Response to Written Questions

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Wyoming Oil and Gas Conservation Commission

To The House Natural Resources Committee

Subcommittee on Energy and Mineral Resources

Hearing On:

Discussion Draft of H.R. _______ (Rep. Boebert) "Restoring American Energy Dominance Act"

October 25, 2023

Chairman Stauber and members of the Committee, as a follow-up to my testimony at the referenced hearing I received questions from Ranking Member Ocasio-Cortez. Thank you for the additional questions and for the opportunity to provide this information.

1. **Question:** After Wyoming updated its state bonding rules for oil and gas wells in 2015, did production of oil and gas in Wyoming increase or decrease in the following years? How much did new wells drilled after 2015 contribute to Wyoming's overall Production

   Response: Oil production in 2016 and 2017 decreased from 2015. By 2018 oil production was substantially similar to 2015. 2019 oil production was greater than 2015 and in 2023 is expected to be greater than 2015. Based on well production data collected over the last couple of years, oil production from newly drilled wells accounts for approximately 30% of Wyoming's total annual oil production.

   Gas production has generally declined every year since 2015, with the exception of 2018, where gas production was substantially the same as 2017. The rate of drilling new gas wells in Wyoming is not high enough to replace the natural decline rate of older gas well production within the state.

   The Wyoming Oil and Gas Conservation Commission (WOGCC) bonding regulations contain key provisions that reduce the impact to oil and gas operators while still ensuring the agency has funds to plug orphan oil and gas wells, should it become necessary. These provisions are not found in BLM's one size fits all bonding approach as proposed in their Fluid Mineral Leasing and Leasing Process rule, which will unnecessarily burden operators impacting many small businesses in Wyoming.

   In Wyoming most operators choose to post a statewide operator blanket bond to cover all of their wells in the state in the amount of $100,000. The WOGCC also conducts an annual review of each operator's wells with a specific focus on idle wells. The review allows the agency to understand any plans the operator has to return idle wells to production or plug the well. If the operator has plans to produce or plug the well within the next year then bonding in any amount additional to their operator blanket bond is not required. The operator may be required to post idle well bonds for any wells that are idle and do not have plans to return to production or plug if the WOGCC determines the idle well footage exceeds what is covered by the operator blanket bond. During this review the WOGCC determines the appropriate bond amounts based on factors that impact the expected cost to plug and reclaim the well, such as well type, well status, well depth, and well completion and has found that utilizing an average plugging cost of dollars per foot of well depth is the most accurate method of calculating the appropriate bond amount. The WOGCC bond rate set by its current rules is $10/foot of well depth, with the authority to modify this rate based on specific well details. In some cases the bond rate is reduced based on these specific details.

BLM has proposed using an average cost to plug and reclaim a well of $71,000. This does not account for significant variances in the plugging costs based on previously mentioned factors and does not allow for modification based on an operator's plans or any other conditions. Examples of how this overburdens operators are found in my written statement. Summarizing an example in those comments, one operator in Wyoming has five federal leases, each with a single coalbed methane well located on the lease. Based on BLM's proposed rule, that operator would need to post a statewide bond of $500,000. Each of these coalbed methane wells are shallow, at approximately 1,000 feet deep. The WOGCC expects the cost to plug these wells to be $5,000-$7,000 each for a total cost to plug and reclaim all five wells of $25,000-$35,000. The WOGCC bond requirement for these five wells, if they were idle and required bonding, would be $50,000. The WOGCC bond requirement would protect the agency in this scenario without overburdening the operator, whereas BLM's required $500,000 bond would be at least 10x the bond necessary to complete the plugging and reclamation. In this scenario the required BLM bond far exceeds the revenue generated from these five wells and it is likely the operator will either prematurely plug all the wells or could be forced into bankruptcy, potentially creating additional orphan wells.

The BLM process for declaring wells orphan also greatly reduces any risk to the agency or to the American public. As I describe in my written statement, BLM holds any previous record title owner (RTO) or operating rights holder (ORH) responsible to plug a well if the current operator is non-responsive. This process nearly eliminates orphan wells on federal lands, as evidenced by the number of orphan wells and the expected costs for plugging orphan wells as quoted by BLM in the proposed rule. The WOGCC does not have the same ability to hold RTO or ORH responsible, yet the WOGCC has successfully plugged over 5,000 orphan wells since 2014. The WOGCC utilized forfeited bonds to cover over 2/3 of the costs of this plugging while setting appropriate bond levels, not overburdening the operator as BLM proposes. The remaining costs to plug orphan wells comes from a tax paid by industry to the WOGCC on the sales of oil and gas.

2. **Question:** The Inflation Reduction Act raised the federal royalty rate on oil and gas production from 12.5 percent to 16.67 percent. How does the federal royalty rate compare with Wyoming's state royalty rates?

   Response: The royalty rate set for oil and gas production on state trust land leases is 16 percent. The royalty rate is only one cost of doing business for the oil and gas industry and if all other costs were similar then setting a similar royalty rate would not be so burdensome. Comparing the entire cost of doing business on federal lands to the cost to do the same work on state or private lands creates an understanding of why the federal royalty rate should remain lower than the rate set on state trust lands or on private lands.

In general, the cost to do business on federal lands is much higher than on state or private lands, both in terms of hard costs and in terms of time. Companies who operate on federal lands incur additional costs for such things as formal lease nominations, expressions of interest fees, competitive lease applications, lease reinstatements, unit agreement applications, and applications for permit to drill – to name a few. Expressions of interest on parcels will cost $5/acre with no guarantee that the parcel will be placed into a lease sale and no refund if the parcel is deferred. Under the current administration, BLM has deferred significant acreage in Wyoming. Many of these same processes have no fees or costs on state or private lands. An application for permit to drill (APD) fee from the WOGCC is $500 whereas an APD fee from the BLM is $12,155 (as of 10/1/2023). These are just several of the many examples of higher costs to operate on federal lands.

The time and uncertainty of operations on federal lands are also significantly higher than state or private lands. For example, the average time for BLM to complete their review of an APD between 2011 to 2020 ranged from 108 days to 307 days (Source: BLM. Table 12 Time to Complete an Application for Permit to Drill (APD) Federal and Indian. https://www.blm.gov/sites/blm.gov/files/docs/2021-3/Table12_TimetoCompleteAPD_2020.pdf). The WOGCC can issue an APD in as little as one day and generally within two weeks if necessary. Operating on federal lands requires significant investment of time and costs for actions related to leasing, NEPA, APDs, rights of way, and various other routine actions. The constant barrage of litigation can be just as cumbersome. Environmental groups have filed many lawsuits targeting leases and/or APDs. While companies may intervene to defend their interests and BLM action, these lawsuits add substantial cost and uncertainty. The same threats do not exist when leasing from the state or private mineral owners. It is the combination of increased costs, time and uncertainty associated with operating on federal lands that requires a lower royalty rate to remain competitive with state and private lands. The increased cost, time, uncertainty and royalty rates puts states with large percentages of federal lands, such as Wyoming, at a distinct disadvantage of capitalizing on our abundant natural resources, because companies can simply develop in states that do not have the density and intermixed federal lands.