several months following public review of the Draft EIS for the Final EIS and final ROD to be drafted and reviewed.

Senior and Solicitor Reviewers of Underlying Document

- Paula Hart, Acting Director, Office of Indian Gaming
- Maria Wiseman, Office of the Solicitor – Division of Indian Affairs

BUREAU: Indian Affairs**ISSUE: Request from Congress re: Emergency Law Enforcement Plan****Prepared by Pat Ragsdale, Deputy Director, Justice Services, BIA**

Background: the Senate Committee on Indian Affairs (SCIA) introduced S.3320-Tribal Law and Order Act of 2008; the act did not pass during the 2008 session, but nonetheless is expected to be introduced again this year. It is a comprehensive bill (about 89 pages in draft) intended to reform and improve law enforcement (justice services by DOJ and DOI including policing, detention and tribal courts) within Indian Country as defined under title 18 USC. It would supplement and amend the Indian Law Enforcement Act, 25 USC 2903 et seq. While the SCIA bill did not pass during 2008, the Congress enacted an authorization, a global world health act which was introduced by the Senate Committee on Foreign Relations headed by then Senator Biden (DL). This authorization was primarily directed at under developed countries to combat health issues such as aids disease. Senators Thune (SD) and Kyle (AZ) successfully amended the world health bill to include an authorization of \$3 billion from its sum to address law enforcement, water and health issues in Indian country. A provision of the act also required DOJ and DOI to come forward and report a coordinated plan to Congress by July to address chronic law enforcement issues in Indian Country.

Key Points:

- Proposed Senate Bill S.3320, the Tribal Law and Order Act of 2008, by Senator Dorgan was introduced in 2008. It was not enacted but there were extensive hearings in the last session. It is expected to be re-introduced again this session.
- The Senate foreign relations authorization bill as amended referenced above was enacted and contained a reporting requirement that required the DOJ and DOI to report on a coordinated emergency plan improving law enforcement also referenced above. It has a similar but more specific reporting requirement in the proposed (SCIA) Dorgan bill.

Current Status:

The BIA developed a conceptual long-term emergency plan for discussion and input from the Department of Justice (DOJ) and Health and Human Services (HHS). The BIA has attempted to have meetings to solicit participation and consensus in an overall plan with both agencies, however, BIA has not received active participation or the positive response that was hoped for. While BIA understands the urgency of developing this plan, we cannot move forward with unified plan development until such time as our partners choose to become active participants. It is our perception that the lack of appointments in key positions within DOJ may be affecting their lack of engagement to fully vet possibilities and to determine how discussion and consultation should proceed. We have had several low key meetings with DOJ and plan another early next week.

Key Participants: Pat Ragsdale and Jack Rever, BIA and Larry Parkinson, DOI



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



MAR 18 2009

Memorandum

To: Secretary

From: Pamela K. Haze
Acting Assistant Secretary
Policy, Management and Budget

Subject: Office of Inspector General Fiscal Year 2008 Management Letter

For Fiscal Year 2008, the Department of the Interior (Interior) received a 12th consecutive unqualified ("clean") audit opinion. An independent auditor, KPMG, identified a single material weakness and 5 other significant deficiencies. In the course of the audit, KPMG identified findings of lesser significance and presented them in the Management Letter dated January 26, 2009, which was transmitted by the Office of Inspector General (OIG) on February 19, 2009.

The Management Letter contains 11 findings which relate primarily to operational matters or issues of internal control. While these findings do not rise to the level of a material weakness or significant deficiency, they do identify areas for improvement. Accordingly, Interior has reviewed the 47 recommendations that the auditors have provided to address these findings.

Interior concurs with 41 recommendations which target 9 of the 11 findings. Corrective actions will include issuance of new or revised policies and procedures, training for personnel, realignment of human resources, and/ or systems security upgrades. Interior disputes the remaining 2 findings and so does not concur with the 6 related recommendations. We have provided the OIG and KPMG with our rationale, primarily we determined that the recommendations were overly burdensome and/or unnecessary.

The OIG, which provides oversight of the financial statement audit, will refer all recommendations to me for tracking of resolution and implementation. At the present time, OIG has not referred these recommendations. However, we are not waiting, we have begun work on the 41 recommendations.

If you have any questions or require clarification please contact me or Daniel Fletcher, Director, Office of Financial Management, 202-208-4701.

AL



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL

Washington, DC 20240

FEB 19 2009

Memorandum

To: Secretary

From: Earl E. Devaney
Inspector General

Subject: Management Letter Concerning Issues Identified During the Audit of the Department of the Interior Financial Statements for Fiscal Years 2008 and 2007 (Report No. X-IN-MOA-0003-2009)

Attached is the subject management letter (Attachment 1) prepared by KPMG LLP. It contains 11 findings, which are in addition to those contained in the KPMG audit report on the financial statements of the Department of the Interior (DOI). The letter contains 47 recommendations that should resolve the 11 findings.

Based on DOI's response (Attachment 2), we consider six recommendations unresolved, 41 recommendations resolved but not implemented. We will refer the six unresolved recommendations to the Assistant Secretary for Policy, Management and Budget for resolution and the 41 recommendations for tracking of implementation (see Attachment 3, Status of Management Letter Recommendations).

DOI contracted with KPMG, an independent certified public accounting firm, to audit DOI's financial statements for fiscal years 2008 and 2007. The results of the audit are contained in KPMG's audit report dated November 15, 2008 (Report No. X-IN-MOA-0011-2008). In conjunction with its audit, KPMG noted certain internal control and operational matters that should be brought to your attention. This letter presents those issues.

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, actions taken to implement audit recommendations, and recommendations that have not been implemented. Therefore, we will include this letter in our next semiannual report.

We appreciate the cooperation and assistance of DOI personnel during the audit. If you have any questions, please contact me at 202-208-5745.

Attachments (3)

U.S. DEPARTMENT OF THE INTERIOR

cc: Chief Financial Officer
Director, Office of Financial Management
Associate Director, Office of Financial Management
Focus Leader, Management Control and Audit Follow-up, Office of Financial
Management
Audit Liaison Officer, Office of Financial Management



U.S. Department of the Interior Office of Inspector General

Management Letter

Concerning Issues Identified During the

Audit of the Department of the Interior

Financial Statements for

Fiscal Years 2008 and 2007



KPMG LLP
2001 M Street, NW
Washington, DC 20036

Management Letter

January 26, 2009

Secretary and Inspector General
U.S. Department of the Interior

We have audited the balance sheets of the U.S. Department of the Interior (Interior) as of September 30, 2008 and 2007, and the related statement of net cost, changes in net position, budgetary resources, and custodial activity, for the years then ended (herein referred to as the financial statements), and have issued our report thereon dated November 15, 2008. In planning and performing our audit of the financial statements of Interior, in accordance with auditing standards generally accepted in the United States of America, we considered Interior's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements but not for the purpose of expressing an opinion on the effectiveness of Interior's internal control. Accordingly, we do not express an opinion on the effectiveness of Interior's internal control.

Our audit of Interior's financial statements as of and for the year ended September 30, 2008 disclosed the following significant deficiencies and compliance and other matters that are described in our Independent Auditors' Report dated November 15, 2008.

Significant Deficiency Considered to be a Material Weakness

A. Controls over Unfilled Customer Orders

Other Significant Deficiencies

- B. General and Application Controls over Financial Management Systems
- C. Controls over Property
- D. Controls over Undelivered Orders
- E. Grant Monitoring Controls
- F. Controls over Indian Trust Funds

Compliance Matters

- G. *Single Audit Act Amendments of 1996*
- H. *Federal Financial Management Improvement Act of 1996*

During our audit we noted certain matters involving internal control and other operational matters that are presented for your consideration. These comments and recommendations, all of which have been discussed with the appropriate members of management, are intended to improve internal control or result in other operating efficiencies and are summarized as follows.



1. Controls over Custodial Revenue and Receivables

Interior needs to improve custodial revenue and receivable controls to ensure transactions are properly recorded for reliable financial reports. Interior established lease agreements with companies that enable companies to extract mineral resources in exchange for royalties; however, Interior did not consistently date transmittal forms and lease agreements for 6 of the 50 leases tested, did not fully segregate responsibilities related to establishing lease agreements, and did not effectively complete the quarterly lease certifications at certain state offices.

Interior accepts custodial revenue in the form of commodities from certain organizations approved to participate in the royalty-in-kind program. Although Interior properly prepared royalty-in-kind invoices, Interior did not document the review and approval, as required by its policies, for 16 of the 34 royalty-in-kind invoices tested. In addition, Interior did not consistently or timely reconcile all royalty-in-kind program information to determine if a royalty/refund needs to be assessed and did not require supervisors to review and approve all reconciliations.

In accordance with legislation, Interior received oil from companies under the royalty-in-kind program and transferred such oil to the Department of Energy to re-fill the strategic petroleum reserve until the program ended in July 2008. Interior did not verify the final oil prices for the strategic petroleum reserve accrual as of February 28, 2008, resulting in an understatement of custodial revenue of approximately \$522 thousand.

Finally, Interior needs to continue investigating and resolving the aged and unnatural royalty accounts receivable balances. As of September 30, 2008, Interior had approximately \$40 million of aged unnatural balances, including \$9 million that was over one year old. Interior also had approximately \$2 million of accounts receivable that was over one year old and not under appeal, referred to Treasury, or in installment payment status.

Recommendations

We recommend that Interior implement the following recommendations to improve controls over custodial revenue and receivables:

- a. Consistently date transmittal forms and lease agreements in accordance with policies.
- b. Fully segregate responsibilities related to establishing lease agreements.
- c. Require state offices to complete quarterly lease certifications and test a sample of offices to ensure that the quarterly lease certifications are complete and accurate.
- d. Require supervisors to review and approve the royalty-in-kind invoices and to document completion of such review and approval on the invoices.
- e. Reconcile all royalty-in-kind program information to determine if a royalty/refund needs to be assessed on a monthly basis.
- f. Require supervisors to review and approve the royalty-in-kind reconciliations to determine if a royalty/refund needs to be assessed and to document completion of such review and approval on the reconciliations.
- g. Require supervisors to compare the final oil pricing from the strategic petroleum reserve accrual calculation and general ledger to the oil pricing report and to document completion of such comparison on the oil pricing report.
- h. Continue to analyze and resolve aged and unnatural accounts receivable balances.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management has agreed with our findings and its comments were responsive to our recommendations.



2. Financial Management Resources

Interior did not have a sufficient number of trained financial management resources to effectively or timely complete the year end financial processes at one Interior component that experienced turnover and was preparing to implement a new financial management system in fiscal year 2009. For example, the Interior component had difficulty responding to our requests for information supporting amounts reported in the general ledger, did not provide a deposit fund transaction file that reconciled to the general ledger, and did not assess all of its accounting policies to demonstrate compliance with the accounting standards. In addition, the Interior component did not thoroughly review its financial information because we identified differences between certain note disclosure information and the related supporting documentation. These conditions caused misstatements in financial information and delayed completion of the year end financial reporting processes.

Recommendations

We recommend that Interior implement the following recommendations across Interior:

- a. Evaluate capabilities of existing financial management resources.
- b. Develop succession plans to respond to turnover of financial management positions.
- c. Develop and train additional financial management resources to support on-going financial operations during the implementation of financial management systems.
- d. Develop and implement a plan to accommodate changes in demands on financial management resources.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management has agreed with our findings and its comments were responsive to our recommendations.

3. Controls over Accruals and Related Expenses

Interior needs to improve controls to ensure accruals and related expenses are promptly recorded, properly classified, and accounted for, in order to prepare timely and reliable reports. Interior did not validate the Minerals Management Service accounts payable accrual methodology because Interior was unable to prepare a subsequent activity report from its financial management system. Accordingly, Interior calculated and recorded its Minerals Management Service accounts payable accrual, which totaled approximately \$21 million at year end, using alternative information. Interior also did not consider the accounts payable accrual methodology assessment results and incorrectly calculated the accounts payable accrual related to the U.S. Fish and Wildlife Service, understating the accounts payable accrual by \$33 million. Finally, Interior did not consistently follow its policies and procedures because Interior did not maintain supporting documentation for 2 of 46 transactions tested at one component and allowed the same individual to prepare and approve 1 of 46 transactions tested at one component. As a result of our observations, Interior analyzed and adjusted accounts payable accruals and related expenses.

Recommendations

We recommend that Interior implement the following recommendations to improve controls over accruals and related expenses:

- a. Prepare a subsequent activity report from the financial management system to enable Interior to validate its accounts payable accrual methodology.
- b. Test the assumptions used in the accounts payable accrual methodology, including the subsequent activity report, to ensure that the subsequent activity report is accurate and complete.



- c. Assess the accounts payable accrual methodology to ensure that the results support the accounts payable accrual methodology.
- d. Require supervisors to review the accounts payable accrual calculations, compare the calculations to the supporting documentation and general ledger to ensure that the amounts are properly recorded, and document approval evidencing completion of the review and comparison.
- e. Communicate document retention policies and procedures to ensure employees maintain supporting documentation.
- f. Segregate responsibilities to ensure individuals are not able to prepare and approve transactions.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management has agreed with our findings and its comments were responsive to our recommendations.

4. Federal Employee Compensation Act Claims

Interior is responsible for funding claims Interior employees submit in accordance with the Federal Employee Compensation Act and reporting the associated liabilities in its financial statements in accordance with the accounting standards. Interior did not consistently review and approve the Federal Employee Compensation Act claims submitted to the Department of Labor because Interior provided the Department of Labor a Federal Employee Compensation Act claim for an employee employed by another government agency. As a result, Interior funded liabilities of another federal agency. In addition, Interior did not review the Department of Labor SAS 70 report related to the Federal Employee Compensation Act claims to consider the results and ensure that it established complimentary end user controls.

Recommendations

We recommend that Interior implement the following recommendations to improve controls over Federal Employee Compensation Act claims:

- a. Develop and implement policies and procedures over the preparing, reviewing, and approving of Federal Employee Compensation Act claims submitted to the Department of Labor and information received from the Department of Labor.
- b. Obtain and review the Department of Labor SAS 70 report, determine that the end user controls identified in the Department of Labor SAS 70 report are implemented and operating effectively, and document its evaluation and consideration of the Department of Labor SAS 70 report.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management has agreed with our findings and its comments were responsive to our recommendations.

5. Capitalization Threshold and Useful Life Assessments

Interior is required to establish appropriate capitalization thresholds and useful lives for recording property, plant and equipment in accordance with the accounting standards. Interior completed an analysis of established capitalization thresholds and useful lives for major asset categories in prior years and is in the process of updating this analysis to determine if current operating conditions and financial results support a change in capitalization thresholds and useful lives for future purchases and depreciation. Interior completed this analysis recently for the Bureau of Reclamation; however, Interior has not completed a current analysis for its other components to ensure the capitalization thresholds and useful lives are appropriate for future property purchases and depreciation.



Recommendations

We recommend that Interior implement the following recommendations:

- a. Formalize policies and procedures to periodically assess capitalization thresholds and useful lives at least every five years or more frequently if operating conditions and financial results change significantly.
- b. Perform assessments of capitalization thresholds considering past history of expensing assets and any expected future changes.
- c. Perform assessments of useful lives considering past experience of time period assets are used and any expected future changes.
- d. Document and maintain the assessments supporting the capitalization thresholds and useful lives.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management has agreed with our findings and its comments were responsive to our recommendations.

6. Controls over Charge Cards

Interior issues purchase, fleet, and travel charge cards to its employees to streamline acquisition and payment procedures and to reduce the administrative burden associated with traditional and emergency purchasing of travel items, supplies, and services. Interior uses charge cards to purchase goods and services totaling several million dollars. In conjunction with the issuance of these cards, Interior published the *Integrated Charge Card Program Guide*. This guide sets forth restrictions on the use of the cards as well as certain internal control procedures such as timely and complete reconciliation of billing statements by the cardholders and approving officials.

However, Interior did not consistently follow these internal control procedures because we identified 35 exceptions in the 88 statements that we tested at two Interior components. For example, cardholders and supervisors did not always sign and date the charge card statements, did not consistently sign and date the charge card statements in a timely manner, and did not consistently maintain charge card statements and receipts to support the charges.

Recommendations

We recommend that Interior implement the following recommendations to improve controls over charge cards:

- a. Continue to provide training to personnel on proper charge card procedures.
- b. Require approving officials to be more diligent in monitoring and enforcing compliance with Interior's charge card policies.
- c. Periodically test a sample of charge cards for compliance with Interior's charge card policies.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management has agreed with our findings and its comments were responsive to our recommendations.

7. Reconciliation of Net Cost of Operations to Budgetary Obligations

Interior discloses a reconciliation of net cost of operations to the budgetary obligations in the notes to the financial statements in accordance with the accounting and reporting standards. However, Interior



presented changes in expense accruals rather than increases in expense accruals in the section entitled "Costs without Current Year Budgetary Effect" of the note disclosure. In addition, Interior components did not consistently prepare the reconciliation of net cost of operations to budgetary obligations note disclosure. These actions resulted in Interior misclassifying amounts within the note disclosure.

Recommendations

We recommend that Interior implement the following recommendations to improve the reconciliation of net cost of operations to budgetary obligations note disclosure:

- a. Disclose changes in expense accruals in the appropriate section of the reconciliation of net cost of operations to budgetary obligations note disclosure in accordance with the accounting and reporting standards.
- b. Enhance Interior guidance for preparing the reconciliation of net cost of operations to budgetary obligations note disclosure.
- c. Require an individual to review the bureau reconciliation of net cost of operations to budgetary obligations schedules to verify that the schedules are consistent with the Interior guidance and document completion of such review on the bureau reconciliations.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management disagreed with our finding because management believes they have complied with the accounting guidance.

Auditors' Response to Management's Response

As summarized above, Interior management did not properly classify amounts in accordance with the accounting standards. Specifically, Interior did not comply with paragraphs 80 through 82 of Statement of Federal Financial Standard 7, *Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting*. Therefore, we continue to recommend Interior implement recommendations 7.a through 7.c.

8. Control Assessment Process

The Federal Managers' Financial Integrity Act (FMFIA) (Pub. L. No. 97-255, codified at 31 U.S.C. § 3512) requires Interior to establish and maintain effective internal control and annually evaluate and report on the effectiveness of the internal control. Office of Management and Budget (OMB) Circular No. A-123, *Management's Responsibility for Internal Control* (A-123), Appendix A, provides the methodology for management to assess, document, and report on the internal controls over financial reporting in accordance with section 4 of FMFIA.

Interior did not fully plan, assess, and document its annual evaluation of internal controls because Interior prepared A-123 guidance requiring an assessment and calculation of a separate materiality for stewardship land, collectible heritage assets, and non-collectible heritage assets; however, Interior did not complete and document such materiality assessments and calculations. Additionally, Interior did not adequately identify, document and test key financial controls for the change in accounting and reporting related to stewardship land, collectible heritage assets and non-collectible heritage assets. Interior also documented and tested procedures rather than controls for certain financial areas. Furthermore, Interior did not follow its guidance because Interior did not consistently document and test controls or consistently apply its sampling guidance in testing controls. Finally, Interior did not adequately document its assessment supporting the level of control deficiencies identified.



Recommendations

We recommend that Interior implement the following recommendations to improve the internal control assessment process:

- a. Calculate materiality for each financial report and disclosure noted in Interior's internal control assessment guidance.
- b. Update its internal control assessment guidance to include changes in accounting standards, reporting standards and the control environment to ensure that the control assessment teams effectively identify, document, and test key financial controls.
- c. Identify, document, and test key financial controls for stewardship land, collectible heritage assets and non-collectible heritage assets.
- d. Provide training to internal control assessment teams to ensure that they understand controls versus procedures, the test procedures that need to be performed to determine that a control is operating effectively, and the sample sizes that should be followed.
- e. Document the frequency of the key controls and ensure said controls are tested following the appropriate Interior sampling guidance.
- f. Document the test of design and operating effectiveness procedures and results.
- g. Document an assessment supporting of the level of control deficiencies identified.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management has partially agreed with our findings and recommendations.

Auditors' Response to Management's Response

As summarized above, Interior did not effectively plan and assess its annual evaluation of internal controls, identify and test key financial controls, and document the key financial controls and testing results. Therefore, we continue to recommend Interior implement recommendations 8.a through 8.g.

9. Controls over Reconciliations

Interior prepared a reconciliation of Minerals Management Service transfers of offsetting collections received to the authorized amount in the President's Budget; however, Interior did not require the preparer or reviewer to document his/her name and date on the reconciliation demonstrating that the reconciliation was complete and was reviewed and approved as Interior requires with other reconciliations and reviews. In addition, Interior prepared the year end reconciliation of the state custodial distribution accrual; however, Interior did not effectively resolve the difference of approximately \$167.6 million that was identified on the reconciliation. We inquired of Interior regarding the difference that was indicated on the reconciliation; however the preparers and reviewers did not notice the difference, were not aware of the difference, and had to investigate the difference to resolve the difference. This difference did not result in a misstatement because Interior had mitigating controls to help ensure the state distribution accrual was appropriate.

Recommendations

We recommend that Interior implement the following recommendations to improve controls over reconciliations:

- a. Require the preparer to document his/her approval on the reconciliation to provide evidence that reconciliation was completed.
- b. Require a supervisor to review, approve, and document his/her approval on the reconciliation to provide evidence that the reconciliation was reviewed and approved.



- c. Enhance management review and approval over the reconciliation of the state custodial distribution accrual to ensure that all differences on the reconciliation are resolved timely and that the balances agree from the reconciliation to the general ledger.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management disagreed with our finding because management believes that the resulting difference was a presentation matter.

Auditor's Response to Management's Response

As summarized above, Interior did not consistently document evidence that reconciliations are performed or reviewed consistent with other federal entities including those within other Interior components or in accordance with OMB Circular No. A-123, which requires control activities to include proper authorization and requires management to document completion of controls. In addition, several Interior team members and managers, who were required to prepare and review a key reconciliation, did not notice that the reconciliation indicated that Interior had \$167.6 million error in its financial statements because Interior team members and managers did not perform their responsibilities. Therefore, we continue to recommend Interior implement recommendations 9.a through 9.c.

10. Required Supplementary Information Disclosures

Interior needs to improve controls to ensure required supplementary information disclosures are completed and properly disclosed in accordance with the accounting standards. Interior did not establish controls to complete condition assessments on eight percent of its museum collections and two percent of its National Historic Landmarks and disclose such condition assessments. In addition, Interior did not consistently determine investments in non-federal physical property or consistently maintain supporting documentation for investments in non-federal physical property. As a result, Interior disclosed that it did not complete condition assessments and adjusted its non-federal physical property investment disclosures.

Recommendations

We recommend that Interior implement the following recommendations to improve controls over required supplementary information disclosures:

- a. Complete and disclose the condition assessment of all museum collections and National Historic Landmarks.
- b. Implement procedures and controls to consistently determine investments in non-federal physical property.
- c. Maintain documentation to support investments in non-federal physical property.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management has agreed with our findings and its comments were responsive to our recommendations.

11. Controls over Information Management Systems

Interior needs to improve controls, as required by Office of Management and Budget Circular A-No. 130, *Management of Federal Information Resources* (OMB Circular No. A-130) to protect and efficiently process its non-financial management information. Interior did not consistently configure software, accounts and passwords; implement the latest software updates; encrypt data transmissions; and protect its



non-financial management information systems in accordance with its policies and OMB Circular No. A-130.

Recommendations

We recommend that Interior implement the following recommendations to improve controls over non-financial management information:

- a. Configure software, accounts and passwords to prevent unauthorized access.
- b. Implement software updates when they are issued.
- c. Encrypt data transmissions.
- d. Regularly test all systems to ensure the systems are protected from unauthorized access.

Management Response

Management has prepared an official response presented as a separate attachment to this report. In summary, management has agreed with our findings and its comments were responsive to our recommendations.

Interior's written response to our comments and recommendation has not been subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it. A summary of the status of prior year management letter comments is included as Exhibit I.

Our audit procedures are designed primarily to enable us to form an opinion on the financial statements, and therefore may not bring to light all weaknesses in policies or procedures that may exist. We aim, however, to use our knowledge of Interior gained during our work to make comments and suggestions that we hope will be useful to you.

We would be pleased to discuss these comments and recommendations with you at any time.

This communication is intended solely for the information and use of management, Interior's Office of Inspector General, the U.S. Government Accountability Office, the Office of Management and Budget, and the U.S. Congress and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,

KPMG LLP

**U.S. Department of the Interior
Summary of the Status of Prior Year Findings
September 30, 2008**

Fiscal Year 2007 Ref	Fiscal Year 2007 Finding	Status of Finding
DOI-1	Control Assessment Process	The condition has not been corrected. See finding 8.
DOI-2	Custodial Revenue	The condition has not been corrected. See finding 1.
DOI-3	Custodial Distributions	The condition has been corrected.
DOI-4	Special Purpose Financial Statements	The condition has been corrected.
DOI-5	Accounts Payable Accrual	The condition has not been corrected. See finding 3.
DOI-6	General Application Controls over Financial Management Systems	The condition has not been corrected. See finding in the Independent Auditors' Report and finding 11.
DOI-7	Controls over Reconciliations	The condition has not been corrected. See finding 9.
DOI-8	Prompt Payment Act	The condition has been corrected.
DOI-9	Debt Collection Improvement Act of 1996	The condition has been corrected.
DOI-10	Performance Goals	The condition has been corrected.
BLM-1	Access Controls- Removal of Terminated Employees	The condition has been corrected.
BLM-2	Access Controls- Documentation of Completion of Background Investigations	The condition has not been corrected. See finding in the Independent Auditors' Report.
BLM-3	Segregation of Duties	The condition has not been corrected. See finding in the Independent Auditors' Report.
BLM-4	Mineral Leases	The condition has not been corrected. See finding 1.

**U.S. Department of the Interior
Summary of the Status of Prior Year Findings
September 30, 2008**

Fiscal Year 2007 Ref	Fiscal Year 2007 Finding	Status of Finding
BLM-5	Recoveries of Prior Year Obligations	The condition has not been corrected. See finding in the Independent Auditors' Report.
BLM-6	Review of SAS 70 Reports	The condition has been corrected.
FWS-1	Information Technology Security and Controls	The condition has not been corrected. See finding in the Independent Auditors' Report.
FWS-2	Compliance over Charge Cards	The condition has not been corrected. See finding 6.
FWS-3	Warranty Authority Controls	The condition has been corrected.
FWS-4	Environmental Facility Audits	The condition has been corrected.
FWS-5	Process and Controls over Reporting the Condition of Museum Collections	The condition has not been corrected. See finding 10.
FWS-6	Financial Reporting	The condition has been corrected.
FWS-7	Refinement of Accrual Methodologies	The condition has not been corrected. See finding 3.
FWS-8	Allocation Transfer Reporting	The condition has been corrected.
FWS-9	Statement on Auditing Standards (SAS) No. 70 Report Evaluation	The condition has been corrected.
FWS-10	Statement of Net Costs	The condition has been corrected.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



JAN 27 2009

Memorandum

To: Earl E. Devaney
Inspector General

Jeff Norris
KPMG LLP
2001 M Street, NW.
Washington, DC 20036

From: Pamela K. Haze
Acting Assistant Secretary
Policy, Management and Budget

Pamela K. Haze

Subject: Response to the Draft Management Letter Concerning Issues Identified
During the Audit of the Department of the Interior Financial Statements for
Fiscal Years 2008 and 2007 (Assignment No. X-IN-MOA-0011-2008)

This responds to the December 3, 2008, transmittal of the subject audit report.

The Department concurs with 8 of the 11 recommendations contained in the Management Letter Report. Of the 3 remaining recommendations, the Department partially concurs with 1 and does not concur with 2. A response to each of the recommendations, proposed actions on agreed upon recommendations, and disagreement justification is attached.

The Department appreciates the opportunity to respond to the Draft Management Letter. If you have any questions or require additional information, please contact me or Daniel Fletcher, Director, Office of Financial Management.

Attachment

**Response to the Draft Management Letter Concerning Issues Identified During the Audit
of the Department of the Interior Financial Statements for Fiscal Years 2008 and 2007
(Assignment No. X-IN-MOA-0011-2008)**

- 1. Controls over Custodial Revenue and Receivables** We recommend that Interior implement the following recommendations to improve controls over custodial revenue and receivables:
- a. Consistently date transmittal forms and lease agreements in accordance with policies.
 - b. Fully segregate responsibilities related to establishing lease agreements.
 - c. Require State offices to complete quarterly lease certifications and test a sample of offices to ensure that the quarterly lease certifications are complete and accurate.
 - d. Require supervisors to review and approve the royalty-in-kind invoices and to document completion of such review and approval on the invoices.
 - e. Reconcile all royalty-in-kind program information to determine if a royalty/refund needs to be assessed on a monthly basis.
 - f. Require supervisors to review and approve the royalty-in-kind reconciliations to determine if a royalty/refund needs to be assessed and to document completion of such review and approval on the reconciliations.
 - g. Require supervisors to compare the final oil pricing from the strategic petroleum reserve accrual calculation and general ledger to the oil pricing report and to document completion of such comparison on the oil pricing report.
 - h. Continue to analyze and resolve aged and unnatural accounts receivable balances.

Management concurs. Affected components will issue revised policies for lease establishment and quarterly certifications of leases. In the interest of cost-effectiveness, a statistical sampling methodology will be implemented for the review of royalty in kind (RIK) reconciliations.

- 2. Financial Management Resources.** We recommend that Interior implement the following recommendations across Interior:
- a. Evaluate capabilities of existing financial management resources.
 - b. Develop succession plans to respond to turnover of financial management positions.
 - c. Develop and train additional financial management resources to support on-going financial operations during the implementation of financial management systems
 - d. Develop and implement a plan to accommodate changes in demands on financial management resources.

Management concurs. BLM will evaluate current resources in the Finance Policy & Reporting Section to determine what additional resources are needed to ensure that information can be timely obtained and that FPRS personnel possess the appropriate level of knowledge of business operations affecting the financial statements. BLM will develop a corrective action plan to address the condition noted above.

- 3. Controls over Accruals and Related Expenses.** We recommend that Interior implement the following recommendations to improve controls over accruals and related expenses:

- a. Prepare a subsequent activity report from the financial management system to enable Interior to validate its accounts payable accrual methodology.
- b. Test the assumptions used in the accounts payable accrual methodology, including the subsequent activity report, to ensure that the subsequent activity report is accurate and complete.
- c. Assess the accounts payable accrual methodology to ensure that the results support the accounts payable accrual methodology.
- d. Require supervisors to review the accounts payable accrual calculations, compare the calculations to the supporting documentation and general ledger to ensure that the amounts are properly recorded, and document approval evidencing completion of the review and comparison.
- e. Communicate document retention policies and procedures to ensure employees maintain supporting documentation.
- f. Segregate responsibilities to ensure individuals are not able to prepare and approve transactions.

Management concurs. The Department, bureaus, and the Project Management Office of the Finance and Business Management System will continue to collaborate on refining the existing subsequent events activity report.

The accounts payable accrual model and inputs will continue to be reviewed as close to quarter-end as possible, with adjustments being made as necessary.

All employees will be made aware of the correct policies and procedures for procurement, including separation of responsibilities and proper document retention.

4. Federal Employee Compensation Act Claims. We recommend that Interior implement the following recommendations to improve controls over Federal Employee Compensation Act claims:

- a. Develop and implement policies and procedures over the preparing, reviewing, and approving of Federal Employee Compensation Act claims submitted to the Department of Labor and information received from the Department of Labor.
- b. Obtain and review the Department of Labor SAS 70 report, determine that the end user controls identified in the Department of Labor SAS 70 report are implemented and operating effectively, and document its evaluation and consideration of the Department of Labor SAS 70 report.

Management concurs. The Department's Worker's Compensation Program Manager will develop an action plan to address the deficiencies noted.

5. Capitalization Threshold and Useful Life Assessments. We recommend that Interior implement the following recommendations:

- a. Formalize policies and procedures to periodically assess capitalization thresholds and useful lives at least every 5 years or more frequently if operating conditions and financial results change significantly.
- b. Perform assessments of capitalization thresholds considering past history of expensing assets and any expected future changes.
- c. Perform assessments of useful lives considering past experience of time period assets are used and any expected future changes.
- d. Document and maintain the assessments supporting the capitalization thresholds and useful lives.

Management concurs. The Department will undertake an assessment of capitalization thresholds and useful lives for its assets and will issue formal policies and procedures for this process upon completion of the assessment.

6. Controls over Charge Cards. We recommend that Interior implement the following recommendations to improve controls over charge cards:

- a. Continue to provide training to personnel on proper charge card procedures.
- b. Require approving officials to be more diligent in monitoring and enforcing compliance with Interior's charge card policies.
- c. Periodically test a sample of charge cards for compliance with Interior's charge card policies.

Management concurs. The Department requires all cardholders and approving officials to take charge card training. During FY 2008, this training was tracked to ensure completion. Additionally, controls over charge cards are tested as part of the A-123 program, and any exceptions are addressed by the individual bureaus.

7. Reconciliation of Net Cost of Operations to Budgetary Obligations. We recommend that Interior implement the following recommendations to improve the reconciliation of net cost of operations to budgetary obligations note disclosure:

- a. Disclose changes in expense accruals in the appropriate section of the reconciliation of net cost of operations to budgetary obligations note disclosure in accordance with the accounting and reporting standards.
- b. Enhance Interior guidance for preparing the reconciliation of net cost of operations to budgetary obligations note disclosure.
- c. Require an individual to review the bureau reconciliation of net cost of operations to budgetary obligations schedules to verify that the schedules are consistent with the Interior guidance and document completion of such review on the bureau reconciliations.

Management does not concur. The Department's nonconcurrence with this finding is based upon the belief that the presentation of this footnote is compliant with all authoritative guidance (Generally Accepted Accounting Principles, Office of Management and Budget, Treasury, etc.). The Office of Financial Management will continue to cooperate internally

with all Bureaus, through the Financial Statements Guidance Team, to ensure a consistent, agencywide approach to the preparation of this footnote.

8. Control Assessment Process. We recommend that Interior implement the following recommendations to improve the internal control assessment process:

- a. Calculate materiality for each financial report and disclosure noted in Interior's internal control assessment guidance.
- b. Update its internal control assessment guidance to include changes in accounting standards, reporting standards, and the control environment to ensure that the control assessment teams effectively identify, document, and test key financial controls
- c. Identify, document, and test key financial controls for stewardship land, collectible heritage assets, and noncollectible heritage assets.
- d. Provide training to internal control assessment teams to ensure that they understand controls versus procedures, the test procedures that need to be performed to determine that a control is operating effectively, and the sample sizes that should be followed.
- e. Document the frequency of the key controls and ensure said controls are tested following the appropriate Interior sampling guidance.
- f. Document the test of design and operating effectiveness procedures and results.
- g. Document an assessment supporting of the level of control deficiencies identified.

Management partially concurs. The Department will update its Circular A-123 guidance by removing units of stewardship land, noncollectible heritage assets, and collectible heritage assets from the Required Supplementary Information and Required Supplementary Stewardship Information schedules in the guidance. The Department will also provide an improved materiality assessment for each financial report and work for improved overall documentation. The Office of Financial Management will continue to work with the bureaus to refine and improve the effectiveness of the A-123 program.

9. Controls over Reconciliations. We recommend that Interior implement the following recommendations to improve controls over reconciliations:

- a. Require the preparer to document his/her approval on the reconciliation to provide evidence that reconciliation was completed.
- b. Require a supervisor to review, approve, and document his/her approval on the reconciliation to provide evidence that the reconciliation was reviewed and approved
- c. Enhance management review and approval over the reconciliation of the State custodial distribution accrual to ensure that all differences on the reconciliation are resolved timely and that the balances agree from the reconciliation to the general ledger

Management does not concur. While the importance of performing timely and accurate reconciliations is not disputed, the Department cannot concur with this finding. The finding is the result of a worksheet presentation issue which caused a once per year return of undistributed cash to Treasury to be identified on the worksheet as a "difference." Despite the appearance of a difference, the amounts were reconciled, verified, and accurately presented.

10. Required Supplementary Information Disclosures. We recommend that Interior implement the following recommendations to improve controls over required supplementary information disclosures:

- a. Complete and disclose the condition assessment of all museum collections and National Historic Landmarks.
- b. Implement procedures and controls to consistently determine investments in non-Federal physical property.
- c. Maintain documentation to support investments in non-Federal physical property.

Management concurs. The Fish and Wildlife Service will work to evaluate Heritage Assets to record their current condition. The Service will also improve the consistency of application of the methodology for investments in non-Federal physical property including retention of the supporting documentation.

11. Controls over Information Management Systems. We recommend that Interior implement the following recommendations to improve controls over nonfinancial management information:

- a. Configure software, accounts and passwords to prevent unauthorized access.
- b. Implement software updates when they are issued.
- c. Encrypt data transmissions.
- d. Regularly test all systems to ensure the systems are protected from unauthorized access.

Management concurs. Interior has remediated all vulnerabilities/weaknesses identified in this Notice of Findings and Recommendations. This includes application of multiple security patches, performing upgrades, and disabling "anonymous" profiles. Systems security will continue to be monitored, and external data encryption will continue.

ATTACHMENT 3

STATUS OF MANAGEMENT LETTER RECOMMENDATIONS

<u>Recommendation</u>	<u>Status</u>	<u>Action Required</u>
7.a., 7.b., 7.c., 9.a., 9.b., and 9.c.	Unresolved.	Recommendations will be referred to the Assistant Secretary, Policy, Management and Budget for resolution.
1.a., 1.b., 1.c., 1.d., 1.e., 1.f., 1.g., 1.h., 2.a., 2.b., 2.c., 2.d., 3.a., 3.b., 3.c., 3.d., 3.e., 3.f., 4.a., 4.b., 5.a., 5.b., 5.c., 5.d., 6.a., 6.b., 6.c., 8.a., 8.b., 8.c., 8.d., 8.e., 8.f., 8.g., 10.a., 10.b., 10.c., 11.a., 11.b., 11.c., and 11.d.	Resolved; not implemented.	Recommendations will be referred to the Assistant Secretary, Policy, Management and Budget for tracking of implementation.

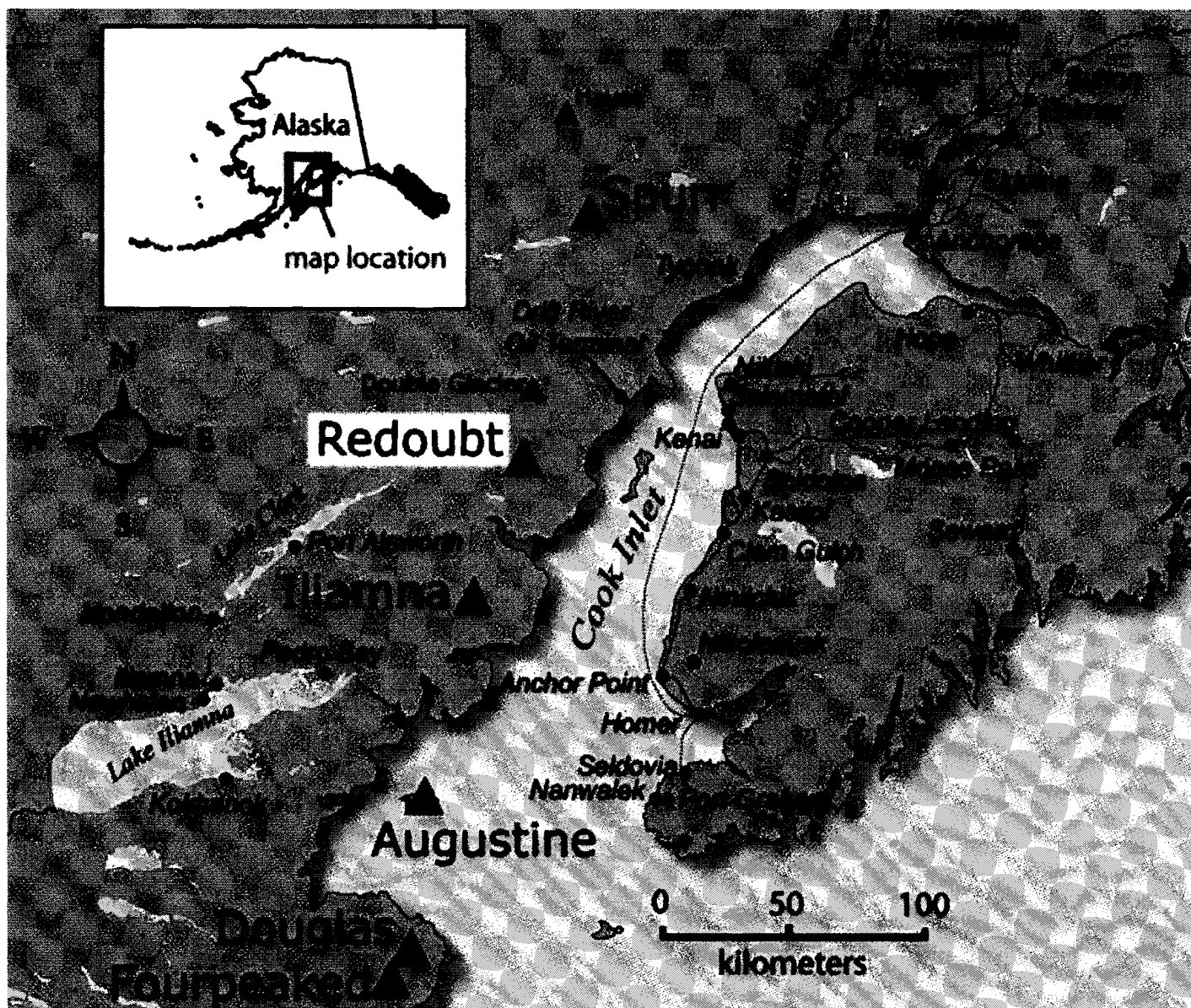
22-23 March 2009 Eruption of Redoubt Volcano, Alaska

- The Alaska Volcano Observatory detected the onset of a major explosive eruption at ~2:30 AM on 23 March EDT (22:40 on 22 March AKDT), after ~6 months of unrest.
- 5 explosive events have occurred so far, with ash columns to as high as 60,000 ft. If this is similar to the 1989-1990 eruption, activity could continue for weeks to months with dome building periods separated by explosive events.
- Ash-dispersion modeling shows ash going slightly west of Anchorage today; no reports of ash fall have been received yet. Only minor ash fall (<1-2 mm) expected in populated areas downwind of the volcano.
- A lahar signal has been detected in the Drift River Valley on the north flank of the volcano.
- The situation is still evolving. It is dark and cloudy in the Cook Inlet Area. No visual images are available at present.

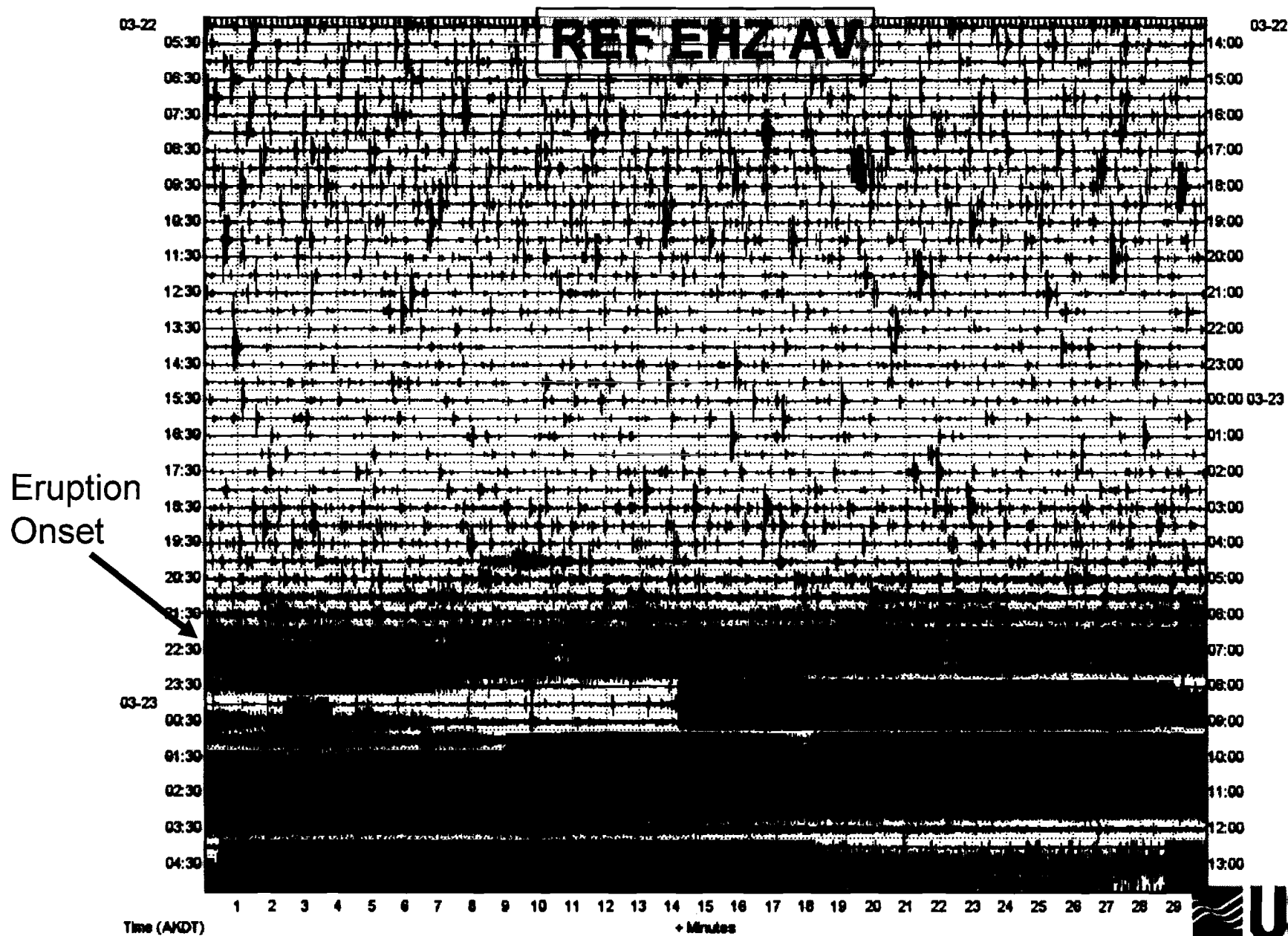
- AVO has issued alert level of RED/WARNING and has executed all critical call-downs to aviation and State emergency managers.
- AVO received a report that several passengers flights into Anchorage turned around. (FAA and airlines have the definitive data on diversions and cancellations.)
- AVO is awaiting word of any lahar observations at the Drift River Oil Terminal at the foot of Redoubt, ~30 miles from the summit. After the 1989-1990 eruption, berms and embankments were emplaced to protect the facility from lahar inundation.
- AVO monitors Redoubt volcano with a seismic network, one non-telemetered GPS, 2 web cams, a pressure sensor, radar, and satellite data. At the start of unrest, the equipment in place was what had been installed by AVO during the 1989-1990 response. In the past 1.5 months, AVO has been in the process of upgrading the monitoring equipment, playing catch up with the volcano.

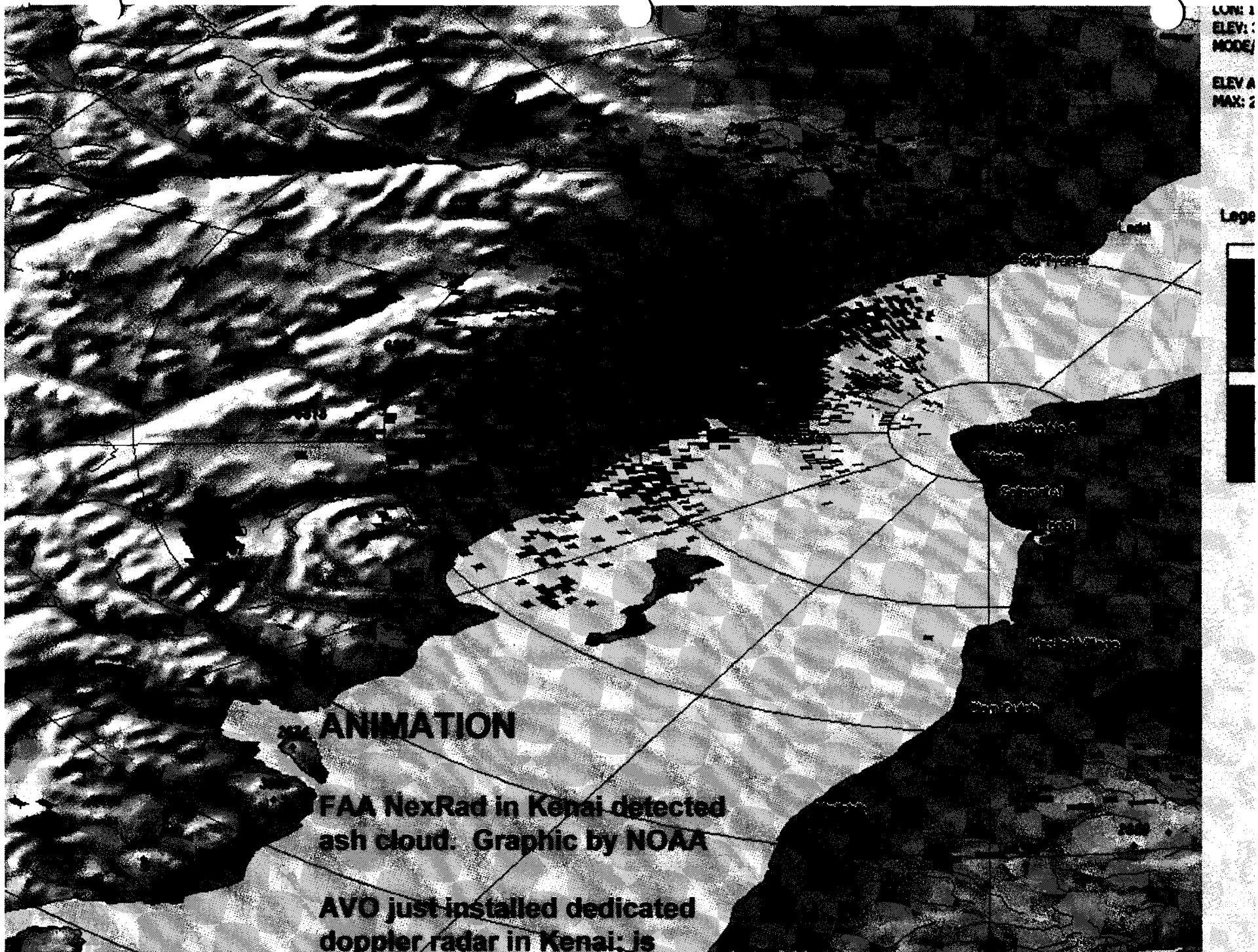
The only surface signs of unrest at Redoubt have been some steaming and melting of summit snow and ice. Earthquake magnitudes have been much too small to be felt in populated areas.

IF AVO HAD NOT BEEN MONITORING THE VOLCANO WITH GROUND-BASED REAL-TIME SENSORS (PRIMARILY THE SEISMIC NET), THE ERUPTION WOULD HAVE STARTED -- AT NIGHT AND IN BAD WEATHER -- WITH NO EFFECTIVE WARNING. PEOPLE AND THE AVIATION SECTOR WOULD NOT HAVE BEEN PREPARED.



“Webicorder” from AVO’s real-time seismic system (SWARM)





LOW: 1
ELEV: 1
MODE: 1
ELEV A
MAX: 2



ANIMATION

FAA NexRad in Kenai detected ash cloud. Graphic by NOAA

AVO just installed dedicated doppler radar in Kenai; is

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- Further upgrades to the monitoring network to achieve an optimal mix of instruments (e.g., more broadband seismometers for better seismic monitoring, more telemetered GPS and tiltmeters for deformation monitoring)
- Post-eruption field studies to understand this eruption and thus be better able to interpret precursory activity and hazards during the next eruption.

Reclamation Update to Weekly memo for Secretary - re: Lake Berryessa
Schuelke, Barbara R

to:

Kat Pustay

03/18/2009 05:13 PM

Cc:

Amy L Holley, "Rae, Karen (Kerry)", Catherine Callaway

Show Details

Hi Kat -

Please update the Lake Berryessa portion of the ASWS memo to reflect the following new information. If any questions, please call me at 208-4182.

Thanks much,

Barb

Reclamation Liaison to Water and Science

Lake Berryessa

The Solicitor's Office has determined that new concession contracts at Lake Berryessa (California) are likely in violation of the Antideficiency Act because they promise to reimburse contractors fair market value in 2038 for new improvements or pay interest if payment is delayed. The promises to pay were modeled on National Park Service statutory authority that is inapplicable to Reclamation. Because of this potential statutory violation and the significant litigation risks associated with bilateral contract modifications, Reclamation is embarking on a process to re-initiate bidding and provide the recreational business community, the public, local governments, and interested members of Congress with updates on the situation. On March 13 and 16, representatives from Reclamation and the Solicitor's Office met with the impacted concession contractors to advise them of the contract determination. A briefing was also provided to Congressman Mike Thompson's local office. Congressman Thompson, who has supported Reclamation's significant efforts to revitalize Lake Berryessa recreation concessions, is very concerned and requested a meeting with Acting Commissioner Bill McDonald, which is scheduled for Thursday, March 19 and will include Solicitor's Office representation. Reclamation is working to expand recreation opportunities at government-operated areas of Lake Berryessa in the interim for 2009.



Fw: DOI Weekly Report (3.16.09) -- USGS Update
Amy L Holley to: Kat Pustay

03/18/2009 11:33 AM

See below--these are USGS proposed additions to this week's weekly report for the Secretary (did that make sense?). . . .

----- Forwarded by Amy L Holley/ASWS/OS/DOI on 03/18/2009 11:31 AM -----

From: Judy J Nowakowski/DO/USGS/DOI@USGS
To: Amy L Holley/ASWS/OS/DOI@DOI
Cc: Suzette M Kimball/DO/USGS/DOI@USGS, Joanne C Taylor/DO/USGS/DOI@USGS
Date: 03/17/2009 05:34 PM
Subject: Fw: DOI Weekly Report (3.16.09) -- USGS Update

Hi Amy,

As Laura invited us to do yesterday, we'd like to submit the following as additions to this week's report and for consideration in the Secretary's Friday report.

Please let me know if you have questions.

Thanks!

----- Forwarded by Judy J Nowakowski/DO/USGS/DOI on 03/17/2009 05:11 PM -----

From: Joanne C Taylor/DO/USGS/DOI
To: Judy J Nowakowski/DO/USGS/DOI@USGS
Cc: Joanne Taylor <jctaylor@usgs.gov>
Date: 03/17/2009 04:20 PM
Subject: DOI Weekly Report (3.16.09) -- USGS Update

Judy -- Below are 2 paragraphs to update our DOI Weekly Report. -- Joanne

Health of the Chesapeake Bay: The Chesapeake Bay Program will release its annual report on the health of the nation's largest estuary and the partnership's restoration efforts on Thursday, March 19 at 11 a.m. at the Newseum in Washington, D.C. The report, *Bay Barometer: A Health and Restoration Assessment of the Chesapeake Bay and Watershed in 2008* is the most comprehensive and scientific look at Bay health, including water quality, habitats and fish and shellfish. The report evaluates efforts to reduce pollution, restore habitats, manage fisheries, protect watersheds and foster stewardship. For the first time, *Bay Barometer* provides overall scores for both health and restoration. The mission of the USGS Chesapeake Bay Program is to provide integrated science for improved understanding and management of the Bay ecosystem.

Redoubt Back at Orange Level "Watch" and 24/7 Monitoring: Scientist increased the alert level from yellow to orange at Mount Redoubt Volcano in Alaska Sunday, March 15, 2009, after detecting increased seismic activity and witnessing a small explosion that produced a plume of gas and ash that rose to about 15,000 feet above sea level. Orange/Watch is the next to the highest volcano alert level. At this time it does not appear that the increase in activity heralds a significant eruption in the short term, but conditions may evolve rapidly. The Alaska Volcano Observatory has returned to 24/7 staffing at the observatory.

since returned to yellow.

Science Magazine to Run a Story About a USGS Emeritus Scientist and His Work on Yucca Mountain: *Science Magazine* reporter Dan Charles interviewed John Stuckless, an emeritus USGS scientist who worked with the Yucca Mountain Project since 1985, about the 23 years he spent studying the geological questions involving the proposed Yucca Mountain repository. The story is scheduled to be published March 20, 2009.

USGS Offers \$7 Million in Earthquake Grants: The USGS will award up to \$7 million in grants and cooperative agreements for earthquake research in 2010. Interested researchers can apply online at <http://www.grants.gov/> under the funding opportunity number 10HQPA0001. Applications are due May 13, 2009. The USGS awards approximately 90 research grants annually to universities, state geological surveys and private institutions. NOTE: These grants are unrelated to the stimulus package funding.

Health of the Chesapeake Bay: The Chesapeake Bay Program will release its annual report on the health of the Nation's largest estuary and the partnership's restoration efforts on Thursday, March 19 at 11 a.m. at the Newseum in Washington, D.C. The report, *Bay Barometer: A Health and Restoration Assessment of the Chesapeake Bay and Watershed in 2008* is the most comprehensive and scientific look at Bay health, including water quality, habitats and fish and shellfish. The report evaluates efforts to reduce pollution, restore habitats, manage fisheries, protect watersheds and foster stewardship. For the first time, *Bay Barometer* provides overall scores for both health and restoration. The mission of the USGS Chesapeake Bay Program is to provide integrated science for improved understanding and management of the Bay ecosystem.



United States Department of the Interior

OFFICE OF THE ASSISTANT SECRETARY
POLICY, MANAGEMENT AND BUDGET
Washington, DC 20240



March 13, 2009

Memorandum

To: Laura Davis, Associate Deputy Secretary

From: Pam Haze, Acting AS-PMB *Pam Haze*

Subject: March 16, 2009 Staff Meeting - Policy and Other Issues

This provides major policy and other issues that fall under the purview of the Assistant Secretary - PMB.

American Recovery and Reinvestment Act Status:

- During the week of March 16, we will be meeting with Chris Henderson and bureaus to go over the results of our scrub of the lists, provide the template for the bureau plan and prepare for policy meetings.
- We will be holding meetings with the policy officials on the risks and issues that remain on the plans and lists.
- We will be briefing OMB on the Interior process and providing initial briefings by each bureau.

2009 Budget:

- The 2009 Consolidated Appropriations Act was enacted and bureaus and offices can resume their normal operations.

2010 Budget:

- OMB will be providing a final passback this week on the 2010 budget.
- The 2010 budget release is anticipated to be delayed until the last week in April.

Appropriations Hearings/Briefings:

- We are asking if David will testify at a hearing on Wildland Fire budget to be held on April 1 – this assumes his confirmation before that date.
- The Secretary has 2010 budget hearings with House and Senate appropriations committees scheduled for April 28 and 22, respectively. The House has asked if the Secretary would be willing to testify before the budget is released.

Other Significant Issues: See attached list

Conferences/Meetings: See attached list.

Current Policy, Management and Budget Requests for Secretarial Involvement – Summary Table

Date	Location	Event	Recommended DOI Participant	Requester/Office
April 6-8	Honolulu HI	Fifth Business Opportunities Conference on business opportunities in the US-affiliated insular areas. Keynote speaker. Governor Lingle being invited	Secretary or designee	AS-PMB
April 28	MIB	Homeland Security Council "Tabletop" Exercises: Principal-level exercises	April 28 - Secretary or Deputy Secretary	AS-PMB
May 7,12, or 13	MIB	Partners in Conservation To maximize media coverage of conservation efforts	Secretary or designee	AS-PMB
5/13 - 15	DC	National Police Week 2009: Annual event to include the 21st Annual Candlelight Vigil held at the Police Memorial, Interior's Annual Wreath Laying Ceremony in the MIB auditorium, and the 28th Annual National Peace Officer's Memorial Day Service on the west front lawn of the Capitol.	Secretary	AS-PMB
May 6	MIB	Secretary's Honor Awards Convocation: Annual ceremony to honor employees and DOI partners who have received distinguished service and bravery awards.	Secretary	AS-PMB

Date	Location	Event	Recommended DOI Participant	Requester/Office
Fall 2009 or later	Mexico TBD	U.S. Mexico Joint Cabinet Meeting (Bi-National Commission): Previously DOI Secretary and Mexico counterpart and delegations met as the "Natural Resources Working Group" for 1.5-2 hours, then Secretaries would participate in plenary luncheon of all Cabinet members. A new format for next meeting is being developed by State Dept and Mexico, and date for meeting has not been set.	Secretary	AS-PMB
Spring 2009		The Wildland Fire Leadership Council (WFLC) was established in April 2002 by the Secretaries of Agriculture and the Interior to provide an intergovernmental committee to support the implementation and coordination of Federal Fire Management Policy. The Council meets regularly to provide oversight and coordination of the National Fire Plan and the Federal Wildland Fire Management Policy.	Assistant Secretaries for Policy, Management and Budget, Land and Minerals, Fish Wildlife and Parks, Bureau Directors, and the U. S. Department of Agriculture counterparts.	AS-PMB
TBD	MIB	The National Geospatial Advisory Committee (NGAC) was formed as an advisory committee to the Secretary on geospatial issues. The current chair of NGAC is requesting a courtesy meeting with Secretary in the future.	Secretary and senior officials	AS-PMB

Assistant Secretary—Policy, Management and Budget
Significant Issues Summary
March 16, 2009

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
HEARINGS WITH APPROPRIATIONS					
House Interior Appropriations Hearing	Wildland Fire Budgetary Strategy	Preparing testimony – not joint with FS	April 1, 2009	Deputy Secretary	AS-PMB
House Interior Appropriations Hearing	MMS Recent Issues Identified by the Office of Inspector General (OIG)	Preparing testimony	April 2, 2009	MMS & OIG	AS-PMB
Senate Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	April 22, 2009	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	BIA Law Enforcement Issues in Indian Country	Preparing testimony	April 22, 2009	AS-IA	AS-PMB
House Interior Appropriations Hearing	FY 2010 Budget	Preparing testimony	April 28, 2009	Secretary Salazar is the witness.	AS-PMB
House Interior Appropriations Hearing	USGS 2010 Budget Request	Preparing testimony	May 6, 2009	USGS Director	AS-PMB
House Interior Appropriations Hearing	FWS 2010 Budget Request	Preparing testimony	May 7, 2009	FWS Director	AS-PMB

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
House Interior Appropriations Hearing	NPS 2010 Budget Request	Preparing testimony	May 14, 2009	NPS Director	AS-PMB
RULES AND REGULATIONS					
Hydropower Licensing Procedures Rule	Joint final rule being issued by the Departments of the Interior, Commerce, and Agriculture to revise procedures for trial-type hearings related to conditions and prescriptions for hydropower licenses and for the submission of alternative condition and prescriptions.	The joint final rule was signed by the three Departments last fall and submitted to OMB for review, but it was not cleared for publication before the end of the Administration (because it wasn't a high enough priority, not because any problem was identified).	Publication of the rule would facilitate the hydropower licensing process for the three Departments, and it should be re-submitted to OMB sooner rather than later; but it first has to be cleared by the three Departments, and Commerce does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Indian Self-Determination Act (ISDA) Rule	Joint final rule being issued by the Departments of the Interior and Health and Human Services to update procedures for ISDA appeals.	The joint final rule has been worked out at the staff level and is ready for senior-level review. (It does not require OMB review.)	Publication of the rule would facilitate the ISDA appeals process for the two Departments, and it should be cleared sooner rather than later; but HHS does not yet have a confirmed Secretary.	Chief of Staff	AS-PMB
American Indian Probate Reform Act (AIPRA) Rule	Interim final rule being issued to update procedures for Indian probate cases to reflect AIPRA amendments enacted in December 2008.	The interim final rule is being drafted at the staff level and is not yet ready for senior-level review. (It will not require OMB review.)	The rule should be ready for senior-level review in mid- to late March.	Chief of Staff	AS-PMB

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
OTHER SIGNIFICANT ISSUES					
Update of the Department-wide Strategic Plan is due for FY 2010	Secretarial strategic priorities and decisions needed to launch the plan revision process that includes Congressional consultation; public, Federal and Tribal comments; public meetings; and internal analysis and vetting of proposed revisions prior to formal publication and transmittal to Congress and OMB.	Developing a strawman for review by the senior policy team.	Strawman should be available in two weeks.	Secretary and senior policy team	AS-PMB
U.S. - Palau Review of Compact of Free Association	Financial provisions of the Compact of Free Association relationship between the U.S. and Palau is ending on September 2009. Palau and the U.S. as represented by Defense, State and DOI, have been in bilateral discussions with Palau since early 2008. The U.S. (State, Defense and DOI lead) need to revisit OMB's initial decision on Palau.	Discuss this issue with the Secretary in the very near future.	Secretary met with Palau President Toribiong on March 12, 2009.	Secretary	AS-PMB

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants:	Sponsor:
Management Excellence Council and Management Initiatives Team	The Department's internal collaboration, leadership, and decision making relies on the convening of the MEC and MIT on a regular basis.	Decisions need to be made about the officials that will chair these groups, the frequency of meetings, and their role in the new Administration.		Associate Deputy Secretary	AS-PMB
2008 Federal Human Capital Survey Results, HR Strategic Plan	The departmental results from the government-wide 2008 FHCS administered by the Office of Personnel Management have been provided to agencies. Bureau/Office level results have also been received. This is followed by a "Best Places to Work" ranking of Federal agencies based on the results of the 2008 FHCS.	Action plans to address the FHCS results need to be developed once the lower level results are received and analyzed.	Results for organizational units below the Bureau/Office level are expected to be available the week of March 9, 2009. The "Best Places to Work" ranking of Federal agencies based on the results of the 2008 FHCS is expected to be published in April/May.	Associate Deputy Secretary	AS-PMB

Item:	Summary of Issue:	Status of Issue:	Timeline:	Key Participants	Sponsor:
Information Technology Challenges	Interior has IT security challenges	Met with Secretary and David Hayes	Paper provided to David Hayes on March 5, 2009 Secretary wants to meet with the CIOs once he receives the paper	Secretary, David Hayes and Bureau CIOs	AS-PMB
Continuity of Operations (COOP) Programs	The Secretary and leadership staff needs to be briefed on existing procedures for executing the mission essential functions of the Department during national security emergencies and catastrophic disaster situations. Input is required regarding emergency planning issues.	OEM coordinating with Chief of Staff's office to schedule briefings for Secretary and incoming officials at earliest possible time. Other actions await designation by the Secretary of an Assistant Secretary-level official as Departmental Continuity Coordinator.	Brief Secretary and key officials on emergency plans. March-April: Designate Assistant Secretary-level continuity coordinator. March-April: Review DOI "primary mission essential functions" in preparation for the 2009 update of the DOI COOP Plan. March-May: Update continuity team rosters as new officials arrive. June : COOP exercise	Secretary and senior leadership	AS-PMB

Briefing Paper

Carbon Sequestration Policy on Indian Forest Land

Date: March 11, 2009

Issue: Some Indian tribes have entered into long and/or short term carbon sequestration agreements with non-governmental organizations, whereby atmospheric carbon is to be captured or "sequestered" on Indian forest lands, for an agreed upon period of time, in exchange for funds. This sequestered carbon is then sold into the marketplace as carbon credits with intent to offset the atmospheric carbon created by the ultimate purchaser of the credits. The agreements that have been executed thus far on Indian trust forest land have been initiated by tribes. In some cases, the tribes have obtained BIA line officer approval; and in other cases they have not obtained or sought approval. In all transactions to date, there has not been a BIA policy in place to provide guidance on the execution of these agreements.

Background: In August 2008, the United States Government Accountability Office (GAO) released a report on "Carbon Offsets" to Congress (GAO-08-1048). The GAO report found that carbon offset projects based in the United States are growing rapidly, from carbon offsets measuring 6.2 million tons in 2004 to about 10.2 million tons in 2007. They found that currently, over 600 organizations develop, market, or sell offsets in the United States, and the market involves a wide range of participants, prices, transaction types, and projects. The federal government plays a small role in the voluntary market by providing limited consumer protection and technical assistance, and no single regulatory body has oversight responsibilities.

The GAO also found that within the Department of Interior, the U.S. Fish & Wildlife Service (FWS) partners with companies and nonprofits to develop carbon sequestration projects on national wildlife refuges in the southeastern United States. The FWS enters into these partnerships to obtain funds to restore and enhance native forest and wildlife habitat on national wildlife refuges. The FWS identifies refuge lands that are important for its overall conservation goals and manages sequestration projects on these lands, but does not play a role in the calculation, verification, or monitoring of carbon offsets. Carbon sequestration projects must support the purposes of each national wildlife refuge on which they are applied, and be consistent with the refuge forest management plan. This stated congruency between carbon sequestration projects and forest management plans is directly applicable to Indian trust forest lands.

On February 2, 2007, the Office of the Solicitor, Division of Indian Affairs (SOL), issued an opinion to the BIA Division of Forestry regarding carbon sequestration agreements on Indian forest lands. The SOL stated that the National Indian Forest Resources Management Act (NIFRMA) (25 U.S.C. § 3101 et seq.) and 25 C.F.R. Part 163 appear to be the most appropriate authority policy governing these agreements. They offered that for the purposes of these agreements, carbon is an "other marketable material" and thus a "forest product" within the meaning of 25 C.F.R. § 163.1, but it is a forest product that is neither "harvested" nor "extracted". This distinction is important because the more restrictive provisions within the governing statute and regulation would not apply for carbon agreements.

Discussion: A National Policy Memorandum on Forest Carbon Sequestration on Indian forest land (policy) was drafted and is under review. This policy incorporates the information discussed above, and is to be presented at the Intertribal Timber Council (ITC) Symposium in Lewiston, ID by John Vitello on April 20, 2009. The policy uses the National Indian Forest Resources Management Act of 1990 (NIFRMA) and 25 C.F.R. Part 163 as the governing authority and regulation. Under the policy, carbon agreements between tribes and third party organizations would be approved by the BIA, subject to the following: 1) compliance with forest management plan (FMP) and/or integrated resources management plan (IRMP); 2) compliance with federal and tribal laws; 3) execution by authorized tribal representatives; 4) individual Indian trust ownerships may be included in the tribal agreements provided proper execution by the beneficial Indian owner(s) and a finding that it is in the best interest of the beneficiary to be included in the agreement; 5) some restrictive language in the NIFRMA and CFR would not apply for carbon agreements because the carbon is not harvested or extracted from the Indian lands.

Brief prepared by John Vitello, Acting Associate Deputy Director – Trust Services (202)

NATIONAL PARK SERVICE - FISH AND WILDLIFE SERVICE

March 16, 2009 – April 12, 2009

SCHEDULES AND ACTIVITIES

Dan Wenk, Acting Director – NPS

NPS issues

FWS Acting Director Rowan Gould

- **National Fish and Wildlife Foundation Board Meeting** – San Francisco, CA, March 23-25, 2009

WEEK AHEAD

- **Update: FWS- California Drought (CA- All)** California is in its third year of severe drought. In mid-February, after an extended dry period, the Bureau of Reclamation (Reclamation) advised contractors that they might have reduced allocations this year, with some junior contractors advised of potentially zero allocations. Similar cautions were made by the California Department of Water Resources (DWR). However, since mid-February a series of storms have raised California's snowpack from 60% of normal to 80%, although coming after two dry years, reservoir storage remains below normal. Governor Schwarzenegger declared a state of emergency Feb. 27. In December 2008, the Fish and Wildlife Service (Service) delivered a Biological Opinion (BO) to Reclamation concluding that operation of two water projects, as described in the Biological Assessment, was likely to jeopardize the continued existence of the delta smelt and adversely modify its critical habitat, in part due to reverse flows in two rivers that draw water to the export pumps. To remedy this jeopardy determination, the BO includes a Reasonable and Prudent Alternative (RPA) to adaptively manage project operations to protect delta smelt. Until late February, there had been no curtailments on export pumping since spring 2008 as a result of the Operations Criteria and Consultation Plan BO. Back-to-back dry water years have triggered a provision in the BO which allows Reclamation to manage water through an adaptive management process. Increases in rain during the last half of February have provided an opportunity for increased pumping. On March 3, Westlands Water District, Reclamation's largest south-of-Delta contractor, and the San Luis & Delta-Mendota Water Authority representing other south-of-Delta contractors, filed suit seeking to overturn the December 2008 BO and asking relief from the pumping parameters established in the BO to protect the delta smelt.
- **New: NPS – National Mall and Memorial Parks (DC – Rep. Eleanor Holmes Norton), National Mall Plan.** The National Mall Plan is a long-range vision plan focused on improvements related to public use, health, appearance and preservation of the historic National Mall. The NPS has held a series of cooperating agency workshops, developed a preliminary preferred alternative and will issue a Draft Plan and EIS this year. The NPS provided a briefing on the National Mall Plan to the Commission of Fine Arts on February 19, 2009, and will brief the National Capital Planning Commission on April 2. A public newsletter (#4) A Preliminary Preferred Alternative has been released and will be available at public meetings as well as online at www.nps.gov/nationalmallplan.

Significant media and public interest in the plan focuses on the aesthetics and vision of the plan, opportunities and limits for First Amendment demonstrations, special events, and recreation use. More than 20 agencies and 30 consulting parties are involved in the planning process in some capacity. Public meetings are scheduled for March 11 (5-7pm) and 14th (noon to 2pm) at the Old Post Office. Cooperating Agency Meetings will be held March 11, and by request. Section 106 consultations will be held March 17, 20 and 30th. Meetings are scheduled with Congresswoman Norton for next week.

- **New: NPS – Fire Island National Seashore (NY - Rep. Tim Bishop) 4-Poster Tick Study.** A study to examine the effects of the use of insecticides to control ticks in the deer population at Fire Island will be permitted to continue under a research permit issued by the park. The New York State Department of Environmental Conservation (NYSDEC) application for a permit to expand the almost 2-year old study was denied by the park and Northeast Region staff. An agreement was reached last week to permit the same number of devices - 4 - to treat the deer within only two locations of the park. Still in question is the amount of corn that will be permitted to bait the deer to the devices. A spokesperson for the Fire Island Wildlife Foundation who have been instrumental in raising funds from local residents for the project, would like to see the study expanded beyond the scope of what is being permitted in 2009. The park's concern about simply feeding deer over the true effectiveness of the treatment was a strong consideration in not expanding the project to other locations.

ON THE HORIZON

- **New: FWS - Proposed rule to establish annual hunting regulations for certain migratory game birds for the 2009–10 hunting season** - This proposed rule provides the regulatory schedule, describes the proposed regulatory alternatives for the 2009–10 duck hunting seasons, requests proposals from Indian tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands, and requests proposals for the 2010 spring/summer migratory bird subsistence season in Alaska. Expected publication, after submission to OMB, is mid-March. The package is currently in SOL.
- **New: FWS - Final Rule for 2009 Migratory Bird Subsistence Harvest (Nationwide)** - FWS has developed a final rule to revise the regulations governing the species of migratory birds, seasons, methods, and means eligible for subsistence harvest during the 2009 regulatory year. These regulations were developed under a co-management process involving FWS, the State of Alaska, and Alaska Native representatives and are subject to an annual review. FWS anticipates publication in the Federal Register by April 10, 2009.
- **New: FWS - FWS anticipates delivery of its 12-month finding on the yellow-billed loon to the Federal Register** – FWS's decision on whether or not to protect the yellow-billed loon, found mainly in Alaska and occasionally in Washington state, under the ESA is expected to be delivered to the Federal Register on or about March 16. It's anticipated that FWS will issue a press release on the decision when it reaches the Federal Register

reading room one day prior to publication, and notify congressional members two days prior to publication.

- **New: FWS - 12-Month Finding on Petition to List the Coaster Brook Trout as Endangered** - FWS is preparing a 12-month finding on a petition to list the coaster brook trout, an anadromous form of brook trout that spends part of its life in the nearshore waters of the upper Great Lakes, as endangered. On March 1, 2006, FWS received a petition from the Sierra Club Mackinac Chapter and the Huron Mountain Club asking FWS to list the coaster brook trout as endangered and to designate critical habitat. Additional information was received on May 25, 2006. FWS announced in 2008 that it would study coaster populations to determine whether they should be listed as endangered. Under a court settlement with petitioners, FWS must submit its finding to the Federal Register by April 15, 2009.
- **Updated: FWS - Multinational Species Conservation Funds (N/A) - Under the Great Ape Conservation Fund (CF)**, FWS intends to award seven grants totaling \$514,939.20 with matching resources from partners totaling \$671,674.00. These funds will assist with conservation of bonobos, chimpanzees, western gorillas, and eastern gorillas in Democratic Republic of the Congo, Equatorial Guinea, Gabon, Liberia, and Republic of Congo. The estimated award date is April 6, 2009. Additionally, under the African Elephant CF, FWS intends to award five grants totaling \$338,502 with matching resources from partners totaling \$636,378. These funds will assist in the conservation of elephants in Kenya, Nigeria, Congo, Gabon, and Zambia. The estimated award date is March 30, 2009.
- **No Change: FWS - Final critical habitat for the Peninsular bighorn sheep (CA):** (see last week's report)
 - **No Change: NPS – Assateague Island National Seashore (MD – Rep. Frank Kratovil), Environmental Assessment of Horse Management Alternatives.** (See last week's report – no change)
 - **No Change: NPS – Dinosaur NM – (CO – Rep. John Salazar) Department of Justice opposes application by Shell Oil to divert water from the Yampa River for Oil Shale Development.** (See last week's report – no change)
 - **No Change: NPS – Fredericksburg & Spotsylvania National Military Park (VA – Reps. Eric Cantor, Rob Wittmann) Wilderness Battlefield.** (See last week's report – no change).
 - **No Change: NPS – Grand Canyon NP – (AZ-1, Representative Ann Kirkpatrick) Progress Report on Plans for Phase II of Grand Canyon Visitor Center Plaza and Mather Point Improvements.** (See last week's report – no change)
 - **No Change: NPS - Valley Forge NHP (PA – Rep. Jim Gerlach) Widening of the Pennsylvania Turnpike Adjacent to Park.** (See last week's report – no change).

No Change: NPS-Valley Forge National Historical Park (PA – Reps. Jim Gerlach and Joe Sestak) White-tailed Deer Management Plan and Environmental Impact Statement . (See last week's report – no change)

Briefing Paper

Issue: Relocation of BIA Alaska Roads Branch

Background:

In response to the Office of Inspector General Flash Report regarding the BIA Alaska Regional Roads Program, the BIA is preparing to consolidate the Regional Roads Branch in Anchorage. It is currently located in both Juneau and Anchorage, which hinders management and contract oversight, both of which were criticized in the Flash Report.

Why This Matters:

- Senator Murkowski has publicly expressed opposition to a pending proposal to move the BIA Regional Director's office from Juneau to Anchorage (but may have privately expressed concurrence to former Assistant Secretary – Indian Affairs Carl Artman).
- The decision regarding the location of the Regional Director's office can wait until a new AS-IA is confirmed. The Bureau Director plans to make a decision regarding the Roads Branch in the next week.
- Senator Murkowski may view the decision on the Roads Branch as a step towards moving the Regional Office against her expressed wishes.
- The Bureau Director supports moving the Regional Office, because:
 - Most Regional staff is already in Anchorage.
 - Anchorage is strategically located to serve 210 villages. Juneau is more convenient to 19 villages.
 - Villages have overwhelmingly supported the proposed move.
 - The location in Juneau costs BIA and most villages additional time and money in traveling between Anchorage and Juneau, and therefore hinders the BIA's ability to monitor contracts and interact with villages.
 - Most other DOI Bureaus' Regions are located in Anchorage.
 - It is difficult to recruit staff to work in Juneau.
 - We will leave a core staff in Juneau to service the 19 Southeast Alaska Villages.

March 13, 2009

Memorandum

To: Laura Daniels Davis
Associate Deputy Secretary

From: Art Gary
Acting Solicitor

Subject: Weekly Meeting Items for March 16, 2009 Meeting

San Luis & Delta Mendota Water Authority, et al. v. Salazar, et al., (E.D. California) (Filed March 3, 2009) and State Water Contractors v. Salazar, et al., (E.D. California) (Filed March 4, 2009). Both actions are merits challenges to the biological opinion issued by the Fish and Wildlife Service (FWS) to the Bureau of Reclamation (USBR) and the California Department of Water Resources (DWR), as an applicant, for take of delta smelt that results from the coordinated operations of the Central Valley Project (CVP) and the California State Water Project (SWP). Plaintiffs in *San Luis & Delta Mendota Water Authority* are federal water contractors for water delivered by the CVP, and plaintiffs in the eponymous *State Water Contractors* are state water contractors for water delivered by the SWP. Note that while the federal water contractors name USBR as a defendant, all of the enumerated claims are against the FWS.

Indian Educators Federation v. Kempthorne (Indian preference litigation). By letter dated March 10, 2009, the Department recommended to the Department of Justice (DOJ) that the district court's ruling not be appealed. DOJ had filed a protective notice of appeal in February but the appellate staff and the Solicitor General's Office has not yet completed its review and made its final determination on the appeal. The filing of the notice of appeal by DOJ produced some controversy in the Indian community, and the plaintiffs (who did not appeal) issued a press release denouncing the filing by the U.S. DOJ has strongly advised the Department not to comment on the notice of appeal other than to state that the notice was filed, or to suggest at all that the U.S. is still considering whether to appeal. This advice is passed along herewith. The next docketing filing is due in late March, and if the notice of appeal has not yet been withdrawn there may be further press response.

Upcoming Interior Decisions and Follow-up to December 2008 IG Report on ESA and Science. On March 23, 2009, the Department of Justice must file reports regarding the agency reviews in three different cases and whether, as a result the December 2008 IG Report on ESA and Science, the U.S. desires to change its litigating position in defense of the FWS decisions relating respectively to the recovery plan and revision of critical habitat for the Northern Spotted Owl, the negative 12-month finding for the Gunnison Sage Grouse, and the designation of critical habitat for the bull trout. FWS and BLM are meeting on March 19 to brief the Office of the Assistant Secretary--FWP on the implications for owl litigation pending in DC before Judge

Sullivan as well as with respect to BLM's Western Oregon Plan Revisions and the various challenges to that BLM decision. While DOJ would prefer to advise the court of the U.S. litigation position in the March 23 status report, it must have a final recommendation from the Department prior to an April 1 status hearing scheduled by Judge Sullivan. With respect to the Gunnison Sage Grouse, DOJ must advise Judge Walton here in DC what our ultimate litigating position is, while it is legally obligated only to advise Judge Jones (D. Or.) of the status of the review for the bull trout critical habitat. Judge Jones is reportedly ill and the plaintiff, the Center for Biological Diversity, is upset with the lengthy delay in rendering a decision in this fully briefed case and is apparently considering filing a motion to transfer the case to another judge. The Service is in the process of finalizing its recommendation for these latter two listing actions.

Wolfchild v. United States, (Fed. Cir). Descendants of a group of Mdewakanton Sioux filed suit in the Court of Federal Claims in November of 2003, claiming that three appropriations acts in the late nineteenth century had created a trust for that group of Indians and their families forever; and that the United States had breached the trust. On March 10, 2009, the Court of Appeals for the Federal Circuit issued an opinion ruling that the three appropriations acts evidenced no intention by Congress to create a trust, but rather only to provide the Secretary of the Interior with funds to spend as he wished for the benefit of the impoverished Mdewakantons and that the land purchased with those funds were not held in trust by the United States. The decision is important because it sustains the government's position that congressional appropriations on behalf of tribes or individual Indians do not intrinsically create trust duties.

March 13, 2009

Memorandum

To: Laura Davis
Associate Deputy Secretary

From: Amy Holley
Chief of Staff for Water and Science

Subject: Weekly Meeting Issues

Bureau of Reclamation

Lake Berryessa

The Solicitor's Office has determined that new concession contracts at Lake Berryessa (California) are likely in violation of the Antideficiency Act because they promise to reimburse contractors fair market value in 2038 for new improvements or pay interest if payment is delayed. The promises to pay were modeled on National Park Service statutory authority that is inapplicable to Reclamation. Because of this potential statutory violation and the significant litigation risks associated with bilateral contract modifications, Reclamation is embarking on a process to re-initiate bidding and provide the recreational business community, the public, local governments, and interested members of Congress with updates on the situation.

Delay of Water Deliveries to the Klamath Project, Oregon

Due to lower than expected surface elevation in Upper Klamath Lake and low inflows the Bureau of Reclamation is anticipating a two week delay in the beginning of the irrigation season for the Klamath Project. The current lake level is approximately 1.0 foot below the minimum elevation identified in the U.S. Fish and Wildlife Service (FWS) BiOp. The current estimate of seasonal inflow, projected by the Natural Resource Conservation Service (NRCS), is that seasonal inflow will be about 71 percent of average. Reclamation is coordinating closely with water users, the State of Oregon, the FWS and other Federal, State, and local organizations to examine all possible ways to fulfill its water supply obligations, which include the protection of fish and wildlife and associated habitats.

Federal Columbia River Power System (FCRPS) Biological Opinion (BiOp) Litigation

- On March 6, oral arguments on the Plaintiff's motion for summary judgment were heard.
- District Court Judge James Redden will be working on writing his opinion for this case into the month of **April**. Questions from Judge Redden are anticipated during this time.
- Judge Redden did not take further action on permanent injunctive relief during the March 6 hearing.

Background:

- The FCRPS facilities are operated by the Corps of Engineers and the Bureau of Reclamation. Power from the system is marketed by the Bonneville Power Administration. The FCRPS provides about 30% of the electric power in the Pacific Northwest.
- A coalition of environmental and fishing groups, the State of Oregon, and the Nez Perce Tribe (as amicus) have challenged the 2008 FCRPS BiOp in Federal District Court claiming that the BiOp is arbitrary and capricious under the Administrative Procedure Act and fails to meet the requirements of the ESA and Clean Water Act.

U.S. Geological Survey

Oil Shale Resources Assessment in the Green River Formation of CO, UT, and WY: The USGS is finalizing its assessment of in-place oil shale resources in the Green River Formation of Colorado, Utah, and Wyoming. Published oil shale assessments are nearly 20 years old and need to be updated to understand the potential of oil shale to contribute to the U.S. energy mix. The Energy Policy Act of 2005 (P.L. 109-58 §369) recognized this need, and the USGS, in support of this Act, began a new national assessment of oil shale resources, focusing specifically on the Green River Formation. First to be finished is the assessment of the in-place oil shale resources in the Piceance Basin of western Colorado, with assessments of the Uinta Basin in eastern Utah and the Greater Green River Basin of southwest Wyoming to follow in a few months. Of the three basins, the Piceance Basin contains the thickest and richest oil shale deposits and is the focus of most on-going R&D extraction projects. This assessment will be released in the next couple of weeks. We will be briefing BLM and congressional staff.

PBS Broadcast, "On Thin Ice in the Bering Sea": On March 24, the PBS science program NOVA will broadcast the documentary "On Thin Ice in the Bering Sea," about northern Bering Sea integrated ecosystem research projects conducted aboard the U.S. Coast Guard ice breaker Healy by USGS and National Science Foundation partners.

USGS to Brief Congressional Task Forces on Pest Management Research: On March 18, USGS scientist Mark Gaikowski will brief a joint meeting of the Great Lakes and Upper Mississippi River Congressional Task Forces in Washington, DC, on pest management research to control aquatic invasive species.

Congressional Briefing - Past, Present and Future of Climate Change Science: On March 20, at 10:00 a.m., the USGS will hold the first in the 2009 Congressional briefing series entitled,

"USGS Climate Change Science: Exploring the Past, Observing the Present, Forecasting the Future" in room 1324 of the Longworth House Office Building. This briefing will provide a snapshot of where climate change science is today and where it is heading, discuss efforts to pull Federal research activities together through the Climate Change Science Program and then demonstrate USGS science leadership in climate change research. Scheduled speakers include Bob Corell, Vice President of Programs at The Heinz Center; Peter Schultz, Director of the Climate Change Science Program Office; and Virginia R. Burkett, Chief Scientist for Global Change Research at USGS. Dr. Tom Armstrong, Senior Advisor for USGS Global Change Programs will serve as the emcee and provide closing comments. Congressional sponsors for the briefing include Representatives Jim Moran (VA) and Vernon Ehlers (MI). The host organizations are the Heinz Center, the U.S. Climate Change Science Program and the International Year of Planet Earth.

Congressional Briefing – Water Quality in Domestic Drinking-Water Wells: On March 27, the Water Environment Federation (WEF) will sponsor a Congressional briefing from 9:30 a.m. to 11:30 a.m. in the Cannon Caucus Room of the Cannon House Office Building to discuss new USGS findings about the quality of our Nation's private drinking water wells. USGS will release findings on 2,100 wells sampled in 48 states from 30 of the Nation's 62 major aquifers. Speakers include Dr. Leslie DeSimone, USGS; Mr. Kevin McCray, Executive Director, National Ground Water Association; and Dr. Kenneth Cantor, Senior Investigator, National Institutes of Health, National Cancer Institute. They will describe how cooperating federal agencies and scientists are using the information to answer important questions about the overall quality and safety of private well water and to address public health issues, including research by the National Cancer Institute on arsenic in drinking water and relations to bladder cancer. In addition, the briefing will provide guidance on state well drilling and well testing requirements, maintenance and testing, and water treatment options. USGS Associate Director for Water Matthew Larsen will serve as moderator. Additionally, a briefing for staff of the Senate Environment and Public Works Committee is scheduled from 1:30-3:00 p.m. on March 27. Location TBD. (Update)

USGS to Brief House Interior Appropriation Subcommittee on Old Growth Tree Mortality: Associate Director for Biology, Sue Haseltine, and USGS scientists Phil Van Mantgem and Nate Stephenson are planning to brief staff on the House Committee on Appropriations, Subcommittee on Interior, Environment and Related Agencies, about research showing the doubling of tree death rates in old-growth forests of the western United States. The findings link this trend to regional warming. The briefing is being planned for mid to late March 2009. (Update)

Congressional Briefings Postponed -- California Water Projects: USGS scientists Jon Burau and Roger Fujii plan to brief staff of Senators Boxer and Feinstein and Representatives Costa, Matsui, and Napolitano, and staff of the House Natural Resources and Senate Energy and Natural Resources Committees on current USGS water projects in California. These include carbon sequestration farming and fish and flow work in the Bay-Delta region. The visits are postponed until after April 13.

Briefing Statement

Bureau: National Park Service
Issue: Flight 93 Land Acquisition
Date: March 5, 2009

I. SUMMARY

On September 24, 2002, Congress enacted the Flight 93 National Memorial Act (P.L. 107-226, 116 Stat. 1345), which authorized "a national memorial to commemorate the passengers and crew of Flight 93, who, on September 11, 2001, gave their lives thereby thwarting a planned attack on our National Capital" The Act specifically designated the crash site of Flight 93, located in Stonycreek Township, Somerset County, Pennsylvania. The Act authorizes the Secretary of the Interior and the National Park Service to "acquire from willing sellers lands or interest in the land for the Memorial site by donation, purchase with donated or appropriated funds, or exchange" A subsequent amendment authorized the use of condemnation if necessary.

The National Park Service (NPS), the Families of Flight 93 (Families), the Flight 93 Advisory Commission and congressional delegation have agreed to complete Phase 1 of the memorial by September 11, 2011 in time to commemorate the tenth anniversary of Flight 93 tragedy. A press conference attended by all the major partners was held on February 20, 2009 at which time the completion date was affirmed along with the critical project execution milestones listed below. In order to meet this ambitious schedule, eleven privately owned tracts must be acquired by the federal government by May 2009.

II. DISCUSSION

Background: The NPS, working in concert with its partners the Families of Flight 93 and the Conservation Fund, have actively pursued the purchase of land at Flight 93 National Memorial for more than five years. Efforts have concentrated on the eleven parcels critical to construction of Phase I of the memorial design. Two properties, the Svonavec and Kordell tracts, are considered the lynchpin to implementing the memorial design, but have been particularly problematic. To date, no properties are in federal ownership, yet all eleven tracts are needed in order to begin construction in November, 2009.

Acquisition Status:

(01-102) - Svonavec Inc: 275 acres. Includes the Sacred Ground that contains most of the remains of the passengers and crew. On January 16, 2009, the NPS, Families and Svonavec, Inc. reached an agreement in principle to allow timely development of the property. The process provides the NPS access to the site and allows NPS to conduct activities necessary to plan and construct the Memorial. All parties have also agreed to a process that includes a Declaration of Taking (DT) and binding valuation decided by the courts. Svonavec, Inc. agreed to identify the oil and gas rights they wish to reserve by March 1, 2009. To date, they have failed to do this

Ex. 5

(01-100) - Kordell: 148.75 acres. Required for Phase 1A Ring Road and development of future phases. The appraisal and offer for this property were presented to the landowners in 2007. The landowners want agreement on relocation costs before accepting an offer for the land. Relocation offer was presented to the landowners on January 20, 2009. Landowners have asked for the real estate appraisal to be updated because gas and mineral rights values may have changed in the last year due to the potential development of natural gas resources in the Marcellus Shale in PA, WV and OH. NPS was contacted by

the landowner attorney on 2/19/09 and advised that the Kordell's do not want the NPS to do the Environmental Site Assessment (property inspection) until after the appraisal has been completed and they have agreed on the property value. The NPS received a letter from Kordell's attorney regarding discrepancies they have identified in the relocation offer. The NPS and the relocation contractor are addressing these items. It's unclear if there will ever be an agreement on the relocation offer.

(01-110) & (01-120) - Musser et al: 01-110 is a right of way (ROW) of approximately 2.8 acres. It currently provides Mr. Musser access to another of his parcels which consists of 61.87 acres, Tract 01-120. NPS must acquire the ROW in order to construct the memorial. At that time NPS must either a.) provide the landowner with a new ROW so that he can continue to get to his other property, or b.) acquire both the ROW and the larger tract since the government cannot land lock any parcel. The landowner would prefer that the NPS provide an alternate ROW rather than acquire his entire property. The only feasible access to Musser's larger tract is through Tracts 01-101 and 01-108 which are currently owned by the Families. NPS has discussed two alternate ROWs with Mr. Musser and neither was acceptable. Another of Mr. Musser's concerns is his ability to retain hunting rights on his 62 acre property, which is not acceptable to NPS.

(01-103) & (01-105) - T. Lambert: 4.16-acre and 0.95-acre tracts within Sacred Ground area. Families are pursuing negotiations. Landowner is nonresponsive to Families' inquiries.

(01-101) & (01-108) - Families : Approximately 863 acres south of US Route 30, and an additional 27.5 acres within the Sacred Ground area. Former owned by PBS Coals. In 2008, NPS identified surface and subsurface title issues on 3 parcels of land within this property. Attorneys for NPS and the Families are working to resolve these issues. On January 26, 2009, another title issue was discovered relating to an affirmative maintenance obligation for the Township road that runs through the property. NPS has informed the Families of this problem. A recently completed hazmat report will require approval by DOI Asst. Sec., Policy, Management and Budget because the Director's authority to accept liability is limited to \$500K and although the Families are responsible for the current acid mine drainage trust fund (\$2.3M), it is unclear if the USA would be assuming any future acid mine drainage liability. NPS has received a "comfort" letter from the PA Department of Environmental Protection stating it is not its policy pursue the surface owner for these types of issues. We believe the risk for the USA is minimal; however, since the acid mine drainage issue could potentially pose a future environmental liability to the surface owner, the DOI Asst. Sec., Policy, Management and Budget must sign off on the hazmat report. If title issues cannot be resolved, then condemnation should be used to clear title; NPS must consult with DOJ to confirm condemnation will in fact clear title.

(01-104) - Hoover: 5.4 acres. Improved property completely within the Sacred Ground area. Families have the lead in negotiations. NPS and Families will work with ASD on third party appraisal project to update the value.

(01-106) - Eschrich: 4.18 acres. Improved tract within the Sacred Ground area. Families have lead in negotiations. Landowner, who does not live in the area, has been nonresponsive. The Families spoke with Mr. Eschrich's son Dennis on 2/15/09 and have been advised that their family was not interested in negotiating.

(01-107) - Williams: 5.5 acres. Improved tract within the Sacred Ground area. Families have lead in negotiations. Landowners verbally informed NPS that they are only interested in being made whole by having the government purchase a replacement (duplicate) property and that they incur no costs including legal fees. NPS has no authority to acquire land outside the boundary of the Memorial. NPS and Families will work with ASD on third party appraisal project in order to update the value.

Construction Milestones:

July 30, 2009	Construction design documents completed and approved
August 15, 2009	National Park Service Director's Approval to proceed to advertise for construction
August 17 to October 29, 2009	Prepare bid documents, solicitation, & bid period for construction contract
November 1, 2009	Construction contract awarded (all land must be secured, and federal and private funding in place)
November 7, 2009	Groundbreaking ceremony
December 1, 2009 to August 1, 2011	Contractor mobilization & construction activities
September 1, 2011	Final inspection/acceptance
September 11, 2011	Dedication ceremony

Next Steps and Recommended Actions:

- The NPS and their partners have reached an impasse or insurmountable legal impediments with each of the 11 properties. Further negotiations may result in a breakthrough, but time is rapidly running out. In order to meet the construction timeframes widely publicized and accepted by all major parties, the NPS recommends that the Secretary agree to allow the NPS to proceed with condemnation through Declaration of Taking (DT) on each of the 11 tracts. Through this process, the NPS receives near immediate ownership of the properties and agrees to binding valuation decided by the courts. Authority to pursue condemnation has been approved by Congress through legislative authority and verbal agreement. The Department of Justice stands ready to file the necessary legal actions soon after getting the go ahead from the Secretary.
- The NPS also requests a waiver of Departmental policy regarding the timeliness of Environmental Site Assessments. Assessments previously completed on some of the parcels have now exceeded their 6 month validity. Since no outside actions have influenced these tracts since the assessments were completed, NPS recommends that the current assessments be extended thus avoiding the additional time and cost of pursuing new ones.

PREPARED BY: Steve Whitesell, Associate Director -- Park Planning, Facilities and Lands
202-208-3264

Briefing Statement

Bureau: National Park Service
Issue: Advisory Council on Historic Preservation (ACHP) "Recommendations to Improve the Structure of the Federal Historic Preservation Program,"
January 16, 2009.
Date: February 25, 2009

Background:

- The National Historic Preservation Act of 1966 (NHPA) established the national historic preservation infrastructure, including a National Register of Historic Places and a "Keeper of the National Register," and placed leadership with the Secretary of the Interior for setting standards for historic preservation treatments, for providing subject matter expertise to Federal agencies, states and private individuals, and for serving on the ACHP.
- A national Preserve America summit was convened in 2006 by the ACHP in New Orleans on the 40th anniversary of the NHPA.
- The summit concluded with 13 recommendations for increasing the effectiveness and benefits from the national preservation system.
- Included among these recommendations was a charge to the ACHP and DOI to "explore improvements in the program structure of the federal preservation program through creation of an independent review panel."
- The co-chairs of the Preserve America Steering Committee, former Deputy Secretary of the Interior P. Lynn Scarlett and Advisory Council Chairman John L. Nau, III, convened a panel of ten citizens to evaluate the structure of the federal historic preservation program and produce a report with recommendations for improvements.
The panel members were:
 - Susan Barnes of The Landmark Group of Companies;
 - Philip Grone, former Deputy Under Secretary of Defense for Installations and Environment;
 - Daniel P. Jordan of the Thomas Jefferson Foundation;
 - Frank Matero, professor of architecture and chair of the Graduate Program in Historic Preservation at the University of Pennsylvania;
 - Richard Moe of the National Trust for Historic Preservation;
 - David Morgan, former Kentucky State Historic Preservation Officer (panel vice chairman);
 - Ellen O. Moyer, mayor of Annapolis, MD;
 - Theresa Pasqual, director of the Acoma Pueblo Historic Preservation Office;
 - Doug Wheeler, partner at Hogan & Hartson (panel chairman); and
 - Jay Vogt, South Dakota State Historic Preservation Officer and president of the National Conference of State Historic Preservation Officers.
- The report was submitted to the ACHP at its February 20, 2009, meeting.
- Included in the report are seven recommendations, each with sub-recommendations and a justification.
- The National Park Service (NPS) requested that ACHP allow federal agencies to comment on the report and its recommendations prior to the next quarterly ACHP meeting scheduled for May 13-14, 2009.

Report Issues and Recommendations:

Issue 1: Federal Preservation Programs Lack Strong Leadership

Recommendation: The ACHP should be headed by a chairperson who is appointed by the President with the advice and consent of the Senate. The chairperson should lead the agency full-time. Additionally, to recognize the role historic preservation can play in addressing many national issues, the chairperson of the ACHP should be appointed as a member of the White House Domestic Policy Council.

Issue 2: DOI Preservation Programs Require Better Coordination, Greater Visibility

Recommendation: Within the Office of the Secretary of the Interior, a new Office of Preservation Policy and Procedure (OPPP) should be established to oversee implementation of NHPA throughout DOI. The

OPPP would provide leadership and direction in the coordination and achievement of historic preservation performance, evaluate achievement, secure appropriate levels of funding and provide for a coordinated and unified approach and response to historic preservation issues and compliance with the NHPA.

Issue 3: Natural Resource and Cultural Resource Programs Should be Better Integrated

Recommendation: The expert panel proposes the creation of an Associate Director for Cultural Resources within the White House Council on Environmental Quality.

Issue 4: Federal Preservation Officers Are Not Fully Effective Within Their Agencies

Recommendation: The expert panel recommends ensuring the full implementation of Section 110 of the NHPA and Section 3(e) of Executive Order 13287 (Preserve America) concerning the appointment and visibility of Federal Preservation Officers.

Issue 5: Federal Funding is Inadequate to Meet the Mandates of the National Historic Preservation Act

Recommendation: The expert panel recommends fully funding the Historic Preservation Fund and allocating additional funds to Tribal Historic Preservation Offices (THPOs).

Issue 6: Funding and Technical Support to THPOs is Woefully Inadequate

Recommendation: The expert panel recommends greatly enhancing the visibility and capacity of tribal preservation efforts through comprehensive training for tribal leaders, through the creation of a dedicated position within the OPPP to address Native American issues, and through dispensing adequate funding to THPOs and to the Native American Advisory Group located in the ACHP.

Issue 7: The Section 106 Function is Lagging and Must Be Strengthened

Recommendation: The expert panel members strongly reaffirm that oversight of Section 106 of the NHPA is the most important function of the ACHP. ACHP involvement in individual Section 106 cases has a substantial and beneficial influence on the outcome of the consultation process and should be encouraged and expanded. Therefore, additional resources should be provided to support the ACHP's crucial role in Section 106 involvement, oversight and training.

Concern:

Some of the recommendations propose to expand the authority and responsibility of the ACHP beyond its existing legislative purpose by establishing an additional layer of bureaucracy between bureaus and the Department, assuming responsibility and oversight of program areas already administered by the Department through bureau directors, and distracting the ACHP from its original purpose of providing oversight for the National Historic Preservation Act Section 106 process

Next Steps:

- In order to provide comment to the ACHP by their deadline of May 1, 2009, a consolidated DOI response should be in draft form to the Secretary by April 1, 2009
- NPS has submitted the report to SOL for review and comment. NPS is also requesting that other affected DOI bureaus review the report and submit comments, by March 20, 2009.
- NPS will compile the comments and prepare a draft response for Secretary Salazar's signature by April 1, 2009.

Contacts:

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200-7625

MEMORANDUM

To: Laura Davis
Associate Deputy Secretary

From: Richard T. Cardinale
Chief of Staff to the Assistant Secretary -
Land and Minerals Management

Re: Summary Report for March 9, 2009 Meeting

Date: March 13, 2009

Accompanying this memorandum is a report that combines key new and ongoing policy and regulatory decision items, and events that are either bureau-sponsored or at which there will be bureau representation by the Bureau of Land Management, Minerals Management Service, and Office of Surface Mining Reclamation and Enforcement.

Although a formal invitation has not yet been received, it is our understanding that there will be a hearing on April 2nd before the House Appropriations Subcommittee on Interior, Environment, and Related Agencies. This will be a follow-up to the March 3rd hearing before the same Subcommittee wherein acting DOI Inspector General Mary L. Kendall and Robin M. Nazzaro of GAO testified on "DOI Major Management Challenges." The witnesses for the April 2nd hearing will be the Acting MMS Director, Walter Cruickshank, and the Acting DOI Inspector General, Mary L. Kendall.

As noted in last week's report, Chris Oynes, Associate Director of MMS's Offshore Energy and Minerals Management Program, will testify before the House Natural Resources Subcommittee on Energy and Mineral Resources (Costa) on MMS's Offshore Energy and Minerals Management (OEMM) Program. OEMM Associate Director Chris Oynes will testify at the March 17 hearing. In addition, MMS Alaska Regional Director John Goll will be part of a North Slope Science Initiative (NSSI) delegation to visit DOI and Congressional staff to discuss the NSSI Annual Report to Congress. Representatives from the State of Alaska, the North Slope Borough, and the U.S. Arctic Research Committee will participate.

Finally, BLM's Eastern States Office will conduct an oil and gas lease sale on March 19th that will make 66 parcels available for leasing containing 31,445 acres. Those parcels are located in four states, Louisiana, Michigan, Arkansas, and Michigan.

Other matters are also listed. If you need any further information, please contact me at (202) 208-7214.

LAND AND MINERALS MANAGEMENT

March 15 – March 21, 2009

SENIOR OFFICIALS ACTIVITIES

Richard Cardinale, Acting Assistant Secretary, Land and Minerals Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Mike Pool, Acting Director, Bureau of Land Management

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

Walter Cruickshank, Acting Director, Minerals Management Service

Focus: Travel to New Orleans, LA to attend the Central Gulf of Mexico Lease Sale 208 on March 17 and 18. Return to Washington, DC to attend regularly scheduled meetings.

Glenda Owens, Acting Director, Office of Surface Mining Reclamation and Enforcement

Focus: In Washington, DC, continuing to focus on priority items and attend regularly scheduled meetings.

WEEK AHEAD

Bureau of Land Management (BLM)

- **Casper Field Office Resource Management Plan (RMP) Implementation Workshop:** BLM-Wyoming Casper Field Office will hold its second annual RMP implementation workshop on March 20th. This annual coordination meeting will include an update on implementation of the plan, foreseeable activities for the upcoming year, and opportunities for continued collaboration with the RMP cooperators. BLM has invited representatives of state and local governments, congressional representatives and other federal agencies to attend.
- **Upcoming Oil and Gas Lease Sales:**
 - BLM-Eastern States Office will conduct an oil and gas lease sale on March 19. There are 66 parcels available for sale containing 31,445.22 acres: six parcels in Alabama, 15 parcels in Arkansas, 31 parcels in Louisiana, 13 parcels in Michigan, and one parcel in West Virginia. BLM posted the list of parcels on February 2, 2009.
 - BLM-Utah State Office will conduct an oil and gas lease sale on March 24. The protest period on the proposed list of parcels closed on March 9, and the final list will be available on March 17. In addition, in preparation for the May 19 oil and gas lease sale, the State Office is preparing draft documentation of NEPA Adequacies, which was due

March 13, for the preliminary list of 91 parcels that encompass 141,569 acres. The final list will be post on April 3.

- BLM-Montana State lease sale April 14. BLM posted the 67 parcels to be offered on February 27. There are 51 parcels in Montana and 16 in North Dakota. Of the 51 in Montana, 36 parcels contain split estate lands. BLM notified private surface owners by mail. BLM posted the list of parcels on February 27, 2009.
 - BLM-New Mexico lease sale April 22. There are 87 parcels for sale, covering 44,756.69 acres in New Mexico, 8,048.31 acres in Kansas, 710.25 acres in Oklahoma, and 8,828.04 acres in Texas. BLM posted the list of parcels on March 4.
 - BLM-Utah lease sale May 19. There are 91 parcels containing 141,569 acres which have been nominated. BLM is currently working on NEPA adequacy documents. BLM will provide further briefing material to BLM-Wyoming by March 13, and will post the final list April 3, once Wyoming has approved the parcels.
 - BLM-Oregon lease sale June 17. BLM-Oregon is finalizing a Decision of NEPA Adequacy for the sale. Briefing material will be submitted to BLM-Wyoming by April 23.
- **Oversight Hearing:** On March 19th, the House Natural Resources Committee, Subcommittee on National Parks, Forests and Public Lands, will hold an oversight hearing on "Restoring the Federal Public Lands Workforce: Issues affecting morale at National Park Service, Bureau of Land Management, and Forest Service". The hearing will be held at 10:00 a.m., 1324 Longworth. The witness has yet to be announced.
 - **Kane Ranch Headquarters Open House:** BLM-Arizona management staff will attend this Grand Canyon Trust (GCT) and Kaibab Vermilion Cliffs Heritage Alliance sponsored event on March 21st. The event is being hosted as part of the Arizona Archeology Awareness Month and will celebrate the listing of the Kane Ranch Headquarters on the National Register of Historic Places. The Kane Ranch, coupled with Two Mile Ranch, encompasses an area of ecological importance.

Minerals Management Service (MMS)

- **Congressional Hearing:** On March 17th, the House Natural Resources Subcommittee on Energy and Mineral Resources will hold an oversight hearing on issues related to oil and gas leasing and development on public lands, with a specific focus on the Outer Continental Shelf (OCS). The hearing is a continuation of a series of oversight hearings before the House Natural Resources Committee on the OCS oil and gas leasing program. Chris Oynes, Associate Director - Offshore Energy and Minerals Management, program will testify
- **Cooperative Agreement Reviews Scheduled with Colorado and Texas:** Staff from the Colorado State and Tribal Contract Administrator's Office will be conducting a Cooperative Agreement Review of the State of Colorado, Colorado Department of Revenue, Mineral Audit Section in Denver, Colorado, on March 19-20, 2009 and of the Texas General Land Office in Austin, Texas, on March 23-24, 2009. These annual reviews fulfill regulatory requirements and are held to enhance our partnership with the States of Colorado and Texas.

- **Alaska North Slope Science Initiative – Congressional Visits:** During the week of March 16th, MMS Alaska Regional Director John Goll will be part of a North Slope Science Initiative (NSSI) delegation to visit DOI and Congressional staff to discuss the NSSI Annual Report to Congress as established under Sec. 348 of the Energy Policy Act of 2005. The report describes the background and scope of NSSI and some of the projects of the past year. Representatives from the State of Alaska, the North Slope Borough, and the U.S. Arctic Research Commission will participate.
- **Central Gulf of Mexico Planning Area - Lease Sale 208 (March 2009):** Secretary Salazar is scheduled to attend the lease sale bid opening on March 18th at the New Orleans Superdome. Sale 208 will be the first Central Gulf of Mexico Planning Area Sale to include the newly available area south of area 181.

Office of Surface Mining (OSM)

- **West Virginia Forum on Statewide Water Sampling Programs:** On March 17th, the West Virginia Watershed Network (WVWN) is conducting its semi-annual meeting and open public forum in Morgantown, West Virginia. The WVWN has invited several speakers to present information about ongoing water sampling programs being conducted across the State with an emphasis on purpose, data collection process, data storage, and access. Several presentations will pertain to water sampling programs associated with the coal mining programs, including Active Coal Mining, Bond Forfeiture, and Abandoned Mine Programs managed by the West Virginia Department of Environmental Protection. The WVWN is a group of state and Federal agencies as well as nonprofit groups committed to providing resources for watershed management in West Virginia.

GRANTS

Bureau of Land Management (BLM)

No new grants to report this week.

Minerals Management Service (MMS)

No new grants to report this week.

Office of Surface Mining (OSM)

- **OSM to Award Commonwealth of Pennsylvania Abandoned Mine Land (AML) Grant:** On March 17th, OSM will award the Pennsylvania Department of Environmental Protection (PADEP) a FY 2009 AML Grant in the amount of \$29.9 million. The AML Program award will provide PADEP funding for the following AML activities: Non-Emergency Administrative Costs; Non-Emergency Non-Water Supply Project Costs; and Non-Emergency Water Supply Project Costs. Pennsylvania's FY 2009 Grant's performance period is January 1, 2009, through December 31, 2011, with the use of 127 full-time equivalents (FTE).

- **OSM to Award Indiana Abandoned Mine Lands (AML) Program Grant:** On March 27th, OSM plans to award \$9.3M under the FY 2009 AML distribution to fund Indiana's FY 2009 AML Program. The grant period runs from April 1, 2009, to March 31, 2012. The Indiana Department of Natural Resources will use the grant funds for AML program administration and reclamation activities within Indiana.

ON THE HORIZON

**Updates are shown in italics*

Bureau of Land Management (BLM)

- **New: District Timber Sales:** BLM's Oregon Coos Bay District Office will conduct two timber sale auctions on March 27th. The timber sales, *Cherry Wall Density Management Thinning* and *Pink Panther Commercial Thinning*, were developed under the management direction of the 1995 Coos Bay District RMP. Volume from the two sales totals approximately 5.7 million board feet. BLM consulted in ESA for owls and merrlet and received a 'no effect' call from NOA and FWS in a Biological Opinion. The timber sales include thinning operations and are not expected to be controversial.
- **New: North Soup/Blue Retro Density Management Study and Timber Sales:** The North Soup/Blue Retro Density Management Study Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) are open for a public comment period through April 5th. The proposed action alternative in the EA proposes to re-thin two Density Management Study sites on the Coos Bay District. This treatment will initiate the second phase of a long-term research project. The BLM, Pacific Northwest Research Station, USGS, and Oregon State University established the Density Management and Riparian Buffer Study in 1994 to demonstrate and test options for young stand management. The EA conforms to the Coos Bay District 2008 RMP, and specifically the RMP direction regarding ongoing research projects. Two thinning sales resulting from this EA are scheduled for bids in May and June 2009. The EA, FONSI, and timber sales are not expected to generate much controversy. Local environmental groups generally support thinning sales, and these treatment areas do not include any ESA listed fish species or critical habitat for any ESA listed wildlife species. Furthermore, the public generally supports research studies such as this one, which aims to improve understanding of the impacts of various forest practices on stand development.
- **New: Western Regional Partnership Meeting:** The second Western Regional Partnership (WRP) Principals' meeting will be held in Reno, Nevada, March 31–April 1. The meeting is co-hosted by the Department of Defense and the State of Nevada. WRP committees are working to improve regional and interagency collaboration to address regional issues such as population growth, economic health, and planning for long term and sustainable public health and safety. Representatives on the committee include states, federal agencies, military installations and non-governmental organizations. BLM Nevada State Director Ron Wenker and Deputy State Director Mike Holbert will attend the meeting.

- **New: Tribal Listening Sessions:** BLM will conduct a series of regional tribal listening sessions across the country this spring. Information and recommendations obtained through the meetings will benefit BLM's initiatives and objectives as it continues to meet its tribal consultation and land management responsibilities. During the listening sessions, agency officials will solicit ideas and recommendations for improving how BLM consults with tribes and any other suggestions for enhancing their efforts to work with the tribes. Input will also augment appropriate revisions to the national Programmatic Agreement. Listening sessions are planned in April and May in Phoenix, Arizona; Billings, Montana; Albuquerque, New Mexico; Boise, Idaho; Reno, Nevada; and Palm Springs, California.
- **New: Notice of Availability of the BNI Coal, Ltd, Federal Coal Lease Application Environmental Assessment (EA) and Notice of Public Hearing:** BLM-Montana has prepared for publication in the *Federal Register* a Notice of Availability of the BNI Coal, Ltd, Federal Coal Lease Application EA and Notice of Public Hearing. The land included in Coal Lease Application NDM 97633 is adjacent to BNI's Center Mine, located in Oliver County, North Dakota, and contains an estimated 4.1 million tons of recoverable coal reserves. The EA addresses the cultural, socioeconomic, environmental, and cumulative impacts that would likely result from leasing these coal lands. A public hearing will be held to receive comments on the EA and associated Finding of No Significant Impact, Fair Market Value, and Maximum Economic Recovery of the coal resources for the application. The public hearing will be held 15 days from the publication of the Notice in the *Federal Register*; written comments must be received within 30 days of publication.
- **New: Notice of Temporary Closure at Stuart Ranch, Clark County, Nevada:** BLM-Nevada has prepared for publication in the *Federal Register* a Notice of Temporary Closure at Stuart Ranch in Clark County. The temporary closure will be for overnight camping, target shooting, and vehicular traffic on public land in the Stuart Ranch area northeast of Moapa, Nevada. BLM acquired the property in October 2007 to protect and restore an extensive riparian corridor along a perennial reach of Meadow Valley Wash and to protect significant cultural resources. The corridor is habitat to several Federally-listed endangered and state-listed sensitive plant and animal species. The closure is necessary to prevent further environmental damage and to ensure public health and safety at the ranch. The closure will be in effect upon publication of the Notice in the *Federal Register* and will continue until a management plan for Stuart Ranch is completed, for up to two years.
- **New: Notice of Availability of the Record of Decision (ROD) and Approved Resource Management Plan (RMP) for the Butte Field Office:** BLM-Montana has prepared for publication in the *Federal Register* a Notice of Availability of the ROD and Approved RMP for the Butte Field Office. The Butte Field Office includes about 307,000 acres of BLM land and about 661,000 acres of federal mineral estate in southwest Montana. These lands are spread out over eight counties within a 7.2 million-acre planning area. The RMP includes decisions for management of vegetation, wildlife and special status species habitats, travel management (including implementation decisions for route-specific management), recreation sites and opportunities, and special designations in the Butte Field Office.

- **New: Volunteer Shrub Plantings Planned for Magic Valley Area in Southern Idaho:** BLM-Idaho Twin Falls District and Idaho Department of Fish and Game are planning to conduct four volunteer shrub plantings in the Magic Valley Area in Southern Idaho in March and April. These include shrub plantings on an area burned by the Clover Fire (March 28 and April 4); at Indian Springs or Cherry Springs (April 11); and an area burned by the Nature Fire (April 18).
- **Update: BLM-Nevada Responds to Recent Decisions Involving Coal-Fired Power Plants:** *LS Power affiliate White Pine Energy Associates announced in a news release on March 5 that it is indefinitely postponing construction of a proposed 1,590-megawatt coal-fired electric power plant, White Pine Energy Station, located 34 miles north of Ely, Nevada.* BLM-Nevada Ely District Office is working with the Regional Solicitor to submit to the Interior Board of Land Appeals (IBLA) by March 31st a response to an appeal by several western conservation groups to the Record of Decision granting rights-of-way for the White Pine Energy Station. The appellants include the Center for Biological Diversity, Earthjustice, and Western Resource Advocates. In a separate action, the BLM-Nevada Ely District Office has requested that NV Energy submit a revised application for the Ely Energy Center, a 500-megawatt power plant and associated facilities that would be located about 20 miles north of Ely, also in White Pine County. This request comes after the public utility announced its intention to delay construction of the coal-fired power plant until carbon-capture technology becomes commercially feasible. The public utility wishes to proceed with the construction of two 500 kV transmission lines to connect its northern and southern electrical transmission systems. BLM requested a revised application for the transmission proposal to determine how to proceed in accordance with NEPA. These coal-fired power plants have been controversial, and Senator Reid is opposed to both projects.
- **Update: Notice of Availability of Record of Decision for the Rawlins Resource Management Plan/Environmental Impact Statement for the Rawlins Field Office:** BLM-Wyoming has delayed publication in the *Federal Register* a Notice of Availability of the ROD for the Rawlins RMP/EIS for the Rawlins Field Office. BLM-WO is waiting for additional briefing materials from the State on the degree to which the notice will be controversial, the concerns of the stakeholders, and how these concerns are being addressed.
- **Update: Temporary Off-Highway Vehicle Restriction:** BLM-Arizona Yuma Field Office has prepared for publication in the *Federal Register* a Notice of Extension that would extend an existing restriction on all forms of motorized travel for 122 acres of public land near Walters Camp in Imperial County, California. *The notice was submitted to the BLM Director's office on February 26th.*

Minerals Management Service (MMS)

Chronological MMS Events

- **New: House Appropriations Hearing.** On Tuesday March 10th, the Department notified MMS of a planned April 2, 2009, hearing before the House Appropriations Subcommittee on Interior, Environment, and Related Agencies. Although a formal invitation has yet to be received, it is our understanding that this hearing is a follow-up to the March 3, hearing before the same Subcommittee wherein acting DOI Inspector General Mary L. Kendall and Robin M. Nazzaro of

GAO testified on "DOI Major Management Challenges." The witnesses for the April 2nd, hearing will be the Acting MMS Director, Walter Cruickshank, and the Acting DOI Inspector General, Mary L. Kendall.

- **New: Briefing for Alaska State Senate:** The resources Committee of the Alaska State Senate has asked MMS Regional Director, John Goll, for a briefing in Juneau on March 23, 2009. The briefing will provide an overview of the status of activities on existing leases on the Alaska OCS, lease sales planned in the current 5-Year Program, and ongoing environmental studies.
- **Update: RIK Gulf of Mexico Natural Gas Sale:** RIK conducted a Gulf of Mexico Natural Gas Sale on March 4-5, 2009. *This sale sold approximately 208,000 MMBtu per day of natural gas production from Federal and 8(g) leases located in the Gulf of Mexico. Seven different companies submitted a total of 71 offers for this gas. Six companies received awards from this successful sale with deliveries to begin April 1, 2009 for terms of 7 or 12 months.*
- **Update: U.S.-Mexico Transboundary Issues and Seismic Data Acquisition Request from PEMEX within Eastern Gap:** The Government of Mexico contacted the State Department proposing to establish a bilateral agreement addressing the exploitation of transboundary oil and gas reservoirs along the entire U.S.-Mexico border. Discussions are currently underway regarding a possible technical meeting in New Orleans with Mexican Government officials for *March 30-April 3 (extended from March 30-31)*. The preliminary goal of this meeting is to discuss an informal information sharing agreement.

MRM Recurring Items

- **No Change: RIK Oil and Gas Sales:** FY 2009 RIK Oil and Gas Sales Key Milestones:
 - Tentative: Unrestricted GOM Crude Oil Sale May 6-7, 2009 for July deliveries
 - Tentative: Small Refiner GOM Crude Oil Sale August 4-5, 2009 for October deliveries
 - Tentative: Unrestricted GOM Crude Oil Sale August 5-6, 2009 for October deliveries

OEMM Recurring Items

- **Update: Secretary's Report on a Comprehensive Offshore Energy Program:** As a follow up to the Secretary's February 10 announcement, MMS and USGS are preparing the information that the Secretary requested by March 30th on conventional and renewable resources as well as identifying information regarding sensitive areas and resources in the OCS. *MMS and USGS are scheduled to brief their Directors and then the Assistant Secretaries on March 23. A briefing for the Secretary (yet to be scheduled) will follow.*
- **Update: New 5-Year Program – 2010-2015:** The Draft Proposed Program was published in the *Federal Register* on January 21, 2009. Based on the Secretary's guidance announced on Tuesday, February 10th, a *Federal Register* notice was published on March 4, 2009, that extends the comment period for the 5-Year Draft Proposed Program (DPP) by an additional 180 days (from March 23, 2009 to September 21, 2009). Additionally, the Plans are being made for the Secretary to host meetings in April on each coast and in Alaska to allow for input from states, stakeholders and affected communities to help develop an offshore energy plan for conventional

and renewable resources. MMS is leading the planning efforts for these meetings which are to place in Atlantic City, New Jersey (April 6); New Orleans, Louisiana (April 8); Anchorage, Alaska (April 14); and San Francisco, California (April 16). A Federal Register notice providing the public with this information is in the surnaming process and is expected to be published the week of March 16.

- **Update: Atlantic Seismic EIS:** On January 21, 2009, MMS published a *Federal Register* Notice of Intent to prepare an Atlantic area seismic EIS. The comment period closes on March 23, 2009. Three companies have formally submitted applications to MMS to conduct seismic surveys in the U.S. Atlantic OCS with an additional nine companies expressing interest in applying for permits to perform similar surveys in the Atlantic. MMS lacks the funds for the EIS. *The oil and gas industry is considering funding the EIS and a decision is anticipated by March 2009.*
- **Update: Alternative Energy Interim Policy Projects:** A table below summarizes the status of each Interim Policy project under MMS's consideration.

State	Total Applications	Developer	Applications Received	Project Review Status
Delaware	1	Bluewater Wind	1 – Bluewater Wind	EA, consultations, and lease stipulations in progress; developer is qualified to hold a lease; lease issuance target is April 2009.
Florida	2	Aquantis; Florida Atlantic University (FAU); Turner Hunt Ocean Renewable (THOR)	1 – THOR	Environmental review of THOR's recently submitted project application (1/23/09) has just begun. MMS awaiting additional information to confirm the developers are qualified to hold leases; MMS awaiting project applications from Aquantis and FAU. <i>Aquantis has been confirmed as qualified to hold a lease.</i>
Georgia	1	Southern Company	0	MMS awaiting project application from Southern Company; developer is qualified to hold a lease.

State	Total Projects	Developers	Applications Received	Project Review Status
New Jersey	6	Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	4 – Bluewater Wind; Deepwater Wind; Fishermen's Energy of New Jersey (FERN)	EA, consultations, and lease stipulations in progress; MMS awaiting additional information to confirm the developers are qualified to hold leases; lease issuance target is April 2009.

MMS is finalizing the draft EA for the seven proposed Interim Policy projects sited offshore Delaware and New Jersey in preparation for summing.

OEMM Lease Sales

- **No Change: Beaufort Sea Sale 209 (February 2010):** The target date for the sale bid opening is February 2010. Public hearings on the Draft EIS have been held in Anchorage, Barrow, Nuiqsut, Kaktovik, Wainwright, Point Lay, and Point. MMS is extending the written comment period on the Arctic Mid isale (Beaufort and Chukchi Sales 209, 212, 217, and 221) Draft EIS from March 15, 2009 to March 30, 2009.

Major Milestones

Public Hearings	January/February 2009
Final EIS Available	September 2009
CD and PNOS Issued	September 2009
Governor's Comments due	November 2009
FNOS published in the <i>Federal Register</i>	January 2010
Public Bid Opening/Reading	February 2010

- **Update: Western Gulf of Mexico Planning Area - Lease Sale 210 (August 2009):** The target date for the sale bid opening is August 19, 2009. *A Notice of availability will be published in the Federal Register for the Proposed Notice of Sale by the end of March, 2009.*

Major Milestones

CDs sent to States	March 11, 2009
Proposed Notice of Sale NOA published in <i>Federal Register</i>	March 30, 2009
Final Notice of Sale to be published in the <i>Federal Register</i>	July 8, 2009
Public Bid Opening/Reading	August 19, 2009

- **No Change: Cook Inlet Sale 211 (2010):** MMS will issue a second Request for Information (RFI) in May 2009, to determine industry interest, and annually thereafter through the 5-Year schedule, until a sale is held or the 5-Year schedule expires.

- **No Change: Central Planning Area 213 (March 2010):** The target date for the sale bid opening is March 17, 2010.

Major Milestones:

Publish NOA for the NEPA document & PNOS
Publish FNOS
Public Bid Opening/Reading

November 4, 2009
February 5, 2010
March 17, 2010

- **Update: North Aleutian Basin Sale 214 (November 2011):** *On March 3, MMS met with the Aleutians East Borough, a cooperating agency for the EIS, to discuss Fisheries Compensation. The target date for the sale bid opening is November 2011.*

Major Milestones:

Draft EIS	January 2010
Public Hearings	February/March 2010
Final EIS	January 2011
Consistency Determination/ Proposed Notice of Sale	January 2011
Governor's Comments Due	March 2011
Final Notice of Sale Published in <i>Federal Register</i>	October 2011
Public Bid Opening/Reading	November 2011

- **Update: Mid-Atlantic Offshore Virginia Sale 220 (2011):** The Governor of Virginia sent a letter dated February 19, 2009, requesting that Sale 220 be postponed. *The Lieutenant Governor sent a letter dated March 3, 2009, stating that he and others in Virginia disagree with the Governor's request for delay and instead would like to see Sale 220 held on schedule.* MMS continues its outreach to the Virginia State government. An internal presentation to the Deputy Secretary of the Interior regarding Sale 220 and Atlantic issues is being drafted.

Litigation

- **New: Pacific Energy Resources Ltd (PERL)/San Pedro Bay Chapter 11 Bankruptcies:** PERL and San Pedro Bay Pipeline Company notified MMS Pacific OCS Regional Manager by email on March 8, 2009, that they filed voluntary petitions for Chapter 11 bankruptcy in the U.S. Bankruptcy Court for the District of Delaware. The PERL is the sole owner/operator of three Pacific OCS Region leases (OCS-P 0300, 301 and 306) with three platforms located on these leases (Platforms Ellen, Elly and Eureka).
- **Updated: Alaska Wilderness League v. Salazar (Shell Exploration Plan):** On November 20, 2008, the U.S. Court of Appeals for the Ninth Circuit issued a split decision concluding MMS has violated the National Environmental Policy Act and Outer Continental Shelf Lands Act, vacated MMS approval of Shell's Exploration Plan, and remanded the case to the agency to prepare a revised Environmental Assessment or an Environmental Impact Statement. Three amicus briefs had been filed with the U.S. Court of Appeals for the Ninth Circuit in support of Shell's petition for *en banc* review of the court's November 20, 2008 decision. On February 17, 2009, the Mountain States Legal Foundation, the National Association of Manufacturers, and the Chamber of Commerce of the United States of America filed an amicus brief. On February 13, 2009, the State of Alaska and the Alaska Oil and Gas Association both filed amicus briefs. *On March 6, 2009, the Ninth Circuit panel vacated and withdrew its decision, and plans to rewrite its decision.*

- **Update: *Amher Resources v. U.S.*:** *The United States was sued by several companies owning interests in Pacific OCS Region leases claiming that the lease agreements were breached as a result of 1990 amendments to the Coastal Zone Management Act, which created new procedural requirements for development. The U.S. Federal Claims Court held that the lease agreements were breached and the Federal Government must repay original bonus bids totaling more than \$1 billion. The U.S. Court of Appeals for the Federal Circuit upheld that decision, and on 12/5/2008, denied the Government's request for a rehearing en banc. No decision has been made as to whether to seek Supreme Court review. The Solicitor General has received favorable recommendations from the Civil Division and DOI and an unfavorable recommendation from his staff. DOI and the Department of Justice met with the Deputy Solicitor General to discuss the legal issue and decide the next course. The Solicitor General will make the final decision.*
- **Update: *Aera/Noble v. Salazar*:** *In 1999, MMS determined that four Pacific OCS Region leases lacked hydrocarbon potential sufficient to justify their continued inclusion in Pacific OCS Units. As a result, they were excluded from units, not granted suspensions, and expired. The lessees appealed MMS decision to IBLA, and IBLA strongly affirmed MMS's decision. In September 2008, Aera, one of the lessees, filed for declaratory and injunctive relief in Federal District Court: Noble, which merged with Samedan, the lessee of one of the expired leases, filed likewise in November 2008. The Department of Justice (DOJ) filed for a consolidation of the cases in January 2009. The SOL and MMS are reviewing the plaintiffs' motion for summary judgment and supporting documents and will provide input to the DOJ. The Government's response motion is due by March 24.*

Office of Surface Mining

- **New: United Nations Environmental Program (UNEP) Representatives to Attend OSM Tree Planting Events:** On March 27th and 28th, Elisabeth Guilbaud-Cox, Deputy Director of UNEP's Regional Office for North America, and other representatives of UNEP will be honored guests at two tree planting ceremonies being conducted in West Virginia and Kentucky. The tree-planting ceremonies are two of 10 such events being organized by the Appalachian Regional Reforestation Initiative (ARRI), the Appalachian Coal Country Watershed Team, and OSM's Volunteers in Service to America. The appearance of UNEP in the Appalachia coal fields is a follow-up to the December 2008 signing ceremony on Governors Island in New York City, New York, where ARRI made a pledge to plant 38 million trees over three years as part of UNEP is Seven Billion Tree Campaign. This represents the first time that UNEP is taking part in Arbor Day events in coal country. The March 27 tree planting event will be on Patriot Coal Company property near Prenter (Boone County), WV. The March 28th tree planting ceremony will be on previously mined private land prepared for tree planting by the James River Coal Company near Red Fox (Letcher County), Kentucky.
- **Update: OSM Charleston Field Office Director to Make Presentation at the 30th Annual West Virginia Mine Drainage Task Force Symposium:** The symposium, sponsored by a multi-interest task group, is scheduled for March 30-April 1, in Morgantown, West Virginia. About 300 people from industry, the environmental community, government, and academia will attend this event. The main topics deal with water issues related to mining.

- **Update: Spread of Coal Refuse Fire Concerns Pennsylvania Residents:** *On or about March 20, OSM expects to hold a Phase 2 pre-bid conference with interested contractors to excavate a cut-off trench in an attempt to isolate a coal refuse fire in eastern Pennsylvania. The State of Pennsylvania is assisting OSM by having their survey team create contour maps of the Schuylkill County fire to establish final grading and determine final volume quantities for Phase 2 work.* On January 6th, OSM completed Phase 1 exploratory borehole drilling, which determined that the coal refuse is as much as 80 feet thick. The fire has received widespread coverage on television and in the local newspapers.