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Senate Committee on Energy and Natural Resources
Oversight Hearing

"To Examine Energy Development on Federal Lands, Focusing on the Current Status of the Department of the Interior's Onshore Oil and Gas Leasing Program"

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Chairman Manchin, Ranking Member Barrasso, and Members of the Committee, thank you for the opportunity to provide testimony on the development of energy from Federal lands, and on the Bureau of Land Management's (BLM) energy programs.

This July, we will celebrate the 75th anniversary of the BLM, which was established in 1946 when President Truman merged the General Land Office and the U.S. Grazing Service. Like its predecessor agencies, the BLM has evolved over the years and adapted its mission to meet the needs of our nation and serve as a steward of our public lands and resources. One of the most significant changes occurred 45 years ago with the passage of the Federal Land Policy and Management Act of 1976 (FLPMA), which officially gave the BLM the multiple use and sustained yield mandate that guides all of our land management decisions. This authority, given to the BLM by Congress, requires us to manage the lands in our care for the benefit of current and future generations of Americans. As we look forward to celebrating an important milestone in the history of our bureau, we also recognize an opportunity to reimagine how the BLM may fulfill its congressional mandate while addressing some of the most pressing challenges in our nation's history – including those related to energy development, climate change, and transitioning to a clean energy economy.

BLM Overview

The BLM manages approximately 245 million surface acres, located primarily in 12 western states, as well as 30 percent of the nation's onshore mineral resources across 700 million subsurface acres, overlain by properties managed by other Federal agencies such as the Department of Defense and the U.S. Forest Service. Further, of the 700 million acres, approximately 57 million acres are split estate lands, where the surface estate is in private ownership and the BLM manages the subsurface minerals.

Under the BLM's multiple use mandate, the BLM manages public lands for a broad range of uses, such as renewable and conventional energy development, livestock grazing, timber production, hunting and fishing, recreation, and conservation – including protecting cultural and historic resources. Lands managed by the BLM also provide vital habitat for more than 3,000 species of wildlife and support fisheries of exceptional regional and national value. Of particular note, last year, BLM-managed lands supported more than 73 million recreational visits.

BLM-managed public lands provide energy from diverse sources – including renewable sources such as wind, solar and geothermal; as well as from nonrenewable sources such as coal, oil, and gas. In fiscal year (FY) 2020, the BLM permitted 2,148 megawatts (MWs) of new electricity generation capacity from wind, solar, and geothermal sources on public lands and is on-track to permit another 3,000 MWs in FY 2021. Production from Federal lands also included 252 million metric tons of coal, as well as about 416.1 million barrels of oil, and 3,686 billion cubic feet of natural gas. Overall, the Department estimates that commercial activities on public lands generated more than $111 billion in economic output in 2019, supporting nearly 500,000 jobs in timber, recreation, grazing, nonenergy minerals and the energy sector. That activity is the economic driver for communities across the west. It is also a significant generator of tax revenues that support state and local governments.

It is important to reiterate that we manage these lands and their uses for all Americans. As Secretary Haaland has stated, fossil fuels will continue to play a major role in America for years to come. However, this is just one of the multiple uses for which the BLM manages public lands. Too often, the extraction of resources has been rushed at the expense of people, wildlife, and other uses. During the past four years, the Trump Administration offered vast swaths of our public lands for drilling, prioritizing fossil fuel development above all other uses. We are now in a moment where we have an opportunity to rebalance and ensure that we meet the Department's principal charge: to manage our lands and resources not merely across fiscal years, but across generations.

Executive Order 14008

President Biden issued Executive Order (EO) 14008, *"Tackling the Climate Crisis at Home and Abroad,"* to restore balance on public lands and waters, create jobs, and provide a path to align the management of America's public lands and waters with our nation's climate, conservation, and clean energy goals. The EO provides direction for review of BLM's renewable energy and oil and gas programs.

Section 207 of EO 14008 sets ambitious renewable energy goals that will ensure America and the world can meet the urgent demands of the climate crisis, while empowering American workers and businesses to lead a clean energy revolution. The EO further directs the Secretary to review siting and permitting processes on public lands and in offshore waters to identify ways we can increase renewable energy production. Section 208, meanwhile, directs the Secretary to pause new oil and gas leasing on public lands and in offshore waters pending the completion of a comprehensive review and reconsideration of Federal oil and gas permitting and leasing practices. To ensure the oil and gas program continues to serve the public interest, the Department will evaluate royalty rates and fiscal terms in the context of our obligations to taxpayers, as well as the climate impacts of the program.

Renewable Energy

The BLM has identified more than 19 million acres of public lands with excellent solar energy potential in six southwestern states: California; Nevada; Arizona; New Mexico; Colorado; and Utah, through the establishment of Solar Energy Zones. The BLM also manages more than 20 million acres of public lands that have been identified with wind energy potential in 11 western states. In addition, the BLM has authority to manage geothermal leasing on approximately 245 million acres of public lands (including 104 million acres of U.S. Forest Service lands).

In addition to EO 14008, the Energy Act of 2020 (P.L. 116-260) directed the BLM to create Renewable Energy Coordination Offices (RECOs), and set national goals for wind, solar, and geothermal energy production on Federal lands. The EO and Congressional direction provides the BLM a clear mandate to support and prioritize expanding renewable energy development on public lands. As of April 2021, permitted renewable energy projects on BLM-managed lands include 51 operating geothermal power plants with a combined total of 2,462 MWs of generation capacity, 36 wind projects with a total capacity of over 2,900 MWs, and 36 solar projects with a total capacity of over 6,800 MWs.

In our initial efforts to achieve the President's renewable energy goals, the BLM has assessed staffing levels related to our renewable energy program and developed a proposal for the establishment of the RECOs as directed by Congress. We're taking action to enhance our permitting coordination of renewable energy projects pending before the BLM and have also prioritized a short list of key programmatic actions, regulation updates, and interim policies to facilitate renewable energy development on BLM lands in the short and medium term. Some of the efforts under consideration include updating the Solar Energy Zones that were completed in the Solar Programmatic Environmental Impact Statement in 2012, as well as the West-wide Energy Corridors that were designated across the west to facilitate pipelines and powerlines. We are also looking at rental rates and related regulations to ensure they are reasonable and appropriate.

Coal

Under the authority of the Mineral Leasing Act of 1920 (MLA), the BLM also is responsible for leasing the Federal coal mineral estate on approximately 570 million acres. In FY 2020, coal generated 19.3 percent of the nation's electricity, and over 32 percent of the nation's coal was produced from Federal lands. At the end of FY 2020, there were a total of 286 Federal coal leases with 436,719 acres under lease. In FY 2020, approximately 252 million metric tons of produced Federal coal generated $377 million in royalties, rentals, and bonus payments.

BLM coal lease sales traditionally occur based on industry interest, and in FY 2020 the BLM did not hold any coal lease sales. To date in FY 2021, the BLM has held 2 coal lease sales – in North Dakota containing 960 acres and approximately 20.4 million tons receiving a total bonus bid of $96,000. The estimated royalties from these leases are $15.5 million, and approximately half will be shared with the state.

Rights-of-Way

Each year, the BLM processes thousands of applications for rights-of-way (ROW) grants on public lands – authorizations to use public lands in support of infrastructure projects across the country. These include renewable energy projects, electric transmission lines, communication sites, broadband deployment, highways, trails, railroads, canals, pipelines, and other facilities or systems which are in the public interest. Over half (59,000) of the total 118,000 ROW grants the BLM manages are for energy-related infrastructure and facilities. The BLM prioritizes ROW actions to support renewable energy and electric transmission, promote broadband access, encourage economic development, and promote public health and safety.

As the largest Federal land manager in the west, the BLM plays a key role in planning critical energy corridors and siting transmission facilities. In accordance with the requirements of the Energy Policy Act of 2005, the BLM designated approximately 5,000 miles of energy corridors on public lands in 11 western states. These corridors, also known as "West-wide" or "Section 368" energy corridors, are intended for expedited permitting of electric transmission and distribution lines and for oil, gas, and hydrogen pipelines. The BLM continues to work closely with utility companies to develop collaborative ways to use these corridors and other ROWs to best serve communities, enhance energy reliability, strengthen the security of the electric grid, and reduce wildfire risk.

Oil & Gas

The BLM's land use planning process, through the creation of Resource Management Plans (RMPs), provides a standardized procedure for continued analysis of the appropriate opportunities for multiple use of our public lands, while also ensuring that such development is done in a way that minimizes environmental impacts and considers the public interest. For purposes of oil and gas leasing, lands within a planning area are identified as fitting into one of three categories – lands open under standard lease terms, lands open with restrictions, and lands closed to leasing.

While the RMPs identify appropriate uses of public lands, generally it is industry who will nominate lands for leasing in the form of expressions of interest (EOIs). Upon receipt of an EOI, the BLM determines where lands are eligible for leasing under the governing RMP. The BLM holds competitive lease sales on nominated and eligible lands in accordance with applicable laws and regulations. After a lease sale is held, protests are resolved, and the lease is issued, an operator may then submit an Application for Permit to Drill (APD) for a specific area within its lease and begin working with the BLM on final surface use and downhole drilling plans. Operators assess their drilling targets based on ongoing analysis of resource potential and business model decisions.

The BLM also works together with the Bureau of Indian Affairs (BIA) to provide permitting and oversight services for the development of resources on the approximately 56 million acres of land held in trust on behalf of Tribes and individual Indian landowners. The BLM coordinates closely with surface management entities, including the BIA and tribal governments, in the management of these subsurface resources. All decisions are made with consideration of the BLM's responsibility for stewardship of public land resources and these Indian trust assets which generate substantial revenue for the U.S. Treasury, the states, tribal governments, and individual Indian landowners.

Federal Oil & Gas Statistics

The BLM manages 37,496 Federal oil and gas leases covering 26.6 million acres with nearly 96,100 wells. Federal onshore oil and gas production accounts for approximately seven percent of domestically produced oil and eight percent of domestically produced natural gas. In FY 2020, Federal onshore oil and gas development provided over $3.46 billion in revenues, including $2.3 billion in royalties, $92.9 million in bonus bids, and $23 million in rentals. This shows that only three percent of the onshore oil and gas revenues came from leasing and inactive leases, while 66 percent of revenues was from producing leases. In FY 2020, the BLM received

6,234 APDs and approved 4,631 APDs. As of March 31, the BLM has approved 2,688 APDs in FY 2021, with a total of 7,895 APDs approved and available to drill.

DOI's Fossil Fuel Program Review

Over the years, the Government Accountability Office (GAO) has identified the Federal oil and gas programs as "high risk" to fraud, waste, abuse and mismanagement. The GAO has also issued a series of other reports with recommended improvements for various aspects of the program, including those related to bonding, rental and royalty rates, competitive leasing, permit processing, and ensuring a fair return to the U.S. taxpayers.

Pursuant to EO 14008, the Department is currently undertaking a comprehensive review of our oil and gas program and engaging stakeholders to evaluate whether the program best serves the public interest. On March 25, 2021, the Department held a forum that featured a diverse range of perspectives from participants including industry representatives, labor and environmental justice organizations, natural resource advocates, Indigenous organizations, and other experts. As part of our program review, the BLM is also considering how to remediate issues identified by GAO and work to ensure the program complies with applicable law.

An essential question that the BLM is considering under our review is whether the taxpayer is receiving a fair return for the use of our shared public lands. In a March 2, 2021, report, GAO stated that DOI "lacks reasonable assurance that it is collecting its fair share of revenue from oil and gas produced on Federal lands and waters" (GAO-21-1195P). Under the MLA and the BLM's current regulations for oil and gas lease sales, there is a minimum bonus bid set at $2.00 per acre (30 U.S.C. 226-1(b)), and the successful bidder is required to pay the first year's rent at $1.50 per acre and administrative fees. If a parcel does not receive any successful bids, the parcel can be sold noncompetitively for up to two years with just the first year's rent, the administrative fee and no bonus bid. Of the currently active leases, over 15,000 were acquired through this noncompetitive process. The GAO (GAO-21-138) found that only one percent of non-competitive leases generate royalties in their first term, compared to leases issued competitively with a bonus of more than $100 per acre (26 percent) or competitive leases that sold at the minimum (two percent).

For oil and gas leases, rent is owed until the lease has production of oil or gas in paying quantities. This rent is at a rate of $1.50 per acre for the first five years and $2.00 per acre for years six to ten. Once there are paying quantities of oil or gas, the Office of Natural Resource Revenue (ONRR) collects a royalty on production for both competitive and noncompetitive leases. In general, Federal onshore oil and gas rates are set at 12.5 percent with a few exceptions, a rate set in 1920. While the Federal rate is consistent throughout public lands, it is often lower than royalty rates found on adjacent state, private and Tribal lands as well as offshore oil and gas operations. In fact, in 2009, the GAO (GAO-09-506T) found that compared to the Federal program, the eight states they reviewed in a study undertook more efforts to encourage development on their oil and gas leases, while using higher and increasing rental and royalty rates, as well as shorter lease terms.

The MLA requires operators to provide an adequate bond to the BLM before they begin preparing land for drilling operations. The bond is meant to ensure complete and timely reclamation of the land after operations have ceased. As established in 1960 – 61 years ago – an operator must provide the BLM a bond of at least $10,000 for operations on a single lease, $25,000 for its operations within a single state, or $150,000 for its nationwide operations. These bonds are supposed to ensure an operator's compliance with all the lease terms, including environmental protection, and are intended to protect the taxpayers from paying cleanup costs if an operator fails to properly plug and reclaim oil and gas sites. A recent GAO report (GAO-19-615) found that bond amounts should be adjusted to more closely reflect expected reclamation costs, and estimated the average cleanup costs for wells to be between $20,000 and $145,000 per well, but can exceed $1.5 million per well.

In the preliminary assessment of the current program, through FY 2020, of the nearly 37,500 Federal leases covering 26.6 million acres, only about 23,800 leases and 12.7 million acres are in producing status. Further, operators currently have 7,895 approved Federal APDs available to drill today. The BLM notes that the GAO (GAO-20-239) found that operators applying for APDs that go unused create additional demands on the BLM's staff, interfering with our ability to fulfill other program responsibilities, such as conducting well inspections. Given the number of non-producing leases and approved but unused APDs in its possession, even with the pause of new leasing, industry is still able to continue to produce from existing operations while continuing to submit new APDs. These actions will continue to provide royalties to both the Federal treasury and states.

Due to these important considerations, the pause on new leasing is not only prudent, but necessary. We must consider our management of the lands in a manner that benefits the greatest number Americans and allows us to tackle the climate crisis. Continuing a policy that focused on reducing perceived burdens on industry at time when Americans are experiencing the burdens of a rapidly changing climate, not only prioritizes one specific user over all of the others, but is a detriment to the very people for whom we manage these lands. The review will give the Department time to consider the other important uses of these lands – outdoor recreation, wildlife habitat and landscape conservation – while meeting the goals that have been set by the President regarding renewable energy development and helping to conserve 30 percent of U.S. lands and waters by 2030. This does not mean shutting down all uses or pushing people off the land. The ongoing review presents another opportunity for the BLM to use the many tools at our disposal to keep our public lands well-functioning for all Americans and bring meaning to the concept of sustained yield.

Conclusion

While we can look back with pride on the evolution of Federal land management over the last 75 years, we simply cannot continue doing business as we have in the past. We are at a crossroads as a nation and as a Bureau. It's incumbent on us to look forward and reimagine how we manage our public lands – adapting to the changing landscapes, climate, environment, and technology. Every American has a stake in the management of our public lands and a voice in how we implement our multiple use mission for today and for future generations. Together, we need to determine how we manage these lands effectively and sustainably, while addressing climate challenges that are increasing in scope, scale, and complexity across Federal, state, and private landscapes. The work that the BLM is doing under EO 14008, including the report on the oil and gas program we plan to release early this summer, are part of this effort.