

United States Senate

WASHINGTON, DC 20510

February 4, 2021

Acting Secretary de la Vega
Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

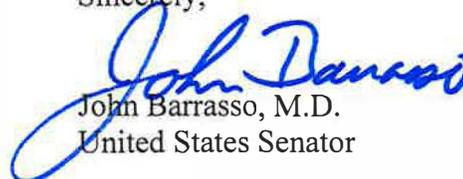
Dear Acting Secretary de la Vega:

I write to express my strong opposition to two recent orders imposing a moratorium on oil and gas leasing and permitting on federal lands: Secretarial Order No. 3395 and President Biden's Executive Order No. 14008. While administration officials have stated that these orders do not affect activities on existing leases, oil and gas producers operating on federal land in Wyoming have told me that the Bureau of Land Management (BLM) is failing to issue permits necessary for oil and gas production on existing leases. It has also come to my attention that BLM is proceeding with a lease sale in Nevada and a variety of permitting activities in New Mexico, which BLM is not conducting in Wyoming. It is imperative that you clarify which activities BLM will conduct under Secretarial Order No. 3395 and not treat Wyoming differently than Nevada or New Mexico.

Section 3(g) of Secretarial Order No. 3395 states that it: "does not limit existing operations under valid leases. It also does not apply to authorizations necessary to: (1) avoid conditions that might impose a threat to human health, welfare, or safety; or (2) to avoid adverse impacts to public land or mineral resources." On Wednesday, January 27, 2021, Gina McCarthy, President Biden's National Climate Advisor, publicly stated that the President's Executive Order No. 14008 "is not stopping permitting. It's not stopping fracking." That same day, Jennifer Granholm, whom President Biden has nominated to be Secretary of Energy, provided sworn testimony to the Senate Committee on Energy and Natural Resources that, under the administration's orders: "the licenses that currently are operating are not going to be disrupted. They will continue to operate...they can continue to permit and deploy and extract energy from." Ms. Granholm added "the moratorium on leases is prospective. It does not apply to those who are currently operating."

Since then, I have spoken to a number of oil and gas producers who are unable to obtain the necessary permits from BLM to produce on existing leases on federal land in Wyoming. At least one oil and gas producer has reported to me that BLM is permitting activities in New Mexico that it is not permitting in Wyoming. In addition, I have come to learn that BLM will proceed with an oil and gas lease sale in Nevada on March 9, 2021, but does not appear to have plans to proceed with a lease sale in Wyoming scheduled for March 15, 2021. To clarify the administration's orders, provide certainty to states and oil and gas producers, and ensure that the Biden administration is not treating New Mexico or Nevada more favorably than it is treating Wyoming or other states, I ask that you answer the following questions no later than February 12, 2021. Thank you.

Sincerely,



John Barrasso, M.D.
United States Senator

Attachment

Questions for Acting Secretary de la Vega:

1. Clearly list and define all items, actions, and permits that are considered “existing operations under valid leases” under Secretarial Order No. 3395.
2. Will the Department approve new applications for permit to drill (APDs) on existing leases while Secretarial Order No. 3395 remains in effect?
3. How does the Department plan to comply with the deadlines for APDs established in 30 U.S.C. §226(p)(1) and (2) while Secretarial Order No. 3395 remains in effect?
4. How will the Department address submitted but unapproved APDs, which may be subject to a categorical exclusion or documentation of NEPA adequacy (DNA) and would not result in new surface disturbance, while Secretarial Order No. 3395 remains in effect?
5. How will the Department address submitted but unapproved APDs, which may be subject to a categorical exclusion or DNA and would result in new surface disturbance, while Secretarial Order No. 3395 remains in effect?
6. How will the Department address submitted but unapproved APDs which are not subject to a categorical exclusion or DNA while Secretarial Order No. 3395 remains in effect?
7. To what extent will the Department approve sundries, amendments, and other requests related to already approved APDs and new APDs – including instances when requests for approval require new surface disturbance – while Secretarial Order No. 3395 remains in effect?
8. To what extent will the Department grant rights-of-way for oil, natural gas, and water gathering lines, pipelines, and other infrastructure related to the operations of already approved APDs and new APDs while Secretarial Order No. 3395 remains in effect?
9. For each BLM field office, in each state, provide a list of the number of APDs, sundries, amendments, rights-of-way, and other requests approved or rescinded since Secretarial Order No. 3395 went into effect. Please provide me an updated list on a weekly basis.
10. Describe the professional and technical qualifications of each of the individuals, who are listed in section 4 of Secretarial Order No. 3395 and are now responsible for processing APDs and related permits.
11. How does the Department plan to comply with the quarterly lease sale requirement under 30 U.S.C. §226(b)(1)?
12. On January 21, 2021, *Bloomberg* reported that “[a] Nevada oil and gas lease sale scheduled for March 9[, 2021,] is the only lease sale listed online at EnergyNet that would fall within the 60-day window.” Does the Department plan to proceed with the Wyoming oil and gas lease sale scheduled for March 15, 2021? If not, what is the legal basis for proceeding with the Nevada oil and gas lease sale on March 9, but not proceeding with the Wyoming oil and gas lease sale scheduled for March 15?

13. How will the Department address applications for APD extensions, lease extensions, and suspension of operations while Secretarial Order No. 3395 remains in effect?
14. How will Secretarial Order No. 3395 be phased out?
15. When will Secretarial Order No. 3395 be phased out?
16. Has the Department assessed the detrimental environmental impacts from restricting the permitting and siting of gathering lines, pipelines, and other infrastructure? Specifically, has the Department assessed how Secretarial Order No. 3395 and/or Executive Order No. 14008 may result in additional truck traffic to and from well pads, additional venting and flaring of natural gas, and additional consumption of freshwater? If so, please provide the assessment in its entirety.
17. Has the Department assessed the detrimental impacts that Secretarial Order No. 3395 and/or Executive Order No. 14008 will have on the conservation and recovery of fluid minerals (e.g., oil, natural gas) on federal lands and waters? If so, please provide the assessment in its entirety.
18. The Land and Water Conservation Fund is entirely financed by offshore leasing and royalty revenues. The Great American Outdoors Act provides billions annually from onshore and offshore Federal oil and gas leasing and development for national parks and other conservation programs. Has the Department assessed the impact to conservation funding from Secretarial Order No. 3395 and/or Executive Order No. 14008? If so, please provide the assessment in its entirety.
19. How does the Department expect Secretarial Order No. 3395, Executive Order No. 14008, and the resulting economic loss to comply with the Department's mandate to manage lands "in a manner which recognizes the Nation's need for domestic sources of minerals...from the public lands," as stated in 43 U.S.C. §1701(a)(12)?
20. Secretarial Order No. 3395 states that it applies to the delegation of authority vested in employees of the Bureau of Indian Affairs (BIA). However, the Department recently clarified that the order exempts lands held in trust for the benefit of one or more Indian tribes or individual Indians. Will there be a new delegation of authority issued to BIA employees? If so, when will that occur?
21. Has the Department assessed the impacts to parcels, which are held in trust for the benefit of one or more Indian tribes or individual Indians, if those parcels are in a unit agreement with federal parcels? Additionally, if the parcel held in trust for an Indian tribe or individual Indian becomes uneconomic on account of Secretarial Order No. 3395 and/or Executive Order No. 14008, will the Department issue permits for the federal parcels to avoid harmful impacts to parcels held in trust for an Indian tribe or individual Indian?
22. Has the Department provided BLM offices in New Mexico and/or Nevada with guidance, written or oral, on Secretarial Order No. 3395 and/or Executive Order No. 14008, which it has not provided to BLM offices in Wyoming or other states? If so, what is the legal basis for withholding that guidance from BLM offices outside of New Mexico and/or Nevada?