

# Department of the Interior

## CLIMATE **21** PROJECT

## **Transition Memo**

## **Department of the Interior**

#### LEAD AUTHORS

**Christy Goldfuss**, former Managing Director at CEQ, former Deputy Director, National Park Service **Alexandra Teitz**, former Counselor to the Director, BLM

\* Professional affiliations do not imply organizational endorsement of these recommendations

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This memo is part of the **Climate 21 Project**, which taps the expertise of more than 150 experts with high-level government experience, including nine former cabinet appointees, to deliver actionable advice for a rapid-start, whole-of-government climate response coordinated by the White House and accountable to the President.

The full set of Climate 21 Project memos is available at <u>climate21.org</u>.

# CLIMATE **21** PROJECT **Department of the Interior**

## Transition Memo

### **Executive Summary**

The Department of the Interior's vast land and mineral management responsibilities, multi-faceted mission, and numerous sub-agencies provide substantial climate mitigation opportunities as well as significant management and policy challenges. DOI manages a huge swath of America's lands, waters, subsurface resources, and cultural heritage for the benefit of the American people; it implements the nation's trust responsibilities to Tribes, Alaska Natives, and affiliated island communities; and it provides scientific support for natural resource-related activities.

DOI's greatest climate mitigation opportunities lie in reducing greenhouse gas emissions from fossil resources owned by the public and Tribes, boosting renewable energy production on public lands and waters, enhancing carbon sequestration on public lands, and indirectly, by educating the public and DOI's own staff about the science and impacts of climate change.

Realizing the full potential of these mitigation opportunities will not be easy. DOI is traditionally focused on other matters, highly resistant to change, and heavily influenced by certain stakeholders



(e.g., the oil and gas industry, some local and state governments). DOI's array of disparate bureaus are unwieldy and sometimes work at cross-purposes. The Secretary and bureau heads are frequently distracted by high profile crises and intractable problems. Like other agencies, DOI has lost many experienced and dedicated staff, and it has a workforce ill-matched to its current needs.

Making climate mitigation happen will require strong leadership and sustained focus from the Secretary and leaders of key bureaus, as well as effective support from the Office of the Solicitor. Restoring staff morale will be critical, and for many DOI staff, climate mitigation also requires a shift in their understanding of their jobs and mission. DOI will need clear direction, ongoing reinforcement, a cross-DOI climate oversight body, action on multiple fronts, and implementation follow-through. Finally, given DOI's current limitations, near-term progress will require a substantial number of relatively senior political appointees to help get the job done.

This memo details opportunities to maximize climate action by focusing on the four bureaus that hold the most mitigation opportunities: the Bureau of Land Management (BLM); Bureau of Ocean Energy Management (BOEM); Bureau of Safety and Environmental Enforcement (BSEE); and US Geological Survey (USGS). These and other DOI bureaus also have extensive climate adaptation and resilience opportunities, but this set of recommendations focuses only on mitigation, and it also does not attempt to address the immense needs of Indian Country.

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#### **TOP RECOMMENDATIONS: MANAGEMENT, BUDGET, AND ORGANIZATION**

- Secretarial Order and address to set priorities, boost morale (Day 1)
- Create DOI Climate Council (Day 1)
- Bring BLM national leadership back to Washington, DC (Day 1)
- Request to reprogram FY2021 funds to climate mitigation in BLM/BOEM/BSEE (Day 1)
- Appoint increased number of senior political staff to fill climate capacity gaps (100 Days)
- Increase budget requests for BOEM wind permitting; BLM GHG emission regulation, land use planning, orphan well plugging, land restoration, and wildfire management; BOEM/BSEE GHG emission regulation; and political and career staffing (100 Days)
- Conduct BLM listening tour to hear staff and communicate climate focus (100 Days)

#### **TOP RECOMMENDATIONS: KEY PROGRAM OPPORTUNITIES**

- Issue Day 1 Secretarial Order prioritizing climate mitigation across DOI (Day 1):
  - Set goals for DOI net GHG emissions; onshore and offshore renewable energy
  - Require numeric and monetized lifecycle GHG emissions estimates under NEPA
  - Temporarily require headquarters review of all actions that would increase emissions
  - Direct USGS to track DOI GHG emissions and sinks; educate public and DOI staff on climate
- Reduce emissions from federal fossil fuels:
  - Adopt policies to slow/halt onshore leasing (Secretary; BLM) (Day 1)
  - Defend and begin rulemakings on methane emissions, venting and flaring (BLM; BOEM; BSEE) (Day 1)
  - Cut venting and flaring on a case-by-case basis through permits and approvals (BLM; BSEE) (Day 1)
  - Put the Outer Continental Shelf entirely or mostly off-limits to new leasing (BOEM) (100 Days)
  - Reinstate compensatory mitigation; apply it to climate (Solicitor; Secretary) (100 Days)
  - Strengthen bonding and clean up orphan wells (BLM; BOEM; BSEE) (100 Days)
- Boost renewable energy production and transmission on public and Tribal lands and waters:
  - Instruct state and regional offices to prioritize approvals (BLM; BOEM) (Day 1)
  - Approve pending offshore wind projects (BOEM) (100 Days)
  - Boost staff and resources for permitting and outreach (BLM; BOEM) (100 Days)
  - Work with EOP Permitting Council to speed projects (Secretary's Office) (100 Days)
  - Provide technical support for projects on Tribal lands (BLM; BIA) (100 Days)
- Enhance carbon sequestration on public lands:
  - Quantify biological carbon losses and gains in NEPA reviews (DOI-wide) (Day 1)
  - Manage for carbon sequestration through restoration and wildfire focus (BLM) (100 Days)
  - Boost research on biological carbon sinks and quantification (USGS) (100 Days)

## Management, Budget, and Structure

The Department of the Interior has been subjected to four years of targeted political interference and efforts to cut budgets and demoralize and drive out career staff, particularly at the Bureau of Land Management. To address climate change, the new administration must begin by restoring and rebuilding capacity at DOI, including prioritizing filling high-level political and career management positions, reprogramming funding to climate change work, taking steps to boost employee morale, and returning BLM headquarters to Washington, D.C. The new administration should seek near-term budget increases to support an expanded climate change staff, including through political positions; permitting of renewable energy projects on federal lands and waters; regulating emissions from production of federal and Tribal fossil fuels; and recruiting and retaining a workforce that meets the Department's needs.

The Department of the Interior is a highly decentralized agency made up of many separate bureaus and offices that function independently of each other, and often of the Secretary. Most DOI staff work outside of Washington, scattered across a slew of state, regional, field and activity-specific offices. Effective federal climate action will require each bureau and office to integrate and elevate climate considerations throughout their operations and decision-making.

In addition to the Office of the Secretary, several key DOI bureaus hold most of DOI's larger-scale climate mitigation opportunities:

- The Bureau of Land Management (BLM) oversees onshore oil, gas and coal leasing and production on federal lands, as well as leasing and production from federally held mineral deposits, which are far more extensive than federal surface holdings. BLM also oversees much of Tribal mineral production, onshore pipeline siting on federal land, and permitting of onshore renewable energy.
- The Bureau of Ocean Energy Management (BOEM) oversees offshore oil and gas and renewable energy leasing, exploration and development plans and offshore renewable project permitting.<sup>1</sup>
- The Bureau of Safety and Environmental Enforcement (BSEE) develops and enforces regulation of oil and gas exploration, development, and production operations on the Outer Continental Shelf for safety and environmental protection purposes.<sup>2</sup>
- The United States Geological Survey (USGS) contains much of DOI's science expertise, including expertise in land-based carbon sinks and sources.

The Assistant Secretary for Land and Minerals Management oversees BLM, BOEM and BSSE, and the Assistant Secretary for Energy and Water oversees USGS. Strong support from the Assistant Secretaries will be integral in driving forward-leaning climate policies across DOI. Our recommendations here, however, focus on the bureaus, where the staff are located and where implementation must happen.

Other DOI bureaus and offices are less critical to large-scale climate mitigation, including the Department's two largest and most high-profile agencies, which usually command the most attention from new administrations: The National Park Service and the US Fish and Wildlife Service. DOI also houses the Office of Insular Affairs, the Bureau of Reclamation, the Office of Surface Mining Reclamation and Enforcement, and the Office of Natural Resources

<sup>&</sup>lt;sup>1</sup> BOEM also oversees royalty relief for new leases and financial assurance for development. 30 CFR Part 560; 30 CFR Part 553.

<sup>&</sup>lt;sup>2</sup> BSEE also oversees gas injection and royalty relief under existing leases. 30 CFR 250.118; 30 CFR part 203.

Revenue, among others. Each of the offices not identified here as key to climate mitigation still has important opportunities to reduce its own carbon footprint, promote climate-friendly policies, and educate the public on climate change mitigation and implications. In addition, most of them have extensive and critical climate adaptation and resilience work to do. Given this memo's focus on climate change mitigation opportunities, however, these agencies will not be discussed further.

The Bureau of Indian Affairs (BIA) occupies a somewhat different position. BIA works with Tribes, which control substantial areas of land and associated energy and renewable resources. There are important mitigation opportunities on Tribal lands, as well as crucial adaptation and resilience needs, but most of those mitigation opportunities are under the control of the Tribes, not DOI. One exception is regulation of venting and flaring of methane from the federal and Tribal mineral estates, which BLM administers in trust for Tribes and which is addressed later in this memo. Both BIA and BLM work with Tribes on energy and land management matters, and BIA and BLM should provide Tribes more technical assistance and support in mitigating climate change, to the extent that Tribes wish to do so. This memo does not provide detailed recommendations for BIA, however, given both its indirect role and extensive discussions in other forums regarding how DOI can better carry out its responsibilities to Tribes.

#### **KEY BUDGET DEADLINES**

In FY2020, DOI had an overall budget of \$24.3 billion and 62,426 FTEs, spread across ten major technical bureaus and offices, as well as numerous smaller offices and programs.<sup>3</sup> DOI oversees more than 480 million acres of public lands, 700 million acres of subsurface minerals, and 1.7 billion acres of the outer continental shelf.

A new administration will have immediate opportunities to request additional funding and staff positions needed to begin to rebuild the Department and take on substantial additional work on climate mitigation. These opportunities include adjusting funding under an FY2021 omnibus bill and shaping FY2022 and FY2023 budget requests. In addition, DOI should immediately make reprogramming requests to Congress to allow it to shift funds within the agencies to climate-related priorities.

#### Budget flexibilities on Day 1/FY2021 Omnibus

Within the first three weeks of the new administration, DOI should send OMB requests for funding to increase staff in key climate mitigation positions, especially at BLM; move the BLM headquarters back to Washington, DC; and support an increased number of DOI senior political positions. DOI should also request funding shifts from fossil fuel development to renewables development and regulation of fossil fuel activities at BLM, BOEM and BSEE, and from fossil-related research to climate monitoring and research at USGS.

It is likely that most or all of DOI will be operating under a continuing resolution when a new administration takes office.<sup>4</sup> If so, Congress and the new administration would likely immediately work to finalize funding for the remainder of FY2021 (through Oct. 2021) through an omnibus appropriations bill. By early 2021, the overall funding levels by agencies will largely already be set, but there will still be opportunities for some smaller adjustments, if identified within the first few weeks after inauguration and prioritized by the new administration.

These requests should focus on shifting funding for staff positions (full time equivalents or "FTEs" in budget terms) and senior political positions to strengthen climate mitigation work in the Secretary's office and the key climate bureaus—namely BLM, BOEM, BSEE, and USGS. DOI should request sufficient funding for the full number of DOI political appointees, particularly senior political appointees, authorized by the new administration's Presidential

<sup>&</sup>lt;sup>3</sup> Of this, \$15.1 billion is discretionary spending. U.S. DOI, Office of Budget, *FY2021 Interior Budget in Brief, Appendix A, Comparison of 2019, 2020 and 2021 Budget Authority*, A-16; *Appendix H, Staffing*, H-1 (Feb. 2020) (<u>https://www.doi.gov/budget/appropriations/2021/highlights</u>).

<sup>&</sup>lt;sup>4</sup> Note that most of DOI is funded through the Interior, Environment, and Related Agencies appropriations bill, but the Bureau of Reclamation and the Central Utah Project are funded through the Energy and Water Development appropriations bill.

Personnel Office. In addition, DOI should request the funds necessary to immediately begin reversing damage to BLM by returning its headquarters and at least some staff to Washington.

DOI should also submit reprogramming requests to Congress on Day 1 to shift FY2021 funds within key agencies to boost climate-related work. Absent reprogramming, agencies must spend funds according to each line of funding designated in the agency's budget request to Congress and appropriated by Congress. In recent years, Appropriations Committees have tightened the directives in DOI's appropriations bill, reducing DOI's previous flexibility to shift funds. Agencies can notify the Appropriations Committees that they plan to reprogram funds among the individual accounts. Such reprogramming can then go forward absent an objection from the Committees.

BLM should reprogram funds from oil and gas leasing and management (funded at \$91 million in FY2020) and coal leasing and management activities (funded at \$16 million in FY2020) to activities such as renewables permitting (funded at \$29 million in FY2020), review and revision of resource management plans, and oil and gas production inspection and enforcement activities.<sup>5</sup> Similarly, BOEM should reprogram funds from oil and gas management (funded at \$49 million in FY2020), to provide substantially increased funding for approval of offshore wind projects (funded at \$17 million in FY2020). It is likely that USGS would also need to reprogram some funding to substantially boost climate mitigation-related research, including tracking DOI net GHG emissions and increasing work on biological sequestration. Most of BSEE's funding is located in one account—operations, safety and regulation—so BSEE should be able to shift much of its funding without reprogramming. BSEE should, however, consider requesting reprogramming to boost environmental enforcement activities, as BSEE received only \$2 million in total for environmental enforcement and there may be opportunities to address unauthorized methane emissions.<sup>6</sup>

#### FY2022 budget request

For FY2022, DOI should request at least quadrupled funding for BOEM's offshore renewable energy work and significant additional funding for BLM's mitigation opportunities. Funding for BSEE and USGS should be shifted to climate-related activities, such as regulation (BSEE) and tracking, research and education (USGS). DOI should also request any funding still needed for additional senior political positions.

Work on the administration's FY2022 budget request to Congress also should begin Day 1 (or during the transition). Agencies must give OMB their recommendations for their FY2022 funding within the first few weeks of the administration, as a new President's first budget request is usually announced within the administration's first 50 days. The congressional budget and appropriations process also generally begins in March with hearings on the administration's policy priorities and appropriations requests. While a new president often has a bit more political leverage in the first few months of the administration, the short window for formulating this first budget request makes it more difficult to push through larger funding shifts and significant new initiatives, even if the administration has support in one or both chambers.

Funding for BOEM's offshore renewable energy leasing and permitting is far below where it needs to be. In FY2020, BOEM received \$17 million for these activities. Given the paltry level of current funding, the potential for a massive increase in renewable generation driven by offshore projects, and the constraints imposed by a bottle-necked federal permitting process, a new administration should request four to five times current funding levels to support these activities. A portion of this funding could likely be shifted from oil and gas work, but an overall increase would still be necessary given BOEM's relatively small budget.

The FY2022 budget request should also continue to rebuild BLM, reverse its historic underfunding relative to its mission, and significantly expand its capacity in several key areas. Specifically, BLM should request additional funding to support development of regulations; enforcement of oil and gas emissions limitations; land use planning; extensive rangeland and forest restoration projects; wildfire management; and plugging orphan oil and gas wells.

<sup>&</sup>lt;sup>5</sup> Oil and gas regulatory development is another high priority, but could likely be funded, at least in part, under the oil and gas management account.

<sup>&</sup>lt;sup>6</sup> U.S. Dept. of the Interior, Office of Budget, *FY2021 Interior Budget in Brief, Bureau Highlights, BSEE*, BH-29 (Feb. 2020) (<u>https://www.doi.gov/budget/appropriations/2021/highlights</u>) (excluding offsetting collections).

The last three categories need large funding increases and would support significant numbers of new private-sector jobs. Restoration projects and many wildfire-related activities provide numerous jobs for relatively untrained workers, while well-plugging employs trained oil and gas workers, who are more likely to be facing unemployment in the current recession.

The FY2022 budget request should also ensure that BSEE builds its regulatory capabilities, and should shift USGS funding from mineral activities and other lower-priority areas to substantially boost USGS capabilities to track Interior's net GHG emissions and increase USGS research on biological sequestration. In addition, USGS should ensure that it has sufficient funds available to greatly enhance its climate science communication and education activities.

#### FY2023 budget process

The FY2023 request should continue to ramp up BOEM funding for offshore renewable activity several-fold and BLM funding overall, as well as continue to increase funding for BSEE and USGS to support mitigation activities.

Federal agencies' FY2023 budget requests must be submitted to OMB in late July 2021, and the administration's FY2023 request to Congress will be released in February 2022. DOI should begin work on the FY2023 request as soon as it has submitted the FY2022 request to OMB. With additional time to develop the request and work within the administration and with Congress to gather support, this second budget request can incorporate more ambitious policy directives and funding requests.

The FY2023 request should build on the FY2022 request, continuing to increase funding for BOEM offshore renewable activity, BLM mitigation programs, and USGS GHG emissions tracking, biological sequestration research, and climate science information and education services.

#### **KEY ORGANIZATIONAL OPPORTUNITIES**

The last four years have seen consistent efforts to elevate fossil fuel production, stifle climate science, and demoralize federal employees through both policies and communications. Reversing these efforts is central to achieving progress on both climate mitigation and DOI's broader mission of conserving and protecting public lands and resources for all Americans.

#### Swift appointment of DOI leadership

#### The new administration must get DOI and key bureau leadership in place swiftly.

Having key DOI and bureau leaders in place is a prerequisite for implementing the recommendations in this memo. While every new administration understands this imperative, moving top political appointees through the confirmation process is always a major source of delay. Thus, it will be critical to prioritize filling the Senate-confirmed positions that are most essential for climate mitigation, and to immediately fill as many as possible of the positions that do not require confirmation. The highest priority Senate-confirmed positions to fill, after the Secretary, are the Deputy Secretary, BLM Director, Solicitor, and BOEM Director.

#### Secretarial leadership—rallying DOI staff to pursue DOI's mission

## The Secretary should set priorities and boost morale with a Day 1 address and ongoing actions to involve career staff.

The damage of the last four years can only be reversed with strong, focused and inspired leadership that speaks to and engages DOI employees. The Secretary must set the new tone on Day 1 through an address to all DOI staff. This is an opportunity to reset the mission of the Department and express the new administration's respect for and appreciation of each and every DOI staffer. An example of the potential power of this type of outreach is the

memorial event for Wallace Stegner held by Interior Secretary Bruce Babbitt in 1993, in which the Secretary, along with Terry Tempest Williams, reaffirmed the conservation values of the Department and thanked the Department's staff for their commitment to their mission.<sup>7</sup>

In addition, bringing career staff and leadership into meetings and decision-making as early and often as possible will demonstrate to career employees that they are respected, valued, and expected to be part of the team.

#### Personnel actions related to political appointees and hiring

DOI should address severe staffing constraints by swiftly installing many experienced political appointees in the Secretary's office and key climate bureaus, and by filling the numerous vacant career management positions.

**Political appointees.** To successfully execute an ambitious climate mitigation agenda for DOI, a new administration must swiftly deploy dozens of highly qualified political appointees in the Secretary's office and across the key climate bureaus. As many as possible should be in place by Day 1, with the remainder in place within the first 100 days.

Despite the dedication, expertise and professionalism of DOI staff, the Department is not well-equipped to implement most climate mitigation actions. DOI is widely viewed as seriously under-staffed for its mission, and employees commonly operate on a triage basis, prioritizing activities per directives from above and necessarily neglecting other obligations. This problem is especially severe for BLM and the Solicitor's Office, which are both critical to DOI's overall climate mitigation effort. The current administration has exacerbated these difficulties by pushing for massive budget cuts, demoralizing staff, forcing staff to choose between uprooting their families or keeping their jobs, and leaving many staff and leadership positions vacant as staff and career managers have left the agency.

Climate mitigation actions that require developing new regulations or implementing new policies will be especially challenging for DOI. BLM, BOEM, and BSEE have not traditionally focused on regulation and have only a handful of staff with expertise in developing, drafting, and analyzing the economic impacts of regulations. Both regulations and new initiatives also commonly require extensive input from the Solicitor's Office, which can result in delays. DOI must modernize its career staff, but this will necessarily take time.

Given the massive staffing gap, DOI will need a large and rapid influx of highly capable political appointees to have any chance of achieving substantial climate mitigation. In the Obama administration, DOI had around 115 political slots, 16 of which are Senate-confirmed positions. There are countervailing considerations, as bringing in large numbers of political appointees can increase tensions with career staff, as well as running up against budget and space constraints. But experience shows the necessity. The Obama administration began with just ten political appointees at DOI, only one of whom was Senate confirmed (the Secretary), and added approximately ten additional schedule C appointees over the first 30-60 days. This allowed the administration to address only the most pressing issues and greatly limited their ability to expedite new priorities.

Instead, we recommend beginning Day 1 with a robust number of non-Senate confirmed appointees, and adding many more over the first few months.

These political appointees also must be able to meet DOI's needs. While some can be more junior staff, complex activities such as developing regulations and developing and implementing the policies necessary to, e.g., jumpstart approvals of renewable energy, will require more senior political staff and counsellors, who are usually Schedule C employees. Ensuring that each bureau has counsellors who can work with the Office of the Solicitor on the basis of shared expertise also could help bureaus work through legal issues more quickly.

**Placement.** Political appointees should be placed where they are most needed to ensure that DOI is able to carry out a new administration's climate mitigation agenda. This means concentrating political appointees in BLM, BOEM, BSEE and the Solicitor's Office, in addition to the Secretary's Office. Appointees in the Secretary's Office might function as a formal or informal climate team.

<sup>7</sup> Kevin Sweeney, *Thank you for staying* (Dec. 5, 2019) (<u>https://medium.com/@kjsween/thank-you-for-staying-f10ec3a3194a</u>).

Over the course of the Obama administration, BLM went from one to six appointees, and in prior administrations BLM has had up to 13 appointees. BLM would likely need around 15 appointees to carry out a strong climate mitigation agenda. Similarly, in the Obama administration BOEM had two appointees, and eventually added a third junior appointee. BOEM would clearly need more than three appointees to drive a major realignment in BOEM's activities from oil and gas leasing to renewables permitting.

To ensure that all bureaus and offices contribute to climate mitigation, it may be helpful to set up ways for political appointees to support bureaus and offices that have traditionally had few or no appointees, such as USGS, OSMRE and ONRR. For example, a climate team of political appointees in the Secretary's office could be structured to ensure that one or another member of the team is following the activities of each DOI bureau or office and flagging climate mitigation impacts and opportunities for that specific bureau or office. Additionally or alternatively, the DOI-wide Climate Council proposed later in this memo might periodically review policies and activities across DOI for their climate mitigation implications.

Another possibility would be to add political staff directly to one or more bureaus that have generally only had a political director. For example, USGS has a very small presence in DOI's headquarters, and adding political staff to liaise with the rest of DOI might help it operate with more attention to the specific needs of other bureaus.

**Career managers and specialized expertise.** Within the first 100 days, a new administration should reconstitute the executive resources board to allow DOI leadership to move new career managers into place. With new members and a directive to act quickly, the board could start to fill the many career leadership positions that are now vacant or held on an acting basis. DOI leadership should also move managers in important career positions who oppose the new administration's agenda into less harmful positions immediately upon the expiration of the 120-day waiting period, and refill their prior positions as quickly as possible.<sup>8</sup>

DOI should also pursue temporarily rehiring recent retirees, as this can be a swift and effective way to plug gaps with experienced managers trusted by the career staff. A relatively large number of DOI's most competent and committed career managers have left the Department over the past four years, particularly from BLM, and some would likely be willing and eager to return and help rebuild DOI. The transition team should consult with DOI human resources specialists and OPM on the various options for such rehires.

Another useful hiring tool is special government employees (SGEs), who can be hired for a finite period for specified assignments. This has the advantage of being able to on-board personnel with needed expertise relatively quickly through a procurement process, while essentially giving these employees a "try-out" period prior to on-boarding as permanent appointees and negotiating title, compensation, full vetting, etc. This may be particularly helpful in allowing Department leadership to form teams of appointees assigned to specific priorities and projects, such as expediting offshore renewable energy permitting.

#### **BLM organization**

## Within the first 100 days, BLM should have relocated its senior leadership back to Washington and be rebuilding a national planning team in a centralized location.

BLM has been uniquely organizationally damaged by the decision to move BLM's headquarters, and all but a handful of its staff, out of Washington, D.C. Prior to the move, 96% of BLM employees were already located outside of Washington, the vast majority in the West. They are scattered across 150 state, district and field offices, as well as the BLM National Operations Center, which is located in Denver, CO. The Trump administration's reorganization has moved roughly 225 staff positions, many of them senior managers, from DC to a new headquarters in Grand

<sup>&</sup>lt;sup>8</sup> While moving Senior Executive Service employees generally requires 60 days notice, this is extended to 120 days at the beginning of an administration.

Junction, CO, and other offices across the West.<sup>9</sup> But just 68 employees, or 30 percent, have accepted their new assignments, and the lost staff include many senior career managers.<sup>10</sup>

This relocation has harmed BLM in multiple ways. First, it is impossible for BLM to carry out its mission effectively without having leadership in Washington to interact directly with the Secretary, Assistant Secretary for Land and Minerals Management, the Office of the Solicitor, other DOI bureaus, the White House and Congress. Also, absent a strong Washington presence, there is a risk that virtually all power in BLM will shift to the already highly independent state offices, especially in oil and gas producing states.

BLM has also been weakened by the loss of senior managers and experienced staff who declined to relocate. BLM's national planning team has effectively been dismantled, with the remaining staff scattered across offices. This has severely damaged BLM's capacity to efficiently and effectively conduct NEPA reviews and large-scale planning projects, and it is particularly detrimental for reviews of land management areas that cross state lines and therefore fall under the jurisdiction of more than one state office.

The BLM headquarters, Director and deputies, senior managers for the program offices and at least some supporting staff should be returned to Washington as quickly as possible. The transition team should try to gather information about the circumstances of each employee's relocation, discuss the move with key congressional committees and the Office of Personnel Management, and develop a plan for the relocation back to Washington during the transition. It will also be critical to rebuild a centralized national planning staff, whether located in Washington or some other single location (such as Denver, where much of BLM's support staff is located).

The difficulty of moving people and loss of the bulk of BLM's Washington office space will make it challenging, however, to try to move all of the former Washington staff positions back. Given limited resources and numerous priorities, fully re-establishing the Washington office may not be a near term priority for a new administration.

#### **BOEM and BSEE organization**

## The Secretary should reject any suggestions to divide responsibility for offshore renewable energy between BOEM and BSEE. Instead, BOEM should retain primary responsibility.

A new administration should avoid undertaking unnecessary organizational changes. Reorganizations inevitably have high opportunity costs in the form of upsetting and distracting staff, diverting management time and focus, and requiring financial expenditures, all of which are needed to pursue other priorities. At present, offshore oil and gas responsibilities are split between BOEM and BSEE, but offshore renewable energy responsibilities are almost entirely located within BOEM.

There has been some interest in formally splitting renewables responsibilities between the two bureaus, but such a move would have all of the expected downsides of a reorganization with few advantages. In addition to the costs identified above, shifting some renewable responsibilities to BSEE would require changes to BOEM and BSEE regulations. A better use of scarce regulatory resources would be developing regulations to reduce waste and methane emissions and enhance the viability of offshore renewable energy.

 <sup>&</sup>lt;sup>9</sup> The Hill, Interior finalizes public lands agency HQ move out West over congressional objections (Aug. 10, 2020) (<u>https://thehill.com/policy/energy-environment/511371-interior-finalizes-public-lands-agency-hq-move-out-west-over</u>).
<sup>10</sup> Id.; Greenwire, BLM Struggles to Fill Top Positions in New Western HQ (Feb. 5, 2020) (<u>https://www.eenews.net/greenwire/stories/1062272361</u>).

# $2 \underset{\text{and Recommendations}}{\text{Key Program Opportunities}}$

Climate mitigation opportunities for the Department of the Interior primarily reside within the Bureau of Land Management, the Bureau of Ocean Energy and Management, the Bureau of Safety and Environmental Enforcement, and the US Geological Survey. BLM, BOEM, and BSEE have significant opportunities to reduce emissions from fossil fuel production and combustion from federal—and, in some cases, Tribal—lands and waters through limiting leasing, regulating methane emissions and plugging orphaned wells. BLM and BOEM hold the keys to increasing production of renewable energy on public lands and waters through accelerating project permitting. USGS and BLM have important roles to play in advancing the science and implementation of natural carbon sequestration on public lands, and USGS should track the cumulative results of mitigation efforts in reducing net GHG emissions from public lands. Realizing these opportunities depends on the Office of the Secretary prioritizing climate, driving action and coordinating efforts through a Secretarial Order and other means.

The recommendations below are organized by the leading office or bureau, as that is generally how they would be carried out within DOI, although many of these measures will require strong cross-bureau coordination and most will require input from the Office of the Solicitor.

#### Office of the Secretary

On Day 1, the Secretary should issue a Secretarial Order that clearly establishes climate mitigation as a top DOI priority and directs DOI officials and staff to pursue this priority across DOI's numerous decisions and activities.

The Secretarial Order should set climate-related goals for DOI; establish a DOI Climate Council; issue guidance on addressing climate under NEPA and rulemaking; pause business-as-usual on all actions with nontrivial climate implications; reinstate compensatory mitigation and apply it to climate impacts; and direct bureaus and offices to take specified mitigation actions.

The imperative for immediate climate action supports providing high-level climate policy direction on Day 1 that is as unambiguous and detailed as possible.

**Set climate goals.** The Secretarial Order should set climate-related goals for DOI that aim to achieve specified outcomes within specified timeframes. These should include goals for GHG emissions, new renewable energy projects, and land conservation acreage, at minimum. Advocates and members of Congress have called for a goal of net-zero GHG emissions from public lands by 2050, 2040, or 2030. This would involve tracking emissions from production and combustion of fossil fuels produced from public lands, the volume of GHGs sequestered on public lands, and, possibly, emissions displaced by renewable energy.<sup>11</sup> The international and national 30 x 30 movement calls for conserving 30% of land and oceans by 2030. This could be translated into an appropriate goal for DOI lands'

<sup>&</sup>lt;sup>11</sup> *See, e.g.*, H.R. 5435, American Public Lands and Waters Climate Solution Act of 2019 (Rep. Grijalva) (<u>https://www.congress.gov/bill/116th-congress/house-bill/5435</u>). The net-zero proposals for DOI generally do not distinguish between volumes of carbon sequestered on public lands on an ongoing basis that would continue under business as usual ("anyway tons"), and "additional" volumes of carbon sequestered on public lands due to a change in management practices or land uses. (Renewable projects are treated similarly.) Nor do they address issues of permanence, which arise because GHGs released by fossil combustion are effectively permanent additions to carbon loads, while GHGs sequestered by tree growth, e.g., could be lost at any time through wildfire, disease, or logging where allowed. Thus, this type of net-zero goal would reduce, but not eliminate, the ongoing addition of GHGs to the atmosphere from activities on public lands.

contribution to the national total. DOI should also set goals to achieve ambitious amounts of onshore and offshore renewable power generation by specified dates.

Setting clear goals and measuring progress provides transparency and accountability, even though such goals are not legally enforceable and could not supplant statutory directives. Goals allow the White House and Secretary to hold the bureaus publicly responsible for achieving a specified measure of progress on climate. This, in turn, encourages managers and staff throughout the Department to focus on climate mitigation actions.

A net-zero GHG goal could be particularly useful for elevating climate considerations throughout the Department, which will be difficult. Such a goal would provide a more concrete way for staff to evaluate the relative importance of decisions that result in emitting or sequestering GHGs. A net-zero goal could also support greater external accountability. An annual accounting would allow the public to understand how DOI's actions are affecting the climate crisis and to what degree.

**Establish DOI Climate Council.** On Day 1, the Secretary should establish a DOI Climate Council, an organizational entity within the Office of the Secretary that has the ability and authority to help coordinate climate actions across DOI. It could be headed by the Deputy Secretary and composed of the principals or deputies of each of the relevant bureaus, including the National Park Service and U.S. Fish and Wildlife Service. Given DOI's wide diversity of missions, highly decentralized structure and substantial diffusion of authority, it is not uncommon for bureaus in the Department to work at cross-purposes or even waste time and resources in conflict with each other. A Climate Council would help ameliorate these issues with respect to climate action, and it would provide a way to ensure that the President's and Secretary's directives are being implemented by each of the bureaus and offices, and by their sub-entities in turn. It would be logical for the lead for the DOI Climate Council also to be a DOI representative to any interagency climate council established by the White House.

**Direct bureaus and offices to take actions.** The Secretarial Order should also direct individual bureaus and offices to adopt specified policies or rules to mitigate climate change. For example, as discussed below, it should direct BLM, BOEM, and BSEE to develop or strengthen regulations to reduce methane emissions from oil and gas production, and it should direct BOEM to prioritize efforts to boost offshore renewable project approvals. The Secretarial Order should also direct USGS to track DOI's annual GHG emissions through an online database and educate the public and DOI staff on climate science.

**Issue guidance on climate in NEPA and rulemaking.** The Secretarial Order (or accompanying DOIwide guidance from the Secretary on Day 1) should include a directive on how to consider climate change in environmental analyses under NEPA and in rulemakings, and particularly on how to treat GHG emissions and sinks with respect to public lands.<sup>12</sup> The Secretary should direct that every DOI NEPA or regulatory analysis include: (1) a numeric estimate of the lifecycle GHG emissions associated with the proposed action; (2) the cumulative climate impacts considering related actions; (3) appropriate context for such impacts; and (4) a monetized estimate of the environmental impacts of the GHG emissions (or avoided or sequestered emissions) associated with the proposed action, which should be based on the best available estimate of the social cost of carbon. "Lifecycle GHG emissions" would include emissions from the consumption of the fossil fuel produced from federal minerals or transported through a pipeline over public lands, and renewable energy projects should include estimates of avoided emissions from other forms of electricity production. "Appropriate context" means that the quantity should not be compared to worldwide GHG emissions, as DOI has commonly done, but rather to a measure that helps the public understand the relative significance, such as expressing it as equivalent to the emissions from a number of vehicles or coal plants.

**Pause business-as-usual.** The Secretarial Order (or other Day 1 guidance from the Secretary) should also ensure consistency with the new administration's priorities by mandating prior headquarters review of DOI actions, until the new team and its policies are in place. Specifically, the Order should identify types of actions, or direct bureau

<sup>&</sup>lt;sup>12</sup> Guidance along these lines may also be issued in an Executive Order early in the administration, and/or issued by the White House Council on Environmental Quality. If so, the Secretarial Order could simply cross-reference such broader guidance. In addition, CEQ will presumably revisit the CEQ NEPA regulations recently weakened by the current administration, and any DOI NEPA guidance must, of course, take CEQ's regulatory actions into account.

leaders to identify types of actions, that may not go forward absent prior review from the new leadership. Any action with nontrivial negative climate impacts should be included. Rulemakings, lease offerings, issuance of resource management plans, draft and final Environmental Impact Statements and Environmental Assessments for fossil energy development, permits to drill, approvals to flare or vent, and court filings (to the extent possible), among others, should be included under such a directive. The advance review would ensure that such actions are consistent with the law and the new administration's policy objectives and legal positions in ongoing litigation, particularly with respect to climate mitigation.

**Invoke Solicitor review.** On Day 1, the Secretary should ask the Office of the Solicitor to carefully review the Secretary's legal authorities for additional opportunities to further DOI's mission and mitigate climate change. While various actions are proposed in this memo, the Solicitor's Office holds great institutional knowledge and talent, and the career staff may well be able to identify further possibilities.

**Increase royalty rates.** On Day 1, the Secretary could modestly reduce GHG emissions while boosting state, Tribal, and federal revenues by increasing the royalty rate for new onshore oil and gas leases, as well as new surface coal mine leases. Under the Mineral Leasing Act and implementing regulations, the Secretary has the authority to set the royalty rate for onshore oil and gas and surface coal mines in new leases without going through a new rulemaking.<sup>13</sup> The Secretary could immediately increase (or direct BLM to increase) the royalty rate for new leases for onshore oil and gas development and for new surface coal mine leases from the current 12.5% to, e.g., 18.75% or higher. Offshore oil and gas operators pay 18.75% for federal minerals, and commentators have urged that, at minimum, onshore rates should mirror offshore. Higher rates would better help internalize the social costs of fossil fuels, and studies have projected that raising royalty rates would increase total revenues while maintaining or slightly reducing production.<sup>14</sup> Of course, the Secretary would need to consider this option in light of the then-current state of the oil and gas and coal industries. Also, if the Secretary were to pause new fossil fuel leasing, simultaneously raising royalty rates for the same resources would have little immediate effect.

**Reinstate compensatory mitigation and apply It to cimate impacts.** Over the first 100 days, the Secretary's Office should work with the Solicitor's Office to reinstate a compensatory mitigation policy, and apply it to climate impacts. "Compensatory mitigation" allows project developers to contribute funds for activities that will offset a project's negative environmental impacts off-site, which then allows an agency to avoid a negative finding for the project under NEPA. Under the Obama administration, the Solicitor's Office issued an "M Opinion" supporting BLM's use of compensatory mitigation to mitigate environmental impacts of actions on federal lands.<sup>15</sup> This legal opinion and policy were revoked by the Trump administration through a Solicitor's Office revocation and a BLM directive prohibiting compensatory mitigation.<sup>16</sup> A reinstated compensatory mitigation policy could allow, or if legally viable perhaps even require, its use for otherwise unavoidable climate impacts.

<sup>&</sup>lt;sup>13</sup> See 43 CFR 3103.3-1(a)(2)(ii); 43 CFR 3473.3-2(a)(1). The current royalty rate of 8% for underground coal mines is set in the regulations and could only be increased through rulemaking. 43 CFR 3473.3-2(a)(2).

<sup>&</sup>lt;sup>14</sup> U.S. GAO, *Testimony Before the Subcommittee on Energy and Mineral Resources, U.S. House of Representatives; Federal Energy Development: Challenges to Ensuring a Fair Return for Federal Mineral Resources, 10 (Sept. 24, 2019) (<u>https://www.gao.gov/assets/710/701616.pdf</u>). <i>See also* Council of Economic Advisers (CEA), *The Economics of Coal Leasing on Federal Lands: Ensuring a Fair Return to Taxpayers* (June 2016) (<u>https://www.rff.org/events/all-events/the-economics-of-coal-leasing-on-federal-lands-ensuring-a-fair-return-to-taxpayers/</u>) (finding that maximizing return to the taxpayer would require royalty rates of 304%, which would curtail future federal coal production by over half from projected levels while increasing revenue by \$2.7-\$3.1 billion).

<sup>&</sup>lt;sup>15</sup> Office of the Solicitor, *The Bureau of Land Management's Authority to Address Impacts of its Land Use Authorizations through Mitigation*, *M-38039* (Dec. 21, 2016) (rescinded).

<sup>&</sup>lt;sup>16</sup> Acting Secretary, *Temporary Suspension of Certain Solicitor M-Opinions Pending Review* (Feb. 6, 2017) (<u>https://www.doi.gov/solicitor/opinions</u>). SO 3360, *Rescinding Authorities Inconsistent with Secretary's Order 3349, American Energy Independence*, rescinded BLM Manual Section 1794–Mitigation (Dec. 22, 2016) and BLM Mitigation Handbook H-1794-1 (Dec. 22, 2016), and directed the BLM to reissue new policy guidance on compensatory mitigation (<u>https://www.blm.gov/policy/im-2019-018</u>).

#### Bureau of Land Management

BLM should signal a new direction through conducting a listening tour and pulling authority back up to the Director's office, while pursuing climate mitigation through emissions reductions, renewable energy growth, and carbon sequestration. To reduce emissions from federal fossil fuels, BLM should slow leasing, regulate methane emissions, and clean up orphan wells. BLM should boost renewable projects on public lands by reallocating resources and staff to speed the permitting process. To enhance carbon sequestration on public lands, BLM should require consideration of climate impacts in land management decisions, restore more degraded lands, and enhance wildfire management.

Despite managing more land than any other federal agency, BLM is not well known and has relatively low levels of staff and resources given its responsibilities. BLM's portfolio is largely comprised of remote Western lands, many arid and unforested, which were long viewed as holding little value or interest to the public. The past several decades have seen the rise of Western coal, more intensive oil and gas development, greater concern for Native American sacred sites and artifacts, and a dramatic increase in public recreational and conservation interests in BLM-managed lands, which has intensified the challenge of managing these lands.

Viewed through the lens of climate mitigation, BLM should be a dominant player among DOI bureaus, as a substantial proportion of the Department's overall mitigation opportunities are within BLM's jurisdiction. BLM manages roughly 10% of the land in the United States, as well as almost one-third of the mineral estate.<sup>17</sup> Of total U.S. production, the Federal and Tribal mineral estate accounted for roughly 43% of all coal in 2019, and 8% of all oil, 9% of all natural gas, and 6% of all natural gas liquids in FY2018.<sup>18</sup> While most forested federal lands are managed by the Forest Service, BLM manages extensive rangelands across the West and several million acres of forest lands in Oregon and California. For FY2020, BLM has \$1.369 billion in appropriations and an estimated 9,555 FTE.<sup>19</sup>

**Set a new direction for BLM.** Pursuing climate mitigation will require a significant pivot for much of BLM, which must be led by the Director.

- **Conduct listening tour.** On Day 1, senior BLM leaders (in conjunction with senior DOI and/or White House officials where possible) should reach out to the BLM field staff by embarking on a listening and outreach tour of as many BLM offices as possible across the West. Such outreach could have multiple benefits. It would tangibly demonstrate to demoralized staff that the new leadership values and respects them, and wants to hear their concerns and recommendations. It would also allow leadership to set expectations by communicating their vision of DOI's and BLM's mission and priorities, emphasizing climate mitigation in particular. In addition, such a tour might include some climate science education for staff, which could encourage staff support for, or reduce resistance to, climate mitigation policies. New appointees should not underestimate the extent to which understanding and acceptance of climate science varies among BLM's staff.
- **Revoke delegations.** On Day 1, the BLM Director should restructure decision-making authority in BLM by revoking certain delegations to the field, at least on a temporary basis. As a highly decentralized agency, much of BLM's decision-making authority has been delegated to state office directors or district office managers. Revoking delegations that support coal, oil, and gas development will be critical to slowing current activities that aim to turn over public resources to fossil industry interests as quickly as possible.

<sup>&</sup>lt;sup>17</sup> BLM, What We Manage (website) (<u>https://www.blm.gov/about/what-we-manage</u>).

<sup>&</sup>lt;sup>18</sup> Coal calculation based on 2019 data from EIA quarterly production reports (<u>https://www.eia.gov/coal/production/quarterly/</u>) and Federal and Tribal mineral production data from ONRR (<u>https://revenuedata.doi.gov/?tab=tab-production</u>); <u>https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about</u>.

<sup>&</sup>lt;sup>19</sup> FY2020 appropriations report, Division D.; U.S. Dept. of the Interior, Office of Budget, *FY2021 Interior Budget in Brief, Bureau Highlights, BLM*, BH-12 (Feb. 2020) (<u>https://www.doi.gov/budget/appropriations/2021/highlights</u>).

**Reducing GHG emissions.** Reducing GHG emissions associated with DOI activities requires reducing production of federal (and where Tribes agree, Tribal) oil, gas and coal through a combination of slowing leasing, measures to disincentivize fossil fuel production, and policies that directly reduce emissions from past or ongoing fossil fuel production.<sup>20</sup>

• Slow or halt leasing. Climate and conservation advocates are urging a new administration to end new leases of fossil fuels on public lands. A new Secretary and/or BLM Director might be able to announce such a policy on Day 1, either with respect to all fossil fuels, or with respect to coal. Alternatively or additionally, the BLM Director could announce policies that would have the effect of slowing new fossil fuel leasing, such as by imposing new conditions on lease offerings. For example, the Director could defer leasing decisions on certain categories of land, require climate impacts to be taken into account in deciding whether to offer a lease, or, possibly, require the lessee to reduce such impacts through compensatory mitigation.

Slowing or halting new leasing will have little near term effect on GHG emissions. A binding contract between the lessee and the government, a mineral lease is difficult and costly to undo. Given the very large volume of coal, oil and gas already under lease, it would take some time for a pause or reduction of leasing to have much effect on production levels, especially with respect to coal.<sup>21</sup> Nevertheless, because the effects of leasing persist for decades, slowing or halting leasing now is an important step in eventually winding down fossil fuel production on public lands, and it would make a powerful political statement.

The primary potential constraints on changing leasing policy are legal and political risks, which differ for oil and gas versus coal. Pausing coal leasing (as the Obama administration did), at least for a period of time and with reasonable justification, would have relatively lower legal risk. Because the Mineral Leasing Act references quarterly oil and gas lease sales, however, new leadership should carefully evaluate the risks and effects of a blanket pause on such sales compared to more targeted approaches. One alternative option might be to continue lease sales, but to offer fewer and smaller areas that are selected to minimize negative impacts, rather than selected by industry. Changes to royalty rates, rental rates, minimum bids, bonding requirements, and/or other revenue policies could also dampen demand for new leases, although it would likely require quite dramatic changes to impact leasing substantially. Some of these, such as changes to royalty rates and bonding requirements for new leases, could be accomplished without rulemaking. Others would require rulemaking, and some, such as ending noncompetitive leasing, would likely require legislation.

In some Western states, revenues from mineral leasing and production on federal lands constitute a large portion of state or local budgets, and any threat of reduced revenues will generate political pushback. Given the quantity of acreage already under lease, the near-term revenue impacts would be limited to a reduction in "bonus bids" paid for lease sales, while royalty revenues would be unaffected (or even increase, if DOI simultaneously raises royalty rates). Regardless, strong political pressure should be anticipated.

• Use land management planning. Another tool for reducing fossil fuel production on public lands is to put areas off-limits for leasing through land management planning. Specifically, the BLM Director can review and revise Resource Management Plans (RMPs) to exclude areas from leasing. Landscape-wide approaches may facilitate doing this on a larger scale.

<sup>&</sup>lt;sup>20</sup> USGS estimated that for 2005-2014, biological sequestration on federal lands offset approximately 15% of the CO<sub>2</sub> emissions from federal fossil fuels over that period. USGS, *Federal Lands Greenhouse Gas Emissions and Sequestration in the United States: Estimates for 2005–14*, 1 (2018) (https://pubs.er.usgs.gov/publication/sir20185131).

<sup>&</sup>lt;sup>21</sup> *E.g.*, when Secretary Jewell announced a pause on coal leasing on federal lands, DOI noted that coal producers already had roughly ten years of coal under lease on average at then-current production levels. Given the rapid rate of leasing under the current administration and the substantial acreage under lease that is not yet producing, it appears likely that it would also take years before a leasing slowdown or halt would significantly reduce oil and natural gas production from federal minerals.

BLM-managed lands available for mineral production are initially identified in area-specific RMPs, most of which BLM has updated relatively recently.<sup>22</sup> Pursuant to the Federal Land Policy and Management Act, BLM develops each RMP in partnership with States, localities, Tribes, and the public to guide BLM's future site-specific management decisions for public lands and resources in the covered area.

A new BLM Director should survey each of the current RMPs to determine the degree to which it appropriately identifies areas that should be off-limits to mineral leasing. Updating an RMP is essentially a public NEPA process, which is time and labor intensive and may take anywhere from two to five or more years. This will also be more difficult than in the past due to the decimation of BLM's national planning division, discussed in section 1. BLM should prioritize updating RMPs that cover areas imminently threatened by leasing, as well as areas with high value for other uses, such as conservation and recreation, or renewable energy. Where leasing is authorized under an RMP but may no longer be appropriate, BLM could deploy other measures to pause or slow ongoing leasing while the relevant RMP is being updated. As discussed below, in reviewing and amending RMPs, BLM should look for opportunities to limit areas open to oil and gas leasing and to facilitate siting renewable and transmission projects, wherever both are relevant to a given RMP.

- **Revoke leases.** A new administration will likely also be interested in attempting to revoke or buy out at least some recently issued leases, but this will take substantial time and resources to implement and is unlikely to be viable on a broad basis. As enforceable contracts, there are significant legal hurdles to pulling leases back that would need to be evaluated by the Solicitor's Office, and BLM would likely have to reimburse lessees. Revisiting current leases may nonetheless be a high priority in some specific instances, such as leases in the Arctic National Wildlife Refuge or next to iconic national parks and monuments.<sup>23</sup> To the extent that lessees must be bought out, BLM will need to request appropriations for that purpose.
- Evaluate fossil fuel pipelines. Pipeline approvals have become a climate concern and political flashpoint that a new administration will have to manage. DOI may consider permitting policies that slow the approval of fossil fuel pipelines across BLM lands, as such pipelines foster reliance on fossil fuels and lock in infrastructure for decades that is incompatible with climate goals. For some natural gas pipelines, however, such policies may be in tension with efforts to reduce associated gas flaring from oil production by increasing gas capture rates, and the overall GHG emissions effects would need to be considered on a case-by-case basis. Beyond fully evaluating the climate impacts of fossil fuel pipelines in the NEPA process, there is not yet a clear strategy for how best to address such pipelines in public lands right-of-way permitting.
- **Regulate methane on public lands.** On Day 1, the Secretary and/or BLM Director should announce the intention to immediately appeal the recent court vacature of the Methane and Waste Prevention Rule issued during the Obama administration.<sup>24</sup> While litigation is ongoing, BLM should stringently interpret and implement the pre-existing requirements to reduce waste. Regulations to reduce methane venting, flaring and leaks from fossil fuel production on public and Tribal lands are one of DOI's most promising opportunities for GHG emissions reductions.

<sup>&</sup>lt;sup>22</sup> A recent Montana federal district court decision has invalidated several RMP updates from the past few years and put others at risk, however, which could make it easier for BLM to reopen more RMPs and reduce mineral availability. *See Bullock et al v. BLM*, No. 4:20-cv-00062 (D. Mont. Sept. 25, 2020).

<sup>&</sup>lt;sup>23</sup> See Washington Post, Oil and gas companies want to drill within a half-mile of Utah's best known national parks (Mar. 18, 2020) (<u>https://www.washingtonpost.com/climate-environment/oil-and-gas-companies-want-to-drill-within-a-half-mile-of-utahs-best-known-national-parks/2020/03/18/4937f6c0-656c-11ea-acca-80c22bbee96f\_story.html).</u>

<sup>&</sup>lt;sup>24</sup> DOI, BLM, *Waste Prevention, Production Subject to Royalties, and Resource Conservation; Final Rule*, 81 Fed. Reg. 83008 (Nov. 18, 2016). Technically, DOI would reverse its stance in the Wyoming litigation to join the parties bringing the appeal and drop its defense of the vacature. DOI should also reverse its stance in the related California litigation to urge dismissal of the appeal.

Since it was finalized in November 2016, there have been multiple attempts to overturn or rescind the Waste Prevention Rule through legislation, litigation and rulemaking.<sup>25</sup> Following other efforts, the Trump administration issued a Rescission Rule to withdraw the Waste Prevention Rule, but the Rescission Rule was vacated by a federal district court on July 15, 2020.<sup>26</sup> A different federal district court vacated the Waste Prevention Rule on October 8, 2020.<sup>27</sup>

If the rule is reinstated, BLM should move swiftly to implement it, beginning with remote training for field staff and issuance of an Instructional Memorandum to the field to guide implementation.<sup>28</sup> BLM should also start a new rulemaking to strengthen the requirements once the litigation is concluded. New information since 2016 supports stronger requirements for leak detection, including a greater focus on flare malfunctions. Also, continued very high levels of flaring supports tightening the flaring limits, including prohibiting routine flaring from new wells.

If the vacature is upheld (or if the Rescission Rule is reinstated by the Ninth Circuit), BLM should work with the Office of the Solicitor to begin a new rulemaking to adopt whatever waste prevention measures appear more likely to be upheld by the court.

In the interim, BLM should adopt a strict interpretation of the pre-existing waste requirements (established by directive NTL-4A) to limit venting and flaring to the extent possible on a case-by-case basis.<sup>29</sup>

- Clean up orphan wells. Within the first 100 days, the BLM Director should boost efforts to plug orphan oil and gas wells by instructing field offices to prioritize and allocate more staff to these activities. Orphan wells vent methane, and rising bankruptcies of oil and gas firms are intensifying this problem. BLM should also identify ways to incentivize current operators to address nearby orphan sites (e.g., by encouraging or effectively requiring climate mitigation commitments as part of the NEPA process). BLM could issue an Instructional Memorandum to the field urging cleanup efforts and providing specific guidance, such as directing staff to take the volume of methane venting into account in prioritizing among sites. In addition, BLM might be able to coordinate with the Office of Surface Mining Reclamation and Enforcement in ways that would help increase reclamation of abandoned coal mines, which also emit methane.
- **Strengthen bonding requirements.** BLM should also eliminate a hidden government subsidy for oil and gas producers and enhance its ability to clean up orphaned wells by immediately strengthening bonding requirements to cover anticipated well plugging costs in event of an operator default.<sup>30</sup> The minimum bonding amounts specified in BLM's oil and gas regulations cover only a fraction of the average current

<sup>&</sup>lt;sup>25</sup> DOI, BLM, Waste Prevention, Production Subject to Royalties, and Resource Conservation; Rescission or Revision of Certain *Requirements; Final Rule*, 83 Fed. Reg. 49184 (Sept. 28, 2018); see State of Cal. v. Bernhardt, No. 4:18-cv-057112-YGR, slip op. at 2-9 (N.D. Cal. July 15, 2020) (describing these efforts).

<sup>&</sup>lt;sup>26</sup> State of Cal. v. Bernhardt, No. 4:18-cv-057112-YGR (N.D. Cal. July 15, 2020). This decision is being appealed, so reinstatement of the Rescission Rule is another possibility.

<sup>&</sup>lt;sup>27</sup> State of Wyo. v. Dept. of Interior, No. 2:16-CV-0285-SWS (D. Wyo. Oct. 8, 2020).

<sup>&</sup>lt;sup>28</sup> BLM had begun these efforts prior to January 20, 2017.

<sup>&</sup>lt;sup>29</sup> U.S. Geological Survey, *Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases (NTL-4A), Royalty or Compensation for Oil and Gas Loss* (Dec. 27, 1979). For example, NTL-4A (which is treated as a rule) prohibits flaring of oil well gas absent written approval from BLM based on a showing that it is needed to avoid abandonment of the lease. In practice, BLM has rarely if ever applied this standard.

<sup>&</sup>lt;sup>30</sup> This recommendation applies only to oil and gas as the reclamation bonding requirements for coal mines are set by OSMRE, although enforced by BLM as a pre-condition to issuance of the mining permit. BLM also requires a lease bond for coal mines, but that only covers the risk of the operator defaulting on lease payments, not on the much larger cost of environmental remediation. *See* BLM, *Lease Management* (website) (<u>https://www.blm.gov/programs/energy-and-minerals/coal/lease-management</u>).

costs of plugging a well.<sup>31</sup> BLM can immediately, without rulemaking, require higher bonding case-by-case in most situations, and the Instructional Memorandum on orphan wells could include a directive to do so.<sup>32</sup> BLM should also amend its regulations to significantly increase the minimum bonding amounts and apply them across the board.

• Other policies. BLM should also evaluate the climate impact of reinstating other rules, plans and policies that have been gutted or revoked by the current administration and prioritize those that offer nontrivial climate benefits. These include the hydraulic fracturing rule and RMPs designed to protect sage grouse, as well as (if BLM finalizes proposed changes), a set of 2016 rules on measuring oil and gas production that make GHG emissions calculations more accurate.<sup>33</sup>

**Increasing onshore renewable energy production.** To date, a relatively small amount of renewable generation has been developed on BLM and Tribal lands, despite their excellent wind and solar resources. Two of the most significant barriers to greater renewables development on these lands are: (1) the time and resources required to negotiate among competing interests, revise or amend land management plans, and issue permits; and (2) lack of transmission capacity to bring remote generation to population centers with demand for electricity. Planning and permitting challenges directly slow renewable energy generation projects, and they are even more severe for the transmission lines needed to support increased renewable electricity production on both federal and nonfederal lands across the West.

The time and resources required to obtain permits for generation projects (particularly solar projects, which involve very large surface areas) and transmission lines are a function of both competing interests in land uses and BLM's complex land management planning process. As with oil and gas development, for BLM to issue a permit, the relevant Resource Management Plan must allow for a renewable project to be sited in the desired location, which may require the RMP to be updated or amended.

BLM can take several steps to speed permitting, including: (1) prioritizing renewable energy, and therefore its permitting, within BLM's overall mission; (2) increasing staff and funding for planning and permitting to provide technical expertise and allow early and extensive outreach with interested parties; and (3) improving the planning and permitting processes where possible. BLM should also provide technical assistance to Tribes interested in boosting renewable energy production on their lands. Recommendations for broader White House and DOI-wide efforts to speed permitting are discussed below in section 3.

- **Prioritize permitting.** Within the first 100 days, the BLM Director should issue an Instructional Memorandum to the field to prioritize new renewable energy and associated transmission projects. Building on a strong message in the Secretarial Order, BLM leadership should ensure that BLM state and field offices understand that renewable energy and transmission is a critical part of BLM's mission and a top priority of the new administration.
- **Increase planning and permitting resources.** Through a Day 1 reprogramming request, and/or within the first 100 days, DOI and BLM should request funding and FTEs to increase BLM's renewable and transmission permitting capacity. BLM needs both technical personnel to oversee the NEPA and RMP amendment work and more funding and staff to conduct early and extensive outreach efforts, which are essential to successful project siting. Over the first 100 days, BLM leadership should also work with BLM

<sup>&</sup>lt;sup>31</sup> See 43 CFR 3104.3 requiring a bond of not less than \$25,000 to cover all wells in a state or \$150,000 to cover all wells nationwide. GAO recently estimated that low cost wells cost around \$20,000 per well to reclaim, and high cost wells cost around \$145,000 per well to reclaim. U.S. GAO, *Testimony Before the Subcommittee on Energy and Mineral Resources, U.S. House of Representatives; Federal Energy Development: Challenges to Ensuring a Fair Return for Federal Mineral Resources,* 17 (Sept. 24, 2019) (https://www.gao.gov/assets/710/701616.pdf). A recent report by Carbon Tracker estimates that the average cost of reclaiming modern deep shale wells is likely in the range of \$300,000 per well. Carbon Tracker, It's Closing Time: The Huge Bill to Abandon Oilfields Comes Early, 29 (June 2020) (https://carbontracker.org/reports/its-closing-time/). <sup>32</sup> The regulations allow BLM to require operators to increase the bonding amounts for new and most existing leases where needed to cover the costs of plugging and reclamation, but the authority is less clear for a lease-specific bond where drilling is permitted but has not begun.

<sup>&</sup>lt;sup>33</sup> See DOI, BLM, Revisions to the Oil and Gas Site Security, Oil Measurement, and Gas Measurement Regulations; Proposed Rule (July 29, 2020) (https://www.blm.gov/press-release/trump-administration-proposes-updates-oil-and-gas-regulations).

state offices to shift staff to renewable and transmission project land use planning and permitting activities. This is especially critical given the loss of BLM's national planning team.<sup>34</sup>

• Improve siting processes. BLM should consider making targeted modifications to its planning and permitting processes to make them as efficient, inclusive and functional as possible. This could include making more and better information widely available online, making it easier for the public and other interests to engage in the process, and, where appropriate, removing requirements that are outdated or add no value. Reinstating compensatory mitigation, even if it did not address climate impacts, would help ease permitting of renewable projects. BLM should coordinate with the Federal Permitting Improvement Steering Council (FPISC) in the Executive Office of the President to identify tools and potential resources to move through the permitting process efficiently.

BLM also should update RMPs to make areas available for renewable development. While BLM often updates the relevant RMP once a developer has proposed a project, it may be more effective to conduct an across-the-board review to identify promising areas for renewable and transmission projects and the corresponding RMPs that need revision. Designated Leasing Areas are a formalized, large-scale version of this, in which BLM reviews large areas through the land use planning process to identify preferred locations for solar or wind energy development that may be offered competitively.<sup>35</sup> Once NEPA reviews are completed for these parcels and they have been incorporated in the relevant set of RMPs, projects within their boundaries should be able to be approved more quickly.<sup>36</sup> The DLA process is intended to reduce siting conflicts by allowing BLM to identify areas with greater or lesser conservation value and potential for conflicts and help steer project developers accordingly. While some projects have been developed in DLAs, this approach has not yet substantially boosted renewable projects on public lands.<sup>37</sup> A new administration should consider further how a proactive siting approach could be made more effective, as well as where it could be usefully deployed.

• Other incentives. BLM could also evaluate whether lower rental rates would substantially boost renewable development on public lands. If that appears likely, BLM could reconsider how it applies its current methodology for calculating rents for renewable projects. BLM could also reconsider the rental rate calculation methodology itself through a rulemaking process, although that would take more time and resources.

**Enhancing carbon sequestration.** Much of BLM's lands are natural rangelands (mostly semi-arid) or tundra, with some forested areas located mostly in Oregon, California and interior Alaska. While rangelands and tundra take up and hold substantial amounts of carbon, the opportunity to increase the baseline rates of carbon sequestration on these lands through changes in management practices is more limited, compared to forest lands.<sup>38</sup> BLM's greatest opportunities for biological carbon sequestration lie in avoiding loss of existing carbon stocks by avoiding disturbance or conversion of undeveloped land to other land uses, with smaller opportunities for raising carbon sequestration rates through restoration and better land management practices. The scope of potential carbon

<sup>&</sup>lt;sup>34</sup> Over the medium term, BLM must make a sustained effort to rebuild from recent losses and hire more qualified staff, particularly scientists and planners, with the types of expertise needed for permitting renewable generation and transmission projects. These include ecologists, wildlife biologists, botanists, hydrologists, archeologists, and others able to evaluate suitable locations and impacts on ecosystems, endangered species, and historic and sacred sites. <sup>35</sup> 43 CFR 2801.5.

<sup>&</sup>lt;sup>36</sup> See e.g., the Desert Renewable Energy Conservation Plan in the California Mojave and Colorado/Sonoran Desert (<u>https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage</u> &currentPageld=95675).

<sup>&</sup>lt;sup>37</sup> See, Yale Center for Business and the Environment, *Key Economic Benefits of Renewable Energy on Public Lands*, 11-13 (May 2020) (<u>https://cbey.yale.edu/key-economic-benefits-of-renewable-energy-on-public-lands</u>).

<sup>&</sup>lt;sup>38</sup> Booker et al, *What can ecological science tell us about opportunities for carbon sequestration on arid rangelands in the United States?*, Global Envtl. Change, 240-251 (Feb. 2013) (<u>https://www.sciencedirect.com/science/article/piiS0959378012001148 #!</u>). Opportunities to enhance carbon sequestration on U.S. rangelands through management practices are largely limited to rangelands with relatively more moisture. On semi-arid and arid lands, moisture limitations, rather than land use practices, appear to largely determine the amount of carbon sequestration. *Id.* 

mitigation through restoration on BLM lands is not well documented, although restoration can also help avoid loss of existing carbon stocks by reducing the risk of wildfire.<sup>39</sup>

• Manage for carbon sequestration. Consistent with the Secretarial Order, in the first 100 days, the BLM Director should issue an Instructional Memorandum to the field requiring that land management decisions appropriately weight the impacts of proposed actions on carbon stored in the soil and vegetation, and on net annual carbon sequestration. BLM should work with USGS to develop estimates of the potential vegetation and soil carbon losses or gains associated with various activities for NEPA analyses of proposed actions.

Quantification of the GHG impacts alone, however, does not tell BLM staff whether or not to lease an area for mineral development. Managing toward a net-zero GHG emissions goal for DOI would be one way to help take carbon losses into account in land management decisions, as discussed above. The BLM Director can also help enforce this directive by requiring that individual land-use decisions with non-trivial net carbon losses be sent to BLM headquarters for review prior to finalization.

- **Restore degraded lands.** Beginning as soon as funding is available, BLM should undertake a major effort to restore degraded lands, both to increase carbon sequestration on those lands and to reduce the likelihood of larger carbon losses through wildfire. Much of BLM's western rangelands are overrun with cheatgrass and other invasive species, which exacerbate wildfires and reduce carbon sequestration, among other harmful impacts. Restoring native grasses to these ecosystems is labor and resource intensive, and doing so at a meaningful scale would require substantial funding increases.
- **Reduce wildfire risks and damage.** Wildfires have the potential to release vast quantities of carbon that are not recaptured for decades to hundreds of years. BLM should continue its work to reduce wildfire risk and fight fires when they occur, and BLM (as well as BIA, NPS, and USFWS) should request the funding increases that would be necessary to scale up these efforts.

#### Bureau of Ocean Energy Management

BOEM should reduce emissions from federal fossil fuel leases through a new five-year plan that limits or ends new offshore leasing, and by working with BSSE to regulate methane emissions and plug wells. BOEM should increase offshore renewable energy production by approving pending projects and prioritizing swifter approval of new offshore wind projects.

The Bureau of Ocean Energy Management manages offshore leasing for oil and gas production and renewable energy. Its primary opportunities for climate mitigation are: (1) reducing emissions from leases for offshore oil and gas production; and (2) boosting offshore renewable energy production. BOEM had \$131.6 million in funding and an estimated 609 FTE in FY2020.<sup>40</sup>

**Reducing emissions from federal fossil fuel leases.** A key way to reduce GHG emissions from offshore drilling is to put areas of the outer continental shelf off limits to drilling. BOEM can also work with BSSE to regulate methane emissions and plug orphan offshore wells.

• Limit leasing. A new administration should aim to end leasing either in the entire outer continental shelf or all areas not currently being drilled (i.e., all areas outside of the Western and Central Gulf of Mexico). Under the Outer Continental Shelf Lands Act, BOEM can do this by excluding areas from its five-year leasing plan and the President can do this by withdrawing lands or waters from leasing.<sup>41</sup>

<sup>&</sup>lt;sup>39</sup> Besides biological carbon sequestration, public lands may eventually play an important role as a repository for carbon captured from industrial sources, such as power plants and refineries, or captured directly from the ambient air. This is a longer-term opportunity, however, as the quantities currently captured are extremely small.

<sup>&</sup>lt;sup>40</sup> FY2020 appropriations report, Division D.; U.S. Dept. of the Interior, Office of Budget, *FY2021 Interior Budget in Brief, Appendix H, Staffing*, H-1 (Feb. 2020) (<u>https://www.doi.gov/budget/appropriations/2021/highlights</u>).

<sup>&</sup>lt;sup>41</sup> Outer Continental Shelf Lands Act, 43 U.S.C.§§1331-1356, §1344 (five-year planning process), § 1341(a) (Presidential withdrawal authority).

Presidential withdrawal is an efficient mechanism, as a withdrawal can be issued as an executive memorandum or executive order and is not subject to NEPA. Once issued, the areas withdrawn by the President would not be in play during BOEM's development of its five-year plan for leasing, which would simplify and streamline that process. President Obama blocked leasing in the Arctic Ocean through a series of withdrawals. Withdrawal of the entire outer continental shelf from leasing, however, would be a significant expansion in the use of this authority that warrants further legal evaluation.

For areas not covered by Presidential withdrawals, BOEM's five-year plans establish the areas available for offshore leasing, as well as the timing of leasing opportunities. The plan development process has multiple steps and opportunities for public comment, and there is substantial legal risk if this process is short-circuited. The last Obama five-year plan runs through 2022, and appears likely to remain in place until that time.<sup>42</sup> BOEM has begun developing a new five-year plan, but will not be able to complete it prior to January 2021.

A new administration could finalize a new five-year plan for 2022-2027 by building off the steps already completed and supplementing the analysis as needed, but significantly narrowing or eliminating leasing under the end product. BOEM could take the final step in the plan—finalizing the programmatic EIS and the Proposed Final Program—by scheduling no lease sales or only a limited number of lease sales in the Western and Central Gulf of Mexico. DOI could also cancel the remaining lease sales in 2021 and 2022 under the current plan (currently two annual sales in the Gulf of Mexico), as this is within the Secretary's discretion. Building off the current process, with or without the cancellations, would minimize the administrative burden on BOEM and achieve the desired result for the near term, while providing more time for the administration to assess expanded presidential withdrawals.

- **Regulate emissions.** BOEM and BSEE share responsibility for regulating air quality and emissions for offshore operations. BOEM is responsible for adopting air quality regulations that apply to operator's plans to explore, develop and produce oil and gas on the OCS, while BSEE is responsible for permitting activities and inspection and enforcement. Within the first 100 days, BOEM should begin work with BSEE to update the current regulations related to flaring, venting, and leaks of methane from offshore oil and gas production, as well as to require operators to promptly plug idle offshore wells. The current regulations addressing venting and flaring of gas from offshore operations are assigned to BSEE for implementation, so recommendations to update these regulations are discussed in the section on BSEE below, but both bureaus would likely be involved in updating the regulations.<sup>43</sup>
- **Plug wells.** BOEM should update its financial assurance requirements to ensure that there is sufficient funding available to plug future orphaned offshore wells. BOEM and BSEE should also work together to require operators to promptly plug idle wells, as well as to reduce the backlog of unplugged wells. Leaks from idle (and particularly hurricane-damaged) offshore wells are a source of methane emissions. A 2015 GAO report found that as of 2015, there were over 1,000 idle wells in the Gulf (which will need to be plugged), and the federal government is exposed to billions of dollars in decommissioning liabilities.<sup>44</sup>

**Increasing offshore renewable energy production.** One of the most significant opportunities for DOI to advance climate mitigation is to boost offshore wind production, which has strong potential for dramatic expansion in federal waters. BOEM should swiftly approve pending projects and reorient the bureau and its resources to prioritize and significantly speed the permitting process for upcoming projects.

<sup>&</sup>lt;sup>42</sup> BOEM's efforts to develop a replacement plan for 2019-2024 appear to be on hold after a litigation setback. *See, e.g.,* E&E News PM, *No Offshore Drilling Expansion in Budget Request* (Feb. 10, 2020) (<u>https://www.eenews.net/eenewspm/</u>stories/1062316997/search?keyword=BOEM+leasing).

 <sup>&</sup>lt;sup>43</sup> See DOI, Reorganization of Title 30: Bureaus of Safety and Environmental Enforcement and Ocean Energy Management; Direct Final Rule, 76 Fed. Reg. 64432, 64444 (Oct. 18, 2011) (indicating that 30 CFR §§ 250.1160, 250.1161 are retained by BSEE).
<sup>44</sup> U.S. GAO, Offshore Oil and Gas Resources: Actions Needed to Better Protect Against Billions of Dollars in Federal Exposure to Decommissioning Liabilities, 18 (Dec. 2015) (https://www.gao.gov/products/GAO-16-40).

- Approve pending projects. Within the first 100 days, BOEM should approve pending offshore wind projects that are being held up. As of early 2020, there was a backlog of five major projects capable of generating hundreds of megawatts of offshore wind. The environmental reviews for these projects are complete and they are ready for approval, but the current administration has ordered new and unnecessary reviews.
- **Speed approval process.** Within the first 100 days, the BOEM Director should support and speed approval of new offshore renewable projects by: issuing guidance and directives to prioritize renewable project reviews; standardizing review processes; and boosting staffing for renewable energy work. The BOEM Director, supported by the Secretary's Office, should also seek better interagency coordination with the National Marine Fisheries Service in NOAA, as NMFS concerns have contributed to project delays. More and better outreach to the wind industry could also decrease delays by identifying locations of interest to the industry and steering project developers away from problematic areas. Industry uncertainty regarding review and approval timing is probably the greatest impediment to offshore renewable development, so working to improve the speed and certainty of BOEM's approval process is critical.
- **Boost internal support for renewable development.** Inadequate institutional support for and commitment to renewable energy development within BOEM is a huge barrier to faster permitting. Including an ambitious offshore renewable energy volume target in the Secretarial Order would signal to BOEM staff and management that offshore wind is a high priority while providing a way to measure progress and improve accountability. In addition, the Director should proactively identify reoccurring issues and resolve them across the board by issuing guidance. This could help reduce the delays inherent in treating each project as a "one-off" in this relatively new area of work for BOEM.
- Address staffing constraints. Staffing constraints are real, damaging, and getting worse, as developer interest in offshore renewable projects is ramping up rapidly. In the first 100 days, BOEM should reassign staff to work on renewable energy reviews and approvals and request reprogramming of funding for this purpose. Over the medium term, BOEM needs to hire more staff with relevant expertise, particularly economists and energy industry specialists with expertise in offshore energy economics, finance, and renewable technologies, as well as staff with expertise in impacts on ocean resources. Like BLM and BSEE, BOEM also needs additional staff able to develop and draft regulations.

BOEM should consult with the Office of the Solicitor to determine whether it could use contribution authority to fund positions to speed offshore renewable permitting. Contribution authority allows an agency to accept funds from outside the federal government to further specified purposes. Congress has provided such authority to BOEM, although the extent of the authority is not entirely clear.<sup>45</sup> If the current legislative authorization is deemed insufficient, BOEM could request the Appropriations Committees to expand the authority to allow it to be used to support renewable permitting.

#### Bureau of Safety and Environmental Enforcement

BSEE should reduce GHG emissions from federal fossil fuel production by working with BOEM to regulate flaring, venting, and leaks of methane from offshore oil and gas production, and by limiting case-by-case approvals of venting and flaring.

The Bureau of Safety and Environmental Enforcement regulates oil and gas exploration, development, and production operations on the Outer Continental Shelf for safety and environmental protection purposes. BSEE also oversees gas injection and makes determinations regarding royalty relief under existing leases. BSEE had \$133.4 million in funding and an estimated 881 FTE in FY2020.<sup>46</sup>

<sup>&</sup>lt;sup>45</sup> See 43 USC 1473.

<sup>&</sup>lt;sup>46</sup> FY2020 appropriations report, Division D.; U.S. Dept. of the Interior, Office of Budget, *FY2021 Interior Budget in Brief, Appendix H, Staffing*, H-1 (Feb. 2020) (<u>https://www.doi.gov/budget/appropriations/2021/highlights</u>).

**Regulate GHG emissions.** Within the first 100 days, BSEE and BOEM should begin developing regulations to reduce flaring, venting, and leaks of methane from offshore oil and gas production.<sup>47</sup> Minimizing methane emissions from venting, leaks, and flaring—and carbon dioxide emissions from flaring—is one of DOI's more significant opportunities to reduce GHG emissions. DOI's existing regulations related to venting and flaring during offshore production provide minimal constraints and little to no accountability.<sup>48</sup> These emissions will continue unabated absent action by DOI because there are no other applicable sources of regulation. States do not have authority over operations on the Outer Continental Shelf, EPA's authority is geographically limited, and EPA's current oil and gas methane regulations do not apply to operations on the OCS.<sup>49</sup>

**Disapprove venting and flaring requests.** Even before finalizing new venting and flaring regulations, BSEE should constrain new offshore venting and flaring by denying approvals of venting or flaring in the situations where approvals are currently required on a case-by-case basis. For example, the BSEE Director could, on Day 1, direct Regional Supervisors not to approve flaring or venting requests absent agreement from the Director. Alternatively, the Director could provide guidance to Regional Supervisors that limits when and why such approvals should be granted.<sup>50</sup>

**Other actions.** The current administration weakened BSEE's 2016 Well Control Rule, which had instituted safety standards for offshore wells in response to the 2010 BP blowout. Safety concerns will be paramount in considering when and how to restore this rule, but BSEE should also assess the degree to which restoring or strengthening the rule could directly or indirectly reduce GHG emissions.<sup>51</sup> BSEE should include the benefits of any such emission reductions in determining how to move forward on the Well Control Rule.

#### U.S. Geological Survey

USGS should track DOI's annual GHG emissions and make them publicly available through an online database, improve quantification of biological sequestration, and educate DOI staff and the public on climate science.

USGS is the science agency for DOI, with \$1.271 billion in funding and an estimated 7,606 FTE in FY2020.<sup>52</sup> USGS is well-positioned to provide critical information to DOI and the public about climate science, the impacts of climate change on America's public lands, and DOI's GHG emissions and sinks, as well as the effects of mitigation efforts.

**Track DOI GHG emissions.** USGS should track DOI's annual GHG emissions and sinks and make them publicly available through an online database.

Pursuant to a directive issued by Secretary Jewell in 2016, USGS produced the federal government's first comprehensive estimate of DOI's net GHG emissions from the extraction and combustion of federal fossil fuels and ecosystem carbon emissions and sequestration on federal lands.<sup>53</sup> The Secretarial directive called for a database of such emissions that would be updated annually and available to the public, although the database was never created.

<sup>&</sup>lt;sup>47</sup> *See* 30 USC 1751; 43 USC 1334 for authority.

<sup>&</sup>lt;sup>48</sup> See 30 CFR § 250.1160.

<sup>&</sup>lt;sup>49</sup> Congress shifted authority over offshore air pollution in the Gulf of Mexico and offshore Alaska from EPA to DOI in 2012; see 40 CFR 60.5365; 40 CFR 60.5365a.

<sup>&</sup>lt;sup>50</sup> Further research would be needed to determine whether and the extent to which the discretion to make these decisions has been delegated to Regional Directors, and if so, how best to reverse or constrain that delegation. *See* 30 CFR 260.1150 (directing operators to obtain approval from the Regional Director prior to venting or flaring in specified circumstances).

<sup>&</sup>lt;sup>51</sup> See Department of the Interior, Oil and Gas and Sulfur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control; Final Rule, 81 Fed. Reg. 25887 (Apr. 29, 2016) (<u>https://www.federalregister.gov/</u> <u>documents/2016/04/29/2016-08921/oil-and-gas-and-sulfur-operations-in-the-outer-continental-shelf-blowout-preventer-</u> <u>systems-and-well</u>).

<sup>&</sup>lt;sup>52</sup> FY2020 appropriations report, Division D.; U.S. Dept. of the Interior, Office of Budget, FY2020 Interior Budget in Brief, Appendix H, Staffing, H-1 (Feb. 2020) (<u>https://www.doi.gov/budget/appropriations/2021/highlights</u>).

<sup>&</sup>lt;sup>53</sup> USGS, Federal Lands Greenhouse Gas Emissions and Sequestration in the United States: Estimates for 2005–14 (2018) (https://pubs.er.usgs.gov/publication/sir20185131).

Further refining, tracking and updating such information, and developing and maintaining a publicly available database, would be a critical USGS contribution to DOI's mitigation efforts. USGS leadership should prioritize this work, and redirect the personnel and funding needed to get the database up and running within 12 to 18 months.

**Biological sequestration research.** USGS should devote more of its resources to research on biological carbon sequestration, and DOI should prioritize this for additional funding in the budget requests.

Producing estimates of DOI's GHG emissions resulting from coal, oil, and gas extraction and combustion is complex, but most of the relevant information is available (e.g., production quantities are well tracked, and the carbon content of fuels can be reasonably estimated). There are areas of greater uncertainty (e.g., methane emissions from oil and gas extraction and abandoned oil and gas wells and coal mines), but they are bounded. Also, other agencies such as EPA, as well as NGOs and academics, have ongoing research efforts to refine such estimates.

By comparison, the science of estimating the volume of GHGs sequestered through biological sinks across public lands is considerably more difficult and less advanced. USGS has been active in this area, however, with ongoing research into biological sequestration across different land types. USGS expertise and research resources will be particularly valuable in furthering estimates of how biological sequestration can contribute to mitigation.

**Climate science education.** As DOI's sole science agency, USGS should play a far more prominent role than it has to date in actively educating both the public and DOI staff on climate science and the potential impacts of climate change on public lands, wildlife, and water resources under various emissions scenarios. A new administration should explore ways to encourage and help USGS to provide user-friendly information on climate science and climate impacts, and to disseminate such information inside and outside the Department. Expanding USGS's work on tracking and reporting DOI's GHG emissions can also synergistically boost USGS's educational role. USGS scientists would need to interact with staff from other DOI bureaus to obtain and refine the information needed to populate a database of DOI's GHG emissions and sinks, and staff from other DOI bureaus could be directed and/or encouraged to use information from such a database and consult with USGS where warranted.

# **3** Cross-Cutting Priorities and Relationships

DOI's broad sweep of responsibilities leads to extensive interactions with many other government agencies, and incoming DOI leaders should prioritize building these relationships. Several of DOI's most important interagency relationships for climate mitigation purposes include those with the National Marine Fisheries Service and its parent agency NOAA, the U.S. Forest Service in USDA, EPA, DOJ, and the Office of Information and Regulatory Affairs in OMB.

**NOAA/NMFS.** DOI and BOEM leadership should reach out early to NOAA and NMFS to ameliorate conflicts between BOEM and NMFS over approval of offshore wind generation projects.

Strong advocacy by NMFS in the interagency NEPA process has contributed to significant delays in BOEM's permitting of offshore wind projects, as well as driven project redesigns that raise costs and reduce generation. There are concerns that some of NMFS's positions have better reflected the views of commercial fishing interests than the best available science on impacts on fish populations. While BOEM has been quite deferential to NMFS concerns under the current administration, BOEM may be empowered to push back more under a new administration, potentially exacerbating conflicts. Ultimately, the White House may need to broker an interagency agreement governing reviews of these projects. Regardless, DOI and NOAA should initiate an effort to improve the agencies' working relationship.

**USDA/U.S. Forest Service.** DOI has close and extensive working relationships with the Forest Service, but the agencies could coordinate more explicitly on climate mitigation activities.

BLM, NPS, USFWS, BIA and the Forest Service all participate in the National Interagency Fire Center (NIFC). NIFC pools agency fire-fighting resources, develops policies, and coordinates wildfire response efforts. The DOI agencies in NIFC should work with the Forest Service, and other partner agencies, to ensure that the climate mitigation benefits of addressing wildland fire are fully accounted for in the agencies' wildfire-related budget requests and NIFC policies.

USGS and the Forest Service are both heavily involved in researching and estimating biological carbon sequestration in the U.S. and on public lands. The Forest Service focuses on ground-based measurement in forest plots, while USGS uses satellite data to develop its estimates. USGS should continue to reach out to the Forest Service to share data and methodologies for quantifying biological carbon sequestration, allowing both agencies to access additional resources and improve their estimates.

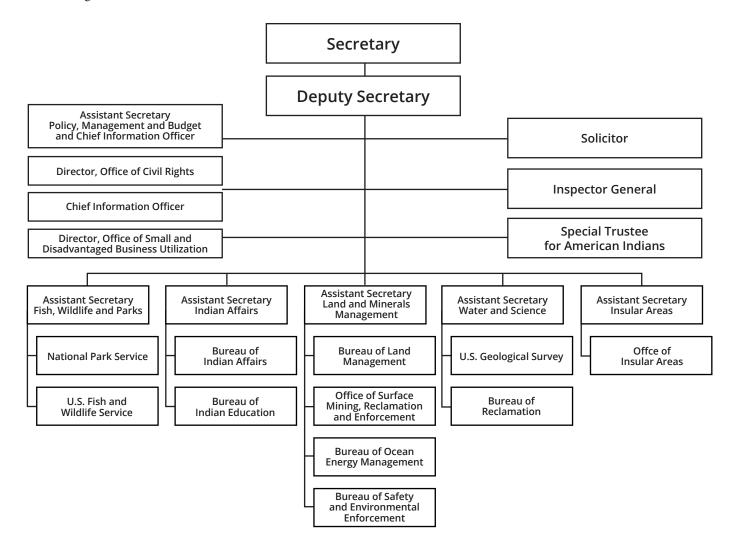
**EPA.** In the Obama administration, BLM and EPA coordinated on rulemakings to reduce waste and methane emissions from oil and gas production to avoid duplication or conflict between the rules, and BLM benefitted greatly from EPA technical expertise on control methods and technologies. As BLM, BOEM, and BSEE move to strengthen these rules and/or adopt new rules, DOI should continue coordinating with EPA.

**DOJ.** Under a new climate-focused administration, DOJ's greatest mitigation-related opportunities will lie in defending strong mitigation rules—such as BLM's Waste Prevention Rule—and helping agencies develop and defend new mitigation strategies, such as compensatory mitigation for climate impacts. Involving DOJ early in the process can help agencies identify the strongest legal grounds for climate mitigation rules and policies.

**OMB/OIRA**. Under good leadership and forceful White House direction to facilitate agencies' climate mitigation efforts, OIRA could be less of a barrier to environmental regulation than in past administrations. Regardless, almost every mitigation-oriented rulemaking recommended here must obtain OIRA approval prior to issuance. Developing respectful relationships with OIRA staff and senior management can help navigate this potential source of delay and avoid modifications that would weaken the rules.

### Appendix A: DOI Organization and Budget

The Department of the Interior consists of over 62,000 FTEs, spread across 11 individual bureaus and offices, six departmental offices, six department-wide programs, and a commission. The individual bureaus and offices consist of the: Bureau of Land Management (BLM); Bureau of Ocean Energy Management (BOEM); Bureau of Safety and Environmental Enforcement (BSEE); Office of Surface Mining Reclamation and Enforcement (OSMRE); Bureau of Reclamation; U.S. Geological Survey (USGS); U.S. Fish and Wildlife Service (USFWS); National Park Service (NPS); Bureau of Indian Affairs (BIA); Bureau of Indian Education; and Bureau of Trust Funds Administration. Departmental offices and department-wide programs include the: Office of the Secretary; Office of Insular Affairs; Office of the Inspector General; Office of the Special Trustee for American Indians; Wildland Fire Management; and Office of Natural Resources Revenue.



#### Budget Overview Department of the Interior FY2020: Toal budget authority \$24.323 billion

Bureau or Office (selected) <sup>54</sup>	Discretionary Appropriations (thousands) <sup>55</sup>	Total Budget Authority (thousands)⁵
Bureau of Land Management	1,384	1,683
Bureau of Ocean Energy Management	132	132
Bureau of Safety and Environmental Enforcement	133	133
Office of Surface Mining Reclamation and Enforcement	257	2,391
Bureau of Reclamation	1,660	2,091
U.S. Geological Survey	1,271	1,271
U.S. Fish and Wildlife Service	1,644	2,932
National Park Service	3,374	4,115
Bureau of Indian Affairs	2,047	2,206
Bureau of Indian Education	1,191	1,191
Office of Secretary	132	2,806
Office of Insular Affairs	111	638
Office of the Solicitor	67	67
Office of the Inspector General	56	56
Office of the Special Trustee for American Indians	109	256
Wildland Fire Management	952	952
Office of Natural Resources Revenue	147	147
Total	14,600	23,068

<sup>54</sup> Table does not include all DOI bureaus and accounts.

<sup>55</sup> U.S. DOI, Office of Budget, FY2021 Interior Budget in Brief, Appendix A, Comparison of 2019, 2020 and 2021 Budget Authority, A-1 to A-16 (Feb. 2020) (<u>https://www.doi.gov/budget/appropriations/2021/highlights</u>).
<sup>56</sup> Id.