



November 30, 2018

**To:** Grand Staircase-Escalante Resource Management Planning Team, Bureau of Land Management

**Subject:** Comments on Failure to Monetize Greenhouse Gas Emissions in the Grand Staircase-Escalante National Monument and Kanab-Escalante Planning Area Draft Resource Management Plans and Environmental Impact Statement

Submitted by: Environmental Defense Fund, Institute for Policy Integrity, Montana Environmental Information Center, Natural Resources Defense Council, Sierra Club, Western Environmental Law Center<sup>1</sup>

The following comments focus on the failure to monetize climate damages in the Draft Resource Management Plans and Environmental Impact Statement (RMP) for the Grand Staircase-Escalante National Monument and Kanab-Escalante Planning Area. BLM's preferred alternative places the fewest constraints on mineral leasing and development, and so is the alternative with the greatest potential to increase greenhouse gas emissions.<sup>2</sup> Although BLM quantifies at least some upstream and downstream greenhouse gas emissions from fossil fuels extracted from the planning areas,<sup>3</sup> the RMP does not include a monetized estimate of the actual, real-world climate damages those emissions will produce.

Instead, BLM wrongly argues that "it is not currently possible to link projected GHG emissions associated with any particular activity to specific environmental impacts at a specific site or location."<sup>4</sup> In fact, the social cost of greenhouse gas methodology provides such a tool, which links each additional ton of greenhouse gas emissions to specific impacts and monetizes the associated damages. BLM is well aware of this tool, having used the social cost of carbon in past NEPA reviews.<sup>5</sup> BLM also now concludes, without analysis, that the "associated GHG emissions" from mineral development under this RMP are "not expected to notably affect regional or global climate change."<sup>6</sup> On the contrary, the 26 million metric tons per year of carbon dioxide-equivalent emissions that BLM projects from production and combustion of coal and oil extracted under the RMP<sup>7</sup> will generate about \$1.3 billion in annual climate damages, based on the social cost of carbon metric.<sup>8</sup>

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<sup>1</sup> Our organizations may separately and independently submit other comments on other issues raised by the RMP/DEIS.

<sup>2</sup> BLM, *Grand Staircase-Escalante National Monument and Kanab-Escalante Planning Area Draft Resource Management Plans and Environmental Impact Statement* at 3-11 (2018) [hereinafter "RMP"].

<sup>3</sup> RMP at M-46, M-49.

<sup>4</sup> RMP at 3-10.

<sup>5</sup> *E.g.*, BLM-Idaho, *Final Environmental Assessment: Little Willow Creek Protective Oil and Gas Lease*, DOI-BLM-ID-B010-2014-0036-EA, at 35, 81, 83 (2015); BLM-Montana, *Environmental Assessment: Miles City Oil and Gas Lease Sale*, DOI-BLM-MT-C020-2014-0091-EA at 51, 76 (2014).

<sup>6</sup> RMP at 3-12.

<sup>7</sup> RMP at M-46 (estimating 128,756 tons per year of carbon dioxide equivalent from well operations, venting and flaring, and fuel oil combustion) & M-49 (estimating 25,829,193 tons per year of carbon dioxide equivalent from underground coal mine operations and coal combustion). These figures exclude additional greenhouse gas emissions from well construction. *Id.* M-46. Citation of these figures does not necessarily endorse the total emissions tallies as accurate or complete, but rather just illustrates that even under BLM's own calculations, the climate damages associated with quantified emissions are clearly

These comments explain why BLM’s reasoning is flawed and how BLM has violated its obligations under the National Environmental Policy Act (NEPA). Specifically, we make the following points:

1. NEPA requires agencies to fully and accurately analyze and disclose to the public the environmental, public health, and social welfare differences between alternatives. The social cost of greenhouse gases is the best available tool to compare the climate impacts of alternatives.
2. NEPA requires agencies to assess the impacts of emissions, including an assessment of their significance. Yet BLM implies that it is impossible to assess the significance of emissions from the RMP. However, the social cost of greenhouse gases metric is designed to measure marginal additional damages and is therefore an appropriate and available tool to assess the significance of the emissions from a project like the RMP. Monetizing climate damages will directly contextualize the significance of emissions from the RMP.
3. Executive Order 13,783 does not bar agencies from using the same methodology and inputs applied by the Interagency Working Group (IWG) to develop its best estimates of social cost of greenhouse gases and, in fact, by requiring agencies to use best practices, the Executive Order would point agencies toward the same or higher values of global climate damages as calculated by the IWG;
4. BLM must assess the significance of climate damages from not just carbon dioxide emissions but also methane and nitrous oxide emissions, and so BLM should use the social cost of methane and nitrous oxide metrics as well as the social cost of carbon metrics.

We explain each of these points in turn below.

## **I. BLM Should Monetize the Social Cost of Greenhouse Gases in its RMP**

The National Environmental Policy Act (NEPA), the statute under which environmental impact statements are required, directs agencies to fully and accurately analyze the environmental, public health, and social welfare differences between proposed alternatives, and to contextualize that information for decision-makers and the public. NEPA requires a more searching analysis than merely disclosing the amount of pollution. Rather, BLM must examine the “ecological[,]... economic, [and] social” impacts of those emissions, including an assessment of their “significance.”<sup>9</sup> By failing to use available tools, such as the social cost of carbon, to analyze the significance of emissions, BLM violated NEPA.

### ***Monetizing Climate Damages Fulfills the Obligations and Goals of NEPA***

When a project has climate consequences that must be assessed under NEPA, monetizing the climate damages fulfills an agency’s legal obligations under NEPA in ways that simple quantification of tons of greenhouse gas emissions cannot. NEPA requires “hard look” consideration of beneficial and adverse effects of each alternative for major federal government actions. The U.S. Supreme Court has called the disclosure of impacts the “key requirement of NEPA,” and held that agencies must “consider and disclose the *actual environmental effects*” of a proposed project in a way that “brings those effects to

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significant. These comments in no way waive arguments raised by the above groups in individual comments regarding the inadequacy of BLM’s assessment of emissions.

<sup>8</sup> Interagency Working Group on the Social Cost of Greenhouse Gases, *Technical Update of the Social Cost of Carbon* 4 (2016) (calculating a central estimate of \$42 per metric ton of CO<sub>2</sub> in 2007\$ for year 2020 emissions). Using the CPI inflation calculator, \$42 in 2007\$ was worth about \$51 in 2017\$. 25,957,949 tons CO<sub>2</sub>e \* \$51/ton = \$1.32 billion in climate damages for year 2020.

<sup>9</sup> 40 C.F.R. §§ 1508.8(b), 1502.16(a)-(b).

bear on [the agency's] decisions."<sup>10</sup> Courts have repeatedly concluded that an environmental impact statement must disclose relevant climate effects.<sup>11</sup> NEPA requires "a reasonably thorough discussion of the significant aspects of the probable environmental consequences," to "foster both informed decisionmaking and informed public participation."<sup>12</sup> In particular, "[t]he impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impact analysis that NEPA requires," and it is arbitrary to fail to "provide the necessary contextual information about the cumulative and incremental environmental impacts."<sup>13</sup> Furthermore, the analyses included in environmental assessments and impact statements "cannot be misleading."<sup>14</sup> An agency must provide sufficient informational context to ensure that decisionmakers and the public will not misunderstand or overlook the magnitude of a proposed action's climate risks compared to the no action alternative. As this section explains, by only quantifying the volume of greenhouse gas emissions, agencies fail to assess and disclose the actual climate consequences of an action and misleadingly present information in ways that will cause decisionmakers and the public to overlook important climate consequences. Using the social cost of greenhouse gas metrics to monetize climate damages fulfills NEPA's legal obligations in ways that quantification alone cannot.

### ***BLM Must Assess Actual Incremental Climate Impacts, Not Just the Volume of Emissions***

The tons of greenhouse gases emitted by a project are not the "actual environmental effects" under NEPA. Rather, the actual effects and relevant factors are the incremental climate impacts caused by those emissions, including:<sup>15</sup>

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<sup>10</sup> *Baltimore Gas & Elec. Co. v. Natural Res. Def. Council*, 462 U.S. 87, 96 (1983) (emphasis added); see also 40 C.F.R. § 1508.8(b) (requiring assessment of the "ecological," "economic," "social," and "health" "effects") (emphasis added).

<sup>11</sup> As the Ninth Circuit has held: "[T]he fact that climate change is largely a global phenomenon that includes actions that are outside of [the agency's] control . . . does not release the agency from the duty of assessing the effects of its actions on global warming within the context of other actions that also affect global warming." *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1217 (9th Cir. 2008); see also *Border Power Plant Working Grp. v. U.S. Dep't of Energy*, 260 F. Supp. 2d 997, 1028-29 (S.D. Cal. 2003) (failure to disclose project's indirect carbon dioxide emissions violates NEPA).

<sup>12</sup> *Ctr. for Biological Diversity*, 538 F.3d at 1194 (citations omitted).

<sup>13</sup> *Id.* at 1217.

<sup>14</sup> *High Country Conservation Advocates v. U.S. Forest Service*, 52 F. Supp. 3d 1174, 1182 (D. Colo. 2014); accord. *Johnston v. Davis*, 698 F.2d 1088, 1094-95 (10th Cir. 1983) (disapproving of "misleading" statements resulting in "an unreasonable comparison of alternatives"); *Hughes River Watershed Conservancy v. Glickman*, 81 F.3d 437, 446 (4th Cir. 1996) ("For an EIS to serve these functions" of taking a hard look and allowing the public to play a role in decisionmaking, "it is essential that the EIS not be based on misleading economic assumptions"); see also *Sierra Club v. Sigler*, 695 F.2d 957, 979 (5th Cir. 1983) (holding that an agency's "skewed cost-benefit analysis" was "deficient under NEPA"); see generally *Bus. Roundtable v. SEC*, 647 F.3d 1144, 1148-49 (D.C. Cir. 2011) (criticizing an agency for "inconsistently and opportunistically fram[ing] the costs and benefits of the rule" and for "fail[ing] adequately to quantify the certain costs or toe explain why those costs could not be quantified").

<sup>15</sup> These impacts are all included to some degree in the three integrated assessment models (IAMs) used by the IWG (namely, the DICE, FUND, and PAGE models), though some impacts are modeled incompletely, and many other important damage categories are currently omitted from these IAMs. Compare Interagency Working Group on the Social Cost of Carbon, *Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis* at 6-8, 29-33 (2010), <https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf> [hereinafter 2010 TSD]; with Peter Howard, *Omitted Damages: What's Missing from the Social Cost of Carbon* (Cost of Carbon Project Report, 2014), [http://costofcarbon.org/files/Omitted\\_Damages\\_Whats\\_Missing\\_From\\_the\\_Social\\_Cost\\_of\\_Carbon.pdf](http://costofcarbon.org/files/Omitted_Damages_Whats_Missing_From_the_Social_Cost_of_Carbon.pdf). For other lists of actual climate effects, including air quality mortality, extreme temperature mortality, lost labor productivity, harmful algal blooms, spread of west Nile virus, damage to roads and other infrastructure, effects on urban drainage, damage to coastal property, electricity demand and supply effects, water supply and quality effects, inland flooding, lost winter recreation, effects on agriculture and fish, lost ecosystem services from coral reefs, and wildfires, see EPA, *Multi-Model Framework for Quantitative Sectoral Impacts Analysis: A Technical Report for the Fourth National Climate Assessment* (2017); U.S. Global Change Research Program, *Climate Science Special Report: Fourth National Climate Assessment* (2017); EPA, *Climate*

- property lost or damaged by sea-level rise, coastal storms, flooding, and other extreme weather events, as well as the cost of protecting vulnerable property and the cost of resettlement following property losses;
- changes in energy demand, from temperature-related changes to the demand for cooling and heating;
- lost productivity and other impacts to agriculture, forestry, and fisheries, due to alterations in temperature, precipitation, CO<sub>2</sub> fertilization, and other climate effects;
- human health impacts, including cardiovascular and respiratory mortality from heat-related illnesses, changing disease vectors like malaria and dengue fever, increased diarrhea, and changes in associated pollution;
- changes in fresh water availability;
- ecosystem service impacts;
- impacts to outdoor recreation and other non-market amenities; and
- catastrophic impacts, including potentially rapid sea-level rise, damages at very high temperatures, or unknown events.

Even in combination with a general, qualitative discussion of climate change, by calculating only the tons of greenhouse gases emitted or a percentage comparison to sectoral, regional, or national emissions, an agency fails to meaningfully assess the actual incremental impacts to property, human health, productivity, and so forth.<sup>16</sup> An agency therefore falls short of its legal obligations and statutory objectives by focusing just on volume estimates. Similarly, courts have held that merely quantifying the acres of timber to be harvested or the miles of road to be constructed does not constitute a “description of *actual* environmental effects,” even when paired with a qualitative “list of environmental concerns such as air quality, water quality, and endangered species,” when the agency fails to assess “the degree that each factor will be impacted.”<sup>17</sup>

By monetizing climate damages using the social cost of greenhouse gas metrics, BLM can satisfy NEPA’s mandate to analyze and disclose to the public the actual effects of emissions and their significance. The social cost of greenhouse gas methodology calculates how the emission of an additional unit of greenhouse gases affects atmospheric greenhouse concentrations, how that change in atmospheric concentrations changes temperature, and how that change in temperature incrementally contributes to the above list of economic damages, including property damages, energy demand effects, lost agricultural productivity, human mortality and morbidity, lost ecosystem services and non-market amenities, and so forth.<sup>18</sup> The social cost of greenhouse gas tool therefore allows agencies to consider the actual effects of emissions and their significance in ways that merely providing a quantitative estimate of the volume of emissions cannot.

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*Change in the United States: Benefits of Global Action* (2015); Union of Concerned Scientists, *Underwater: Rising Seas, Chronic Floods, and the Implications for U.S. Coastal Real Estate* (2018).

<sup>16</sup> See *High Country*, 52 F. Supp. 3d at 1190 (“Beyond quantifying the amount of emissions relative to state and national emissions and giving general discussion to the impacts of global climate change, [the agencies] did not discuss the impacts caused by these emissions.”); *Mont. Env’tl. Info. Ctr. v. U.S. Office of Surface Mining*, 274 F. Supp. 3d 1074, 1096–99 (D. Mont. 2017) (rejecting the argument that the agency “reasonably considered the impact of greenhouse gas emissions by quantifying the emissions which would be released if the [coal] mine expansion is approved, and comparing that amount to the net emissions of the United States”).

<sup>17</sup> *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989, 995 (9th Cir. 2004) (“A calculation of the total number of acres to be harvested in the watershed is . . . not a sufficient description of the actual environmental effects that can be expected from logging those acres.”); see also *Oregon Natural Res. Council v. Bureau of Land Mgmt.*, 470 F.3d 818 (9th Cir. 2006).

<sup>18</sup> 2010 TSD, *supra* note 15, at 5.

### ***Climate Damages Depend on Stock and Flow, But Volume Estimates Only Measure Flow***

The climate damage generated by each additional ton of greenhouse gas emissions depends on the background concentration of greenhouse gases in the global atmosphere. Once emitted, greenhouse gases can linger in the atmosphere for centuries, building up the concentration of radiative-forcing pollution and affecting the climate in cumulative, non-linear ways.<sup>19</sup> As physical and economic systems become increasingly stressed by climate change, each marginal additional ton of emissions has a greater, non-linear impact. The climate damages generated by a given amount of greenhouse pollution is therefore a function not just of the pollution's total volume but also the year of emission, and with every passing year an additional ton of emissions inflicts greater damage.<sup>20</sup>

As a result, focusing just on the volume or rate of emissions is insufficient to reveal the incremental effect on the climate. The change in the rate of emissions (flow) must be assessed given the background concentration of emissions (stock). A percent comparison to national emissions is perhaps even more misleading. A project that adds 23 million additional tons per year of carbon dioxide would have contributed to 0.43% of total U.S. carbon dioxide emissions in the year 2012.<sup>21</sup> In the year 2014, that same project with the same carbon pollution would have contributed to just 0.41% of total U.S. carbon dioxide emissions—a seemingly smaller relative effect, since the total amount of U.S. emissions increased from 2012 to 2014.<sup>22</sup> However, because of rising background concentrations of global greenhouse gas stock, and because of growing stresses in physical and economic systems, the marginal climate damages per ton of carbon dioxide (as measured by the social cost of carbon) increased from \$33 in 2012 to \$35 in 2014 (in 2007\$).<sup>23</sup> Consequently, those 23 million additional tons would have caused marginal climate damages costing \$759 million in the year 2012, but by 2014 that same 23 million tons would have caused \$805 million in climate damages. To summarize: the percent comparison to national emissions misleadingly implied that a project adding 23 million more tons of carbon dioxide would have a relatively less significant effect in 2014 than in 2012, whereas monetizing climate damages using the social cost of greenhouse gases would accurately reveal that the emissions in 2014 were much more damaging than the emissions in 2012—almost \$50 million more.

Capturing how marginal climate damages change as the background concentration changes is especially important because NEPA requires assessing both present and future impacts.<sup>24</sup> Different project alternatives can have different greenhouse gas consequences over time. Most simply, different alternatives could have different start dates or other consequential changes in timing. For example, BLM does not seriously consider an option to delay oil and gas leases, but such an alternative could significantly change the climate consequences of leasing activity. For the reasons explained above,

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<sup>19</sup> Carbon dioxide also has cumulative effects on ocean acidification, in addition to cumulative radiative-forcing effects.

<sup>20</sup> See 2010 TSD, *supra* note 15, at 33 (explaining that the social cost of greenhouse gas estimates grow over time).

<sup>21</sup> Total U.S. carbon dioxide emissions in 2012 were 5,366.7 million metric tons (for all greenhouse gases, emissions were 6,529 MMT CO<sub>2</sub> eq). See EPA, *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2016* at ES-6, tbl. ES-2 (2018).

<sup>22</sup> Total U.S. carbon dioxide emissions in 2014 were 5,568.8 million metric tons (and for all greenhouse gases, 6,763 MMT CO<sub>2</sub> eq.) *Id.*

<sup>23</sup> Interagency Working Group on the Social Cost of Greenhouse Gases, *Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis* at 25 tbl. A1 (2016) (calculating the central estimate at a 3% discount rate), [https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/scc\\_tsd\\_final\\_clean\\_8\\_26\\_16.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/scc_tsd_final_clean_8_26_16.pdf) [hereinafter 2016 TSD].

<sup>24</sup> NEPA requires agencies to weigh the “relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity,” as well as “any irreversible and irretrievable commitments of resources.” 42 U.S.C. § 4332(2)(C).

calculating volumes or percentages is insufficient to accurately compare the climate damages of project alternatives with varying greenhouse gas emissions over time.

By factoring in projections of the increasing global stock of greenhouse gases as well as increasing stresses to physical and economic systems, the social cost of greenhouse gas metrics enable accurate and transparent comparisons of projects with varying greenhouse gas emissions over time.

### ***Monetization Provides the Required Informational Context that Volume Estimates Lack***

NEPA requires sufficient informational context. Yet without proper context, it is all too easy for BLM to wrongly characterize, without analysis, numbers like 128,756 tons of carbon dioxide-equivalent emissions per year from oil and gas production<sup>25</sup> as “not expected to notably affect regional or global climate change.”<sup>26</sup> Without context, abstract measurements of tons of emissions will be misinterpreted by people as meaningless, as zero. As the Environmental Protection Agency’s website explains, “abstract measurements” of so many tons of greenhouse gases can be rather inscrutable for the public, unless “translat[ed] . . . into concrete terms you can understand.”<sup>27</sup> In contrast, the climate risks would have been readily discernible through application of the social cost of greenhouse gas metrics. In this example, while 128,756 metric tons per year may seem trivial, in fact those emissions will inflict over \$6.5 million in climate damages each year—and the RMP’s total annual emissions of 26 million tons will inflict over \$1.3 billion per year.<sup>28</sup>

In general, non-monetized effects are often irrationally treated as worthless.<sup>29</sup> On several occasions, courts have struck down administrative decisions for failing to give weight to non-monetized effects.<sup>30</sup> Most relevantly, in *Center for Biological Diversity v. NHTSA*, the U.S. Court of Appeals for the Ninth Circuit found it arbitrary and capricious to give zero value “to the most significant benefit of more stringent [fuel economy] standards: reduction in carbon emissions.”<sup>31</sup> Monetizing climate damages provides the informational context required by NEPA, whereas a simple tally of emissions volume and rote, qualitative, generic description of climate change are misleading and fail to give the public and decisionmakers the required information about the magnitude of discrete climate effects.<sup>32</sup>

### ***Climate Effects Must Be Monetized If Other Costs and Benefits Are Monetized***

Though NEPA does not require a full and formal cost-benefit analysis,<sup>33</sup> agencies’ approaches to assessing costs and benefits must be balanced and reasonable. Courts have warned agencies, for

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<sup>25</sup> RMP at M-46.

<sup>26</sup> RMP at 3-12.

<sup>27</sup> EPA, *Greenhouse Gas Equivalencies Calculator*. Available at <https://web.archive.org/web/20180212182940/https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator> (last updated Sept. 2017) (“Did you ever wonder what reducing carbon dioxide (CO<sub>2</sub>) emissions by 1 million metric tons means in everyday terms? The greenhouse gas equivalencies calculator can help you understand just that, translating abstract measurements into concrete terms you can understand.”).

<sup>28</sup> See *supra* note 8 for details on these calculations.

<sup>29</sup> Richard Revesz, *Quantifying Regulatory Benefits*, 102 Cal. L. Rev. 1424, 1434-35, 1442 (2014).

<sup>30</sup> See *id.* at 1428, 1434.

<sup>31</sup> 538 F.3d at 1199.

<sup>32</sup> See 42 U.S.C. § 4332(2)(B) (requiring agencies to “identify and develop methods and procedures . . . which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations”).

<sup>33</sup> 40 C.F.R. § 1502.23 (“[T]he weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis.”); but see e.g., *Sierra Club v. Sigler*, 695 F.2d 957, 978-79 (5th Cir. 1983) (holding that NEPA “mandates at least a broad, informal cost-benefit analysis,” and so agencies must “fully and accurately” and “objectively” assess environmental, economic, and technical costs); *Chelsea Neighborhood Ass’n v. U.S. Postal Serv.*, 516 F.2d 378, 387 (2d Cir. 1975) (“NEPA, in effect, requires a broadly defined cost-benefit analysis of major federal activities.”); *Calvert Cliffs’ Coordinating*

example, that “[e]ven though NEPA does not require a cost-benefit analysis,” an agency cannot selectively monetize benefits in support of its decision while refusing to monetize the costs of its action.<sup>34</sup>

In *High Country Conservation Advocates v. Forest Service*, the U.S. District Court of Colorado found that it was “arbitrary and capricious to quantify the *benefits* of the lease modifications and then explain that a similar analysis of the *costs* was impossible when such an analysis was in fact possible.”<sup>35</sup> The court explained that, to support a decision on coal mining activity, the agencies had “weighed several specific economic benefits—coal recovered, payroll, associated purchases of supplies and services, and royalties,” but arbitrarily failed to monetize climate costs using the readily available social cost of carbon protocol.<sup>36</sup> Similarly, in *Montana Environmental Information Center v. Office of Surface Mining (MEIC v. OSM)*, the U.S. District Court of Montana followed the lead set by *High Country* and likewise held an environmental assessment to be arbitrary and capricious because it quantified the benefits of action (such as employment payroll, tax revenue, and royalties) while failing to use the social cost of carbon to quantify the costs.<sup>37</sup>

*High Country* and *MEIC v. OSM* are the latest applications of a broader line of case law in which courts find it arbitrary and capricious to apply inconsistent protocols for analyzing some effects compared to others, especially when the inconsistency obscures some of the most significant effects.<sup>38</sup> For example, in *Center for Biological Diversity v. National Highway Traffic Safety Administration*, the U.S. Court of Appeals for the Ninth Circuit ruled that, because the agency had monetized other uncertain costs and benefits of its vehicle fuel efficiency standard—like traffic congestion and noise costs—its “decision not to monetize the benefit of carbon emissions reduction was arbitrary and capricious.”<sup>39</sup> Specifically, it was arbitrary to “assign[ ] no value to *the most significant benefit* of more stringent [vehicle fuel efficiency] standards: reduction in carbon emissions.”<sup>40</sup> When an agency bases a decision on cost-benefit analysis, it is arbitrary to “put a thumb on the scale by undervaluing the benefits and overvaluing the costs.”<sup>41</sup> Similarly, the U.S. Court of Appeals for the District of Columbia Circuit has chastised agencies for “inconsistently and opportunistically fram[ing] the costs and benefits of the rule [and] fail[ing] adequately to quantify certain costs or to explain why those costs could not be quantified”<sup>42</sup>;

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*Comm. v. U.S. Atomic Energy Comm’n*, 449 F.2d 1109, 1113 (D.C. Cir. 1971) (“NEPA mandates a rather finely tuned and ‘systematic’ balancing analysis” of “environmental costs” against “economic and technical benefits”); *Nat’l Wildlife Fed. v. Marsh*, 568 F. Supp. 985, 1000 (D.D.C. 1983) (“The cost-benefit analysis of NEPA is concerned primarily with environmental costs. . . . A court may examine the cost-benefit analysis only as it bears upon the function of insuring that the agency has examined the environmental consequences of a proposed project.”); *High Country*, 52 F.Supp.3d at 1191 (holding that NEPA does not require cost-benefit analysis, although monetizing benefits but not costs is arbitrary and capricious).

<sup>34</sup> *High Country Conservation Advocates*, 52 F. Supp. 3d at 1191; *accord. MEIC v. Office of Surface Mining*, 274 F. Supp. 3d at 1094-99 (holding it was arbitrary for the agency to quantify benefits in an EIS while failing to use the social cost of carbon to quantify costs, as well as arbitrary to imply there would be no effects from greenhouse gas emissions).

<sup>35</sup> 52 F. Supp. 3d at 1191.

<sup>36</sup> *Id.*

<sup>37</sup> 274 F. Supp. 3d at 1094-99 (also holding that it was arbitrary to imply that there would be zero effects from greenhouse gas emissions).

<sup>38</sup> Other cases from different courts that have declined to rule against failures to use the social cost of carbon in NEPA analyses are all distinguishable by the scale of the action or by whether other effects were quantified and monetized in the analysis. See *League of Wilderness Defenders v. Connaughton*, No. 3:12-cv-02271-HZ (D. Ore., Dec. 9, 2014); *EarthReports v. FERC*, 15-1127, (D.C. Cir. July 15, 2016); *WildEarth Guardians v. Zinke*, 1:16-CV-00605-RJ, at 23-24, (D. N.M. Feb. 16, 2017).

<sup>39</sup> 538 F.3d 1172, 1203 (9th Cir. 2008).

<sup>40</sup> *Id.* at 1199.

<sup>41</sup> *Id.* at 1198.

<sup>42</sup> *Bus. Roundtable v. SCC*, 647 F.3d 1144, 1148-49 (D.C. Cir. 2011)

and the U.S. Court of Appeals for the Tenth Circuit has remanded an environmental impact statement because “unrealistic” assumptions “misleading[ly]” skewed comparison of the project’s positive and negative effects.<sup>43</sup>

Here, the RMP monetizes direct, indirect, and induced economic benefits similar to those highlighted in *High Country* and *MEIC*, including employment, labor income, value added, industry activity, tax revenue, and royalty revenue.<sup>44</sup> Notably, the calculations of government revenue from coal mining rely on the estimated market value of the coal to be recovered under the RMP.<sup>45</sup> In a competitive market, like for coal, the market price reflects aggregate willingness to pay based on social utility. Therefore, in calculating revenue, BLM has presented a monetized estimate of the supposed social benefits of the fossil fuel development under the RMP. Consequently, BLM must also use readily available tools to monetize the social costs of the fossil fuel development under the RMP. It is arbitrary to apply inconsistent protocols for analysis of some effects compared to others, and to monetize some effects but not others that are equally monetizeable.

## **II. The Social Cost of Greenhouse Gas Metric Is Appropriate for an EIS with Emissions of this Magnitude**

The RMP claims that “it is not currently possible to link projected GHG emissions associated with any particular activity to specific environmental impacts at a specific site or location.”<sup>46</sup> However, BLM is wrong: the social cost of greenhouse gas protocol is such a tool to monetize the incremental climate impacts of specific projects.

### ***Monetization Is Appropriate and Useful in Any Decision with Significant Climate Impacts, and Its Use Should Not Be Limited to Regulatory Analyses***

Though the federal Interagency Working Group on the Social Cost of Greenhouse Gases originally developed its estimates of the social cost of greenhouse gases to harmonize the metrics used by agencies in their various regulatory impact analyses, there is nothing in the numbers’ development that would limit applications to other decisionmaking contexts. The social cost of greenhouse gases measures the marginal cost of any additional unit of greenhouse gases emitted into the atmosphere. The government action that precipitated a particular unit of emissions—whether a regulation, the granting of a permit, or a project approval—is irrelevant to the marginal climate damages caused by the emissions. Whether emitted by a leaking pipeline or the fossil fuel extraction process, whether emitted because of a regulation or a resource management decision, whether emitted in Utah or Maine or anywhere else, the marginal climate damages per unit of emissions remain the same. Indeed, the social cost of greenhouse gases has been used by many federal and state agencies in environmental impact analyses<sup>47</sup> and in resource management decisions.<sup>48</sup>

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<sup>43</sup> *Johnston v. Davis*, 698 F.2d 1088, 1094–95 (10th Cir. 1983)

<sup>44</sup> RMP at U-1 to U-3.

<sup>45</sup> RMP at U-14.

<sup>46</sup> RMP at 3-10.

<sup>47</sup> For example, in August 2017, the Bureau of Ocean Energy Management called the social cost of carbon “a useful measure to assess the benefits of CO2 reductions and inform agency decisions,” and applied the metric in an environmental impact statement to monetize the emissions difference of about 5 million metric tons per year between the proposed oil and gas development project and the no-action baseline, *Draft Environmental Impact Statement—Liberty Development Project in the Beaufort Sea, Alaska* at 3-129, 4-50 (2017). More generally, agencies have used IWG’s social cost of greenhouse gas estimates not only in scores of rulemakings but also in NEPA analyses for resource management decisions. See Peter Howard & Jason Schwartz, *Think Global: International Reciprocity as Justification for a Global Social Cost of Carbon*, 42 *Columbia J. Env’tl. L.* 203, 270-84 (2017) (listing all uses by federal agencies through July 2016).

### ***The Social Cost of Greenhouse Gas Metrics Provides a Tool to Assess the Significance of Individual Physical Impacts***

The social cost of greenhouse gas methodology is well suited to measure the marginal climate damages of individual projects. These protocols were developed to assess the cost of actions with “marginal” impacts on cumulative global emissions, and the metrics estimate the dollar figure of damages for one extra unit of greenhouse gas emissions. This marginal cost is calculated using integrated assessment models. These models translate emissions into changes in atmospheric greenhouse concentrations, atmospheric concentrations into changes in temperature, and changes in temperature into economic damages. A range of plausible socio-economic and emissions trajectories are used to account for the scope of potential scenarios and circumstances that may actually result in the coming years and decades. The marginal cost is attained by first running the models using a baseline emissions trajectory, and then running the same models again with one additional unit of emissions. The difference in damages between the two runs is the marginal cost of one additional unit. The approach assumes that the marginal damages from increased emissions will remain constant for small emissions increases relative to gross global emissions. In other words, the monetization tools are in fact perfectly suited to measuring the marginal effects of individual projects or other discrete agency actions.

Some of the incremental impacts on the environment that the social cost of greenhouse gas protocol captures—and which the RMP fails to analyze—include property lost or damaged; impacts to agriculture, forestry, and fisheries; impacts to human health; changes in fresh water availability; ecosystem service impacts; impacts to outdoor recreation and other non-market amenities; and some catastrophic impacts, including potentially rapid sea-level rise, damages at very high temperatures, or unknown events.<sup>49</sup> A key advantage of using the social cost of greenhouse gas tool is that each physical impact—such as sea-level rise and increasing temperatures—need not be assessed in isolation. Instead, the social cost of greenhouse gas tool conveniently groups together the multitude of climate impacts and, consistent with NEPA regulations,<sup>50</sup> enables agencies to assess whether all those impacts are cumulatively significant and to then compare those impacts with other impacts or alternatives using a common metric.

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<sup>48</sup> States have used the social cost of greenhouse gases in decisions about electricity planning. See Iliana Paul et al., *The Social Cost of Greenhouse Gases and State Policy: A Frequently Asked Questions Guide* (Policy Integrity Report, 2017), [http://policyintegrity.org/files/publications/SCC\\_State\\_Guidance.pdf](http://policyintegrity.org/files/publications/SCC_State_Guidance.pdf).

<sup>49</sup> These impacts are all included to some degree in the three integrated assessment models (IAMs) used by the IWG (namely, the DICE, FUND, and PAGE models), though some impacts are modeled incompletely, and many other important damage categories are currently omitted from these IAMs. Compare Interagency Working Group on the Social Cost of Carbon, *Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis* at 6-8, 29-33 (2010), <https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf> [hereinafter 2010 TSD]; with Peter Howard, *Omitted Damages: What’s Missing from the Social Cost of Carbon* (Cost of Carbon Project Report, 2014), [http://costofcarbon.org/files/Omitted\\_Damages\\_Whats\\_Missing\\_From\\_the\\_Social\\_Cost\\_of\\_Carbon.pdf](http://costofcarbon.org/files/Omitted_Damages_Whats_Missing_From_the_Social_Cost_of_Carbon.pdf). For other lists of actual climate effects, including air quality mortality, extreme temperature mortality, lost labor productivity, harmful algal blooms, spread of west nile virus, damage to roads and other infrastructure, effects on urban drainage, damage to coastal property, electricity demand and supply effects, water supply and quality effects, inland flooding, lost winter recreation, effects on agriculture and fish, lost ecosystem services from coral reefs, and wildfires, see EPA, *Multi-Model Framework for Quantitative Sectoral Impacts Analysis: A Technical Report for the Fourth National Climate Assessment* (2017); U.S. Global Change Research Program, *Climate Science Special Report: Fourth National Climate Assessment* (2017); EPA, *Climate Change in the United States: Benefits of Global Action* (2015); Union of Concerned Scientists, *Underwater: Rising Seas, Chronic Floods, and the Implications for U.S. Coastal Real Estate* (2018).

<sup>50</sup> 40 C.F.R. § 1508.27(b)(7) (explaining that actions can be significant if related to individually insignificant but cumulatively significant impacts).

### ***The Tons of Greenhouse Gas Emissions at Stake Here Are Clearly Significant***

BLM quantifies the upstream and downstream greenhouse gas emissions from this plan as approaching 26 million tons per year.<sup>51</sup> Yet BLM refuses to take the straightforward next step of applying the social cost of greenhouse gas values to those quantified tons. Instead, BLM assumes without analysis that the emissions are “not expected to notably affect regional or global climate change.”<sup>52</sup>

While there may not be a bright-line test for determining significance, the emissions BLM estimates for this project are clearly significant and warrant monetization. This is especially true since, once emissions have been quantified, the additional step of monetization through application of the Interagency Working Group’s 2016 estimates only entails a simple arithmetic calculation.<sup>53</sup> It is difficult to understand how NEPA’s mandate that an agency take a “hard look” at the environmental impacts of its actions can be satisfied if BLM fails to analyze the impacts of the greenhouse gas emissions that it quantifies.

In *High Country*, the District Court for the District of Colorado found that it was arbitrary for the Forest Service not to monetize the “1.23 million tons of carbon dioxide equivalent emissions [from methane] the West Elk mine emits annually.”<sup>54</sup> That suggests a threshold for monetization far below the tons of greenhouse gases that BLM estimates are at stake here. In *MEIC v. OSM*, the District Court for the District of Montana found it was arbitrary for the Office of Surface Mining not to monetize the 23.16 million metric tons<sup>55</sup>—a comparable amount to this RMP. In *Center for Biological Diversity*, the Ninth Circuit found that it was arbitrary for the Department of Transportation not to monetize the 35 million metric ton difference in lifetime emissions from increasing the fuel efficiency of motor vehicles:<sup>56</sup> given the estimated lifetime of vehicles sold in the years 2008-2011 (sometimes estimated at about 15 years on average), this could represent as little two million metric tons per year. In a recent environmental impact statement from the Bureau of Ocean Energy Management published in August 2017, the agency explained that the social cost of carbon was “a useful measure” to apply to a NEPA analysis of an action anticipated to have a difference in greenhouse gas emissions compared to the no-action baseline of about 25 million metric tons over a 5-year period,<sup>57</sup> or about 5 million metric tons per year.

Under any reasonable application of the social cost of greenhouse gas metrics, the upstream and downstream emissions from fossil fuel development under the RMP will cause billions of dollars in climate damages. Tellingly, BLM had no problem concluding in its RMP that it was appropriate to monetize, for example, as little as a \$42,000 difference between alternatives in grazing fee revenue.<sup>58</sup> A potential climate cost of billions of dollars is also clearly significant, particularly in the context of a document the very purpose of which is to evaluate a project’s *environmental* impacts.

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<sup>51</sup> RMP at M-46 & M-49.

<sup>52</sup> *Id.* at 3-12

<sup>53</sup> Agencies simply need to multiply their estimate of tons in each year by the IWG’s 2016 values for the corresponding year of emissions (adjusted for inflation to current dollars). If the emissions change occurs in the future, agencies would then discount the products back to present value.

<sup>54</sup> 52 F. Supp. 3d at 1191 (quoting an e-mail comment on the draft statement for the quantification of tons).

<sup>55</sup> *MEIC v. Office of Surface Mining* at 36-37.

<sup>56</sup> 538 F.3d at 1187.

<sup>57</sup> BOEM, *Liberty Development and Production Plan Draft EIS* at 3-129, 4,50 (2017) (89,940,000 minus 64,570,000 is about 25 million).

<sup>58</sup> RMP at U-11.

### ***Monetizing Climate Damages Is Appropriate and Useful Regardless of Whether Every Effect Can Be Monetized in a Full Cost-Benefit Analysis***

Monetizing one key impact still provides useful information for decisionmakers and the public even when monetizing other impacts is not feasible. The social cost of greenhouse gases enables a more accurate and transparent comparison of alternatives along the dimension of climate impacts even if other costs and benefits cannot be quantified, and “breakeven analysis” could provide a framework for making decisions when some effects but not others are monetized. Climate damages can and should be monetized even if other costs and benefits are harder to quantify or monetize and so must be discussed qualitatively. Many effects can readily be quantified and monetized, and agencies should generally do so when feasible; other effects, like water quality, are notoriously difficult to quantify and monetize, due to the geographically idiosyncratic nature of individual water bodies. Greenhouse gases, by comparison, have the same impact on climate change no matter where they are emitted, and those impacts are readily monetized using the social cost of greenhouse methodology. Regardless of whether all other effects can be monetized, using the social cost of greenhouse gases provides useful and necessary information to the public and decisionmakers. In particular, whether or not other effects are monetized, using the social cost of greenhouse gases will facilitate comparison between alternative options along the dimension of climate change. As discussed above, different alternatives could have varying greenhouse gas consequences over time, and monetization provides the best means of comparing project alternatives along the dimension of climate change.

Moreover, analytical frameworks exist to weigh qualitative effects alongside monetized effects. NEPA regulations, for example, first state that if there are “important qualitative considerations,” then the ultimate “weighing of the merits and drawbacks of the various alternatives” should not be displayed exclusively as a “monetary cost-benefit analysis.” Nevertheless, NEPA regulations further acknowledge that when monetization of costs and benefits is “relevant to the choice among environmentally different alternatives,” “that analysis” can be presented alongside “any analyses of unquantified environmental impacts, values, and amenities.”<sup>59</sup> In other words, the monetization of some impacts does not require the monetization of all impacts.

The Office of Management and Budget’s *Circular A-4*<sup>60</sup> guidance to agencies on conducting economic analysis also provides a framework for weighing monetized and qualitative costs and benefits, called break-even analysis:

It will not always be possible to express in monetary units all of the important benefits and costs. When it is not, the most efficient alternative will not necessarily be the one with the largest quantified and monetized net-benefit estimate. In such cases, you should exercise professional judgment in determining how important the non-quantified benefits or costs may be in the context of the overall analysis. If the non-quantified benefits and costs are likely to be important, you should carry out a “threshold” analysis to evaluate their significance. Threshold or “break-even” analysis answers the question, “How small could the value of the non-quantified benefits be (or how large would the value of the non-quantified costs need to be)

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<sup>59</sup> 40 C.F.R. § 1502.23.

<sup>60</sup> Though *Circular A-4* focus on agencies’ regulatory analyses under Executive Order 12,866, the document nevertheless more generally has distilled best practices on economic analysis and is a useful guide to all agencies undertaking an assessment of costs and benefits.

before the rule would yield zero net benefits?” In addition to threshold analysis you should indicate, where possible, which non-quantified effects are most important and why.<sup>61</sup>

Even without using something as formal as a break-even analysis, it is clear that monetizing climate damages provides useful information whether or not every effect can be monetized in a full cost-benefit analysis.

### **III. BLM Should Use the Interagency Working Group’s 2016 Estimates of the Social Cost of Carbon, Methane, and Nitrous Oxide**

In 2016, the IWG published updated central estimates for the social cost of greenhouse gases: \$50 per ton of carbon dioxide, \$1440 per ton of methane, and \$18,000 per ton of nitrous oxide (in 2017 dollars for year 2020 emissions).<sup>62</sup> Agencies must continue to use estimates of a similar or higher<sup>63</sup> value in their analyses and decisionmaking. A recent Executive Order disbanding the IWG does not change the fact that the IWG estimates still reflect the best available data and methodologies.

#### ***IWG’s Methodology Is Rigorous, Transparent, and Based on Best Available Data***

Beginning in 2009, the IWG assembled experts from a dozen federal agencies and White House offices to “estimate the monetized damages associated with an incremental increase in carbon emissions in a given year” based on “a defensible set of input assumptions that are grounded in the existing scientific and economic literature.”<sup>64</sup> IWG’s methods combined three frequently used models built to predict the economic costs of the physical impacts of each additional ton of carbon.<sup>65</sup> The models together incorporate such damage categories as: agricultural and forestry impacts, coastal impacts due to sea level rise, impacts from extreme weather events, impacts to vulnerable market sectors, human health impacts including malaria and pollution, outdoor recreation impacts and other non-market amenities, impacts to human settlements and ecosystems, and some catastrophic impacts.<sup>66</sup> IWG ran these models using a baseline scenario including inputs and assumptions drawn from the peer-reviewed literature, and then ran the models again with an additional unit of carbon emissions to determine the increased economic damages.<sup>67</sup> IWG’s social cost of carbon estimates were first issued in 2010 and have been updated several times to reflect the latest and best scientific and economic data.<sup>68</sup>

Following the development of estimates for carbon dioxide, the same basic methodology was used in 2016 to develop the social cost of methane and social cost of nitrous oxide—estimates that captures the

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<sup>61</sup> OMB, Circular A-4 at 2 (2003).

<sup>62</sup> U.S. Interagency Working Group on the Social Cost of Greenhouse Gases, “Technical support document: Technical update of the social cost of carbon for regulatory impact analysis under executive order 12866 & Addendum: Application of the methodology to estimate the social cost of methane and the social cost of nitrous oxide” (2016), available at <https://obamawhitehouse.archives.gov/omb/oira/social-cost-of-carbon>.

<sup>63</sup> See, e.g., Richard L. Revesz et al., Global Warming: Improve Economic Models of Climate Change, 508 NATURE 173 (2014) (explaining that current estimates omit key damage categories and, therefore, are very likely underestimates).

<sup>64</sup> IWG, *Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866* (2010) (“2010 TSD”). Available at <https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf>.

<sup>65</sup> *Id.* at 5. These models are DICE (the Dynamic Integrated Model of Climate and the Economy), FUND (the Climate Framework for Uncertainty, Negotiation, and Distribution), and PAGE (Policy Analysis of the Greenhouse Effect).

<sup>66</sup> *Id.* at 6-8.

<sup>67</sup> *Id.* at 24-25.

<sup>68</sup> IWG, *Technical Update of the Social Cost of Carbon* at 5–29 (2016). Available at [https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/scc\\_tsd\\_final\\_clean\\_8\\_26\\_16.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/scc_tsd_final_clean_8_26_16.pdf).

distinct heating potential of methane and nitrous oxide emissions.<sup>69</sup> These additional metrics used the same economic models, the same treatment of uncertainty, and the same methodological assumptions that IWG applied to the social cost of carbon, and these new estimates underwent rigorous peer-review.<sup>70</sup>

IWG's methodology has been repeatedly endorsed by reviewers. In 2014, the U.S. Government Accountability Office concluded that IWG had followed a "consensus-based" approach, relied on peer-reviewed academic literature, disclosed relevant limitations, and adequately planned to incorporate new information through public comments and updated research.<sup>71</sup> In 2016 and 2017, the National Academies of Sciences issued two reports that, while recommending future improvements to the methodology, supported the continued use of the existing IWG estimates.<sup>72</sup> And in 2016, the U.S. Court of Appeals for the Seventh Circuit held that the Department of Energy's reliance on IWG's social cost of carbon was reasonable.<sup>73</sup> It is, therefore, unsurprising that leading economists and climate policy experts have endorsed the Working Group's values as the best available estimates.<sup>74</sup>

### ***A Recent Executive Order Does Not Change the Requirements to Monetize Climate Damages***

In March 2017, President Trump disbanded the IWG and withdrew their technical support documents.<sup>75</sup> Nevertheless, Executive Order 13,783 assumes that federal agencies will continue to "monetiz[e] the value of changes in greenhouse gas emissions" and instructs agencies to ensure such estimates are "consistent with the guidance contained in OMB Circular A-4."<sup>76</sup> Consequently, while federal agencies no longer benefit from ongoing technical support from the IWG on use of the social cost of greenhouse gases, by no means does the new Executive Order imply that agencies should not monetize important effects in their environmental impact statements. The Executive Order does not prohibit agencies from relying on the same choice of models as the IWG, the same inputs and assumptions as the IWG, the same statistical methodologies as the IWG, or the same ultimate values as derived by the IWG. To the contrary, because the Executive Order requires consistency with Circular A-4, as agencies follow the Circular's standards for using the best available data and methodologies, they will necessarily choose similar data, methodologies, and estimates as the IWG, since the IWG's work continues to represent the best available estimates.<sup>77</sup> The Executive Order does not preclude agencies from using the same range of estimates as developed by the IWG, so long as the agency explains that the data and methodology

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<sup>69</sup> See 2016 IWG Addendum at 2.

<sup>70</sup> *Id.* at 3.

<sup>71</sup> Gov't Accountability Office, *Regulatory Impact Analysis: Development of Social Cost of Carbon Estimates* 12-19 (2014). Available at <http://www.gao.gov/assets/670/665016.pdf>.

<sup>72</sup> Nat'l Acad. Sci., Engineering & Med., *Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide* 3 (2017), <https://www.nap.edu/read/24651/chapter/1>; Nat'l Acad. Sci., Engineering & Med., *Assessment of Approaches to Updating the Social Cost of Carbon: Phase 1 Report on a Near-Term Update* 1-2 (2016); <https://www.nap.edu/read/21898/chapter/1>.

<sup>73</sup> *Zero Zone*, 832 F.3d at 679.

<sup>74</sup> See, e.g., Richard Revesz et al., *Best Cost Estimate of Greenhouse Gases*, 357 *Science* 655 (2017); Michael Greenstone et al., *Developing a Social Cost of Carbon for U.S. Regulatory Analysis: A Methodology and Interpretation*, 7 *Rev. Envtl. Econ. & Pol'y* 23, 42 (2013); Richard L. Revesz et al., *Global Warming: Improve Economic Models of Climate Change*, 508 *Nature* 173 (2014) (co-authored with Nobel Laureate Kenneth Arrow, among others).

<sup>75</sup> Exec. Order No. 13,783 § 5(b), 82 *Fed. Reg.* 16,093 (Mar. 28, 2017).

<sup>76</sup> *Id.* § 5(c).

<sup>77</sup> See Richard L. Revesz et al., *Best Cost Estimate of Greenhouse Gases*, 357 *SCIENCE* 6352 (2017) (explaining that, even after Trump's Executive Order, the social cost of greenhouse gas estimate of around \$50 per ton of carbon dioxide is still the best estimate).

that produced those estimates are consistent with Circular A-4 and, more broadly, with standards for rational decisionmaking.

Similarly, the Executive Order's withdrawal of the Council on Environmental Quality's guidance on greenhouse gases,<sup>78</sup> does not—and legally cannot—remove agencies' statutory requirement to fully analyze and disclose the environmental impacts of greenhouse gas emissions. As the Council on Environmental Quality explained in its withdrawal, the “guidance was not a regulation,” and “[t]he withdrawal of the guidance does not change any law, regulation, or other legally binding requirement.”<sup>79</sup> In other words, when the guidance originally recommended the appropriate use of the social cost of greenhouse gases in environmental impact statements,<sup>80</sup> it was simply explaining that use of the social cost of greenhouse gases is consistent with longstanding NEPA regulations and case law, all of which are still in effect today.

Notably, some agencies under the Trump administration have continued to use the IWG estimates even following the Executive Order. For example, in August 2017, the Bureau of Ocean Energy Management called the social cost of carbon “a useful measure” and applied it to analyze the consequences of offshore oil and gas drilling.<sup>81</sup> And in July 2017, the Department of Energy used the IWG's estimates for carbon and methane emissions to analyze energy efficiency regulation, describing the social cost of methane as having “undergone multiple stages of peer review.”<sup>82</sup>

Two agencies have developed new “interim” values of the social cost of greenhouse gases following the Executive Order. Relying on faulty economic theory, these “interim” estimates drop the social cost of carbon from \$50 per ton in year 2020 down to as little as \$1 per ton, and drop the social cost of methane from \$1420 per ton in year 2020 down to \$58. These “interim” estimates are inconsistent with accepted science and economics; the IWG's 2016 estimates remain the best available estimates. The IWG's methodology and estimates have been repeatedly endorsed by reviewers as transparent, consensus-based, and firmly grounded in the academic literature. By contrast, the “interim” estimates ignore the interconnected, global nature of our climate-vulnerable economy, and obscure the devastating effects that climate change will have on younger and future generations. BLM should not use the “interim” social cost of greenhouse gas estimates because of their methodological flaws, as described more fully in the attached comments which we have previously submitted to BLM on its misleading use of the unsupported “interim” values.

Sincerely,

Susanne Brooks, Director of U.S. Climate Policy and Analysis, Environmental Defense Fund  
Tomás Carbonell, Senior Attorney and Director of Regulatory Policy, Environmental Defense Fund  
Louisa Eberle, Associate Attorney, Sierra Club

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<sup>78</sup> Exec. Order 13,783 § 3(c)

<sup>79</sup> 82 Fed. Reg. 16,576, 16,576 (Apr. 5, 2017).

<sup>80</sup> See CEQ, *Revised Draft Guidance on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews* at 16 (Dec. 2014), available at [https://obamawhitehouse.archives.gov/sites/default/files/docs/nepa\\_revised\\_draft\\_ghg\\_guidance\\_searchable.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/nepa_revised_draft_ghg_guidance_searchable.pdf) (“[A]lthough developed specifically for regulatory impact analyses, the Federal social cost of carbon, which multiple Federal agencies have developed and used to assess the costs and benefits of alternatives in rulemakings, offers a harmonized, interagency metric that can provide decisionmakers and the public with some context for meaningful NEPA review.”).

<sup>81</sup> *Draft Environmental Impact Statement—Liberty Development Project in the Beaufort Sea, Alaska* at 3-129.

<sup>82</sup> Energy Conservation Program: Energy Conservation Standards for Walk-In Cooler and Freezer Refrigeration Systems, 82 Fed. Reg. 31,808, 31,811, 31,857 (July 10, 2017).

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Attached: Joint Comments to BLM on the Rescission or Revision of Certain Requirements for Waste Prevention and Resource Conservation