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Before the House Natural Resources Subcommittee on Energy and Minerals
"Examining the Department of the Interior's Actions to
Eliminate Onshore Energy Burdens."

Thursday, January 18, 2018

Good afternoon Chairman Gosar, Ranking Member Lowenthal and members of the Committee. Thank you for the opportunity to share my views on this timely issue regarding onshore energy development.

My name is Nada Culver. I direct The Wilderness Society's policy and planning efforts, including providing input on energy development of lands and mineral resources managed by the Bureau of Land Management (BLM). The Wilderness Society (TWS) is a national public interest conservation organization with more than one million members and supporters. TWS' mission is to protect wilderness and inspire Americans to care for our wild places. Our organization actively supports solutions that balance extractive uses like energy with conservation through open, sustainable and science-based land management practices to maintain the long-term integrity of the landscape.

I have worked on energy permitting, planning issues and policy issues for more than 20 years. This includes representing the public interest for nearly 15 years at TWS, and representing industrial and energy clients as a lawyer in private practice. I meet extensively with career and political staff of the BLM and the Department of the Interior (DOI), as well as counterparts in industry and at state and tribal entities. I have visited numerous onshore oil and gas fields on public and private lands, and spent time in communities situated adjacent to energy production facilities across the west.

Today's hearing is especially timely. I appreciate you calling attention to the ongoing efforts at the Department of the Interior to seek out and address what are described as "burdens"

to onshore energy development. While it may be sincere, I believe this effort as it has played out is unnecessary and unwise. The Department's formal statements and commitments have, to such a large degree, focused on actions that would remove current opportunities for public engagement and weaken (or remove altogether) current obligations to consider the effects of leasing and development on communities, health, and other uses and values of our public lands. Accordingly, my testimony today focuses on the problems that arise from what appears to be a single-minded focus. I hope the issues highlighted below underscore the importance of the broader mission and responsibilities the Department and the BLM have to the public, the true owners of our public lands, and the lessons learned about the need for balanced, multiple use management.

The Department's Actions are Upsetting a Balance Decades in the Making.

Our public lands are managed by the federal government's Department of the Interior (DOI) for the benefit of current and future generations. That means more than just providing for extractive uses—it means public health, fiscal accountability, and recreation- and tourism-based economic interests, among others that can be impacted by irresponsible energy development.

There is much talk about striking an "appropriate balance" in order to promote conservation stewardship. Doing so will, in our view, require meaningful discussion of—and plans to address—impacts to local communities, businesses, and other public interests, including conservation, and how those interests will be protected in the era of so-callled "energy dominance."

In fact, a balanced approach is embedded in the Department's responsibilities as laid out in the Federal Land Policy and Management Act (FLPMA). Under FLPMA, BLM is required to manage the public lands on the basis of multiple use and sustained yield.[1] The Supreme Court has stated clearly that "[m]ultiple use management is a deceptively simple term that describes the enormously complicated task of striking a balance among the many competing uses to which land can be put, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and [uses serving] natural scenic, scientific and historical values."[2]

Similarly, courts have repeatedly held that under FLPMA's multiple use mandate, development of public lands is not required, but must instead be weighed against other possible uses, including conservation to protect environmental values.[3] An approach in which BLM prioritizes energy development above other public lands uses and resources would violate the multiple-use mandate of FLPMA, which states in no uncertain terms that BLM "shall manage public lands under principles of multiple use and sustained yield" and

[1] 43 U.S.C. § 1732 (2012).
[2] *Norton v. S. Utah Wilderness Alliance*, 542 U.S. at 58 (internal quotations omitted).
[3] *See*, *e.g., New Mexico ex rel. Richardson*, 565 F.3d at 710 ("BLM's obligation to manage for multiple use does not mean that development *must* be allowed. . . . Development is a possible use, which BLM must weigh against other possible uses — including conservation to protect environmental values, which are best assessed through the NEPA process.")

contains specific provisions and procedures for conserving natural, historic and cultural resources, scenic values and fish and wildlife .[4]

Nevertheless, the Administration's stated policy objective is to increase domestic energy production from public lands and expand energy-related jobs in pursuit of an overarching goal of "energy dominance." And the Department has wasted little time demonstrating what that means:

- Less than one month after being confirmed, Secretary Zinke signed Secretarial Order 3349 designed to implement a presidential directive to "review all existing regulations, orders, guidance documents, policies, and any other similar agency actions…that potentially burden the development or use of domestically produced energy resources."[5] The order also rescinded or ordered the rescission of a number of important climate and mitigation policies, lifted the moratorium on new coal leases, and ordered the review of four commonsense regulations affecting oil and gas operations on National Park Service lands, fish and wildlife refuges, and other public lands.

- On that same day, the Secretary signed a charter reconstituting the Royalty Policy Committee. Members were formally selected on September 1, 2017, and included robust participation from several sectors of industry. Notably absent were representatives of taxpayer advocate or public interest organizations.

- On May 2, 2017, the Department issued Secretarial Order 3351 aimed at eliminating "harmful regulations and unnecessary policies." The order created a position with the express duty to identify regulatory burdens that unnecessarily encumber energy exploration development, production, transportation; and develop strategies to eliminate or minimize these burdens.

- In October 2017, DOI published its "Energy Burdens Report", which by the Department's own press release, "outlines Trump Administration's bold approach to achieving American energy dominance." The report identifies rules and policies that "burden" energy production such as the waste prevention rule, National Environmental Policy Act (NEPA) review of oil and gas leasing and permitting, mitigation policies, and the Endangered Species Act.

- In June 2017, the Department issued Secretarial Order 3353, which directed a review of the rangewide plans addressing management of Greater Sage-grouse, which had led to a Fish and Wildlife Service finding that listing under the Endangered Species Act is no longer warranted. Citing Secretarial Order 3349, the review and subsequent formal process to reevaluate the plans are focused in large part on removing management to protect habitat from the harm caused by oil and gas development.

[4] 43 U.S.C. §§ 1732(a), 1712.
[5] Executive Order 13783, March 28, 2017.

Most striking about the actions taken to date is the lack of transparency and limited involvement afforded the very communities most affected by energy development. In early April 2017, we joined with more than a dozen other national conservation groups in calling on the Secretary to meaningfully engage the public before committing to a course of action.[6] In that letter, we cautioned, "A Department of the Interior that works in darkness to change management policies will not maintain the trust of the American people…. Decades of conflict and controversy have shown the public expects, and our public land laws require, more from these lands than extractive uses."

Unfortunately, the Department has chosen to eliminate commonsense safeguards and guidelines that protect the public interest and ensure Americans receive a fair return for development of publicly-owned lands and minerals. This approach reverses course on efforts to improve the Department's management framework under Presidents Bush and Obama to make energy development more effective and sustainable. These reforms were put in place in response to decades of findings and recommendations from the Government Accountability Office (GAO), the Department's Office of Inspector General (OIG), and sister agencies in federal and state government, as well as the courts. Some of these findings and recommendations are discussed further in this testimony, including GAO's inclusion of the "Management of Oil & Gas Resources" on its biennial list of "high-risk" federal programs, which are chosen because of "their vulnerabilities to fraud, waste, abuse, and mismanagement, or are most in need of transformation," and GAO's findings that BLM's venting and flaring practices prior to the 2016 waste prevention rule were costing taxpayers in terms lost revenue and increased air pollution.

Regulations and Policies are not Inherently Burdensome and Provide Many Benefits.

The regulations and policies identified as "burdensome" to energy development, and therefore targeted to be weakened or eliminated, provide substantial benefits to the American people that are being ignored or undervalued. The legal and policy framework under which the federal government manages energy development in our country is intended to protect human health and communities, grow all facets of our economy, balance development with conservation of natural resources, ensure continued opportunities for other multiples uses such as outdoor recreation, yield a fair market value return to the American people for the resources they own, and involve the public in decisions affecting public lands and minerals. These benefits must be considered and ultimately ensured when undertaking regulatory or policy changes.

We are concerned that DOI's actions and commitments to "eliminate energy burdens" appear to be focused primarily on measuring the financial impact to private companies, disregarding the federal government's duty to the American people to ensure development on public lands takes into account other uses and resources while yielding a fair return.

An immediate example of this concern is found in the ongoing efforts to dismantle the **BLM's 2016 methane waste prevention rule** (the "methane rule"). One year ago yesterday, on January 17, 2017, the BLM's methane rule went into effect. The 2016 rule would curb the waste of natural gas from federal and tribal lands by requiring periodic leak detection and repair (LDAR) inspections, prohibiting venting, significantly limiting flaring,

[6] Letter from The Wilderness Society et al to Secretary Zinke, April 12, 2017.

and establishing a number of equipment specific requirements. These elements would yield substantial health and fiscal benefits to the American people. According to BLM's own estimates, full implementation of the rule would cut methane emissions by 49 percent (or 180,000 tons per year) and could result in net benefits of over $204 million annually.[7]

The rule has been the subject of repeated efforts to eliminate it over the past year. This rule went into effect shortly after a Wyoming district court denied a request from several industry trade associations and oil-and-gas producing states to block it. Just months later, the Senate rejected a proposal to nullify the rule on a bipartisan vote 51-49 despite a Secretarial letter assuring that such action was welcome. Nevertheless, the Department proceeded to administratively delay implementation in July – a move that was overturned by a California district court in October. The next day, the BLM initiated a formal process to halt implementation of the rule which was finalized in December (though that move is currently the subject of litigation). BLM is expected to initiate a process this month to substantially revise or rescind the 2016 rule, based on the finding in the Energy Burdens report that "the BLM recognizes that the 2016 final rule poses a substantial burden on industry."[8]

However, there is a well-documented history of the burden borne by taxpayers from management systems that allowed for significant amounts of waste that led to the 2016 rule. Starting in December 2007, a Royalty Policy Committee (RPC) report, *Mineral Revenue Collection from Federal and Indian Lands and the Outer Continental Shelf*, recommended that the BLM update its rules and identified specific actions to improve production accountability.[9] This was followed by a March 2010 report by the OIG, BLM and Minerals Management Service on Beneficial Use Deductions; an October 2010 GAO report, *Federal Oil and Gas Leases – Opportunities Exist to Capture Vented and Flared Gas, Which Would Increase Royalty Payments and Reduce Greenhouse Gases*; and eventually the July 2016 GAO report entitled, "OIL AND GAS—Interior Could Do More to Account for and Manage Natural Gas Emissions."[10] In particular, the 2010 GAO report found that "in 2008, about 128 billion cubic feet (Bcf) of natural gas was either vented or flared from Federal leases, about 50 Bcf of which was economically recoverable (about 40 percent of the total volume lost). This economically recoverable volume represents about $23 million in lost Federal royalties and 16.5 million metric tons of carbon dioxide equivalent (CO2e) emissions."

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[7] *See* Final Rule at: https://www.regulations.gov/document?D=BLM-2016-0001-9126

[8] Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy at IV(A)(ii).

[9] U.S. Department of the Interior. (2007). *Report to the Royalty Policy Committee: Mineral Revenue Collection from Federal and Indian Lands and the Outer Continental Shelf.* Available at: https://permanent.access.gpo.gov/lps96276/RPCRMS1207.pdf

[10] Office of the Inspector General. (2010). *Inspection Report: BLM and MMS Beneficial Use Deductions.* Available at: https://www.doioig.gov/sites/doioig.gov/files/2010-I-00171.pdf ; Government Accountability Office. (2010). *Federal Oil and Gas Leases – Opportunities Exist to Capture Vented and Flared Gas, Which Would Increase Royalty Payments and Reduce Greenhouse Gases.* Available at: https://www.gao.gov/products/GAO-11-34 ; and Government Accountability Office. (2016). *OIL AND GAS—Interior Could Do More to Account for and Manage Natural Gas Emissions.* Available at: https://www.gao.gov/products/GAO-16-607

And the Department is seeking to roll back the 2016 methane rule even though the waste of federal resources is on the rise. The total amount of annual reported flaring from Federal and Indian leases increased by over 1000 percent from 2009 through 2015. During this period, reported volumes of flared oil-well gas increased by 318 percent.[11]

This waste has very real financial and environmental impacts. According to a recent study, taxpayers could lose out on almost $800 million in royalties over the next decade due to natural gas being flared or vented from federal lands.[12]It also impacts the health of U.S. citizens. Along with methane, this natural gas waste contains volatile organic compounds (VOCs), including benzene and other hazardous air pollutants (some of which are known carcinogens); and leads to the production of smog-forming NOx and particulate matter, which can cause respiratory and heart problems. In addition to financial and public health impacts, methane is a greenhouse gas 84 times more potent than carbon dioxide. Its contribution to climate change is well-documented as are the potential ramifications of a warming planet on a global, national and regional scale.

Similarly, DOI is also reversing commonsense policies that guide responsible energy development. One of the Department's first acts was to scuttle a programmatic review of the ailing federal coal leasing program. The review was designed to address deficiencies first documented three decades ago. Despite those known flaws, the Department is not taking any action to review or improve that program.

Unfortunately, additional actions taken in the name of removing burdens will do much more than merely halt new reviews—they will actually erode progress made in establishing public trust in the BLM's management of energy resources.

A particularly distressing example of this about-face is found in the circumstances that led up to **reforms of the BLM's oil and gas leasing program**. In December 2008, a court formally prohibited the Bureau of Land Management from issuing 77 leases sold in Utah. The court found the agency's decision-making process to be fundamentally broken, which prompted the BLM to reconsider its entire management of onshore oil and gas leasing.[13] The court's decision was a culmination of years of protests and lawsuits challenging BLM oil and gas leasing decisions in planning, leasing and permitting throughout the West; this was a clear declaration that the agency's previous approach to managing oil and gas development was unsustainable.[14]

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[11] *See* Final Rule at: https://www.regulations.gov/document?D=BLM-2016-0001-9126 . The problem can also be seen in requests for flaring and venting submitted as Sundry Notices to BLM field offices. In 2005, the BLM received just 50 applications to vent or flare gas. In 2011, the BLM received 622 applications, and this doubled again within 3 years to 1,248 applications in 2014.

[12] Western Values Project. "Up in Flames: Taxpayers Left Out in the Cold as Publicly Owned Natural Gas is Carelessly Wasted." May 2014. Available at: http://westernvaluesproject.org/wp content/uploads/2014/05/Up-In-Flames.pdf

[13] *SUWA v. Allred*, Case No. 1:08-cv-02187 (D.D.C. - January 17, 2009). (Plaintiffs showed likelihood of success on the merits of violations of National Environmental Policy Act and National Historic Preservation Act).

[14] In March 2012, former BLM Director Bob Abbey testified to a Senate committee that the Administration "inherited an onshore oil and gas program that was on the verge of collapse." http://rlch.org/news/drilling-leaves-fed-lands-because-state-private-acres-are-cheaper-says-blm-chief

In response, the Department pulled together an interdisciplinary interagency team of experienced BLM, Forest Service and National Park Service employees, led by Mark Stiles, then-Supervisor of the San Juan National Forest, which visited nearly all of the lease parcels and interviewed BLM staff. The final report (referred to as the Stiles Report) made recommendations on future handling of each lease parcel and on addressing critical problems with the BLM's oil and gas leasing program. The recommendations of the Stiles Report ushered in a more balanced approach to oil and gas leasing and development on the public lands. These recommendations were implemented principally through BLM guidance that required consideration of the many multiple uses of the public lands while providing a path toward more certainty for both industry and the public.[15] The reformed leasing process has strengthened protections for wilderness, wildlife and recreation, and reduced conflicts over leasing and drilling, even while production of oil and natural gas has increased on public lands. Prior to this guidance, federal lease sales were twice as likely to be challenged in federal court. Site-specific lease sale protests, concerning direct, on-the-ground conflicts with oil and gas development, have also decreased. Despite these across-the-board benefits to BLM's oil and gas leasing program, DOI has committed to "revise and reform its leasing policy and to streamline the leasing process" and expects to complete revisions to the leasing process in the first quarter of FY 2018.[16]

An alarming example of important reforms that DOI has threatened to abandon is the case of **Master Leasing Plans (MLPs)**. MLPs are a management tool for BLM to plan for oil and gas development at a more detailed level than a broad-scale resource management plan. MLPs are a "smart from the start" approach that are intended to ensure oil and gas development occurs in a more balanced, responsible way by protecting important public lands resources including national parks, wildlife habitat, clean air and water, and other uses such as outdoor recreation, hunting, fishing, farming and ranching. By addressing potential conflicts up-front, MLPs provide the oil and gas industry with more certainty and can streamline approvals for leasing and development. Although formally initiated by name in 2010, the approach came about under the leadership of former BLM James Caswell and Deputy Secretary Lynn Scarlett during the final years of President Bush's second term.

MLPs have been developed through collaborative stakeholder processes that bring all interests to the table to determine the appropriate pace and scale of development and how to protect other multiple uses while development occurs. This collaborative approach to energy development benefits multiple facets of our economy, protecting the interests of the outdoor recreation industry, tourism-based economies and public lands ranchers. MLPs also facilitate smart development that gives taxpayers a return on investment by driving oil and gas production to public lands most suitable for that purpose rather than providing for public lands that would be more productive for other commercial, recreational, and conservation uses to be held unused by non-producing speculators. Despite the value of such an approach to all public lands users, DOI has announced its intention to end this approach, stating that "the BLM expects to rescind this IM and complete the revision of the

[15] BLM Instruction Memoranda 2010-117.
[16] Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy at IV(A)(iv).

above BLM Handbook, as well as any other relevant BLM handbooks, in the first quarter of FY 2018."[17]

Finally, several of the policies targeted as "burdensome" were developed as collaborative endeavors with state and local interests, including years of extensive public involvement. Ripping up these compromise solutions with little or no engagement threatens the government's ability to arrive at future agreements. There is no better example of this than the **conservation plans for the Greater Sage-grouse**. The sage-grouse conservation plans and associated guidance for implementing oil and gas leasing and development in important habitat benefit the American people by conserving our natural heritage and valuable hunting opportunities on our public lands. These plans are the largest collaborative conservation effort in U.S. history, created over a six-year timeframe with the input and cooperation of multiple federal agencies, state and federal legislators from both sides of the aisle, conservationists, ranchers, recreationists, scientists and the energy industry.

Despite the robust process that preceded it, DOI issued new instruction memoranda for implementing the sage-grouse conservation plans on December 27, 2017, that, among other things, eviscerates the requirement that BLM prioritize oil and gas leasing and drilling outside of important sage-grouse habitat.[18] Specifically, the Department cited a requirement for BLM to weigh potential impacts to the Greater Sage-grouse before offering oil and gas lease as unduly burdensome in its final Energy Burdens report. This prioritization requirement had been intended to guide development to lower conflict areas while protecting important habitat. This approach would have reduced the time and cost associated with oil and gas leasing and development by avoiding sensitive areas in the first place, thereby minimizing the complexity of environmental review and analysis of potential impacts on sensitive species and decreasing the need for compensatory mitigation. It is unclear what approach the Department will institute instead that will avoid the need to list the Greater Sage-grouse under the Endangered Species Act, but in the meantime it appears leasing and drilling will proceed in these areas without due regard for the current plans.

Energy Development is Already a Preferred Tenant on Public Lands.

The presupposition of the Administration's hunt for "energy burdens" to achieve "energy dominance" is that the industry is tied down by red tape. That claim is false—energy development continues to be the preferred use for almost all our multiple use public lands. Market forces outside of the federal government's control are largely responsible for the decisions made by private companies; rescinding or revising these regulations will have little effect on federal lands production.

When it comes to our public lands, the oil and gas industry seems to have a problem of excess, not access. The vast majority of federally managed lands and waters are already open to oil and gas leasing—but oil and gas companies are having a difficult time using what they already have access to. The oil and gas industry already has access to as much federal land as it desires. Our research shows that 90 percent of BLM-managed subsurface mineral

[17] Final Report: Review of the Department of the Interior Actions that Potentially Burden Domestic Energy at IV(A)(v).
[18] *Id* at (vii).

acres are open to oil and gas leasing. Yet, of the 27 million acres under lease in 2016, only 12.7 million acres were producing energy—meaning 14 million acres of publicly-owned minerals already leased are sitting idle.[19] Of the 14 million unused acres, 3.25 are sitting in suspension, meaning companies pay no royalties and lose no time off the life of their leases. That's nearly 10 percent of the leased mineral estate that's essentially off the books, an awful deal for taxpayers.[20]

But even for those leases where the industry is trying to move ahead, there appear to be no real impediments from the BLM or from public engagement. The industry already holds 7,950 approved drilling permits that are not being used.[21] In 2016 alone, BLM issued 2,184 drilling permits, but only 847 permits were used. This trend has been true for decades. Since 1985 there have been just two years where industry has used more permits than BLM has approved.

The performance of recent lease sales underscores that BLM continues to offer significantly more acreage for lease than industry is willing to purchase. In 2015, only 15 percent of all land offered in lease sales were actually purchased. In 2017, only 6 percent of the total acreage offered was acquired by industry.[22] This is astonishing by any measure, given that in most cases parcels are put up for sale because they were nominated by oil and gas companies.

The federal government is clearly not standing in the way of energy development. Instead, trends in federal energy production are largely dependent on market forces and parallel those trends seen on private and state lands. Over the past fifteen years, total U.S. production of oil and gas has dramatically increased while coal production has dropped. From 1990 to 2016, total U.S. natural gas production increased by 52 percent while crude oil production rose by 21 percent. Coal production however has continued its slow decline nationwide, down 22 percent since 2006, as demand has rapidly eroded. The increased production associated with the "shale revolution" drove down natural gas prices, providing a cheaper alternative to coal and leading to the increased use of natural gas use in electricity generation.[23] The surplus of oil and gas introduced into the market also helped to move the United States into a position where exports of both have dramatically increased while imports have fallen, setting the country up to become a net exporter of both.[24] However, beginning in 2014, the crude oil market bottomed out. Nevertheless, U.S. producers proved to be quite resilient. Their ability to cut production costs and remain profitable in a low-

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[19] The Wilderness Society "Open for Business: How Public Lands Management Favors the Oil and Gas Industry". Available at: http://wilderness.org/sites/default/files/TWS%20--%20BLM%20report_0.pdf

[20] The Wilderness Society "Land Hoarders: How Stockpiling Leases is Costing Taxpayers". Available at: https://wilderness.org/sites/default/files/TWS%20Hoarders%20Report-web.pdf

[21] The Wilderness Society "Public Land Energy Development By The Numbers 2017". Available at: https://wilderness.org/sites/default/files/TWS%20Energy%20Fact%20Sheet_September_5_2017.pdf

[22] https://www.blm.gov/programs/energy-and-minerals/oil-and-gas

[23] Crooks, Ed "The US Shale Revolution," Financial Times (2015). Available at: https://www.ft.com/content/2ded7416-e930-11e4-a71a-00144feab7de

[24] Brady, Jeff, "U.S. Likely To Become Net Exporter Of Energy, Says Federal Forecast." NPR (2017). Available at: http://www.npr.org/sections/thetwoway/2017/01/05/508421943/u-s-likely-will-become-net-exporter-of-energy-says-federal-forecast

price environment allowed U.S. producers to take over a larger market share and increase exports.[25]

Development on public lands has been influenced by these same market forces. Crude oil production on public lands increased 26 percent from 2006 to 2015 while coal production dropped 16 percent. Despite declines in total acreage under lease, producing acreage has remained stable, down only 2 percent from 1990 to 2016. And despite a depressed market, energy extracted from our federal lands and waters still accounted for 42 percent of all coal, 22 percent of all crude oil, and 15 percent of all natural gas produced in the United States in 2015.[26]

Known Deficiencies Remain Unaddressed.

There are real challenges facing energy production on public lands, and there are always ways to do things faster, cheaper and arrive at better outcomes for all stakeholders. Independent audits and investigations have laid out a number of areas where congressional interest could be focused—like making sure taxpayers are getting a fair deal for commercial development of the resources they own, and that the BLM is adequately protecting public safety and the environment through inspection and enforcement.

As you are no doubt aware, the U.S. Government Accountability Office (GAO) has included the "Management of Oil & Gas Resources" on its biennial list of high-risk federal programs since 2011. These programs are selected because of "their vulnerabilities to fraud, waste, abuse, and mismanagement, or are most in need of transformation."[27] GAO has specifically cited DOI's failure to obtain a fair return for taxpayers and to effectively inspect and monitor oil and gas operations to justify the program's presence on the list.[28] We fear that the singular focus only on burdens to energy producers will exacerbate these profound problems, shifting even more burdens onto taxpayers and those living near energy projects.

First, by placing such an emphasis on cutting corners in the leasing and permitting process without first taking steps to modernize the onshore program's flawed fiscal policies, the Administration is effectively allowing developers to continue to enjoy an implicit subsidy. As documented by the Congressional Budget Office, GAO and other leading experts, DOI's fiscal policies, including royalty rates and minimum bids, are woefully outdated and have

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[25] Scheyder, Ernest, "With oil price near $50, resilient U.S. shale producers eye new chapter." Reuters (2016). Available at: https://www.reuters.com/article/us-oilshale/withoil-price-near-50-resilient-u-s-shale-producers-eye-new-chapter-idUSKCN0Z60CH see also: Clemente, Jude, "The Great U.S. Oil Export Boom." Forbes (2017). Available at: https://www.forbes.com/sites/judeclemente/2017/05/21/the-great-u-s-oilexportboom/#144f26bc7e5b

[26] U.S. coal production data available at: https://www.eia.gov/coal/data.php#production ; U.S. natural gas production data available at: https://www.eia.gov/dnav/ng/ng_prod_sum_a_EPG0_FGW_mmcf_a.htm ; U.S. crude oil production data available at: https://www.eia.gov/dnav/pet/pet_crd_crpdn_adc_mbbl_a.htm ; Federal production data available at: https://useiti.doi.gov/explore/

[27] https://www.gao.gov/highrisk/overview

[28] https://www.gao.gov/highrisk/management_federal_oil_gas/why_did_study#t=0

not kept pace with inflation.[29] In fact, the royalty rate has not changed since the Mineral Leasing Act was passed in 1920, and, at 12.5 percent, is considerably lower than the rates of many western states.[30] As a direct result of the Administration's energy-above-all policies and inaction on fiscal reform, millions, if not billions, of dollars that rightfully belong to American taxpayers will instead go directly into the already-deep pockets of the oil and gas industry.

Second, by offering nearly every lease that is nominated by the oil and gas industry—regardless of market conditions and potential conflicts with national parks, wildlife and other revenue-generators, like outdoor recreation—the Administration is pouring taxpayer dollars down the drain and threatening the economic foundations of western communities. In 2017, the Administration processed and offered at taxpayer expense almost 12 million acres of public lands nominated for leasing by the oil and gas industry. Yet, the industry purchased just 7 percent of those leases—about 791,000 acres. And these acres sold at fire-sale prices. Just 3 percent of the leases sold by the Administration accounted for 70 percent of total revenues from the onshore leasing program. In fact, one-third of the acres leased in 2017 went for $10 per acre or less, the majority of which sold for the minimum bid of $2 per acre—a 170 percent increase from 2016. The Congressional Budget Office reported that leases sold for $10 per acre or less are hardly ever drilled (only 8 percent of the time).[31] By paring back reforms targeted at ensuring leases sold turn into wells drilled, the Administration's focus on "energy burdens" is actually encouraging widespread and wasteful speculation by the industry.

Finally, the Administration has made no commitment to addressing the onshore program's chronically under-resourced inspection and enforcement division. Inspection and enforcement is tasked with ensuring operations are being conducted in compliance with applicable rules to protect health, safety and the environment, as well as accurately reporting production activities and paying royalties owed on that production. This is alarming, given the Administration's stated commitment to dramatically increase new permitting activity. The BLM oversees around 100,000 wells across the country for which they have and must meet inspection and enforcement responsibilities by law. The President's budget called for a 26 percent increase in oil and gas permitting activities at BLM, yet requested flat funding for inspections and enforcement activities for a division with a poor track record, largely due to resource constraints. The General Accountability Office recently reported that BLM failed to inspect some 40 percent of high-priority drilling operations during 2009-2012. Similarly, in recent years the BLM has been unable to complete all of its high-risk production inspections, which are critical for ensuring proper accounting of the billions of dollars of oil and gas produced from public lands. This perfect storm leads to significant breakdowns in performance and, ultimately, huge risks to taxpayers and the local communities living in the shadow of development.

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[29] *Id.; See also* Congressional Budget Office, Options for Increasing Federal Income from Crude Oil and Natural Gas on Federal Lands at 8, *available at* https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51421-oil_and_gas_options.pdf.

[30] https://www.gao.gov/assets/690/685335.pdf

[31] Congressional Budget Office, *Options for Increasing Federal Income from Crude Oil and Natural Gas on Federal Lands.* https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51421-oil_and_gas_options.pdf

This problem is especially acute in communities like Livingston, Montana; Paonia, Colorado; and Moab, Utah, which the Administration is actively targeting for leasing and future development. These communities depend heavily on revenue from tourism and outdoor recreation on nearby public lands, and they will bear the brunt of spills, explosions and other incidents that stem from lax inspection and enforcement.

Conclusion

We believe energy development is a legitimate use of our public lands. We have worked for years with industry and federal and state agencies to develop innovative solutions to improve the performance of federal energy development on public lands for all stakeholders. But we have grave concern that the current focus on energy above all other uses will result in significant negative consequences – and will not likely even meet the Administration's stated objectives. Energy development comes with many burdens, and we should not shift more of that burden from developers to taxpayers, local communities and other users of our public lands. A careful balance—not the dominance of one use over all others—must be struck.