

**EXAMINING THE DEPARTMENT  
OF THE INTERIOR'S ACTIONS  
TO ELIMINATE ONSHORE  
ENERGY BURDENS**

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**OVERSIGHT HEARING**

BEFORE THE

SUBCOMMITTEE ON ENERGY AND  
MINERAL RESOURCES

OF THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

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**OVERSIGHT HEARING ON EXAMINING THE  
DEPARTMENT OF THE INTERIOR'S ACTIONS  
TO ELIMINATE ONSHORE ENERGY  
BURDENS**

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**Thursday, January 18, 2018  
U.S. House of Representatives  
Subcommittee on Energy and Mineral Resources  
Committee on Natural Resources  
Washington, DC**

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The Subcommittee met, pursuant to call, at 2:11 p.m., in room 1324, Longworth House Office Building, Hon. Rob Bishop presiding.

Present: Representatives Gosar, Lamborn, Tipton, Bergman, Bishop (ex officio), Lowenthal, Beyer, and Soto.

Mr. BISHOP. Let me call this meeting to order. Mr. Gosar is on his way, but he has been detained for a second. So, I am going to start this thing, and if he gets upset with that, I will have to deal with that later.

Anyway, we will gavel this to order. I also would like to get started simply because we will have votes that are going to interrupt in the middle of this, so I would like to get some of this done.

So, let me welcome our witnesses who are here: Dr. Brian Steed, who is the Deputy Director, Bureau of Land Management; Mr. Jarred Kubat—if I come close to the name.

Mr. KUBAT. Fine.

Mr. BISHOP. You don't have to worry, I will be gone in a few minutes anyway, so that is OK.

Mr. Kubat is the Vice President of Land, Legal & Regulatory from Wold Energy Partners; Ms. Nada Culver, who is a Senior Counsel from the BLM Action Center with The Wilderness Society; Senator Kevin Van Tassell, one of my good constituents, but also a leader in the Utah State Senate, happy to have you here; and Mr. Shane Schulz, Director of Government Affairs at QEP Resources. We are happy to have all of you here.

What normally happens at this time is that we will start this meeting with opening statements from the Chairman and the Ranking Member. So that we can get at least some testimony in before that happens, let me turn to Mr. Steed, who is also here from the BLM, to give your opening testimony first. When Mr. Gosar comes back, we will interrupt that. We will have his opening statement, the Ranking Member's opening statement, any other instructions, and we will go from there. And then we will finish off with the rest of the testimony, if that is OK. Committee members, Ranking Member?

Mr. LOWENTHAL. Fine.

Mr. BISHOP. OK with it, are you sure? OK.

Brian, we are happy to have you here. Thank you for joining us. And we are happy to have you in the new position you have, even though you had to leave the Capitol to do it. But you actually don't even need to do that, because Mr. Gosar can give his statement first.

Dr. GOSAR [presiding]. The Subcommittee is meeting today to hear testimony on examining the Department of the Interior's actions to eliminate onshore energy burdens.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman, the Ranking Minority Member, and the Vice Chair. This will allow us to hear from our witnesses sooner and to help Members keep to their schedules. Therefore, I ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted to the Subcommittee Clerk by 5 p.m. today. Without objection, so ordered.

**STATEMENT OF THE HON. PAUL A. GOSAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA**

Dr. GOSAR. Today, the Subcommittee will review actions taken by the Department of the Interior to address regulatory burdens on oil and gas production and consider recommendations provided to the Department's Energy Burdens report.

The Energy Burdens report assessed regulatory activities that may impose unnecessary burdens on energy development, the Department's progress in addressing such activities through policy directives, as well as the Department's recommendations for which activities require further review and potential reform.

To date, the Department has taken significant steps to address burdensome regulations that threaten energy development without providing requisite environmental or safety benefits. For example, the Department has rescinded the BLM's hydraulic fracturing rule and suspended compliance dates for the venting and flaring rule, both of which were so-called solutions in search of problems.

The report also details action taken by the Department to promote the development of our domestic resources. For instance, the Department conducted an updated resource assessment for Alaska's North Slope region, including the Petroleum Reserve, indicating that the region holds significantly more technically recoverable resources than previously known, an estimated 8.5 billion barrels of oil and 25 trillion cubic feet of natural gas. Furthermore, the Department has, at the urging of this Committee, set a goal of returning to the practice of holding quarterly oil and gas lease sales, as required under the Mineral Leasing Act.

While the Department has been proactive in addressing regulatory burdens that discourage energy production, much work remains in getting bureaucracy out of the way of responsible and timely development of our domestic resources. Presently, the onshore oil and gas leasing process takes at least 16 months from the time a parcel is nominated for sale to the award of a lease. In fact, operators have observed that it can take over a decade to obtain and begin production on a lease in some instances. These delays can largely be attributed to the over-analyzation of similar issues under the National Environmental Policy Act. Requirements to

conduct duplicative environmental reviews and comply with inconsistent leasing stipulations can add years to the initial timeline for production on a lease.

Moreover, according to the Energy Burdens report, the previous administration made broad swathes of land unavailable for energy development by issuing inconsistent and overly restricted land use designations through the land use planning process. In fact, the amount of acreage open for energy development was reduced by over 42 percent from 2008 to 2016. With less land available, burdensome regulatory requirements, and uncertain approval timelines, operators have little choice but to take their business elsewhere, meaning lost mineral revenues for the Federal Government and states burdened with Federal land.

Today, the Subcommittee will hear from witnesses who can provide unique perspectives on navigating the onshore oil and gas leasing process and attest to the adverse impacts of the regulatory uncertainty on energy production. These witnesses will demonstrate how delays in the oil and gas leasing process impact job creation beyond the oil and gas industry, as well as economic development in energy producing states.

Finally, we will discuss the benefits that mineral revenues provide for states and how streamlining the leasing process will reduce uncertainty for the communities that count on mineral revenues to run their schools and provide essential services to our constituents.

[The prepared statement of Dr. Gosar follows:]

PREPARED STATEMENT OF THE HON. PAUL A. GOSAR, CHAIRMAN, SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Today, the Subcommittee will review actions taken by the Department of the Interior to address regulatory burdens on oil and gas production and consider recommendations provided in the Department's Energy Burdens report.

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While the Department has been proactive in addressing regulatory burdens that discourage energy production, much work remains in getting bureaucracy out of the way of responsible and timely development of our domestic resources. Presently, the onshore oil and gas leasing process takes at least 16 months from the time a parcel is nominated for sale to the award of a lease. In fact, operators have observed that it can take over a decade to obtain and begin production on a lease in some instances. These delays can largely be attributed to the over-analyzation of similar issues under the National Environmental Policy Act. Requirements to conduct duplicative environmental reviews and comply with inconsistent leasing stipulations can add years to the initial timeline for production on a lease.

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Dr. GOSAR. I now recognize the Ranking Member for his testimony.

**STATEMENT OF THE HON. ALAN S. LOWENTHAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. LOWENTHAL. Thank you, Mr. Chairman. And thank you to the witnesses for being here today.

We are almost one full year into the Trump administration and, unfortunately, during that year, we have seen a cascade of anti-environmental, anti-public health, and anti-taxpayer policies from the Department of the Interior in the name of what they call “energy dominance.” They have never exactly defined that term, but over the past year, we have seen very clearly what it means.

Energy dominance simply means letting the oil, gas, and coal industries do whatever they want, whenever they want, however they want, on our public lands.

The Energy Burdens report developed by the Department in secret, behind closed doors, without any public input, reads like a wish list for the fossil fuel industries. Many of these wishes have already been met.

While the public has been fascinated by the dysfunction of the White House over the past year, one area where this Administration has been ruthlessly competent is in fulfilling the desires of big oil and big coal.

The BLM fracking rule, designed to set common-sense baseline standards for fracking on public lands, has been repealed. The BLM methane rule, which would cut down on the waste of natural gas and improve taxpayers’ returns, while also helping air quality, has been delayed multiple times, with the intent to eventually kill it. Even a technical rule dealing with how companies value oil, gas, and coal, which would have brought in an additional \$78 million for taxpayers each year, has been repealed. The list goes on and on.

Meanwhile, there are serious questions about the way the Department of the Interior is carrying out its drilling-first agenda. The Department has tried repealing multiple rules, in contravention of the Administrative Procedures Act. The Department is



canceling studies being conducted by the National Academies of Science, and not providing convincing explanations why, or an accounting of where that leftover money has gone.

The Secretary changes the offshore drilling plan with a tweet, in potential contravention of the Outer Continental Shelf Lands Act. Data that used to be displayed on the BLM website is not being updated, and scores of letters from Congress remain unanswered.

All of these issues are ripe for serious oversight yet, unfortunately, our Oversight Subcommittee held only six hearings last year, with only one witness from the Administration all year.

I personally don't think that is enough. We need to be conducting more oversight about the Department's operations and hold more Administration witnesses accountable.

I am very glad today that we have the Acting Director of the Bureau of Land Management here, and tomorrow we will have the Acting Director of the Bureau of Ocean Energy Management.

Mr. Chairman, I hope we can keep that going, and also hold more hearings that fulfill this Subcommittee's oversight responsibilities toward the Department of the Interior.

Along those lines, I ask unanimous consent to submit two letters: one, a letter from 49 environmental, sportsmen, and public interest groups asking the Natural Resources Committee to conduct more rigorous oversight of the Department of the Interior; and the second, a letter from the Outdoor Alliance expressing concerns about the Department of the Interior's energy agenda.

Dr. GOSAR. Without objection, so ordered.

Mr. LOWENTHAL. Thank you.

This Administration has shown its true stripes over the past year. Its top priority is doing everything the oil, gas, and coal industries desire. What they have not shown any interest in, however, and which is completely absent from the Energy Burdens report, is the desire for families to breathe clean air, to have clean drinking water, the desires of sportsmen who wish to be able to continue to access public lands, and the desire of everyone who wants to see us protect fragile wild and special places and take action on climate change.

Also absent from this report is anything about the burdens to renewable energy. I thought the report was supposed to look at all types of domestic energy. Perhaps I just have not received those pages yet; they will be in my mail.

The Administration pays lip service to conservation and renewable energy, but actions speak louder than words, and those actions have made their priorities crystal clear: everything that does not promote drilling of oil or coal mining is simply a burden to be swept away.

I thank the witnesses for being here, and I yield back the balance of my time.

[The prepared statement of Mr. Lowenthal follows:]

PREPARED STATEMENT OF THE HON. ALAN S. LOWENTHAL, RANKING MEMBER,  
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Thank you, Mr. Chairman, and thank you to the witnesses for being here.

We're almost one full year into the Trump administration, and unfortunately during that year we have seen a cascade of anti-environmental, anti-public health, and anti-taxpayer policies from the Department of the Interior in the name of what they

call “energy dominance.” They’ve never exactly defined that term, but over the past year we’ve seen very clearly what it means.

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Meanwhile, there are serious questions about the way the Department of the Interior is carrying out its drilling-first agenda. The Department has tried repealing multiple rules in contravention of the Administrative Procedures Act. The Department is canceling studies being conducted by the National Academies of Sciences, and not providing convincing explanations why, or an accounting of where the left-over money has gone.

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The Administration pays lip service to conservation and renewable energy, but actions speak louder than words, and those actions have made their priorities crystal clear: everything that does not promote drilling or mining is simply a burden to be swept away.

I thank the witnesses for being here, and yield back the balance of my time.

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Dr. GOSAR. How about our public lands alternative energy bill? Don’t forget about that.

Mr. LOWENTHAL. That is true, but that is not in the burdens report. They left that out.

Dr. GOSAR. Agreed.

Now I will introduce our witnesses. First, Dr. Brian Steed, Deputy Director, Programs and Policy, Bureau of Land Management; Mr. Jarred Kubat, Vice President of Land, Legal &

Regulatory, Wold Energy Partners, LLC; Ms. Nada Culver, Senior Counsel and Director of the BLM Action Center, The Wilderness Society; Senator Kevin Van Tassell, District 26, Utah State Senate; and Mr. Shane Schulz, Director, Government Affairs, QEP Resources.

Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the record.

Our microphones are not automatic. The first 4 minutes you will see them at green; then it will turn yellow, you will have about a minute to summarize; and when it is red, please summarize and end the sentence.

We will also ask the entire panel to give their testimony before questioning witnesses.

With that, I will recognize Dr. Steed for your testimony.

**STATEMENT OF BRIAN STEED, DEPUTY DIRECTOR,  
PROGRAMS AND POLICY, BUREAU OF LAND MANAGEMENT,  
WASHINGTON, DC**

Mr. STEED. Thank you, Chairman Gosar, Chairman Bishop, Ranking Member Lowenthal, and members of the Committee. I am pleased to join you today to discuss the BLM's efforts to reduce the burdens facing onshore energy development.

As this Committee is well aware, domestic energy and the production thereof, whether it comes from oil, gas, geothermal, wind, or solar, creates jobs, promotes a strong economy, and reduces dependence on foreign sources of energy. Low-cost energy additionally benefits the American consumer and enhances American manufacturing competitiveness. The President and Secretary Zinke are strong proponents of an all-of-the-above approach to energy development and are truly committed to increasing domestic energy production.

I was specifically asked today to address Federal onshore oil and gas activities. Oil and gas development is just one of many activities the BLM oversees as part of its multiple-use and sustained-yield mandate. The BLM currently has 26 million surface acres under lease for oil and gas development. Collectively, these lands contain energy and mineral resources which power millions of homes and businesses and produce a sizable economic impact for the Nation.

Additionally, oil and gas activities provide a significant non-tax source of revenue for state and Federal treasuries. Roughly 50 percent of revenue from lease sales goes to the state where the oil and gas activity is occurring, while the rest goes to the U.S. Treasury. States and counties use these funds to construct roads, schools, and meet other important community needs.

In 2017, for instance, the BLM held 28 onshore oil and gas lease sales, which generated about \$360 million in bonus bids, rentals, and fees, about half of which went back to state coffers.

In March 2017, the President, through Executive Order 13783, asked Federal agencies to assess the burdens placed on domestic energy and to determine whether existing policy unduly burdened its production. Since then, Secretary Zinke has issued a number of

Secretarial Orders, and the BLM has reviewed its relevant business practices to implement these new policies.

After conducting a review of the rules impacting energy production on public lands, the BLM found that the 2016 venting and flaring rule and the 2015 hydraulic fracturing rule were inconsistent with E.O. 13783.

On December 8, 2017, the BLM temporarily suspended certain requirements of the venting and flaring rule. Delaying the implementation of this rule will provide the BLM sufficient time to review and consider revising its requirements. On December 29, 2017, the BLM also rescinded the rule on hydraulic fracturing, which never went into effect due to ongoing litigation.

Second, the BLM is currently assessing its internal regulations governing oil and gas development. Specifically, the agency is reviewing Onshore Orders Nos. 3, 4, and 5 to determine if additional revisions are needed beyond those already implemented through an extended phase-in period.

Third, the BLM is examining its resource management planning process. Resource management plans, or RMPs, are the tool the BLM uses to plan and weigh competing uses within a planning area. For the purposes of oil and gas leasing, lands are identified as open under standard leasing terms, open with restrictions, or closed to leasing. The BLM is evaluating lease stipulations and conditions of approval that may conflict with BLM's multiple-use objectives. It is also examining the myriad of land use designations identified within land use plans for consistency with multiple use.

Throughout 2017, the BLM worked hard on building efficiencies into its leasing and permitting processes. The overall APD average processing time for the BLM dropped to 93 days, on average, in Fiscal Year 2017 from 139 days the previous fiscal year.

The BLM is also revising its internal oil and gas instruction memoranda. It is considering doing away with master leasing plans. It is clarifying rules leasing in sage-grouse habitat and is working to reduce superfluous protests, which have dramatically increased in recent years.

In Fiscal Year 2017, for instance, 88 percent of parcels offered for lease were protested, compared to 17 percent protested in Fiscal Year 2012. Such protests can delay payment of the state's share of the bonus bids, which occurred most recently in the state of New Mexico, where a \$70 million payment to the state was held up for 250 days as the BLM resolved a number of protested parcels.

As can be noted from the foregoing discussion, the BLM has been working hard to reduce burdens facing domestic energy production on public lands.

Thank you again for the opportunity to present this information, and thank you to this Committee for your hard work on these issues. I look forward to answering any questions you may have in the time we have remaining. Thank you so much.

[The prepared statement of Mr. Steed follows:]

PREPARED STATEMENT OF BRIAN C. STEED, DEPUTY DIRECTOR, POLICY AND PROGRAMS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Chairman Gosar, Ranking Member Lowenthal, and members of the Subcommittee, I am pleased to join you today to discuss the Bureau of Land Management's (BLM) efforts to address the burdens that inhibit the development

of the Nation's onshore Federal energy resources, specifically oil and gas resources. Under Secretary Zinke's leadership we are reviewing, revising, and creating new oil and gas program policies, procedures, and guidelines to help secure American energy dominance, create jobs, and build a strong economy.

#### PUBLIC LANDS' CONTRIBUTION TO ENERGY DOMINANCE

Reducing the United States' dependence on other nations by developing domestic energy resources leads to a stronger America. Public lands support an "America First" Energy Agenda that fosters domestic energy production in order to keep energy prices low for American families, businesses, and manufacturers. Every drop of oil, cubic foot of natural gas or Megawatt of geothermal, wind and solar energy produced here in the United States creates jobs, promotes a strong economy, and frees us from dependence on foreign energy resources. Beyond gaining America's energy security, low cost energy benefits the American consumer and enhances American manufacturing competitiveness, making American businesses more competitive globally.

The BLM manages about 245 million surface acres and 700 million subsurface acres, located primarily in 12 western states, including Alaska and North Dakota. The BLM administers this diverse portfolio of lands on behalf of the American people as part of the agency's multiple-use mission—including energy and mineral development, livestock grazing, timber production, recreation, and conservation, among others. Onshore oil and gas production on BLM-managed public lands is a significant part of this strategy and makes an essential contribution to the Nation's energy supply—playing a significant role in supporting jobs for hardworking Americans.

The BLM has 26 million surface acres currently under lease for oil and gas development, including over 94,000 active wells and about 40,000 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 power millions of homes and businesses. The BLM's most recent economic study estimates the Federal onshore oil and natural gas program alone provides approximately \$42 billion in economic output and supported approximately 200,000 jobs nationwide.

Further, the BLM is a key revenue producer for the Federal Government by providing a significant non-tax source of funding to state and Federal treasuries, and is an important economic driver for local communities across the country. Roughly 50 percent of the revenue from lease sales goes to the state where the oil and gas activity is occurring, while the rest goes to the U.S. Treasury. If wells commence oil and gas production on the lease parcel, the royalties paid on the Federal minerals are also shared with the state. States and counties in turn often use these funds to support roads, schools, and other important community needs.

Under Secretary Zinke's commitment to the advancement of energy dominance, and in accordance with Secretarial Order 3354 to conduct quarterly lease sales, the BLM in 2017 held 28 onshore oil and gas lease sales. This is almost a 30 percent increase from the 20 onshore oil and gas lease sales held in 2016. These sales generated about \$360 million in bonus bids, rentals and fees—an 87 percent increase over the previous year's results of \$193 million. Among these sales, which together were the highest in nearly a decade, rights to a total of 949 parcels, covering 792,823 acres, were sold.

The BLM is also working diligently to improve its permitting process. In Fiscal Year 2017, the BLM approved 2,486 Applications for Permit to Drill (APDs) on Federal lands, and operators drilled 1,424 wells on Federal lands. The overall APD average processing time for the BLM dropped to 93 days on average in Fiscal Year 2017, from 139 days on average in Fiscal Year 2016. By the end of Fiscal Year 2017 the BLM had 76 more pending APDs compared to the end of Fiscal Year 2016 despite an increase of 1,582 additional APDs received in Fiscal Year 2017. The Fiscal Year 2018 budget request reflects this emphasis with a significant increase for the oil and gas management program.

#### BLAZING THE PATH TO ENERGY DOMINANCE IN AMERICA

Under President Trump's vision of empowering the private sector, as well as state and local governments, Secretary Zinke has issued a number of Secretarial Orders to reduce unnecessary and burdensome regulations while maintaining environmental protections and public health. The BLM has followed suit by reviewing all relevant business practices in an effort to implement these new policies.

In implementing Executive Order (E.O.) 13783, Promoting Energy Independence and Economic Growth, (March 28, 2017), Secretary Zinke issued nine Secretarial

Orders that direct Interior bureaus and offices to take immediate and specific actions to identify and alleviate or eliminate burdens on domestic energy development. The most overarching Secretarial Order reducing burdens on energy development is Secretarial Order 3349, American Energy Independence (March 29, 2017), which directed bureaus to examine specific actions impacting oil and gas development, and any other actions affecting other energy development. Secretarial Order 3354, Supporting and Improving the Federal Onshore Oil and Gas Leasing Program and Federal Solid Mineral Leasing Program (July 6, 2017), 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, including improving quarterly lease sales, enhancing the Federal onshore solid mineral leasing program, and improving the permitting processes. On May 31, 2017, Secretary Zinke signed Secretarial Order 3352 to jump-start Alaskan energy production in the National Petroleum Reserve-Alaska (NPR-A) and update resource assessments for areas of the North Slope, helping to unleash Alaska's energy potential. As a result, on December 22, the Secretary released an updated resources assessment for the NPR-A, which estimates oil and gas resources to be 8.7 billion barrels of oil and 25 trillion cubic feet of natural gas. Finally, most recently, the Department issued Secretarial Order 3360, Rescinding Authorities Inconsistent with Secretarial Order 3349, American Energy Independence, which rescinded several reports and manuals that were inconsistent with current policy.

#### ELIMINATING BURDENSOME REGULATIONS

In response to the Secretarial Orders, the BLM reviewed all regulations related to domestic oil and natural gas development on public lands; the results include temporarily suspending and postponing certain requirements and determining, through a rulemaking process, whether it is appropriate to rescind or revise the Venting and Flaring Rule; rescind the Hydraulic Fracturing rule, assessing Onshore Orders Nos. 3, 4, and 5 and revising a number of oil and gas leasing IMs and policies. Following is a brief description of the actions the BLM has taken to reduce the burdens associated with its onshore oil and gas program.

##### *Postponing, Reviewing, and Rescinding the 2016 Venting and Flaring Rule*

The BLM found that the 2016 venting and flaring final rule was inconsistent with E.O. 13783, and that implementing some parts of the rule could unnecessarily burden industry. On December 8, 2017, the BLM finalized a temporary suspension or delay of certain requirements to prevent costs on operators for requirements that may be rescinded or significantly revised in the near future. Suspending and delaying the 2016 final rule will provide the BLM sufficient time to review and consider revising or rescinding its requirements. This step will also provide industry additional time to plan for and engineer responsive infrastructure modifications that will comply with the regulation. The BLM also submitted a draft proposed rule to the Office of Management and Budget (OMB) for interagency review on November 1, 2017, and expects to publish a proposed rule in the near future.

##### *Rescinding the Hydraulic Fracturing Rule*

On December 29, 2017, the BLM rescinded the 2015 rule on hydraulic fracturing, which never went into effect due to pending litigation, as the 2015 rule imposes administrative burdens and compliance costs that are not justified. The BLM found that all 32 states with Federal oil and gas leases, as well as some tribes currently have laws or regulations that address hydraulic fracturing operations, and that pre-existing BLM regulations ensure that operators will conduct oil and gas operations in an environmentally sound manner. Therefore, rescinding the rule would reduce regulatory burdens by enabling oil and gas operations to occur under more streamlined and less duplicative regulations within each state or tribal lands. The BLM expects that eliminating this duplicative rule will lead to additional interest in oil and gas development on public lands, especially under higher commodity prices.

##### *Assessing Onshore Orders Nos. 3, 4, and 5*

The BLM is currently assessing the Onshore Orders 3, 4, and 5 to determine (1) if additional revisions are needed beyond the already-implemented phase-in period for certain provisions; (2) the ability for industry to introduce new technologies through a defined process, rather than through an exception request; and (3) the built-in waivers or variances. The BLM completed its assessment of possible changes to alleviate burdens that may have added to constraints on energy production, economic growth, and job creation. As a result of this assessment, the BLM is considering policy guidance to address some of the issues raised.

## PLANNING FOR ENERGY DOMINANCE

The BLM's land use planning process provides—among many other multiple use considerations—a standardized procedure for analyzing the opportunities for oil and gas development on public lands, while also ensuring that such development is done in an environmentally responsible manner. Resource Management Plans (RMPs) reflect the BLM's efforts to weigh the many resources and competing uses within a planning area. 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.

The BLM holds competitive lease sales quarterly in each of the state offices where lands have been nominated and are available. After the lease sale is held, a lessee may then submit an APD for a specific area within their lease, and working with the BLM, the appropriate conditions and terms of the lease are developed.

The BLM recognizes that lease stipulations and additional Conditions of Approval (added at the permitting stage can overly burden energy development on public lands by adding additional development costs; increasing the complexity of the drilling operations; and extending project time frames. As such, the BLM is also evaluating the need for the numerous land use designations and lease stipulations that may conflict with BLM's multiple use objectives, as a part of the ongoing review of the planning process, and is committed to working with state, local, and tribal partners to update policies. The BLM is also identifying potential actions it could take to streamline its planning and National Environmental Policy Act (NEPA) review procedures.

## IMPLEMENTING SMART INTERNAL POLICIES AND PROCEDURES

As part of a comprehensive effort to reduce burdens, the BLM is revising and rescinding its internal oil and gas Instruction Memorandums (IMs) and policies. Changes to IMs will result in streamlined administrative processes, reductions of duplicative actions, and elimination of redundant NEPA reviews—reducing burdens on industry and providing savings to the American taxpayers without sacrificing environmental protections.

*Leasing Reforms*

The BLM is replacing its Oil and Gas Leasing Reform—Land Use Planning and Lease Parcel Reviews IM (2010–117), which unnecessarily increased time frames associated with analyzing and responding to protests and appeals, as well as longer lead times for BLM to clear and make parcels available for oil and gas lease sales. As such, the BLM has undertaken an effort to revise and reform its leasing policy and to streamline the leasing process from beginning (i.e. receipt of an EO1) to end (competitively offering the nominated acreage in a lease sale). Under existing policies and procedures, the process can take up to 16 months, and sometimes longer, from the time lands are nominated to the time a lease sale occurs. The BLM is examining ways to significantly reduce this time by as much as 10 months. The President's Fiscal Year 2018 Budget Request includes an additional \$16 million for the BLM's oil and gas program. This includes a net increase of about 71 full-time-equivalent employees to enhance the core capacity for processing APDs, EOIs, and rights-of-way.

*Eliminating Master Leasing Plans*

The BLM is rescinding its Oil and Gas Leasing Reform—Master Leasing Plans (MLPs) IM (2013–101), which introduced the concept of MLPs. This needless bureaucratic layer resulted in duplication of NEPA and certain processes and also the BLM deferring many areas open to oil and gas leasing from leasing while awaiting the completion of the public scoping and analysis for the MLPs. The BLM will re-establish the BLM RMPs as the source of lands available for fluid minerals leasing. Removing these unnecessary process-related steps will decrease uncertainty, increase efficiency, and encourage fiscal responsibility without sacrificing environmental protections. The BLM expects that this rescission will result in more streamlined NEPA analysis and a shorter time frame for acreage nominations to make it to a competitive lease sale.

*Clarifying Leasing in Sage-Grouse Habitat*

On December 29, 2017, the BLM published Oil and Gas Leasing and Development Prioritization IM (2018–026), updating a number of existing policies that provide on-the-ground guidance for BLM's management actions related to oil and gas leasing and development in sage-grouse habitat management areas. The new guidance clarifies that the BLM does not need to lease and develop entirely outside of habitat management areas before it can consider leasing and development within sage-

grouse habitat management areas as long as appropriate protective stipulations and COAs are applied to protect sage-grouse. The BLM will continue to work cooperatively with respective stakeholders to find leasing and drilling locations with the least impact to Greater Sage-Grouse and other resources, to the greatest extent possible, and will require the use of the best available science in its decision-making process.

*Eliminating Superfluous Protests*

Current BLM regulations allow any party to file a protest on a BLM decision, such as a protest on a land use plan or on a subsequent decision to include a parcel in an oil and gas lease sale. Historically protests were parcel-specific on issues unique to the parcel in question. In recent years, the number and reasons for protesting every parcel in the sale has increased and become broad-based and non-parcel specific. In Fiscal Year 2017, 88 percent of parcels offered for lease were protested, compared to in Fiscal Year 2012, when only 17 percent of parcels received protests. The number of parcels offered on the original sale notice decreased from 2,247 in Fiscal Year 2012 to 1,427 in Fiscal Year 2017. To date, many BLM state offices are receiving protests on every oil and gas parcel offered through the Notice of Competitive Lease Sale process.

While the BLM can still hold a lease sale for parcels with pending protests, the protest must be resolved prior to the lease being issued. This in turn can delay payment of the state's share of the bonus bids—which occurred most recently in the state of New Mexico. In September 2016, BLM hosted a record-setting lease sale generating \$145 million in revenue, of which approximately \$70 million was owed to the state under the Mineral Leasing Act revenue sharing provision. As a result of the number of protested parcels and the length of time it took to resolve all protests, the payment to the state of New Mexico was delayed by approximately 250 days. To address this unnecessary burden on both states and industry, the BLM is considering regulatory changes to limit redundant protests that hinder orderly development.

CONCLUSION

The BLM remains committed to promoting responsible oil and gas production that helps create and sustain jobs, promotes a robust economy, and contributes to America's energy dominance, while also protecting consumers, public health, and sensitive public land resources and uses. The BLM's oil and gas leasing program is a critical component of the Nation's energy infrastructure and is an important Federal revenue generator. Thank you for the opportunity to present this testimony. I will be glad to answer any questions.

QUESTIONS SUBMITTED FOR THE RECORD TO MR. BRIAN STEED, DEPUTY DIRECTOR,  
BUREAU OF LAND MANAGEMENT

**Mr. Steed did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.**

**Questions Submitted by Rep. Lowenthal**

*Question 1. Director Steed, please answer the following questions regarding BLM's workforce:*

- a. *How many full-time permanent employees currently work for BLM?*
- b. *How many unfilled full-time employee equivalent positions (FTEs) does the BLM currently have? Please provide a list broken down by state and field office. How many of those does the BLM intend to fill?*
- c. *How many filled and unfilled FTEs does BLM currently have in the Oil and Gas Management, Coal Management, Other Mineral Resources, and Renewable Energy Management subactivities? How have those FTE numbers changed since January 20, 2017, and what changes does BLM expect to make to those numbers in Fiscal Year 2018?*
- d. *What is the geographic breakdown of BLM employees, by state office and field office? How many employees in the BLM Washington Office are located in the Washington, DC metropolitan area, and how many are located outside of it? How many BLM employees in the Washington, DC metropolitan area work for the Eastern States office?*



e. How many BLM personnel have been moved to different duty stations since January 20, 2017? How many of those were GS-15 or members of the Senior Executive Service?

Question 2. Please provide the number of enforcement actions taken by the BLM per year for the past 5 years, including the number of notices of violation and the number and amount of civil penalties assessed.

Question 3. What is BLM's plan and timeline to have the entire Inspection and Enforcement strategy be risk-based and in the Automated Fluid Minerals Support System?

Question 4. Please provide the current number of idle wells overseen by each BLM field office, broken down by the number of wells idle for less than 2 years, the number of wells idle for 2–6 years, the number of wells idle 7–25 years, and the number of wells idle more than 25 years.

Question 5. How was the decision made to exclude renewable energy resources from BLM's review of energy burdens? What policies and regulations at DOI impose a burden on the development of wind, solar, and geothermal energy on public lands?

Question 6. Please provide the amount of natural gas vented or flared, as well as the total amount of natural gas produced but not subject to royalty, in Fiscal Year 2017 by state.

Question 7. Please provide the number of approved but unused drilling permits as of the end of Fiscal Year 2017, broken down by field office. What are the 20 companies that hold the most approved but unused drilling permits, and how many do they each hold? Why has BLM stopped providing updated data on the number of approved but unused permits on its website?

Question 8. Please provide the total acreage under oil and gas lease by company by state.

Question 9. What steps has BLM taken so far to prepare for a lease sale in the Arctic National Wildlife Refuge? What are the next steps, and what is the timeline for BLM to complete those steps?

Question 10. What steps did BLM take to implement each of the provisions of the Methane and Waste Prevention Rule that came into effect in 2017? Did BLM send guidance to field staff directing them how to implement those provisions? If so, please provide copies of the guidance. How many APDs received by BLM in 2017 were accompanied by waste minimization plans?

Question 11. Please provide copies of all Instructional Memoranda and other policy guidance distributed to field staff since January 20, 2017, and that are not available to the public on the BLM website.

Question 12. How many congressional oversight requests to BLM are currently pending? Does BLM intend to respond to each of these requests? How many FOIA requests to BLM submitted after January 20, 2017, are currently pending? How many personnel does BLM have dedicated to responding to FOIA requests? Does BLM believe the number of personnel dedicated to responding to FOIA requests is adequate? Why does BLM not participate in FOIAonline?

#### **Questions Submitted by Rep. Soto**

Question 1. There was a citing of 14 million to 34 million compliance cost savings. Was there any additional costs determined under Medicaid, Medicare, or other healthcare costs due to increase case of cancer, as a result of not disclosing these types of chemicals? Was there any health study conducted of what the costs would be in the proposing of this rule?

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Dr. GOSAR. Thank you, Dr. Steed.  
I now recognize Mr. Kubat for his testimony. Thank you.

**STATEMENT OF JARRED KUBAT, VICE PRESIDENT OF LAND,  
LEGAL AND REGULATORY, WOLD ENERGY PARTNERS, LLC,  
DENVER, COLORADO**

Mr. KUBAT. Thank you, Mr. Chairman, and members of the Subcommittee. And thank you for the opportunity to speak here today on behalf of our company and other small businesses like ours that are operating Federal leases in the West.

These delays we are seeing of uncertainties, inefficiencies, and inconsistent application of rules are creating unnecessary delays that disproportionately impact our small business.

Small business is not big oil. We are regionally located businesses that do not have assets in multiple states, let alone countries. Maybe we have assets in multiple counties within a single state.

As small businesses, we do have an interest in protecting public health, the environment, and resources of concern and, importantly, the taxpayers' money. But to do so, there needs to be a common-sense approach with regulatory certainty.

Our company is a 4-year-old entrepreneurial endeavor with 37 full-time employees and 7 contractors, the epitome of a small business. We were founded to pursue the development of oil and gas resources in the Rocky Mountain region, and we are committed to environmentally responsible and safe development.

Our operations are entirely within the Powder River Basin in the state of Wyoming, where we operate 119 wells, we are partner in 82 additional wells, and we have acreage totaling 143,000 net acres. Seventy-one percent of this leasehold is federally owned. This requires daily interaction with the Federal agencies who oversee these lands. This asset is the product of 192 acquisitions in this 4-year period. It is a small business. It is hard work, diligence, persistence, getting up every day in the pursuit of that American Dream.

Today, I want to briefly touch on two impact areas that we are seeing with small businesses. The first area is delayed Federal leasing. This is a deterrent to the development of Federal oil and gas leases and serves as a disincentive for the small business investor. The 415-day delay average our company faces between parcel nomination and offering for sale is too long. This is contrasted with the 45-day period we see at the state level.

Similarly, the process for reinstatement of a lease requires revision. Why should a lease be subject to subsequent and redundant NEPA reviews for minor errors? These are examples of unnecessary delays due to bureaucratic inefficiencies.

The second area involves development planning. Once issued, leases are subject to subsequent and unforeseen stipulations, changing conditions of drilling approval and ad hoc requirements in the process for development and planning. These are often due to subsequent land use designations and restrictions that are subsequent to the lease issuance. Navigating this unpredictable process creates delays, sometimes adding up to years of review, creating paralysis by analysis.

This addition of unnecessary and protracted periods between initial investment and subsequent return on that drilling investment harms our small business and significantly impacts our economic

return, the period of time from when we purchase that lease to when we are allowed to develop it. This is the cost of capital and is contrasted with businesses focused exclusively on private mineral development in other states or larger businesses that have the luxury of owning assets in multiple states, basins, and possibly countries, where capital can be redeployed during such purgatory periods we face during these delays.

There is a need for specific guidance and policy for these field offices in this area. As an operator, we are subject to staffing discretion on all of these decisions.

These are just a few very small examples of where delays are negatively impacting business investment, especially for small businesses like ours, job growth and economies in the cities and states where Federal lands are located. From a business planning perspective, as the commodity price of our industry fluctuates, as we all have seen it done in the last 4 to 5 years, these delays further impact the realization of optimal commodity pricing, not only the commodity pricing received by us, the investor, but the commodity pricing received by the Federal Government and the royalty revenue received.

So, what can be done? Shorten review periods and provide businesses with certainty in the process of acquiring and maintaining the rights of development. Significantly reduce the delays between lease nomination and offering by requiring specific time frames for review. Amend the process for reinstatement of leases by giving specific guidance as to when a lease requires subsequent NEPA review and when it does not. Eliminate unnecessary and protracted periods of approved drilling and development by clearly defining what might have the potential to cause effects. Eliminate the retroactive stipulations, conditions of drilling approval, and ad hoc requirements.

Eliminating these regulatory uncertainties, inefficiencies, and inconsistent applications of the rules will help eliminate these unnecessary delays. It is the guidance that the field office staff themselves seek to understand. There needs to be a common-sense approach that eliminates inconsistent regulatory rule application.

I want to thank you for your time here today, seeing that I am almost out of time, and I appreciate the opportunity to speak on behalf of my company and other small businesses like ours operating in the West.

[The prepared statement of Mr. Kubat follows:]

PREPARED STATEMENT OF JARRED R. KUBAT, VICE PRESIDENT OF LAND, LEGAL & REGULATORY, WOLD ENERGY PARTNERS, LLC

Regulatory uncertainties, inefficiencies, and inconsistent application of rules related to Federal oil and gas leases are leading to unnecessary delays in the development of the energy resources of the United States. These delays negatively and disproportionately impact small businesses, the backbone of the economy, and the citizens of the states where these resources are located. Ultimately, these uncertainties reduce domestic energy production, add unemployment, and increase reliance on foreign energy. Small businesses have an interest in protecting the public health, environment, resources of concern, and the taxpayer's money; to do so, there needs to be a common-sense approach with regulatory certainty.

## ABOUT WOLD ENERGY PARTNERS, LLC

Wold Energy Partners, LLC (“WEP”) is a 4-year-old entrepreneurial endeavor with 37 full-time employees and 7 contractors; a small business. WEP was founded to pursue the development of oil and gas resources in the Rocky Mountain Region and is committed to environmentally responsible and safe development.

Efforts of WEP are focused entirely within the Powder River Basin in Wyoming. The Powder River Basin is a prolific oil and gas resource basin with a proven 5,000 foot column of stacked pay zones. Within the Powder River Basin, WEP operates 119 wells, is a partner in 82 additional wells, and has acreage totaling 143,000 net mineral acres (264,000 gross acres) with greater than 1 billion barrels of recoverable reserves. The acreage position of WEP is the product of 192 acquisitions and trades, and consists of 71 percent Federal oil and gas leases (394 individual Federal leases). Exposure to Federal oil and gas leases of this level requires daily interaction with the requisite Federal agencies and adherence to rules related to Federal oil and gas leasing and development.

## DELAYED FEDERAL LEASING

To encounter delays from the outset is a deterrent to the development of Federal oil and gas leases and serves as a disincentive for investment, especially for small businesses. The delay between lease nomination and sale needs to be reduced significantly. Similarly, the process for reinstatement of leases requires revision to shorten the review time and to provide businesses with certainty in the process of acquiring and maintaining the rights of development granted in these leases.

- **Nomination and Deferral**—the 415-day average delay WEP faces between parcel nomination and lease offering for sale is too long. Delays in lease offerings and sale are rooted in the National Environmental Policy Act (“NEPA”) analysis at the field office level, where review for conformance with a Federal Resource Management Plan (“RMP”) entails an uncertain timeline. Inquiries regarding the review status of nominated Federal lands are then met with added uncertainty and ambiguity. This is distinguished from the added layer of review a Master Leasing Plan (“MLP”) may impose. Within WEP’s initial focus area there have been several parcels nominated since 2014 that are still within the NEPA review process and yet to be offered for sale. Should parcels be deferred, they are effectively lost unless a company or individual continues to nominate the same parcel. There is a need for transparency regarding why parcels are not being offered and when they may be available for offering in the future if deferred.
- **Reinstatement of Leases**—an inefficient process riddled with uncertainty. Leases can require reinstatement for issues as trivial as incorrect rental payments of minor amounts (\$1.50 versus \$2.00). For example, WEP has a Federal oil and gas lease which is pending reinstatement for a payment discrepancy of \$160.00 (less than 1 percent of the lease purchase price) and has been pending reinstatement since May 2015. The reinstatement delay is due to subsequent NEPA review and documentation of RMP conformance. This is an unnecessary delay due to bureaucratic inefficiency as the lease was within its primary term and had completed this same review process prior to its issuance.

## UNCERTAIN DEVELOPMENT PLANNING

Once issued, leases are subject to subsequent and unforeseen stipulations, changing conditions of drilling approval, and ad hoc requirements in development planning and approval. Navigating this unpredictable process creates delays sometimes adding up to years of review creating paralysis by analysis. This addition of unnecessary and protracted periods between initial investment (purchase of the lease) and subsequent approved drilling and development of the oil and gas lease (anticipated return on investment) harms small businesses and significantly impacts economic returns as compared to businesses focused exclusively on private mineral development.

- **Accessing the Lease for Development**—is a tenuous exercise. Subsequent land use restrictions and designations can conflict with existing lease rights and significantly obstruct basic access to the oil and gas leases. WEP has seen examples of leases issued more than 30 years ago be subject to subsequent land use restrictions and designations that materially impact access and

development of the Federal oil and gas lease. Subsequent land use designations need to honor the valid existing rights contained within the original lease terms.

- Gaining the Approved Right to Develop—encounters added delay. In practice, the delays faced initially in lease offerings and issuance are for the appropriate agency analysis. However, during the permitting stage for drilling, further NEPA, Endangered Species Act, National Historic Preservation Act, and other analysis are required effectively adding stipulations and conditions to the original lease grant. Opportunities to analyze projects within the frameworks of the Energy Policy Act of 2005 Section 390 categorical exclusions (e.g., development on existing well pads previously analyzed) are ignored and substituted with new survey requests for cultural, wildlife, and tribal considerations. An operator is subject to agency staffing discretion, and although a proposed action on existing disturbance may entirely lack the potential to cause effects it is made subject to additional review processes, procedures, and conditioned upon subsequent and unforeseen stipulations and conditions of drilling approval.

#### DELAYS AND REGULATORY UNCERTAINTY HARM SMALL BUSINESSES AND CITIZENS

Delays negatively impact business investment, especially small businesses restricted by geographic area and asset base. The delays and regulatory uncertainty met in the development of Federal oil and gas leases impact investment, job growth, and the economies of the cities and states where Federal lands are located. As the commodity price of our industry fluctuates, these delays further impact the realization of optimal commodity pricing and royalty revenue received by the Federal Government (i.e. industry investment incentive in Federal lands may be strong when commodity pricing is higher, but agency delays prevent quick realization of this pricing advantage thereby deterring investment).

#### RECOMMENDATIONS FOR CHANGE

Shorten the review periods and provide businesses with certainty in the process of acquiring and maintaining the rights of development granted in these leases: (1) Significantly reduce the delay between lease nomination and offering by efficiently reviewing nominated parcels according to existing RMPs within a specified time frame; and (2) Amend the process for reinstatement of leases by giving specific guidance as to when a lease requires subsequent NEPA review and documentation of RMP conformance and when it does not.

Eliminate unnecessary and protracted periods between initial investment (purchase of the lease) and subsequent approved drilling and development of the oil and gas lease (anticipated return on investment): (1) Clearly define what might have the potential to cause effects; (2) Eliminate retroactive stipulations, conditions of drilling approval, and ad hoc requirements in development planning and approval; and (3) Set time limits on review and permitting approvals that agencies must follow. This can be accomplished by honoring valid existing lease rights and existing development on leases by giving detailed guidance to field office staff that is more specific to drilling applications they are processing and approving along with what criteria constitutes extraordinary circumstances requiring additional review periods and processes.

Small businesses, the citizens of the states where Federal oil and gas leases are located, and the security of our energy future require eliminating regulatory uncertainties, inefficiencies, and inconsistent application of rules related to Federal oil and gas leases that are leading to unnecessary delays in the development of the energy resources of the United States. There needs to be a common-sense approach with regulatory certainty.

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Dr. GOSAR. Thanks, Mr. Kubat.  
I now recognize Ms. Culver for her testimony.

**STATEMENT OF NADA CULVER, SENIOR COUNSEL AND  
DIRECTOR, BLM ACTION CENTER, THE WILDERNESS  
SOCIETY, DENVER, COLORADO**

Ms. CULVER. Good afternoon, Chairman Gosar, Ranking Member Lowenthal, and members of the Subcommittee. Thank you for the opportunity to share my views.

My name is Nada Culver. I direct policy and planning efforts at The Wilderness Society, including development of lands and mineral resources. I have worked on energy permitting, planning, and policy issues for more than 20 years, including nearly a decade representing energy and industry clients in private practice.

While they may be sincerely intentioned, the Department's efforts to eliminate so-called burdens are unlikely to achieve the goal of increased energy production. More importantly, this agenda represents a growing threat to public health, recreation, wildlife, and other public interests. Public input, safeguards to protect people and communities, and Interior's multiple-use mandate are not burdens; they are key to the proper management of our public lands.

Many of the burdens that DOI has called out for elimination are actually important opportunities for public input and oversight. As the true owners of the public lands, the public is an integral part of evaluating the consequences of leasing and drilling on public lands. Our Federal laws wisely obligate the Department to involve the public. Similarly, these laws direct the Department to thoroughly consider the potential consequences, environmental and economic cost and benefits of energy development, and to look for ways to avoid harm.

Unfortunately, the Department has targeted important requirements, like evaluating impacts, visiting lands before they are put up for lease, and applying measures to protect those lands before issuing leases or permits to drill. The BLM's multiple-use mission does not permit the agency to raise energy development above all other uses and values, as numerous courts have acknowledged. Protection of sacred sites, big game habitat, and park visitor experiences are all part of the Department's mission. They are not burdens and they cannot be ignored.

In addition, the Department has been on notice for years that taxpayers are getting a bad deal from oil and gas development on public lands. Improving the financial return on development as well as addressing seemingly indefinite lease terms should be a focus of this Administration's efforts. Such changes would also incentivize leasing on lands the industry will actually develop to produce revenue and energy. Notably, what the industry pays to lease and develop our public lands and minerals is well below market value, conflicting with obligations imposed by the Mineral Leasing Act, for instance, to maximize returns.

Taxpayers are also getting shortchanged by the waste of natural gas through venting, flaring, and leaks. A congressional effort to revoke this rule failed, as have Administration efforts to delay it, which have been stopped in the courts. The Department should be seeking to strengthen this rule, not dismantle it.

The Department's evaluation of burdens essentially focuses on the wrong side of the equation, placing private interests above

public. While the current system should be improved, those improvements should not focus on just providing more land, more leases, and more permits. Leasing should be targeted in areas that have high energy potential, make economic sense for development, and do not needlessly conflict with other values and uses.

The current system already provides the oil and gas industry with significantly more available land than they lease, more leases than they develop, and more permits than they drill. We have heard a lot from this Administration and the industry about 2,000 permits to drill waiting to be processed. The more telling number is the approximately 8,000 permits the BLM processed and issued, but remain unused. At the same time, insufficient attention is being paid to the inspection and enforcement needed to ensure oil and gas development on our public lands is conducted in a way that protects health, safety, and the environment and compensates the American taxpayer for the profits made by companies. Increased support for inspection and enforcement should be a priority.

We have learned important lessons from the courts and the American public when a previous administration treated our public lands as primarily a place to accommodate the oil and gas industry. As discussed in my statement, the conflicts resulting from this approach delayed leasing and permitting and ended with a court highlighting the overall dysfunction of the onshore leasing program. If the Department continues to ignore its obligations, there will not necessarily be more energy production, but there will be more conflict.

In conclusion, we know that energy development will continue to be an important use of our public lands, but it is not the only important use. We do not need to relearn these lessons the hard way. We do not need to remove the safeguards designed to protect the American people and their water, air, and land. We do not need to ignore the other values and important uses of our public lands or treat them as merely burdens to energy development. Instead, we can continue to improve and modernize the onshore oil and gas program, addressing impacts, and ensuring that companies that demand land leases and permits will treat them responsibly.

The Wilderness Society has and will continue to provide recommendations to improve the way onshore energy development is managed, and we look forward to continuing these discussions. Thank you again for this opportunity, and I am glad to answer any questions.

[The prepared statement of Ms. Culver follows:]

PREPARED STATEMENT OF NADA CULVER, SENIOR COUNSEL AND SENIOR DIRECTOR OF AGENCY POLICY & PLANNING, THE WILDERNESS SOCIETY, DENVER, COLORADO

Good afternoon Chairman Gosar, Ranking Member Lowenthal, and members of the Committee. Thank you for the opportunity to share my views on this timely issue regarding onshore energy development.

My name is Nada Culver. I direct The Wilderness Society's policy and planning efforts, including providing input on energy development of lands and mineral resources managed by the Bureau of Land Management (BLM). The Wilderness Society (TWS) is a national public interest conservation organization with more than 1 million members and supporters. TWS' mission is to protect wilderness and inspire Americans to care for our wild places. Our organization actively supports solutions that balance extractive uses like energy with conservation through open,

sustainable, and science-based land management practices to maintain the long-term integrity of the landscape.

I have worked on energy permitting, planning issues, and policy issues for more than 20 years. This includes representing the public interest for nearly 15 years at TWS, and representing industrial and energy clients as a lawyer in private practice. I meet extensively with career and political staff of the BLM and the Department of the Interior (DOI), as well as counterparts in industry and at state and tribal entities. I have visited numerous onshore oil and gas fields on public and private lands, and spent time in communities situated adjacent to energy production facilities across the West.

Today's hearing is especially timely. I appreciate you calling attention to the ongoing efforts at the Department of the Interior to seek out and address what are described as "burdens" to onshore energy development. While it may be sincere, I believe this effort as it has played out is unnecessary and unwise. The Department's formal statements and commitments have, to such a large degree, focused on actions that would remove current opportunities for public engagement and weaken (or remove altogether) current obligations to consider the effects of leasing and development on communities, health, and other uses and values of our public lands. Accordingly, my testimony today focuses on the problems that arise from what appears to be a single-minded focus. I hope the issues highlighted below underscore the importance of the broader mission and responsibilities the Department and the BLM have to the public, the true owners of our public lands, and the lessons learned about the need for balanced, multiple use management.

#### THE DEPARTMENT'S ACTIONS ARE UPSETTING A BALANCE DECADES IN THE MAKING

Our public lands are managed by the Federal Government's Department of the Interior (DOI) for the benefit of current and future generations. That means more than just providing for extractive uses—it means public health, fiscal accountability, and recreation- and tourism-based economic interests, among others that can be impacted by irresponsible energy development.

There is much talk about striking an "appropriate balance" in order to promote conservation stewardship. Doing so will, in our view, require meaningful discussion of—and plans to address—impacts to local communities, businesses, and other public interests, including conservation, and how those interests will be protected in the era of so-called "energy dominance."

In fact, a balanced approach is embedded in the Department's responsibilities as laid out in the Federal Land Policy and Management Act (FLPMA). Under FLPMA, BLM is required to manage the public lands on the basis of multiple use and sustained yield.<sup>1</sup> The Supreme Court has stated clearly that "[m]ultiple use management is a deceptively simple term that describes the enormously complicated task of striking a balance among the many competing uses to which land can be put, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and [uses serving] natural scenic, scientific, and historical values."<sup>2</sup>

Similarly, courts have repeatedly held that under FLPMA's multiple use mandate, development of public lands is not required, but must instead be weighed against other possible uses, including conservation to protect environmental values.<sup>3</sup> An approach in which BLM prioritizes energy development above other public lands uses and resources would violate the multiple-use mandate of FLPMA, which states in no uncertain terms that BLM "shall manage public lands under principles of multiple use and sustained yield" and contains specific provisions and procedures for conserving natural, historic and cultural resources, scenic values and fish and wildlife.<sup>4</sup>

Nevertheless, the Administration's stated policy objective is to increase domestic energy production from public lands and expand energy-related jobs in pursuit of an over-arching goal of "energy dominance." And the Department has wasted little time demonstrating what that means:

- Less than 1 month after being confirmed, Secretary Zinke signed Secretarial Order 3349 designed to implement a presidential directive to "review all existing regulations, orders, guidance documents, policies, and any other similar

<sup>1</sup>43 U.S.C. § 1732 (2012).

<sup>2</sup>*Norton v. S. Utah Wilderness Alliance*, 542 U.S. at 58 (internal quotations omitted).

<sup>3</sup>*See, e.g., New Mexico ex rel. Richardson*, 565 F.3d at 710 ("BLM's obligation to manage for multiple use does not mean that development must be allowed. . . . Development is a possible use, which BLM must weigh against other possible uses—including conservation to protect environmental values, which are best assessed through the NEPA process.")

<sup>4</sup>43 U.S.C. §§ 1732(a), 1712.



agency actions . . . that potentially burden the development or use of domestically produced energy resources.”<sup>5</sup> The order also rescinded or ordered the rescission of a number of important climate and mitigation policies, lifted the moratorium on new coal leases, and ordered the review of four common-sense regulations affecting oil and gas operations on National Park Service lands, fish and wildlife refuges, and other public lands.

- On that same day, the Secretary signed a charter reconstituting the Royalty Policy Committee. Members were formally selected on September 1, 2017, and included robust participation from several sectors of industry. Notably absent were representatives of taxpayer advocate or public interest organizations.
- On May 2, 2017, the Department issued Secretarial Order 3351 aimed at eliminating “harmful regulations and unnecessary policies.” The order created a position with the express duty to identify regulatory burdens that unnecessarily encumber energy exploration development, production, transportation; and develop strategies to eliminate or minimize these burdens.
- In October 2017, DOI published its “Energy Burdens Report,” which by the Department’s own press release, “outlines Trump administration’s bold approach to achieving American energy dominance.” The report identifies rules and policies that “burden” energy production such as the waste prevention rule, National Environmental Policy Act (NEPA) review of oil and gas leasing and permitting, mitigation policies, and the Endangered Species Act.
- In June 2017, the Department issued Secretarial Order 3353, which directed a review of the rangewide plans addressing management of Greater Sagegrouse, which had led to a Fish and Wildlife Service finding that listing under the Endangered Species Act is no longer warranted. Citing Secretarial Order 3349, the review and subsequent formal process to re-evaluate the plans are focused in large part on removing management to protect habitat from the harm caused by oil and gas development.

Most striking about the actions taken to date is the lack of transparency and limited involvement afforded the very communities most affected by energy development. In early April 2017, we joined with more than a dozen other national conservation groups in calling on the Secretary to meaningfully engage the public before committing to a course of action.<sup>6</sup> In that letter, we cautioned, “A Department of the Interior that works in darkness to change management policies will not maintain the trust of the American people. . . . Decades of conflict and controversy have shown the public expects, and our public land laws require, more from these lands than extractive uses.”

Unfortunately, the Department has chosen to eliminate common-sense safeguards and guidelines that protect the public interest and ensure Americans receive a fair return for development of publicly-owned lands and minerals. This approach reverses course on efforts to improve the Department’s management framework under Presidents Bush and Obama to make energy development more effective and sustainable. These reforms were put in place in response to decades of findings and recommendations from the Government Accountability Office (GAO), the Department’s Office of Inspector General (OIG), and sister agencies in Federal and state government, as well as the courts. Some of these findings and recommendations are discussed further in this testimony, including GAO’s inclusion of the “Management of Oil & Gas Resources” on its biennial list of “high-risk” Federal programs, which are chosen because of “their vulnerabilities to fraud, waste, abuse, and mismanagement, or are most in need of transformation,” and GAO’s findings that BLM’s venting and flaring practices prior to the 2016 waste prevention rule were costing taxpayers in terms lost revenue and increased air pollution.

#### REGULATIONS AND POLICIES ARE NOT INHERENTLY BURDENSOME AND PROVIDE MANY BENEFITS

The regulations and policies identified as “burdensome” to energy development, and therefore targeted to be weakened or eliminated, provide substantial benefits to the American people that are being ignored or undervalued. The legal and policy framework under which the Federal Government manages energy development in our country is intended to protect human health and communities, grow all facets of our economy, balance development with conservation of natural resources, ensure continued opportunities for other multiples uses such as outdoor recreation, yield a fair market value return to the American people for the resources they own, and

<sup>5</sup> Executive Order 13783, March 28, 2017.

<sup>6</sup> Letter from The Wilderness Society et al to Secretary Zinke, April 12, 2017.

involve the public in decisions affecting public lands and minerals. These benefits must be considered and ultimately ensured when undertaking regulatory or policy changes.

We are concerned that DOI's actions and commitments to "eliminate energy burdens" appear to be focused primarily on measuring the financial impact to private companies, disregarding the Federal Government's duty to the American people to ensure development on public lands takes into account other uses and resources while yielding a fair return.

An immediate example of this concern is found in the ongoing efforts to dismantle the **BLM's 2016 methane waste prevention rule** (the "methane rule"). One year ago yesterday, on January 17, 2017, the BLM's methane rule went into effect. The 2016 rule would curb the waste of natural gas from Federal and tribal lands by requiring periodic leak detection and repair (LDAR) inspections, prohibiting venting, significantly limiting flaring, and establishing a number of equipment specific requirements. These elements would yield substantial health and fiscal benefits to the American people. According to BLM's own estimates, full implementation of the rule would cut methane emissions by 49 percent (or 180,000 tons per year) and could result in net benefits of over \$204 million annually.<sup>7</sup>

The rule has been the subject of repeated efforts to eliminate it over the past year. This rule went into effect shortly after a Wyoming district court denied a request from several industry trade associations and oil-and-gas producing states to block it. Just months later, the Senate rejected a proposal to nullify the rule on a bipartisan vote 51–49 despite a Secretarial letter assuring that such action was welcome. Nevertheless, the Department proceeded to administratively delay implementation in July—a move that was overturned by a California district court in October. The next day, the BLM initiated a formal process to halt implementation of the rule which was finalized in December (though that move is currently the subject of litigation). BLM is expected to initiate a process this month to substantially revise or rescind the 2016 rule, based on the finding in the Energy Burdens report that "the BLM recognizes that the 2016 final rule poses a substantial burden on industry."<sup>8</sup>

However, there is a well-documented history of the burden borne by taxpayers from management systems that allowed for significant amounts of waste that led to the 2016 rule. Starting in December 2007, a Royalty Policy Committee (RPC) report, *Mineral Revenue Collection from Federal and Indian Lands and the Outer Continental Shelf*, recommended that the BLM update its rules and identified specific actions to improve production accountability.<sup>9</sup> This was followed by a March 2010 report by the OIG, BLM, and Minerals Management Service on Beneficial Use Deductions; an October 2010 GAO report, *Federal Oil and Gas Leases—Opportunities Exist to Capture Vented and Flared Gas, Which Would Increase Royalty Payments and Reduce Greenhouse Gases*; and eventually the July 2016 GAO report entitled, "OIL AND GAS—Interior Could Do More to Account for and Manage Natural Gas Emissions."<sup>10</sup> In particular, the 2010 GAO report found that "in 2008, about 128 billion cubic feet (Bcf) of natural gas was either vented or flared from Federal leases, about 50 Bcf of which was economically recoverable (about 40 percent of the total volume lost). This economically recoverable volume represents about \$23 million in lost Federal royalties and 16.5 million metric tons of carbon dioxide equivalent (CO<sub>2</sub>e) emissions."

And the Department is seeking to roll back the 2016 methane rule even though the waste of Federal resources is on the rise. The total amount of annual reported flaring from Federal and Indian leases increased by over 1000 percent from 2009 through 2015. During this period, reported volumes of flared oil-well gas increased by 318 percent.<sup>11</sup>

<sup>7</sup> See Final Rule at: <https://www.regulations.gov/document?D=BLM-2016-0001-9126>.

<sup>8</sup> Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy at IV(A)(ii).

<sup>9</sup> U.S. Department of the Interior. (2007). *Report to the Royalty Policy Committee: Mineral Revenue Collection from Federal and Indian Lands and the Outer Continental Shelf*. Available at: <https://permanent.access.gpo.gov/lps96276/RPCRMS1207.pdf>.

<sup>10</sup> Office of the Inspector General. (2010). *Inspection Report: BLM and MMS Beneficial Use Deductions*. Available at: <https://www.doiig.gov/sites/doiig.gov/files/2010-I-00171.pdf>; Government Accountability Office. (2010). *Federal Oil and Gas Leases—Opportunities Exist to Capture Vented and Flared Gas, Which Would Increase Royalty Payments and Reduce Greenhouse Gases*. Available at: <https://www.gao.gov/products/GAO-11-34>; and Government Accountability Office. (2016). *OIL AND GAS—Interior Could Do More to Account for and Manage Natural Gas Emissions*. Available at: <https://www.gao.gov/products/GAO-16-607>.

<sup>11</sup> See Final Rule at: <https://www.regulations.gov/document?D=BLM-2016-0001-9126>. The problem can also be seen in requests for flaring and venting submitted as Sundry Notices to BLM field offices. In 2005, the BLM received just 50 applications to vent or flare gas. In 2011,

This waste has very real financial and environmental impacts. According to a recent study, taxpayers could lose out on almost \$800 million in royalties over the next decade due to natural gas being flared or vented from Federal lands.<sup>12</sup> It also impacts the health of U.S. citizens. Along with methane, this natural gas waste contains volatile organic compounds (VOCs), including benzene and other hazardous air pollutants (some of which are known carcinogens); and leads to the production of smog-forming NOx and particulate matter, which can cause respiratory and heart problems. In addition to financial and public health impacts, methane is a greenhouse gas 84 times more potent than carbon dioxide. Its contribution to climate change is well-documented as are the potential ramifications of a warming planet on a global, national and regional scale.

Similarly, DOI is also reversing common-sense policies that guide responsible energy development. One of the Department's first acts was to scuttle a programmatic review of the ailing Federal coal leasing program. The review was designed to address deficiencies first documented three decades ago. Despite those known flaws, the Department is not taking any action to review or improve that program.

Unfortunately, additional actions taken in the name of removing burdens will do much more than merely halt new reviews—they will actually erode progress made in establishing public trust in the BLM's management of energy resources.

A particularly distressing example of this about-face is found in the circumstances that led up to **reforms of the BLM's oil and gas leasing program**. In December 2008, a court formally prohibited the Bureau of Land Management from issuing 77 leases sold in Utah. The court found the agency's decision-making process to be fundamentally broken, which prompted the BLM to reconsider its entire management of onshore oil and gas leasing.<sup>13</sup> The court's decision was a culmination of years of protests and lawsuits challenging BLM oil and gas leasing decisions in planning, leasing, and permitting throughout the West; this was a clear declaration that the agency's previous approach to managing oil and gas development was unsustainable.<sup>14</sup>

In response, the Department pulled together an interdisciplinary interagency team of experienced BLM, Forest Service, and National Park Service employees, led by Mark Stiles, then-Supervisor of the San Juan National Forest, which visited nearly all of the lease parcels and interviewed BLM staff. The final report (referred to as the Stiles Report) made recommendations on future handling of each lease parcel and on addressing critical problems with the BLM's oil and gas leasing program. The recommendations of the Stiles Report ushered in a more balanced approach to oil and gas leasing and development on the public lands. These recommendations were implemented principally through BLM guidance that required consideration of the many multiple uses of the public lands while providing a path toward more certainty for both industry and the public.<sup>15</sup> The reformed leasing process has strengthened protections for wilderness, wildlife and recreation, and reduced conflicts over leasing and drilling, even while production of oil and natural gas has increased on public lands. Prior to this guidance, Federal lease sales were twice as likely to be challenged in Federal court. Site-specific lease sale protests, concerning direct, on-the-ground conflicts with oil and gas development, have also decreased. Despite these across-the-board benefits to BLM's oil and gas leasing program, DOI has committed to "revise and reform its leasing policy and to streamline the leasing process" and expects to complete revisions to the leasing process in the first quarter of FY 2018.<sup>16</sup>

An alarming example of important reforms that DOI has threatened to abandon is the case of **Master Leasing Plans (MLPs)**. MLPs are a management tool for BLM to plan for oil and gas development at a more detailed level than a broad-scale

the BLM received 622 applications, and this doubled again within 3 years to 1,248 applications in 2014.

<sup>12</sup>Western Values Project. "Up in Flames: Taxpayers Left Out in the Cold as Publicly Owned Natural Gas is Carelessly Wasted." May 2014. Available at: <http://westernvaluesproject.org/wpcontent/uploads/2014/05/Up-In-Flames.pdf>.

<sup>13</sup>*SUWA v. Allred*, Case No. 1:08-cv-02187 (D.D.C.—January 17, 2009). (Plaintiffs showed likelihood of success on the merits of violations of National Environmental Policy Act and National Historic Preservation Act).

<sup>14</sup>In March 2012, former BLM Director Bob Abbey testified to a Senate committee that the Administration "inherited an onshore oil and gas program that was on the verge of collapse." <http://rlch.org/news/drilling-leaves-fed-lands-because-state-private-acres-are-cheaper-says-blm-chief>.

<sup>15</sup>BLM Instruction Memoranda 2010-117.

<sup>16</sup>Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy at IV(A)(iv).

resource management plan. MLPs are a “smart from the start” approach that are intended to ensure oil and gas development occurs in a more balanced, responsible way by protecting important public lands resources including national parks, wildlife habitat, clean air and water, and other uses such as outdoor recreation, hunting, fishing, farming, and ranching. By addressing potential conflicts up-front, MLPs provide the oil and gas industry with more certainty and can streamline approvals for leasing and development. Although formally initiated by name in 2010, the approach came about under the leadership of former BLM James Caswell and Deputy Secretary Lynn Scarlett during the final years of President Bush’s second term.

MLPs have been developed through collaborative stakeholder processes that bring all interests to the table to determine the appropriate pace and scale of development and how to protect other multiple uses while development occurs. This collaborative approach to energy development benefits multiple facets of our economy, protecting the interests of the outdoor recreation industry, tourism-based economies and public lands ranchers. MLPs also facilitate smart development that gives taxpayers a return on investment by driving oil and gas production to public lands most suitable for that purpose rather than providing for public lands that would be more productive for other commercial, recreational, and conservation uses to be held unused by non-producing speculators. Despite the value of such an approach to all public lands users, DOI has announced its intention to end this approach, stating that “the BLM expects to rescind this IM and complete the revision of the above BLM Handbook, as well as any other relevant BLM handbooks, in the first quarter of FY 2018.”<sup>17</sup>

Finally, several of the policies targeted as “burdensome” were developed as collaborative endeavors with state and local interests, including years of extensive public involvement. Ripping up these compromise solutions with little or no engagement threatens the government’s ability to arrive at future agreements. There is no better example of this than the **conservation plans for the Greater Sage-grouse**. The sage-grouse conservation plans and associated guidance for implementing oil and gas leasing and development in important habitat benefit the American people by conserving our natural heritage and valuable hunting opportunities on our public lands. These plans are the largest collaborative conservation effort in U.S. history, created over a 6-year time frame with the input and cooperation of multiple Federal agencies, state and Federal legislators from both sides of the aisle, conservationists, ranchers, recreationists, scientists, and the energy industry.

Despite the robust process that preceded it, DOI issued new instruction memoranda for implementing the sage-grouse conservation plans on December 27, 2017, that, among other things, eviscerates the requirement that BLM prioritize oil and gas leasing and drilling outside of important sage-grouse habitat.<sup>18</sup> Specifically, the Department cited a requirement for BLM to weigh potential impacts to the Greater Sage-grouse before offering oil and gas lease as unduly burdensome in its final Energy Burdens report. This prioritization requirement had been intended to guide development to lower conflict areas while protecting important habitat. This approach would have reduced the time and cost associated with oil and gas leasing and development by avoiding sensitive areas in the first place, thereby minimizing the complexity of environmental review and analysis of potential impacts on sensitive species and decreasing the need for compensatory mitigation. It is unclear what approach the Department will institute instead that will avoid the need to list the Greater Sage-grouse under the Endangered Species Act, but in the meantime it appears leasing and drilling will proceed in these areas without due regard for the current plans.

#### ENERGY DEVELOPMENT IS ALREADY A PREFERRED TENANT ON PUBLIC LANDS

The presupposition of the Administration’s hunt for “energy burdens” to achieve “energy dominance” is that the industry is tied down by red tape. That claim is false—energy development continues to be the preferred use for almost all our multiple use public lands. Market forces outside of the Federal Government’s control are largely responsible for the decisions made by private companies; rescinding or revising these regulations will have little effect on Federal lands production.

When it comes to our public lands, the oil and gas industry seems to have a problem of excess, not access. The vast majority of federally managed lands and waters are already open to oil and gas leasing—but oil and gas companies are having a difficult time using what they already have access to. The oil and gas industry already has access to as much Federal land as it desires. Our research shows that

<sup>17</sup>Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy at IV(A)(v).

<sup>18</sup>*Id.* at (vii).

90 percent of BLM-managed subsurface mineral acres are open to oil and gas leasing. Yet, of the 27 million acres under lease in 2016, only 12.7 million acres were producing energy—meaning 14 million acres of publicly-owned minerals already leased are sitting idle.<sup>19</sup> Of the 14 million unused acres, 3.25 are sitting in suspension, meaning companies pay no royalties and lose no time off the life of their leases. That's nearly 10 percent of the leased mineral estate that's essentially off the books, an awful deal for taxpayers.<sup>20</sup>

But even for those leases where the industry is trying to move ahead, there appear to be no real impediments from the BLM or from public engagement. The industry already holds 7,950 approved drilling permits that are not being used.<sup>21</sup> In 2016 alone, BLM issued 2,184 drilling permits, but only 847 permits were used. This trend has been true for decades. Since 1985 there have been just 2 years where industry has used more permits than BLM has approved.

The performance of recent lease sales underscores that BLM continues to offer significantly more acreage for lease than industry is willing to purchase. In 2015, only 15 percent of all land offered in lease sales were actually purchased. In 2017, only 6 percent of the total acreage offered was acquired by industry.<sup>22</sup> This is astonishing by any measure, given that in most cases parcels are put up for sale because they were nominated by oil and gas companies.

The Federal Government is clearly not standing in the way of energy development. Instead, trends in Federal energy production are largely dependent on market forces and parallel those trends seen on private and state lands. Over the past 15 years, total U.S. production of oil and gas has dramatically increased while coal production has dropped. From 1990 to 2016, total U.S. natural gas production increased by 52 percent while crude oil production rose by 21 percent. Coal production however has continued its slow decline nationwide, down 22 percent since 2006, as demand has rapidly eroded. The increased production associated with the “shale revolution” drove down natural gas prices, providing a cheaper alternative to coal and leading to the increased use of natural gas use in electricity generation.<sup>23</sup> The surplus of oil and gas introduced into the market also helped to move the United States into a position where exports of both have dramatically increased while imports have fallen, setting the country up to become a net exporter of both.<sup>24</sup> However, beginning in 2014, the crude oil market bottomed out. Nevertheless, U.S. producers proved to be quite resilient. Their ability to cut production costs and remain profitable in a low-price environment allowed U.S. producers to take over a larger market share and increase exports.<sup>25</sup>

Development on public lands has been influenced by these same market forces. Crude oil production on public lands increased 26 percent from 2006 to 2015 while coal production dropped 16 percent. Despite declines in total acreage under lease, producing acreage has remained stable, down only 2 percent from 1990 to 2016. And despite a depressed market, energy extracted from our Federal lands and waters still accounted for 42 percent of all coal, 22 percent of all crude oil, and 15 percent of all natural gas produced in the United States in 2015.<sup>26</sup>

<sup>19</sup>The Wilderness Society “Open for Business: How Public Lands Management Favors the Oil and Gas Industry.” Available at: [http://wilderness.org/sites/default/files/TWS%20%20BLM%20report\\_0.pdf](http://wilderness.org/sites/default/files/TWS%20%20BLM%20report_0.pdf).

<sup>20</sup>The Wilderness Society “Land Hoarders: How Stockpiling Leases is Costing Taxpayers.” Available at: <https://wilderness.org/sites/default/files/TWS%20Hoarders%20Report-web.pdf>.

<sup>21</sup>The Wilderness Society “Public Land Energy Development By The Numbers 2017.” Available at: [https://wilderness.org/sites/default/files/TWS%20Energy%20Fact%20Sheet\\_September\\_5\\_2017.pdf](https://wilderness.org/sites/default/files/TWS%20Energy%20Fact%20Sheet_September_5_2017.pdf).

<sup>22</sup><https://www.blm.gov/programs/energy-and-minerals/oil-and-gas>.

<sup>23</sup>Crooks, Ed, “The U.S. Shale Revolution,” Financial Times (2015). Available at: <https://www.ft.com/content/2ded7416-e930-11e4-a71a-00144feab7de>.

<sup>24</sup>Brady, Jeff, “U.S. Likely To Become Net Exporter Of Energy, Says Federal Forecast.” NPR (2017). Available at: <http://www.npr.org/sections/thetwoway/2017/01/05/508421943/u-s-likely-will-become-net-exporter-of-energy-says-federal-forecast>.

<sup>25</sup>Scheyder, Ernest, “With oil price near \$50, resilient U.S. shale producers eye new chapter.” Reuters (2016). Available at: <https://www.reuters.com/article/us-oilshale/withoil-price-near-50-resilient-u-s-shale-producers-eye-new-chapter-idUSKCN0Z60CH>; see also: Clemente, Jude, “The Great U.S. Oil Export Boom.” Forbes (2017). Available at: <https://www.forbes.com/sites/judeclemente/2017/05/21/the-great-u-s-oil-export-boom/#144f26bc7e5b>.

<sup>26</sup>U.S. coal production data available at: <https://www.eia.gov/coal/data.php#production>; U.S. natural gas production data available at: [https://www.eia.gov/dnav/ng/ng\\_prod\\_sum\\_a\\_EPG0\\_FGW\\_mmcf\\_a.htm](https://www.eia.gov/dnav/ng/ng_prod_sum_a_EPG0_FGW_mmcf_a.htm); U.S. crude oil production data available at: [https://www.eia.gov/dnav/pet/pet\\_crpdn\\_adc\\_mdbl\\_a.htm](https://www.eia.gov/dnav/pet/pet_crpdn_adc_mdbl_a.htm); Federal production data available at: <https://useiti.doi.gov/explore/>.

## KNOWN DEFICIENCIES REMAIN UNADDRESSED

There are real challenges facing energy production on public lands, and there are always ways to do things faster, cheaper, and arrive at better outcomes for all stakeholders. Independent audits and investigations have laid out a number of areas where congressional interest could be focused—like making sure taxpayers are getting a fair deal for commercial development of the resources they own, and that the BLM is adequately protecting public safety and the environment through inspection and enforcement.

As you are no doubt aware, the U.S. Government Accountability Office (GAO) has included the “Management of Oil & Gas Resources” on its biennial list of high-risk Federal programs since 2011. These programs are selected because of “their vulnerabilities to fraud, waste, abuse, and mismanagement, or are most in need of transformation.”<sup>27</sup> GAO has specifically cited DOI’s failure to obtain a fair return for taxpayers and to effectively inspect and monitor oil and gas operations to justify the program’s presence on the list.<sup>28</sup> We fear that the singular focus only on burdens to energy producers will exacerbate these profound problems, shifting even more burdens onto taxpayers and those living near energy projects.

First, by placing such an emphasis on cutting corners in the leasing and permitting process without first taking steps to modernize the onshore program’s flawed fiscal policies, the Administration is effectively allowing developers to continue to enjoy an implicit subsidy. As documented by the Congressional Budget Office, GAO, and other leading experts, DOI’s fiscal policies, including royalty rates and minimum bids, are woefully outdated and have not kept pace with inflation.<sup>29</sup> In fact, the royalty rate has not changed since the Mineral Leasing Act was passed in 1920, and, at 12.5 percent, is considerably lower than the rates of many western states.<sup>30</sup> As a direct result of the Administration’s energy-above-all policies and inaction on fiscal reform, millions, if not billions, of dollars that rightfully belong to American taxpayers will instead go directly into the already-deep pockets of the oil and gas industry.

Second, by offering nearly every lease that is nominated by the oil and gas industry—regardless of market conditions and potential conflicts with national parks, wildlife, and other revenue-generators, like outdoor recreation—the Administration is pouring taxpayer dollars down the drain and threatening the economic foundations of western communities. In 2017, the Administration processed and offered at taxpayer expense almost 12 million acres of public lands nominated for leasing by the oil and gas industry. Yet, the industry purchased just 7 percent of those leases—about 791,000 acres. And these acres sold at fire-sale prices. Just 3 percent of the leases sold by the Administration accounted for 70 percent of total revenues from the onshore leasing program. In fact, one-third of the acres leased in 2017 went for \$10 per acre or less, the majority of which sold for the minimum bid of \$2 per acre—a 170 percent increase from 2016. The Congressional Budget Office reported that leases sold for \$10 per acre or less are hardly ever drilled (only 8 percent of the time).<sup>31</sup> By paring back reforms targeted at ensuring leases sold turn into wells drilled, the Administration’s focus on “energy burdens” is actually encouraging widespread and wasteful speculation by the industry.

Finally, the Administration has made no commitment to addressing the onshore program’s chronically under-resourced inspection and enforcement division. Inspection and enforcement is tasked with ensuring operations are being conducted in compliance with applicable rules to protect health, safety, and the environment, as well as accurately reporting production activities and paying royalties owed on that production. This is alarming, given the Administration’s stated commitment to dramatically increase new permitting activity. The BLM oversees around 100,000 wells across the country for which they have and must meet inspection and enforcement responsibilities by law. The President’s budget called for a 26 percent increase in oil and gas permitting activities at BLM, yet requested flat funding for inspections and enforcement activities for a division with a poor track record, largely due to resource constraints. The General Accountability Office recently reported that BLM failed to inspect some 40 percent of high-priority drilling operations during

<sup>27</sup> <https://www.gao.gov/highrisk/overview>.

<sup>28</sup> [https://www.gao.gov/highrisk/management\\_Federal\\_oil\\_gas/why\\_did\\_study#t=0](https://www.gao.gov/highrisk/management_Federal_oil_gas/why_did_study#t=0).

<sup>29</sup> *Id.*; See also Congressional Budget Office, Options for Increasing Federal Income from Crude Oil and Natural Gas on Federal Lands at 8, available at [https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51421-oil\\_and\\_gas\\_options.pdf](https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51421-oil_and_gas_options.pdf).

<sup>30</sup> <https://www.gao.gov/assets/690/685335.pdf>.

<sup>31</sup> Congressional Budget Office, Options for Increasing Federal Income from Crude Oil and Natural Gas on Federal Lands. [https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51421-oil\\_and\\_gas\\_options.pdf](https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51421-oil_and_gas_options.pdf).

2009–2012. Similarly, in recent years the BLM has been unable to complete all of its high-risk production inspections, which are critical for ensuring proper accounting of the billions of dollars of oil and gas produced from public lands. This perfect storm leads to significant breakdowns in performance and, ultimately, huge risks to taxpayers and the local communities living in the shadow of development.

This problem is especially acute in communities like Livingston, Montana; Paonia, Colorado; and Moab, Utah, which the Administration is actively targeting for leasing and future development. These communities depend heavily on revenue from tourism and outdoor recreation on nearby public lands, and they will bear the brunt of spills, explosions, and other incidents that stem from lax inspection and enforcement.

#### CONCLUSION

We believe energy development is a legitimate use of our public lands. We have worked for years with industry and Federal and state agencies to develop innovative solutions to improve the performance of Federal energy development on public lands for all stakeholders. But we have grave concern that the current focus on energy above all other uses will result in significant negative consequences—and will not likely even meet the Administration’s stated objectives. Energy development comes with many burdens, and we should not shift more of that burden from developers to taxpayers, local communities, and other users of our public lands. A careful balance—not the dominance of one use over all others—must be struck.

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Dr. GOSAR. Thanks, Ms. Culver.

Votes have been called, but I am going to get to the two speakers, and then we will be in recess. We will come back for questions.

I now recognize Senator Van Tassell for his comments.

#### **STATEMENT OF SENATOR KEVIN T. VAN TASSELL, DISTRICT 26, UTAH STATE SENATE, VERNAL, UTAH**

Mr. VAN TASSELL. Thank you very much. It is good to be here with you, Chairman, and to be with the rest of the Committee. I know a little bit about what that is. We go into session Monday, and we will be locked up for 45 days while we work with the Utah State budget as well as deal with the issues that are abundantly clear in Utah and throughout the Nation. So, I tell you I am grateful for this opportunity.

My district is northeastern Utah. It is a portion of the state that has a lot of energy in it: natural gas, oil, as well as hydrocarbons and coal sands, tar sands or oil sands, as well as oil shale. And I know those are discussions that automatically send up things, but the resources are there and they are not in other places. So, the opportunity to produce those resources is something that in time we hope that the market will justify.

I guess as the state of Utah and as a legislator for a very rural part of the state, the message that I have here today is that we need to see the funds and the lands leased.

One of the issues that we have struggled with the last 6 or 7 years is that we have had, because of the slowness in leasing Federal property, the small private portion of the state, which, with Utah, depending on what numbers you want to throw in, the 65 percent public lands, that has shifted to the private area.

In my area, 95 percent of the exploration work that has been done has been on private property. Granted, it is good for the leasers, the owners of the royalties. It is great for those that have those; but nevertheless, for those that happen to have a split

estate—the farmer that has the surface rights but the Federal Government having the subrights and the minerals—it puts burden upon all of those.

So, I would encourage you to let the Federal lands take care and perform their function, as it is vital to the state. In the state of Utah, we take that money, the mineral lease money, and divide it. We have a Community Impact Board that does loans and some grants, but most of it is on 10- to 15-, 20-year long-term policies. It has rebuilt the fire infrastructure, almost all of the transportation that are non-state funded are funded in the rural parts of the state, particularly in the eastern part of the state where the production is from mineral lease funds. That program is working as it should, and it needs to be there.

We have some issues in my written comments I submitted. We have a PAYGO issue that could come into effect that could cause a sequestration of those funds. It would be harmful. And although we are not hearing anything, those bean counters, the accountants in legislative research and finance, they have already put it on our agenda that we will be taking up next week. So, we will continue to be looking at that.

One of the issues that I see that I believe needs to be considered by this Committee, in Utah, as well as throughout the Nation, we have many wonderful national monuments and state parks. Unfortunately, they are all very neglected in maintenance and modernizing.

My recommendation to this Committee is that you take some of the mineral lease money that is coming on the Federal part and designate part of that to funding and maintaining of the national parks, so there is an ongoing source of revenue. It cannot be accomplished in a one-time deal. And it will benefit everybody, including those that don't like energy development. But energy development is how we can maintain our parks, and I would encourage you to consider that.

I want to thank the oil industry. In my area, we have 20,000 people employed working in various stages. They provide good jobs. They provide opportunities to keep people in our local areas. The biggest issue that I have in the state of Utah is I have the Wasatch Front, which is as urban as any place in the state of Utah. And I get down in my area and we are almost nonexistent.

I would encourage you to continue to develop and allow wherever the resource is to be developed. It is not everywhere, but it can be developed. It can be developed very practically and can be a successful tool.

Thank you very much.

[The prepared statement of Mr. Van Tassell follows:]

PREPARED STATEMENT OF KEVIN T. VAN TASSELL, UTAH STATE SENATE, DISTRICT 26

Thank you for the opportunity to testify to talk about economic interests in Utah. I come from the energy production center of the state of Utah. The fiscal impacts and the ongoing operation of mineral extraction are of a critical importance to our local economy as well as the state.

As we all know, the energy extraction industry is a cyclical business and rises and falls with commodity pricing in the economy. We live with this constantly and we understand this is part of the market. The major problem that we struggle with is keeping a medium. In other words, flatten the highs and fill in the valleys.



In this latest downturn, with the decrease in Oil and Gas prices, local communities have experienced foreclosures on businesses, and homes have been repossessed or deeded in lieu of foreclosure. Many of the supplier companies have either gone out of business or retrenched significantly. Again, these occurrences are painful but not unusual. But, in a public lands state such as Utah, the withdrawal of leases or the failure to provide additional leases, together with burdensome requirements have a detrimental effect on local economies as well as to the state of Utah. We are very concerned that with the passing of the recent tax reform may trigger statutory PAYGO. Should an increase in the deficit trigger sequestration of several non-exempt mandatory programs, it could have a huge effect upon our local communities. My office has prepared a handout to go along with this letter. If a 10-year elimination of funding were to take place, it would impact many basic, needed services. Mineral lease funds have been applied to fire protection, transportation, and infrastructure, all of which increase the viability of the communities that support exploration and extraction.

I would encourage you to find solutions to allow increases in leasing, and better planning for developments of lands, and true multiple-use of the land.

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The following documents were submitted as supplements to Senator Van Tassell's testimony. These documents are part of the hearing record and are being retained in the Committee's official files:

- Issue Brief, Office of the Legislative Fiscal Analyst, January 16, 2018, Impact of Federal Tax Reform on State Mineral Lease Payments
- Western Energy Alliance, Charts on Employment and Economic Impact in Duchesne and Uintah Counties, Utah: 2016

Dr. GOSAR. Thank you, Senator.

We have 5 minutes left in voting. Mr. Schulz, we will end with you, so let's go ahead and have your testimony.

**STATEMENT OF SHANE SCHULZ, DIRECTOR, GOVERNMENT AFFAIRS, QEP RESOURCES, INC., DENVER, COLORADO**

Mr. SCHULZ. OK. I will try to be quick and precise and to the point.

Thank you, Chairman Gosar, Ranking Member Lowenthal, and members of the Committee. Again, my name is Shane Schulz. I am the Director of Government Affairs for QEP Resources. Those duties include not only managing government affairs issues for Federal, state, and local issues, but tracking regulatory issues and commenting on the myriad of regulatory issues that happen at all those levels.

QEP Resources is headquartered in Denver, Colorado. We have operations in two oil basins: the Williston Basin and the Permian Basin. In addition, we operate in the Haynesville Shale, producing natural gas there. And last and not least is the Uinta Basin, home to Senator Van Tassell as well as to Chairman Bishop.

With operations located on private lands, on state trust lands and Federal lands, I think we provide a unique perspective on development and the contrast in corresponding government regulatory programs between all those. I think you can get it just from the other operator on the panel as well as us and through my written testimony that regulatory certainty has become a huge key issue for us to make business decisions.

Over the past decade, U.S. onshore oil and gas development has been truly remarkable. But over that same period, we have not

seen the equivalent growth happen on Federal lands. In fact, approximately 96 percent of the production growth since 2007 has been on private lands, according to the Congressional Research Service.

Obviously, there are a number of factors that operators consider when it comes to allocating capital to projects, such as geology and individual well economics. But another huge important factor, as I mentioned before, is the stability in the regulatory requirements. We are leery of making investments which will only turn into stranded capital.

When we look at investments in states like Texas versus Federal lands, we know Texas has a regulatory regime that provides less risk and more certainty. We can start receiving returns on investments in a matter of days and months versus, in many cases, years on Federal lands.

When it comes to leasing on the Federal Government, not only does it take years often to acquire those leases, as well as the permits, the risk of appeals, the risk of delays continue to add to that regulatory uncertainty.

We do have a great working relationship in the field offices where we operate with BLM employees, but often they are hamstrung by the term that was used earlier. We call it analysis paralysis. Oftentimes, you will see projects that get caught in a quagmire of having to have multiple reviews or they get delayed. We had a project in southwest Wyoming that we eventually just pulled the plug on after 10-plus years. That often just becomes a death knell where proponents of projects pull the funding, pull the permit, and deploy it somewhere else.

These delays, though, in fact, are part of the problem why you talk about having thousands of BLM APDs hanging out there, because oftentimes operators are submitting APDs because of the time frame it takes to get them, and the market conditions change. It is also important to know, when we submit an APD, we are paying money for that APD that sometimes we don't get back because we don't ever go drill on those wells.

I want to refer you to the slides quickly. The first slide is the leasing to development slide. As you look at this, at this point you already have an RMP that is designated lands for leasing. Currently, there is a master leasing plan process in several states. I would argue that process is duplicative and unnecessary, but after you get through that process and you have put together the financing for the lease purchase and you have purchased the lease, which, again, takes years to do, you still are in the process of trying to put together your lease block.

And putting together a lease block is critical, not only for us to have organized development, but it is critical in the sense of having development that lessens the environmental impact so that we can do liquids gathering lines, we can have less footprints from truck traffic, less roads, and organized tank batteries.

The next slide is just the APD process which we go through. Again, this takes months to get through, and it is not to the fault of the BLM employees. Like I said, they are often hamstrung in what they have to deal with.

All of this being said, these are the processes that we go through that do create issues where it becomes a challenge for QEP and other operators to invest on Federal lands. I have made several recommendations in my written testimony. I won't go over them again for the sake of time.

With that, I will conclude my remarks and look forward to questions.

[The prepared statement of Mr. Schulz follows:]

PREPARED STATEMENT OF SHANE SCHULZ, DIRECTOR, GOVERNMENT AFFAIRS,  
QEP RESOURCES, INC.

QEP Resources, Inc. ("QEP") appreciates the opportunity to discuss "Examining the Department of the Interior's Actions to Eliminate Onshore Energy Burdens" with the House Natural Resources Subcommittee on Energy and Natural Resources. We look forward to working with the Committee to discuss enhancing our Nation's ability to reduce unnecessary burdens and promote oil and gas development on public lands.

QEP is a publicly traded oil and gas company that is headquartered in Denver, Colorado. QEP is an industry leader in crude oil and natural gas exploration and production. We are focused on some of the most prolific natural resource plays in the United States—including two world-class crude oil provinces, the Permian Basin in Texas and Williston Basin in North Dakota; and two prominent natural gas plays, the Uinta Basin in Utah and Haynesville Shale in Louisiana. With operations located on private lands, state trust lands and Federal lands, we have a unique perspective on development and the contrast in corresponding government regulatory programs.

Over the past decade, U.S. onshore oil and gas development has been truly remarkable. The growth in oil production, in states like North Dakota, Texas, New Mexico, Oklahoma, and Colorado, is something that many never thought they would see again in this industry. The same can be said for the growth in natural gas production throughout private lands in the United States, predominately in Louisiana, Texas, Pennsylvania, West Virginia, and Ohio. As oil and gas production grew, these states experienced an increase in tax revenues and job development.

Technologies, like horizontal drilling and advances in hydraulic fracturing, have been the keys to the growth in oil and gas. These technologies have enabled industry to increase efficiency while dramatically reducing environmental impact. Although it may go without saying, such technological advancements are equally available on (and applicable to) state trust, private, and Federal land.

Over this same time period of oil and gas production growth, we did not see equivalent growth on Federal lands. Development was underway, but it did not keep pace with development on private lands, where regulatory management is handled by the states. In fact, approximately 96 percent of the oil production growth since 2007 has been on private lands, according to the Congressional Research Service.

There are a number of factors that operators consider when allocating capital to projects, such as geology and individual well economics. Another important factor is stability in the regulatory requirements. Where the regulatory landscape is ambiguous, many companies are leery that investment will only turn into stranded capital.

Experiencing significant delays on Federal lands in the recent past dissuades companies from wanting to operate on Federal lands today because the return on capital may be slower and the risks of delay are all but guaranteed. When companies, such as QEP, look at investments in states like Texas versus investments on Federal lands, we know that the Texas regulatory regime provides less risk and more certainty. We can start seeing returns on those investments in a matter of days and months in Texas versus years in the case of working with the Bureau of Land Management ("BLM") and other Federal agencies. As an example, with private surface and private minerals, an operator may be able to drill their first well within months of expending capital on the leases. In the case of leases with the Federal Government, not only would it take well over a year to get approval to drill a well, but the risks of appeals and other restrictions are great and result in further delays.

QEP has a strong working relationship with the professionals at the BLM. But, BLM staff are often hamstrung by a number of unnecessary, duplicative, and/or misaligned laws and policies. Oftentimes, these same laws and policies create "analysis paralysis." "Analysis paralysis" is when the project and leases are caught in limbo, where the agency review never ends and/or a decision never happens.

Analysis paralysis then becomes the “death knell” of a project: project proponents eventually pull the necessary applications, reallocating resources and capital elsewhere.

Note *some* (and not all) of the laws and policies the BLM and other Federal agencies must manage in order to issue permits:

- Archeological and Historical Preservation Act
- Bald and Golden Eagles Protection Act
- Federal Land Policy and Management Policy Act
- Changes in the nationwide permits (“NWP”) by the Army Corps of Engineers
- Clean Air Act
- Clean Water Act
- Endangered Species Act
- Energy Policy Acts of 1992 and of 2005
- Migratory Bird Treaty Act
- Mineral Leasing Act
- Lease Stipulations
- Conditions of Approvals (“COAs”) for Applications for Permits to Drill (“APDs”)
- National Historic Preservation Act
- National Trails System Act
- Safe Drinking Water Act
- Spill Prevention and Control and Countermeasures Act
- Wilderness Study Areas (“WSAs”)
- Wild and Scenic Rivers Act
- And many others

The challenge of implementing these laws and policies created strained relationships between the BLM and state/local governments under the previous administration. The resulting BLM/Federal permitting delays and regulatory uncertainty created a tough investment climate for companies, which in turn can cost the states and local government’s tax revenue and jobs. When taking into account the jobs and tax revenue created by oil and gas development on Federal lands, Congress has a duty to ensure the BLM and other Federal agencies are fully engaged with the states and communities their decisions impact. The Federal Government has a duty to maximize its efficiency and provide the regulated community with regulatory certainty.

I offer the following recommendations and solutions to this Committee and the Trump administration to create a positive investment climate for oil and gas companies:

#### *Enhanced Role of States*

Continue to evaluate methods to delegate more authority to states where it makes sense. Look at implementation of the Clean Air Act and Clean Water Act through the Environmental Protection Agency to State Department of Environmental Quality (“DEQ”) as one example. Additionally, the Surface Mining Control and Reclamation Act helps create a delegation program to states for surface mining operations. These are just a couple of examples where delegated authority is working. In addition to delegation, the Federal Government must also continue to reform existing programs that are duplicative of adequate state programs. A recent, promising example: BLM’s rescission of the 2015 Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands, where the Bureau acknowledged that the rule was unnecessarily duplicative of state and some tribal regulations and imposed burdensome reporting requirements and other unjustified costs on the oil and gas industry. 82 Fed. Reg. 61924–61949 (Dec. 29, 2017).

#### *Leasing, Protests, and Resource Management Plans*

*The leasing process needs to be more predictable and stable.* This means finding ways to shorten the process from nominating, protest periods, as well as competitively offering nominated parcels for lease. This is important because the oil and gas markets change quickly. By allowing the Department of the Interior to move quickly with those changing markets, the Federal Government could capture more value for those leases. For instance, the BLM should get back to regular lease sales including the elimination of the rotational lease sale process where only certain areas are

offered up on an annual basis. The rotational schedule limits development for high interest areas. For example, if the BLM offers up parcels for the Uinta Basin at every lease sale instead of once a year, it could capture more value for those leases during strong market conditions.

Attached to my testimony is a flow chart from leasing to development on Federal lands. It is important to note that not all leases will be developed. There are multiple complex steps taken. First there is exploration and appraisal. This can help an operator decide how much a lease is worth. After an operator successfully obtains a lease, multiple delineation wells are drilled to assist in determining well space and other factors. This process can take years. After those years of investment, if positive results have been achieved, the operator considers full field development. Infrastructure planning is a key component of any long-term plan. Permitting both the wells and the infrastructure can take years.

Additionally, it rarely occurs where all the leases a company is pursuing on a Federal sale get offered at once. It is not uncommon for operators to wait several years to put together their leased acreage block before they want to go drill a well. If you were to compare that to private lands, the leasing and drilling process could and would likely happen within a year. This gets to my earlier point about the ability to deploy capital and see returns in a more efficient process.

The protesting of leasing also creates challenges. The public has the ability to comment and participate in the decisions. The Resource Management Plan (“RMP”) for the area is the first opportunity and then the leasing Environmental Assessment (“EA”) of Notice of Competitive Lease Sale. The protest process has morphed into a tool for obstructionists who oppose oil and gas development all together. This is unproductive and strains BLM resources. In the past, environmental groups would submit large protests to challenge all or large portions of the parcels being offered for lease. The protests would rely on broad arguments rather than specific localized issues. These challenges create further uncertainty, which I referenced earlier.

The long-term deferral and failure to lease these parcels can prevent companies from assembling the necessary leasehold to proceed with testing the geology and reservoir and potential development. The Federal mineral laws are based on orderly development of resources. Federal units and participating areas are designed to ensure Federal resources are not stranded (left in the ground) and the infrastructure consolidated to minimize surface impacts. Current leasing approaches often result in scattered acreage. This practice results in inefficiencies and can actually have more environmental impact by not allowing organized development or organized surface locations, tank batteries, or liquids gathering systems. The deferrals and delays not only cost the Federal Government money but also state governments who share in those royalties. While we appreciate Secretarial Order 3354, which stresses the importance of American energy security and directs the BLM to improve the Federal oil and gas leasing program, Congress, in addition to the BLM, needs to develop an organized and efficient response to those protests to get leases out quickly.

In the past, the BLM has deferred parcels in an entire planning area while updating an RMP for that area. This happens despite the existence of an earlier-approved RMP for the area. RMPs take many years to be updated, therefore, these parcels are deferred far too long. When the BLM does lease parcels while an RMP is being updated, the Bureau attaches stipulations to those leases which are not specified under the acting RMP. It is as if the stipulations are foretelling what the new RMP will require before it is finalized. Additionally, when parcels are nominated for lease there is no transparent process as to why they are not being offered up for lease.

Last, the development of Master Leasing Plans (“MLP”) under the previous administration are unnecessary and cause additional delays with no environmental benefit. The RMPs already designate the areas that are open for leasing, the areas that need special protections and outline the conditions for leasing where it is available. The MLP process creates a multi-year procedure and delays leasing within the area of the MLP. The Trump administration should abandon all ongoing MLP efforts and respect the current RMPs in place.

#### *National Environmental Policy Act (“NEPA”)*

Like other major Federal actions, NEPA analysis is required for all oil and gas projects on Federal lands. While the intent of the law was for agencies to analyze and disclose potential impacts, it has turned into a litigious tool that doesn’t add environmental benefits. Congress needs to address this process to provide more certainty.

The NEPA process can either be an EA or an Environmental Impact Statement, depending on the size and scope of the project. The use of the “Federal nexus” dictates to BLM when they should be involved in a project. Sometimes the BLM uses the Federal nexus to be involved in oil and gas wells where the surface is

owned privately and a majority of the minerals are owned privately. When this happens, an operator still has to get a Federal APD and get some initial NEPA review in order to get the APD approved. This also requires a tribal consultation for cultural artifacts on private land which can create issues with private landowners who the companies already have worked with to locate a well. Congress needs to work to help bring NEPA back to its original intentions.

Additionally, the Federal agencies could establish criteria what constitutes the circumstances that require NEPA as well as an appeal process to enable project proponents to challenge decisions regarding the level of environmental analysis required for a project prior to it being considered a final agency action. This would provide more certainty in the process while ensuring appropriate disclosure of issues.

CONCLUSION

Affordable energy is essential to a strong and vibrant economy. Thankfully the United States has vast quantities of oil and gas within our borders and off our coasts. This massive supply of energy is limited only by the government policies we choose to adopt. The reason for the inequality between Federal and private lands is simple: the Federal Government policies and additional bureaucracy make it much more difficult to operate on public lands without providing additional health, safety, or environmental benefits.

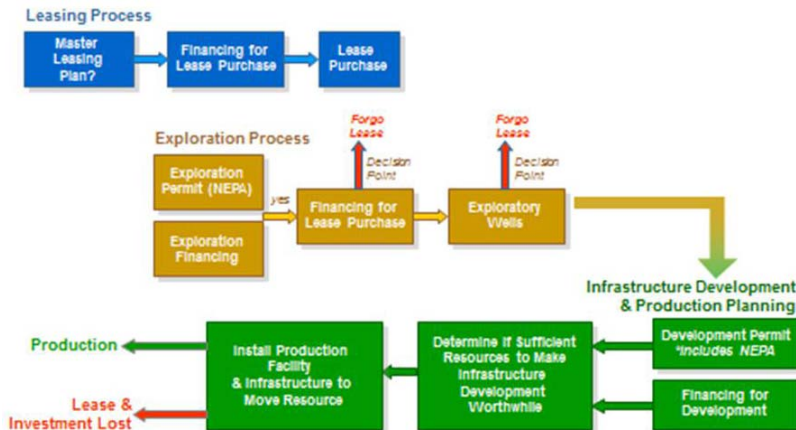
It is clear that there are efforts the Trump administration could undertake to make Federal lands more attractive for investment, which in turn would mean more dollars to the Federal Treasury in the form of bonus bids, royalties, and taxes. Remember that development in the western states where these Federal lands exist also benefits the state and local economies. I know this Administration has energy development and rural development as a focus and is working on making Federal policies more efficient. Promoting oil and gas development helps accomplish both of these important goals.

In order to truly seek reforms and efficiencies one question must be answered: Does the U.S. Government want to be in the oil and gas business through leasing and management of Federal oil and gas minerals?

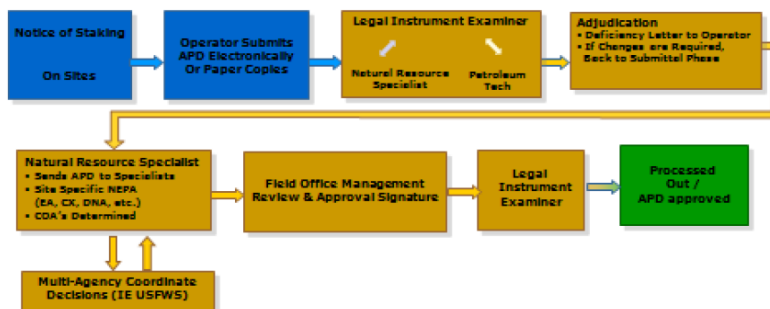
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ATTACHMENTS

Leasing to Development



## BLM - APD Approval Process



Dr. GOSAR. Thank you so very much.

Now we are going to take a quick recess. We have four votes, but then we will reconvene back after the votes.

[Recess.]

Dr. GOSAR. We are coming out of recess.

I want to thank the panel for their testimony. Reminding members of the Committee that Rule 3(d) imposes a 5-minute limit on the questions. The Chairman will recognize Members for their questions they may want to ask the witnesses.

I want to start us off with the questions.

It has been reported recently that BLM has a backlog of permits to drill that have been approved, yet companies continue to submit APDs for other projects. My colleagues on the other side of the dais seem to believe there is a smoking gun here as to why companies would leave undeveloped leases and unused permits on the table while pursuing leases elsewhere and other APDs for different locations.

Mr. Schulz and Mr. Kubat, can you explain to the Committee why the backlog of permits exists and why it is necessary for companies to continue to pursue new leases and apply for APDs, even if they have leases and approved APDs that have not been developed? We will start with you, Mr. Kubat, and then move to Mr. Schulz.

Mr. KUBAT. Thank you for the question. Yes, to start with the number of APDs and the backlog, Mr. Chairman, the number of APDs that a company pursues are due to the development, planning, and timeline lead that is necessary for us to accomplish our business goals and to create optionality in that forecasting and planning.

For instance, an APD in a certain area may be subject to timing stipulations that are environmentally driven and conditions of approval to that permit that we referenced in a number of our testimonies here. Those stipulations and conditions of approval could block out large windows of time, up to half of the year, where you are unable to access that location for the development of it.

As well, when you drill and develop on leasehold, you are delineating your asset. You are learning more about it as each well progresses from one to the next, and that will drive where you go in the development and drilling program. Also, there is optionality that is needed within that to allow for infrastructure to get there.

I guess at a certain level, it is kind of like when you are baking a cake and you go to the grocery store, you may already have ingredients for that cake in your pantry or in your kitchen, but you go back and make another run to the grocery store again to add an ingredient. It is like why do you need to keep going to the grocery store? It is because the recipe you call for on that day, you may not always have all the ingredients in your refrigerator or in your pantry to prepare that. It requires more than just a rifled approach of a single target every single time, so that is why we pursue more than one APD and need an inventory, if you will. It is to create certainty in our development planning.

Dr. GOSAR. Mr. Schulz, anything you want to add?

Mr. SCHULZ. Yes, please, thank you. We have obviously touched a lot on the APD process. I think it is important to understand why we are out trying to acquire APDs. In the same time frame, we are also looking at getting more leases. And as you go out and you are trying to get together a lease block, if it is a Federal lease sale and it has had a long drawn-out process where it may take years—in the case of the previous administration, we had rotational lease sales where basins would only be offered up once a year—it may take you 3, 4, 5 years where you finally get all the acreage together that you want to get leased.

So, part of that process is taking the time to get that together. And the reason you want that acreage lease block is it drives efficiencies, not only for operators—and I mentioned in my opening statement by having centralized tank batteries, by having less roads, maybe you can do a liquids gathering system—that not only benefits the operator—selfishly, economically, that is something we want—but it also lessens the environmental impact. You have less air emissions. You have less disturbance from a wildlife standpoint. That is part of what happens.

And it is also important to know that not every lease is going to get developed. At the end of the day, you are going out and you are making a guess, an educated guess, on what you think that acreage holds from a potential. But at the end of the day, you may go file and get some permits, and you are still trying to decide am I going to drill this directionally, am I going to drill it horizontally? A lot of this is dictated by the rock and economics. Obviously, we are seeing an uptick in prices, but all these things are huge factors that can determine whether or not APDs get used and whether leases get approved.

Dr. GOSAR. Got you. I am going to stop right there, because I am going to do a multiple round, just because it is a good time to stop.

I will go to the gentleman from California.

Mr. LOWENTHAL. Thank you, Mr. Chair.

Ms. Culver, one of the things that is very concerning about this Administration's energy policies is the way that they seem to be cutting down on opportunities for public involvement in the oil and gas leasing process. Mr. Steed, in his testimony, mentioned some



of the difficulties, as from his perception, around protests. I am also interested, in addition to protests, what has Interior been doing to cut down on public input?

Ms. CULVER. Given that these are public lands, we feel it is extremely important for the public to be able to provide information and comment before lands are conveyed to the industry. But what we have seen already in states like New Mexico is the BLM proactively ceasing to permit early input into the leasing process. There used to be a scoping period where lands were posted and counties and interested parties could provide information. They have proactively just stopped doing that, citing the Administration's agenda as a reason to cut the public and other interested stakeholders out.

In addition, we are already seeing BLM not preparing full environmental assessments before leasing, even though they have a requirement to do that. Instead, they essentially prepare a checklist that does not consider impacts, does not consider alternatives, does not really provide an opportunity for the public, the county, or state agencies to propose changes to lease boundaries that might protect resources or other changes to how a lease might be provided.

In addition, we have heard a little bit already about master leasing plans. That was another opportunity where the agency had determined, for instance, that more information was needed, more discussion was needed, more planning was needed to address conflicts that had already arisen and had begun to engage the public in developing an approach. Those have been abandoned. And we saw a lot of value from that input affecting—for instance, in New Mexico, communities were able to protect their water supply by just talking with the BLM during these processes. We are concerned about losing those.

Mr. LOWENTHAL. Thank you.

Mr. Steed, I have a question. As I mentioned in my opening statement, I feel like the Energy Burdens report is incomplete. I was going through it looking for mention and really detailed understanding of solar, wind, or geothermal energy, and what are some of the burdens to development. But with a few exceptions in the mention of hydropower, where that is mentioned a few times, there is almost a complete absence of these issues.

I know the Executive Order told you to pay particular attention to fossil fuels and nuclear, but it did not tell you to exclude renewables. So, where is that? Did BLM analyze its policies for renewable energy burdens?

Mr. STEED. Mr. Lowenthal, I appreciate the question, and I think it is a fair question. The previous administration did spend a fair amount of time focusing on renewable energy sources. And some would argue that there was insufficient attention paid to hydrocarbon energy sources. I think that created a bit of a backlog.

In terms of what we are doing for renewable energy, our renewable energy program has not gone away. Just this morning, as a matter of fact, I received two additional applications on renewable energy—I have a short time frame there. But in my limited time frame, we have moved a large solar project, a large wind project, just beginning the regulatory process, as well as other projects that

are in consideration. So, I don't think that because the report focused—

Mr. LOWENTHAL. The absence of it in this report.

Mr. STEED. Yes. I don't think it means that we are not doing it.

Mr. LOWENTHAL. Will you be providing us with information about some of the difficulties and the burdens of renewables? I mean, you have gone on extensively about oil and gas, but we are not seeing anything about renewables.

Mr. STEED. I understand that. And I am happy to provide that information, if so desired.

Mr. LOWENTHAL. I think that would be very appropriate.

The last question, and I don't know if we are going to have time, is for Ms. Culver. You mentioned in your statement about the BLM moving away from multiple-use mandates which have been outlined in the Federal Land Policy and Management Act of 1976. Do you want to tell us briefly what you meant by that, to elaborate on that?

Ms. CULVER. Sure. The BLM's governing act, the Federal Land Policy and Management Act, defines multiple use and requires the BLM to manage in accordance with multiple use. And it explicitly includes wilderness, recreation, range, timber, watershed, fish, wildlife, scenic and historical values. It is not limited to energy development; it is one of the multiple uses. And it is a challenging job that the BLM has to balance amongst these multiple uses, but its mandate requires that effort to be made.

Mr. LOWENTHAL. We will come back to that.

I yield back.

Dr. GOSAR. I thank the gentleman.

The gentleman from Virginia, Mr. Beyer, is recognized for 5 minutes.

Mr. BEYER. Thank you, Mr. Chairman, very much.

Mr. Steed, the GAO had a report that prior to 2016, and prior to the waste prevention rule, the BLM venting and flaring practices were costing the taxpayers about \$204 million a year and 180,000 tons of methane per year. Given that measurement and that that was what the rule was intended to address, how do you justify revising or rescinding that rule?

Mr. STEED. Again, sir, I appreciate the question. As I mentioned in my testimony, we were presented an Executive Order to examine the various burdens facing energy development. In making that review, one of the things we particularly were asked to review was the venting and flaring rule.

We went back and took a hard look at that. In all candor, much of that analysis took place before my time in the Bureau, but I will tell you some of the things we found. First of all, there was overlap between what the BLM was proposing to do and what the EPA has been charged with doing, in terms of air quality. We found that many states, especially after the publication of that rule, states with major venting and flaring activities complained that the rule itself did not take into consideration the local interests as well as the local opportunities and local circumstances that are found in those areas.

Also, I would have to say that in looking at it, there are a variety of assumptions made in the model in terms of savings to the

American people. I am not sure that those pencil out under different assumptions.

And last, I just point out that we do have currently and did have existing regulations, NTL-4A, for instance, that was to prevent and account for waste. Obviously, we can do that better, and I think the report that you reference pointed out some ways that we could improve NTL-4A, but just those responses.

Mr. BEYER. Thank you very much.

Ms. Culver, earlier this week, most of the members of the National Park Service Advisory Committee resigned in protest of Secretary Zinke's agenda and the fact that the committee had not been convened in over a year, despite the law on that.

BLM also has advisory committees, one called the Resource Advisory Council, that were suspended last year by Secretary Zinke. How important are these councils and what is their status?

Ms. CULVER. As indicated by their names, they were created to provide advice to agencies like the National Park Service, the BLM, and they are made up of a specific balanced set of stakeholders with expertise ranging from local government to entities that profit from the public lands to tribal entities and other local businesses. These entities provide an important opportunity to get new perspectives. They are also open to the public, so they provide a forum for the public to be informed as to what the agencies are doing. And it is vital.

Unfortunately, early on, this Administration shut down all resource advisory councils, stating they would be reviewed. Some councils, like the Wildlife and Hunting Heritage Conservation Council, have been formally disbanded. Others, primarily the BLM councils, are still not functioning. Their charters have not been signed. Their members have not been re-upped. And really, shutting them down has deprived the agencies and the public of important information. It has eroded public trust in the land managers, and it is actually fundamentally interfering with the operation of the Bureau of Land Management.

Mr. BEYER. If I can continue, Ms. Culver, implicit in this discussion and in this Administration's wholehearted embrace of fossil fuels is that climate change is not real, or if it is real, it is not relevant to us, that we can cope, that it is not, in fact, the existential problem threatening mankind that the rest of the world thinks it is. But if you just look and say we rescind all these rules, we cut all these timetables, we weaken NEPA, et cetera, what is the short-term impact and the impact in our lifetimes on the lands that are being developed? Not the global climate change, but for people that live in Utah or Wyoming or Montana.

Ms. CULVER. Well, some of the impacts will be to health. For instance, we know that there is well-documented in the Uinta Basin in Utah and the Front Range in Colorado, for instance, significant impacts to air quality already from oil and gas development. And it also increases the ground level ozone or smog, so that is already having health impacts and we will continue to see that.

We also expect it will lead to direct impacts on air and water resources, wildlife habitat, all of the various resources that are damaged by surface disturbance and contamination, and all of that is aggravated by the impacts of climate change.

Mr. BEYER. For 5 more seconds, Mr. Chairman. There was a report this week that the cost of asthma in America was \$80 billion per year.

Mr. Chairman, I yield back.

Dr. GOSAR. I am going to reclaim my 40 seconds, and then we will go to a second round.

To the gentleman that I asked before, would the analogy be that you carry these APDs much like a doctor having multiple patients? Patients are at different stages of development and treatment, and different treatments are for different patients. Wouldn't that be an aspect? So, it is more of a business plan. Mr. Schulz?

Mr. SCHULZ. I think that is probably a fair analogy to put forward, yes.

Dr. GOSAR. Yes, because as you unfold these geographic and geology layers, you are going to have to approach them very differently. One piece of land is totally different than another. Would you agree?

Mr. SCHULZ. Yes.

Dr. GOSAR. Mr. Kubat, would you have any problems?

Mr. KUBAT. I would agree with that, and add to it that it is an investment and, to use another analogy, it could be looked at similarly to a retirement portfolio of investments when you look across the board, in that in your 401(k) or your retirement account, you might have legacy utility type investments that are strong and steady, and at the same time you diversify your portfolio with riskier assets and investments that might be new start-up companies.

As we look across our investment as an oil and gas company, we have leases and APDs on those leases that are similar in that nature, some that are next to older producing fields, and then APDs and leases that are on the periphery of those fields and we have high hopes for. That is the reason why we made that investment. That is the reason why we purchased the lease and have paid the APD fees and went through the process necessary to try to gain that application, because we have high hopes for that, just as an investor would in their portfolio.

Dr. GOSAR. So, you are applying the full rule of looking at each lease in a specific application and making sure it is tailored for that, as well as having a part of a business portfolio.

Mr. KUBAT. Exactly. And to add to those dynamics that are taken into consideration, not every oil and gas lease, to use the term "oil and gas," is prospected for oil or gas.

Dr. GOSAR. Right. Mr. Schulz and Mr. Kubat, your companies operate on both Federal land as well as state and private land. Can you speak to the differences in the process for developing wells on Federal lands versus state or private? Does the difference in the regulatory environment on the Federal versus non-Federal lands influence your company's decision on where and when you invest resources? And do states particularly like dirty water and dirty air, unlike the Federal Government? Mr. Schulz, you first.

Mr. SCHULZ. The state process versus the Federal process—this is a good question. And I am going to answer your last question first. No state that we operate in wants dirty water or dirty air. The process of which we go forward through the state of Texas, the

state of Louisiana, the state of North Dakota, and even the state of Utah, when we have state lands or private lands, is just a much more efficient process in which we can go forward and get those APDs. You can move quicker on those permits and you can deploy capital quicker.

It is the point of what I have said in my written testimony and also my oral testimony. It is that regulatory certainty. It is the ability to put together a project and go deploy on it in a matter of months instead of years.

Dr. GOSAR. Mr. Kubat?

Mr. KUBAT. To add to that, Mr. Chairman, it absolutely drives our investment decision analysis.

And the states do care. For every well drilled, the state has to have its own APD approval process, if it is on Federal land or if it is not on Federal land.

As a recent example, we have a location we just drilled within the last 30 days that the direction orientation and location of that well was purely driven by the lack of Federal nexus. And the unfortunate circumstance that it brought to the Federal Government was a lack of royalty revenue that could have been received but for a timely approval of a right-of-way that would have been a common-sense approval of a right-of-way.

To bring the term "common sense" into play here, there is definitely a need for common sense because it is a very short right-of-way approval that could have been gained, could have deferred unnecessary surface impact, and, from that location, could have allowed Federal minerals to be developed without any disturbance to Federal surface.

So, it is absolutely taken into account.

Dr. GOSAR. Gotcha.

Leasing policy changes put in place in 2010 have resulted in a situation in which the BLM is not fulfilling the Mineral Leasing Act's requirements to hold a lease sale in every oil and gas state, at least quarterly. Rather than holding statewide sales with parcels from all areas where interest lies, each field office was limited to just one lease sale per year.

Mr. Schulz and Mr. Kubat, how has this policy impacted your companies' ability to acquire and develop leaseholds?

Mr. Kubat first.

Mr. KUBAT. It has impacted our ability to plan for development in the beginning phase of nominating a parcel, to Mr. Schulz's comments earlier, in looking at an area in a wide range of development and how you are going to lay out your infrastructure in a prudent, conservative manner that will best complement the plan development for the area.

When we nominate those parcels, we have seen a significant delay through the nomination process. If you are only holding cells on a period that is protracted, say, over a year, instead of on a quarterly basis, that combined with the review period that I mentioned in my oral testimony, and is also included in my written testimony, of 415-plus days on average, it absolutely impacts us in our ability to execute our business plans.

Dr. GOSAR. Mr. Schulz?

Mr. SCHULZ. Good question, again. As we look at the rotational process and what it did, as I have talked about as my theme, regulatory certainty, but also the ability to put together an acreage block. If you are having a rotational lease sale once a year, and you own a basin, and you are trying to put together a prospective block of acreage, you don't want to go drill on a couple leases if there is a bunch of open acreage around you. You want to try to get it all leased up that you think has good rock to it and you want to go drill. Because, again, it drives those efficiencies.

If you are worried about the environment, if you are worried about us drilling in an efficient, organized fashion, you want that all leased together, and you want us to try to develop it out in an organized fashion. Maybe we can put in a liquids-gathering system. Maybe we can do centralized tank batteries. Maybe we can cut down on the amount of roads that we need. All of that actually benefits not only us, but it benefits the area and it benefits potentially the environment, and it also adds more revenue back to those state and local governments.

Additionally, and I think it is worth noting, oftentimes you have state sections, state leases that are managed for the state trust of the school kids. Sometimes it can hurt those lands, because if that comes up but there is stuff around it that is not leased, we may not bid it as high as we need to. Therefore, if it is leased and it is the last thing that we need to get, it is going to get a higher value.

These leases tend to work together, and if you can get more of a block together, they are going to probably bring more money. So, the rotational aspect of it, we would argue, needs to be eliminated, and I think the Federal Government would receive more dollars on those leases.

Dr. GOSAR. I am going to go over a little bit here, but I will give you the extra time.

Senator, along those same lines, do you see that efficiency, from your perspective as a State Senator in Utah?

Mr. VAN TASSELL. I, wholeheartedly, see that efficiency. I have seen the changes in the last 12 years that I have been in the Senate. I have seen the ability as the larger blocks have come together and the economic forces are at play, where we not only are trying to drive down cost but also improve the environment, all of those situations have come in. We are seeing multiple large-area gathering. We are cutting down on all of the things that create bad air, as well as truck traffic, and we are doing it more by pipeline.

There is no way to be efficient by leasing small acreage and sending people. The infrastructure cost is too high to do that. So, in my opinion, by leasing smaller acreage, we just commit ourselves to accept less quality control because the economics are not there. This is an economic-driven decision.

Dr. GOSAR. Yes. Thank you, sir.

I recognize the gentleman from Virginia, Mr. Beyer.

Mr. BEYER. Thank you, Mr. Chairman.

You probably read the story this morning in the *Washington Post*, among many others, that 60 percent of a given species of antelope died in 3 weeks in Kazakhstan—200,000 saiga, s-a-i-g-a.

I am not sure how you pronounce it. And it was directly, all the scientists took it right to global warming.

So, Mr. Steed, in this wholesale effort to promote oil, gas, and fossil fuels, how much effort is BLM doing to promote wind, geothermal, and solar in these massive public lands that you manage?

Mr. STEED. First, I would not characterize this as a wholesale rush to oil and gas. And, honestly, we have spent a long time working on developing renewable resources. The previous administration put a lot of time and effort into that, and we have seen many of those efforts come to fruition over the last year. We continue to see permits flow in, as I mentioned in my previous answer.

So, I do think that we still value wind, solar, and geothermal. It is one of those things that we are still pursuing and that we can consider as an important part of our portfolio. I don't think that it is fair to characterize this as only emphasizing one over the other.

Mr. BEYER. All right. Thank you very much.

Ms. Culver, we have heard from the two operators here how frustrated they are with regulatory uncertainty, delays, things like that. How important is regulatory certainty? And why shouldn't we prioritize that, too, as environmentalists?

Ms. CULVER. Right, I think there is another side of regulatory certainty, which is for the public. I think when we see, for instance, almost 30 million acres under lease and far less than that under production, that is a lot of uncertainty. It is hard to commit to running your business on public lands for recreation if at any time that land could be developed for lease. That is the type of uncertainty that affects other users of the public land.

Similarly, for the public to know what lands are going to be developed, what lands are available, and what lands are protected for other uses, be it recreation or wilderness, hunting and fishing, that's another important part of regulatory certainty that does not seem to be getting a lot of attention in this discussion.

Mr. BEYER. OK.

Mr. Steed, not to blindside you, but do you know how many employees BLM has and how many of them are in Washington?

Mr. STEED. I don't know the exact number, but I am happy to get back to you on that.

Mr. BEYER. Well, actually, we looked it up.

Mr. STEED. OK. I wish I would have guessed then.

Mr. BEYER. There are 8,906 permanent employees, and 503 are based in the Washington metropolitan area.

I only bring that up because we often have the impression that this is all, to quote my friends, "nameless, faceless bureaucrats in Washington, DC," when, in fact, the vast, vast majority are out in the states actually managing these projects and the lands. So, thank goodness.

Mr. Kubat, you are a small business, and in your opening testimony you talked about the essential role that small business plays in developing oil and gas resources. I am sure there are many hundreds or thousands. But do you know what percentage of the fossil fuel we pull out is done by small business?

Mr. KUBAT. I don't know the exact percentage that is pulled out by small business, but—

Mr. BEYER. Any sense? I mean, do we have—

Mr. KUBAT. I would say it is, and this is a hazard guess, but more than a majority of the production produced in the United States is a factor of small oil and gas companies and their efforts.

Mr. BEYER. Do you have the sense of any large foreign entities that are part of this?

Mr. KUBAT. I do not have a sense of large foreign entities that are a part of that.

Mr. BEYER. So, you don't see those in Wyoming, for example?

Mr. KUBAT. Do I see large foreign companies in Wyoming making investment in oil and gas? Is that the question? I want to make sure I am clear on the question.

Mr. BEYER. Yes.

Mr. KUBAT. Again, I guess emphasis added that minding my business and our business as a small oil and gas operator in the state of Wyoming, our investment is domestic. I am an investor in our efforts. And as to the makeup of the individuals and their entities that are in pursuit of the extraction of oil and gas within the state, I have no proprietary knowledge of what the makeup of their investor structure is.

Mr. BEYER. OK.

Mr. Steed, one last question. In Ms. Culver's testimony, she writes that there is a 20-percent increase in oil and gas permitting activities but flat funding for inspections and enforcement activities. And this despite the fact that the GAO had a report that the BLM had failed to inspect some 40 percent of high-priority drilling operations in 2009 to 2012.

Why the imbalance in increasing all the permitting but not balancing that with the enforcement inspections that are so clearly necessary?

Mr. STEED. The short answer, we were experiencing a large backlog on APDs and definitely wanted to improve our turn times on those APDs. As to the safety issue, we take safety very seriously and continue to do our jobs on that.

Mr. BEYER. OK. Great.

Mr. Chairman, I yield back.

Dr. GOSAR. I thank the gentleman.

The gentleman from Florida, Mr. Soto, is recognized for 5 minutes.

Mr. SOTO. Thank you, Chairman. Thank you for your courtesy.

On the last business day of the year, on December 29, BLM moved to rescind a 2015 protection related to hydraulic fracking—quite an inauspicious rollout of such an important rule, at a time when a lot of people are not really paying attention and are spending time with their families.

The first part of the rule, the protection, tightened standards for well construction and wastewater management.

Deputy Director Steed, why would we want to keep such a rule on the books? And then, what was the reasoning for moving to get rid of that protection?

Mr. STEED. You are referring to the hydraulic fracturing rule, correct?

Mr. SOTO. That is correct. I will get to the disclosure of chemicals next, but just on the well construction and wastewater manage-



ment, why were those rules put in place, and why is there a move to get rid of them?

Mr. STEED. I can't speak to why those rules were put into place.

I can say, as part of the review put into place by the Executive Order leading us to look at burdens on energy and gas production, we took a wholesale look at the hydraulic fracturing rule. We noticed that there was overlap with state groundwater authority. Many states have their own regulations.

We also noticed that there is a jurisdictional authority question with EPA and the states, and, indeed, that has not gone unnoticed by the courts. The courts enjoined the hydraulic fracturing rule and it has never been put into effect because they deemed that the BLM did not have the authority to do what they were proposing to do. And, to my knowledge, I am not sure that Congress has ever given us that authority to do it.

Mr. SOTO. So, on Federal public lands, we don't have the right to protect against hydraulic fracking by having tightened standards for well construction and wastewater management?

Mr. STEED. I don't believe that was my answer. I think that the proposed rule of the previous administration was deemed to be unlawful.

Mr. SOTO. Was there a less offensive rule by virtue of jurisdiction that could have existed without eliminating the rule?

Mr. STEED. Again, I think that we can defer to the states on this issue. The states have primacy over water resources within their states, especially groundwater. And I think the states are well-suited to do that.

Mr. SOTO. I have read in certain articles that Colorado, Wyoming, and New Mexico are the ones who this would particularly be slowed down for. Do those states have the same protections under state law right now?

Mr. STEED. I am sorry, I am not sure what you are referring to.

Mr. SOTO. Do those states have the tightened standards for well construction, wastewater management in their state laws?

Mr. STEED. They have their own sets of rules, yes.

Mr. SOTO. Is it to the same stringency as the Federal rule?

Mr. STEED. No, sir, not to my knowledge. I have not independently reviewed each of those rules, but again, the previous rule was deemed to be unlawful.

Mr. SOTO. And then, disclosure of the chemicals containing fracking fluid. It has been wildly reported that many of these chemicals have a carcinogenesis property to them. What was the reason that the disclosure rule was proposed to be removed?

Mr. STEED. At the time the previous rule was put into place, I think there was some issue with regard to disclosure of those chemicals. Many states have been involved in gathering those chemicals, as well as FracFocus is by far more widely used by industry currently, and we think that it is sufficient to cover the concerns.

Mr. SOTO. Wouldn't we want all chemicals being used on public lands to be public knowledge, given that it could have a substantial effect on health in these individual states as well as to Americans from all over the states visiting these public lands?

Mr. STEED. I don't know the answer to that question, sir.

Mr. SOTO. There was citing of \$14 million to \$34 million compliance cost savings. Were there any additional costs determined under Medicaid, Medicare, or other healthcare costs due to increased cases of cancer as a result of not disclosing these types of chemicals?

Mr. STEED. I don't know.

Mr. SOTO. Was there any health study conducted of what those costs would be in the proposing of this rule?

Mr. STEED. I am happy to get back to you on that, sir.

Mr. SOTO. OK. I would really appreciate it.

I yield back.

Dr. GOSAR. We are going to go another round, Darren, so if you want to stick around.

Dr. Steed, I understand from the Energy Burdens report that the Bureau is seeking to return to a quarterly lease sale format. Can you update us on the Bureau's progress on achieving that goal?

Mr. STEED. On achieving lease sales, correct?

Dr. GOSAR. Yes.

Mr. STEED. Sure. Last year, we had 28 lease sales conducted. That is a sizable increase over the previous fiscal year. We will continue to do that and are trying to meet the Secretarial Order that mandates, indeed, that we have the quarterly lease sale as well as our obligations under the Mineral Leasing Act.

Dr. GOSAR. Gotcha.

Now, Mr. Kubat and Mr. Schulz, BLM's primary statute, the Federal Land Policy and Management Act, or FLPMA, specifies the land use planning process. Resource management plans, RMPs, which are intended to guide planning for 15 to 20 years or more, specify the appropriate uses of public lands and are in effect until such time as a new RMP is completed. Updates take several years, usually 5 or more. However, under the previous administration, the BLM delayed leasing and other management decisions while it completes these multiple-year RMP updates. And they have added another layer of delay through the master leasing plan, or MLP, process.

Mr. Kubat and Mr. Schulz, have you experienced delays in leasing as a result of the RMP amendment process and/or the MLP process?

Mr. Schulz first.

Mr. SCHULZ. Yes, we have.

Dr. GOSAR. Mr. Kubat?

Mr. KUBAT. Yes, we have also, Mr. Chairman.

And I would add that the consideration in this scenario, we have had this recently with the sage-grouse amendment to a resource management plan within our focus area where we have seen deferred parcels within an area where we have significant plans for development be deferred for an extended period of time. This prevented them from being offered.

But, in that review, you have the resource management plan, you mentioned the master leasing plan—which I would note is an unnecessary fourth layer of examination that is contemplated, and its consideration should be removed from the process.

Dr. GOSAR. Gotcha.

Dr. Steed, I understand that the Energy Burdens report in your testimony—that the Bureau has received the MLP process and has decided to rescind this practice. How did the Bureau arrive at this decision?

Mr. STEED. As was discussed in previous testimony, the idea of MLPs came to be because we could resolve, or in theory at least, resolve a number of concerns on the front end of the leasing process. The practical application of that has not come to fruition.

And I will just share one anecdote with you, Mr. Chairman. We went through the whole master leasing process in Moab, Utah, with the expectation we were able to resolve a number of conflicts on the front end. When it came to the time of the lease sale, all 43 of the leases were protested, and it appears that we did not achieve our goal of reducing that conflict. So, I will just conclude by saying, I think it was an unnecessary layer of bureaucracy that we can solve through other means.

Dr. GOSAR. Let's drill down a little further, literally. Even without the MLP process, the Bureau will still conduct several separate reviews under the NEPA process before an operator can drill or lease. Is that correct?

Mr. STEED. That is correct. One at the RMP stage, the resource management plan stage, that will be reviewed at the leasing stage. And, again, a site-specific NEPA process will happen at the time of issuance of APD.

Dr. GOSAR. Ms. Culver made a couple of comments that seem to contradict those types of statements, that the public is not part of the review. Can you address that?

Mr. STEED. I don't believe that to be the case. It is a very public process, and the public is afforded ample opportunity to comment on each of these lease sales as well as applications.

Dr. GOSAR. Senator, where do you see the improvement in your years as a State Senator in the area that you represent? How have you seen this process work out, as Dr. Steed has talked about, as the operators have talked about, working with states for multiple jurisdictions?

Mr. VAN TASSELL. I would preface this by saying that, in the last 10 years, the school and institutional trust funds in the state of Utah have went from just over \$600 million into the school trust fund that we only spend the interest on to \$2.4 billion in the school trust fund that is now being disbursed to the students in the state of Utah.

Most of that has been at a time when state leasing has been in public land primarily, the only available property because of all of the other requirements. The issues that have been concerning and wanted to be watched, we have not seen that. Our oil and gas board is very active. They do all of the qualifications. We are doing the research and the inspections that are necessary.

Again, oil and gas is not located everywhere, but where it is located, we need to have access to it. And there is room enough to let the hunters and the sportsmen and all of the other people in there. As we do proper management, we really get a better moldable gas. But in the past, up until now, primarily with the Federal/state lands, I have viewed it as an opposition. We get ready to kick the field goal, and we move the goalpost.

And that has been a big issue for the producers and for my local economy. I have had businesses shut down. I work in banking when I am not at the Senate. We have had foreclosures, we have had businesses—there is always the ability as commodities go up and down that we will see fluctuation and adjustments made.

But our issue is being able to have stability. If we can level out the mountains and fill in the valleys, get somewhere, instead of doing this and going kind of on a wave, our local economy, our children, our education, and all in the state of Utah will be benefited.

Dr. GOSAR. Thank you.

The gentleman from Virginia is recognized for his 5 minutes.

Mr. BEYER. Thank you, Mr. Chairman.

Ms. Culver, we heard from Mr. Steed about why the BLM is doing away with the master lease plans, the MLPs. I would love for you to offer a defense of them, especially since they came up during the Bush administration by the leadership at the BLM and the Deputy Secretary. The original idea was that it was to provide greater regulatory certainty by thinking, as you said, smart from the start, thinking this through from the beginning.

How do we overcome Mr. Steed's objection, and the operators', that it is just another unnecessary bureaucratic layer?

Ms. CULVER. I think part of the challenge is at the land use planning level we have multi-million acre field offices. We are not getting into detail about how to develop different resources. We see the vast majority under the average BLM land use plan—over 90 percent of those lands are open for leasing and development. And as the Senator said, the oil and gas is where it is, yet these lands are open, even when they have no potential or very low potential for leasing.

And the master leasing plan process allowed us to, if you will forgive me, drill down into the details of where the different resources were, how they could be safely developed, and involve communities. These plans, as you mentioned, started to be developed, the idea, in the previous administration, and it was to address places where we had a history of conflict—areas in Moab and Wyoming—that were also slowing down leasing and permitting because of wide protests and legal actions.

So, I think we have just seen these plans start to work. They were just completed in the last few years. And I can say, from the perspective of our organization and others who were involved in that process, having an opportunity to submit information at a granular level of where we were concerned, how those concerns could be addressed, to hear the same concerns from the industry to prioritize the right places to lease, drill, and address the proximity of national parks was extremely valuable for us.

Mr. BEYER. Thank you very much.

Mr. Kubat, in his suggestions, complained about getting a land use designation and then later having the rules changed on him. And, specifically, he talked about the need to honor valid existing rights contained within the original lease terms.

Ms. Culver, is that unreasonable? Or how would you respond to that? A businessperson who makes an investment and later finds that—

Ms. CULVER. Right. As somebody who is making an investment, the lease specifies that there will be conditions imposed to address environmental concerns. It explicitly provides that if, for instance, endangered species are identified or cultural resources, those will need to be addressed.

The BLM's lease form is not particularly long. This is in Section 6 of the standard form. Companies are on notice. And that may be a little less certain, but they are on notice of that.

And it is important because, again, if an area is made available for leasing based on a land use plan that is operating at the level of 4 million acres, we have not yet looked at what is in a given area. Lease stipulations allow us to address at a broader scale where big-game habitat could be, which Mr. Kubat mentioned, but that will not necessarily be identified at the land use planning stage.

And, when we get down to conditions of approval on permits to drill, it is similar. The industry typically will take the position that environmental analysis cannot be done at the leasing stage or should not be done in too much depth until they get to the permitting stage because that is when they will decide, this is where the haul roads will go, this is where the well pads will go. If they are not going to make those decisions until we get closer to the development, that is when the agency will need to apply those conditions.

So, that is all a part of the process of working together.

Mr. BEYER. Yes. Thank you. That was very clear.

Mr. Steed, you talked about how, 2012, only 17 percent of the leases were protested, and it was 88 percent in Fiscal Year 2017—in many of your offices, 100 percent. Why this explosive growth in lease protests? Are we leasing stuff that we wouldn't have leased before?

Mr. STEED. No. Again, I have not done a deep dive in this to determine why. It would be my guess, however, that people that are in opposition to oil and gas development are using the protest process in ways that it wasn't used prior, especially as far back as 2012.

Mr. BEYER. So, they are driven by a larger concern about, say, climate change and using the protest process lease by lease?

Mr. STEED. I honestly don't know.

Mr. BEYER. OK.

Thank you, Mr. Chair. I yield back.

Dr. GOSAR. I thank the gentleman.

The gentleman from Florida, Mr. Soto, is recognized for 5 minutes.

Mr. SOTO. Thank you, Chairman.

I want to go back to this Wyoming decision that has been utilized to justify removing the protections on hydraulic fracking.

I think it is pretty commonplace that oil drilling is under the regulation of BLM and EPA, with its various responsibilities. But I think the American public would be really surprised to know, based upon the laws as interpreted in Wyoming, that the Federal Government has no regulatory role over fracking in the United States—something that is dangerous and has healthcare effects and environmental effects.

I just wanted to hear from you, Deputy Director Steed. Is it odd that allegedly, under current law, BLM and EPA have no regulatory authority for fracking?

Mr. STEED. Sir, as I said before, there is certainly overlap with state jurisdiction whenever we are dealing with groundwater, also overlap with EPA. Was your question that there was no Federal overlap, or was there a question on no BLM overlap?

Mr. SOTO. I am speaking exactly to the Wyoming case, where they say that Congress specifically exempted out fracking from EPA—that was the ruling in the case—and how BLM then could not come in and substitute. And you said, because of that case, that those rules were being pulled out.

So, I am just asking more as an administrator, is that odd, that something that affects interstate commerce, health, natural resources is exempted out from BLM? Do you think it should be regulated by BLM?

Mr. STEED. Sir, that is not a question for me to answer. That is a question for Congress to direct on. And, to my knowledge, Congress has never directed us to regulate.

And I think that is exactly the court's finding in that case, especially when considering that it determined that Congress explicitly prohibited the EPA from acting, and, by extrapolation, to say that the BLM had less groundwork based on what Congress has said.

Mr. SOTO. Thank you, Deputy Director.

And for Ms. Culver—sorry, my time is limited—do you think that Congress should be given the authority to regulate this? Should EPA and BLM be involved in something such as regulating hydraulic fracking in the United States?

Ms. CULVER. We believe that the BLM does have this authority under a number of its different legal statutes. And on behalf of the agency, if they don't want to defend their authority on their own, we have appealed the decision and are seeking to have our interpretation confirmed. Again, to us, it does not make sense.

Mr. SOTO. What specific jurisdiction grounds do you think there are, to be brief?

Ms. CULVER. Both the Federal Land Policy and Management Act and the Mineral Leasing Act, as well as another couple of Acts that I am going to end up in long acronyms if I go into about governing oil and gas on public lands and the regulatory authority of the Department of the Interior.

Mr. SOTO. So, you believe there is already jurisdiction?

Ms. CULVER. Absolutely.

Mr. SOTO. Let's accept for argument's sake that BLM's current line does not have jurisdiction. Should BLM and EPA be regulating hydraulic fracking in the United States?

Ms. CULVER. Absolutely. If this is occurring on Federal lands, then they need to have a say. What we have seen with the states is there is variation among the states in terms of the level of concern. FracFocus, which was mentioned, is voluntary. There are wide opportunities to hide information and declare it proprietary, which it may or may not be, but we don't have a way to see that.

Right now, if the American people's minerals are being leased to companies, then we have a right to know what chemicals are being

used and to ensure that the Department of the Interior is regulating that activity.

Mr. SOTO. Do you think there could be health effects from this lack of regulation right now?

Ms. CULVER. Absolutely. As you mentioned, there are a variety of chemicals used in hydraulic fracturing, and those chemicals are being injected deep into the ground and also being potentially spilled on the ground, so they do have an ability to affect our groundwater.

Mr. SOTO. Short of cancer, what other types of ailments could possibly befall the public unwittingly if we don't regulate this?

Ms. CULVER. There are a variety of aspects of the fracking process. For instance, even just air quality impacts from the various equipment that is used to conduct fracking, and then just general pollution of water sources that would then affect drinking water writ large.

Mr. SOTO. Thank you.

I yield back.

Dr. GOSAR. Ms. Culver, you are an attorney, right?

Ms. CULVER. Guilty.

Dr. GOSAR. OK. What makes your opinion better than the judge in the case of this? You said that you feel that there is adequate jurisdiction to imply that. Tell me why your jurisdiction is better than the judge.

Ms. CULVER. In the initial briefs filed by, the initial position of the Bureau of Land Management for years has been that they have this authority. So, I think we feel we are——

Dr. GOSAR. But it is not actually supported by law.

Ms. CULVER. We think that the interpretation that the judge had in that case——

Dr. GOSAR. You think.

Ms. CULVER. That is why we have appealed to the court of appeals.

Dr. GOSAR. Well, we will find out, but, to me, it seems like it is very amiss in that recall.

There are plenty of jurisdictions that we saw in the last administration that usurped adequate jurisdiction within the statute. The Clean Power Rule, that is an unusual one, where the Supreme Court actually ruled that you could not even go into the process of putting rules in place till they decided it. That is how over-reaching that administration was. Agreed?

Ms. CULVER. I am not going to argue with your summary of the rulings on the Clean Power Plan.

In the context of the fracking rule, having read the court's decision and read the applicable statutes, our interpretation is different, and we expect that the court of appeals will agree with our interpretation.

Dr. GOSAR. Well, not if it is not going to the Ninth Circuit, I doubt.

But, anyway, Senator Van Tassell, can you explain to us how the State of Utah School and Institutional Trust Lands Administration, known as SITLA, manages land held in trust to provide public services and how mineral revenues are utilized in the state of Utah?

Mr. VAN TASSELL. They are a fully independent board operated with the trustee of the schoolchildren of the state of Utah. They lease the property out on state leases.

There have been a number of school sections that were isolated in the state of Utah that have been conjoined and traded with the Bureau of Reclamation. We have increased those into large blocks instead of stand-alone sections because it has become obvious that that is not the way you develop property anymore, that there is a bigger value by consolidating. And that has been done and is in process on one or two other outliers, along with some of the Indian nations.

The other things that are doing pretty well are operated under oil, gas, and mining—most of the time it is under their guidelines. Some of this would have some BLM because of the mixed nature in the field. So, sometimes BLM, but the majority of the SITLA school trust lands are handled through oil, gas, and mining.

Dr. GOSAR. Mr. Schulz and Mr. Kubat, if a state lease that you are looking to develop is adjacent to federally owned land or minerals, does uncertainty regarding the Federal leasing and permitting process influence your decision or ability to develop the state-owned lease?

Mr. Kubat first.

Mr. KUBAT. Absolutely. I would refer back to the testimony I gave a moment ago related to our recent development example of where we, strategically and out of necessity, had to adjust a development plan due to those very circumstances.

Dr. GOSAR. Mr. Schulz?

Mr. SCHULZ. It definitely impacts it. At times, it can benefit the state lease, because that is where we know we can go drill a well and are able to work with whatever timing stipulations there might be. State lands and those private lands often provide flexibility.

But, in the same sense, if there are acreage blocks that are not leased around that state lease and there is interest in those Federal leases, it can discount the state lease as well, until you can get that whole block together.

Dr. GOSAR. Dr. Steed, what are the next steps that the BLM plans to take to further improve the onshore oil and gas leasing process on Federal lands?

Mr. STEED. As mentioned, we are currently reviewing our instruction memoranda processes to make sure that they are in line with Secretarial direction, as well as the presidential Executive Order.

We are currently in the process of staffing appropriately in order to reduce both leasing times as well as APD turn times and to make sure that we have our resources in the areas where they are best suited.

Dr. GOSAR. And you are interested in increasing time to oversee dangerous wells, right?

Mr. STEED. Absolutely.

Dr. GOSAR. Seriously? Increasing time. I don't think that is what you want to do, right?

Mr. STEED. Did I say that, sir?

Dr. GOSAR. Yes.



Mr. STEED. OK, no. I am sorry, I don't know what I just said.

Dr. GOSAR. That you are not interested in increasing the time for oversight.

Mr. STEED. No, we are interested in decreasing the time for oversight. Thank you.

Dr. GOSAR. Thank you. The gentleman from Virginia is recognized.

Mr. BEYER. Thank you, Mr. Chairman.

Ms. Culver, this Administration's energy dominance agenda feels as if we are going back to the rhetoric in the agenda of decades-old energy policies, particularly when BLM talks about undoing some of the Obama administration's leasing reforms.

From your perspective, what were some of the leasing problems that we saw under President Bush that President Obama's BLM was attempting to deal with? I mean, why did we have these things that Mr. Steed has to deal with now?

Ms. CULVER. Well, I think we saw a similar policy of making oil and gas the dominant use of public lands. And part of that was there no site visits, there was no public input, and there was no environmental analysis prior to leasing.

And we got to the point where we saw areas mistakenly put up for sale that conflicted with the governing use the BLM had or state uses or local uses, and that led to a very strong pushback from local communities and the public. And, by 2008, many lease sales were being invalidated by the BLM itself and in the courts, and it was resolving these problems that were causing so many delays.

And the ultimate ruling on this came from a court that formally prohibited the Bureau of Land Management from issuing 77 leases sold in Utah. And that is a very extreme action for a court, but it was based on the abject failure of the agency to look at impacts to neighboring national parks, the air quality, and other resources. It basically sent a message to the BLM that the system was fundamentally broken.

The message was received, and an interdisciplinary team of career BLM, Forest Service, and Park Service employees reviewed the process, and they concluded that environmental reviews were needed, public input was needed, consultation with sister Federal and state agencies would all identify conflicts up-front and reduce the likelihood that we would have invalid sales.

And they actually found that the BLM employees required more guidance to understand that the agency's multiple-use mandate did not permit oil and gas development to be the main use of our public lands.

And I would note that that is different from the SITLA lands that the Senator was discussing. State lands do not have a multiple-use mandate. They do not have an obligation to consider all of the things that the Department of the Interior has to consider as the steward of our public lands. So, that mandate has to be followed.

The current approach that we use now has required consideration of other multiple uses and has strengthened protections for wilderness, wildlife, and recreation, but it has also reduced

conflicts, even while we have seen production of oil and gas increasing on our public lands.

So, at that point, at the end of the Bush administration, Federal lease sales were twice as likely to be challenged in Federal court than they are now. And site-specific sale protests, those that are tied to certain values in certain places, have continued to decrease since then.

Mr. BEYER. Thank you.

Mr. Steed, one of the things that the Democrats typically push back to our Republican friends is we say, "Look at all those leases you approved that nobody is using. Why do we need to have new leases?" In fact, to give you some numbers, at the end of Fiscal Year 2016, there were 7,950 BLM permits that had not been used, and yet last year we approved 1,000 more permits.

Help us with the math. Why do we need to be aggressively doing so many new permits when so many existing permits are outstanding? Are those outstanding permits on essentially dry land? There is no oil, there is no gas. And if so, didn't we know that ahead of time, when the permits were issued?

Mr. STEED. Sir, I think as pointed out by Mr. Kubat and Mr. Schulz at the beginning of questioning, there are a variety of factors that lead to that.

Some of them are that lease stipulations, for instance, may prohibit drilling during certain time frames, or other reasons that may be better for business overall. And, honestly, I think that they may be in a better position to address the concerns on their business community than—

Mr. BEYER. Mr. Schulz, you have been so quiet.

Mr. SCHULZ. Thank you for the question.

From a vantage point of QEP, not every lease is going to be a viable economic oil and gas lease. It is just the nature of the way the business still works. You go out and we lease, and we file for APDs, but at times the market conditions can change, especially if you have an APD process that takes 8 months to a year to get an APD. The markets can change a lot in that time frame.

But when you go out and you are trying to put together an acreage block, at times you may realize that part of those acres are not viable. The Pinedale example is a great one, where we had a big acreage position that was leased. It was about 15,000, 18,000 acres of core acreage.

There were acres on the flanks, as they called it, of this ridge. And those flanks, in order to get the approval for the project-wide EIS, which I will remind you is another method where the public gets a chance to comment, we decided to suspend those leases. So, therefore, the BLM approved suspending those leases so that they would not be drilled because they were marginal acres, but it was still held by the operators in order to build out and drill those wells.

And that is just one example where there are times where marginal acreage in a marginal price environment for natural gas did not make sense. There is still oil and gas under there; it is just whether or not it is produceable with an economic return during the current environment.

Dr. GOSAR. Senator, you talked about looking at the economics as well as caretaking of the environment. I don't think they are mutually exclusive. In fact, just last summer, we went up to the North Slope and actually saw and witnessed the increased caribou herds along the pipeline. Do you see the same type of effect in Utah?

Mr. VAN TASSELL. Are you referring to wildlife?

Dr. GOSAR. Yes.

Mr. VAN TASSELL. The biggest factor that we have in wildlife, we have been very progressive and aggressive in reclaiming and bringing piñon cedar forests that produce almost no feeder habitat for wildlife into production, into rehabbing it, bringing it in for the sage-grouse as well as deer, antelope, moose, and the other things that we have. We are seeing a great increase right now.

Dr. GOSAR. So, you are very successful at your state management plans, right?

Mr. VAN TASSELL. Our state management plans have been very successful. And I think we are just now getting to a land mass large enough where we will see huge events in the next few years.

Dr. GOSAR. In fact, in previous hearings, we have heard the destitution in regards to the derogatory comments to state management plans, when we have seen Fish and Wildlife Service's plans, particularly, like the Mexican gray wolf, be anemic, in fact malpracticed, if you were looking for a term, in those aspects.

Why not start working with the states and empowering states in a collaborative aspect? I mean, you really like dirty air and dirty water, right?

Mr. VAN TASSELL. Not where I live.

Dr. GOSAR. Well, that is what I thought.

Mr. VAN TASSELL. The comment I would make on that is that in 2017, we had no exceedance in the Uinta Basin of bad air quality. We have some unique things that we are trying to figure out what the science is and how to prevent that. But when you can go 1 year and have 30 days of pretty bad air because of snow on the ground and then when you don't, you get some others. But that is another different story. We won't go there today.

But I think that we have some great opportunities to increase—I am sorry, I forgot what you asked.

Dr. GOSAR. Increase habitat and—

Mr. VAN TASSELL. Increase habitat. I think there is a partnership between not only the industry but also for the locals in making sure anyone that lives in my area is a hunter, as a result, and a fisherman. That is one of the reasons we live there, because you can be 10 minutes out of town and hit a reservoir or 25 minutes to a good hunting area, and that is what we want to preserve and protect.

Dr. GOSAR. It is not mutually exclusive, right, is what I am getting to.

Mr. VAN TASSELL. That is not.

Dr. GOSAR. Yes, I agree.

The multiple-use doctrine is very important. And Ms. Culver brought up the multiple-use doctrine. So, revenues, aren't they substantial in oil and gas, Ms. Culver?

Ms. CULVER. Yes, they are one of the substantial revenue sources.

Dr. GOSAR. Yes, so mineral extraction is very substantial, right?

Ms. CULVER. Substantial in terms of?

Dr. GOSAR. Revenues from mineral extraction are very, very high, right?

Ms. CULVER. Yes.

Dr. GOSAR. So, part of the multiple doctrine agreement with the states is shared revenues for maximizing those revenues, right?

Ms. CULVER. The states do get approximately half of the revenue.

Dr. GOSAR. Not anymore. It is 52–48 since the Murray-Ryan budget. The royalties are split 52 to the Federal Government, 48 to the states, and those have been declining. And the reason they have been declining is because we have predicated not full use of the multiple-use doctrine.

That is part of the contract with the Federal Government with states and local municipalities. They pay for our education. They pay for our infrastructure. They pay for all those and above. So, what we see is the floundering of rural Arizona, rural Utah, and rural Colorado because we see the diminishing returns on that contract, so it is all of the above.

You brought up the Wilderness Society. And when you brought up the multiple-use doctrine, you also brought up timber sales. I would sure like to really see you guys on the forefront of adjudicating that instead of having these catastrophic wildfires, instead of going into court.

When we start utilizing the multiple-use doctrine, it was an agreement with western states that have these big swathes of Federal lands for the perpetuity of preserving those but also reinvesting in those local communities and states. I think we really need to make sure that we understand that properly, make sure that it is done right. I am all for doing things right, but I am also following the letter of the law.

Ms. CULVER. Interestingly, the letter of the FLPMA specifically says that “multiple use” means looking at the best balance of resources for the American public, not just those with the greatest economic return. So, I agree we need to consider both of those things.

Dr. GOSAR. Absolutely. Thank you.

The gentleman from Virginia is recognized.

Mr. BEYER. Thank you, Mr. Chairman.

I would like to add that addressing climate change might help with those catastrophic wildfires also, as would restoring the Forest Service budget, which has been progressively gobbled up with wildfire fighting, as you know.

And to put proper context with the decline in revenues in rural Arizona and rural Utah, places like that, Mr. Steed, in your written testimony, you pointed out that BLM sold just under 800,000 acres of oil and gas leases in 2017. That is with this progressive rollback of the Obama-era protections. It is an increase from 2016, but it is 40 percent lower than it was during the 8 years of the Obama administration. They did 1.35 million acres per year. In 2011, it was over 2 million acres, so two and a half times what you did last year.

So, even with Interior de-regulating across the board and trying to make things as easy as possible for industry, leasing is still down. What do you think is the predominant factor in that drop? Or how do you possibly assign that drop to things like master leasing plan?

Mr. STEED. I am not sure I am qualified to answer that question, sir. I can speculate that there are certainly market conditions that drive ups and downs. In addition to that, I would have to point out that the oil and gas industry is something that has long lag times between when you stand up something and when it actually comes to fruition. And my colleagues here can certainly address that as well.

However, I would say that I don't know if that is the best metric to whether we are doing our job or not. We are trying very hard to do the work of the American people, and we are trying very hard to facilitate oil and gas development, as well as renewable development, as well as promoting our multiple-use objectives for access, for hunting and fishing, and for all of the other things that we do at the BLM. So, I think that, in totality, we are trying as hard as we can to meet our obligations.

Mr. KUBAT. If I may, I would like to help Dr. Steed with this one.

Mr. BEYER. Sure.

Mr. KUBAT. In the sense of, from an industry perspective, is it not true that in the Obama era, in its administration, that the fewest number of parcels were offered for auction during that administration? That is accurate. And is it not also true that that probably correlates with the highest commodity pricing that we have seen in decades? That is also true. So, therefore, the price a company can pay for a leased parcel was at its apex during that period.

Mr. BEYER. That all sounds completely plausible. But I think the overall point is that, looking at the 800,000 acres in Fiscal Year 2017, it still compares unfavorably to the 1,350,000 each year through the Obama administration.

Mr. KUBAT. I think the point that is being missed here from a purpose of APDs is that we are a for-profit pursuit, and so we have to meet a cash-flow mechanism. We have to have a return on investment for our capital. We are not a special interest group that is a dark hole of capital that goes into it without an expectation of returns.

When we purchase a lease and then apply for an ADP, we are doing that with an anticipation of a return on that investment. So, when you have higher commodity prices, you are at an ability to pay more for a lease, which would correlate for the increased revenue from those lease sales during that period.

Mr. BEYER. Thank you.

Mr. KUBAT. That is the absolute correlation.

Mr. BEYER. I think you made my point beautifully, which is that the decline has to do with the price of oil and gas rather than with the environmental burdens or non-burdens that the Administration is proposing.

Mr. KUBAT. The amount you can pay is directly correlated with the price you receive for your products, so yes.

Mr. BEYER. That is exactly right. So, the higher the prices, the more money we can have for Arizona schools.

Ms. Culver, one of Chairman Bishop's top priorities is the SECURE Act, which would turn over all oil and gas permitting on U.S. Federal lands to the states. What will happen to BLM if we do that? And is this a good idea?

Ms. CULVER. I think the biggest concern is something that we touched on here on this panel, that the states do not have to provide an opportunity for public input, they don't have to look at environmental values, they don't have the National Environmental Policy Act, they don't have a multiple-use mandate. And that would really put our clean air and water in our public lands at risk if that were to happen. That is one of our biggest concerns.

Mr. BEYER. I imagine it would shrink the mandate of the BLM pretty significantly too.

Ms. CULVER. Well, maybe they could look more into inspection and enforcement of the existing wells with the additional personnel time they would have. That would be fine. As well as looking at the maintenance backlogs and how to better support recreation, wilderness, and wildlife on other lands too.

Mr. BEYER. Thank you very much, Mr. Chairman.

Dr. GOSAR. I am sorry, I have to intercede here.

So, Dr. Steed, if it was turned over to the states, they would still be required on numerous occasions for oversight, right? Please explain.

Mr. STEED. I think that you are accurate.

Ms. CULVER. It is exempted in the SECURE Act from the—

Dr. GOSAR. No, you would still be required under NEPA provisions and everything else. So, that is not an appropriate question. Would you agree, Mr. Schulz?

Mr. SCHULZ. Yes. From what I understand about the SECURE Act, the way it has been drafted, I think there is still very much a role for BLM to play in the leasing process.

Dr. GOSAR. So, Mr. Kubat, would you agree?

Mr. KUBAT. Yes, I would agree.

Dr. GOSAR. How about you, State Senator?

Mr. VAN TASSELL. I would say so.

Dr. GOSAR. I agree.

I think there is a lot of supposition in your statements, and I find that very misleading. I think, from that standpoint, we have to be very careful where we go.

Go ahead. I yield.

Mr. BEYER. Can I ask Mr. Kubat or Mr. Schulz or the Senator if they have read the SECURE Act?

Mr. SCHULZ. I have had a chance to read through most of it. Obviously, it has been several months since I last looked at it, but I did read through it.

Mr. VAN TASSELL. I have not read clear through it. I have seen parts of it, dealt with a part of it, but, primarily, I think I understand it.

I would also say that I have so much faith in—I think our local/state government entities, that would control the work with fracking and the oil industry, are as up to speed and on the ground as anyone could be.

Dr. GOSAR. Well, sorry that you had to hear from the two of us quite a bit, but you traveled all that way, so we wanted to make sure that you got your full share.

I thank the witnesses for their valuable testimony and the Members for their questions.

The members of the Committee may have some additional questions for the witnesses, and we will ask you to respond to those in writing. Under Committee Rule 3(o), members of the Committee must submit witness questions within 3 business days following the hearing by 5:00 p.m., and the hearing record will be held open for 10 business days for those responses.

If there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 4:46 p.m., the Subcommittee was adjourned.]

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE  
COMMITTEE'S OFFICIAL FILES]

**Rep. Lowenthal Submissions**

- Letter addressed to Chairman Bishop and Ranking Member Lowenthal from the Wilderness Society, National Parks Conservation Association, Earthjustice, et al. dated January 17, 2018.
- Letter addressed to Chairman Gosar and Ranking Member Lowenthal from the Outdoor Alliance dated January 18, 2018.

