

Congress of the United States
Washington, DC 20515

April 14, 2020

The Honorable David L. Bernhardt
U.S. Department of the Interior
1849 C Street N.W.
Washington D.C. 20240

Dear Secretary Bernhardt:

We are greatly concerned about the Department of Interior's handling of public rulemaking and public comment periods while the country and the world fight the coronavirus pandemic. As you know, the President declared a national emergency on March 13, 2020, and as of April 7, 2020 more than 11,000 Americans are estimated to have died from COVID-19, with public health experts projecting the possibility of more than 100,000 deaths in the United States. Given these dire circumstances, it is inappropriate that the Department of Interior continue its rulemaking process while the public's attention is elsewhere. The Department's refusal to extend comment periods will, in effect, curtail the public's right to a meaningful opportunity to participate in the rulemaking process.

Due to the national emergency and to ensure the public's legal right to a meaningful and robust participation process, we urge the Department to either:

1. Pause all open public comment periods on rulemaking and non-rulemaking, unrelated to the COVID-19 emergency response, and only reopen them once the Declared nation emergency has ended. Once reopened, extend the comment periods by at least 45 days. Comment periods from March 13, 2020 to the present should also resume at that time; or
2. Keep open and extend all open public comment periods on rulemaking and non-rulemaking, unrelated to the COVID-19 emergency response, by at least 45 days beyond the end of the declared national emergency, including immediately reopening comment periods which closed from March 13, 2020 to the present.

The American people face unprecedented challenges related to the COVID-19 pandemic, they are social distancing and staying home to control the spread of the virus. Businesses and non-profit organizations are closing their doors and a record 6.6 million Americans filed for unemployment benefits in the last week of March alone. In response, the Internal Revenue Service (IRS) and the Treasury Department extended deadlines on federal income tax filings and the Department of Housing and Urban Development has issued a moratorium on foreclosures and eviction for all Federal Housing Administration-insured mortgages.

Despite disruptions caused by the COVID-19 crisis and action by some agencies to ease the burden this has caused, the Department of Interior appears to remain determined to use the COVID-19 crisis as an opportunity to push its aggressive deregulatory agenda while the public's attention is forced to be elsewhere. The New York Times reported that Fish and Wildlife Service (FWS) employees were given "strict orders" to complete the Department's rule to eliminate incidental take protections provided in the Migratory Bird Treaty Act (MBTA) within the month. The Department ignored calls from members of Congress to extend the comment period and

closed the short 45-day (the statutory minimum) comment period on March 19. The Department denied these requests for extension of the comment period even while the Administration has cited disruptions caused by the COVID-19 crisis to justify multiple extensions of filing deadlines in court cases challenging the Department's MBTA incidental take reinterpretation.

The Department's failure to pause or extend public comment periods during this crisis will impede the ability of impacted communities to engage in permitting processes that will directly affect their health and well-being long after the COVID-19 outbreak. For example, the Bureau of Land Management (BLM) opened a public comment period for ConocoPhillips' proposed Willow Plan in Alaska's Arctic after the President declared a national emergency. This massive oil and gas proposal will have impacts across the Arctic. To continue to move forward during this time, BLM stated that they will be holding virtual meetings during a short 45-day comment period. Many rural communities in Alaska, including directly impacted communities like Nuiqsut, lack strong internet connections, making virtual meetings a hollow exercise and impeding the ability of these communities to meaningfully participate and provide comments. Meaningful public participation requires in-person public meetings, especially in rural communities where BLM operates, like Alaska's Arctic.

During this difficult time, the public's attention is on the health of themselves and their loved ones, as it should be. The health and well-being of the American people must come first during this pandemic. The Department of Interior must ensure it protects the public's right to participate in the operations of their government while it continues to comply with statutory and judicial requirements during this national emergency. We urge you to immediately extend and protect public comment periods by taking the actions stated in this letter.

Thank you for your attention to this matter. Given the urgency of the crisis, we request your response within the next two weeks.

Sincerely,



Alan Lowenthal
Member of Congress

Mike Quigley
Member of Congress

Nanette Diaz Barragán
Member of Congress

Jerry McNerney
Member of Congress

Sean Casten
Member of Congress

Ruben Gallego
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Henry C. "Hank" Johnson, Jr.
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Frank Pallone, Jr.
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TJ Cox
Member of Congress

Kathy Castor
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Maxine Waters
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Debbie Mucarsel-Powell
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Judy Chu
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A. Donald McEachin
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Stephen F. Lynch
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James P. McGovern
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