Wyoming County Commissioners Association

Written Statement of

The Honorable Bill Novotny, III
Commissioner
Johnson County, Wyoming

On behalf of the Wyoming County Commissioners Association

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

Before the
U.S. House Committee on Natural Resources
Subcommittee on Energy and Mineral Resources

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Chairman Stauber and Ranking Member Ocasio-Cortez, thank you for holding a hearing to discuss emerging management issues impacting the onshore oil and gas program.

My name is William J. Novotny, III, I represent the fourth generation of my family to call Wyoming home. I currently serve as the Chairman of the Johnson County Board of County Commissioners and the Wyoming County Commissioners Association President. I also serve on the Board of Directors for the National Association of Counties. I am the owner of a public affairs firm where I represent a major sector of Wyoming's travel and tourism economy. My family also raises cattle and sheep. I am here today on behalf of the Wyoming County Commissioners Association.

In 1884, six years before Wyoming became a state, the first oil well was drilled in modern day Fremont County. The Great Seal of the State of Wyoming, adopted in 1893, includes "oil" as one of the four industries on the scrolls wrapping around the pillars symbolizing our economy. Over a hundred years later, oil and natural gas continue to be vital industries for Wyoming supplying valuable revenues for county and state government, providing citizens well-paying jobs, and delivering to our nation affordable reliable energy.

Taxes derived from oil and gas development in Wyoming constitutes a significant portion of state and county revenue used to pay for public education and essential services, including roads, fire protection, emergency medical services, courthouses, libraries, landfills, hospitals, law enforcement, airports, recreation, and senior citizen centers.

Oil and gas companies operating in Wyoming are assessed property taxes by counties and severance taxes by the state. Although they are called "taxes" both are more akin to a royalty because production is taxed regardless of whether an operator makes a profit. Property or Ad Valorem taxes vary by county and range from 6-7.3% calculated by the gross revenue of the previous year's production and the value of tangible equipment and improvements. Severance taxes are calculated at 6% of gross revenue in the same manner as royalty taxes (gross revenue minus transportation and gas processing cost). Federal Royalties are also deducted from the gross revenue for the purpose of calculating severance taxes.

Property taxes on oil and gas account for over 40% of the total property taxes levied in Wyoming, and over 55% of property taxes levied in Johnson County. In 2020, the property taxes collected by counties exceeded $600 million. Severance taxes collected by the state in 2022 topped $275 million. However, when adding in federal lease revenues, federal and state royalties, sale and use taxes, and conservation taxes, the industry contributed $1.23 billion in taxes to state and local governments.

The oil and gas industry also supports a significant amount of direct and indirect employment across the state. Based on a studies prepared by the BLM and PricewaterhouseCoopers, Wyoming's oil and natural gas industry supports 35,000-58,000 jobs and provided up to $5.6 billion in wages in 2021. For every direct natural gas and oil job the industry generates 1.9 additional jobs in services, wholesale, construction, transportation and manufacturing. According to the US Bureau of Labor Statistics and the Wyoming Department of Workforce Services, the

Wyoming labor force numbers around 300,000 people. Therefore, by the numbers, the oil and gas industry in Wyoming supports around 12-19% of the states total workforce.

Wyoming is the 10^{th} largest state by land mass, covering approximately 97,814 square miles or 62.6 million acres. The Bureau of Land Management (BLM) manages approximately 18 million surface acres and an additional 41 million mineral acres across the state or, stated another way, approximately 2/3rds of Wyoming's subsurface. Such substantial federal land and mineral management creates a hodgepodge patchwork of mineral ownership with state, private, and federal lands and minerals across the state.

This interwoven ownership pattern of federally managed minerals with state and private minerals means that oil and gas has to be coproduced. While environmentally and economically prudent, Wyoming's two-mile horizontal development often generates a federal nexus. Consequently, most of Wyoming's oil and gas production includes federally managed minerals. Wyoming's oil and gas production is from federally managed land accounts for between 72-74% of the entire state's production.

The U.S. Department of the Interior (DOI) Natural Resources Revenue Data reports that Wyoming federal lands produced $1,656,396,384.55 in revenue for the year 2022. DOI dispersed $785 million to the State of Wyoming, primarily revenue from oil and gas production. While 2022 saw an increase in proceeds from previous years, the increase is associated with higher oil and gas prices, not necessarily with greater production. In fact, Wyoming's gas production fell from over 1.3 TCF in 2019 to just over 1 TCF in 2022. Over that same time, oil saw a slight increase of 1 million bbls.

Proposed changes in the federal onshore oil and gas program stand to erode county revenues, eliminate good paying jobs, and will impair all oil and gas development in Wyoming. While these changes won't always occur overnight, federal mismanagement will cause a substantial impact to Wyoming's economy.

It is important to understand that changes in federal regulations do not solely impact federal managed lands and minerals. Nearly all development in Wyoming, including on private and state land, is impacted by the administration's management decisions. Attempting to thread the needle around federally managed lands to avoid a federal nexus is imprudent, impractical, and virtually impossible. Even if a wellbore doesn't penetrate federal minerals, gathering lines, pipelines, transmission lines, and roads to get product to the market inevitably run into federal management at some juncture. The federal onshore oil and gas program directly impacts the ability for the oil and gas industry on private and state lands to exist in Wyoming. Private and state minerals are held hostage when they are in a drilling and spacing unit with federal minerals.

The stated objective of oil and gas onshore operations regulations 43 CFR 3160.4 is to "promote the orderly and efficient exploration, development, and production of oil and gas." The administration's approach to bonding, leasing, and permit issuance is neither orderly or efficient.

Bonding
The BLM manages approximately 94,000 federal wells including 27,383 in Wyoming. Operators are required to plug and reclaim federal wells. If an oil and gas company goes bankrupt and is unable to pay for the reclamation of its wells, the BLM conducts a record title search for past owners to assess liability. In the rare scenario where the BLM is unable to find others to assess liability, the cost of reclamation falls to the operator posted bond and the agency. Each year around 15-24 wells are reclaimed by the BLM amounting to .000159 to .000255 percent of the wells they manage. The BLM estimates its annual liability for reclamation to be between $1.4-3.8 million or an average of $2.7 million. Compared to the BLM's gross revenues from oil and gas production revenue which averaged $8.6 billion over the last two years, the $2.7 million spent on reclamation constitutes a liability of .02-.05%.

To remedy its $2.7 million liability, the BLM recently proposed its Fluid Mineral Leases and Leasing Process Rule (Proposed Rule). The Proposed Rule would substantially increase bonding amounts for federally regulated wells across the country.

While the BLM's estimation of its risk is heightened above any realistic scenario, it also significantly downplays the cost to industry and fails to encapsulate the impact of increased bonding. In the Proposed Rule, the BLM assumes a scenario that all its 94,000 federal wells in operation will need to be reclaimed by the BLM at the exact same time. It provides no basis for its assumption that 94,000 wells will need to be reclaimed at once, and it is certainly not based in its experience of reclaiming less than two dozen wells annually.

On the other hand, the BLM alleged the cost to industry would only be $4.7-9.1 million. Without justification, the BLM assumed that every company that operates federal wells would have access to a low-cost surety bond. While some larger companies will likely have access to the surety market, smaller operators often do not have the collateral necessary to obtain large surety bonds which will require more expensive forms of bonding.

The BLM in Wyoming currently holds $85 million in bonding. At current bonding levels, 84 percent of operators in Wyoming are able to utilize surety bonds, with the remaining 16% of operators having to post dollar-for-dollar coverage. This equates to $71,400,000 covered by sureties at a cost of $2,499,000 in annual interest payments and the remaining $13,600,000 paying dollar-for-dollar. Assuming the percentage of operators able to retain sureties is able to remain the same with the increased bonding requirements, the Petroleum Association of Wyoming calculates that the cost of bonding under the Proposed Rule would jump to $57 million in annual interest payments for sureties and another $311,070,880 for those operators posting dollar-for-dollar bonding.

To help illustrate the impact, it is important to know that 85 percent of Wyoming operators in the oil and gas industry are considered small businesses, as defined by the Small Business Administration. One-third of the companies in Wyoming produce less than two percent of statewide production. These companies, although currently profitable, will be unlikely to absorb such an astronomical increase in bonding. The Wyoming Oil and Gas Conservation Commission has conservatively estimated that over 100 companies operating in Wyoming will have required minimum bond amounts that exceed their annual gross revenue.

Ultimately, the most likely outcome of such a substantial bonding burden is that smaller operators with lesser producing wells will be forced to shut-in their wells prematurely. Prematurely shutting in wells shudders businesses, leaves valuable oil and gas in the ground, and stops tax generation and job creation. For larger companies, the cost of doing business in Wyoming will have increased making future investments in the state less likely.

Leasing.
Leasing is a major component of any oil and gas operation. Unfortunately, since the first days of President Biden's administration, the BLM has engaged in unlawful pauses of new leasing and has otherwise failed to uphold the requirements of the Mineral Leasing Act. The BLM lease sales that have occurred have seen substantial acreage "deferred" at the whim of the agency. After paying to nominate acreage, companies have been left without information on how to remove deferred acreage out of administrative purgatory. To put a number on the problem, deferred leasing reduced the otherwise available lands for leasing in Wyoming by 61%.

Curtailment and deferment of leasing poses short- and long-term consequences for Wyoming. Immediately, the state is stripped of its portion of bonus revenues from lease sales. In the longer term, operators are unable to plan the necessary orderly development of lands. The Wyoming Oil and Gas Conservation Commission has seen numerous applications where operators have requested to modify drilling and spacing units to try and avoid certain federal acreage or have shortened laterals to not penetrate federal minerals. While these modifications may be necessary for development, the Wyoming Oil and Gas Conservation Commission must weigh whether it creates waste or will harm correlative rights.

Proponents of leasing moratoriums erroneously claim that the industry has enough land to drill on. However, this argument ignores several fundamental considerations for development. Before operators start a drilling operation they must secure a continuous land position from which to operate. This includes leasing private, state, and federal mineral rights. Operators cannot penetrate and produce federal minerals if those minerals have not been leased. Even if an operator owns 90% of the rights of development inside a drilling and spacing unit, if the BLM has not leased the remaining 10%, that operator cannot develop. Operators need a productive enough area to justify the costs of pipelines for gas takeaway. Wyoming's strict rules on flaring, often require operators to codevelop the infrastructure for gas takeaway prior to drilling. Particularly in areas further away from pipeline corridors, these operators will need that many more planned wells to share the upfront costs of this new infrastructure. Finally, operators need operational flexibility, which can often be accomplished with a larger leasehold. Operators drilling wells must contend with environmental stipulations and weather, often causing the need to pivot development plans. Recently, however, operators have also been stymied by the BLM's failure to issue permits on leases they have already purchased.

It is important to know that forcing oil and gas production off federal leases does not stop the global demand for hydrocarbons. Based on the Environmental Performance Index produced by Yale University, the Institute for Energy Research reported that the average barrel of non-U.S. produced oil is produced in a country with an environmental score that 23.6% lower than that of the U.S.

Permit Approval.
Everyone is already aware of the expense and slow timeframe for federal permit approvals. However, a comparison to another regulatory agency may help put the problem into perspective. The Wyoming Oil and Gas Conservation Commission has regulatory oversight of all wells drilled in the state, including federal. Consequently, operators are required to submit drilling permits to the BLM and to the state. A BLM permits take hundreds of days to approve and cost operators $11,805, compared to a state permit that can be completed within a week and cost operators $500.

However, expensive permits with long delays is still superior to what is currently happening in Wyoming on litigated leases. Over the past few years, environmental groups have concentrated dozens of lawsuits attacking lease sales. In Wyoming, these lawsuits challenge nineteen lease sales held between 2015 and 2020 covering millions of acres of mineral estate and impacting numerous oil and gas companies that operate across the state.

Seven of the lawsuits have a court order preventing the BLM from approving development on acreage within the challenged sales. The remaining twelve lawsuits do not have court orders preventing development. Nevertheless, the administration has chosen to halt the approval of permits and routine authorizations on any litigated acreage. Even where there are preexisting drilled and currently producing wells from the same lease, the BLM has stopped issuing permits or approvals. In other words, the BLM has simply stopped doing its job on over 2-million acres without reason, policy, or judicial mandate. Efforts of Wyoming Governor, Mark Gordon, requesting Director Stone-Manning lift the self-imposed stay have fallen on deaf ears.

Although revenue from a single well may not have much of an impact on the federal budget of over $6 trillion. In my state and my county, even just one additional well drilled per year is substantial. The average oil well produces 111,000 bbls of oil in its first year. Multiplied by a price of $70/bbl for oil, the total taxable value is approximately $7.1 million. Counties receiving 6% from property taxes will receive over $400,000 in tax revenue in one year from just a single well.

Mr. Chairman, stopping oil and gas production on public lands in this country does not reduce the global demand of hydrocarbon energy, and oil and gas will be produced somewhere else. Wyoming does it right, and our history with the industry goes back further than statehood. The positive impact on our economy, jobs, and local government from oil and gas development cannot be understated, but appears to be completely misunderstood by this administration whose job is to promote it.