

Congress of the United States  
House of Representatives  
Washington, DC 20515-3102

March 5, 2021

Scott de la Vega, Acting Secretary  
U.S. Department of the Interior  
1849 C Street, S.E.  
Washington, D.C. 20240

Dear Acting Secretary de la Vega,

We write to you concerning feedback we have received from constituents and industry stakeholders surrounding permits for rights-of-way on federal lands. These concerns stem from one of your first acts as Acting Secretary, under Secretarial Order No. 3395, which implemented a 60-day suspension on the approval of federal oil and gas permits, leases and rights-of-way, among other things, by Department Bureaus and Offices. This order has created great uncertainty and made day-to-day operations much more difficult for oil and gas producers operating on federal lands.

The views of your department on the 60-day suspension were spelled out by Interior Spokesperson Tyler Cherry, when he said the orders do not stop permitting, but “temporarily elevates review of relevant agency decisions” to “Department leadership for the purposes of reviewing questions of fact, law, and policy they raise.” He went on to say, “Nothing has been paused or suspended, just elevated for review.” In addition, your department has expressed the goal that existing operations on federal lands will be able to operate as normal.

Unfortunately, that is not the way things are working on the ground. The interference from political appointees in Washington has tied the hands of experienced agency officials on the ground and completely ground to a halt the process for approving rights-of-way. The rights-of-way in question involve several different types of access to the surface of federal lands, including but not limited to: pipelines for take-away of associated gas production from producing oil wells, pipelines to transport oil production to purchasers, permanent and temporary lines to transport produced water, fresh water and recycled water for operations.

The suspension on approving rights-of-way has caused significant problems for producers, as the lack of these right-of-way permits has threatened to completely shut down existing operations on existing federal leases with approved permits to drill (“APDs”) and increased the possibility for multiple types of environmental hazards on federal lands, such as producers needing to flare associated gas production for lack of a gas take-away lines and a significant increase in truck hauling of produced oil and water for operations. This impact to air quality and increase surface footprint would seem to run contradictory to the stated goals of your department and the Biden administration to protect the environment.

We are concerned these delays in rights-of-way permitting run counter to the statutory and regulatory obligations of the Department of the Interior, Bureau of Land Management, and agreements with producers via existing federal leases and approved APDs and could cause both economic and environmental harm. Current law gives the Department of Interior the authority to include additional

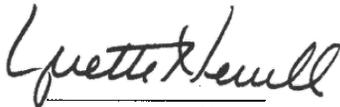
environmental obligations on an existing lease through special stipulations in the approved APD, but those stipulations should not prevent the operator from being able to operate or produce on the lease.

If delays continue, existing operations could be forced to shut down, which would cause the Department of Interior to be in violation of existing law through the unlawful taking of property rights, lack of due process and additional constitutional violations, and violation of the Mineral Leasing Act of 1920. By preventing an operator's vested right to operate and produce existing leases and APDs, the Department of Interior will be directly responsible for causing the loss of jobs and revenue to state and local governments.

We ask that you restore the decision-making authority to issue permits for rights-of-way to local agency experts. An important process such as this cannot be bogged down by unnecessary bureaucracy, as the livelihoods of many of our constituents may well depend on a permit being approved in a timely manner.

This is a timely request; therefore we ask for a written reply by March 19<sup>th</sup>, 2021.

Sincerely,



Yvette Herrell  
Member of Congress



Steve Scalise  
Member of Congress



Henry Cuellar  
Member of Congress



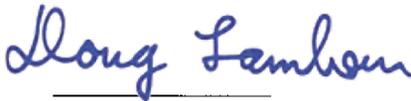
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