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The Honorable Mitch McConnell
Majority Leader
United States Senate
U.S. Capitol Building, Room: S-230
Washington, DC 20510

The Honorable Paul Ryan
Speaker
United States House of Representatives
U.S. Capitol Building, Room: H-232
Washington, DC 20515

Dear Majority Leader McConnell and Speaker Ryan:

On behalf of the New Mexico State Land Office (NMSLO), I am writing to express my strong support for use of the Congressional Review Act (CRA) to repeal the Bureau of Land Management's (BLM) Waste Production, Production Subject to Royalties, and Resource Conservation rule (commonly referred to as the BLM methane Venting and Flaring Rule). The Joint Resolution will nullify the Bureau of Land Management (BLM) rule by the same name published in the Federal Register on November 18, 2016. My fiduciary duty to the New Mexico State Land Trust requires that I again voice my strenuous opposition to the rule as adopted on the basis that it will negatively affect royalty revenue generation at a time when New Mexico's school children can ill afford such a decrease in funding.

New Mexico's state trust lands were granted to New Mexico by Congress under the Ferguson Act of 1898 and the Enabling Act of 1910 for the financial support of the state's schools and other public institutions. The NMSLO is an independent state agency that manages these lands, including 13 million acres of mineral estate. Oil and gas development is the single largest generator of income from New Mexico's state trust lands, accounting for over 92% of revenues

collected by the NMSLO and distributed to the trust beneficiaries, including New Mexico's school children. Public education in New Mexico receives the most trust benefit from these funds, with healthcare and other public institutions also benefitting as a result of the activities of the NMSLO. Given the state's distinctive checkerboard division of land ownership, New Mexico state trust lands (and corresponding mineral estates) are adjacent to or scattered among federal and tribal minerals, and are contained in multiple federal oil and gas units, communitization agreements (CA) and commingling orders within New Mexico. The revenues of the NMSLO are highly dependent on units and CAs, with 82% of oil and gas royalty revenues deriving from such agreements and a vast majority of such agreements containing both NMSLO and federally-governed mineral interests. The school children of New Mexico therefore have considerable financial exposure to any actions taken by the BLM that impact such agreements, especially given that the rule as adopted gives BLM regulatory authority over NMSLO-managed lands. New Mexico is also somewhat unique among western states on the basis of near parity in production levels between state and federally-managed lands, as opposed to either the state or federal government being overwhelmingly dominant in the area of hydrocarbon production, further demonstrating the interdependence of the revenues generated by the NMSLO and the BLM.

BLM asserts that the rule will result in *"increased opportunities for royalties"*. While the BLM has spent considerable time in attempting to quantify increases in royalties associated with capture of fugitive methane and identifies several net benefit projections that supposedly realize positive cash flow in the rule, the agency has disregarded the fact that its economic models are flawed at best, and intentionally erroneous at worst. Assigning economic value to the "social cost of methane" does nothing to fund New Mexico's schools, not does it generate royalty and severance tax revenue. Furthermore, the price of \$4/mcf of natural gas used in the calculations on which the rule is based is a significantly higher price than what has been achieved in the commodity market in recent history. Of particular importance to NMSLO is that (based on these flawed projections and assumptions) BLM has blatantly failed to address the issue of thousands of marginal wells being abandoned in New Mexico when the rule renders them uneconomic to operate. A very basic tenet of economics that the BLM fails to consider strongly indicates that producers will not invest the capital necessary to upgrade low volume wells in an attempt to meet the rule's requirements and then subsequently operate said wells for an economic loss over the long term. On the contrary, the NMSLO has been informed by many producers operating on NMSLO lands that such a scenario would eventually lead to premature abandonment of producing oil and gas wells and the subsequent stranding of hydrocarbon reserves on state trust and federally-managed lands. Therefore, the NMSLO is convinced that this rule will actually have the opposite effect regarding royalties than that stated by the BLM and will result in substantial royalty losses.

When considering the use of the CRA, let's assign blame where blame is due. In 2015, a Gas Capture Plan Committee (GCPC) was formed in New Mexico with the mandate of studying reductions in flaring and assessing the feasibility of requiring gas capture plans for new drilling permits. The GCPC consisted of representatives from the New Mexico Oil Conservation Division (NMOCD) of the Energy, Minerals and Natural Resources Department, the Energy Conservation

and Management Division (NMECMD) of the Energy, Minerals and Natural Resources Department, the New Mexico Environment Department (NMED), the BLM and industry representatives. One of the key findings identified by the GCPC was that the amount of time required to obtain a federal right of way (ROW) from the BLM contributed considerably to flaring on federally-managed lands, with operators waiting six months to a year on average for ROW approvals necessary to even begin construction of natural gas gathering and transport systems. Timeframes for approval on tribal lands are even longer, on average. It is therefore hypocritical of the BLM to find fault with hydrocarbon producers and attempt to impose essentially punitive and costly new rules when its own actions have been responsible for a large part of the problem. The recent history of the NMSLO indicates that there is another path forward on this issue. Prior to my administration, the NMSLO experienced similar delays in ROW permitting and was also responsible for developmental hindrances on a comparable scale. Since January, 2015, however, NMSLO turnaround times for ROW approvals has been reduced from that similarly inefficient timeframe perpetuated by previous administrations down to a forty-five day total transit time from receipt of a completed application to issuance of an approved ROW, with expedited applications processed even more quickly. This represents an 81% reduction in time that industry spends waiting for permission to begin development projects, while still maintaining all necessary protections for cultural and environmental resources. The NMSLO is committed to improving efficiencies in an effort to maximize revenue for our beneficiaries, and would therefore be amenable to working with the BLM to share the successful processes which resulted in such efficiencies in the hopes of eliminating some of the bottleneck that has developed at the BLM with simple, straightforward process solutions that should be implemented prior to instituting the drastic and unproven measures outlined in the rule.

While the purported aim of this rule is to reduce greenhouse gas (GHG) emissions and capture additional royalties, it will in fact have an unintended detrimental environmental impact on lands used for oil and gas production and cause the NMSLO to expend significant funds in an effort to protect state trust lands. As previously stated, the rule will render thousands of wells in New Mexico uneconomic, especially given the current commodity price environment, and has the potential to push operators already experiencing such historically severe economic conditions into bankruptcy. NMSLO has already witnessed multiple bankruptcies among operators and lessees, and has also unfortunately experienced the ensuing environmental damage caused when wells and facilities are abandoned in place for lack of operational funding. Given the fact that the rule has now been implemented, it is easily conceivable to envision further bankruptcies within the oil and gas industry and a corresponding dramatic increase in the number of abandoned wells that would then become the responsibility of the state and federal governments, with all associated liabilities. Neither the NMSLO nor the NMOCD (which is the regulator tasked with plugging and abandoning orphaned wells and maintains a fund specifically for that purpose) currently have the capability to deal with such a scenario, and the problems associated with enacting the majority of recent rules proposed by the BLM will only compound these issues by further increasing the burden on the NMSLO and other cooperating agencies in New Mexico. The state trust could be irreparably harmed by even a small-scale increase in such unfortunate occurrences and the NMSLO is therefore committed to keeping

existing wells productive and generating revenue, rather than creating nothing but environmental liability on state trust land.

While I have outlined some of the most significant detrimental effects of the rule above, I am also very concerned about the blatant lack of authority that BLM has under the Minerals Leasing Act to regulate methane emissions, and the subsequent federal overreach that occurred as BLM recklessly and hurriedly pursued adoption of this rule in the waning days of the Obama administration. Congress clearly delegated the task of methane emissions regulation to the Environmental Protection Agency (EPA) under the Clean Air Act in 1963. Furthermore, the EPA is separately working on fugitive emissions as part of its Subpart OOOOa on oil and natural gas production operations. This rule was unnecessary, rushed and possibly duplicative of efforts already underway at the EPA.

I appreciate the House Natural Resources Committee and Chairman Bishop for doing the necessary Congressional oversight to show the regulatory overreach by BLM into the regulation of methane. Again, I strongly urge Congress to repeal this unnecessary and costly rule.

Sincerely,



Aubrey Dunn
Commissioner of Public Lands