

Subcommittee on Energy and Mineral Resources

Paul Gosar, Chairman
Hearing Memorandum

January 16, 2018

To: All Subcommittee on Energy and Mineral Resources Members

From: Majority Committee Staff – Ashley Nichols
Subcommittee on Energy and Mineral Resources (x5-9297)

Hearing: Oversight hearing entitled “*Examining the Department of the Interior’s Actions to Eliminate Onshore Energy Burdens*”

The Subcommittee hearing will take place on **January 18, 2018, at 2:00PM, in 1324 Longworth House Office Building**. This hearing will evaluate actions taken by the Department of the Interior to address regulatory burdens on domestic energy production and will consider recommendations provided by the Department in the Final Report, “Review of the Department of the Interior Actions that Potentially Burden Domestic Energy,” concerning the leasing process for onshore oil and gas development on federal lands.

Policy Overview

- In recent years, unnecessary delays resulting from duplicative environmental reviews and frivolous protests, along with costly regulatory requirements, have contributed to considerable uncertainty in the onshore oil and gas leasing process. These trends have discouraged responsible energy development on federal lands.
- At the end of Fiscal Year (FY) 2016, the Bureau of Land Management (BLM) managed a total of 40,143 onshore oil and gas leases covering only 27 million acres, the lowest number of leases since FY 1988.¹ In fact, acreage of federal land leased decreased by over 42 percent from 2008 to 2016.²
- The onshore oil and gas leasing process takes at least 16 months from the time a parcel is nominated to the award of a lease sale.³ Operators have observed that it can take over a decade to obtain and begin production on a lease.⁴

¹ Bureau of Land Management. Oil and Gas Statistics. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/oil-and-gas-statistics> (Accessed January 8, 2018).

² Bureau of Land Management. Oil and Gas Statistics. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/oil-and-gas-statistics> (Accessed January 8, 2018).

³ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

⁴ Western Energy Alliance. Leasing. <https://www.westernenergyalliance.org/knowledge-center/land/onshore-development/leasing>

- The Department of the Interior published a report in October 2017 describing actions already taken to address potential burdens on onshore oil and gas development, as well as actions and processes in need of further review.⁵

Invited Witnesses

Ms. Nada Culver
Senior Counsel and Director
BLM Action Center
The Wilderness Society
Washington, DC 20036

Mr. Jarred Kubat
Vice President of Land, Legal & Regulatory
World Energy Partners, LLC
Denver, CO

Mr. Shane Shulz
Director, Government Affairs
QEP Resources
Denver, CO

Mr. Brian Steed
Deputy Director
Programs and Policy
Bureau of Land Management
Washington, DC

Senator Kevin T. Van Tassell
District 26
Utah State Senate
Vernal, UT

Background

Onshore Oil and Gas Leasing Program

Within the Department of the Interior, BLM is responsible for managing the federal onshore mineral estate, which amounts to roughly 700 million acres.⁶ BLM leases these lands to developers through quarterly lease sales and issues federal permits to leaseholders required for

⁵ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

⁶ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

oil and gas development (when parcels are available for lease).⁷ On these leased lands, BLM manages 94,000 active wells, which contribute 7% of domestically produced oil and 11% of domestically produced natural gas.⁸

BLM's leasing program generates over \$2.24 billion in revenues from royalties, rental payments and bonus bids annually, a portion of which is distributed to energy-producing States.⁹ At present, BLM holds lease sales in the following regions: Alaska, California, Colorado, Eastern States, Idaho, Montana-Dakotas, Nevada, New Mexico, Utah and Wyoming.¹⁰

Onshore Oil and Gas Leasing Process

Under the Federal Land Policy and Management Act of 1976 (FLPMA), energy development on federal land must be weighted alongside environmental considerations and other potential land uses.¹¹ To determine optimal management strategies for individual regions, BLM develops Resource Management Plans (RMPs) through the land use planning process mandated under FLPMA.¹² This process requires collaboration with State, local and tribal governments, industry and other stakeholders to determine the best uses of the land for the benefit of the public.

BLM manages the oil and gas leasing program pursuant to the parameters established in the RMPs and conducts each lease sale according to a defined process. The current leasing process takes at least 16 months from the time a parcel is nominated for sale to the award of a lease. That process is described as follows:¹³

- Nomination of Parcels for Lease: Lands can be nominated for lease by members of the public, but are typically nominated by industry representatives.¹⁴
- NEPA Review: Before BLM can include nominated lands in an upcoming sale, the agency must review the parcels for compliance with the applicable RMP.¹⁵ BLM posts a

⁷ Bureau of Land Management. General Oil and Gas Leasing Instructions. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/general-leasing>. (Accessed January 11, 2018).

⁸ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

⁹ US Department of Interior. Bureau of Land Management. About the BLM Oil and Gas Program. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about> (Accessed January 8, 2018)

¹⁰ US Department of Interior. Bureau of Land Management. Leasing. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing> (Accessed January 8, 2018).

¹¹ 43 U.S.C. §1712

¹² 43 U.S.C. §1712

¹³ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

¹⁴ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

¹⁵ US Department of Interior. Bureau of Land Management. Leasing. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing> (Accessed January 8, 2018).

draft Environmental Assessment (EA) analyzing compliance and thereby initiating a 30-day comment period.¹⁶

- State Office Parcel Management: The relevant State BLM office reviews and conducts briefings on a final parcel list to be included in the sale and updates the draft EA as needed.¹⁷
- Announce Sale Notice: The State BLM office posts the sale notice and Final EA 90 days before the sale, specifying lease stipulations applied to each parcel. A 30-day protest period begins.¹⁸
- Hold Sale: Resolved protests are announced one day before the sale and the sale is conducted online or in-person.¹⁹
- Issue Lease: All protests must be resolved before leases are issued, which must be within 60 days of the sale. BLM collects any unpaid balances from successful bidders. BLM conducts non-competitive leasing if any nominated parcels do not receive bids.²⁰

Lease Sales

Lands available for oil and gas leasing are sold through a competitive auction process either in-person or online, in accordance with the Federal Onshore Oil and Gas Leasing Reform Act of 1987.²¹ Under the Mineral Leasing Act (MLA), BLM is required to hold quarterly lease sales in each State with public lands available for oil and gas leasing. The highest bidder participating in the sale wins the lease, and any unsold parcels included in the sale can then be sold non-competitively.²²

Bidders must submit a lease bid form, an administrative fee, as well as the rental fee for the first year of the lease and a bonus bid. Bonus bids must be at least \$2/per acre, although most bonus bids are higher than the minimum. In FY 2015, the average bid per acre was \$232, with the highest bid per acre at \$16,500. Leases are awarded for 10-year terms, and rental payments are set at \$1.50 per acre for the first five years of the lease and \$2 for the remainder of the lease.

¹⁶ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

¹⁷ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

¹⁸ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

¹⁹ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

²⁰ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

²¹ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

²² Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

Royalty rates on federal land are set at 12.5%, lower than royalty rates in most States on State and private land.²³

Oil and Gas Surface Use Impact

Operators typically use less than 5% of the surface area of the lease for oil and gas operations, meaning the remaining surface area can be used for other purposes, such as grazing, recreation or conservation measures. In fact, less than 1% of the surface acreage managed by BLM is used for oil and gas development. BLM requires operators to reclaim the land once the oil and gas operation is completed so that it can be used for other purposes.²⁴

Mineral Revenues and State Revenue Sharing

The MLA provides for States to receive a 50 percent share of the revenues resulting from the leasing and production of oil and gas resources on federal land within their borders, less a 1% administrative fee.²⁵ Alaska, which receives 90 percent of revenues, is the only exception. These revenues include payments from rentals, bonuses and royalties on various forms of energy production on federal lands.²⁶

Federal mineral revenues are a crucial source of income for the States, serving to offset losses in private tax revenue due to the tax-exempt status of federal land within their borders.²⁷ States rely on mineral revenues to fund public services and programs, including local schools, community colleges and public universities.²⁸ States also utilize these funds to mitigate potential environmental impacts of mineral development and support infrastructure projects.²⁹

The overly-burdensome leasing and regulatory requirements imposed in recent years has resulted in lost revenue for the federal government and, in turn, oil and gas producing States. A decrease in mineral revenue, and uncertainty about when those revenues might be received, jeopardizes the provision of public services and planned economic development projects. As such, lost mineral revenues have implications far beyond the oil and gas industry in these States.

NEPA Review

Parcels of land included in a lease will undergo at least three rounds of review under the National Environmental Policy Act of 1969 (NEPA) before oil and gas production can begin.

²³ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

²⁴ US Department of Interior. Bureau of Land Management. Land Use Planning. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/land-use-planning>

²⁵ 30 U.S.C. §191(a)

²⁶ Marc Humphries, Energy and Mineral Development on Federal Land (2015). <http://www.crs.gov/Reports/IF10127?source=search&guid=ab1ee1f40564437797071c178c8fa2ad&index=>

²⁷ Marc Humphries, Mineral Royalties on Federal Lands: Issues for Congress (2015). <http://www.crs.gov/reports/pdf/R43891>

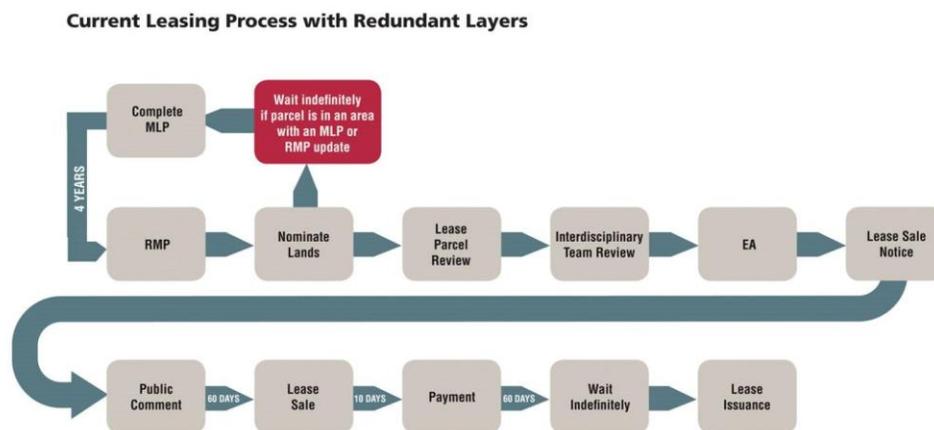
²⁸ The United States Extractive Industries Transparency Initiative. Explore Data, Montana. <https://useiti.doi.gov/explore/MT/#disbursements> (Accessed August 29, 2017).

²⁹ Marc Humphries, Mineral Royalties on Federal Lands: Issues for Congress (2015). <http://www.crs.gov/reports/pdf/R43891>

First, BLM must conduct a broad-scale NEPA review before finalizing a RMP. Second, before determining that a nominated parcel can be included in a given lease sale, BLM must ensure that the parcel can be offered for lease under the corresponding RMP and conduct an environmental review of the nominated lands.³⁰ If nominated parcels are included in the scope of a Master Leasing Plan, a NEPA review will be completed at this stage as well. Finally, BLM will conduct further NEPA review before issuing permits to drill on leased land.³¹

Onshore Oil and Gas Program Management under BLM

The federal oil and gas leasing process exhibits numerous inefficiencies that prevents energy development from occurring in a timely manner. In fact, operators have observed that it can take well over a decade to navigate the leasing and permitting process and actually produce on a lease.³² Duplicative environmental reviews under NEPA, along with frivolous protests on the parcels made available for leasing, have resulted in unnecessary delays in the leasing process and an overall decrease in the number of leased parcels. Policies instituted under the previous Administration added unnecessary layers to the leasing process that increased the time needed to obtain a lease from 3-6 months to roughly 16 months. The following chart illustrates redundancies in the current process:³³



When a lease is finally issued, it doesn't mean a company can begin drilling. In fact, it's just the first step in a long and expensive process. The next process is NEPA analysis.

While in the past, BLM argued that their policies resulted in reduced protests on lease sales, this reduction only occurred because large swaths of land were not made available for lease. For example, under FLPMA, BLM must lease according to existing RMPs. However, BLM has often deferred action on parcels because the relevant RMP is being updated or the

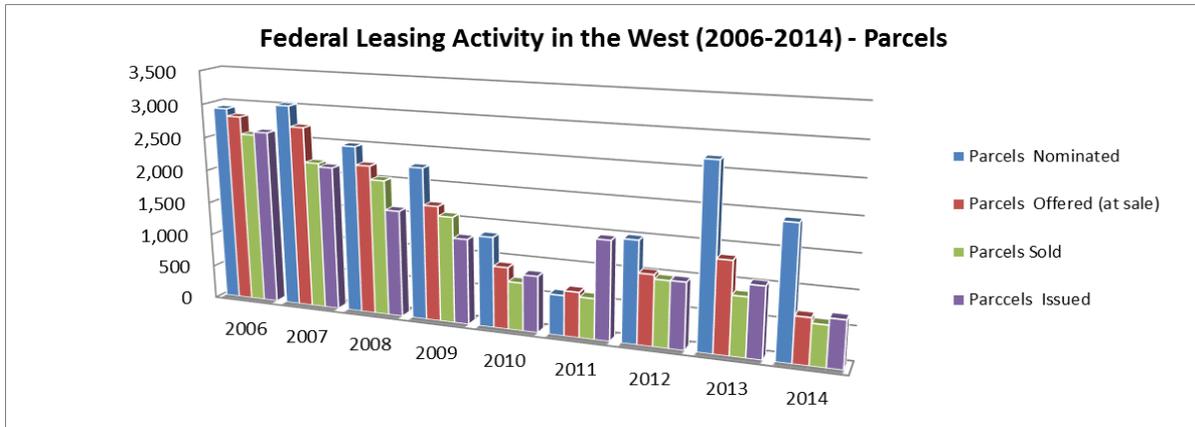
³⁰ Bureau of Land Management. Leasing Onshore Oil and Natural Gas. Briefing to Energy and Mineral Resources Subcommittee staff. August 2017.

³¹ US Department of Interior. Bureau of Land Management. Land Use Planning and Leasing Reform. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/land-use-planning> (Accessed January 8, 2018).

³² Western Energy Alliance. Leasing. <https://www.westernenergyalliance.org/knowledge-center/land/onshore-development/leasing> (Accessed January 8, 2018).

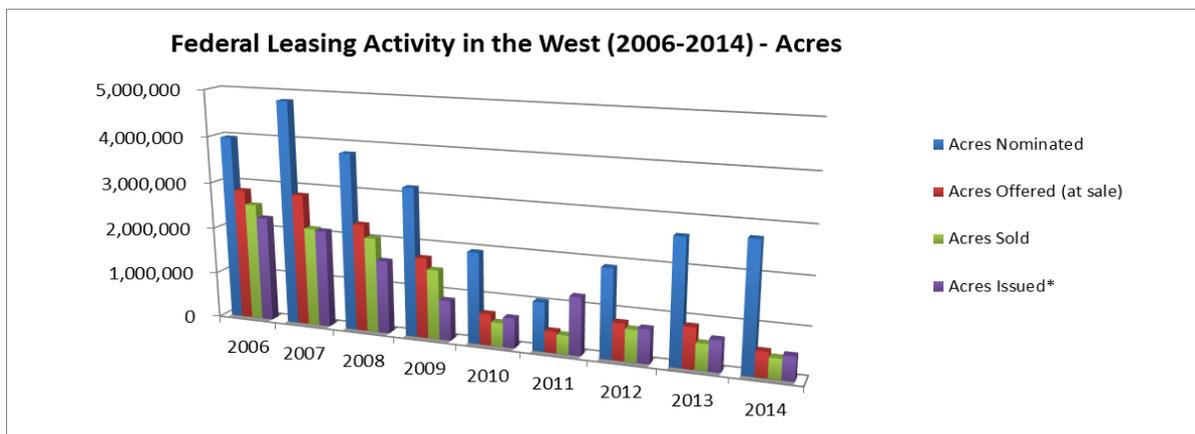
³³ Western Energy Alliance. Leasing. <https://www.westernenergyalliance.org/knowledge-center/land/onshore-development/leasing> (Accessed on January 11, 2018).

RMPs are within the scope of an incomplete Master Leasing Plan (MLP). Both processes can take years to complete.³⁴ For years, BLM’s policy has been to simply defer any leasing activity for areas of potential controversy while conducting redundant environmental analyses. The



following chart demonstrates the number of parcels nominated versus those offered and sold to bidders in recent lease sales:³⁵

In addition, the Obama Administration failed to hold quarterly lease sales in all States with federally-owned oil and gas, as required under the MLA. Because of these policies, acreage offered for lease decreased significantly during the years under the Obama Administration. In fact, in 2014, BLM offered 77% less acreage than in 2008 in Western States.³⁶



³⁴ Western Energy Alliance. Letter to Neil Kornze, Director of the Bureau of Land Management. Oil and Natural Gas Lease Sale Cancellations. February 11, 2016. <https://www.westernenergyalliance.org/sites/default/files/WesternEnergyAllianceLetteronCanceledLease%20Sales.pdf>

³⁵ Western Energy Alliance. Detailed Leasing Data. Federal Leasing 2014. <https://www.westernenergyalliance.org/RedTapeNation/Defer>

³⁶ Western Energy Alliance. Detailed Leasing Data. Federal Leasing 2014. <https://www.westernenergyalliance.org/RedTapeNation/Defer>

These unnecessary deferments of parcels and lengthy environmental reviews have created enough uncertainty in the federal leasing process to discourage producers from developing federal lands. As a result, recent increases in oil and gas production have occurred largely on State and private lands.³⁷

Lease Sale Protests

While the overall number of protests on nominated parcels has decreased since 2008, the percentage of parcels protested has increased significantly. The number of parcels offered for sale also sharply decreased in recent years, from almost 5,000 in 2006 to a mere 744 in 2016. Fortunately, this trend began to reverse in 2017, with 1,380 parcels offered for lease.³⁸

National Oil and Gas Lease Sale Protested Parcels 1998-2017³⁹				
Fiscal Year	Number of Parcels Posted on Original Sale Notice**	Number of Parcels Offered Day of Sale	Number of Protested Parcels from Original Sale Notice	Percent of parcels protested from original sale notice
1998	7,745	7,241	72	1%
1999	3,179	2,423	0	0%
2000	4,564	3,753	513	11%
2001	4,790	4,694	884	18%
2002	3,266	2,762	820	25%
2003	2,931	2,729	400	14%
2004	3,868	3,620	1,576	41%
2005	3,780	2,936	1,325	35%
2006	4,947	4,924	1,551	31%
2007	4,481	4,289	1,628	36%
2008	3,682	3,389	1,108	30%
2009	3,455	3,127	1,475	43%
2010 *	1,887	1,636	665	41%
2011	1,521	1,440	516	34%
2012 *	2,247	2,064	371	17%
2013 *	2,343	2,215	431	18%
2014 *	1,752	1,679	321	18%
2015 *	1,356	1,286	644	47%
2016 *	820	744	593	72%
2017 *	1,427	1,380	1,257	88%

³⁷ Michael Ratner. 21st Century U.S. Energy Sources: A Primer (May 19, 2017). <http://www.crs.gov/reports/pdf/R44854>

³⁸ National Oil and Gas Lease Sale Protested Parcels 1998-2017. Data provided by the Bureau of Land Management to the Subcommittee on Energy and Mineral Resources. January 11, 2018.

³⁹ National Oil and Gas Lease Sale Protested Parcels 1998-2017. Data provided by the Bureau of Land Management to the Subcommittee on Energy and Mineral Resources. January 11, 2018.

*Includes tracts located within the NPR-Alaska. NPR-A does not provide an avenue for protests.

**The original sale notices are often amended to remove parcels due to protests or other reasons.

The MLA requires BLM to resolve all protests and issue leases within 60 days of the date of sale. However, protests can be more than 1,500.⁴⁰ As a result, resolution of protests can take significantly longer than the allotted time, resulting in severe delays in the issuance of leases. As the States are entitled to 50% of the revenues from each sale within their borders, a delay in issuance of a lease means a delayed payment to the States.

These delays cause considerable uncertainty for State governments, threatening State budgets and essential services funded by mineral revenues. For example, in September 2016, the BLM held a lease sale which generated \$145 million in revenue, nearly \$70 million of which was due to the State of New Mexico. Environmental groups filed multiple protests on the sale, causing BLM to spend months reviewing protests and a 250-day delay in issuing the payment to the State. This delay jeopardized the State budgeting process, threatening the provision of key services supported by these planned revenues.⁴¹

Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy

In October 2017, the Department of the Interior issued a report describing the Department's progress in implementing Executive Order 13783, Promoting Energy Independence and Economic Growth (March 28, 2017),⁴² which required each agency of the Department to review activities that may hinder the responsible development of energy resources.

One key aspect of the report is the Department's review of BLM's actions regarding onshore oil and gas development on federal lands. Specifically, the Department has acted to support American energy dominance by issuing the following Secretarial Orders:⁴³

- Secretarial Order 3349: American Energy Independence directed bureaus within the Department to review actions related to oil and gas development. In addition, the order specifically directed relevant offices to review the BLM Hydraulic Fracturing Rule, the BLM Waste Prevention, Production Subject to Royalties, and Resource Conservation Rule (also known as the Venting and Flaring Rule), the National Park Service Federal Oil and Gas Rule, and the Fish and Wildlife Service (FWS) National Wildlife Refuge System

⁴⁰ National Oil and Gas Lease Sale Protested Parcels 1998-2017. Data provided by the Bureau of Land Management to the Subcommittee on Energy and Mineral Resources. January 11, 2018.

⁴¹ Hayden, Maddy. N.M. Delegation calls for \$69M from BLM. April 6, 2017.

<http://www.currentargus.com/story/news/local/new-mexico/2017/04/06/nm-delegation-calls-69m-blm/100124060/>

⁴² Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

⁴³ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

Management of Non-Federal Oil and Gas Rights.⁴⁴ BLM officially rescinded the hydraulic fracturing rule on December 29, 2017, citing the inability to justify steep compliance costs that the rule would impose upon industry.⁴⁵ Furthermore, BLM suspended compliance requirements included in the venting and flaring rule until January 2019 to reduce the burden to industry while the Department continues to review the rule.⁴⁶

- Secretarial Order 3352: National Petroleum Reserve-Alaska (NPR-A) ordered the review of the Integrated Activity Plan for the NPR-A to ensure the optimal management of resources within the Reserve. In addition, the order called upon the Department to update assessments of recoverable oil and gas resources in the North Slope region, including the NPR-A and the coastal plain of the Arctic national Wildlife Refuge.⁴⁷
- Secretarial Order 3353: Greater Sage Conservation and Cooperation with Western States established a Sage-Grouse Review Team, including representatives from BLM, FWS, and the U.S. Geological Survey, to review the Sage Grouse plans finalized in 2015 to ensure that Sage Grouse conservation strategies are conducted in accordance with the principals of multiple use and sustained yield.⁴⁸
- Secretarial Order 3354: Supporting and Improving the Federal Onshore Oil and Gas Leasing Program and Federal Solid Mineral Leasing Program seeks to ensure that the federal oil and gas leasing program, managed by the BLM, is carried out consistently with the law and Congressional intent. A key achievement of this Secretarial Order is the directive to return to holding quarterly lease sales in the States with federal oil and gas resources, as required under the MLA.⁴⁹

BLM is also reviewing certain Departmental actions regarding onshore oil and gas leasing and permitting:

⁴⁴ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

⁴⁵ Oil and Gas Hydraulic Fracturing on Federal and Indian Lands; Rescission of a 2015 Rule. 82 FR 61924. December 29, 2017.

<https://www.federalregister.gov/documents/2017/12/29/2017-28211/oil-and-gas-hydraulic-fracturing-on-federal-and-indian-lands-rescission-of-a-2015-rule>

⁴⁶ Waste Prevention, Production Subject to Royalties, and Resource Conservation; Delay and Suspension of Certain Requirements. 82 FR 58050. January 8, 2018. <https://www.federalregister.gov/documents/2017/12/08/2017-26389/waste-prevention-production-subject-to-royalties-and-resource-conservation-delay-and-suspension-of>

⁴⁷ Secretary Zinke Signs Order to Jump Start Alaskan Energy. U.S. Department of the Interior. May 31, 2017.

<https://www.doi.gov/pressreleases/secretary-zinke-signs-order-jump-start-alaskan-energy>

⁴⁸ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

⁴⁹ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

- BLM is reviewing Onshore Orders Nos. 3, 4, and 5, which were revised in 2016, to determine whether additional revisions are needed to ensure that increases in associated compliance costs are not overly burdensome or avoidable.⁵⁰
- BLM is reviewing Instructional Memorandum (IM) 2010-117, “Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Review.” This IM was intended to create efficiencies in the leasing process, but instead resulted in additional delays in both making parcels available for leasing and resolving protests and appeals in advance of issuing leases. The report notes that the current leasing process can take up to 16 months to complete.
- BLM is reviewing IM 2013-101, “Oil and Gas Leasing Reform – Master Leasing Plans (MLPs).” While MLPs were intended to facilitate the leasing process, BLM routinely deferred parcels from leasing until the relevant MLP is fully completed. MLPs can take months or years to complete, meaning that parcels otherwise open to leasing under current RMP are unavailable to lease during that time.⁵¹
- BLM is acting, pursuant to Secretarial Memorandum, to identify actions that will streamline the land use planning and NEPA review process.⁵²

The report also made the following specific recommendations for alleviating actions that could burden energy exploration and production:

- *Review Land Use Designations:* The land use planning process mandated under FLPMA ensures that public lands are managed in accordance with the principals of multiple use and sustained yield. BLM’s RMPs include specific land use designations which determine how certain areas will be managed, including whether they are available for oil and gas development and under what conditions. According to the report, BLM has imposed formal and informal restrictions on land use above those required by Congressional, Secretarial or Presidential action. BLM used over 60 different land use designations in its RMPs, many of which may layer additional restrictions on public lands that may unnecessarily impede energy development. One example of bureaucratic overreach is the use of Area of Critical Environment Concern (ACEC) designations to close broad swaths of land to mineral leasing. In recent years, the number of ACECs designated by BLM has sharply increased.⁵³

⁵⁰ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

⁵¹ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

⁵² Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

⁵³ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

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- *Review Leasing Stipulations and Conditions for Approval:* BLM can award leases to energy developers with standard terms and conditions, or may attach stipulations to specific parcels to accommodate environmental concerns. Stipulations can include no surface occupancy restrictions (meaning that no surface disturbance can take place), timing restrictions (meaning that surface disturbance cannot take place during certain time periods), and other controlled surface use restrictions, such as sound and visual restrictions or construction requirements.⁵⁴

BLM can also choose to apply Conditions of Approval to drilling permits to address site-specific concerns. These can include well spacing, riparian and wetland areas, visual requirements, and surveys under the National Historic Preservation Act and the Endangered Species Act of 1973.⁵⁵ These stipulations and conditions can discourage development due to the associated compliance costs and prolonged project timelines.

- *Review Protest Regulations and Policy:* BLM allows multiple opportunities for public comment throughout the oil and gas leasing process and allows any party to protest an oil and gas lease sale before it is finalized. Protests were once aimed at individual parcels included in potential leases and raised specific issues concerning those parcels. In recent years, protests have been filed on entire lease sales citing general concerns related to oil and gas development. Because all protests must be resolved before a lease is issued, lease awards are often delayed for months while BLM addresses each and every protest.⁵⁶

The sharp increase in protests in recent years, particularly those that do not address the unique circumstances of each parcel, pose a threat not only to energy development but also to the States that rely on and budget for mineral revenues to provide critical services.

- *Review Energy-Related Collections of Information under the Paperwork Reduction Act:* The Committee supports the Department's efforts to reduce administrative burdens on operators seeking to lease and develop federal energy resources by simplifying required forms and streamlining administrative processes associated with oil and gas leasing.

Conclusion

⁵⁴ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf

⁵⁵ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

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⁵⁶ Department of Interior. Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy. October 24, 2017.

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Navigating the federal onshore oil and gas leasing process is a costly and uncertain endeavor for operators seeking to develop domestic energy resources. Duplicative environmental reviews, burdensome regulatory requirements and unpredictable approval timelines have contributed to significant delays in the process, encouraging oil and gas operators to take their business elsewhere. Over the past year, the Department of the Interior has been proactive in addressing potential burdens on onshore oil and gas development through a series of Secretarial actions. Even so, alleviating existing burdens will require a thorough review of the processes that have hindered the production of domestic energy resources for far too long. Streamlining the federal leasing process and eliminating inefficiencies is a critical step toward achieving greater American energy security.