

**Statement of  
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**House Committee on Natural Resources  
Subcommittee on Energy and Mineral Resources**

**Legislative Hearing**

**H.R. 3225, Restoring Community Input and Public Protections in Oil and Gas Leasing Act**

**June 20, 2019**

Chairman Lowenthal, Ranking Member Gosar, and Members of the Subcommittee, I am pleased to join you today to speak about H.R. 3225, the Restoring Community Input and Public Protections in Oil and Gas Leasing Act. This statement is based upon a discussion draft of the bill, as the introduced bill text was not available when the hearing was noticed.

The bill would amend the Mineral Leasing Act and make a number of adjustments in oil and gas leasing on public lands, including increasing royalty and rental rates, removing non-competitive leasing, charging new fees for expressions of interest (EOIs), decreasing the frequency of lease sales, decreasing the length of lease terms, and adding a number of new management provisions related to surface owners.

The Department has issued a number of Secretarial Orders (S.O.) designed to promote timely and responsible oil and gas development on public lands, produce domestic energy security, and reduce unnecessary and burdensome regulations, while maintaining environmental protections. On balance, the Department believes H.R. 3225 adds new and unnecessary administrative and other burdens on oil and gas development on public lands, thereby reducing the competitive nature of the leasing process, and potentially reducing the value of bids the BLM receives for leased public lands. Because States receive approximately 50 percent of the revenue generated through these lease sales, the Department believes State stakeholder views will be important. States receiving significant revenue from oil and gas development on public lands in Fiscal Year 2018 include New Mexico (nearly \$650 million), Colorado (more than \$90 million), and California (more than \$35 million). The Department cannot support the bill as currently written. The Department appreciates the Committee's interest in oil and gas development on our nation's public lands and respects efforts to ensure the best return from this development. We welcome the opportunity to work further with the Committee on these important issues.

## **Background**

The Bureau of Land Management (BLM) manages approximately 245 million surface acres, located primarily in 12 western states, as well as 30 percent of the Nation's minerals across 700 million subsurface acres. Of the 700 million subsurface acres, approximately 57 million acres are split estate lands, where the surface estate is in private ownership and the BLM manages the subsurface. Managing this vast portfolio is a tremendous honor for the employees of the BLM, and our work depends on close cooperative relationships with partners and local communities.

The Federal Land Policy and Management Act (FLPMA) sets forth the BLM's multiple-use and sustained yield mission, directing that public lands be managed for a variety of uses, ranging from conventional and renewable energy development, livestock grazing, conservation, mining, watershed protection, hunting, fishing, and other forms of recreation. Because of this, Federal lands support the production of goods and services that create jobs and promote economic development in communities all across the Nation. This multiple use mission advances the President's priorities for energy security, shared conservation stewardship, safe borders, and putting Americans back to work.

Under President Trump and Secretary Bernhardt's leadership, the-BLM has made it a top priority to responsibly develop the vast domestic energy resources on public lands to create jobs, lower costs for working Americans, increase revenues to the taxpayers, and build a strong economy.

## **Energy & Mineral Development on Public Lands**

Nationwide, the BLM has approximately 25.5 million surface acres currently under lease for oil and gas development, including over 94,000 active wells on about 24,000 producing leases. The BLM oversees onshore oil and gas development on Federal lands and lands held in trust for the benefit of various tribes. Collectively, these lands contain world-class deposits of energy and mineral resources, which powers millions of homes and businesses and support the broader economy. Onshore oil and gas from Federal and Indian lands accounted for approximately 8 percent of all oil and 9 percent of all natural gas production in the United States in FY 2018. The [U.S. Department of the Interior Economic Report for FY 2017](#) estimates the Federal onshore oil and natural gas program alone provided approximately \$59.6 billion in economic output and supported an estimated 284,000 jobs nationwide. Last year, Federal lands generated in excess of \$3 billion in Federal revenue, of which the National Treasury distributed nearly half to the states where the oil and gas activity is occurring.

## **Responsible Development & Streamlining**

The Administration has made environmentally responsible development of all domestic energy sources and minerals a priority. Executive Order (E.O.) 13783 (*Promoting Energy Independence and Economic Growth*) calls upon the Department, and other Federal agencies, to increase access to and reduce burdens on energy development on public lands. E.O. 13807 (*Establishing*

*Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*) prompted an Administration-wide assessment to determine how best to address inefficiencies in current infrastructure project decisions.

The Department also issued four Secretarial Orders to reduce unnecessary and burdensome regulations while maintaining environmental protections. The most overarching order is S.O. 3349 (*American Energy Independence*), which directed bureaus to examine specific actions impacting oil and gas development, and any other actions affecting other energy development. S.O. 3354 (*Supporting and Improving the Federal Onshore Oil and Gas Leasing Program and Federal Solid Mineral Leasing Program*) directed the BLM to hold quarterly oil and gas lease sales, and to identify ways to promote the exploration and development of Federal onshore oil and gas and solid mineral resources. S.O. 3355 (*Streamlining National Environmental Policy Act (NEPA) Reviews and Implementation of Executive Order 13807*) directed the BLM to implement certain improvements to the NEPA process.

In calendar year 2018, the BLM generated a record amount of revenue from lease sales (\$1.1 billion), which was accomplished in part by streamlining. Since the issuance of Instruction Memo (IM) 2018-034 in January 2018 on Oil and Gas Leasing Reform, the BLM has consistently offered lands for lease every quarter and shortened processing timeframes. Contributing to our success in improving efficiencies, the BLM has streamlined our NEPA processes, automated the leasing program through implementation of the National Fluids Lease Sale System, and utilized online competitive lease sales. These streamlining efforts have led the BLM to review and eliminate unnecessary and duplicative requirements, such as Master Leasing Plans (MLPs).

### **H.R. 3225**

H.R. 3225, the Restoring Community Input and Public Protections in Oil and Gas Leasing Act, would amend the Mineral Leasing act by increasing the royalty rate and rental rates, removing non-competitive leasing, charging new fees for EOIs, decreasing the frequency of lease sales, decreasing the length of lease terms, and adding a number of new management provisions related to surface owners. Following is a discussion of the bill's primary provisions.

#### ***Leasing Process (Sec. 2)***

The bill (Sec. 2) makes a number of changes to the existing oil and gas leasing processes authorized under the Mineral Leasing Act. It would effectively change the competitive auction process from escalating bids to a competitive-sealed bidding process while also removing non-competitive bidding. The bill would increase the current royalty rate from 12.5 percent to 18.5 percent, and would increase rental rates from \$1.50 per acre to not less than \$5 per acre. Finally, it would decrease lease term durations from ten to five years and also decrease the frequency of

lease sales from quarterly to no more than three lease sales per year, with a further restriction of no more than one sale per field office per year.

On the whole, BLM is concerned the provisions in Section 2 would reduce the competitive nature of the leasing process and could reduce the revenues BLM receives for leased public lands. Any reduced bids for leases would have an impact on States, which receive approximately 50 percent of any revenue generated through these lease sales. The reductions in lease term duration would in many cases become an obstacle for industry to perform the geophysical surveys that guide their development strategies, for the Department to adequately perform scientific surveys, and to conduct regulatory compliances such as Section 7 of the Endangered Species Act, Section 106 of the National Historic Preservation Act, and NEPA that determine if exploration and development is appropriate for a given area.

Likewise, decreasing the frequency of lease sales has the potential to reduce the return to U.S. taxpayers as the market demand from industry fluctuates and opportunities for industry to obtain leases decrease and make Federal oil and gas leasing less competitive compared to leasing state and private land. The Department is also concerned that establishing substantially higher statutory minimum royalty rates and rental rates would limit the EOIs received by the BLM, discouraging exploration and development.

The BLM's current online oil and gas competitive lease sale processes and auction format has increased bidder participation and led to greater competition at the lease sale stage. In tandem with other streamlining efforts, BLM has demonstrated a successfully functioning competitive lease sale process, generating a record-breaking \$1.1 billion in lease sale revenue (bonus bids, first-year rentals, and administrative fees), in the 28 lease sales BLM held in 2018. The Department is concerned that the bill's provisions would reduce the competitiveness of BLM lands for new leasing, resulting in delayed investments, decreased job creation, and potentially reduce the revenue generated from the use of these public resources.

### ***Surface Owner Provisions (Sec. 3)***

The bill (Sec. 3) amends the Mineral Leasing Act to make a number of changes related to private surface owners. The bill requires the public disclosure of interested parties who bid on a Federal oil and gas lease or who request that the BLM make a parcel available for leasing. The bill creates new lease notice requirements, and directs the Secretary to provide surface landowner opportunities to participate in bond determinations, to request and attend on-site inspections, and to comment on plans of operation. The bill also sets forth a new arbitration and surface use agreement process between surface owners and leaseholders.

The Department is concerned that the bill adds unnecessary steps to an already robust public notification process and would require additional resources to handle these requirements. The

BLM currently discloses bidders' identity following the lease sale for public transparency. The bill would disclose the bidders' identity before the lease sale ends thereby revealing market information to competing bidders that would compromise the integrity of the auction and prevent American taxpayers from receiving maximum revenue. The Department notes that the BLM continually works to encourage coordination and cooperation among all stakeholders in split estate situations. The bill's new arbitration process creates a new role for the Department to collect and provide lists of arbitration services for private disputes. Having the Department involved in arbitration may negatively impact the relationships that the BLM has with private land owners and lessees. These provisions would also add several additional administrative processes to BLM's leasing program which would negate the Department's ongoing streamlining efforts.

#### ***Master Leasing Plans (Sec. 5)***

The bill (Sec. 5) would require the BLM to return to the policy of issuing Master Leasing Plans (MLP) and allow state residents to submit petitions to the Secretary for adoption of these plans. In 2018, the BLM eliminated MLPs as part of the Department's streamlining efforts, after determining that they created unnecessary and duplicative layers of NEPA review. The BLM bases leasing decisions on land use plans that are in place under the Resource Management Plans (RMPs) and additional leasing-level NEPA analysis, if needed. This process provides the public with multiple opportunities to submit public comments throughout the leasing process, including scoping and public meetings, and formal public comment periods during the RMP and lease sale stages.

#### ***Public Disclosure of Lease Information (Sec. 10)***

The bill (Sec. 10) requires certain lease information be made available on public websites, including the names of all current and former lessees and operators, notices of lease transfers, and notices of suspensions. While the BLM has already made much of this information publicly available through the Automated Fluid Minerals Support System (AFMSS) at <https://reports.blm.gov/> and the BLM publicly available LR2000 system, this section would add some additional reporting requirements. The BLM remains committed to being transparent in the leasing process.

#### ***New Fees for Expressions of Interest (Sec. 12)***

Finally, the bill (Sec.12) would impose a new fee to submit an EOI for lands that the public is interested in leasing. The BLM does not automatically offer all lands that were submitted in an EOI, but rather uses the EOI to guide the BLM in creating parcels for optimal public offering at a lease sale. The Department believes that charging a new fee could inhibit the public's right to express interest in oil and gas development on public lands, adding an unnecessary administrative burden that is inconsistent with EO 13807. We remain committed to ensuring an open and efficient leasing program.

### **Conclusion**

The Department is committed to promoting responsible public land energy development that helps create and sustain jobs, promotes a robust economy, and contributes to America's energy security. The Department welcomes opportunities to work with the committee to further these goals. Thank you for the opportunity to present this testimony. I will be glad to answer any questions.