

**Statement of
Michael D. Nedd
Deputy Director, Operations
Bureau of Land Management
U.S. Department of the Interior**

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

***“Examining the Biden Administration’s Mismanagement
of the Federal Onshore Oil and Gas Program”***

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Chairman Stauber, Ranking Member Ocasio-Cortez, and Members of the Subcommittee, thank you for the opportunity to provide this testimony on the Bureau of Land Management’s (BLM) oil and gas program.

As the steward for more land than any other Federal agency, the BLM plays a critical role in managing our Nation’s natural resources, including oil and natural gas, on behalf of the American people. In fiscal year (FY) 2022, the Federal onshore oil and gas program accounted for nearly 14 percent of total U.S. onshore oil production and 8.8 percent of total U.S. onshore gas production. However, the BLM’s current oil and gas regulations, which were last updated in 1988 and contain fiscal terms that were set more than 70 years ago, have failed to provide a fair return to the American people. These outdated regulations also do not support a balanced management approach that addresses the climate challenges facing our public lands today.

Additionally, the Government Accountability Office (GAO) and the Department of the Interior’s Office of the Inspector General (OIG) have identified significant fiscal and stewardship concerns with the BLM’s oil and gas leasing program. As a result, the program has been on the GAO’s high-risk list since 2011.

The BLM is currently in a unique position to help achieve the climate and economic goals outlined by the Biden-Harris Administration through science-based, balanced management of public lands and waters. We are in a moment where we have an opportunity to rebalance our decision making and ensure that we meet the Department’s principal charge: to manage our lands and resources not merely across fiscal years, but across generations. As we transition to a clean energy economy, it is essential that the BLM’s oil and gas management promotes the highest industry, environmental, and public engagement standards, including those related to environmental justice and tribal engagement, while securing a fair return for the American taxpayer.

For these reasons, as well as based on direction from Congress – through the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL, Public Law 117-58) and the Inflation Reduction Act (IRA, Public Law 117-169) – the BLM has taken steps to modernize its oil and gas program through policy and regulation updates.

BLM Overview

Since its inception in 1946, the BLM has served as a steward of our public lands and resources. The passage of the Federal Land Policy and Management Act of 1976 (FLPMA) provided the BLM with the multiple use and sustained yield mandate that guides all of the BLM's land management decisions. Driven by our mission, the BLM sustains the health, diversity, and productivity of the nation's public lands for multiple uses, such as conventional and renewable energy development; livestock grazing; conservation; mining; watershed protection; and hunting, fishing, and other forms of recreation. This multiple-use and sustained yield mission enables the BLM to contribute tremendously to economic growth, job creation, and domestic energy production, while generating revenues for Federal and State treasuries and local economies, and allowing for a thoughtful and balanced approach to management of our public lands.

Under its multiple use and sustained yield mission, the BLM manages approximately 245 million surface acres across the nation, located primarily in 12 western states. The BLM is also responsible for managing 700 million subsurface acres, many of which are overlain by properties managed by other Federal agencies, such as the Department of Defense and the U.S. Forest Service. Further, of these 700 million subsurface acres, approximately 57 million acres are split estate lands, where the surface estate is in private ownership and the BLM manages the subsurface minerals.

BLM-managed public lands provide energy from diverse sources – including renewable sources such as wind, solar, and geothermal – as well as from nonrenewable sources such as coal, oil, and gas. In FY 2022, the BLM permitted 5,700 megawatts (MW) of new electricity generation capacity from wind, solar, and geothermal sources on public lands, and the BLM is on track to make decisions on over 22,000 MW this fiscal year and next. Energy production from Federal lands in FY 2022 also included 270 million tons of coal, roughly 431.6 million barrels of oil, and 3,388 billion cubic feet of natural gas. Overall, the Department estimates that commercial activities on public lands generated more than \$201 billion in economic output in 2021, supporting nearly 720,000 jobs. Public lands are the economic driver for many communities across the west and a significant generator of tax revenues that support state and local governments.

Onshore Oil & Gas Program

The BLM manages the Federal onshore oil and gas program with the goals of facilitating safe and responsible energy development while providing a fair return for the American taxpayer. The BLM's land use planning process, implemented through the development of Resource Management Plans (RMPs), provides a standardized procedure to allow for multiple use of our public lands, while also ensuring that such use minimizes environmental impacts and considers the public interest. 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 currently manages over 34,400 Federal oil and gas leases covering 23.7 million acres. Nearly half of the acreage is producing, from roughly 89,350 wells, and over 11 million acres, are non-producing – i.e., leased but the lessees have chosen not to develop them.

Since the start of the Biden-Harris Administration, the BLM has approved over 9,500 Applications for Permit to Drill (APDs). As a result, there are currently thousands of APDs approved and available to drill. In FY 2022, the BLM approved 3,010 of 3,729 APDs received and Federal onshore oil and gas development provided over \$7.61 billion in revenues from the following: \$7.1 billion in royalties, \$12.8 million in bonus bids, and \$21.6 million in rentals. Consistent with historical trends, the vast majority of revenue is generated from producing leases.

Onshore Oil & Gas Leasing Process

While lands are identified as open or closed to leasing generally in RMPs, the oil and gas industry generally nominates lands for leasing in the form of expressions of interest (EOIs), a request that certain lands be included in a competitive oil and gas lease sale. Upon receipt of an EOI, the BLM verifies that the EOI contains the required information, including the required non-refundable \$5/acre fee established by the IRA, reviews the land status to ensure the lands are eligible for leasing per the Mineral Leasing Act and the RMP, and configures the EOI into appropriate lease parcels. After environmental analysis and public input, the BLM then holds competitive lease sales on nominated and eligible lands in accordance with applicable laws and regulations.

Oil and gas leasing is available on the vast majority of public lands managed by the BLM outside of the National Conservation Lands system. Between 2013 and 2022, the BLM offered approximately 40.3 million acres for lease, but received bids on only approximately 9.5 million acres, or 23.5 percent. In 2023, the BLM has resumed its leasing schedule including holding seven onshore oil and gas lease sales in five different administrative state offices. These sales offered 283 parcels covering nearly 223,000 acres, and resulted in 194 parcels covering just over 127,000 acres being sold. In other words, 57 percent of acres offered have been sold in 2023 as of September 12, 2023, more than doubling the performance of the BLM's lease sales due to offering lands with higher likelihood for successful development. The BLM has five additional sales planned in 2023.

Reforming the Federal Onshore Oil & Gas Program

The Biden-Harris Administration has made it a priority to reform the Federal onshore oil and gas program to ensure that it is operating in the best interest of the American people. In one of his first actions, on January 27, 2021, the President signed Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, which directed the Department of the Interior (Department) to review Federal oil and gas permitting and leasing practices.

To help inform that review, the Department analyzed studies, some going back decades, of the Federal oil and gas program's deficiencies, including from the GAO and the OIG. Following this extensive review and after conducting diverse and robust public engagement, the Department released its "Report on the Federal Oil and Gas Leasing Program" (Report) identifying necessary reforms to the fiscal terms, leasing process, and other requirements related to the Federal oil and gas programs.

Bipartisan Infrastructure Law & Inflation Reduction Act

The BIL and the IRA are once-in-a-generation investments in our public lands. The BIL, which was signed into law on November 15, 2021, contains several provisions that fund Department initiatives to address legacy pollution from oil and gas development that benefit the communities we serve directly. This includes establishing funding to monitor idle wells and plug, remediate, and reclaim orphaned wells on Federal lands. The BLM has used this funding to successfully award contracts to plug and remediate associated lands for orphaned wells in Utah and California, and the Department continues remediation efforts across the country.

Under the IRA, Congress coupled the development of renewable energy to the leasing of oil and gas, requiring oil and gas lease sales to occur prior to issuing grants for wind or solar development. In addition, the IRA directed several fiscal reforms – many of which are consistent with recommendations the Department included in its Report – including: increasing royalty rates for new oil and gas leases from 12.5% to 16.67%; increasing minimum rental rates to \$3.00 per acre for the first 2 years, \$5.00 per acre for years 3 to 8, and \$15 per acre for remaining years; increase minimum lease bids from \$2.00 per acre to \$10.00 per acre; establishing a new fee on EOIs of \$5.00 per acre; and eliminating non-competitive leasing of Federal lands for oil and gas.

Proposed Onshore Oil & Gas Leasing Rule

Prior to the enactment of the IRA and BIL, the GAO and the OIG reviewed and audited the BLM's Federal onshore oil and gas program to identify problematic areas in this program and recommended actions to address them. As part of the GAO's and OIG's numerous respective audits, they highlighted weaknesses in the onshore program's fiscal framework and recommended that the BLM take steps to ensure that the American public receives a fair return from oil and gas activities on public lands.

In response to the enactment of the IRA, the BLM issued updated guidance to its field professionals to enable consistent implementation of the IRA's changes to the agency's oil and gas programs and in July 2023, the BLM published its proposed Onshore Oil and Gas Leasing Rule. These proposed regulations would modernize the program, provide a balanced approach to public lands management, and ensure a fair return for American taxpayers. The updates codify the oil and gas management provisions in the IRA and BIL, and will help implement the reform agenda laid out by the Department's Report on the Federal Oil and Gas Leasing Program. The proposed rule would be the BLM's first comprehensive update to the Federal onshore oil and gas leasing framework since 1988. To date, the BLM has hosted four of five planned public meetings, and is currently accepting comments on the proposed rule through September 22, 2023.

Fiscal Reforms

As noted, independent studies have consistently demonstrated that the BLM's oil and gas leasing framework fails to provide an adequate return to the taxpayer for the use of public lands and resources. The proposed rule would update outdated fiscal provisions and align the BLM's regulations with the fiscal reforms included in the IRA. Additionally, the proposed rule would reduce the nonoperational period after which a well is considered idled to 4 years (consistent with the BIL); require operators of nonoperational wells to help the BLM reduce its inventory of

idled wells through improved identification, tracking, and proactive management; and revise the onshore program's cost recovery mechanisms to ensure that the program's application fees reflect actual processing costs.

Bonding

The GAO has issued several reports recommending the BLM address risks from insufficient bonding, including as recently as September 2019 (GAO-19-615). The GAO found the bonds held by the BLM were insufficient to cover the costs of reclaiming orphaned wells, shifting reclamation costs onto taxpayers, and that 84 percent of the bonds it reviewed were not sufficient to cover reclamation costs. The GAO also determined the bond amounts, which were usually set at the regulatory minimum, “[do] not account for variables such as the number of wells [the bonds] cover or other characteristics that affect reclamation costs, such as well depth.”

The BLM's current bonding requirements have not been updated since the 1950s and 1960s. Current lease bond amounts do not meet the actual costs of cleanup in the event an operator goes out of business or otherwise fails to complete required plugging and reclamation – costs that are then borne by the American taxpayer. The proposed Onshore Oil and Gas Rule would increase the minimum lease bond amount from \$10,000 to \$150,000; increase the minimum statewide bond amount from \$25,000 to \$500,000; eliminate nationwide and unit operator bonds; and include additional protections for surface owners. Phase-in periods would be provided for existing operations to come into compliance with new bonding requirements.

Responsible Leasing & Development

Further, the proposed rule would focus agency resources on areas with the highest potential for development and with the fewest multiple-use conflicts, allowing the BLM to better manage public lands for multiple uses and sustained yield. The proposed rule will incorporate preference criteria into oil and gas regulations to provide clarity and consistency in the BLM's decision-making process for leasing; direct leasing and development towards areas with higher oil and gas potential; and avoid leasing in areas with sensitive cultural, wildlife, and recreation resources.

The proposed rule also would ensure oil and gas lessees are financially and technically capable of responsible development, as required by the Mineral Leasing Act, and expressly stated in the BLM's oil and gas lease form. This will be realized through incentivizing diligent development by responsible and qualified parties; limiting the use of lease suspensions and drilling permit extensions; and strengthening oversight over lease transfers.

Arctic Oil & Gas Development

The Biden-Harris Administration recently announced significant steps to protect the Arctic National Wildlife Refuge (Arctic Refuge) and more than 13 million acres in the National Petroleum Reserve in Alaska (NPR-A). In the Arctic Refuge, Secretary Haaland recently authorized the cancellation of seven oil and gas leases issued by the previous administration in the Coastal Plain. This decision comes after President Biden, through Executive Order 13990, directed the Department to review oil and gas leasing in the Refuge, “[i]n light of the alleged legal deficiencies underlying the program.” In response, Secretary Haaland, in S.O. 3401, directed a new, comprehensive analysis of the potential environmental impacts of the Coastal Plain Leasing Program. Since that time, two of the three companies holding leases separately

requested to relinquish their leases and receive a refund. The remaining seven leases held by the remaining lessee covered 365,000 acres in the Coastal Plain.

The draft supplemental environmental impact statement released by the BLM and the U.S Fish and Wildlife Service contained analysis that informed the Department's determination that the 2021 lease sale was seriously flawed and based on fundamental legal deficiencies, such as insufficient analysis under the National Environmental Policy Act, including failure to adequately analyze a reasonable range of alternatives and properly quantify downstream greenhouse gas emissions; and failure to properly interpret the Tax Cuts and Jobs Act (P.L. 115-97). Accordingly, Secretary Haaland determined that the leases issued by the previous administration in the Arctic Refuge should be cancelled.

To the west of the coastal plain, the BLM is proposing a new rule to govern the management of surface resources and Special Areas in the NPR-A, consistent with its duties under the Naval Petroleum Reserves Production Act of 1976 (NPRPA), FLPMA, and other authorities. Under NPRPA, Congress directed the BLM to balance oil and gas development with the management and protection of sensitive landscapes – known as Special Areas – and surface resources across the reserve. The proposed rule would revise the framework for designating and assuring maximum protection of Special Areas' significant resource values, as directed in the NPRPA, and would protect and enhance access for subsistence activities throughout the NPR-A. It would also incorporate aspects of the NPR-A Integrated Activity Plan that was approved in April 2022. Upon finalization of the proposed rule, the Administration will follow this proposed process to inform the creation or expansion of additional Special Areas in the NPR-A. The proposed rule would have no effect on currently authorized oil and gas operations in the NPR-A. The BLM is currently accepting comments on the proposed rule through October 23, 2023.

Conclusion

The BLM appreciates the Subcommittee's interest in the Federal onshore oil and gas program and looks forward to implementing Congress' direction through the BIL and IRA, as well as our proposed regulations, which will collectively bring the program up to modern standards. The BLM remains committed to ensuring that as we transition to a clean energy economy, the oil and gas program serves the best interests of the American people by promoting the highest industry, environmental, and public engagement standards and securing a fair return for the American taxpayer: the owners of our shared public lands and the resources they provide.