HOUSE COMMITTEE ON

NATURAL RESOURCES

CHAIRMAN BRUCE WESTERMAN

To: House Committee on Natural Resources Republican Members
From: EMR Subcommittee Staff, Ashley Nichols – Ashley.Nichols@mail.house.gov; ext. 63044
Date: February 13, 2023
Subject: Oversight field hearing titled "*Federal Energy Production Supports Local Communities*"

The House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources, will hold an oversight hearing titled *Federal Energy Production Supports Local Communities*, February 13, 2023, 3:00 p.m. (CT) at the University of Texas Permian Basin Midland campus, Engineering Building, Henry Auditorium, Room 1200, located at 11105 West Highway 191, Midland, TX 79705.

Member offices are requested to notify Madeline Bryant (madeline.bryant@mail.house.gov) by 3:30 p.m. on Friday, February 10, 2023, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- Domestic production of oil and natural gas on federal lands is critical to the economies and livelihoods of local communities across the country.
- The actions of the Biden administration have driven up energy prices and have threatened the long-term viability of oil production on federal lands, jeopardizing future revenues to states and local communities.
- Federal agency permitting processes are in desperate need of reform to ensure timely approval of critical permits for the development of energy resources on federal lands.

II. WITNESSES

- Doug Ackerman, President and CEO, New Mexico Oil and Gas Association, Santa Fe, NM
- Tracee Bentley, President and CEO, Permian Strategic Partnership, Midland, TX
- Senator David Gallegos, New Mexico District 41, Eunice, NM

III. BACKGROUND

Energy Development on Federal Lands

Conventional energy resources will be a necessary component of the worldwide energy mix for many decades to come. The Energy Information Administration predicts a 50 percent increase in global energy consumption by 2050, with petroleum and other liquid fuels remaining the largest energy source, and natural gas consumption increases expected as well.[1] Maximizing energy production in America will limit the need to import from other nations, reduce global emissions and energy costs, create jobs domestically, and allow us to help our allies abroad.

The Mineral Leasing Act explicitly states that "lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary."[2] Unfortunately, the Biden administration did not hold a lease sale until June of 2022, despite the President claiming last year that he would "work like the devil to bring gas prices down."[3] To make matters worse, this sale was largely watered down as it only offered 20 percent of the parcels that were originally included, and it implemented a 50 percent royalty hike.[4] As a result, only 110 square miles of the 200 square miles received bids.[5]

Approving drilling permits will increase near-term production on federal lands which will increase supply and ultimately drive down energy prices for all Americans, something that the President claims to want. In Fiscal Year (FY) 2022, the BLM approved an average of 233 drilling permits per month. In contrast, the Department of the Interior (DOI) was approving nearly 400 drilling permits monthly in FY 2020 under President Donald Trump.[6] Additionally, as of September 30, 2022, a total of 4,609 applications for permits to drill (APDs) were still pending awaiting BLM approval.[7]

In his first days in office, President Biden issued three directives that severely impacted oil and natural gas development on federal lands and drove up energy prices for American families: Secretarial Order 3395, Executive Order 13990, and Executive Order 14008. Of note, Executive Order 14008 imposed an indefinite pause on new oil and natural gas leasing on U.S. federal lands and waters "pending completion of a comprehensive review."[8] On June 15, 2021, U.S. District Judge Terry A. Doughty placed an injunction on the unlawful moratorium and ordered the agencies to restart the leasing process.[9] In response, the Biden administration appealed the decision and continued to delay scheduling lease sales.[10]

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[1] U.S. Energy Information Administration, EIA projects nearly 50% increase in world energy use by 2050, led by growth in renewables, Courtney Sourmehi, October 7, 2021, https://www.eia.gov/todayinenergy/detail.php?id=49876

[2] 30 U.S. Code § 226.

[3] Biden: "I'm Going To Work Like The Devil To Bring Gas Prices Down" Feb. 10, 2022, https://www.realclearpolitics.com/video/2022/02/10/biden_im_going_to_work_like_the_devil_to_bring_gas_prices_down.html

[4] Energy in Depth, FIRST BIDEN ADMINISTRATION ONSHORE LEASE SALES BRING IN NEARLY $22 MILLION, 7/1/22, https://www.energyindepth.org/first-biden-administration-onshore-lease-sales-bring-in-nearly-22-million/

[5] Associated Press, Matthew Brown, First oil sales on public land under Biden bring $22 million, June 30, 2022, https://apnews.com/article/biden-billings-climate-and-environment-government-politics-e2d9bb381672f26ea985c65407c728ae

[6] https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/permitting/applications-permits-drill

[7] *Id.*

[8] Exec. Order 14008, 86 Fed. Reg. 19, 7619 (Jan. 27, 2021).

[9] Partlow, Joshua and Eilperin, Juliet. Louisiana judge blocks Biden Administration's oil and gas leasing pause. https://www.washingtonpost.com/climate-environment/2021/06/15/louisiana-judge-blocks-biden-administrations-oil-gas-leasing-pause/

[10] Valerie Volcovici. "Biden administration appeals federal court decision to block oil, gas leasing pause." Reuters. August 16, 2021, https://www.reuters.com/world/us/biden-administration-appeals-federal-court-decision-block-oil-gas-leasing-pause-2021-08-16/

As a result of the administration's failure to follow the law, the so-called Inflation Reduction Act (IRA) requires DOI to offer at least two million acres of federal land or 50 percent of the acreage for which expressions of interest have been submitted for lease every year for the next decade as a prerequisite for approving permits for wind-power and solar-power development on federal lands and waters.[11] However, the administration is currently attempting to circumvent Congress' mandate by counting acreage considered in the process but not offered in a lease sale.[12] The Bureau of Land Management (BLM) plans to conduct two lease sales in New Mexico and Wyoming, but it remains unclear if these sales will be watered down like the sale held in 2022.[13]

After the 2022 mid-term elections, the Biden administration issued several new regulatory actions related to oil and natural gas production on federal lands. In fact, the day after the 2022 mid-term elections, the BLM issued a supplemental environmental assessment (EA) in response to lawsuits from serial litigants analyzing greenhouse gas emissions that could result from the development of 3,600 oil and natural gas leases sold between 2015-2020.[14] The analysis in the environmental assessment impacts over 3.4 million acres in Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming. Notably, the EA analyzes the "downstream combustion of the fluid minerals developed under these leases."[15] The calculation of the midstream transportation and end use combustion of the natural resources produced in these lease sales causes the greenhouse gas estimates of production to greatly increase.

During the week of Thanksgiving 2022, the BLM announced seven new Instruction Memoranda related to oil and natural gas leasing on federal lands.[16] The regulatory changes made in the Instructional Memoranda aim to restrict the flexibility for domestic operators on existing leases and will limit acreage offered in future lease sales by undercounting submitted expressions of interest. The very next week, the BLM rolled out a proposed rule titled "Waste Prevention, Production Subject to Royalties, and Resource Conservation"[17] for comment. This rulemaking aims to further regulate natural gas emissions from oil and natural gas production on federal lands. Two weeks ago, the 10th U.S. Circuit Court of Appeals found that the BLM did not properly calculate greenhouse gas emissions in dozens of analyses underpinning hundreds of contested oil and gas drilling approvals in the Greater Chaco Canyon region.[18] It remains unclear if BLM will delay all pending permits in New Mexico as a result.

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[11] Public Law 117-169, Sec. 50265.

[12] Kathleen Sgamma, Testimony before House Committee on Natural Resources. February 8, 2023. https://naturalresources.house.gov/uploadedfiles/testimony_sgamma.pdf

[13] Interior Department Moves Forward with Leasing Provisions Mandated in Inflation Reduction Act, 10/6/22, https://www.doi.gov/pressreleases/interior-department-moves-forward-leasing-provisions-mandated-inflation-reduction-act

[14] BLM REQUESTS PUBLIC INPUT ON REVISED GREENHOUSE GAS LEASING ANALYSIS, Nov. 9, 2022, https://www.blm.gov/press-release/blm-requests-public-input-revised-greenhouse-gas-leasing-analysis

[15] Supplemental Environmental Analysis for Greenhouse Gas Emissions Related to Oil and Gas Leasing in Seven States from February 2015 to December 2020, November 2022, p.9, https://eplanning.blm.gov/public_projects/2022218/200537447/20069931/250076113/WEG%20EA.pdf

[16] The BLM issues updated oil and gas leasing guidance, https://www.blm.gov/sites/default/files/docs/2022-11/Fact%20Sheet_Oil%20and%20Gas%20Leasing%20Guidance_%2011.21.22.pdf

[17] 87 FR 73588, https://www.federalregister.gov/documents/2022/11/30/2022-25345/waste-prevention-production-subject-to-royalties-and-resource-conservation

[18] 10th Circuit cites NEPA to reject Chaco oil leases, Feb. 3, 2023, https://subscriber.politicopro.com/article/eenews/2023/02/03/10th-circuit-cites-nepa-to-reject-chaco-oil-leases-00080938?s=eenews

Impact of Energy Development on Communities in New Mexico

New Mexico is the second-greatest oil producing state in America. Over half of the production in New Mexico is on federal lands[19], so the state is significantly impacted by the actions of DOI. The state receives revenue from oil and natural gas production through severance and property taxes and royalty and rental income.[20] Most oil and natural gas revenues are deposited into the general fund and largely come from two sources: the oil and natural gas emergency school tax – a severance tax on oil and natural gas, as well as helium, carbon dioxide, and other hydrocarbons – and federal mineral leasing payments – money passed on to the state for mining activity on federal land, which includes oil and natural gas production.[21]

Revenue from oil and natural gas production also provisions the state's two permanent funds. The land grant permanent fund, which is comprised of royalties collected from mining and other activity on state trust lands that are distributed monthly to 21 trust land beneficiaries, such as public schools and hospitals.[22] The severance tax permanent fund receives revenue from taxes on the extraction of oil and natural gas and other minerals and is used to retire debt for government projects but is also invested by the State Investment Council.[23] At over $20 billion, the two permanent funds make up one of the world's largest educational endowments.[24]

U.S. domestic energy production on federal lands in New Mexico has almost recovered from the dip caused by the pandemic.[25] Unfortunately for consumers, the Biden administration's energy policies have also pushed up energy prices. The long-term impacts that will stem from this administration's failure to hold lease sales have not yet been felt but will likely come in the future given the time it takes to produce on a lease after it is obtained. Fortunately for the people of New Mexico, the Trump administration was diligent about abiding by the law and holding quarterly lease sales. Much of the current federal production is occurring on these leases issued by the Trump administration and on those from prior administrations. In fact, the Biden administration is averaging only 9.6 parcels offered for lease per year.[26] For comparison, the Trump administration offered an average of 153 parcels per year and the Obama administration offered an average of 103 parcels per year.[27]

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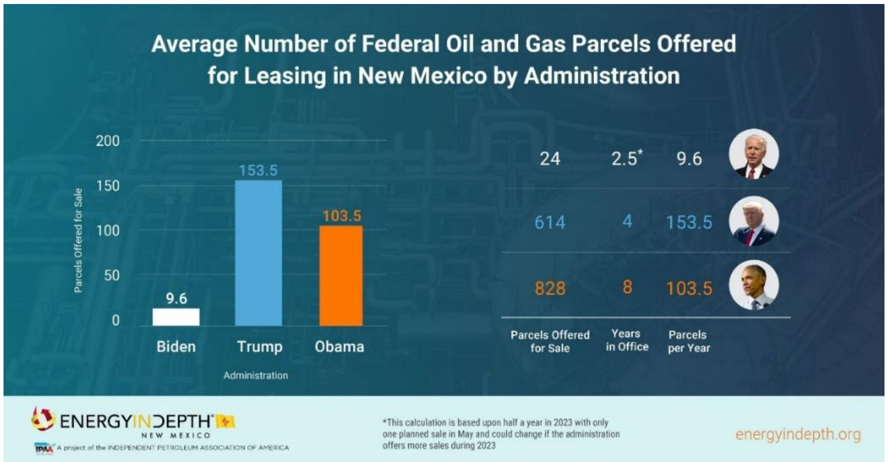
[19] https://www.energyindepth.org/president-bidens-comments-on-federal-lands-leasing-in-new-mexico-are-disconnected-from-reality/?159
[20] Oil and Natural Gas Revenue, New Mexico Legislative Finance Committee, May 2021, https://www.nmlegis.gov/Entity/LFC/Documents/Finance_Facts/finance%20facts%20oil%20and%20gas%20revenue.pdf
[21] *Id*.
[22] *Id*.
[23] *Id*.
[24] *Id*.
[25] OIL AND NATURAL GAS PRODUCTION DRIVES RECORD REVENUE FOR NEW MEXICO IN 2022, Jan. 24, 2023, https://www.energyindepth.org/oil-and-natural-gas-production-drives-record-revenue-for-new-mexico-in-2022/?159
[26] PRESIDENT BIDEN'S COMMENTS ON FEDERAL LANDS LEASING IN NEW MEXICO ARE DISCONNECTED FROM REALITY, Nov. 14, 2022, https://www.energyindepth.org/president-bidens-comments-on-federal-lands-leasing-in-new-mexico-are-disconnected-from-reality/?159
[27] *Id*.



Source: www.energyindepth.org

The recent surge in production is resulting in billions of dollars in additional revenue for the state of New Mexico.[28] Oil and natural gas tax revenue accounted for 42 percent of New Mexico's government income and generated $5.8 billion for the state's general fund and $5 billion to other state and local tax revenues in 2022.[29] Funding from oil and natural gas construction supports critical infrastructure, public safety, local schools and more. The industry is also responsible for the employment of 134,000 New Mexicans.[30] Specifically, oil and natural gas production was responsible for roughly $1.4 billion in education funding last year, of which over $1 billion went to K-12 funding, $285 million went to higher education funding, $44,000 went to each teacher, and $3,278 went to each student.[31] If this administration continues its regulatory onslaught, fails to resume leasing, and doesn't fix its broken permitting process, these funds could dry up in the future, leaving New Mexicans high and dry.

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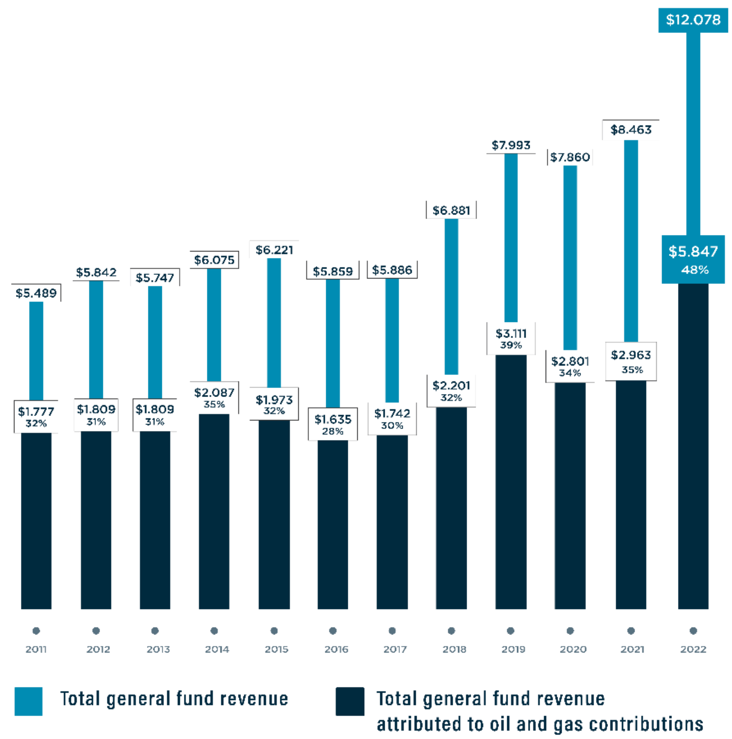
[28] Oil and gas drives billions in extra funds for New Mexico in the next year, Dec. 16, 2022, https://www.currentargus.com/story/news/2022/12/16/oil-gas-drives-billions-funds-new-mexico-next-year-permian-basin-fossil-fuel-legislature-government/69721648007/
[29] https://www.nmoga.org/benefits
[30] *Id.*
[31] *Id.*

Total Contribution to State Operating Budget from New Mexico's Oil and Gas Industry



Source: New Mexico Oil and Gas Association