



May 7, 2018

*Submitted via email to [bj.howerton@bia.gov](mailto:bj.howerton@bia.gov)*

Dr. BJ Howerton, MBA  
Branch Chief, Environmental and Cultural Resource Management  
C/O Department of the Interior  
12220 Sunrise Valley Drive, Reston, VA 20192

**Re: Updates to Bureau of Indian Affairs Categorical Exclusions Under the National Environmental Policy Act**

Dear Dr. Howerton:

Western Energy Alliance appreciates the opportunity to provide input on the Bureau of Indian Affairs' (BIA) use of categorical exclusions (CATEX) under the National Environmental Policy Act (NEPA). We support BIA's current list of CATEXs, especially those relating to rights-of-way and minerals, and urge their expanded use for NEPA compliance.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas across the West. The Alliance represents independents, the majority of which are small businesses with an average of fifteen employees.

Delays caused by the NEPA process discourage Alliance members from operating on tribal and allottee lands, thereby reducing revenues that would be generated for the tribes and their members and limiting domestic energy production. Duplicative layers of NEPA review are a prime cause of the delays associated with permitting on public lands.

In August 2017, President Trump and Interior Secretary Zinke released Executive Order 13807 and Secretarial Order 3355 relating to streamlining the NEPA process. These orders give a clear mandate to agencies such as BIA to eliminate duplicative NEPA reviews and reduce associated timelines. Issuing CATEXs in place of environmental assessments (EA) for oil and natural gas permitting on tribal lands would achieve these goals and would conserve the already limited BIA resources and staff time. BIA has the authority under the current policy to use CATEXs for NEPA compliance for rights-of-way and mineral development. We ask BIA not to revise or delete these existing CATEXs, and to make maximum use of them whenever possible.

Land use plans and environmental impact statements (EIS) take years to develop and contemplate appropriate restrictions on development in the relevant planning area. Requiring an EA for a project that has already undergone the land use planning and EIS process is redundant and unnecessary, and merely serves to delay development. The current CATEXs preclude the need for an EA for oil and natural gas projects when an existing NEPA document applies to the project in question, so expanding the use of CATEXs

presents a prime opportunity to reduce the amount of time it takes to develop oil and natural gas on tribal and allottee lands, thereby increasing the revenue that tribes and allottees receive.

We also encourage BIA to adopt new CATEXs that mirror those enacted under Section 390 of the Energy Policy Act of 2005. The five Section 390 CATEXs are:

- 1) Individual surface disturbances of less than 5 acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.
- 2) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously within 5 years prior to the date of spudding the well.
- 3) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed such drilling as a reasonably foreseeable activity, so long as such plan or document was approved within 5 years prior to the date of spudding the well.
- 4) Placement of a pipeline in an approved right-of-way corridor, so long as the corridor was approved within 5 years prior to the date of placement of the pipeline.
- 5) Maintenance of a minor activity, other than any construction or major renovation or a building or facility.

Utilizing these additional CATEXs would further reduce the amount of resources BIA spends on duplicative environmental reviews and would align BIA policy with the mandate of Executive Order 13807 and Secretarial Order 3355.

Western Energy Alliance encourages BIA to expand the use of CATEXs in order to promote resource development for tribes and allottees. Doing so would encourage oil and natural gas companies to operate in Indian Country while maintaining the regulatory certainty necessary for those projects. Thank you for the opportunity to submit comments, and please do not hesitate to contact me with any questions.

Sincerely,



Tripp Parks  
Manager of Government Affairs