

**Statement of
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**Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, and Mining
S. 607, End Speculative Oil and Gas Leasing Act**

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Thank you for the opportunity to testify on S. 607, the End Speculative Leasing Act, which generally prohibits the Bureau of Land Management (BLM) from leasing oil and gas resources on lands that have been identified as having low or no oil or gas potential in the BLM and U.S. Forest Service (USFS) land use planning process. The bill also establishes a process to review and update future oil and gas resource projections.

The Department supports the bill's goal to update the Federal onshore oil and gas leasing program in a manner that would ensure Federal lands offered for leasing are those that have the highest oil and gas resource potential and therefore serve the best interests of the American taxpayer. We believe that the oil and gas program must be managed with careful consideration of the multiple uses that occur on BLM-managed lands and recognize that offering low potential land for oil and gas development encourages speculation, creates uncertainty in nearby communities, and hinders the management of our public lands. As part of the Department's oil and gas program review, we are specifically considering whether leasing in low potential areas provides a fair return to the American taxpayer and appreciate the sponsor's attention to this very important issue.

Federal Onshore Oil & Gas Program

The BLM manages approximately 245 million surface acres, located primarily in 12 western states, and over 700 million acres of subsurface Federal mineral estate. As of today, the BLM manages 35,871 Federal oil and gas leases covering 24.9 million acres. Federal onshore oil and gas production accounts for approximately seven percent of domestically produced oil and eight percent of domestically produced natural gas. In fiscal year 2020, Federal onshore oil and gas development provided over \$2.4 billion in revenues, including \$2.27 billion in royalties, \$92.9 million in bonus bids, and \$23 million in rentals, meaning less than one percent of revenues came from rentals on non-producing leases, and less than four percent came from sales of new leases.

Oil & Gas Leasing on Federal Lands

The BLM's land use planning process, through the creation of Resource Management Plans (RMPs), provides a standardized procedure for integrating public input and government-to-government consultation with Native American Tribes with scientific analyses of natural

resource values and potential conflicts to develop a comprehensive blueprint for appropriate uses of our public lands, while ensuring that development is done in a way that minimizes environmental impacts and considers the public interest. Reasonably Foreseeable Development (RFD) scenarios, usually developed during the RMP process, project fluid mineral development potential (ranging from no potential to high potential) for the planning area. For purposes of determining availability for oil and gas leasing and gas development, lands within a planning area are identified as fitting into one of three categories: lands open under standard lease terms, lands open with restrictions, and lands closed to leasing.

While the RMPs identify appropriate uses of public lands, generally it is industry that nominates lands for leasing in the form of an Expression of Interest (EOI). Upon receipt of an EOI, the BLM determines whether lands are available for leasing under the governing RMP. After required environmental reviews and opportunities for public comment, the BLM holds competitive lease sales on eligible lands in accordance with applicable laws and regulations. If a lease receives no bids during the sale, it is available non-competitively to the first applicant who pays the first year's rental and an administrative fee. After a lease is issued, an operator may then submit a permit application to drill on their lease and begin working with the BLM on final surface use and downhole drilling plans.

In managing the Federal mineral estate underlying USFS lands, the BLM cooperates with the USFS to ensure that mutual management goals and objectives for surface protection and development activities are achieved. The BLM is responsible for providing the RFD for oil and gas leasing on USFS lands during the USFS land use planning process, and issues and administers oil and gas leases only after the USFS authorizes leasing for specific lands.

S. 607, End Speculative Leasing Act

S. 607 prohibits leasing lands that are not included in an RFD or have been identified as low or no oil and gas potential lands under an RFD. The BLM is required to ensure there is an RFD for all planning areas, as well to update existing RFDs and publish maps depicting the development scenario potential for all lands. The bill outlines specific criteria to be considered in a new RFD, including the existence of past and present exploration, the types of leases in the vicinity, the geological and geophysical information of the Federal lands, and the economic viability of the oil and gas resources. The bill defines Federal lands to include BLM-managed and USFS lands.

In addition, the bill requires the public be offered the opportunity to participate during the development of these RFDs, requires the Secretaries of the Interior and Agriculture to review and update all RFDs every 15 years, and prohibits leasing in areas where an RFD is older than 15 years. Finally, in circumstances where drainage of Federal oil and gas resources may occur from development on adjacent lands, the bill allows for leasing to prevent the substantial loss of those resources.

The BLM strongly supports the goal of improving the Federal onshore oil and gas leasing process and understands the benefits of offering for lease BLM-managed lands that are the most suitable for oil and gas development. The BLM recognizes that in the past fossil fuel

development has often been prioritized above other uses of our public lands, resulting in presumptions that all lands should be offered for leasing unless they were specifically placed off-limits through Congressional or administrative action. In one of his first actions, President Biden issued Executive Order (EO) 14008, *Tackling the Climate Crisis at Home and Abroad*, directing the Secretary to pause new oil and gas leasing on public lands and in offshore waters pending the completion of a comprehensive review and reconsideration of Federal oil and gas permitting and leasing practices. As part of our ongoing oil and gas program review, we are exploring which factors make lands better suited to being open to oil and gas leasing and included in future lease sales, as well as how to discourage speculation and ensure a fair return to taxpayers.

We believe it is important to consider the impact of oil and gas leasing on other important uses of public lands, including outdoor recreation, wildlife habitat, and landscape conservation. We also note that the presence of existing oil and gas leases, whether developed or not, can lead to the exclusion of other land uses, including certain recreation and conservation designations, during the planning process.

Further, over the years, the Government Accountability Office (GAO) has identified the Federal oil and gas program as “high risk” to fraud, waste, abuse, and mismanagement. One study from the GAO reported that noncompetitive leases, which would be expected to be more common on lands identified as having low oil and gas potential, rarely result in oil and gas production: only 1.2 percent of noncompetitive leases analyzed by GAO generated royalties during their primary terms. Given that BLM bears the full expense of analyzing and preparing nominated parcels for lease sales, and that onshore rental rates have not been adjusted in over 30 years, this raises the question whether leasing in low potential areas provides a fair return to the American taxpayer. As part of our review, we will be looking for improvements to the oil and gas program that ensure the public is receiving a fair return for the use of the public lands.

We would appreciate the opportunity to work with the sponsor on a number of technical modifications to clarify and aid in the bill’s implementation. For example, the BLM appreciates the bill’s provision that allows for the BLM to address instances where Federal resources require protection due to drainage from adjacent producing wells, and we would recommend the sponsor utilize the drainage definition included in the BLM’s current regulations (43 CFR §3160.0-5). The BLM and USFS would also appreciate the opportunity to work with the sponsor on the scope of the RFD reviews in coordination of other Federal land management planning policies. Finally, we would like to work with the sponsor to clarify the variance process outlined in Section 7.

Conclusion

Thank you for the opportunity to provide this testimony in support of modernizing the Federal oil and gas program to strike the right balance for lands offered for leasing and fulfill our obligations to taxpayers.