Statement of
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H.R. 7377, Royalty Resiliency Act
H.R. 7375, EOI Fee Administration

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Introduction

Thank you for the opportunity to provide testimony on H.R. 7377, the Royalty Resiliency Act, which would establish a timeframe for certain determinations required under the Federal Oil and Gas Royalty Management Act (FOGRMA), and H.R. 7375, which would amend the Mineral Leasing Act (MLA) to modify the administration of Expressions of Interest (EOI).

Background

The Bureau of Land Management (BLM) manages approximately 245 million surface acres, located primarily in 12 western states, and approximately 700 million acres of subsurface mineral estate. The Federal Land Policy and Management Act (FLPMA) sets forth the BLM's multiple-use mission, directing that public lands be managed for a variety of uses, such as conventional and renewable energy development; livestock grazing; conservation; mining; watershed protection; hunting, fishing, and other forms of recreation. FLPMA also requires the BLM to manage public land resources on a sustained-yield basis for the benefit of current and future generations. This multiple-use, sustained yield mission enables the BLM to contribute tremendously to economic growth, job creation, and domestic energy production, while generating revenues for Federal and State treasuries and local economies and allowing for a thoughtful, science-based approach to management of our public lands and waters.

The BLM manages the Federal onshore oil and gas program with the goals of facilitating safe and responsible energy development while providing a fair return for the American taxpayer. The BLM currently manages over 33,700 Federal oil and gas leases covering over 23.2 million acres. About half of the acreage is producing, from over 89,000 wells. Over 10 million acres, are non-producing – i.e., leased but the lessees have not developed them. Since the start of the Biden-Harris Administration, the BLM has approved over 9,500 Applications for Permit to Drill (APDs) – more than 3,800 in 2023 alone. As a result, there are currently more than 7,000 APDs approved and available to drill. Federal onshore oil production is currently at an all-time high, and accounts for approximately seven percent of domestically produced oil, while Federal gas production accounts for approximately eight percent of domestically produced natural gas. In FY 2023, Federal onshore oil and gas development provided about $8.5 billion in revenues, including $8.4 billion in royalties, $96.7 million in bonus bids, and $15.2 million in rentals.

With oil production from Federal lands at an all-time high, the Biden-Harris Administration has made it a priority to ensure that the Federal onshore oil and gas program is operating in the best interest of the American people. To achieve this important goal, the BLM is developing regulations to implement changes Congress passed into law as part of the Inflation Reduction Act (IRA, Public Law 117-169). The Administration is committed to the responsible and sustainable development of Federal oil and gas resources as the nation transitions to a low-carbon economy, and such reforms are a critical component of this effort. The BLM's proposed regulations – which reflect the first comprehensive regulatory framework update in decades – would modernize the Federal onshore oil and gas program by increasing returns for the American people in accordance with the IRA. The reforms would also prioritize oil and gas development on lands with existing infrastructure or high potential for production and away from areas with low resource potential but are important wildlife habitat, recreational areas including for hunting and angling, and cultural sites. Additionally, the proposed regulations would update bonding rates for the first time in over 60 years to ensure that hardworking American taxpayers do not bear the burden for reclaiming abandoned wells in the future.

H.R. 7375, To amend the Mineral Leasing Act to improve the assessment of EOI fees

Under the IRA, the BLM is required to collect a nonrefundable $5 per acre fee with the submission of an EOI, which is an informal nomination to request certain lands be considered for inclusion in a competitive oil and gas lease sale. This reduces speculation and helps ensure that the BLM is able to manage the public lands for multiple uses. H.R. 7375 would amend the MLA to modify how the BLM administers EOI fees. Under the bill, the BLM would no longer be able to collect the fee with the submission of the EOI; instead, the agency would be required to collect fees after a lease sale. If no bid is received for a nominated parcel during a lease sale, the submitter of the EOI would then be assessed the fee. However, if a nominated parcel is successfully sold during a lease sale, then the purchaser of the parcel would be assessed the EOI fee. Finally, H.R. 7375 would set a term of 5 years for each EOI, unless the nominated parcel is offered on a lease sale at an earlier date.

Analysis

The BLM opposes H.R. 7375, as the proposed change in timing of the collection of required EOI fees would roll back one of the IRA's key oil and gas leasing reforms – incentivizing EOI submitters to carefully review whether parcels are available for oil and gas lease sales before they nominate them. Before the IRA's imposition of a fee at the time of EOI submission, industry could nominate parcels at no cost even if they included lands that were unavailable to oil and gas leasing (*e.g.*, lands that were already within an authorized lease, in areas where there was no Federal mineral ownership, or for lands that the BLM was already processing for an upcoming lease sale).

When EOIs are submitted, and as outlined in 43 C.F.R. 3100.0-3, the BLM conducts an extensive review to ensure that it is able to offer the nominated parcels in an oil and gas lease sale, as required by the MLA and other applicable laws. The BLM must also review the applicable land use plan to ensure that the nominated parcels are within areas that are open to oil and gas leasing. Completing this extensive review for parcels that the BLM ultimately cannot offer in a lease sale wastes agency staff time and resources and therefore taxpayers' money. By

no longer requiring the EOI fee upon EOI submission, the bill would significantly increase the BLM's workload and disincentivize EOI submitters from completing appropriate and basic due diligence before they nominate parcels for inclusion in an oil and gas lease sale, since under the legislation if the parcel cannot be offered for whatever reason, then no EOI fee would be due. Congress, established the EOI fee to cover the work involved in processing an EOI and shift the burden off of American taxpayers and to those submitting expressions of interest. The BLM believes that the EOI fee, as well as the agency's current process, are working as Congress intended – speculation has declined while the percentage of nominated parcels purchased at lease sales is increasing, and fees for expressions of interest on lands that are not available for leasing are not burdening taxpayers.

Under H.R. 7375, the EOI fee would essentially become a fee for successful bidding. Additionally, assessing the EOI fee to the entity that submitted the EOI who subsequently does not bid on the parcel is not a fee on an EOI; rather, it is a penalty for a lack of interest in the parcel. H.R. 7375 may also raise the costs to obtain a competitive lease and could in turn lower bonus bids paid for the parcels offered at the competitive lease sale. Since bonus bids are shared with states while the EOI fee is not, this could result in states receiving less revenue. In addition, the BLM has authority to proactively nominate parcels due to potential drainage of unleased Federal minerals. If this occurs, the bill would require a successful bidder to pay the EOI fee even though no EOI was submitted.

Given the BLM's experience before enactment of the IRA, the agency would have to expend substantial staff time and resources to review a much larger number of EOI submissions under H.R. 7375. If the nominated parcels are not sold in a lease sale, under the bill, the BLM would need to pursue the EOI submitter to collect the EOI filing fee, which would also generate a significant increase in workload. The BLM is concerned that H.R. 7375 is silent on what would happen if the submitter failed to pay once they receive a bill on their EOI. It is possible the EOI submitter could find ways to avoid paying the EOI fee, resulting in lands being nominated and offered in an oil and gas lease sale without the BLM ever actually receiving payment.

Finally, the BLM currently does not have an official term limit for EOIs. Instead, the BLM has historically worked to verify continued interest in offering the lands within the EOI by reaching out to the submitter. The BLM can see value in applying a term limit to EOIs.

H.R. 7377, Royalty Resiliency Act

Under the BLM's oil and gas and geothermal leasing regulations at 43 C.F.R. Parts 3100 and 3200, respectively, "unitization" provides for the exploration and development of an entire geologic structure or area by a single operator so that drilling and production may proceed in the most efficient and economic manner. Similarly, "communitization" provides for the pooling of Federal and/or Indian lands with other lands when separate tracts under such Federal and Indian lands cannot be independently developed and operated in conformity with an established well-spacing program. H.R. 7377 would require the Secretary of the Interior to issue all determinations of allocations of production for unit and communitization agreements (CA) within 120 days of a request for determination. The bill also requires lessees (or their designee) of a lease in a unit or CA to report and pay royalties on oil and gas in accordance with the proposed allocation until a final decision is made.

Analysis
Pursuant to FOGRMA, the Secretary is already required to issue approval determinations for proposed units and CAs within 120 days of submission by the applicant. However, horizontal well development has increased the number of determinations needed and has resulted in delayed royalty payments to royalty interest holders. H.R. 7377 would establish new requirements for lease holders to report production and pay royalties. This bill will provide certainty to oil and gas operators and the Department of the Interior (Department) for allocation and distribution of royalties as the Department processes allocation agreements. The Department recognizes the importance of timely approval of units and CAs and supports H.R. 7377.

The Department would like to work with the Sponsor and the Subcommittee to provide additional clarity to the bill's interest waiver provision to ensure accurate disbursements continue through the communitization approval process. Additionally, the Department notes the provision of FOGRMA that H.R. 7377 would amend was added through the Royalty Simplification and Fairness Act of 1996. The 1996 Act is a set of amendments to FOGRMA that do not apply to Indian leases. Therefore, it is unclear if H.R. 7377, as written, would apply to Indian leases or Indian CAs.

Conclusion
The BLM is committed to its core mission of multiple use and sustained yield, which includes managing the Federal onshore oil and gas program responsibly. It is essential that the BLM's oil and gas management promotes the highest industry, environmental, and public engagement standards, including those related to environmental justice and Tribal engagement, while securing a fair return for the American taxpayer. Thank you for the opportunity to provide testimony on these bills, and I look forward to your questions.