

**Statement of  
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**House Committee on Natural Resources  
Subcommittee on Energy and Mineral Resources  
Hearing on  
*Legislative Discussion Drafts***

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Chairman Gosar, Ranking Member Lowenthal, and Members of the Subcommittee, I am pleased to join you today to discuss the Department's efforts and accomplishments about streamlining the Federal onshore oil and gas leasing and permitting processes to address backlogs and inefficiencies. The discussion drafts the Subcommittee is considering today have the potential to further bolster our work to streamline administrative processes, reduce duplicative actions, and eliminate redundant procedural reviews, and we look forward to working with the committee as these bills are refined. Our shared goals are to reduce burdens on industry and provide savings to the American taxpayers without sacrificing environmental protections.

While all potentially affected Federal agencies have not had sufficient time to meaningfully consider the details in the four discussion drafts, the Department supports the goals of the discussion drafts, to help modernize the Bureau of Land Management's (BLM) application of NEPA reviews for leasing, permitting and other actions associated with Federal oil and gas development. We appreciate the Committee's focus on finding reasonable solutions to expedite leasing and permitting on Federal lands. Under Secretary Zinke's leadership, the BLM has made it a top priority to unleash the vast domestic energy reserves on public lands in pursuit of America's energy dominance. By reviewing and streamlining oil and gas regulations and policies that encumber development, the Department is helping to lower energy costs, create jobs, and keep our economy strong for generations to come.

**Public Lands' Contribution to Energy Dominance**

The BLM manages about 245 million surface acres and 700 million subsurface acres, located primarily in 12 western states. The BLM administers this diverse portfolio of lands on behalf of the American people, in coordination with the U.S. Department of Agriculture's Forest Service, 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 hard-working Americans.

The BLM has 26 million surface acres currently under lease for oil and gas development, including over 94,000 active wells on about 24,000 producing leases. The BLM oversees

onshore oil and gas development on Federal lands and lands held in trust for the benefit of various tribes. Collectively, these lands contain world-class deposits of energy and mineral resources, which power millions of homes and businesses and support the broader economy. Sales of onshore oil and gas from Federal and Indian lands accounted for approximately 5.3 percent of all oil and 9.3 percent of all natural gas production in the United States in Fiscal Year (FY) 2017. 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 Federal and state governments 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. In FY 2017, production from Federal lands generated approximately \$2.2 billion in Federal royalties, rental payments and bonus bids. Roughly 48 percent of this revenue is shared with the state where the oil and gas activity is occurring, while the rest goes to the U.S. Treasury. States and counties in turn often use these funds to support the building and maintaining of roads, schools, and other important community needs.

Under Secretary Zinke's commitment to the advancement of energy dominance, the BLM now consistently conducts quarterly lease sales. In calendar year 2017, the BLM 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 and our efforts are generating real results. In calendar year (CY) 2017, the BLM approved 3,293 Applications for Permit to Drill (APDs) on Federal and Indian lands. By prioritizing permitting, modernizing its databases, and shifting resources across the BLM offices, the average APD processing time for an administratively complete application continues to drop – now averaging 113 days of which 50 days was spent with the BLM. And it does not stop there. With the Department managing one in every five acres of land in the United States, the BLM also has a tremendous role in permitting pipelines, power lines and right-of-ways (ROWs). To date, the BLM has approved roughly 360,000 miles of pipeline ROWs on public lands and approximately 10,000 miles of pipelines ROWs on other Federal agency land.

### **Path to American Energy Dominance**

The Trump Administration has made responsible energy development at the Department a priority. Executive Order (E.O.) 13783 (*Promoting Energy Independence and Economic Growth*) and E.O. 13795 (*Implementing an America-First Offshore Energy Strategy*) have together called upon the Department, and other Federal agencies, to increase access to and reduce burdens on energy development on public lands. E.O. 13807 (*Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects*) ignited an Administration-wide assessment as to how best to address inefficiencies in

current infrastructure project decisions that delay investments, decrease job creation, and are costly to the American taxpayer. By utilizing best science, best practices, and harnessing innovative technologies, the BLM encourages investment on public lands to expedite and increase domestic energy development, promote job growth, and keep energy prices low for American families and businesses.

As a result, the Department has been proactive in these efforts, specifically focusing on environmental reviews and permitting authorizations for energy and infrastructure projects. One such example is Secretarial Order (S.O.) 3355 (*Streamlining National Environmental Policy Act Reviews and Implementation of Executive Order 13807*), which provides a number of internal DOI directives to streamline environmental reviews, including setting page and time limits on all NEPA analysis.

Secretary Zinke also issued four S.Os. to reduce unnecessary and burdensome regulations while maintaining environmental protections and public health. The most overarching one is S.O. 3349 (*American Energy Independence*), which directed bureaus to examine specific actions impacting oil and gas development, and any other actions affecting other energy development. S.O. 3354 (*Supporting and Improving the Federal Onshore Oil and Gas Leasing Program and Federal Solid Mineral Leasing Program*) directed the BLM to hold quarterly oil and gas lease sales, and to identify ways to promote the exploration and development of Federal onshore oil and gas and solid mineral resources.

In addition, on May 31, 2017, Secretary Zinke signed S.O. 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 technically recoverable 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 S.O. 3360 (*Rescinding Authorities Inconsistent with Secretary’s Order 3349, American Energy Independence*) which rescinded several reports and manuals that were inconsistent with current policy.

In response to the Secretarial Orders, the BLM reviewed all regulations related to domestic oil and natural gas development on public lands – resulting in several rulemaking and policy changes. In December 2017, the BLM sought to suspend or delay certain requirements contained in its 2016 final Waste Prevention Rule as part of the goal of reducing the burden of Federal regulations on energy development. The suspension and delay stemmed from the BLM’s determination that immediate implementation of some parts of these rules would unnecessarily burden energy producers, especially those operators of marginal or low-producing wells. Shortly thereafter in February 2018, the BLM announced a proposal to revise the 2016 final Waste Prevention Rule, and is currently analyzing the comments it received from the public. Further, in December 2017, the BLM published a final rule to rescind the 2015 final rule on hydraulic fracturing after finding 32 of the 32 states with Federal oil and gas leases have regulations that address hydraulic fracturing. Finally, in January 2018, the BLM issued Instructional Memorandum 2018-034 (*Updating Oil and Gas Leasing Reform- Land Use Planning and Lease Parcel Reviews*). This new policy simplifies and streamlines the leasing

process, expedites offering of lands for lease, and ensures quarterly oil and gas lease sales are held.

Furthermore, the BLM is improving policies to minimize negative impacts on wildlife during energy, transmission, and infrastructure development to use the best available science and technologies. We believe the Department's efforts to accelerate and streamline NEPA compliance will also help continue to pave the path for American energy dominance.

### **Onshore Oil & Gas Legislative Discussion Drafts**

The Discussion Drafts the Subcommittee considers at this hearing would expand the use of categorical exclusions for certain oil and gas operations, revise processes for permitting on non-Federal surface estate when the subsurface mineral estate is less than half Federal, and authorize cost recovery for lease protests. While we have not yet fully assessed the potential impacts of these changes and will need time to coordinate with other affected agencies, I will outline some of our initial thoughts on the bills.

#### ***Expanding Use of Categorical Exclusions (The CX Draft)***

The CX Draft revises Section 390 of the Energy Policy Act of 2005 (EPAct 2005) to clarify the appropriate use of categorical exclusions (CXs) from further NEPA analysis. The CX Draft also authorizes a number of new CXs to improve processing of not only APDs, but also sundry notices, lease reinstatements, ROW applications, and subsequent modification applications.

The Department supports efforts to streamline the environmental analysis process associated with energy development, and believes CXs can be an effective tool for reducing delays and costs associated with permitting. The Department is fully committed to fulfilling NEPA responsibilities, but recognizes that some NEPA implementation has become an overly complex paperwork exercise, rather than a tool used to adopt sound decisions based on an informed understanding of environmental consequences as originally intended by Congress.

We appreciate the sponsor's efforts to work with the BLM in tandem to help identify opportunities to further increase efficiencies associated with energy development. The EPAct 2005 authorized certain CXs for activities conducted pursuant to the Mineral Leasing Act for the purposes of oil and gas exploration or development. The use of statutory CXs has helped reduce unnecessary paperwork and delays, thereby better utilizing the agency's limited resources. The Department notes that a CX is not an exemption or waiver of NEPA review, but instead is a tool to be used to help fulfill the NEPA review process in a more efficient manner. When used appropriately, CXs result in efficient and streamlined approval of agency actions that, individually or cumulatively, do not have significant impacts to the natural environment.

By further clarifying the situations where it is appropriate to use a CX and by providing consistent direction and authorization of when the BLM can use this tool, the CX Draft appears to respond to concerns identified by the U.S. Government Accountability Office. For example, the lack of clarity on key elements of Section 390 of EPAct 2005 led to differing interpretations, inconsistent application of the Section 390 CXs among BLM field offices, and resulted in

increased litigation. The Department supports clarifying that in instances where the BLM has already done site-specific NEPA and does not significantly deviate from that NEPA analysis, the bureau's requirements would be fulfilled.

The Department also appreciates the efforts of Congress to recognize that there are many instances where operators have opportunities to improve and streamline their operations in ways that would have minimal environmental impact from their existing footprint. An example of this includes adding new wells to an existing pad or needing approvals for additional infrastructure within an existing footprint. Providing the BLM with tools like these CXs, responds directly to stakeholders' feedback that development on public lands has become increasingly onerous and cost prohibitive.

### ***Permitting for Non-Federal Surface Land (Permitting on Non-Federal Land Draft)***

The Permitting on Non-Federal Land Draft eliminates the requirement that an operator submit to the BLM a Federal APD in instances where surface drilling and production operations and facilities are located on non-Federal surface estate if there is less than a 50 percent Federal mineral interest. Under the bill, the operator would be required to provide the Secretary of the Interior a copy of the state approved drilling permit, and NEPA, the National Historic Preservation Act (NHPA) and the Endangered Species Act (ESA) requirements for the exploration, development or production of oil and gas would no longer apply. The Permitting on Non-Federal Land Draft also specifies that nothing in the bill alters the amount of royalties due the United States from production of oil and gas or the Secretary's authority to conduct audits and collect civil penalties.

The BLM appreciates the goal of this draft bill to focus the BLM's review of Federal actions to Federal lands. The Permitting on Non-Federal Land Draft bill would no longer require the BLM to analyze surface impacts to private lands.

The BLM frequently encounters two different situations related to the development of Federal oil and gas leases involving private lands. First are the split estate operations where the drill site is located on non-Federal surface lands overlying the Federal oil and gas minerals. Secondly, as technology has increased, operations have allowed for development from predominantly private surface to private minerals, and only producing a marginal amount Federally-owned minerals. In both instances no Federal surface is impacted, yet, under current law, the BLM must require an APD for the Federal mineral production. For these APDs, the BLM still fulfills requirements of NEPA, NHPA, and ESA.

We appreciate the sponsor's efforts to reduce redundant state and Federal permit requirements and to eliminate uncertainty related to these APD and environmental review requirements as directional drilling technology has significantly reduced surface impacts. The Department recognizes that in instances where there is minimal Federal interest, it may not be necessary for the BLM to conduct NEPA and ESA review and for NHPA consultation to be triggered. In these instances, the Permitting on Non-Federal Land draft bill would explicitly state that analysis and consultation on non-Federal surface would not be required. The bill could allow the Department

to better use its limited resources while decreasing unnecessary analysis on non-Federal split estate lands.

These changes could help reduce burdens on industry and the BLM by making the planning and NEPA process more efficient and less expensive, and could allow the BLM to focus on surface and downhole implications where the estate is more fully within its jurisdiction. We also appreciate the sponsor's inclusion of language intended to maintain the Department's authority – via the Office of Natural Resources Revenue - to audit and invoke penalties for any misreported production under Federal Oil & Gas Royalty Management Act, in order to ensure that resources are properly accounted for and the American taxpayer is protected.

### ***Cost Recovery-Eliminating Superfluous Protests (Cost Recovery Draft)***

The Cost Recovery Draft directs the Secretary to recover costs associated with processing an administrative protest received for leases, ROWs, or APDs filed. The fees collected would help the BLM recover considerable costs when processing significant numbers of protests.

The BLM is committed to being a good neighbor that is responsible and accountable to our stakeholders. This includes providing the public ample opportunity to participate in the Federal decision-making process. Current BLM regulations, however, allow any party to file a protest on a BLM decision, including on a land use plan or on a subsequent decision to include a parcel in an oil and gas lease sale. While historically protests addressed parcel-specific 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, non-parcel specific, and a method of disrupting the offering of parcels at competitive sale. In FY 2017, 88 percent of parcels offered for lease were protested, compared to in FY 2012, when only 17 percent of parcels received protests. The number of parcels offered on the original sale notice decreased from 2,247 in FY 2012 to 1,427 in FY 2017. To date, many BLM state offices are receiving protests on every oil and gas parcel offered through the 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 disbursement to the State of New Mexico was delayed by approximately 250 days.

This uptick in these protests and resulting use of BLM resources to respond is a burden on oil and natural gas development on public lands. The cost recovery draft may help reduce non-parcel specific protests by encouraging interested parties to more carefully consider protests, and allow the BLM to conduct business in a more efficient manner. The BLM appreciates the subcommittee's work to address this issue.

## **Conclusion**

The Department 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. The Department supports the goals of the four discussion drafts to help streamline the BLM's permitting processes and to alleviate administrative burdens on private landowners by reducing unnecessary environmental analyses on non-Federal surface estate. Thank you for the opportunity to present this testimony. I will be glad to answer any questions.