H.R. 1449, H.R. 2855, H.R. 6009, AND H.R. 6011

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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Wednesday, October 25, 2023

U.S. House of Representatives

Subcommittee on Energy and Mineral Resources

Committee on Natural Resources

Washington, DC

The Subcommittee met, pursuant to notice, at 3:15 p.m. in Room 1324, Longworth House Office Building, Hon. Pete Stauber [Chairman of the Subcommittee] presiding.

Present: Representatives Stauber, Lamborn, Fulcher, Boebert; Magaziner, and Lee.

Also present: Representatives Hageman; and Soto.

Mr. STAUBER. The Subcommittee on Energy and Mineral Resources will come to order.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member.

I ask unanimous consent that the gentlewoman from Wyoming, Ms. Hageman, and the gentleman from Florida, Mr. Soto, be allowed to participate in today's hearing.

Without objection, so ordered.

I now recognize myself for an opening statement.

STATEMENT OF THE HON. PETE STAUBER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. STAUBER. Thank you all for being here today to discuss these important pieces of legislation.

Earlier this Congress Republicans established our commitment to an all-of-the-above approach to domestic energy policy. This includes oil, natural gas, coal, renewables, along with the minerals that are needed to produce them. It is important that we embrace all forms of energy and we let the best rise to the top.

We must also make sure that we produce energy here, instead of relying on foreign adversarial nations that are hostile toward the United States and that have weak environmental, labor, and safety standards. Unfortunately, the Biden administration has set an anywhere-but-America, any-worker-but-American energy policy, and they have drawn a hard line at a renewable-only energy agenda that is making us more dependent on our adversaries.

In our hearing on the Administration's historically atrocious offshore 5-year plan last week, I said that instead of American energy dominance, this Administration would rather beg Iran, Russia, Saudi Arabia, and other OPEC countries for increased oil production. Later that afternoon, the Biden administration announced they planned to ease sanctions on Venezuelan-produced energy. You can't make this up.

This America-last mentality being pushed by this Administration must stop, or else we risk our energy security at a time of increased global uncertainty. It is time that America lead. The bills we have before us today are a very good start on putting us back on the path of strength.

H.R. 1449, the Committing Leases for Energy Access Now Act, or the CLEAN Act, introduced by my friend, Representative Fulcher from Idaho, would increase the frequency of geothermal lease sales and streamline the process for geothermal drilling permits. Geothermal energy has serious potential for growth in our country, but the best reservoirs are located on Federal lands in the West. We must do all we can to ensure that bureaucratic red tape does not hamper this resource moving forward, and I appreciate Representative Fulcher's work on this issue.

H.R. 2855, the Sinkhole Mapping Act, introduced by Representative Soto, would direct the U.S. Geological Survey to study the short- and long-term effects of sinkholes, and map the highest risk areas. Over the past 15 years, damage from sinkholes has cost an average of $300 million annually. However, there is currently no national database of sinkhole damage costs, so the true expense may be higher than 300 million annual estimated. I look forward to working with Representative Soto to find an offset for this bill so that we can move it forward.

H.R. 6009, the Restoring American Energy Dominance Act, introduced by the gentlelady, Representative Boebert from Colorado, would force the BLM to withdraw its proposed onshore leasing regulation which is part of the Biden administration's war on traditional energy sources. The regulation proposed in July would significantly increase fees for operators, which will crush small businesses and tie up capital that would otherwise go toward

increasing production, something this Administration has said it wants.

The regulation also introduces a new, nebulous preference criteria for onshore leasing that could lock up thousands of acres of Federal lands for leasing, which is the last thing we need right now. This provision is just another tool for this Administration to shut down the domestic oil and gas industry.

I am proud to serve as an original co-sponsor of this legislation, and I would like to thank Representative Boebert for her leadership here.

H.R. 6011, the Right of Way Application Transparency and Accountability Act, introduced by Representative Valadao, would expedite right-of-way applications on Federal lands by requiring agencies to notify applicants if their right-of-way application is complete or deficient within 60 days. This all-of-the-above energy bill would help renewable and conventional energy projects on Federal lands, and would cut down the time it takes to permit and build a project here in the United States.

I look forward to a robust discussion today on these bills.

I will now yield to my colleague from Colorado, Representative Boebert.

STATEMENT OF THE HON. LAUREN BOEBERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Ms. BOEBERT. Thank you, Mr. Chairman. From Day 1 of his administration, Joe Biden has declared an all-out war on American energy production and exploration. He has made it clear that he cares more about appeasing the radical climate change activists than protecting the millions of oil and gas workers and producers in America. I was disappointed, but not surprised, this July, when the Biden administration filed this proposed rule entitled, "Fluid Mineral Leases and Leasing Process," which mandates provisions from the partisan so-called Inflation Reduction Act, which increased the royalty rate for production on Federal lands, while also increasing and creating new fees for domestic energy producers.

This fluid mineral leasing rule is further proof that Joe Biden is using every tool in his Administration to dismantle American energy production. It codifies pieces of the highly-partisan so-called Inflation Reduction Act and makes major non-statutory changes to the BLM's onshore leasing program. It increases bonding levels for production on Federal lands, and proposes ending nationwide bonding and increasing the minimum bond amounts for individual lease bonds and statewide lease bonds from $10,000 to $150,000 and from $25,000 to $500,000, respectively.

This significant increase will tie up capital that would otherwise be put back into production and is unjustifiable, as there are only 37 orphaned oil and gas wells on BLM managed lands. These increases will impact smaller producers who can't afford to operate in this market. These additional fees will ultimately harm returns and reduce revenues to state and local governments by disincentivizing development on our Federal lands.

The proposed rule also introduces the idea of using preference criteria to inform the BLM's selection of lands for lease sales.

BLM's rationale for this change is to avoid conflict areas with "sensitive cultural, wildlife, and recreation resources." This means the BLM field offices could avoid leasing in all areas with endangered or threatened species, critical habitat, or nearby recreation areas, a move that would greatly limit leasing on Federal lands.

With the wars happening in the Middle East and in Europe, and with OPEC significantly lowering oil production, we can't rely on other foreign nations to control our energy supply. This is why I introduced the Restoring American Energy Dominance Act, to terminate this proposed rule and to protect American energy producers.

America makes the cleanest, most reliable, most affordable energy in the world. American innovation, in particular, fracking, has allowed America to be the global leader in reducing emissions since the year 2000. We need to stop buying oil and gas from Russia, stop begging OPEC, Venezuela, and even Iran to produce energy for us, and start producing more energy responsibly right here in America.

I have always been a strong supporter of oil and gas workers, certainly in my district in Colorado, as well as across the country. I look forward to working with the Committee to openly push for the increased production to unleash American energy now. We must restore America's energy security, energy independence, and pursue energy dominance.

Mr. Chairman, I thank you and I yield.

Mr. STAUBER. Thank you very much. The Chair now will recognize Representative Soto from the 9th District of Florida for his testimony on his bill.

STATEMENT OF THE HON. DARREN SOTO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. SOTO. Thank you, Chairman Stauber, for this opportunity to present our Sinkhole Mapping Act, and I also appreciate Ranking Member Ocasio-Cortez.

We know that sinkholes have been a cause of billions of dollars in damages across the nation over many years, and it truly affects just about every state. Our bill would require the U.S. Geological Survey to create a database of sinkhole collapses through the United States so this data is available, as well as be proactive in individual state geological surveys like in Florida to track reported collapses within their states, and to develop and maintain a national scale of karst areas and other areas prone to sinkhole formation, not just sinkholes themselves.

We have seen the Florida Surveying and Mapping Society, the National Society of Professional Surveyors, and the U.S. Geospatial Executive organizations endorse this bill. It is bipartisan, it has been co-sponsored by Representatives Bilirakis, Luna, and Fitzpatrick on the Republican side.

This is a big issue in central Florida and throughout the Sunshine State. We saw as recently as November 29 of last year that in Volusia County, just north of us in Representative Waltz's district, a sinkhole opened up after Hurricane Ian and was aggravated by Hurricane Nicole.

We also saw reported subsidence incidences, sinkholes recorded by the Florida Department of Environmental Protection: 11 in my home county of Osceola; 194 in Orange County; 236 in Polk County and other areas of the district; and a total of over 3,000 across Florida. But this is happening in other states.

Chairman, your state is known for 10,000 lakes, but for more than 25 years Fountain, Minnesota has called itself the Sinkhole Capital of the United States. And there are over 10,000 sinkholes, as well, I don't expect that to change any state mottos anytime soon, around Fillmore County, Minnesota.

I also was going to point out to Ranking Member Ocasio-Cortez that each year over 2,000 to nearly 4,000 sinkholes open up per year in New York City. One just this past August, a sinkhole swallowed a car with driver and passengers inside it from flooding near Rochester, New York. So, this is truly a national problem affecting all of us.

Thank you, Chairman, for the time today, and I am happy to answer any questions, at the Chairman's discretion.

Mr. STAUBER. Thank you, Representative Soto, for your comments. I will now recognize Representative Fulcher from the great state of Idaho's 1st District to speak on his bill.

Representative Fulcher.

STATEMENT OF THE HON. RUSS FULCHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Mr. FULCHER. Thank you, Mr. Chairman.

Before I do, Mr. Soto, I think you just explained why maybe we have a $33.6 trillion debt. It is that giant sinkhole. All the money is going in there. That must be what it is.

Mr. Chairman, thank you for the opportunity to introduce this bill, and I thank the Committee for holding this hearing today.

The bill I am introducing is H.R. 1449, Committing Leases for Energy Access Now, or the CLEAN Act. It amends the Geothermal Steam Act to establish deadlines for consideration of geothermal projects requiring yearly lease sales for geothermal energy. Currently, the Act requires at least a sale every 2 years. This bill requires the Interior to hold a sale at least once per year, and there are plenty of applications to do this.

This is just a way to try to encourage geothermal energy. And Mr. Chairman, of all the discussions we have had on various energy sources, and all the debates we have had that have gone back and forth, geothermal is one that is clean, it is efficient, it is extremely environmentally friendly. And my state of Idaho has been a leader on that, and it is just a good solution that we need to encourage a little bit more, so that is what this bill intends to do.

Securing American energy independence should be a top priority for Congress. Geothermal is a renewable power source that could help us accomplish that goal. As I mentioned earlier, Idaho already plays a leading role in geothermal energy production.

To begin developing geothermal resources on federally controlled lands, a project must first obtain a lease. Ninety percent of viable geothermal resources are estimated to be located on these federally

controlled lands. That is 90 percent. It makes constituent lease sales crucial to the expansion of the energy source.

Geothermal is proven clean and efficient, and it provides baseload, reliable power to residents in rural areas. And that is something also, Mr. Chairman, I don't think a lot of people realize. It is baseload power. This is not peaking power. Prioritizing geothermal exploration on Federal lands will increase certainty for domestic companies looking to explore for geothermal resources, while still requiring a full EA if the resources prove exploitable.

So, to the Committee and Mr. Chairman, specifically, thank you for your time and consideration of H.R. 1449, and I look forward to moving this through the Committee process.

I yield back.

Mr. STAUBER. Thank you, Representative Fulcher. We will now move to introduce our witnesses.

Let me remind all the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record.

To begin your testimony, please press the "talk" button on your microphone.

We use timing lights. When you begin, the light will turn green. When you have 1 minute remaining, the light will turn yellow. And at the end of the 5 minutes, the light will turn red, and I will ask you to please complete your statement as soon as practical.

I will also allow all witnesses to testify before Member questioning.

Our first witness is Mr. Gene Grace. He is General Counsel for the American Clean Power Association, located right here in Washington, DC.

Mr. Grace, you are now recognized for 5 minutes.

STATEMENT OF GENE GRACE, GENERAL COUNSEL, AMERICAN CLEAN POWER ASSOCIATION, WASHINGTON, DC

Mr. GRACE. Thank you, Chairman Stauber and the other members of the Subcommittee. I am honored to be here to testify in front of you today. I am Gene Grace, the General Counsel for the American Clean Power Association. We represent nearly 1,000 utility-scale, clean energy companies that are dedicated to advancing solar, wind transmission, energy storage, and green hydrogen.

Our nation is about to really break through to domestic energy production driven by the strength of traditional energy sources combined with a massive deployment of clean energy. The challenge we face today, however, is that this progress is really being hamstrung by a permitting process that is inefficient and slow, and making it really almost impossible to modernize our energy economy.

Without further permitting reform, it is estimated that clean energy investments that total about $3.5 trillion won't be realized within the next decade. This is why the American Clean Power Association has been a champion and supporter of common-sense permitting reforms, and we will continue to be so.

Nowhere is this dynamic playing out greater than on Federal public lands. While BLM has more than 200 million acres of land

that could host thousands of megawatts of clean energy, currently there is only a fraction of clean energy. Less than 5 percent of all total clean energy deployed today is on public lands. Projects opt instead to go on private lands because they are concerned about the long permitting timelines. This should come as no surprise when, for instance, it takes longer than a decade to permit a transmission line on public lands.

The good news is that we can solve these problems without creating new processes or gutting bedrock environmental laws. The Fiscal Responsibility Act and the permitting reform provisions in it really kind of provide a roadmap of how to solve these problems. They focused on common-sense reforms that had really two key ingredients. They focused on process-oriented reforms and ones that did no harm to the environment.

While those recent permitting reforms focused on the environmental phase of the permitting process, more needs to be done, and there are other phases of the permitting process that need to be focused on that should have clear and predictable timelines. The Right of Way Application Transparency and Accountability Act is such a bill, and it will help fill that gap by providing greater certainty with respect to the right-of-way application process on public lands.

While BLM strives to provide a decision on an actual application within 60 days, ironically, there is no timeline by which they have to make a completeness determination. This creates a perverse incentive for BLM to essentially drag their feet and not make a completeness determination so as not to trigger the 60-day clock. Not surprisingly, it can take over a year to get a completeness determination and more than 5 years to ultimately get a permit. This bill will cut down on the completeness determination, and therefore the ultimate time that it takes to actually get a permit.

To further improve the ROW application process, we also recommend that BLM be required, if there is a deficiency, that they notify the applicant of that deficiency in writing so the applicant can cure the deficiency quickly and get on with the permitting process.

In short, the American Clean Power Association supports bills like this one that are common-sense permitting reforms that will help us to build clean energy at the scale and at the speed we need to meet our economic and energy goals.

Thank you for your time today, and I look forward to the questions.

[The prepared statement of Mr. Grace follows:]

PREPARED STATEMENT OF GENE GRACE, GENERAL COUNSEL, AMERICAN CLEAN POWER ASSOCIATION

ON H.R. 6011, RIGHT OF WAY APPLICATION TRANSPARENCY AND ACCOUNTABILITY ACT

Chairman Stauber, Ranking Member Ocasio-Cortez, and Members of the Subcommittee, thank you for the invitation to testify at today's hearing in favor of the Right of Way Application Transparency and Accountability Act ("ROWATA") and, more generally, about the need for reforming the permitting process for clean energy projects on federal public lands.

My name is Gene Grace, and I am the General Counsel for the American Clean Power Association (ACP). ACP represents nearly 800 companies focused on

deploying utility-scale clean energy. We unite the power of solar, onshore and offshore wind, storage, green hydrogen and transmission developers, along with manufacturers and construction companies, owners and operators, utilities, and corporate purchasers of clean energy.

Our nation is on the precipice of a breakthrough in domestic energy production. Seizing this opportunity is dependent on the continued strength in traditional energy production with unleashing a massive deployment of a wide range of clean energy technologies.

Clean power has already become a significant part of our nation's energy mix. Approximately 15 percent of our nation's power comes from wind and solar and today there is enough wind, solar, and battery storage installed across the U.S. to power more than 59 million homes. The industry provides 443,000 American jobs, supporting jobs in every state in our country, and delivers over $2.8 billion each year in state and local taxes and landowner lease payments.

Over just the last 14 months, we have seen massive capital investments and commitments to accelerate the deployment of a wide range of clean energy—resulting in more than 230 major clean energy projects, more than $200 billion in private-sector investments, and more than 80,000 jobs announced across 40 states. The industry is poised to see further significant growth over the next 10 years with expanded investments in clean energy infrastructure that will unleash further economic growth, create more good-paying American jobs, strengthen the reliability and resiliency of the grid, and lower carbon emissions.

The challenge we face today, though, is a system of regulations and procedures that are slowing the private sector from modernizing our energy production and, in turn, making it hard to realize our nation's energy security, and reliability imperatives. For instance, it often takes more than a decade to permit high-capacity transmission lines across public lands, driving away private investments.

These delays are largely due to procedural inefficiencies in processing permits and have ripple effects throughout the economy—throwing off project timelines, domestic supply chains, and the indirect jobs and economic activity that would otherwise occur. Without further permitting reform, the United States may not be able to meet our growing energy demand and could fall short of its potential to unlock more than $3 trillion in clean energy investments over the next decade. That is why ACP has been and will continue to be a strong advocate for permitting process reforms that will expedite timelines, increase transparency and accountability, and reduce duplication and bureaucratic red tape.

A case in point is permitting energy projects on federal public lands. While these lands have the potential to play an integral role in supporting the energy transition, because of outdated, burdensome, and lengthy permitting processes, they are being vastly underutilized. The Bureau of Land Management (BLM) manages 245 million acres of land with the potential to host tens of thousands more megawatts of clean energy.[1] However, as of 2023 a little over 60 solar and wind projects have been approved on BLM lands.

This underutilization is made especially clear when contrasting clean energy development on public lands with that on private land. Since 2015, less than 1,000 megawatts (MW) of solar photovoltaic and 220 MW of onshore wind projects have been deployed on public lands.[2] In the same period, 42,900 MW of utility-scale photovoltaic and 64,900 MW of onshore wind was built on private lands across the country.[3]

Reforms to the way in which renewable energy is permitted on these lands, including the pace at which rights of ways (ROWs) are reviewed, is the key to ensuring that these lands are an attractive option for developers.

The good news is that we do not need to reinvent whole new processes nor erode our bedrock environmental laws to support energy development on public lands. Process reforms, like ROWATA, can successfully unleash deployment of well-planned, predictable, and coordinated development of clean energy resources, as well as other critical infrastructure, on federal public lands without putting our environment at risk.

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[1] Yale Center for Business and the Environment et al., Key Economic Benefits of Renewable Energy on Public Lands (May 2020), p. 15, https://www.wilderness.org/sites/default/files/media/file/CBEY_WILDERNESS_Renewable%20Energy%20Report_0.pdf.

[2] Bureau of Land Management. Wind Energy Rights-of-Way (ROW) on Public Lands. May 2021. https://www.blm.gov/sites/blm.gov/files/docs/2021-05/PROJECT%20LIST%20WIND_May2021.pdf.

[3] American Clean Power Association. Clean Power IQ. Data Accessed 9/21/21, available at https://cleanpoweriq.cleanpower.org.

ROWATA Helps Deliver Key Reform to the Permitting Process for Critical Infrastructure on Public Lands

ROWATA builds on the process reforms enacted in the Fiscal Responsibility Act (FRA). While the FRA timelines improve inefficiencies and certainty around the environmental review process, there is still a need for the other phases of the permitting process, to have a predictable time frame.

Today, the average timeline for a project to obtain a ROW is often over 5 years, largely due to the delays between filing an application and getting to the Notice of Intent to begin the environmental review process. This act is a start at reducing that time frame by improving the timeliness and transparency of the ROW application process.

As a general rule, a ROW is needed whenever a developer wishes to build on public land. It is an authorization to use a specific piece of public land for a certain project, such as roads, pipelines, transmission lines, solar or wind farm, and communication sites. It is typically granted for a term that covers the life of a project.

BLM strives to provide ROW applicants a decision within 60 days from the receipt of a ***completed*** application or inform the applicant within 30 days if processing will take longer than that time and provide a specific date by which such a determination will be made. However, there is no timeline in place for a determination to be made regarding whether an application is deemed complete or deficient. There are also no firm standards in place to advise applicants what information is needed to achieve a "completeness" determination.

Without any such deadline, there is no incentive (and potentially a disincentive) to make a determination that the application is complete, as it starts that clock running on the need to approve or deny the application. Not surprisingly, just getting a decision as to whether the application is complete can take more than half a year, and even longer in certain circumstances. In short, projects can be significantly delayed by a process that should entail a relatively easy "check-the-boxes" exercise of determining whether an application is complete and ready for processing.

These types of delays and uncertainty serve to deter deployment of clean energy infrastructure on public lands, as increased time translates into increased costs for a project. By requiring a notification as to whether a ROW application is complete or deficient within 60 days, this bill will minimize these delays and increase transparency, as well as expediting the time in which a decision approving or disapproving a project can be expected.

To further improve the ROW application process, ACP recommends the bill be expanded to require that BLM inform an applicant as to why an application was found deficient and to clarify what needs to be submitted for the application to be determined complete. Such a requirement would allow developers to timely correct a deficiency.

Further Reforms to Make Clean Energy Development on Public Lands More Attractive

If we are to truly unleash America's diverse energy resources, including clean energy, we must speed up the federal permitting process from start to finish. While ROWATA would help address a specific issue related to the ROW application process, more needs to be done across the board to improve timelines for the entire permitting process on public lands. To that end, ACP recommends this Committee also pursue legislation that would ensure the timely review and processing of *all* the decision points related to permits. Specifically, ACP recommends consideration of the following:

- Passing the bipartisan Public Land Renewable Energy Development Act (PLREDA), which would expedite the permitting process for wind, solar, and energy storage development on federal lands, as well as provide a revenue sharing mechanism that would ensure a fair return for states, counties, conservation, and taxpayers and incentives for development on "priority" lands and "development" lands.
- Strengthening Renewable Energy Coordination Office authority to ensure faster approval of renewable energy projects on BLM lands.
- Passing an increased renewable permitting target for public lands, which builds upon the target in the Energy Act of 2020.

It is also important to recognize that improvements to regulations can only go so far if BLM offices are understaffed, do not have the appropriate expertise on staff, and/or do not prioritize ROW applications. To that end, Congress should continue to work with BLM to ensure it has the necessary skills and improved coordination

efficiencies needed to effectively manage an increasing clean energy workload and to effectuate additional responsible deployment of clean energy on public lands.

Conclusion

ACP strongly supports permitting process reforms, such as ROWATA, that are vital to unleashing our nation's clean energy potential across the United States. The increased certainty provided by this commonsense bill will encourage timely development of clean energy projects on federal public lands—commensurate with their potential to host clean energy. This will, in turn, help the nation achieve Congress' direction in the Energy Act of 2020 to permit 25 gigawatts of clean energy on public lands by 2025, thereby reducing electricity costs, improving energy security, enhancing grid reliability, reducing emissions, and creating good-paying jobs for Americans.

Mr. STAUBER. Thank you very much, Mr. Grace. Our next witness is Ms. Sarah Jewett, and she is the Vice President of Strategy for Fervo Energy, and she is stationed in Houston, Texas.

Ms. Jewett, you are now recognized for 5 minutes.

STATEMENT OF SARAH JEWETT, VICE PRESIDENT OF STRATEGY, FERVO ENERGY, HOUSTON, TEXAS

Ms. JEWETT. Thank you, Mr. Chairman and Representative Fulcher, for the opportunity to testify at today's hearing. My name is Sarah Jewett and, as the Chairman said, I am the Vice President of Strategy at Fervo Energy, a utility-scale, next-generation geothermal energy developer. I am grateful that the Committee has convened today to discuss a critical issue: leasing and permitting for geothermal projects on public lands.

Today, the geothermal energy industry provides about 3,800 megawatts, or 0.4 percent of the U.S. electricity mix. But we are seeing a period of extraordinary growth driven by an elevated need for more diverse, reliable energy, and a secure domestic energy supply.

Over the last 20 years, as the shale revolution has boomed across the country and across the world, America has led cutting-edge innovation in subsurface technologies that are directly transferable from the fossil fuel industry into the geothermal energy industry. This innovation sets the United States up to be the leader in geothermal energy research, development, and deployment.

The Department of Energy's 2019 Geovision report found that geothermal energy could provide over 120 gigawatts of emission-free, round-the-clock power by 2050, accounting for at least 20 percent of the U.S. electricity supply. With these projects comes stable jobs. According to National Renewable Energy Laboratories Jedi Job Creation model, each new geothermal plant creates thousands of construction and operations jobs, including many that require workers with drilling expertise and oil and gas backgrounds, and hundreds of permanent positions at job sites in rural areas.

With the right blend of Federal policy and market incentives, the U.S. geothermal energy industry can leverage America's innovation and experienced workforce to create non-weather-dependent, clean, resilient power, securing our electricity supply in an era of international competition and growing national security threats.

H.R. 1449 proposes highly productive measures to enhancing the efficiency and predictability of leasing and permitting for geothermal projects. By reducing the time between lease sales and ensuring replacement sales are held if previous sales are delayed or canceled, the volume of geothermal leases will increase, spurring more activity in this high-demand industry, and increasing state and Federal revenues from geothermal leases.

Additionally, by requiring that the Bureau of Land Management acknowledge and make a determination on geothermal drilling permits within a set time frame, the bill discourages prolonged, unexplained permitting delays, allowing for operators to plan and execute clean energy projects predictably.

Just a few weeks ago, Fervo Energy celebrated a groundbreaking to mark the start of our newest and what will be the world's largest utility-scale next-generation geothermal project called Cape Station in Beaver County, Utah. The first two phases of Cape Station will provide 400 megawatts of 24/7 carbon-free electricity beginning in 2026, employing 6,600 people during the construction period and a staff of 160 during the permanent operations phase. This project has been an outstanding success, from a permitting perspective.

Fervo engaged the BLM, state, and local officials, involved regulatory agencies and local impacted stakeholders early, deliberately, and consistently in order to educate all about the project and lay a productive path for communication and feedback. With this highly collaborative approach, the BLM staff at the state and local level have proven to be incredibly helpful, professional, responsive, and dedicated, and we have received decisions efficiently following clear and effective communication.

The Cape Station project is a unique example of how the U.S. Federal permitting system can work really well in its current form. But as our national requirements for clean, firm power grow, and as the country steps up in the great geothermal race, we need to do more to maintain consistency across BLM state and local offices to ensure that we can predictably and effectively build projects at home.

Congress and the Administration can increase the consistency and efficiency of geothermal permitting, while still maintaining robust environmental safeguards and community engagement and protections. To do this, Congress should work with the Administration to standardize the approach to leasing and permitting on Federal lands across the states, authorizing a more holistic approach.

With the Federal Government making these efforts, private sector companies like Fervo can have more certainty in project timelines, lower project costs, and expand new technologies to harness clean energy resources like the Earth's heat to power homes and businesses. With this in mind, we applaud Representative Fulcher for his introduction of H.R. 1449, the CLEAN Act, and for his continued leadership on geothermal energy.

The geothermal industry stands ready to scale today, providing well-paying jobs across America. We look forward to working with you on this. Thank you again for the opportunity to testify.

[The prepared statement of Ms. Jewett follows:]

PREPARED STATEMENT OF SARAH A. JEWETT, VICE PRESIDENT OF STRATEGY, FERVO ENERGY

ON H.R. 1449

Chairman Stauber, Ranking Member Ocasio-Cortez, and Members of the House Natural Resources Committee Subcommittee on Energy and Mineral Resources, thank you for the opportunity to testify at today's hearing.

My name is Sarah Jewett, and I am Vice President of Strategy at Fervo Energy, a company that develops next-generation geothermal projects to deliver 24/7 clean and reliable electricity to the grid. I'm grateful that the Committee has convened today and grateful for the invitation to discuss a critical issue: leasing and permitting for geothermal projects on public lands.

Climate change is elevating the need for a diverse and reliable energy mix and global conflict is elevating the value of secure, resilient domestic energy supplies. Wind and solar are continuing to add capacity to the grid, and we now see a rapidly expanding role for clean, firm energies that produce around the clock and contribute to grid reliability and energy security.

Among these clean, firm energy options exists a long-slumbering giant: geothermal energy, which harnesses a nearly infinite well of heat from the earth's core to create baseload, emissions-free heat and power. This heat exists everywhere, but across vast swaths of the western United States, it happens to exist at a depth that is easily accessible using modern drilling and completions technology developed by the oil and gas industry during the shale revolution over the last twenty years.

With massive resource potential, strong demand, a uniquely American-made supply chain, a highly trained fossil fuel workforce ready to do the work, and U.S.-based companies like Fervo hard at work to bring geothermal energy to market, America is poised to take first on the global stage in geothermal energy leadership. I thank the committee for elevating the topics of leasing and permitting for geothermal projects, which will contribute to solidifying this leadership position.

Expanding Next-Generation Geothermal Energy Development on Public Lands Is a Critical Strategy to Enhancing American Energy Security

Utility-scale geothermal energy is produced by drilling wells into the earth to access high temperature rock and using water to pull heat from these rocks to the surface. This hot fluid is transported via pipeline to a nearby power facility where it is used to spin a turbine to generate electricity before being reinjected into the ground.

Over the last twenty years, as the shale revolution has boomed across the country and across the world, America has led cutting edge innovation in subsurface technologies that are directly transferable from the fossil fuel industry into the geothermal industry. With these projects will come stable jobs: according to the National Renewable Energy Laboratory's (NREL) JEDI job creation model, each new geothermal plant creates thousands of construction and operational jobs, including many that require workers with drilling expertise and oil and gas backgrounds, and hundreds of permanent positions at job sites in rural areas.

Today, geothermal energy only provides about 3,800 MW or 0.4% of the U.S.'s electricity, but we are seeing a period of extraordinary growth. The Department of Energy's (DOE) 2019 GeoVision report found that geothermal could provide over 120 GW of clean, firm power by 2050, accounting for 20% of U.S. electricity supply. With the right blend of federal policy and market incentives, the U.S. geothermal energy industry can leverage America's innovation and experienced workforce to create 24/7, clean, resilient power, securing our electricity supply in an era of international competition and growing national security threats.

Now is the time for the U.S. to take action to maintain leadership in a rapidly evolving geothermal energy landscape. International geothermal competition is heating up as quickly as we are scaling at home. In early 2023, the European Union announced a nearly $100 million grant to demonstrate a next-generation geothermal project in Germany. This single grant totaled $16 million more than what the Bipartisan Infrastructure Law provided to divide across multiple projects on home soil. China, too, has taken notice—the Chinese Government's energy development plans have included a substantial role for geothermal energy.[1] And, at the 2023 World Geothermal Conference, held in Beijing, researchers from the China National

[1] https://www.efchina.org/Blog-en/blog-20220905-en

Geothermal Energy Center, China Academy of Engineering, and other institutions released findings touting China's "significant progress on geothermal technology."[2]

America is primed and ready to lead a highly productive geothermal resurgence, and we must act quickly to solidify that leadership position. For Congress and the Administration to achieve this goal and enhance U.S. energy security, we need to invest in next-generation geothermal energy development and improve support for its deployment on public lands, where the majority of these resources can be found.

Improved Leasing and Permitting for Next-Generation Geothermal Energy Is Essential to Ensuring a Clean and Reliable Electric Grid

Over 90% of American geothermal resources exist underneath federally managed lands, arming the U.S. with immense ownership of instigating a powerful domestic energy resource. Unfortunately, leasing of and permitting on federal lands can hinder projects rather than facilitate them, creating prolonged, unpredictable development timelines and introducing major financial risk.

I strongly believe that renewable energy development on public lands should incorporate careful consideration of environmental impacts. However, the current process of approving geothermal energy development is replete with duplicative assessments under the National Environmental Policy Act of 1969 (NEPA) and opaque, prolonged processing, making it difficult to plan, finance and build projects effectively.

Like any renewable energy project, geothermal energy developers require a certain set of conditions to build an economic and long-lasting system. Unlike solar and wind energy, whose conditions are easily observable above ground, the conditions required for a successful geothermal system exist thousands of feet below the surface, hidden by many layers of highly heterogeneous rock. Separate NEPA analyses are required to:

- Lease the land
- Perform low-impact resource exploration activities
- Perform full-fledged exploration drilling to confirm the resource
- Execute full-field drilling to complete the wellfield development
- Construct the power facility and connect to the grid

In addition to NEPA processes, subsequent activities including surface disturbance to build roads, pads, and right-of-ways and drilling and injecting into geothermal wells must be approved by in-state regulatory agencies and the BLM. These approvals add an additional layer of uncertainty to geothermal development. This means that developers like Fervo will often put large amounts of capital at risk before there is any assurance that power plants can be built, and this risk is not meaningfully retired as a project progresses.

For America to build and maintain leadership in geothermal energy development, it must address some of this uncertainty.

H.R. 1449 is a Productive Step Forward

Leasing

Section 43 of the Code of Federal Regulations requires the Bureau of Land Management (BLM) to hold competitive lease sales at least once every two years for lands available for leasing in a state that has nominations pending. Despite this requirement, Nevada is the only western state that has held regular, predictable lease sales, offering acreage ripe for geothermal development both competitively and non-competitively on an annual basis.

H.R. 1449 proposes highly productive modifications to the Geothermal Steam Act of 1970 to increase the frequency and predictability of geothermal lease sales. By reducing the time between lease sales and ensuring a replacement sale is held in the event that a sale is delayed or canceled, the volume of geothermal leases will increase, spurring more activity in the industry, allowing projects to commence, and increasing state and federal revenues from geothermal lease sales.

Permitting

After a full NEPA assessment has been approved, subsequent regulatory permitting processes must be completed in order to perform activities at any field site. To drill each geothermal well, a developer must submit a geothermal drilling

[2] "High-Quality Development of China's Geothermal Industry—China Country Report of the World Geothermal Conference 2023." Xunsheng GUO, Liqiang DANG, Zhiguo HAN, Dianbin GUO. Proceedings World Geothermal Congress 2023 Beijing, China, September 15-17, 2023.

permit application to the state BLM office and to additional in-state regulatory agencies. Today, there are no deadlines for review or approval of these permits, and an organization can be left waiting on their applications indefinitely, even if a NEPA environmental assessment is in place.

H.R. 1449 proposes highly productive deadlines for consideration of geothermal drilling permits. By requiring that a BLM acknowledge within thirty days whether an application is complete, H.R. 1449 encourages the approving agency to review the permit in a timely fashion, allowing for operators to plan and execute clean energy projects predictably.

Fervo Energy is Leading the Way on Developing Next-Generation Geothermal Energy on Federal Lands In Collaboration with the Bureau of Land Management

Just a few weeks ago, Fervo celebrated a groundbreaking to mark the start of the exploratory drilling campaign for our newest utility-scale next-generation geothermal project, Cape Station, in Beaver County, Utah. Cape Station will provide 400 Megawatts of 24/7 carbon-free electricity beginning in 2026, employing 6,600 people during the construction period and a staff of 160 during the permanent operations phase. Fervo was proud to host Utah Governor Cox and the Department of the Interior's Principal Deputy Assistant Secretary for Land and Minerals Management Laura Daniel-Davis at the groundbreaking alongside Beaver County Commissioner Tammy Pearson and other local officials.

This project has been an outstanding success from a permitting perspective. Fervo engaged the BLM, local officials, state regulatory agencies, and local impacted stakeholders early and deliberately to maximize communication and educate all about the project. With this highly collaborative approach, the BLM staff at the state and local level have proven to be professional, responsive, and dedicated, and we have received decisions efficiently following clear and effective communication.

The Cape Station project is an example of how, with extensive planning, deep technical expertise and deliberate, conscientious community outreach, the permitting system currently in place in the U.S. can work well. But, as our national requirements for clean, firm power grow, and as other countries step up in the race to own the geothermal technologies of the future, we need to do more to maintain consistency across BLM state and local offices to ensure that we can predictably and effectively build projects at home.

Congress Should Take Further Action to Clear Up Roadblocks for Developing Next-Generation Geothermal Energy At Scale

Congress and the Administration can increase the consistency and efficiency of geothermal permitting while still maintaining robust environmental safeguards and community engagement and protections. To do this:

1. Congress should pass legislation authorizing a more holistic approach to permitting geothermal energy generation, including associated transmission resources. This would help avoid unnecessary delays and costs, provide more certainty for developers and investors, and enable faster development of firm renewable energy.
2. Congress and the Administration should take steps to reduce project development timelines by surging resources to expedite BLM permit consideration and allowing use of more efficient NEPA processes (such as Categorical Exclusions) when more in-depth environmental reviews have already been conducted.
3. Congress and the Administration should work together to create dedicated teams of geothermal experts. These experts are badly needed to develop best practices, build training materials and standard operating procedures, and provide technical support to field offices to ensure timely review of geothermal projects on federal lands

With the federal government making these efforts, private sector companies like Fervo can have more certainty over project timelines, lower project costs, and expand new technologies to harness renewable resources like the earth's heat to power our homes and businesses.

With this in mind, we applaud Representative Fulcher for his introduction of H.R. 1449, the Committing Leases for Energy Access Now (CLEAN) Act and for his continued leadership on geothermal energy.

The geothermal industry stands ready to scale clean, firm power, building out thousands of well-paying jobs across America. We look forward to working with you on this. Thank you again for the opportunity to testify, and I look forward to answering your questions.

Mr. STAUBER. Thank you very much. Our next witness is Ms. Melissa Hornbein, and she is a Senior Attorney for Western Environmental Law Center located in Helena, Montana.

Ms. Hornbein, you are now recognized for 5 minutes.

STATEMENT OF MELISSA HORNBEIN, SENIOR ATTORNEY, WESTERN ENVIRONMENTAL LAW CENTER, HELENA, MONTANA

Ms. HORNBEIN. Thank you, Chairman Stauber and members of the Committee, for the opportunity to testify today. My name is Melissa Hornbein. I am an attorney with the Western Environmental Law Center, which is a non-profit law firm that works to safeguard the public lands, wildlife, and communities of the western United States in the face of a changing climate.

I fear I am likely also one of those radical climate activists, but I am in full agreement with the sponsor of H.R. 6009 that we should be producing more energy responsibly right here in America. For that reason, I urge this Subcommittee to reject H.R. 6009 because the BLM's rulemaking is necessary.

There is an urgent need for reform of the Federal oil and gas program in three critical areas, and I will address each of those in turn.

First, the rule is necessary to protect American taxpayers from the costs of oil and gas cleanup. In addition to a revision of royalty rates that hadn't been changed for 100 years, the agency's proposed overhaul of the bonding program is badly needed. A properly implemented bonding system does two things: first of all, it encourages producers to clean up after themselves and clean up the messes they make on Federal public land; secondly, if a producer is unable or unwilling to complete that cleanup, an adequate bond allows the Bureau of Land Management to complete that remediation process itself without passing those costs along to U.S. taxpayers.

BLM's proposal to raise minimum bond amounts for individual leases to $150,000 represents an absolute minimum amount to increase bond amounts to bring them in line with actual reclamation costs. Those are costs that, without this bond increase, will be directly passed on to American taxpayers.

It is also crucial that BLM be allowed to update its regulations and adopt these increased bonding amounts or, even better, adopt full cost bonding to encourage prompt plugging and remediation of oil and gas wells because uncapped, idle, and abandoned wells are ongoing sources of pollution and a risk to the public.

Second, BLM needs to be given the opportunity, which it has not taken advantage of yet, to address the climate crisis as part of its rulemaking. The proposed rule fails to acknowledge that carbon dioxide emissions from Federal fossil fuels account for approximately 25 percent of CO_2 emissions in the United States. Clearly, public lands continue to be a significant contributor to the climate crisis, which is playing out in real time.

During this past summer, the Earth experienced its hottest 3 months in recorded history, and many areas of the United States, including parts of Colorado, have already exceeded 2 degrees of warming, and are feeling the effects of that through increased wildfire smoke, drought, and other adverse impacts.

BLM has an intrinsic responsibility to safeguard the public welfare in its management of Federal minerals, and it also has separate obligations to take a hard look at its programs' impacts to the environment, and consider alternatives and mitigation measures to protect all environmental values on Federal public lands, but explicitly including air and atmospheric values.

BLM is also separately required to manage public lands without permanent impairment, and to prevent unnecessary or undue degradation of those lands and the resources on them. Continuing oil and gas development is fundamentally incompatible with a safe climate. The science tells us this. BLM's rulemaking represents an important opportunity that the agency has not yet taken advantage of to attempt to reconcile continued leasing with the beginning of an organized phase-out of oil and gas development, which is necessary to meet U.S. climate commitments, as well as reduce the risks of the worst impacts of climate change.

Third, BLM's oil and gas rulemaking must be allowed to proceed in order for the agency to address health and environmental justice concerns. BLM's proposed rule acknowledges the potential for disproportionately high adverse and cumulative impacts of leasing and drilling on underserved communities and environmental justice populations, but it does not yet go far enough to address those issues. The agency needs the opportunity to do so.

In sum, I urge the Committee to reject H.R. 6009 and to allow BLM's rulemaking to proceed. BLM is currently reviewing more than 260,000 public comments that were submitted on this rule. The bill under consideration today not only seeks to cut short the rulemaking process, but also to negate that public input.

I respectfully request the Subcommittee reject this resolution. Thank you.

[The prepared statement of Ms. Hornbein follows:]

PREPARED STATEMENT OF MELISSA HORNBEIN, SENIOR ATTORNEY AT THE WESTERN ENVIRONMENTAL LAW CENTER

ON H.R. 6009

Chairman Stauber, Ranking Member Ocasio-Cortez, thank you for the opportunity to testify. My name is Melissa Hornbein. I am an attorney with the Western Environmental Law Center's Climate and Energy program. The Western Environmental Law Center (WELC) is a non-profit law firm that uses the power of the law to safeguard the public lands, wildlife, and communities of the western U.S. in the face of a changing climate. Our policy and legal engagement on the federal oil and gas leasing program is driven by the need to achieve climate stability, environmental justice for frontline communities, and a fair return for American taxpayers who share in the ownership of federal public lands and shoulder the costs of a federal oil and gas program that historically has not required lessees to pay their fair share.

The bill you are considering would halt a long-awaited effort to modernize the federal oil and gas leasing program. H.R. 6009 seeks to perpetuate a system that is a half-century out of date and shortchanges American taxpayers on royalties and rental payments of publicly owned minerals, while continuing to leave taxpayers liable for cleanup of the mess oil and gas companies leave behind. The Bureau of Land Management's (BLM's) proposed rule attempts to redress this long-standing

imbalance, and my hope is that this Subcommittee will support that effort. Current law dictates that the costs associated with federal oil and gas development should be squarely borne by federal oil and gas lessees—but to date, the federal leasing program has failed to require lessees to internalize these costs. Fundamentally, this is an issue of fairness to all Americans.

Of equal importance with these fiscal reforms, this rulemaking presents an opportunity for BLM to craft rules that acknowledge and act on the climate crisis and the iniquitous impacts the oil and gas program has long perpetuated on already overburdened communities. In my view, BLM's rule, as proposed, falls short of these additional goals. It is my sincere hope that the agency will listen to public comment to this effect and seize the opportunity to address these issues in its final rule. To do so, however, this rulemaking must be allowed to proceed. Regardless of the contents of the final rule, the proposed rule represents a substantive and necessary improvement over the system H.R. 6009 seeks to leave in place. The oil and gas industry earned a record $219 billion in profits in 2022,[1] and yet federal lands are littered with idled and unplugged wells that continue to emit greenhouse gases and toxic air pollutants, and which have the potential to cost taxpayers upwards of $330 million to reclaim.[2] The interests of the American taxpayer and the health of communities living in proximity to these sources, as well as the health of the public lands they exist on must for once be prioritized above those of industry profits.

There is an urgent need for reform of the federal oil and gas program.

Taxpayer return through bonding reform:

Bonding plays an important role in ensuring that wells are promptly and fully plugged and remediated, and that taxpayers and local communities are not burdened with the clean-up costs or the negative effects of living, working, or recreating in proximity to unplugged wells. Moreover, data shows that inadequate bonding serves as a deterrent to proper reclamation, while sufficient bonding amounts lead to increased rates of clean up and full reclamation of fossil fuel infrastructure.[3] In the event the operator does not remediate a site and obtain bond release, the bond serves to protect the government and taxpayers from bearing these costs by providing BLM with adequate funding to complete sufficient plugging and reclamation. To achieve these purposes, bond amounts must be set at levels equivalent to the actual costs of plugging and remediation.[4] The bond amounts in BLM's current rules spectacularly fail to achieve this objective, and this bill inexplicably seeks to frustrate the agency's efforts to remedy the problem.

In 2019, Congress asked the Government Accountability Office (GAO) to review the status of oil and gas bonding for federal lands. The resulting report: (1) described the value of bonds for oil and gas wells in 2018 compared to 2008, and (2) examined the extent to which BLM's bonds ensure complete and timely plugging and remediation.[5] The GAO found that bonds held by BLM have not provided sufficient financial assurance to ensure timely plugging and remediation.[6] For example, the vast majority of bonds generally do not reflect actual reclamation costs[7] because most bonds are set at their regulatory minimum values, and these minimums have not been adjusted since the 1950s and 1960s to account for inflation.[8] Additionally, these minimums do not account for variables such as the number of wells they cover

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[1] https://www.reuters.com/business/energy/big-oil-doubles-profits-blockbuster-2022-2023-02-08/.

[2] 88 Fed. Reg. 47,562, 47,565 (July 24, 2023).

[3] See Dustin Bleizeffer, *Mine clean-up financing may be poised for an upgrade*, WyoFile (Jan. 12, 2022) https://wyofile.com/mine-clean-up-financing-may-be-poised-for-an-upgrade/ (recounting the experience of the coal industry in Wyoming where coal mine operators replaced inadequate self-bonding as a result of improved state regulations as a result of regulator and public pressure. After replacing inadequate bonds, the industry carried out a record amount of reclamation, obtaining the greatest amount of bond release in the history of the federal coal program due to the increased financial interest on the part of operators and providing a financial incentive to finish reclamation and obtain release of bonds).

[4] *See* 30 U.S.C. §226(g) (Mineral Leasing Act requirement that an "adequate" bond be established before operators begin preparing land for drilling "to ensure the *complete and timely* reclamation" and "restoration" of the leased tract of land) (emphasis added).

[5] Government Accountability Office, Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells (Sept. 2019)("GAO Report"), https://www.gao.gov/assets/gao-19-615.pdf.

[6] *Id*. at 14.

[7] GAO defines "reclamation" to mean "all of the actions and costs to reclaim a well, including well plugging and surface reclamation, and to restoring any lands or surface waters adversely affected by oil and gas operations." GAO Report at 1.

[8] *Id*.

or other characteristics that affect reclamation costs, such as well depth or location.[9] As a result of its findings, the GAO recommended that BLM take steps to adjust bond levels to more closely reflect expected reclamation costs.[10] BLM concurred with this recommendation,[11] and the proposed rule addresses this issue directly. Nonetheless, BLM needs to go further, and improve the rule and its protections for American taxpayers, by implementing additional fiscal protections, including full cost bonding. In comments WELC submitted on the proposed rule on behalf of a number of partner organizations, we urged BLM to do just this, and it is our hope that if this rulemaking is allowed to proceed, BLM will heed this recommendation.

A properly implemented bonding system with bond amounts set at levels equivalent to the full cost of plugging and remediating all covered wells ensures that abandoned well sites will be cleaned up in a timely manner, as required by the MLA, 30 U.S.C. § 226(g). Bonding systems that set bonds at appropriate levels achieve this in two ways. First, as already noted, they create economic incentives for operators to promptly complete plugging and remediation themselves. Second, they ensure that regulators have access to adequate resources to complete plugging and remediation in the event the operator either cannot or will not do the work. It is crucial that BLM update its regulations to adopt policies, such as full cost bonding, that encourage prompt plugging and remediation of oil and gas wells, because uncapped wells are ongoing sources of harmful pollution and a risk to the public. H.R. 6009 would ensure precisely the opposite result. That is a risk the government has no business imposing on hardworking Americans, especially those who are already suffering disproportionate impacts of living in proximity to such infrastructure.

While bonding is an important feature of regulatory oversight for any industry where a lessee or permittee assumes clean-up obligations, it is critically important in settings such as the oil and gas industry, which are inherently subject to boom-and-bust cycles. Subject to fluctuations in international commodity prices, the oil and gas industry is prone to a pattern of drilling many new wells when prices are high, and then experiencing bankruptcies, idlings, and abandonments when prices drop.[12] Effective bonding protects against these fluctuations by encouraging operators to plug wells promptly in order to free up capital dedicated to servicing the bonds, and by ensuring that regulators are able to complete clean-up in the event of abandonment by operators. Adequate bonding also frees regulators to take appropriate enforcement actions against operators without fear that such actions will lead to additional well abandonments with unfunded clean-up obligations.

Two provisions of BLM's proposed rule—provisions that would be eliminated by passage of this resolution—are particularly critical. First, BLM's proposal to raise minimum bond amounts for individual leases to $150,000. This increase represents an absolute minimum necessary to bring bonding amounts in line with actual reclamation costs, which average $77,000 per well.[13] Indeed, there is a very real concern that this per-lease bonding requirement remains too low to capture actual clean-up costs on leases with multiple wells, and in comments on the proposed rule, we urged BLM to address this risk in its final rule. Nonetheless, the rule as written it is a significant and necessary first step, and a fiscal backstop to protect the government and taxpayers from runaway costs associated with reclamation. Second, BLM's proposal to eliminate nationwide bonding and unit operators' bonds is long overdue. BLM's currently held nationwide bonds cover multiple wells at lower rates and are adequate to cover only about half of the existing wells and their associated liability ostensibly covered by the bonds. They also consume more agency resources in their administration, further ensuring that these bond amounts lag behind even those for individual leases. It is past time these resource-intensive and insufficient bonds were eliminated.

Programmatic Reform in Response to the Inflation Reduction Act.

In addition, the rulemaking represents a necessary opportunity to bring the BLM's regulations in-line with the amendments to the Mineral Leasing Act (MLA) effected by the Inflation Reduction Act (IRA). BLM's existing rules are outdated in the face of changes implemented by the IRA, including the elimination of non-competitive leasing, changes to royalty rates, minimum bids, evaluation of

[9] *Id*. at 16-17.
[10] *Id*. at 24.
[11] *Id*. at 31 (App'x II, Comments from the Department of the Interior).
[12] GAO Report at 1.
[13] https://ohioauditor.gov/auditsearch/Reports/2022/Ohio_Department_of_Natural_Resources_22_Performance-Franklin_FINAL.pdf. BLM's estimates in the proposed rule support these numbers: the BLM determined the cost to plug a well and reclaim the surface ranges from $35,000 to $200,000, with an average cost of $71,000. 88 Fed. Reg. at 47,581.

nominated parcels for future sales and provisions relating to renewable energy rights of way on public lands, among others. BLM is currently using instruction memoranda to implement many of these provisions, but this is a stopgap measure, and the agency's regulations should be revised for the sake of consistency, enforceability, and clarity for lessees and the public. BLM has also, in the wake of the IRA, articulated policies surrounding reinstatements, land use planning, lease parcel reviews, extensions of APDs, and suspensions that are most appropriately and durably expressed through the regulatory process.

BLM's Rule Must be Allowed to Address the Climate and Biodiversity Crises.

Of equal importance, BLM's rulemaking represents an important opportunity—as yet unrealized—for the agency to meaningfully incorporate the scientific and physical realities of the climate crisis into its decision-making surrounding the federal oil and gas program, and to incorporate long-neglected measures to address the public health and environmental justice impacts of the program on infrastructure-adjacent, underserved, and overburdened communities.

The climate crisis is real, and it is here now. Just last month, the World Meteorological Organization made official what an unprecedented cluster of extreme weather events this summer had already presaged: the Earth just experienced its hottest three months in recorded history.[14] Alarmingly, August 2023 (which is second only to July 2023 in the competition for hottest month ever), averaged 1.5°C warmer than the preindustrial average, bringing the planet a perilous step closer to permanently exceeding the Paris Accord's 1.5°C temperature threshold, years earlier than anticipated.[15]

Additional future oil and gas development is fundamentally incompatible with a safe climate. This reality exists in tandem with the fact that BLM operates under varied and conflicting statutory directives and political impediments, as well as a directive, per the recently enacted IRA, that federal oil and gas leasing continue for the present. As a result, BLM's rulemaking represents a critical opportunity to address the interwoven climate, ecological, and biodiversity crises and ensure BLM can fulfill its nondiscretionary statutory obligations to protect public lands and resources for future generations. WELC and partners have encouraged BLM, through its comments, to adopt a regulatory approach that maintains consistency with the framework of BLM's proposed rule, yet more fully accounts for BLM's statutory responsibilities, scientific reality, and concurrent rulemaking efforts when implementing its final rule. We have termed this approach, which takes into account considerations ranging from planning to leasing to permitting, a "life cycle" approach to the oil and gas program. H.R. 6009's proposal to withdraw the proposed rule would prevent BLM from harmonizing its concomitant statutory obligations with the United States' international commitments and would help ensure BLM's failure to administer federal public lands for multiple use and sustained yield and to prevent their unnecessary or undue degradation.[16]

BLM still has an opportunity, through the proposed rule, to address this crisis by providing a comprehensive framework to align the federal oil and gas program within science-based guardrails. In comments on the proposed rule, WELC and partners encouraged BLM to focus this enquiry not only on the impacts of GHG emissions from the program but also on intensifying stresses on the ecological resilience of the public lands system caused by the combined stressors of climate change and the existing network of oil and gas infrastructure. H.R. 6009 would remove this important opportunity for BLM to align its oil and gas program with underlying scientific and legal directives, and would perpetuate the legal vulnerabilities that have so plagued BLM's administration of the leasing program, to the detriment of the agency, lessees, and the public as well as public lands themselves.

BLM has an intrinsic responsibility to manage fluid minerals to "safeguard[] . . . the public welfare," as well as related but separate obligations to take a hard look at impacts through NEPA, and to consider alternatives and mitigation to protect "air and atmospheric" values and, *inter alia*, to manage public lands "without

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[14] *Earth had hottest three-month period on record, with unprecedented sea surface temperatures and much extreme weather*. World Meteorological Organization News Release September 6, 2023, https://public.wmo.int/en/media/press-release/earth-had-hottest-three-month-period-record-unprecedented-sea-surface.

[15] *Global temperatures set to reach new records in next five years*, World Meteorological Organization, May 17, 2023, https://public.wmo.int/en/media/press-release/global-temperatures-set-reach-new-records-next-five-years#:~:text=There%20is%20a%2066%25%20likelihood,be%20the%20warmest%20on%20record.

[16] 43 U.S.C. §§ 1702(c), 1732(b).

permanent impairment" and to "prevent unnecessary or undue degradation."[17] These mandates require the agency to fulfill these interconnecting responsibilities in any rule it adopts to modernize oversight of the federal oil and gas program. In tandem with BLM's forthcoming Public Lands Rule, the oil and gas rule presents BLM with a distinctive opportunity to place climate, conservation, and environmental justice values on a truly "equal footing" with oil and gas extraction to shape and inform action in the public interest. As noted, H.R. 6009 would not only eliminate these nascent opportunities for BLM to bring its program into long-overdue statutory compliance, but would actually increase the legal vulnerability of every lease sale the agency offers in the future.

BLM's own data underscores the need such reform: fossil fuel development on BLM-administered lands accounts for 15.3% of total U.S. GHG emissions, 1.8% of global emissions, and nearly 21% of all emissions in the U.S. from fossil fuel production.[18] With respect to carbon dioxide, emissions from fossil fuels (coal, oil, fossil gas) produced on federal lands represent a quarter of *all* CO_2 emissions in the U.S.[19] Clearly, public lands continue to be a significant contributor to the climate crisis, and will be until BLM undertakes a life cycle-based planning effort for federal oil and gas development. Oil and gas companies have exploited and continue to exploit BLM's highly permissive approach to oil and gas development of federal public lands and minerals. These companies have acquired oil and gas development rights to 23.7 million acres of federal public lands and operate over 89,000 wells now in production. Oil and gas companies have also stockpiled over 10,000 additional oil and gas drilling permits[20] and thousands of undeveloped leases totaling at least 13.9 million acres.[21] While the proposed rule attempts to address a subset of these issues through fiscal reforms, it can, and should, go further. Indeed, the fiscal provisions of the rule are only part of the total costs the government and American taxpayers will incur if oil and gas leasing continues under a "business as usual" scenario, as H.R. 6009 contemplates. The climate and public health costs that result from each and every BLM lease sale are underreported, and are just as often born by the taxpayer as are the costs associated with abandoned and unreclaimed wells.

It is wholly undisputed by reputable scientists that fossil fuels are a primary driver of the climate crisis, harm the resilience and intactness of public lands and communities, and saddle state and local governments with an overdependence on a highly volatile source of revenue with soaring and unsecured clean-up costs, along with the political and economic challenges that flow from reliance on fossil-fuel based economies.[22] While BLM has, with the proposed rule, suggested long-overdue fiscal reforms that begin to address some of these problems and offer American taxpayers some assurance that the federal oil and gas program is not being administered solely for the benefit of industry, the proposed rule fails to *mention* climate change, let alone attempt to meaningfully address the significant contribution of fossil fuel production on public lands to the climate crisis or the urgency of winding down fossil fuel production in order to avert its worst impacts. It is a scientifically accepted reality that fossil fuel production must end within the foreseeable future to avert the most catastrophic effects of climate change on ecosystems, and by extension on the resilience and intactness of federal public lands, species, other public lands values, and communities, in particular underserved and overburdened communities already suffering disproportionately from a variety of stressors.

BLM has yet to frankly acknowledge the incompatibility of this continued leasing requirement with greenhouse gas reduction goals, and to do what it can within the

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[17] 30 U.S.C. § 187; 43 U.S.C. §§ 1701(a)(8), 1702(c), 1732(b).

[18] 2021 BLM Greenhouse Gas Specialist Report at Section 9.1 (Representative Concentration Pathways), ("Climate change is fundamentally a cumulative phenomenon, global in scope, and all GHGs contribute incrementally to climate change regardless of scale or origin."); Section 7.1. (BLM Share of 2020 Annual Global and U.S. GHG Emissions), Table 7-1. https://www.blm.gov/content/ghg/2021/#:~:text=The%20%222021%20BLM%20Specialist%20Report,of%20Land%20Management%20(BLM).

[19] Merrill, M.D., Sleeter, B.M., Freeman, P.A., et al., Federal lands greenhouse gas emissions and sequestration in the United States—Estimates for 2005-14: U.S. Geological Survey Scientific Investigations Report 2018-5131, 31 (2018).

[20] BLM Fiscal Year 2022 Oil and Gas Statistics, https://public.wmo.int/en/media/press-release/earth-had-hottest-three-month-period-record-unprecedented-sea-surface.

[21] Report on the Federal Oil and Gas Leasing Program at 4, noting that of the more than 26 million onshore acres currently under lease, nearly 13.9 million or 53% is non-producing. This number likely does not capture the full extent of industry's stockpiling of federal leases, hence the use of "at least."

[22] *See, e.g.,* Albuquerque Journal, *New Mexico faces a budget abyss if oil and gas goes bust* (Jan. 30, 2023), https://news.yahoo.com/mexico-faces-budget-abyss-oil-045900527.html?guccounter=1.

bounds of its "plenary" and "capacious" authorities and responsibilities, in particular those afforded by the Federal Land Policy and Management Act (FLPMA), to address climate change in this and every regulatory action it takes.[23] As we communicated to BLM in comments submitted on the proposed rule, BLM must not continue to silo the federal oil and gas program from the realities of the climate crisis. This will merely exacerbate confusion regarding the administration's approach to climate action, incite further litigation targeting legally vulnerable fossil fuel decisions, fail to set the stage for future action, and propagate further harm, particularly to public lands already suffering disproportionately from warming that has already occurred and is expected to worsen.[24] BLM instead must lean into action that will fulfill the agency's core responsibility to serve as the trustee of the public lands system and its "mandate to manage federal lands for multiple use and to provide for the protection of resources on those lands."[25] If this bill passes, BLM will be unable to heed this advice, and its legal liability will be further increased.

In the interests of protecting public resources, reducing risk to public lands, and minimizing costs to taxpayers, WELC and its partners will continue to urge BLM to adopt a more holistic "life cycle" approach to the planning for leasing, development, production, and reclamation of federal mineral resources. Such an approach is true to the law and science, would better conform the proposed rule and its implementation with U.S. and international climate commitments, and would connect the rule more seamlessly with parallel rulemakings, including the agency's proposed Public Lands Rule and the Council on Environmental Quality's proposed Phase II NEPA regulations. The more the proposed rule can be tailored to complement these concurrent rulemaking efforts the better it will serve to protect non-mineral resources on land overlying BLM mineral estate, and the more legally defensible it will be. H.R. 6009 seeks to ensure that the oil and gas program will continue to run afoul of these concurrent rulemaking efforts, existing law, and international commitments for the foreseeable future.

BLM's Oil and Gas Rule Must be Allowed to Address Health and Environmental Justice Concerns.

BLM's proposed rule contains important acknowledgments of the potential for disproportionately high, adverse, and cumulative impacts of leasing and drilling on "underserved communities" and environmental justice.[26] It also recognizes BLM's authority to require reasonable measures to avoid, minimize, or mitigate those impacts.[27] The measures contemplated by BLM include increased minimum setback distances and clarification of existing language surrounding setbacks and other mitigation measures. These are important first steps that BLM has for too long ignored. The bill under consideration today would put BLM back at square one with respect to consideration of these critical issues. Even as written, the proposed rule goes nowhere near far enough to ensure such protections. If the current rulemaking process is allowed to proceed, BLM has another opportunity to address these important issues before it adopts its final rule. If not, the human and financial costs of its failure to do so will continue to mount.

As with climate, BLM's proposed rule does not go far enough to address public health and environmental justice considerations by the mere fact that it presumes and enables the indefinite continuation of oil and gas leasing and drilling. As already referenced, any additional oil and gas extraction perpetuates adverse climate and health risks and impacts and is fundamentally incompatible with advancing environmental and climate justice—both goals this Administration has professed adherence to. As with climate, however, we recognize that interim harm-reduction measures, such as setback distances, conditions of approval, or leasing stipulations are essential to a just transition, and are necessary to protect community and ecosystem health and advance environmental justice, now and for future generations. Those who are breathing polluted air, drinking contaminated water, or living with multigenerational legacies of extraction and pollution, need strong set-

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[23] Solicitor's Opinion M-37039 at 9, https://www.doi.gov/sites/doi.gov/files/m-37039-the-blms-authority-to-address-impacts-of-its-land-use-authorizations-through-mitigation.pdf.

[24] An example of these type of warming exists on the Western Slope, including the North Fork Valley of Colorado, a 2°C "hotspot." https://www.washingtonpost.com/graphics/2020/national/climate-environment/climate-change-colorado-utah-hot-spot/. *See also*, Basin: https://www.colofarmfood.org/groundzero

[25] 88 Fed. Reg. 47,562, 47,574 (July 24, 2023).

[26] 88 Fed. Reg. at 47,573.

[27] *Id*.

back requirements and other "reasonable measures"[28] to mitigate, minimize, or, wherever possible, avoid adverse risks and impacts, particularly for those in frontline or "underserved communities."[29] But ultimately, any "reasonable measures" to mitigate or avoid harm must be *part of*—not a *substitute for*—a just transition away from oil and gas extraction. We have urged BLM to consider these important factors in its adoption of a final rule. The bill under consideration today seeks to ensure that BLM continues to ignore these important factors to the detriment of public health and its associated publicly born costs, environmental justice, and the legal defensibility of its program.

An extensive and ever-growing body of peer-reviewed research has shown what people living near oil and gas operations already know firsthand—that proximity to drilling and fracking operations and other oil and gas facilities is linked to adverse health risks and impacts. These risks and impacts include (but are not limited to):

- Reproductive harms—including birth defects, low birth weight, preterm births, and miscarriages;
- Respiratory health effects—including asthma, lung disease, breathing difficulty, and, most recently, increased vulnerability to COVID-19;
- Eye, skin, and throat irritation and rashes;
- Cardiovascular effects—including higher blood pressure and other indicators of, or precursors to, heart disease;
- Possible disruption of the endocrine system (a system of glands producing hormones that regulate a variety of functions in the body, including metabolism, growth and development, reproduction, sleep, and mood);
- Cancer (lung cancer and other types of cancer);
- Motor vehicle injuries and fatalities, and other health and safety risks associated with increased vehicle traffic (and the air pollutants it emits) from oil and gas development;
- Injuries and fatalities from explosions, fires, spills, and leaks; and
- Trauma and psychological stress.

BLM has an opportunity with its proposed rule to meaningfully address these too-often-overlooked impacts both through the mitigation measures ultimately included in the final rule and in the process BLM employs to finalize and implement the rule. To this end, we urged BLM to take into account and proactively solicit the knowledge, experience, and voices of those in frontline and "underserved" communities, and to ensure that these communities' perspectives are meaningfully incorporated into and actively shape planning and decision-making. H.R. 6009, again, seeks to ensure that these perspectives remain unheard. This is yet another reason this Subcommittee should reject the Resolution.

BLM's Legal Authority and Responsibility to Adopt New Oil and Gas Regulations.

Development of oil and gas remains an element of FLPMA's multiple use mandate. This remains true in the wake of the IRA. Nonetheless, BLM holds competing obligations to, *inter alia*, protect "air and atmospheric" values, and has an overarching statutory responsibility to manage public lands without "permanent impairment of the productivity of the land and quality of the environment," and to "take any action necessary, whether by regulation or otherwise, to prevent unnecessary or undue degradation of the lands."[30] These mandates do not lock into place oil and gas leasing and production at the expense of other multiple uses or overshadow the role of public lands as part of a mosaic of ecological and biological systems critical to ecosystem resilience. Instead, FLPMA directs BLM to manage public lands and resources to "meet the present and future needs of the American people" while "conform[ing] to changing needs and conditions . . . tak[ing] into account the long-term needs of future generations."[31]

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[28] *See* 88 Fed. Reg. 47573.

[29] BLM cites Executive Order 14035, "Diversity, Equity, Inclusion and Accessibility in the Federal Workforce" (EO 14035) for its definition of "underserved community:" "[t]he term 'underserved communities' refers to populations sharing a particular characteristic, as well as geographic communities, who have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life." BLM also cites EO 14008 interim CEQ Guidance for its definition of "community" as "either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions." *See* Proposed Rule at 88 Fed. Reg. 47573.

[30] 43 U.S.C. §§ 1701(a)(8), 1702(c), 1732(b).

[31] 43 U.S.C. § 1702(c).

The National Environmental Policy Act (NEPA) animates BLM's imperative, through this rulemaking, to address interwoven climate, ecological, and biological crises and to better serve otherwise underserved and overburdened people and communities. Section 102 of NEPA directs that, "to the fullest extent possible," BLM's statutory mandates, whether provided by FLPMA or the MLA (amongst other "policies, regulations, and public laws of the United States"), "shall be interpreted and administered in accordance with [section 101 of NEPA]."[32] Section 101(a), in turn, provides that:

> [I]t is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man [sic] and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.[33]

Section 101(b) further directs BLM to use "all practicable means" to:

1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. assure for all Americans safe, healthful, productive and aesthetically and culturally pleasing surroundings;
3. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
4. preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
5. achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
6. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.[34]

In other words, NEPA requires that BLM interpret and administer FLPMA and the MLA consistent with Section 101's directive that the agency, distilled to its essence, serve as a "trustee" of the federal public lands system for the benefit of future generations. This is wholly consistent with the distinctive authority conferred to Congress and, by extension through statute, to the agency, by the U.S. Constitution's Property Clause.[35] The Property Clause confers upon Congress the "[p]ower to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."[36] As the Supreme Court of the United States teaches, "while the furthest reaches of the power granted by the Property Clause have not yet been definitively resolved, we have repeatedly observed that '[t]he power over the public land thus entrusted to Congress is *without limitations*.'"[37] BLM is required to consider this broad authority in its implementation of the federal oil and gas program, and its proposed rule represents a critical opportunity for it to do so. This opportunity should not be curtailed.

Conclusion

In sum, I urge the committee to reject H.R. 6009 and to allow BLM's rulemaking to proceed unhindered. That process has not yet concluded, and BLM is currently reviewing more than 260,000 comments submitted on the proposed rule. The bill under consideration today not only seeks to cut short BLM's rulemaking process but also would negate the efforts of the American public who weighed in in such numbers and circumvent BLM's opportunity to benefit from those comments.

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[32] 42 U.S.C. § 4332(1).
[33] 42 U.S.C. § 4331(a).
[34] 42 U.S.C. § 4331(b).
[35] For a summary of the expansive legal authorities delegated to Interior under FLPMA, as well as BLM's authority to require mitigation of impacts resulting from its land use authorizations, see recently reinstated Solicitor's Opinion M-37039, The Bureau of Land Management's Authority to Address Impacts of its Land Use Authorizations through Mitigation (Dec. 21, 2016), https://www.doi.gov/sites/doi.gov/files/m-37039-the-blms-authority-to-address-impacts-of-its-land-use-authorizations-through-mitigation.pdf.
[36] U.S. Constitution, Art. IV., Sec. 3, Cl. 2.
[37] *Kleppe v. New Mexico*, 426 U.S. 529, 539 (1976) (emphasis added).

Though BLM's proposed rule does not address the fundamental tension of continued oil and gas leasing with the climate crisis, it seeks to implement important measures to protect American taxpayers from the type of abuse BLM's oil and gas system has historically experienced. Just as WELC and its partners urged the agency, in the strongest possible terms, to live up to its statutory responsibilities in the final rule, I today urge this committee to reject H.R. 6009, and its effort to proscribe BLM's rulemaking authority and shortchange American taxpayers for decades to come.

QUESTIONS SUBMITTED FOR THE RECORD TO MS. MELISSA HORNBEIN, SENIOR ATTORNEY, WESTERN ENVIRONMENTAL LAW CENTER

Questions Submitted by Representative Ocasio-Cortez

Question 1. The Inflation Reduction Act raised federal royalty rates on publicly owned oil and gas resources to 16.67 percent from 12.5 percent. The Bureau of Land Management's proposed rule, on the "Fluid Mineral Leases and Leasing Process," incorporates this updated rate and would allow the Bureau to raise federal royalty rates after ten years. However, H.R. 6009 would require the Bureau of Land Management to withdraw the proposed oil and gas rule, and prohibit any implementation or enforcement of any substantially similar rule. What are the consequences for federal taxpayers and state and local governments when federal royalty rates are not regularly updated?

Answer. As an initial matter, and as noted in the question, federal law currently dictates a royalty rate of 16.67% and the Proposed Rule would make that a minimum rate after ten years, subject to increase, consistent with the IRA. If BLM is prevented from instituting any rulemaking to impose updated royalty rates, its existing rules will be rendered even more vulnerable to legal challenge because they will be—and will be forced to remain—out of sync with current federal law. BLM would be put in the unenviable position of having to enforce—permanently—federal law through instruction memoranda, with both being in direct conflict with BLM's existing and updated rules. This raises legal questions and conflicts of law between H.R. 6009 and changes to the Mineral Leasing Act instituted through the IRA, as well as raising serious legal questions about the validity of a resolution which purports, without explication or direct amendment to any existing legal authority, to limit Interior's and BLM's considerable discretion to oversee the federal mineral leasing program. *See, e.g*. 30 U.S.C. § 226(a).

Putting this issue aside and assuming for the sake of argument that H.R. 6009 creates no conflict of law and is an effective proscription on BLM's authority over royalty rates, its practical effect would be to continue the status-quo to the detriment of the federal government, taxpayers, and federal lands. The former royalty rate of 12.5% was more than a century out of date and resulted in decades of losses to American taxpayers and the U.S. treasury, as well as state governments that were likewise shortchanged by BLM's outdated and woefully insufficient royalty rates. H.R. 6009 seeks to perpetuate this practice and to, once again, ensure that the federal government will lag further and further behind state and private property owners, effectively subsidizing the oil and gas industry at the expense of taxpayers.

This is despite ample documentation of the benefits of fair royalty rates at the state level, which demonstrates that higher rates do not lead to significantly reduced production. Similar information at the federal level indicates that the imposition of higher federal royalty rates will only marginally decrease production but will result in substantially higher rates of return for the government and taxpayers. For example, the Government Accountability Office found that increasing federal royalty rates to 22.5% would decrease federal production by less than 2% per year while a more modest (but still higher than current law) increase to 18.75% would have a "negligible" effect on production over ten years. Simultaneously, such increases would result in a substantial net increase in federal royalty revenue.[1] Thus, royalty rates that bring BLM's program into the twenty-first century will not

[1] Government Accountability Office (GAO), Oil, Gas, and Coal Royalties: Raising Federal Rates Could Decrease Production on Federal Lands but Increase Federal Revenue. GAO-17-540. June 2017.

result in any loss of production that is not substantially exceeded by gains in federal revenue.

This net gain exists apart from the fact that oil and gas companies continue to enjoy record profits while leaving the government and taxpayers on the hook to the tune of millions for cleanup after they have abandoned wells on federal lands. State governments are similarly shortchanged by a continuance of the status quo with respect to outdated and undervalued federal royalty rates, as states typically receive approximately half of the revenue from federal oil and gas royalties, rental fees, and bonus bids on federal mineral development within their borders. If the costs associated with the impacts of climate change on federal lands are considered, the disparity between what oil companies are charged to use federal lands and the revenue that passes to federal and state governments is even more glaring. Thus, in addition to attempting to lock in royalty rates more than a century out of date, H.R. 6009 would ensure that federal royalty rates continue to result in a lower and lower rate of return for the government while providing an ever-larger subsidy to the companies that make use of public lands without ever having to pay the costs associated with that use.

Question 2. According to the 2018 United States Geological Survey report, "Federal Lands Greenhouse Gas Emissions and Sequestration in the United States: Estimates for 2005–2014," approximately one quarter of U.S. greenhouse gas emissions come from fossil fuels extracted from federal lands and waters. Given this, do you believe the Bureau of Land Management has the authority to phase down fossil fuel extraction on public lands?

Answer. Yes—BLM clearly possesses the discretion to initiate an organized phase-down of fossil-fuel leasing on federal lands under the authority granted to it via the Interior Secretary under both the MLA and the Federal Land Policy and Management Act (FLPMA). Indeed, under FLPMA, it is clear—in light of the science and the significant portion of U.S. greenhouse gas (GHG) emissions coming from federal lands—that BLM has an affirmative responsibility to implement precisely such a phase-down in order to meet its dual obligations to manage federal resources "without permanent impairment of the productivity of the land and the quality of the environment," and to "take any action necessary to prevent unnecessary or undue degradation of the lands."[2]

Nor does FLPMA's multiple use mandate require—as was suggested during the hearing—that federal fossil fuel production continue to enjoy primacy over other uses of federal public lands. The multiple use mandate neither locks into place oil and gas leasing and production at the expense of other multiple uses, nor does it legally preempt the role of public lands as part of a mosaic of ecological and biological systems critical to ecosystem resilience. Instead, FLPMA directs BLM to give consideration to "the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output," and to manage public lands and resources to "meet the present and future needs of the American people" while "conform[ing] to changing needs and conditions . . . tak[ing] into account the long-term needs of future generations."[3]

It is abundantly clear that climate change is *already* causing such impairment and degradation to federal lands under BLM's management oversight,[4] and BLM is statutorily required to *take any action necessary* to prevent further unnecessary or undue degradation of these lands.[5] Thus, BLM has not only the authority, but also an affirmative duty under FLPMA to initiate such a phase-out.

The MLA, as the statute directing BLM's implementation of the federal oil and gas program, provides BLM with substantial discretion over whether, when, and where to offer leases for sale, and, subsequent to lease issuance, gives the agency the ability to manage production. With respect to leasing, the MLA provides that "public lands "*may* be leased" for oil and gas.[6] Courts have repeatedly acknowledged

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[2] 43 U.S.C. §§ 1702(c), 1732.

[3] 43 U.S.C. § 1702(c).

[4] For example, in 2022, 52% of total acreage burned in wildfires in the United States was on federal land, which is actually slightly lower than the 10-year average of 64%. Congressional Research Service Wildfire Statistics, updated June 1, 2023, available at https://sgp.fas.org/crs/misc/IF10244.pdf. *See also*, Jay, A.K., A.R. Crimmins, C.W. Avery, et al., 2023: Ch. 1. Overview: Understanding risks, impacts, and responses. In: Fifth National Climate Assessment. Crimmins, A.R., C.W. Avery, D.R. Easterling, et al., Eds. U.S. Global Change Research Program, Washington, DC, USA. https://doi.org/10.7930/NCA5.2023.CH1 (documenting climate change impacts to U.S. lands).

[5] 43 U.S.C. § 1732.

[6] 30 U.S.C. § 226(a) (emphasis added).

that this permissive language allows BLM broad discretion as to where, when, and, indeed, *whether* to offer leases.[7] The qualifier that lands be "eligible and available" was added to the statute with the passage of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. The concept was not defined in the FOOGLRA, but legislative history indicates that the amendment was in no way intended to cabin the Secretary's existing discretion over when, where, and whether to offer leases for sale.[8] BLM has consistently interpreted these terms in accordance with a 1989 Solicitor's Memo, which reads these terms to *require* necessary environmental review under NEPA as a threshold for availability.[9] That definition has been upheld judicially, underscoring NEPA's critical role in determining whether lands are available for leasing.[10]

Complementing FLPMA and NEPA's directives, the MLA also authorizes BLM to reduce the rate of oil and gas production over a defined period of time, limiting the amount of extraction and GHG pollution that would result. The MLA authorizes the Secretary of the Interior to "alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such a plan." [11] Likewise, nearly all BLM leases for onshore oil and gas contain a clause which states that "Lessor reserves the right to specify rates of development and production in the public interest." [12] Pursuant to these authorizations, the BLM clearly is entitled to set a declining rate of production over time that provides for an orderly phase-out of onshore fossil fuel production.

Finally, the MLA reserves to BLM considerable discretion over *how* leases are developed, first through the use of stipulations at the leasing stage and later through BLM's retained discretion over surface use rights following lease issuance, which provide the agency with the ability to further control production through conditions of approval at the drilling stage.

Questions Submitted by Representative Grijalva

Question 1. A witness in a previous oversight hearing on the Bureau of Land Management's proposed rule, on the "Fluid Mineral Leases and Leasing Process," claimed that there is no problem with bonding or orphaned wells at a federal level because the Bureau of Land Management (BLM) has only identified 37 orphaned wells on the lands the agency manages, and BLM has only called on bonds 40 times in the past 10 years to reclaim wells. Could you please explain why these numbers do not capture the scope of the problem with unplugged, non-producing wells? How do long-term idled and so-called temporarily abandoned wells affect the environment and public health?

Answer. This argument is a red herring and is, as a factual matter, incorrect. The number of wells that BLM had identified as "orphaned" stood at 219 in 2017, as disclosed by the Government Accountability Office in a 2018 report.[13] This discrepancy between the asserted number (37) and the number BLM identified (219) is

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[7] *See, e.g. Udall v. Tallman*, 380 U.S. 1, 4 (1965) (Secretary retains "discretion to refuse to issue any lease at all on a given tract"); *Haley v. Seaton*, 281 F.2d 620, 625 (D.C. Cir. 1960) (use of word "may" gives Secretary discretion not to lease).

[8] The Federal Onshore Oil and Gas Leasing Reform Act of 1987, Pub. L. No. 100-203, tit. V, subtitle B, 101 Stat. 1330, 1330-256 (1987) was enacted to address concerns over noncompetitive leasing, thereby shortchanging the public. There is no indication whatsoever that Congress intended to limit the Secretary's existing discretion not to lease. Thomas Sansonetti & William Murray, A Primer on the Federal Oil and Gas Leasing Reform Act of 1987 and its Regulations, 25 Land & Water L. Rev. 375, 388 n.112 (1990).

[9] Memorandum from Office of the Solicitor to BLM Director re: 'Eligible' and 'Available' Land Under the Federal Onshore Oil and Gas Leasing Reform Act of 1987, at 8 (Dec. 15, 1989). The memo defined "eligible" lands as those that are "not barred from leasing by statute or regulation. Lands precluded from leasing, and thus not "eligible," include national parks and wilderness areas, for example. *See* 43 C.F.R. § 3100.0-3 (1988). The memo defined "available" lands as those that "are both "open to leasing in the applicable resource management plan," and "all statutory requirements and reviews have been met, including compliance with the National Environmental Policy Act (NEPA)."

[10] *See Western Energy All. v. Biden*, No. 21-cv-13, 2022 WL 18587039, *9-10 (D. Wyo. Sept. 2, 2022); slip op. at 36-37; *North Dakota v. U.S. Dep't of Interior*, 21-cv-148 (D. N.D. Mar. 27, 2023); *see also* 42 U.S.C. 4332(1) (NEPA directs that "to the fullest extent possible," all of BLM's applicable "policies, regulations, and public laws of the United States . . . *shall be interpreted and administered* in accordance with [section 101 of NEPA]."

[11] 30 U.S.C. § 226(m).

[12] *See* U.S. Department of the Interior, Offer to Lease and Lease for Oil and Gas, Form 3100-11 (Oct. 2008).

[13] Government Accountability Office, Oil and Gas Wells: Bureau of Land Management Needs to Improve Its Data and Oversight of Its Potential Liabilities, GAO-18-250, May 2018.

ultimately of little importance, however, compared to the vast scope of under-reporting represented by BLM's estimates.

GAO's additional findings in the same report demonstrate that even the 219 "orphaned" wells identified by BLM in 2017 is virtually meaningless as a statistic "because BLM does not systematically track needed data." Moreover, the GAO found that BLM's process to designate a well as "orphaned" can take several years, which means that even assuming a level of data tracking that BLM does not, in fact, implement, there is a several-year lag time in orphaned well designation, which likely results in BLM's under-estimate compounding over time.[14] By way of illustration, the same year BLM identified 219 orphaned wells, GAO found 15,600 *inactive* wells, of which 1,000 had been inactive for 25 years or longer (BLM's own data found only 325 wells that had been inactive for 25 years or longer).[15] It is highly likely, if not virtually certain, that the majority of these wells would qualify as "orphaned," were they to be classified by BLM.

In the same report, the GAO also identified nearly 2,300 idled wells "at increased risk of becoming orphaned because they have not produced since June 2008 and have not been reclaimed." The bonds for "a majority of these at-risk wells" were "too low to cover" their anticipated reclamation costs, which, according to the GAO, may exceed $330 million.[16] Even this estimate likely represents only a subset of the true scope of the problem, as revealed by a preliminary analysis conducted as part of the Bipartisan Infrastructure Law's Federal Orphaned Well Program. That analysis indicates that there are **over 130,000 documented orphaned wells in the United States**—nearly two-and-a-half times the amount previously estimated.[17] Thus, the scope of the problem is, so far, undefined, and the only thing that is certain is that BLM's estimations of the number of "orphaned" wells represent nowhere near the total liability for the agency, and, by extension, American taxpayers.

It is also clear that such idled wells—whether or not they have gone through BLM's lengthy process to be declared "orphaned"—are a potent source of GHG gas pollution and a threat to public health. For example, in 2019, methane emissions from abandoned wells were estimated to be equivalent to 7.1 million metric tons of carbon dioxide. Methane is, over the short term (20 years) approximately 81 times as potent as carbon dioxide and approximately 27–30 times as potent over 100 years.

In addition to being a critical source of climate pollution, such emissions have negative impacts on human and environmental health through drinking water pollution and other hazardous air pollutants.[18] Such impacts have been well documented in communities living adjacent to oil and gas infrastructure and include reproductive harms, respiratory and cardiovascular impacts, cancers, and other negative health impacts. It is clear that idled and abandoned wells (not just those wells that have been specifically identified by BLM as "orphaned") pose a considerable liability to the government and taxpayers, and considerable risks to the climate, people's health, and public lands. Thus, focusing solely on wells that have been identified by BLM as "orphaned" is a deliberate effort to mischaracterize and minimize an environmental and public health problem of staggering proportions.

Question 2. What steps does BLM's proposed "Fluid Mineral Leases and Leasing Process" rule take to make the oil and gas industry promptly clean up oil and gas wells at the end of their useful life? How does this shift the burden of environmental cleanup from taxpayers to polluters?

Answer. BLM's proposed rule would help ensure cleanup of oil and gas wells in a number of ways—for specifics, please see the comments submitted by the Western Environmental Law Center on behalf of partner groups on BLM's proposed rule.[19] Most importantly, the proposed rule would help shift the cost of idled well cleanup to the entities responsible for their existence by updating bond amounts to catch up with inflation and actual reclamation costs for the first time in more than half a century.

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[14] *Id.* at 9, fn 20.
[15] *Id.* at 15.
[16] 88 Fed. Reg. 47,562, 47,565 (July 24, 2023).
[17] https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/federal-orphaned-well-program.
[18] See, for example, Merrill, M.D., Grove, C.A., Gianoutsos, N.J., et al., 2023, Analysis of the United States documented unplugged orphaned oil and gas well dataset (ver. 1.1, April 2023): U.S. Geological Survey Data Report 1167, 10 p., https://doi.org/10.3133/dr1167.
[19] Attached for reference to these responses. [This attachment can be viewed at on our Committee Repository at: https://docs.house.gov/meetings/II/II06/20231025/116436/HHRG-118-II06-20231025-SD013.pdf]

If allowed to proceed with its rule, BLM will implement an effective bonding system that achieves cleanup in two ways: First, appropriate bond amounts create economic incentives for operators to promptly complete plugging and remediation themselves, without BLM needing to be involved, as cleanup is required before the operator can obtain bond release. Second, adequate bond amounts ensure that regulators have access to sufficient resources to complete plugging and remediation in the event the operator either cannot or will not do the work. BLM's elimination of nationwide bonding also helps ensure that bonds are addressed on a lease-by-lease basis, further increasing the likelihood that the operator will clean up idled well sites and that BLM will have the resources to do so if the operator does not, as nationwide binds have historically been even less adequate to cover actual cleanup costs than have per-lease bond amounts.

While bonding is an important feature of regulatory oversight for any industry where a lessee or permittee assumes clean-up obligations, it is critically important in the oil and gas industry, which is inherently subject to boom-and-bust cycles. As a result of fluctuations in international commodity prices, the oil and gas industry is prone to a pattern of drilling many new wells when prices are high, and then experiencing bankruptcies, idlings, and abandonments when prices drop.[20] Sufficient bond amounts protect against these fluctuations by encouraging operators to plug wells promptly in order to free up capital dedicated to servicing the bonds, and by ensuring that regulators are able to complete clean-up in the event of abandonment by operators. Adequate bonding also frees regulators to take appropriate enforcement actions against operators without fear that such actions will lead to additional well abandonments with unfunded clean-up obligations.

Question 3. How does the draft rule help protect public health, especially for overburdened environmental justice communities?

Answer. One important way the Rule addresses the impacts experienced by overburdened and underserved communities living in proximity to oil and gas infrastructure is by clarifying language around setbacks to establish that 800 meters is a floor, not a ceiling. Another way is through BLM's ability to prohibit surface disturbing operations for a minimum of 90 days to mitigate or avoid adverse impacts. Nonetheless, the rule can and should go much farther to protect the public health and safety of these disproportionately impacted communities. Some of the ways it should do so are addressed in response to the next question.

Question 4. What are other steps that BLM can take using their current authorities to better protect frontline communities and include them in federal oil and gas program decision-making that affects them?

Answer. Again, for a broader discussion of the many ways BLM could better address the public safety of frontline communities, please see our comments on the proposed rule. Some changes to the proposed rule that would help address these critical issues include:

- Further increases to minimum setback distances and provisions for no drilling within one mile of schools and residences.
- Address subsurface impacts, particularly the impacts and risks that could result from drilling laterals up to three miles from the well site. Setbacks should take these subsurface impacts into account. This could be simply addressed by adopting a minimum distance of three miles from critical infrastructure to account for these risks and would help address groundwater impacts that are insufficiently addressed through existing setbacks.
- BLM should also implement a formal consideration of factors affecting public health and safety in different communities, and provide for the adoption of stipulations or conditions of approval to address specific situations as they arise.
- BLM also needs to clarify in the final rule how its use of preference criteria—in particular its exercise of a preference in favor of development in areas with existing infrastructure—will be implemented in a way that does not result in additional impacts to already overburdened frontline communities.

In terms of public process, BLM could improve the proposed rule in a number of ways. BLM should, for example, clarify that it will, through the rule, adhere to government standards for what constitutes meaningful engagement by federal agencies with those in frontline and "environmental justice" communities, sovereign Tribal nations, and the broader public. BLM should explicitly recognize such

[20] GAO Report at 1.

existing minimum standards and explain how it will adhere to those standards in the context of the rule.[21] In addition, BLM should incorporate and abide by existing frameworks with respect to meaningful public involvement, meaningful tribal consultation, and engagement with those in frontline communities. These principles are referenced at pp. 55–57 of our attached comments. Our concern is that the rule as currently drafted risks ignoring and excluding the very people and communities who will be most affected by it. BLM can and should do better in its final rule.

Thank you for the opportunity to provide responses to these questions, and to appear before the subcommittee. Please do not hesitate to reach out with any additional questions.

Mr. STAUBER. Thank you very much. Our final witness is Mr. Tom Kropatsch, who is the oil and gas supervisor for the Wyoming Oil and Gas Conservation Commission in Casper, Wyoming.

Mr. Kropatsch, you are now recognized for 5 minutes.

STATEMENT OF TOM KROPATSCH, OIL AND GAS SUPERVISOR, WYOMING OIL AND GAS CONSERVATION COMMISSION, CASPER, WYOMING

Mr. KROPATSCH. Thank you, Chairman Stauber and members of the Subcommittee, for the opportunity to present to you today. My name is Tom Kropatsch. I am the State Oil and Gas Supervisor for the Wyoming Oil and Gas Conservation Commission, and I thank you for inviting the state of Wyoming to this hearing on the discussion draft of the Restoring American Energy Dominance, and to share how the BLM's proposed Fluid Mineral Leasing and Leasing Process Rule will impact the state of Wyoming and its citizens.

To be straightforward, this proposed rule actively discourages development and, by BLM's own admission, will force oil and gas production off Federal lands.

Wyoming routinely ranks second in the nation in oil production and first in the nation in natural gas production from onshore Federal lands. Of the approximately 47,000 wells in the state, about 27,000 are Federal; 65 percent of the oil production and 79 percent of the natural gas production in Wyoming comes from Federal lands. Any regulatory or management changes on Federal lands will have a consequential impact on Wyoming. Federal, state, and private lands are intermingled throughout the state.

Horizontal wells, paired with a landownership pattern, results in wells that are a mix of mineral types, with most having Federal minerals mixed with fee or private minerals and state, or a mix of all three minerals in a single well. Therefore, the impacts from any Federal action are felt by the state and private lands.

When BLM admits that a rule will force production off Federal lands, it should be recognized that in Wyoming the Federal rule is also forcing production off private and state lands. Accordingly, this proposed rule will result in oil and gas production being forced out of the state of Wyoming.

Multiple provisions of this proposed rule contribute to forcing production off Federal lands, such as BLM deferring the leasing of even more parcels only because they feel it has low potential for

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[21] *See, e.g.,* 40 C.F.R. § 1506.6 ("public involvement" provisions of the CEQ implementing regulations for the National Environmental Policy Act); 36 C.F.R. §§ 800.1-800.16 (regulations governing consultation and other components of Section 106 of the National Historic Preservation Act ("NHPA"); IM 2022-059.

production, the increased fees and royalties, and the impossibly burdensome bonding requirements. BLM states that these proposed changes are necessary because the existing onshore oil and gas regulatory framework does not adequately protect the fiscal interests of the American public. Yet, the onshore oil and gas program generated over $8.6 billion for the American public last year, according to Natural Resources Revenue Data.

The oil and gas industry also provides significant revenue and jobs for the citizens of Wyoming. In 2020, the oil and gas industry contributed over $1.2 billion to the state through taxes and royalties. The industry also directly employed over 19,000 people in the state in 2019, with over $1 billion in wages paid, and it generates 1.9 additional jobs in related industries for every person that is directly employed. The oil and gas industry supports between 12 and 19 percent of the state's entire workforce. Any production that is forced off Federal lands and subsequently out of the state of Wyoming will result in reduced fiscal benefits and reduced jobs for the American public and the Wyoming citizens.

BLM's analysis shows that the orphan well program is expected to cost the agency between $1.4 million and $3.8 million per year, and that only 15 Federal orphan wells needed plugged in 2021 and only 24 for 2022. Out of the approximately 96,000 wells managed by BLM, only 0.025 percent were orphaned, and the expected cost is only 0.04 percent of the $8.6 billion in revenue that the onshore program generated last year.

To address these very small risks in terms of number of orphaned wells and costs, BLM has designed a one-size-fits-all bonding approach that will inappropriately be forced on all operators and all wells, without regard for the well depth, condition, status, or other factors which impact the cost to plug. BLM is proposing to increase a minimum lease bond to $150,000, and a minimum statewide bond to $500,000. Based on Wyoming's own orphan well program for the past 30 years, these minimum bond amounts are far greater than the typical cost to plug and reclaim a well in Wyoming.

It should be noted that these are minimum bond amounts. In the preamble, BLM indicates they will increase the lease bond amount if there are more than two wells on the lease, and they will increase the statewide bond amount if there are more than seven wells tied to the bond. If BLM were to follow through on this bonding plan, a conservative projection for the required bonding of the 27,000 Federal wells in Wyoming is over $1.9 billion. This is to address BLM-stated nationwide costs of $1.4 million to $3.8 million.

In our review, we have determined that the minimum bond amount would exceed the gross annual revenue of more than 25 percent of the companies operating on Federal lands in Wyoming. Unfortunately, as proposed, the bonding provisions will impact hundreds of small businesses, local and state governments, the public, and result in lost jobs, royalties, taxes, and other revenues.

I briefly mentioned other provisions of the rule that will result in forcing production off Federal lands, and my written statement includes a copy of the Commission's public comments that were submitted to the BLM during the public comment period.

Thank you for the opportunity to speak today.
[The prepared statement of Mr. Kropatsch follows:]

PREPARED STATEMENT OF TOM KROPATSCH, STATE OIL AND GAS SUPERVISOR ON BEHALF OF THE WYOMING OIL AND GAS CONSERVATION COMMISSION

ON DISCUSSION DRAFT OF H.R. 6009 (BOEBERT), "RESTORING AMERICAN ENERGY DOMINANCE"

Good afternoon Chairman Stauber, Ranking Member Ocasio-Cortez, and members of the House Subcommittee on Energy and Mineral Resources, my name is Tom Kropatsch and I am the State Oil and Gas Supervisor for the Wyoming Oil and Gas Conservation Commission (WOGCC). Thank you for inviting the State of Wyoming to this hearing on the Discussion Draft of Restoring American Energy Dominance and to share how the Bureau of Land Management's (BLM) proposed Fluid Mineral Leasing and Leasing Process rule will impact the oil and gas industry, private and state mineral owners, state and local governments, and the citizens of Wyoming. To be straightforward, this proposed rule actively discourages development and by BLM's own admission, will force oil and gas production off federal lands.

Wyoming routinely ranks 2nd in the nation in oil production and 1st in the nation in natural gas production from onshore federal lands. There are approximately 47,000 total wells in Wyoming with about 27,000 of those being federal wells. 65 percent of oil production and 79 percent of natural gas production in Wyoming is from federal lands.

As evidenced by these numbers, any regulatory or management changes on federal lands will have a consequential impact on Wyoming. It is not only the significant amount of federal lands, but also the landownership pattern that contributes to impacts from federal decisions. Federal, state, and private lands are intermingled throughout the state. Horizontal wells paired with the landownership pattern results in wells that are a mix of mineral types, with most having federal minerals mixed with private and/or state.

Avoiding federal lands when drilling these horizontal wells is very difficult to impossible. Therefore, the impacts from any federal action are felt by the state and private mineral owners. When BLM admits that a rule will force production off federal lands it should be recognized that in Wyoming, the federal rule is also forcing production off state and private lands. Accordingly, this proposed rule will result in oil and gas production being forced out of Wyoming.

Multiple provisions of this proposed rule contribute to forcing production off federal lands, such as BLM deferring the leasing of even more parcels only because they feel it has low potential for production, increased fees and royalties, and impossibly burdensome bonding requirements. BLM states these proposed changes are necessary because the existing onshore oil and gas regulatory framework does not adequately protect fiscal interests of the American public. Yet, the onshore oil and gas program has generated over $12.6 billion for the American public the last two years according to Natural Resources Revenue Data.

The oil and gas industry also provides significant revenue and jobs for the citizens of Wyoming. In 2020, the oil and gas industry contributed $1.23 billion to Wyoming through taxes and royalties. The industry also directly employed over 19,000 people in the state in 2019 with over $1 billion in wages paid, and it generates 1.9 additional jobs in related industries for every person directly employed.

Any production that is forced off federal lands and subsequently out of Wyoming will result in reduced fiscal benefits and reduced jobs to the American public and Wyoming citizens.

BLM states the onshore program historically exposed the Federal Government to significant reclamation related liabilities and believes increased bond amounts and elimination of nationwide bonding would help ensure reclamation responsibilities reside primarily with oil and gas lessees and operators and not the American public. Unfortunately, as proposed, the bonding provisions will impact hundreds of small businesses in Wyoming, resulting in lost royalties, taxes, and other revenues to local and state government, and likely will create orphan wells, not protect against them.

BLM's analysis shows the orphan well program is expected to cost the agency $1.4 to $3.8 million per year and that only 15 federal orphan wells needed plugged in 2021 and only 24 for 2022. Out of the approximately 96,000 wells managed by BLM only 0.025% were orphan. Similarly, the average expected cost is only 0.068% of the approximately $8.6 billion in revenue that the onshore program generated last year. The BLM process for dealing with oil and gas wells with a non-responsive operator is to hold any previous record title owner (RTO) or operating rights holder (ORH)

responsible to plug and reclaim the wells. Only after determining that no other RTO or ORH can be held responsible is a well declared orphan by BLM.

To address the very small risks in terms of number of orphan wells and costs, BLM has designed a one-size fits all bonding approach that will be inappropriately forced on all operators and all wells, without consideration of the well depth, condition, status, or other factors which impact the cost to plug. BLM is proposing to increase the minimum lease bond to $150,000 for up to two wells, the minimum statewide bond to $500,000 for up to seven wells, and to eliminate nationwide bonding. Based on Wyoming's orphan well program for the past 30 years, these minimum bond amounts are far greater than the typical cost to plug and reclaim a well in Wyoming. As an example, there is a small business operator in Wyoming who has five federal leases, each with one coalbed methane well. Under the proposed rule, this operator would be required to post a minimum statewide bond of $500,000. Based on historical plugging costs in the state, these five wells would likely cost only $25,000 to $35,000 to plug and reclaim, total for all five wells. The proposed minimum bond overburdens this small operator with unnecessary bonding and could easily cause them to go out of business which risks creating orphan wells.

It should be noted that these are minimum bond amounts, and in the preamble, BLM states they will increase the lease bond amount for operators with more than two wells on the lease. They will also increase the statewide bond amount for operators with more than seven wells tied to the bond. If BLM were to follow this bonding plan, a conservative projection for the required bonding for the 27,000 federal wells in the state is over $1.9 billion. This is to address BLM's stated nationwide costs of $1.4 to $3.8 million.

BLM also intends to disallow certificates of deposit and letters of credit as bond instruments, instead requiring surety bonds. BLM states this will only cost operators an annual fee of 1% to 3.5% of the bond value. What BLM fails to recognize is most small operators cannot obtain a surety bond without significant collateral, typically 100% cash collateral. In our review, we have determined that the minimum bond amount would exceed the gross annual revenue of more than 25% of the companies operating on federal lands in Wyoming.

I briefly mentioned other provisions of this rule that will result in forcing production off federal minerals and out of Wyoming. For further details on these issues, attached to this written statement you will find a copy of the WOGCC comments that were submitted to BLM during the public comment period.

Thank you for allowing the WOGCC to participate in this hearing and provide its perspective on these matters.

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ATTACHMENT

Wyoming Oil & Gas
Casper, WY

September 22, 2023

U.S. Department of the InteriorDirector
Director, Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240
Attn: 1004-AE80

Re: Fluid Mineral Leasing and Leasing Process
Submitted via Regulations.gov

Dear Director:

The Wyoming Oil and Gas Conservation Commission (WOGCC) hereby respectfully submits the following comments in response to the Bureau of Land Management's (BLM) proposed Fluid Mineral Leasing and Leasing Process rule, Docket No. RIN 1004-AE80, published in the Federal Register on July 24, 2023.

Wyoming routinely ranks first in the nation for gas production from onshore federal minerals and second in the nation for oil production from onshore federal minerals. Wyoming ranks eighth in the nation in total oil production and ninth in the nation in total gas production in 2021 according to the Energy Information Administration (EIA). Production from federal leases and federal minerals comprises

a significant portion of the total oil and gas production in Wyoming. Approximately 65% of the total oil production and 79% of the total gas production in Wyoming is produced from federal minerals. BLM's proposed changes to the federal leasing and leasing process in this proposed rule will result in severe impacts to oil and gas operators, private and state mineral owners, local governments, and the state of Wyoming.

The WOGCC respectfully requests that BLM withdraw this proposed rule based on its significant impacts to oil and gas operators who produce from federal leases, hundreds in Wyoming who are small businesses, and impacts to local and state government. As detailed further in the following comments, BLM did not conduct an appropriate evaluation of the impacts of this rule on small businesses or local and state government. This rule will force many oil and gas operators in Wyoming out of business and will force oil and gas operators of all sizes off federal leases, will limit the future leasing of federal minerals, and will result in loss of revenue to the general public and to state and local government. These impacts are ignored by BLM in this rule proposal and it should therefore be withdrawn and an appropriate Regulatory Impact Analysis (RIA) be conducted with any subsequent rule. In support of the request to withdraw, the WOGCC offers the following comments on the rule.BLM states that the existing onshore oil and gas regulatory framework does not adequately protect the fiscal interests of the American public. Unfortunately for the American public, this rule results in a double whammy to their fiscal interests. As proposed by the BLM, this rule will do nothing but reduce the significant fiscal benefits that the federal onshore oil and gas program currently provides to the American public. These revenues totaled over $4 billion in 2019, according to the Congressional Research Service (Congressional Research Service, *Revenues and Disbursements from Oil and Natural Gas Production on Federal Lands*, September 22, 2020). As BLM admits, this rule will result in production moving off federal minerals onto state or private minerals, which will result in less revenue generated from federal leases for the American public. In addition, due to the landownership pattern in much of Wyoming, it will also eliminate the opportunity to develop and produce oil and gas from the state and private minerals. This will force operators to leave the state of Wyoming, going to states with less federal minerals or to other countries. This will reduce the supply of oil and gas and will increase energy costs for the American public, once again hitting the American public in their pocketbook.

BLM also states that they are required to avoid permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output. BLM is admitting with this statement that this rule results in a lesser economic return, but they are justifying reduced fiscal benefits by claiming an avoidance of environmental impacts. However, this proposed rule will not only have a detrimental impact to fiscal benefits it will also have an overall detrimental impact on the environment.

In this proposed rule, the American public loses twice. They lose fiscally and they lose environmentally. Forcing production off of federal leases can only result in two outcomes. Either oil and gas prices will increase due to elimination of a portion of the supply or the loss in supply will be made up from production in other places. Either scenario results in a negative impact for the American public. The American public will lose the benefits of lease bonuses, royalties, taxes, and jobs when production is forced off of federal leases. The American public will lose by incurring increased prices for fueling their vehicles, heating their homes, purchasing food or other goods, and all other items that they use on a daily basis that increased fossil fuel prices impact. The American public loses by paying higher costs or it loses because of the detrimental environmental impact of shifting production to other areas that do not produced as cleanly and efficiently as the U.S. and incurs further environmental impacts in the transportation of the foreign oil/gas to the U.S. In fact, the Institute for Energy Research (IER) reported on the environmental impact of producing oil and gas outside of the U.S. IER (Kreutzer, David W. PHd & Lambermont, Paige; *The Environmental Quality Index Environmental Quality Weighted Oil and Gas Production*, Institute for Energy Research, February 2023) utilized the Environmental Performance Index produced by Yale University to show that as a matter of environmental protection, replacing U.S. domestic production with foreign supply would be an overwhelmingly negative tradeoff. It is likely that at least a portion of any lost production from federal lands will be replaced by a foreign supply. According to IER, the average barrel of non-U.S. produced oil is produced in a country with an environmental score that is 23.6% lower than that of the U.S.

BLM has stated two main purposes for this rule are to protect the fiscal interests of the American public and to protect the productivity of the land and quality of the environment when leasing. As shown above, based on simple supply and demand it the rule will accomplish neither of these purposes. The rule will actually do the exact opposite, providing less fiscal benefits of production from federal leases and likely increasing energy costs and negative impacts to the environment at the same time. For several reasons, this rule will have a disproportionate effect on the people of Wyoming. The landownership patterns in Wyoming, high percentage of production from federal lands, and large number of local Wyoming small business oil and gas operators combined with certain requirements in this rule to create a looming disaster for Wyoming, its small businesses producing oil and gas from federal lands, and local governments.

BLM admits that this rule will force production off of federal lands (pg. 47609) and onto state or private lands. Multiple aspects of this rule contribute to this exodus from federal lands such as BLM deferring even more parcels if they do not feel that they have high potential for production, increased fees and royalties, or the impossibly burdensome bonding requirements. In doing so, BLM is violating its statutory requirements to prevent waste. This is also a violation of Wyoming statutes to prevent waste and to protect correlative rights, which will be enforced by the WOGCC. Due to the landownership patterns in Wyoming, especially in the Powder River Basin and the checkerboard along the southern tier of the state, the elimination of the ability to produce from federal lands will also eliminate the ability for operators to produce from the adjacent state and private lands. The Powder River Basin in northeast Wyoming is the focus of most of Wyoming's horizontal play, with 15 of the 24 rigs operating in Wyoming (week of 08/21/2023) targeting the Powder River Basin. Likewise, horizontal drilling activity is also becoming common in the checkerboard area of southern Wyoming.

Most of the wells drilled in these areas are two mile lateral horizontal wells, with some laterals now being three miles long. Most of these horizontal wells encounter multiple mineral types in each of the laterals—a mix of federal, private, and/or state minerals. By forcing production off federal lands, many of these horizontal wells will no longer be able to be drilled. If BLM will not lease it will not issue an APD, without which the operator cannot drill through the federal minerals. If those federal minerals are encountered anywhere but the toe of the lateral and the operator cannot drill through the federal minerals it becomes physically impossible to drill and produce from the private and state minerals. In some cases, an operator could drill the well from a different direction and access the private and/or state minerals without needing to cross the federal lease, but this would be rare. Even if the private and state parcels could be accessed it would leave the federal lease stranded, as it would never be drilled in the future which creates waste.

One of the contributing factors to the BLM forcing operators off federal lands is the proposal to direct oil and gas leasing to appropriate locations (pg. 47565). BLM states, "even when parcels sell at or above the minimum bid, they are rarely developed or generate royalties for the Federal Government." Yet, the federal onshore oil and gas program generated over $4 billion for the Federal Government in 2019 and an average of over $8 billion the last two years according to Natural Resources Revenue Data. BLM also states over 50% of the current lands under lease (pg. 47564) are producing oil and/or gas. Oil and gas exploration is a risky business and exploratory drilling is just that—exploratory. There are no guarantees, yet some operators are willing to take the risk associated with this type of work in the chance that they gain a big reward in finding economical quantities of oil or gas. Many areas of Wyoming fall into this exploratory category. Even in areas well known for oil and gas production, such as the Powder River Basin, there are formations and areas that are step outs from known productive areas or formations, which are exploratory. These areas can take time to drill and complete and test and learn and revise the process and come back again. Limiting these exploratory leases will harm these operators, the local governments, and the state of Wyoming.

In the BLM referenced GAO report (pg. 47565}, it was found that out of the 87 million acres nominated for leasing between 2009 and 2019, BLM only offered 18 million acres for auction, which is only 20 percent of what was nominated. The additional burdens that BLM places on these lands before operators are allowed to begin development are the largest factor in delays to production and a major contributor as to why only 7 percent of leases produce in their primary term. In addition, in its report GAO made 4 recommendations. Not one of the GAO recommendations was for BLM to direct oil and gas leasing towards areas that are more likely to produce.

It is unlikely that BLM employs anyone who is an expert in understanding which leases may be more likely to produce. Industry employs petroleum geologists and engineers whose careers have been spent evaluating prospects for their potential to

produce. BLM employs petroleum engineers and geologists who implement regulations, not staff who are experts in evaluating prospects and exploring for oil and gas. BLM will only be able to evaluate whether there is any production nearby to determine if the lease has any potential for oil and gas production. Unfortunately, BLM has also shown that even parcels that are surrounded by existing leased federal parcels will be deferred and remain unleased even though they would have a high probability of producing. There are multiple instances in Wyoming where federal parcels with no unique characteristics that would lead to a deferral are in fact repeatedly deferred, with no available appeals process for review of the deferral decision. These deferrals impact the state and private minerals because they hold up or eliminate the potential for horizontal wells to be drilled until such time that BLM includes them in a lease sale. In addition, horizontal drilling and new completion technologies continue to unlock more acreage for production in areas where conventional/vertical wells would not have been successful. Using proximity to existing production as the only or even the main criteria to lease is inappropriate.

If BLM chooses to evaluate the impact to greenhouse gases (GHG) (pg. 47566) as part of the rule or as part of leasing, it should do so in a holistic manner. As previously mentioned, not leasing a parcel of federal lands will not impact GHG emissions. It can only do two things, drive up the cost of oil and gas and/or move the production of oil and gas to another area. Not leasing a parcel of federal minerals will do nothing to eliminate the demand for oil and gas, which is what would be necessary to reduce the GHG emissions. Moving the production of oil and gas off of the federal parcel would likely increase the environmental impact of the oil and gas production, as previously mentioned related to the IER report. If BLM analyzes the GHG impact of the production from federal lands it should also analyze the GHG impact of producing that same amount of oil and gas from other sources so that a full picture of the actual emissions is understood. In fact, since the elimination of production from federal leases will do nothing to lessen the demand for oil and gas, the GHG emissions either will stay the same or will increase due to the elimination of the federal lease.

BLM is proposing to increase the distance it can require for relocation of proposed operations from 200 to 800 meters, saying that due to horizontal and directional drilling this distance can be accommodated. It should be recognized by BLM that not all drilling is horizontal or directional and that consideration should be given for vertical wells, where the relocation of up to ½ mile may move the well out of the productive area. In general, moving a horizontal or direction well surface location up to 800 meters may not cause irreparable harm to the operator, but it likely will cause harm to the operator of a vertical well and a lesser distance or other methods of mitigating an impact must be considered by BLM so that the vertical well can still be drilled.

BLM is proposing to modify the rule related to compliance issues and when it determines non-compliance to have occurred. BLM should include in any of these changes the opportunity for an appeals process to occur. There is the potential for BLM staff to issue an incident of noncompliance (INC) for issues that may not arise to the level of an INC or may be due to other misunderstandings. To immediately blacklist the operator is not appropriate without some option for an appeal.

BLM is proposing modifying certain aspects of the APD, including the term of the permit. BLM is requesting comments on extending the term to 3 years and not allowing any extensions or keeping the term at 2 years but allowing for a 1-year extension. In evaluating these alternatives, it would be helpful to know factors contributing to time it takes to begin drilling an approved APD. If the factors weight heavily towards delays out of an operator's control, such as delays with NEPA, leasing, lawsuits, or other BLM caused issues, then providing more time for the operator to drill would be warranted. BLM also states there is a loophole in the APD process that allows an operator to spud a well but not fully complete drilling prior to expiration of the APD. This is not a loophole. Once a well is spud, the APD is no longer a permit to drill. It is now a drilled permit and will never expire because it is now a valid, completed permit existing until the well is plugged. If drilling operations pause at a certain point, such as after setting conductor or surface casing, there are processes in place to handle the pause. Shut in or temporary abandon (TA) notices are filed, detailing the operator's plans and seeking authorization to pause the process for a given amount of time. This is now a well, even if at the time it consists only of conductor or surface casing, and the APD associated with the well cannot expire as it is a drilled permit. BLM should not attempt to change decades long practices that match how states also handle these situations only for the intent of stopping drilling activity and yet claiming they are doing so in order to pursue diligent development of leased lands.

BLM proposes adding a diligent development requirement to its leases. While the WOGCC applauds the BLM in seeking to ensure the lessee drills wells or conducts other work towards producing oil and gas from the lease, BLM must consider the significant time certain federal process can take. For example, NEPA analysis commonly takes up to 10 years to complete, not to mention lawsuits following the NEPA process. Consideration of these timeframes must be given by BLM so as not to punish an operator who is willing and able to pursue development, only to be waiting on BLM for NEPA or an APD, on the court system due to lawsuit, or on other delays out of their control.

BLM is proposing to update the royalty rate to 16.67%. The rate is updated based on requirements of the Inflation Reduction Act (IRA), which set the rate for a period of 10 years. Following this timeframe, BLM is proposing the 16.67% royalty rate becomes the minimum. Although the next 10 years of rates are set by IRA, following the expiration of the IRA, BLM should not set this to be the minimum rate. The cost of operating on federal lands is significantly higher than operations on state or private lands. These higher costs are both direct costs, such as significantly higher permit fees and indirect costs, such as significantly longer waiting times for securing permits or other authorization from BLM. Taken together, the higher royalty rates and higher other costs will make it uneconomic to operate on most federal lands. BLM should recognize these facts and not overburden the oil and gas operators with 16.67% royalty rates as the minimum. Mineral owners of private or state lands command higher royalty rates because permit fees from the WOGCC are lower (e.g. $500 for an APD versus $10,900 for a BLM APD), and APDs and other permits are approved in a much lesser amount of time. Adding in these other costs of doing business to the increased royalty rate will further act to push operators off of federal lands harming small business, local governments, and the state.

The BLM states that the onshore program, historically, has exposed the Federal Government to significant reclamation-related liabilities; lacked adequate cost recovery mechanisms; and encouraged wasteful development practices. The BLM believes increased bond amounts and elimination of nationwide bonding would help ensure that reclamation responsibilities reside primarily with oil and gas lessees and operators and not the American public. Unfortunately, as proposed, the bonding revisions will impact hundreds of small businesses in Wyoming, resulting in lost royalties, taxes, and other revenue to local government and the state, and create orphan wells, not eliminate them.

The BLM discusses how the orphan well issue is expected to cost the agency $1.4 million to $3.8 million per year but fails to compare that to the associated revenue for onshore oil and gas which averaged $8.6 billion in the last two years according to the DOI's Natural Resources Revenue Data. BLM also points to GAO 19-615 stating that bonds were insufficient to plug and reclaim wells when they become orphan. The GAO report states that in the year previous to the report 89 wells had become orphan and also states that BLM managed 96,000 wells at the time. This means only 0.01% of the wells were orphaned in a given year. The current BLM analysis shows that only 15 orphan wells needed plugged in 2021 and there were 24 for 2022 (Economic Analysis, page 34).

As demonstrated throughout WOGCC's comments and as with most of the other aspects of this proposed rule, the fiscal impact to the American public from the bonding portion of this rule is vastly negative and unnecessary. What amounts to a default rate of less than 0.1% is nothing more than an attempt to justify the elimination of small business participation in oil and gas production and a foreshadowing of a bond every well policy designed to end oil and gas production on federal lands. This intention is in strict contradiction with the objective of oil and gas onshore operations regulations (43 CFR 3160.4) to "promote the orderly and efficient exploration, development, and production of oil and gas."

BLM's minimum bond proposal is a one-size fits all approach inappropriately forced onto all operators and all wells, no matter the well depth, condition, status, or other factors which impact the cost to plug the wells. Orphan well plugging costs vary significantly from well to well depending on many factors. Under the existing bonding requirements an operator with a single well that is 1000 feet deep on a single federal lease would post a $10,000 bond. Under the BLM's proposed rule, the bond would increase to $150,000. Based on the WOGCC's orphan well program over the last 30 years, this proposed bond amount is far greater than the costs to plug the well and reclaim the location. This is not a hypothetical scenario. As one example, there is an operator in Wyoming, a small business, with five federal leases, with one coalbed methane well on each lease. Under the proposed rule, this operator would be required to increase their bond to a statewide minimum bond of $500,000. Based on WOGCCC historical costs, these five wells would likely cost $5,000–$7,000 to plug and reclaim for a total cost to plug all five wells of $25,000 to $35,000. The

BLM proposed rule requires a minimum bond of $500,000, overburdening the small business operator with unnecessary bonding. There are many of these examples in Wyoming. One size fits all bonding, which results in bonds significantly in excess of what is necessary to plug and reclaim an operator's wells, is unreasonable. BLM could and should design bonding requirements that are protective for their actual risk without overburdening the operators and that account for the multiple factors that contribute to the costs to plug and reclaim a well.

BLM asserts that orphaned wells could be plugged 240 days sooner if the rule were implemented because the BLM would not have to expend effort finding responsible parties (ES-2). However, BLM's own guidance contradicts this statement. IM-2021-039 defines an orphaned well as "a well with 1) no legally responsible or liable party to perform permanent well plugging, abandonment and reclamation, and 2) no adequate financial assurance . . ." Therefore, a well cannot be orphaned until after the BLM has determined there is no responsible party. This would not change under the proposed rule because there are likely differing RTOs and ORHs across a non-responsive operator's leases. It is unavoidable that the BLM would need to determine which parties may be responsible for which wells and only after that process is complete the assessment of whether the bond forfeited would cover the wells left to plug and reclaim. BLM would generally not be able to plug the wells any faster than the current process and therefore the entire discussion about potential benefits from shortened timing is irrelevant and should not be included in the final analysis.

BLM may argue that the proposed bonding rule would provide for enough bond to cover all wells and may be able to forgo the search for a responsible party in the future. This argument does not hold water either, and was not analyzed in the proposed rule. The economic analysis is based on companies posting minimum bonds for leases and statewide bonds. On page 27 of the Economic Analysis BLM states there are an average of four wells per lease in Wyoming. This means that on average the lease would not be bonded sufficient to cover the cost. The same is true for statewide bonds of that cover approximately five wells. According to the Economic analysis the average operator holds 7.7 leases in Wyoming which translates to approximately 31 wells, far more than the five wells the statewide bond allegedly covers.

BLM failed to consider the capital required by operators to comply with the proposed rule. The BLM made the assertion that surety bonds are easy to acquire and the only cost is 1%–3.5% of the bond value. The WOGCC has significant experience working with operators on bonding. Many operators, particularly small operators, must provide significant collateral to obtain a surety bond, many times 100% of the bond amount. They would then be required to pay the annual fee of 1%–3.5% on top of the collateral. Many operators could not post this amount of capital for bonding in the timeframe proposed in the rule. This puts these operators at risk and would likely result in the wells being prematurely plugged or even orphaned. The BLM's lack of understanding on the surety bond market is surprising or BLM's omission of the full cost of securing a surety bond is intentional in order to understate the actual economic impact. Either way, BLM must fully report and analyze the economic impact of bonding on operators.

BLM failed to look at the negative revenue effects of the rule on taxpayers, states, and counties. This rule would cause premature plugging of wells or orphaning of wells that are currently producing. The premature plugging of wells or orphaning of wells will result in lost royalties to BLM, the state, the American public and lost taxes to states and local governments. BLM failed to even discuss this likelihood. WOGCC has determined through publicly available data that the amount of bond required in this proposed rule exceeds the gross annual revenue (assuming prices used by BLM in the RFA less 12.5% BLM royalty and 12.5% severance/ad valorem taxes) for more than 25% of the companies operating on federal lands in Wyoming. Based on the WOGCC's knowledge of the bonding market, most or all of these operators would be required to provide full or nearly full collateral in order to obtain a surety bond. These small businesses will either prematurely plug the wells or go bankrupt as a direct result of the proposed bond amounts exceeding their gross revenue. In any event, they are likely to cease operations due to the proposed rule. If additional expenses to the operator are considered, such as the direct lease operating expenses, then the percent of operators likely to go out of business due only to the bonding requirements of this proposed rule reach up to 50%. This does not even consider other expenses such as labor cost. The 2022 production from the wells of only the 25% at risk operators on federal lands represents over $3 million per year in production related taxes and royalties for the state and local governments. The lost revenue and cost to BLM due to creation of additional orphan wells is a likely outcome that the must be evaluated.

Any discouraging of leasing on federal land affects adjacent state and private lands. The BLM acknowledges the proposed rule will result in a reduction of leasing federal lands, but fails to acknowledge the effect that has on adjacent lands and subsequently the affects to small businesses and local and state government. Most drilling in Wyoming consists of 2 mile long horizontal laterals with some laterals now being 3 miles long. Most of these laterals will encounter a mix of mineral types including federal, private, and/or state. If the federal lands are unavailable for leasing, have leases deferred, or have other delays, this affects all the lands along the path of the horizontal lateral. Unleased, deferred, or federal lands otherwise off-limits to drilling will likely eliminate the ability for the operator to drill the horizontal well, which eliminates the potential for development of the state and private minerals. This reduces or eliminates any value of the state and private minerals and reduces the royalties and taxes collected by state and local government.

The bonding provisions in the rule not only disproportionally affect small businesses it actually targets them. The significant effects of the bonding provisions in the proposed rule nearly exclusively impact small businesses. Larger operators are typically able to secure surety bonds with little to no collateral or will be less impacted by the collateral requirements due to generating more revenue. Based on its own experience and bonding regulations, the WOGCC is knowledgeable about the surety bond market and knows that smaller businesses do not have the ability to access the surety market unless they post collateral at or near 100% of the bond amount. Often this collateral is required to be in cash, tying up a significant portion of a small business's capital. Approximately 36% of Operators bonded with the Commission are using a certificate of deposit (CD), letter of credit (LOC), or cash. BLM is proposing elimination of CDs or LOCs posted to satisfy the bonding requirement, which places another significant burden on the operators, especially those who are small businesses. BLM's reasons for proposing this is that they are difficult to manage or that the banks have a hard time including BLM's requirements. The WOGCC accepts both CDs and LOCs to satisfy bond requirements. The WOGCC generally has no trouble with state requirements being included on the bond instruments, managing these bond instruments, or when necessary, calling these bond instruments when there is reason to forfeit the bond. The WOGCC manages a bonding program for several hundred operators with one staff member, so it is not difficult to implement and manage. The Wyoming state office managing lease or statewide bonding would not have a significantly larger number of operators or bonds than what is managed by the WOGCC. With such significant increases in bond amounts proposed by BLM, there should be more options to post the bonds and not less.

BLM should clarify its process for releasing wells from bonding. As it stands, the bonding mechanism that BLM has set up requires an operator, especially small businesses, to post collateral for the bond, and to save enough capital to plug and reclaim a well. If bond is not released until BLM field staff sign off on final reclamation of the well location, this could tie up all of this capital for several years beyond the plugging of the well. In many areas of Wyoming reclamation takes years to establish. The rule appears to hold the bond until reclamation is considered complete by BLM staff. Therefore, an operator may spend the capital to plug a well and reclaim the site, but not be able to get the bonds back for years afterward causing the operator to carry double the amount of capital required to plug and reclaim even where the bond matched the cost of plugging and reclamation.

The WOGCC is concerned that small operators may not be aware of this proposed rule, even though it affects them disproportionately. The BLM should have direct mailed the affected small businesses as suggested by Section 609(a)(3) of the Regulatory Flexibility Act because it was definable, reasonable, and likely the only way many companies would find out about the rule. The rule would place at least 25% of operators at risk of going out of business which is a significant economic impact on a substantial number of small businesses. The WOGCC works with over 400 operators across the Wyoming and is aware that the smaller operators are not generally members of industry associations that might alert them to new rules and are often not aware of proposed BLM rule changes. It is clear that this proposed rule will have a larger negative affect on smaller operators. It is reasonable that BLM should provide direct notice to these small businesses to ensure they are provided an opportunity to comment. For most of these companies, the first time they will hear about this rule change is when BLM sends them a demand to increase their minimum bond by a factor of 15. The BLM has all the necessary data to identify how many leases each operator holds and has contact information for the operators. Since BLM already has all the information, it would be a small administrative burden to direct mail each of those operators informing them of the proposed rule and how to submit comments.

The proposed rule disproportionally affects small business and BLM did not consider alternatives as required by RFA 603(c). In reality, BLM is actually targeting small businesses using these bonding rules. The significant effects of the bonding portions of the rule are nearly exclusively on small businesses, particularly the very small businesses. The BLM must consider alternatives to the increased bonding in the proposed rule.

An example of an alternative to increasing the bonding as proposed in this rule is the conservation tax implemented by the WOGCC on wells in Wyoming. The WOGCC imposes a small mill levy on oil and gas sales from wells in Wyoming, which funds the plugging and reclamation of orphan wells for which the costs have exceeded the available bonding. The mill levy is set through the rulemaking process and adjusted to accommodate funding levels required to complete orphan well work in the state. Since this funding is paid on all sales, each operator pays a very small amount so it does not unduly impact each operator. Based on the projections by BLM in this proposed rule of the cost to operate an orphan well program of $1.4 million to $3.8 million annually, a similar levy on oil and gas sales from federal lands would so miniscule as to be almost unnoticeable by most operators. Yet, this miniscule levy would remove any risk of having the American public cover the cost of plugging and reclaiming orphan wells. The imposition of a small levy on sales would not have a disproportionate impact on small business as this proposed rule would. If BLM is interested in a solution to the risk of $1.4 million to $3.8 million cost to the agency from orphan wells, then it must consider this alternative that protects the BLM, the American public, and the small businesses in the industry.

The rule is not purely administrative in nature and would have direct and indirect environmental effects. Due to the BLM's inadequate economic analysis, the creation of a large number of additional orphan wells was not identified. Given BLM's stated timeline of approximately one year to go through the process to get the well to orphan status and then added time for BLM to get contracts in place and actually plug the well, there is potential for a significant environmental effect that must be analyzed.

The bonding section refers to issues that are not in the proposed rule. The bonding section of the Categorical Exclusion states that BLM is going to require full plugging and reclamation bond on all wells. The proposed rule language, preamble, and economic analysis all referred to and analyzed only the increase of bonding to the minimums and any increases done in the current bond adequacy review process. The current bond adequacy review considers things like idle wells and operator compliance history, it does not contemplate increases in bonding for simply have less bond than the amount necessary for full plugging and reclamation costs of every well on federal lands. If the intent of BLM is to require full bonding for every federal well, this scenario should be proposed and fully evaluated in this rulemaking process.

Requiring full plugging and reclamation bonding on every federal well in Wyoming would effectively eliminate all legacy oil and gas operations on federal lands in Wyoming. This would create massive amounts waste from premature plugging, untold numbers of orphan wells, and devastation of local economies. The cost to the local and state government and to the American public would be severe.

BLM states that the proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630. BLM claims the proposed rule would have impacts on future leases on federal land, but would not impact current leases. This is untrue, as the incredibly burdensome bonding requirements of this proposed rule intend to be implemented on all federal leases, existing and future. Many operators, most of whom are small businesses would be forced to prematurely plug their wells or would be forced into bankruptcy by the bonding requirements as proposed and as previously documented in these comments. BLM must complete a full analysis of the takings requirements of Executive Order 12630.

BLM also asserts that the proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. BLM claims the proposed rule would not have a substantial direct effect on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the levels of government. This again is untrue, the proposed rule would have significant direct impacts on the states. As detailed in this comment letter, by limiting future leasing to lands with high likelihood of production BLM is limiting or eliminating the potential for the state to lease its own lands for oil and gas production. Horizontal wells almost always encounter a mix a federal, private, and/or state minerals in the lateral. BLM choosing not to lease lands for no valid reason makes it impossible to drill horizontal wells in these areas. If operators are unable to secure federal leases and federal APDs they will

pay little to nothing for a state lease that is rendered undrillable due to BLM decisions. This proposed rule most certainly has direct effects on the states.

Thank you for the opportunity to comment and thank you in advance for your consideration of revisions to the proposed rule as suggested herein. For the reasons stated in these comments, the WOGCC again respectfully requests that this proposed rule be withdrawn.

Sincerely,

THOMAS A. KROPATSCH,
State Oil and Gas Supervisor

QUESTIONS SUBMITTED FOR THE RECORD TO TOM KROPATSCH, STATE OIL AND GAS SUPERVISOR, WYOMING OIL AND GAS CONSERVATION COMMISSION

Questions Submitted by Representative Ocasio-Cortez

Question 1. 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?

Answer. 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.

Question 2. 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?

Answer. 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.

Mr. STAUBER. That was right at perfect timing. Thank you very much.

I want to thank all the witnesses for their testimony and for everyone in the room for being with us today.

We are now going to recognize Members for 5 minutes of questioning, and I am going to recognize Representative Fulcher for 5 minutes.

Mr. FULCHER. Thank you, Mr. Chairman. And to the panel, thank you for being here.

And Ms. Jewett, I want to start with you. I have more questions than I am going to have time for, but I want to fact check my staff because when I was reading through and going through the data in presenting this bill, they had pointed out that 90 percent of viable geothermal resources estimated on Federal lands. That makes sense to me in my home state of Idaho, because most of Idaho is Federal lands. But that is not the case in other states. Can you share, from your perspective, what kind of a geothermal footprint do we have across this country?

How viable is that, as a resource, as you look at the landscape of America?

I mean, it is great in my state, but I really don't know about other areas across the country. What does the footprint of the geothermal resource look like in America?

Ms. JEWETT. Yes, sir. Thank you for the question.

I think one really amazing thing about geothermal energy is it draws from the heat from the Earth, and that heat exists everywhere. It is just a question of how deep. In the western United States, we benefit because that resource that we are looking for, 150 to 200 degrees C, is incredibly shallow, 7,000 to 10,000 feet deep, which we are really good at drilling, as Americans, after the shale revolution. So, the resource of just accessible geothermal energy from 7,000 to 10,000 feet is incredibly vast across the West.

So, not only your state in Idaho, but huge swaths of Nevada, Utah, Colorado, California, Washington, Oregon, New Mexico, and Arizona have really, really amazing geothermal resource potential.

Mr. FULCHER. Because your company has done, I assume, projects both on Federal land and probably on private or state land.

Ms. JEWETT. We are building on whatever land we can lease.

Mr. FULCHER. So, talk to me briefly, because I know the time is short. Compare the project process for your organization on, say, a piece of private land, and the process there versus public land.

Ms. JEWETT. Sure. If we had a piece of private land where we could build a project and interconnect a transmission, we can build that project as soon as we get the lease negotiated, which can happen today. You and I can go negotiate a lease on your farm today, and I can begin building the project.

For a Federal lease, we are going to have to nominate that parcel, and then we are going to have to wait for that state to offer a lease sale. And in some states we haven't been able to get the states to offer a lease sale at all, and we have had nominations pending for the last 3 years.

Mr. FULCHER. Do you have any idea if the projects you have worked on for public land, how long that timeline is, on an average, or is it just all over the map?

Ms. JEWETT. It is all over the map. Nevada holds lease sales on an annual basis, but they are the only ones.

Mr. FULCHER. Thank you for that, and thank you for what you do.

Mr. Grace, I am going to take that subject and I am going to move to you. In your testimony, you talked about the importance of having defined, timely decision making when it comes to right-of-way access.

I know in my office, across Idaho and the DC office here, we have had to get involved and intervene to try to meet some of these milestones on behalf of our constituents. NEPA is typically one of the biggest hurdles. Do you see that as a common issue?

Do you see similar circumstances, and can you talk to that?

Mr. GRACE. Sure, yes, and thanks for the question. Without a doubt, NEPA in particular, and the whole permitting process, not having certainty with respect to timelines, it just explodes the cost of projects. And it is really hard to finance a project if you don't have the certainty that certain milestones are going to be met at a particular time.

So, it is not just the environmental review process, but from the whole start to the finish, from when you are applying for a permit to the environmental review process, and then ultimately getting a decision. And having more milestones and having certainty at each spot makes it easier, obviously, to finance a project and attracts capital to actually get new projects built.

Mr. FULCHER. So, with that questionable timeline, I assume that, and I am going to go back to Ms. Jewett, that puts you at risk with your investors, with your sources of revenue. Do you have a metric by which you measure?

I mean, time is money, right? Is there a metric that you look at, if it is X number of months we can get this done, or X number of years, it is worth it; if it is longer than that, it is not? Your comments.

Ms. JEWETT. I think the more consistent the better. We are trying to convince the project finance community today that they can invest in these projects, and if they are delayed for 6 months, they will lose interest.

Mr. FULCHER. Thank you very much.

Mr. Chairman, with that, I yield back.

Mr. STAUBER. Thank you, Representative Fulcher. The Chair now recognizes Representative Lee for 5 minutes.

Ms. LEE. Thank you, Mr. Chair, and thank you to all the witnesses for being here.

It was just a few months ago that BLM proposed the much-needed updates to the Federal Onshore Oil and Gas Leasing Program. Since then, BLM has received over 260,000 public comments on its draft oil and gas rule, with a statistical analysis from the non-partisan Center for Western Priorities, finding that more than 99 percent of those comments actually support the adoption of the rule.

Yet here we are today, elevating a bill from Representative Boebert that effectively proposes to throw out BLM's popular proposal, as well as hundreds of thousands of comments from our very own constituents, just to throw them in the trash before the BLM has had the opportunity to review this feedback and refine

the rule. This should be a serious dereliction of our duty to American taxpayers.

And Mr. Grace, my state of Nevada led the country last year in the development of solar energy jobs per capita, and has long been one of the top 10 states for solar energy production in the nation. I am just going to ask you a quick yes-or-no question. Is it safe to say that at least 0.3 percent of solar installations in Nevada have successfully produced energy at some point since their placement?

Mr. GRACE. Yes, and I know it was a yes-or-no, but typical capacity factors for a solar project are about 25 to over 30 percent, so it is way above that.

Ms. LEE. Thank you. Clearing that incredibly low bar already sets solar energy in Nevada apart from the state's Federal oil and gas leases, where, wait for this, I feel like I keep repeating this, only 72 out of 22,141 such leases issued since 1953, or shall I say 0.3 percent, have ever produced energy.

Solar, on the other hand, continues to excel, as you said, supplying about 23 percent of Nevada's total electricity in 2022, and significantly reducing our reliance on out-of-state fossil fuels. Nationwide, solar has also added the most generating capacity to the grid in each of the last 4 years.

The numbers on speculative leasing are crystal clear. There is simply no serious argument that this practice has been anything but a waste of taxpayer dollars in states like Nevada. But my Republican colleagues continue to contend, "What about the states where there is real oil and gas to be found, like Colorado or Texas? Wouldn't raising the royalty rate as BLM's oil and gas rule proposes to do harm American energy production?"

And I want to turn to you, Ms. Hornbein. Am I correct in recalling that the current royalty rate for oil and gas produced on Federal lands is 12.5 percent?

Ms. HORNBEIN. Yes, that is correct.

Ms. LEE. And if I am not mistaken, 12.5 percent is lower than the rates for oil and gas produced on state lands in Colorado and Texas. Is that correct?

Ms. HORNBEIN. And Wyoming, as well.

Ms. LEE. So, lower may actually be an understatement on my part. Texas' typical royalty rate has been double the Federal rate, or 25 percent, for more than 30 years. Colorado, too, increased its rate to 20 percent 7 years ago. Further still, officials in both states went on record during the Trump administration to report that these rate increases have not had a noticeable impact on production or leasing.

This is a direct quote from a 2017 GAO study: "Given these well-documented examples, it is fair to expect that BLM's modest increase to the Federal royalty rate to just 16.67 percent through 2032 will be a boon to taxpayers without being a bane on production."

Rather than restoring American energy dominance, as the name suggests, H.R. 6009 would instead maintain a status quo that has long failed taxpayers across this country, needlessly putting Nevada's public lands in harm's way and costing the American taxpayer roughly $13.1 billion in lost royalty revenue over the last decade.

I oppose representative Boebert's legislation, and support the BLM oil and gas rule, and encourage my colleagues to do the same. Thank you.

Mr. STAUBER. Thank you, Representative Lee. We will now go to Representative Lamborn from Colorado for 5 minutes.

Mr. LAMBORN. Thank you, Mr. Chairman, for having this important hearing, and thank you for the witnesses for being here. I am going to make a brief statement, and then ask a couple of questions, and I will start with you, Mr. Kropatsch.

But first of all, I want to say that the hypocrisy with which the Biden administration approaches energy production on public lands must be addressed. The cost of energy has skyrocketed for consumers across the country, but the current Administration wants to continue to increase the price of energy by increasing and creating new fees for oil and gas on Federal lands. And at the same time, the Administration has also decided to lower rental fees for wind and solar on Federal lands by a stunning 80 percent. It should be clear that this Administration does not believe in a fair and level playing field for energy production.

Myself and my colleagues on this side of the aisle have always championed an all-of-the-above approach to energy production, meaning consumers will always receive the most cost effective form of power. Most renewables do not provide baseload energy. And by the way, renewables only make up roughly 20 percent of our electrical generation, and electricity makes up 38 percent of national energy production. Forcing the taxpayer to pay for yet another subsidy for an industry that cannot support America's energy needs while the cost of energy skyrockets is irresponsible.

And by the way, reducing American oil and gas production only drives demand and profits to countries like Iran and Russia. This is insanity.

So, my question for you, Mr. Kropatsch, more specifically, is on the Bureau of Land Management, which has already proposed a rule that would allow its lands to be locked up in conservation leases. And more recently, BLM has proposed another rule titled, "Fluid Mineral Leases and Leasing Process," which introduces preference criteria, whatever that is, for how the BLM chooses lands in which to hold lease sales. How will these two rules work together if they are both implemented?

Mr. KROPATSCH. Thank you. In reality, what the rules both will do is eliminate more Federal lands from being able to be used for energy.

The conservation rule isn't just specific to oil and gas; it would remove the ability to use those public lands for any energy generation. And then, when you combine that with the right-of-way issues, you can put a well or any energy project on private or state lands in that same area, but you may not be able to actually use it because you can't access the Federal lands, whether it is for a pipeline or a transmission line or anything else. So, they are really just going to remove all public lands from use for energy generation.

Mr. LAMBORN. I wish sometimes they would just come out and be honest, and instead of saying we are doing this in the name of

conservation, say we just don't like oil and gas, and we want to shut down oil and gas, if they would just be honest about that.

The BLM has also said to Committee staff that any lands under a conservation lease will not be available for oil and gas production. Additional areas will also be identified as intact landscapes in the resource management planning process. So, BLM will take another look at any land that isn't locked up in this process or in subsequent conservation leases for sensitive cultural, wildlife, and recreation resources.

So, these additional steps, what is that going to do to the whole permitting process?

And does this violate BLM's mandate for multiple use?

Mr. KROPATSCH. I believe it does. What it does is it just makes more lands set to the side so that you can evaluate uses for those lands.

In the resource management planning phase, we should be able to work with BLM as a cooperating agency and identify what those resources are that need to be conserved, and then the best way to conserve those. But what it does is it eliminates that process for us to be able to provide that input and get the best use for the land.

Mr. LAMBORN. And in my remaining time, I have a question for you, Ms. Jewett. The oil market is a worldwide market, right?

Ms. JEWETT. Yes, sir.

Mr. LAMBORN. So, if American prices or supply is reduced, what does that do on a worldwide market?

Ms. JEWETT. Yes, it seems to me you are asking me an economics question about an area that is not my area of expertise, but I imagine you want me to say that the rest of the globe ends up producing more.

Mr. LAMBORN. OK. And that is what I was referring to earlier. Countries like Iran and Russia are making more money than ever.

Mr. Chairman, back to you.

Mr. STAUBER. Thank you, Representative Lamborn. The Chair recognizes Mr. Magaziner from Rhode Island for 5 minutes.

Mr. MAGAZINER. Thank you, Chairman. I am here to speak in opposition to Representative Boebert's bill, H.R. 6009.

And I have to say, I hear my friends on the other side of the aisle, and on my side of the aisle as well, often talking about the evils of socialism. This is a socialist bill. This bill would require all of us, the American taxpayers, to spend our taxpayer money to clean up the messes made by the oil and gas companies. It is socialized costs to benefit the big oil and gas companies, which, by the way, made record profits last year.

In fact, this bill perpetuates socializing the costs, but privatizing the profits for the oil and gas companies who are drilling on public lands. The working people who I represent in Rhode Island, who are paying record prices at the gas pump last year, $5-plus per gallon, are seeing their money go to the big oil companies. The big oil companies last year, the six largest, made $219 billion of profits. Not revenue, profits. That is $600 million a day off of the backs of working people who are being gouged at the gas pump or for their home heating oil.

And if that wasn't enough, to add insult to injury, now this bill would tell the American people, "You also have to pay more taxes to clean up their mess, too," to clean up the soil, to clean up the water. We are not going to ask them to pay their fair share of their profits to clean up their own mess. We are going to ask the American taxpayers, collectively, socialistically, to pay for the mess that the big oil and gas companies have made while they have pocketed record profits.

So, here is an idea. I have signed on to a bill that has been introduced here in Congress that would require the oil and gas companies, if the price of gas gets too high, to return some of those profits back to the American people, checks in the mail, rebates to consumers. Because if we are going to be asked to share in the costs of cleaning up after them, the cost of their operation, maybe the American people who are struggling to get by should share in the benefits, as well.

This bill, just to say once again, would reduce the amount that these companies would have to set aside for bonding a fund to clean up their mess from $150,000 per lease, as proposed in the BLM rule, to just $10,000. Who would make up the difference? The American taxpayers, the American taxpayers who are already paying out the nose for the cost of gas or the cost to heat their homes.

So, I would humbly suggest that rather than having the American people pay these costs, we ask the big oil and gas companies to set aside just a portion of the $200 billion-plus of profits that they are making that is going to inflated executive salaries, to hedge funds, to the very top of the economic scale in our country, set aside some of that money to clean up their own mess.

Ms. Hornbein, do you agree that this bill would shift the costs of environmental cleanup from the oil companies to the taxpayers, relative to the BLM rule?

Ms. HORNBEIN. Mr. Chairman, Representative, I would reframe it as this bill would keep the status quo in place, which requires the American people to pick up the bill for these cleanup costs. That needs to change.

Mr. MAGAZINER. Yes. And since the oil companies are expecting the taxpayers to continue to pay for the cleanup costs, do you expect that they would also be willing to share some of their billions of dollars of profits with the American people, as well, especially since these resources belong to the American people?

Ms. HORNBEIN. I would suggest that that would be appropriate.

Mr. MAGAZINER. So, is the status quo fair to working people in this country?

Ms. HORNBEIN. No, the status quo is not fair, and it hasn't been for more than 50 years.

Mr. MAGAZINER. Yes. Well, I commend the Biden administration for trying to change that, for trying to tip the scales at least a little bit in the direction of working people.

And I thank you for joining today, and I restate my opposition to this reverse working people bill. I don't know what to call it. A bill that socializes the costs while privatizing the profits for the big oil and gas companies. I thank you.

Mr. STAUBER. Thank you, Representative Magaziner.

Representative Hageman from the great state of Wyoming, you are up for 5 minutes.

Ms. HAGEMAN. Thank you, Mr. Chairman. And I want to thank all of our energy producers for making all of our lives better.

I just want to correct one thing that has been said repeatedly in this room today, and that is talking about renewables. They aren't renewables, they are unreliables. And it is part of the reason that we have skyrocketing energy costs in this country.

President Biden has been at war with the oil and gas industry since Day 1 of his presidency. According to the Institute of Energy Research, this Administration had taken 125 actions by November of last year against oil, gas, and coal. That number went up to about 150 by April of this year, and reached 175 just last month.

All of this is being done to appease a radical environmental base, and is resulting in increased fuel costs, decreased access to reliable energy sources, and more energy poverty in America. Inflation has skyrocketed since Biden took office as a direct result of his failed energy policies.

According to a spokesman for the Petroleum Association of Wyoming, the active rig count in the state now sits at 25, a decrease from 30 active rigs just a few years ago. Many pending leases have been stagnant in the state with no promise of protection from serial litigation. New leases are practically non-existent, and existing frameworks, such as the multiple use framework outlined under FLPMA, are being abused through the creation of new uses that interfere with activities that actually generate revenue.

On top of this, we are seeing the Federal Government seek to eliminate accessibility of small businesses to the surety market through this fluid mineral leasing rule, making it harder for small oil and gas companies to operate on Federal lands.

Mr. Kropatsch, oil and gas development in Wyoming contributes a significant portion of state and county revenue to pay for critical government programs and other essential services like fire protection, medical services, landfills, airports, roads, courthouses, law enforcement, et cetera. Can you briefly touch on the long-term impacts this proposed rule will have on oil and gas development, and the state's ability to generate revenue to provide these services?

Mr. KROPATSCH. Yes, thank you. As you mentioned, the state does receive significant revenue in taxes from the oil and gas industry and the production in Wyoming both on Federal and private lands, used for public education, infrastructure, and other services.

So, as these companies are forced out of business, not only will the state and the local governments lose that revenue, they are going to lose the jobs that are supported by those companies. So, the local communities are going to lose citizens, they are going to lose the supporting jobs that go along with the oil and gas companies and the work they do, so lose revenue through those jobs, in addition to the revenue they are losing from the taxes on the oil and gas production.

Ms. HAGEMAN. It has a cascading ricochet effect through our entire economy when you adopt energy policy as the Biden administration has done since he was elected to office. Is that fair to say?

Mr. KROPATSCH. That is correct.

Ms. HAGEMAN. OK. The U.S. Department of the Interior's Natural Resources Revenue Data reports that Federal lands in the state of Wyoming produced $1,656,396,384 in the year 2022; $785 million of that went to the state of Wyoming, and primarily came from oil and gas production. This was an increase in proceeds from previous years, but not because of increased production. The increase in proceeds came about because of increased oil and gas prices.

In other words, intentional energy poverty imposed by this Administration.

Production consistently fell between 2019 and 2022, and continues to fall, although I am sure that every one of you used some form of oil and gas to arrive here today.

Mr. Kropatsch, again, have the Biden administration's policies contributed to the increase of oil and gas prices?

Mr. KROPATSCH. Yes, they have. Reducing and forcing production off of Federal lands, for example, as they admit to do in this rule, decreases the supply that is available and, therefore, increases the price. And also without any of the environmental benefit, because we are doing it better than anyone else in Wyoming.

When you force it out of Wyoming, then we are increasing the price and decreasing the environmental benefit.

Ms. HAGEMAN. Thank you for that. And my last question is, we have heard from the Administration and those on the other side of the aisle many times that regulations like this and land withdrawals will only impact Federal lands and minerals. Can you explain why that is not the case, why there will also be an impact on private lands?

Mr. KROPATSCH. Sure, and I touched on it in a previous answer. But in Wyoming, the way the landownership pattern works paired with horizontal drilling, it almost eliminates the ability to drill a private or state well without encountering Federal minerals. So, when you can't get a permit or a lease to drill those Federal minerals, you also cannot drill the private or state lands that are in that general area.

Ms. HAGEMAN. Well, I appreciate the work you do. Again, I appreciate the people who work to make our lives better, rather than to make them more expensive. Thank you all for being here today.

With that, I yield back.

Mr. STAUBER. Thank you, Representative Hageman. I will now recognize myself for 5 minutes.

Mr. Kropatsch, of the oil and gas producers in Wyoming, what is the approximate breakdown between small and large producers?

Mr. KROPATSCH. Well, Mr. Chairman, I believe close to 85 percent of the operators in Wyoming are small oil and gas operators, small business.

Mr. STAUBER. And the oil and gas industry is consistently one of the largest industries in the state of Wyoming. Can you share the impact of this industry for state and local tax revenue?

Mr. KROPATSCH. Yes. The number I have goes back to 2019 or 2020, and they, through taxes and royalties, generated over $1.2 billion for the state, and that is shared down to the local govern-

ments, and also for public education and other services they provide.

Mr. STAUBER. Is that industry one of the highest or the highest revenue for the state of Wyoming?

Mr. KROPATSCH. The oil and gas industry would probably be the highest for the state of Wyoming.

Mr. STAUBER. And what kind of impact would decreased production due to the BLM's increased royalty rates, fees, and bonding requirements have on schools or central services in Wyoming?

Mr. KROPATSCH. It would eliminate some of the funding that the state has available to provide those services to the citizens.

Mr. STAUBER. And the state funds public safety?

Mr. KROPATSCH. The state funds almost all the services down through the local governments——

Mr. STAUBER. Public safety, roads, and bridges, et cetera?

Mr. KROPATSCH. Correct.

Mr. STAUBER. In her testimony, Ms. Hornbein states that bond amounts must be set at levels equivalent to the actual cost of plugging in remediation. Can you explain why this is unnecessary?

Mr. KROPATSCH. Yes. First of all, the BLM's process for getting these wells with a non-responsive operator plugged isn't to first declare them orphan and forfeit a bond. The BLM has the opportunity to go to record title owners or previous operating rights holders of a non-responsive operator to get the wells plugged, and it is a very successful process, as evidenced by the numbers of orphan wells BLM actually has on Federal lands.

There are 15 to 24 orphan wells, so they are able to go back to anybody who was previously on the lease or had the operating rights, and ask them to plug the well or hold them accountable to plug the well. So, the bonding isn't what is used in most cases to get these wells plugged.

Mr. STAUBER. How will the BLM's proposal to disallow certificates of deposit or letters of credit, impact small businesses?

Mr. KROPATSCH. Both of those options that were previously available to post bond and the removal of those options will directly impact the small businesses. Many of those small businesses can't get a surety bond without 100 percent collateral being posted. BLM indicated they would pay an annual fee of 1 to 3 percent, or 1 to 3.5 percent.

Mr. STAUBER. Would you lose some of the small operators?

Mr. KROPATSCH. You would lose many of the small operators.

Mr. STAUBER. Mr. Grace, in your written testimony you shared how countless members of ACP have projects that are tied up because of our completely broken permitting system. Is the broken permitting process more difficult on Federal lands?

Mr. GRACE. Yes, it is definitely more difficult on Federal lands. Whenever you are going to do a project on Federal lands, you are automatically going to trigger various things like NEPA. You are going to have a Federal nexus. So, that is just going to add time to your project.

And as I said in my oral testimony, less than 5 percent of clean energy projects are on Federal lands, and that is largely the reason that they don't locate on Federal lands, because the permitting

process is so long. And as we said earlier, our time is money when it comes to permitting.

Mr. STAUBER. With the permitting, do you think that it discourages investment?

Mr. GRACE. It definitely does. And it is not only just the time. There are also mitigation measures that are going to be entailed in your permit. They are going to add costs.

And I think it is also just the uncertainty, and that is what I think my testimony was getting at. If you can actually create certainty, then you can actually finance around it. But the uncertainty just discourages investment because you just don't know what you are actually financing.

Mr. STAUBER. And I would also add not only in the oil and gas industry, but the mining industry if there is not certainty in that permitting process.

Ms. Jewett, several states across this country haven't had a geothermal lease sale in several years, even though they are prime targets for these investments. Take California, for example. They haven't had a single geothermal lease sale since 2016. Why aren't some of these states with rich geothermal reserves holding lease sales?

Ms. JEWETT. We can only report on what we have been told. And a lot of that centers around lack of staff competencies, lack of staff overall, the need to perform large-scale environmental assessments under NEPA. We have sort of received every type of excuse for why they cannot be held.

Mr. STAUBER. And how would regularly-held lease sales impact investments for geothermal energy?

Ms. JEWETT. If you can count on an annual lease sale as an operator, you can know that you can pick up acreage and shortly thereafter begin the environmental review process such that you can then begin a project shortly after that.

Mr. STAUBER. You mentioned in your testimony that some BLM offices like Nevada are doing a good job in holding lease sales and issuing permits. How can other offices replicate this success?

Ms. JEWETT. I think we need to encourage a way to share best practices across states and try, from a policy perspective, to put measures in place that force them to be more consistent and learn from one another.

Mr. STAUBER. Thank you very much.

Before we wrap this up, I want to enter into the record Ranking Member Ocasio-Cortez's opening statement.

Without objection, so ordered.

[The prepared statement of Ms. Ocasio-Cortez follows:]

PREPARED STATEMENT OF THE HON. ALEXANDRIA OCASIO-CORTEZ, RANKING MEMBER, SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Thank you, Chair Stauber, and thank you to our witnesses for being here today to discuss four bills that cover a range of issues within our jurisdiction, including geologic mapping, renewable energy, and fossil fuel development on federal land.

I have said it before, and I will say it again: a quarter of this country's carbon pollution comes from fossil fuel development on federal lands and waters. It is long past time we change this.

America's public lands and waters must be part of the climate solution rather than part of the problem. Doubling down on fossil fuels does not make Americans, nor the world, more secure.

American oil and gas production has never been higher—we're the largest producer in the world, and yet, energy prices for Americans have surged while Big Oil's profits have boomed.

We export oil and gas, and we import price volatility. Big Oil is leaving American families to bear the costs of higher energy prices, polluted air, water, soil, and climate disasters.

True energy and economic security will come when we create an equitable, clean energy economy that puts communities first and ends our reliance on this global extractive industry.

Two bills on the agenda today, H.R. 1449 and H.R. 6011, would nominally promote renewable energy development on federal land, but there are significant flaws in both.

H.R. 1449, the CLEAN Act, would increase the frequency of geothermal lease sales on public lands. Recent technological breakthroughs in geothermal drilling make it an increasingly scalable, stable, on-demand form of renewable energy, and I fully support efforts to safely aid geothermal development.

But unfortunately, H.R. 1449 also requires that the Bureau of Land Management approve geothermal drilling permits within 30 days, an arbitrarily tight deadline for an agency that is chronically understaffed and underfunded. It leaves no room for flexibility in the case of complicated analyses or decision-making.

This part of a trend of so-called "streamlining" and "permitting reform" that Republicans have been pushing. Rather than fund agencies for adequate environmental review, let's undercut our bedrock environmental laws and give handouts to private industry.

H.R. 6011, the Right-of-Way Application Transparency and Accountability Act, follows in this trend. It would create a 60-day deadline for the Secretary of the Interior and the Secretary of Agriculture to notify an applicant requesting a right-of-way to use public land as to whether their application is complete or deficient.

Rights-of-way are authorizations needed before anyone can do an activity that disturbs or damages public lands, like constructing a pipeline or developing solar or wind energy.

Wanting speedy confirmation that an application is complete is reasonable. But similar to H.R. 1449, this bill does not address the root cause of delays at our land management agencies. The bill creates new deadlines for the agency without providing the resources necessary to meet those timelines.

Last Congress, Democrats secured one billion dollars in the Inflation Reduction Act to fund land management agencies and speed up permitting. I encourage the inclusion of additional resources for BLM and the Forest Service in these bills to ensure they have the staff needed to promptly and thoroughly review applications, conduct environmental reviews, and consider community input.

Also on the agenda is H.R. 2855, Representative Soto's Sinkhole Mapping Act of 2023. As we near the end of the first session of this Congress, it is a relief to finally consider our first piece of Democratic legislation in this Subcommittee.

The Sinkhole Mapping Act is a straightforward, commonsense move to study and map sinkhole risk in the United States. Sinkholes create at least $300 million in damages every year, but the U.S. does not currently collect data on or map sinkholes, leaving community planners and emergency managers without important safety information.

Despite their flaws, the three bills I've mentioned so far do all share one thing: they all share the intention to build towards a safer, clean energy future.

Unfortunately, the last bill on today's list takes us backwards.

Representative Boebert's so-called "Restoring American Energy Dominance Act" has only one goal: furthering Big Oil's dominance over our public lands.

H.R. 6009 would force BLM to withdraw its draft oil and gas rule. The rule is a long overdue reform of our onshore oil and gas program to hold Big Oil accountable for cleaning up after themselves, to provide a fair return to the taxpayer when Big Oil uses our public resources, and to end speculative leasing of our public lands.

The idea that if you make a mess, you should be responsible for cleaning it up is not something that's hard to understand. The idea that private companies should pay American taxpayers for using our public lands is not hard to understand. It's for these reasons that BLM's rule has broad support across Western voters. In fact, 92% of comments provided from all 50 states in response to BLM's proposed rulemaking were in favor of the rule.

For all the talk of the "people's house" that we have been hearing from the other side of the aisle, this bill is anything but. Rep. Boebert's attempt to block this rule is an out-of-touch giveaway to the fossil fuel industry. It is a blatant effort by Big Oil and corporate lobbyists to game the system in their favor.

I encourage BLM to listen to the 92% of stakeholders who support their rule, and to consider a managed decline of fossil fuel production on federal lands that addresses the climate crisis and holds the fossil fuel industry accountable. This rule is an essential step in the right direction.

I look forward to hearing from today's witnesses, and I yield back.

Mr. STAUBER. And also, before we close, I wanted to correct for the record a number that was cited in the testimony regarding conventional energy production on Federal lands contribution to U.S. greenhouse gas emissions.

Conventional energy extraction on Federal lands and waters accounts for about 0.7 percent of U.S. GHGs. The percentage of GHGs from oil and natural gas extraction, the subject of the regulation we are discussing today, is actually 0.56 percent.

And Representative Boebert, you are just in time. You are recognized for 5 minutes of questioning.

Ms. BOEBERT. Thank you, Mr. Chairman, and thank you to the witnesses who are here today. I appreciate you all and your time.

First, to start off, Mr. Kropatsch, would you mind elaborating on the impact the fluid mineral leases and leasing process proposed rule, if finalized, will have on the oil and gas industry and smaller energy producers? So, could you just elaborate on that impact?

Mr. KROPATSCH. Sure. At least in Wyoming, it will force operators off of Federal lands and off of the private and state lands that are adjacent due to the nature of horizontal drilling and the location of those lands.

It will also, due to the bonding requirements, force many of the small businesses in Wyoming, the small operators, out of business because they can't afford the increased costs and bonding in the time frame that is allowed.

Ms. BOEBERT. Yes, thank you. And that is exactly right. I have heard several concerns from operators in my district on the western slope of Colorado that the increases mandated in this proposed rule will impact smaller producers who can't afford to operate in the market. These additional fees, as you know, will ultimately harm returns and reduce revenues to state and local governments by disincentivizing development on our Federal lands.

The additional fees required by the proposed rule will reduce revenues in state and local governments. This is by disincentivizing development on these Federal lands. Can you expand on the negative impacts the proposed rule will have on Western states?

Mr. KROPATSCH. Yes, I think, similar to Wyoming and the landownership patterns, it will force the production off of those lands. It will reduce revenue and taxes that the states use to fund the local governments. In Wyoming, we use those revenues and taxes to fund public education, infrastructure, emergency services, and things like that.

Ms. BOEBERT. Yes, very important revenues going to those areas that will be lost, for sure.

The BLM and the Interior Department have stated increasing these fees will supplement the Orphan Well Program. However, there are only 37 orphan wells, the gas wells on BLM-managed lands. Do you think that their conclusion is unjustified?

Mr. KROPATSCH. I think the costs associated with that program are a very small percentage of the total revenue generated by the onshore Federal minerals program. And due to the processes BLM has to get those wells plugged by other record title owners and the previous operating rights holders, there is a very small number of orphan wells as a result of the Federal program.

Ms. BOEBERT. Yes, I agree. And the BLM has only utilized bonds to plug wells on Federal lands 40 times over the last decade. These significant increases will tie up capital that would otherwise be put back into production. This is clearly another tactic from the Biden administration to de-incentivize domestic energy production. He would rather beg OPEC, Venezuela, and Iran to produce energy for us, instead of relying on the American roughneck.

Mr. Kropatsch, the opposed fluid mineral leasing rule introduces the idea of using preference criteria to inform the BLM's selection of lands for lease sales. Given the Administration's poor track record with respect to issuing lease sales and their lack of timeliness on drilling permit approvals, do you think that this new criteria could be problematic?

Mr. KROPATSCH. I think the new criteria will likely just eliminate further leasing and defer more parcels. The only criteria they will really be able to use, the only expertise that they would have would be to just lease parcels that are in proximity to current oil and gas production, and what that does is it discourages exploration.

And every basin that currently produces oil at one time was an exploratory basin, so if we discourage that, we are going to essentially eliminate any oil and gas production off of those lands.

Ms. BOEBERT. Thank you. And Mr. Kropatsch, final question. The BLM Director, tree spiker Tracy Stone-Manning, said in a statement that the proposed rule "aims to ensure fairness to the taxpayer and balanced responsible development as we continue to transition to a clean energy economy." Do you think that the proposed fluid mineral leasing rule will do the opposite in many instances, and actually prevent responsible domestic energy production?

Mr. KROPATSCH. Yes. I think if we are forcing, and as BLM, by their own admission in the rule, that they would force production off of Federal lands, it is likely to be forced into production somewhere else that doesn't do it as cleanly and as efficiently as we do in Wyoming or in the United States.

Ms. BOEBERT. Yes. Thank you very much, Mr. Kropatsch, and thank you to the rest of the witnesses here today.

Mr. Chairman, I yield.

Mr. STAUBER. Thank you very much.

I want to thank the witnesses for their testimony today, and I appreciate you all being here. The members of the Subcommittee may have some additional questions for the witnesses, and we will ask you to respond to these in writing.

Under Committee Rule 3, members of the Committee must submit questions to the Committee Clerk by 5 p.m. on Monday, October 30. The hearing record will be held open for 10 business days for these responses.

If there is no further business, without objection, the Committee stands adjourned.

[Whereupon, at 4:30 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Statement for the Record

U.S. Department of the Interior
on H.R. 1449, H.R. 2855, H.R. 6009, and H.R. 6011

Thank you for the opportunity to provide this Statement for the Record on the Discussion Draft of H.R. 6009, Restoring American Energy Dominance Act, H.R. 1449, the CLEAN Act, H.R. 6011, Right-of-Way Application Transparency and Accountability Act, and H.R. 2855, Sinkhole Mapping Act.

H.R. 6009, Restoring American Energy Dominance Act

This bill would require the Director of the Bureau of Land Management (BLM) to withdraw the BLM's proposed Onshore Oil and Gas Leasing Rule. H.R. 6009 would unnecessarily interfere with the rulemaking process and would prevent the BLM from responsibly managing the Federal oil and gas program on behalf of the American people. The Department of the Interior's (Department) strongly opposes this proposed legislation.

Background/Proposed Rulemaking

The BLM's current oil and gas regulations, which were last updated in 1988 and contain fiscal terms that were set more than 70 years ago, have failed to provide a fair return to the American people. These outdated regulations also do not support a balanced management approach that addresses the climate challenges facing our public lands today. Direction from Congress—through the Inflation Reduction Act (IRA, Public Law 117-169)—required the BLM to take steps to modernize its oil and gas program through policy and regulation updates. The BLM also notes that prior to the enactment of the IRA, the Government Accountability Office (GAO) and the Department's Office of Inspector General (OIG) reviewed and audited the BLM's Federal onshore oil and gas program, and recommend actions to better ensure that the American public receives a fair return from oil and gas activities on public lands.

In response to the enactment of the IRA, the BLM issued updated guidance to its field professionals to enable consistent implementation of the IRA's changes to the agency's oil and gas programs, and in July 2023, the BLM published its proposed Onshore Oil and Gas Leasing Rule. These proposed regulations would modernize the program, provide a balanced approach to public lands management, and ensure a fair return for American taxpayers. The updates codify the oil and gas management provisions in the IRA, and will help implement the reform agenda laid out by the Department's Report on the Federal Oil and Gas Leasing Program. The proposed rule would be the BLM's first comprehensive update to the Federal onshore oil and gas leasing framework since 1988, and the first update to minimum bonding amounts since 1960. To date, the BLM has hosted four of five planned public meetings, and is currently accepting comments on the proposed rule through September 22, 2023.

Fiscal Reform

As noted, independent studies have consistently demonstrated that the BLM's oil and gas leasing framework fails to provide an adequate return to the taxpayer for the use of public lands and resources. The proposed rule would update outdated fiscal provisions and align the BLM's regulations with the fiscal reforms included in the IRA. Additionally, the proposed rule would reduce the nonoperational period after which a well is considered idled to 4 years (consistent with the definition provided in the Bipartisan Infrastructure Law, P.L. 117-58); require operators of nonoperational wells to help the BLM reduce its inventory of idled wells through improved identification, tracking, and proactive management; and revise the onshore program's cost recovery mechanisms to ensure that the program's application fees reflect actual processing costs.

Bonding

The BLM's current bonding requirements have not been updated since the 1950s and 1960s. Current lease bond amounts do not meet the actual costs of cleanup in the event an operator goes out of business or otherwise fails to complete required plugging and reclamation—costs that are then borne by the American taxpayer. The

proposed Onshore Oil and Gas Rule would increase the minimum lease bond amount from $10,000 to $150,000; increase the minimum statewide bond amount from $25,000 to $500,000; eliminate nationwide and unit operator bonds; and include additional protections for surface owners. Phase-in periods would be provided for existing operations to come into compliance with new bonding requirements.

The GAO has issued several reports recommending the BLM address risks from insufficient bonding, including as recently as September 2019 (GAO-19-615). The GAO found the bonds held by the BLM were insufficient to cover the costs of reclaiming orphaned wells, shifting reclamation costs onto taxpayers, and that 84 percent of the bonds it reviewed were not sufficient to cover reclamation costs. The GAO also determined the bond amounts, which were usually set at the regulatory minimum, "[do] not account for variables such as the number of wells [the bonds] cover or other characteristics that affect reclamation costs, such as well depth."

Responsible Leasing & Development

Further, the proposed rule would focus agency resources on areas with the highest potential for development and with the fewest multiple-use conflicts, allowing the BLM to better manage public lands for multiple uses and sustained yield. The proposed rule will incorporate preference criteria into oil and gas regulations to provide clarity and consistency in the BLM's decision-making process for leasing; direct leasing and development towards areas with higher oil and gas potential; and avoid leasing in areas with sensitive cultural, wildlife, and recreation resources.

The proposed rule also would ensure oil and gas lessees are financially and technically capable of responsible development, as required by the Mineral Leasing Act and expressly stated in the BLM's oil and gas lease form. This will be realized through incentivizing diligent development by responsible and qualified parties, limiting the use of lease suspensions and drilling permit extensions, and strengthening oversight over lease transfers.

Current Status

As we transition to a clean energy economy, it is essential that the BLM's oil and gas management promotes the highest safety, environmental, and public engagement standards, including those related to environmental justice and Tribal engagement, while securing a fair return for the American taxpayer. For these reasons, as well as based on direction from Congress through the IRA, the BLM has taken steps to modernize its oil and gas program through policy and regulation updates.

Through the 60-day comment period on the proposed rule, the BLM received over 260,000 comments. The BLM is currently reviewing the comments and plans to draft a final rule based upon the significant input received from the wide range of stakeholders who submitted comments. The BLM is committed to its core mission of multiple use and sustained yield, which includes managing the fluid mineral program responsibly. The Department strongly opposes this proposed legislation which is inconsistent with clear statutory direction provided in the IRA.

H.R. 1449 Committing Leases for Energy Access Now ("CLEAN" Act)

H.R. 1449 would amend the Geothermal Steam Act of 1970 (Steam Act) to require the BLM to hold competitive geothermal lease sales each year in a State that has nominations pending. Further, if a lease sale is canceled or delayed, then the BLM must conduct a replacement sale during the same year. The bill also would require the BLM to notify applicants, within 30 days of receiving an application for a geothermal drilling permit (GDP), whether or not their application is complete. Finally, H.R. 1449 would require the BLM to issue a final decision on a geothermal drilling permit within 30 days of notifying the applicant that their application is complete.

Analysis

The BLM has the authority for leasing geothermal resources on 245 million acres of public lands and 700 million acres of subsurface mineral estate, which makes up nearly a third of the nation's mineral estate. This includes 104 million acres of National Forest System lands managed by the U.S. Department of Agriculture. Since the Energy Act of 2020, the BLM has permitted over 9,400 megawatts of wind, solar, and geothermal energy. The BLM has prioritized the processing and permitting of 30 proposed renewable energy projects on Federal land by FY 2025, with a potential cumulative capacity of nearly 20,000 MW. In FY 2023, 13 solar, geothermal, and interconnect generation tie projects were authorized, and these projects will support a generation capacity of 2,676 MW. In the past three years the BLM held six competitive geothermal lease sales in Nevada, New Mexico, Utah, and Oregon, and has another planned for Nevada in FY 2024. These significant efforts

underscore the Administration's commitment to expand and modernize our energy infrastructure, decarbonize our energy grid, and transition to a clean energy future.

The BLM supports the goal of promoting geothermal development on public lands and under this Administration the BLM has held geothermal lease sales every year. Additionally, when a lease sale is postponed, the BLM works to reschedule it as soon as practicable, but if a sale is scheduled late in the year a replacement may not be possible the same calendar year. The BLM also notes it often requires additional time to prepare for lease sales when the agency is leasing geothermal resources underlying lands managed by other Federal agencies. If the bill moves forward, the BLM would like to work with the sponsor on technical modifications to account for Federal surface managed by agencies other than the BLM, on the timing of sales and replacement sales, as well as to updates to some terms.

The BLM also supports the goal of promoting efficient and timely processing of GDPs, including notifying applicants as to the completeness of their application in a timely manner. However, the bill's proposed 30-day requirement to notify applicants of the completeness of their application may not be achievable in the case of complex applications or for applications submitted to offices with limited geothermal staff or vacant positions. As such, the BLM recommends increasing the time allotted to provide notification from 30 to 90 days. Ninety days would provide additional time for the limited situations where staffing, project size, or complexity could prevent an office from complying with the notification requirement. In addition, the 30-day deadline to issue a decision on complete applications would be nearly impossible to achieve as written. Further, issuing a decision on the complete application in 30 days does not allow adequate time to complete the analysis required by the National Environmental Policy Act. Additionally, operators may need permits from other agencies like the U.S. Fish and Wildlife Service, Environmental Protection Agency, etc. or state and Tribal agencies. Tight deadlines may make coordination between the BLM and other agencies more difficult, with an unintended consequence of uncoordinated or duplicative efforts, and resulting in longer overall permitting timelines rather than the expedited permitting intended by this bill. Therefore, the BLM cannot support these provisions as currently written.

H.R. 6011, Right-of-Way Application Transparency and Accountability Act

H.R. 6011 would require the BLM to notify right-of-way (ROW) applicants whether their application is complete or deficient within 60 days of receipt. The bill would pertain to applications for rights-of-way issued or renewed under the Federal Land Policy and Management Act and under the Mineral Leasing Act.

Analysis

A ROW authorizes the use of parcels of public land for a specified period that is appropriate for the life of the project. A ROW is required whenever a project or activity would involve appreciable disturbance, alteration, or damage to public lands, and may be granted when doing so is in the public interest. The BLM receives ROW applications for a wide range of public uses including roads, pipelines, transmission lines, communications facilities, aquifer recharge, and solar, wind, and hydropower projects. The BLM manages approximately 120,000 existing ROWs and receives nearly 3,500 applications for new ROWs, renewals, or modifications annually.

Following receipt of a ROW application, the BLM notifies the applicant of the cost recovery category determined for processing the action, associated fees, and requests any additional information needed to process the application. Currently, there is no time frame within which the BLM is required to notify applicants whether their application is complete or deficient.

However, it is the BLM's practice to review the completeness of new applications as quickly as possible, relative to other workload and priorities.

The BLM supports the goal of the bill to notify applicants as to the completeness of their application in a timely manner. However, the bill's proposed 60-day requirement may not be achievable in the case of complex applications or for applications submitted to offices with limited realty staff or vacant positions. As such, the BLM recommends increasing the time allotted to provide notification from 60 to 90 days. Ninety days would provide additional time for the limited situations where staffing, project size, or complexity could prevent an office from complying with the notification requirement. Additionally, applicants may need permits from other agencies like the U.S. Fish and Wildlife Service, Environmental Protection Agency, etc. or state and Tribal agencies. Tight deadlines may make coordination between the BLM and other agencies more difficult, with an unintended consequence of uncoordinated or duplicative efforts, and resulting in longer overall processing timelines rather than the expedited decisions intended by this bill.

H.R. 2855, Sinkhole Mapping Act of 2023

H.R. 2855 directs the USGS to study the short- and long-term mechanisms of sinkholes and develop maps of sinkhole risk. These maps would be published online and updated at least once every five years.

Analysis

The USGS is undertaking limited research and mapping activities on sinkhole processes and hazards, but the requirements of the bill are much more expansive. Development of reliable and routinely updated sinkhole hazard maps and assessments at the scales required in the legislation to inform hazard avoidance and risk reduction would require the USGS to undertake a more expanded and sustained effort and would need to be achieved using existing resources that are currently committed for other purposes.

The USGS has the expertise required to conduct analyses related to sinkhole processes and hazards. For instance, the USGS is establishing Integrated Water Availability Assessments in select basins, which could contribute to improved understanding of sinkhole formation. However, the ability to develop maps, especially on five-year schedules and at the scales required to inform hazard avoidance and risk reduction, would require a substantially expanded and sustained effort. Furthermore, unlike the national-scale karst topography map produced in 2020, an operational program assessing sinkhole hazards across the country would require many local-scale efforts. Sinkholes are highly localized geologic processes, meaning that while they can happen in many places, the triggers and dynamics in a particular area depend very much on aspects of the local geology. State geologists provide this local expertise. Some of this local-scale work is already undertaken by state geologists, but the maps contemplated by H.R. 2855 would require substantial additional work.

The USGS appreciates the intent of the bill and recognizes the need to address sinkhole hazards. The program as envisioned in H.R. 2855 would, however, impact other priorities, including those authorized by the Energy of Act of 2020 and the Infrastructure Investment and Jobs Act of 2021.

The USGS would like to work with the bill's sponsors to address sinkhole issues without impacting other critical USGS work.

Conclusion

Thank you again for the opportunity to provide a statement for the record on these bills.

Submission for the Record by Rep. Westerman

Statement for the Record

Nick Powell, Chairman
National Stripper Well Association

on H.R. 6009

Good afternoon, Chairman Stauber, Ranking Member Ocasio-Cortez, and members of the House Subcommittee on Energy and Mineral Resources.

On behalf of the National Stripper Well Association (NSWA), thank you for the opportunity to testify in support of the discussion draft bill that would require the BLM director to withdraw the proposed Fluid Mineral Leasing and Leasing Process Rule which would adversely impact small oil and gas operators who do business on BLM land.

In a nutshell, the rule reflects the clearest and most direct effort by the Biden Administration to discourage—indeed, eliminate if they can—energy development on federal lands. The proposed rule, if finalized, will very likely have the practical effect of, over time, forcing oil and gas production off federal land.

We are most grateful for the Subcommittee's leadership in highlighting the rule's role in undermining sound domestic energy production in the US.

Who is NSWA and Our Positive Impact

Founded in 1934, the NSWA is the only national association responsible for representing the interests of the nation's smallest, and yet most efficient and effective, oil and natural gas wells before Congress and the federal agencies.

Our mission is to ensure the critical needs and concerns of producers, owners, and operators of marginally-producing oil and gas wells are addressed regarding federal legislation and regulation.

With members in 30 states, NSWA is a viable and powerful voice for the American stripper well producer. This proposed rule has the potential for devastating impacts on small producers in areas with BLM leases, particularly in the areas of Arizona, Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah and Wyoming.

Our members are the small independent business men and women who own stripper wells producing 15 barrels of oil (equal to 90 Mcf of natural gas) or less per day. No large integrated oil and gas company is a member of NSWA.

We are the "family farmers" of the U.S. energy sector—with an average of 11 employees—who recognize the importance of regulations on small businesses, often in rural areas of the country.

Of the roughly one million active oil and natural gas wells in the United States, about 750,000 are low production wells.

Every day, our members—as others across the industry—demonstrate our commitment to successfully running small businesses and creating jobs to supporting a robust national economy. Our members and their families live in the communities in which they work, and we recognize the need for continued vigilance, responsibility, and accountability in our production activities.

Indeed, the nation has seen considerable progress over the past two decades due to the widespread adoption of safe, reliable, and environmentally conscious exploration and production practices which has resulted in a significant boost in U.S. production. This all while also reducing America's dependency on foreign sources of energy, and displaced higher emission fuel sources, in America's electrical and industrial sectors.

The benefits to society are clear. Not just the fuels that heat and cool our homes and workplaces and power our vehicles (electric and otherwise), but also products and materials we take for granted: truck tires and parts that allow vital products—such as fruits and vegetables, vaccines and building materials—to travel to market as well as critical electric vehicle parts and materials; umbrellas and raincoats that keep us dry; carpet that covers our offices and homes; packaging that ensures foodstuffs arrive at grocery stores unspoiled and safe to eat; and lifesaving medical equipment, including MRIs and pacemakers.

The list goes on. By at least one credible estimate, as many as 6,000 everyday items contain a key element of petroleum.

GENERAL COMMENTS

In furthering support for the legislation that is the subject of today's hearing, below we first outline general concerns—followed by specific ones—regarding the inappropriate authorities that the proposed rule would provide to BLM and other federal agencies regarding the curtailing or eliminating energy production on public lands. Our major general concerns include but are not limited to:

- We do not believe the existing regulations fail to promote leasing practices that are consistent with appropriate development requirements and multiple-use and sustained-yield principles. It's clear that regional planning, National Environmental Policy Act ("NEPA") reviews, and other processes already conduct the requisite balancing in identifying suitable areas for leasing.
- BLM cannot adopt new leasing procedures that sidestep or dilute its statutory obligation to conduct quarterly lease sales in each state.
- BLM cannot adopt regulatory changes that unduly constrain opportunities for development and operations on already-issued leases or that breach or otherwise unduly impair rights conferred under those leases.
- BLM cannot confer undue authority on other Department of the Interior ("DOI") bureaus, and other surface managing agencies, to constrain leasing and development of oil and natural gas leases on federally managed lands.
- BLM should not impose undue additional bonding and other financial burdens on the oil and natural gas industry beyond new statutory requirements under the IRA.
- BLM should not "streamline" disqualification of entities from existing or new leases, akin to suspension and debarment but without corresponding due process.

The cumulative likely impacts of the proposed rule will exacerbate challenges created by other anti-oil and gas proposals and efforts by BLM and other federal agencies, thereby decreasing domestic energy supplies and energy security.

In addition, while claiming to principally implement statutory changes enacted in the Inflation Reduction Act, the proposed rule represents BLM's and the administration's latest attempt to dramatically and inappropriately curtail oil and natural gas leasing and corresponding production.

Several proposed provisions in the rule introduce new uncertainty into BLM's leasing process. In doing so, contrary to its preamble's assertions, this contradicts directives to BLM for "improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends." 88 Fed. Reg. at 47,608 (citing Executive Order 13563).

Perhaps of greatest concern is the proposed rule's creation and implementation of new "preference criteria" that are opaque and subjective. Emblematic of the Proposed Rule's flawed approach is its assertion that "this approach would provide stakeholders with greater certainty, as it would be understood at the outset of the leasing process that the preference criteria would guide the BLM's decision-making" *Id*. at 47,566-67. But the only such added certainty appears to be substantially less oil and natural gas leasing, as BLM's non-"preference" of certain areas would likely amount to their indefinite exclusion from leasing.

That is, the proposed rule would repeatedly defer the leasing of promising oil and natural gas prospects, instead "directing leasing toward areas that do not have" what BLM perceives to be "any sensitive cultural, wildlife." It is disconcerting that BLM would attempt to shift toward subjective judgments rather than rely on already-existing intensive planning efforts, NEPA reviews, and other environmental safeguards—making such onshore areas suitable for oil and natural gas leasing.

If implemented as written, the proposed rule could essentially eliminate the opportunity for exploration or the expansion of newly discovered producing areas, constrain future natural oil and gas development to areas where it already exists, and shrink such areas even further, thereby discouraging further innovation, new discoveries, and ultimately domestic production.

Even after accepting nominations and holding lease sales, BLM would reserve the ability to impose new conditions and ultimately deny leases. Additionally, despite not truly offering acreage for leasing or itself nominating tracts in which industry clearly has no interest, BLM could unduly count such acreage against its IRA minimums for onshore oil and natural gas leasing to enable onshore wind leasing.

Areas of Specific Concern

Bonding Levels

First, the option for nationwide and unit operator bonds needs to be maintained. BLM explains in the preamble of the rule that nationwide bonds are "administratively inefficient" because they call upon BLM to manage risks nationwide. It further states that the proposed increases in the minimum lease and statewide bond "would allow the agency to ensure improved bonding." These vague justifications that BLM proffers do not outweigh producers' need for a continued nationwide bond to achieve efficiencies and continue providing affordable energy to the U.S. public.

That said, we recognize that bonding minimums need to be increased. However, the proposed rule increases the minimum so aggressively (15x and 20x) that it would impose considerable new financial burdens on smaller operators—especially those with operations across multiple states, leaving many leases and wells unmarketable and uneconomic to new and current operators. This will only increase the number of idle and eventual orphan wells to the burden of the taxpayers. This rule alone will make nearly all (100%) Federal leases with stripper wells uneconomic. This will lead to bankruptcies, job losses, and potential environmental hazards and loss of royalty to the Federal Government and other Owners.

Leases in current, good standing should be grandfathered and not have their bonds increased. If the operator has shown they are capable of taking care of the assets and leases, they should not see a bond increase. It is easier for Companies with a *new lease* to build these new costs into their budget and move forward with their project. It is a completely different and unlikely scenario for an established Operator that owns producing leases to be able to produce funds to cover this extra bonding increase. In many cases the increased bonding is more than the value of the stripper well itself. This will lead to the same results already mentioned.

To the extent bond levels need to be altered, rather than increasing the minimum lease bond amount from $10,000 to $150,000, we would suggest a minimum amount of $25,000 for new bonds. We would further suggest an increase in the statewide bond from $25,000 to $100,000 rather than the proposed amount of $500,000 for new statewide bonds.

Bond Obligations

BLM is proposing to remove certificates of deposit (CDs) and letters of credit (LOCs) as forms of security for personal bonds. We oppose this action. The proposed rule's stated rationale for removing these options is that CDs are difficult to manage, and it is difficult for banks to include BLM's requirements in a LOC. However, BLM provides no information on how often this occurs, what type of operators (small or large) use CDs and LOC, and other similar details on the issue. At a minimum, BLM should provide an analysis of this issue for review and comment before removing such options.

As a general matter, BLM should afford greater—rather than less—flexibility to operators regarding forms of security, particularly given the proposed rule's drastically higher minimum and additional bond amounts.

New Terms For Well Abandonment

NSWA strongly opposes the proposed rule's imposition of a maximum four-year period "except in extraordinary circumstances" to permanently abandon wells. Circumstances the proposed rule defines as temporarily abandoned.

In some fields, an operator may not know within four years whether it will need that well, including for secondary recovery operations, water injections, or other purposes. NSWA is concerned that BLM may not consider such circumstances as "extraordinary" to extend the proposed four-year maximum period. It would be wasteful and more environmentally impactful to inflexibly require an operator to permanently abandon a well and then later have to drill a replacement well. Rather, the maximum period to permanently abandon temporarily abandoned wells should be the same as for shut-in wells in subsection (d), allowing for additional one-year delays where warranted.

BLM also should delete proposed language regarding shut-in wells that require separate notices to the BLM within 90 days of shutting in a well.

Wells are required to be reported to BLM beginning with the last month of drilling and continuing until the well is abandoned. Thus, shut-in wells already are reported. This reporting requirement should suffice, and BLM can track these wells through monthly reports. If it is BLM's intention to track wells that are shut in for extended periods, i.e., up to the 3 years noted in the rule, then the rule should make it clear that it does not apply to wells that are shut in only for short periods of time.

In particular, this would include wells that are shut in periodically but have actual production each month.

Insufficient Time To Comment

A major concern is the brief period allowed for comments on the proposed rule. The deadline did not give enough time for all owners to be informed of the proposed rule change and to fully understand the effect it could have on their interest.

One example: a major operator member of NSWA reports that requests made to the BLM for updated lease files and lease ownership data for Federal Leases necessary to respond to the changes proposed by the rule have not been answered. Therefore, this and other similar operators are unable to inform any new working interest owners and royalty owners so they can submit comments regarding these proposed rules.

It is important that all types of stripper well owners have an opportunity to provide feedback to the BLM in this matter. Anything short of this is denying these owners of their right to have a voice. If these proposed rules are adopted and the wells are plugged and abandoned, the federal government is effectively revoking the ownership right to the livelihood from these wells.

The result: many wells will be plugged and abandoned due to the proposed bond amount increases and these wells and leases will be lost for the operator, working interest and royalty owners.

This will have an extremely detrimental effect on rural areas and beyond across the U.S. and, given the current fragile state of the economy, additional economic pressure and hardship would be deeply felt. Especially given that the operators of federal wells provide good paying jobs, which return tax dollars and economic activity to many of those communities.

Mr. Chairman, our members believe strongly in a commitment to clean air and clean water by reducing emissions here and abroad. However, NSWA believes the implementation of this rule, as proposed, will result in significant adverse impacts, and reductions in domestic energy production on public lands—a statutory mission of BLM—and elsewhere, thus increasing foreign dependence on energy at a time of worldwide uncertainty, as well as substantial economic hardships on small and rural communities—the lifeblood of this country.

Thank you again for the opportunity to provide this testimony.

Submissions for the Record by Rep. Ocasio-Cortez

Statement for the Record

Natasha Léger, Executive Director
Citizens for a Healthy Community

on local warming and local climate impacts

Chairman Stauber, Ranking Member Ocasio-Cortez, thank you for the opportunity to provide this written testimony.

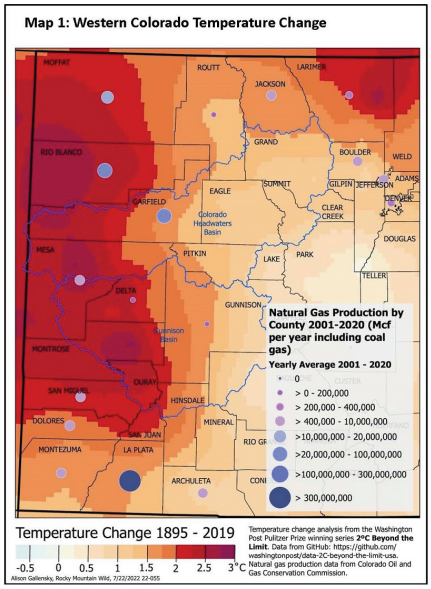
My name is Natasha Léger. I am the Executive Director of Citizens for a Healthy Community (CHC). CHC is a grassroots nonprofit organization based in Paonia, Colorado, with more than 500 members formed in 2010, that is dedicated to protecting the air, water, and foodsheds of the North Fork Valley region from the impacts of oil and gas development. CHC's members and supporters include organic farmers, ranchers, vineyard and winery owners, sportsmen, realtors, and other concerned citizens impacted by oil and gas development. We are a frontline community. We are on the frontlines of climate change, having warmed disproportionately compared to the state, the nation, and the world. We are also on the frontlines of current and proposed oil and gas development in our watershed, on public lands. CHC members have been actively involved in commenting on oil and gas activities on public lands for over a decade.

The bill you are considering, H.R. 6009 the "Restoring American Energy Dominance Act", should be considered within the context of administrative and legislative action necessary to arrest the local impacts of climate change and community impacts from oil and gas development.

The purpose of this testimony is to provide the committee with information that is often overlooked or ignored on local warming and local climate impacts.

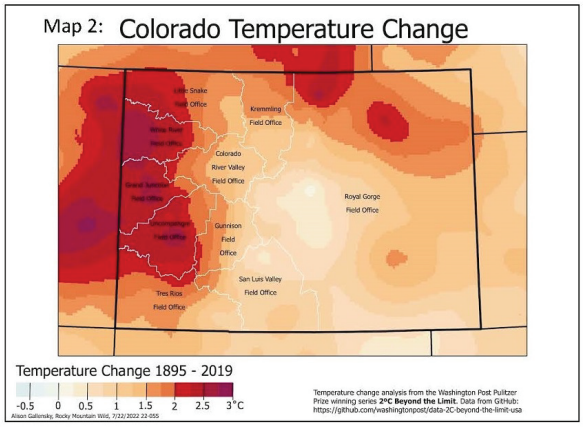
The ecological, economic, and public health impacts of climate are already being felt in Colorado, often to a disproportionate degree. Western Colorado has been disproportionately impacted by climate change and is the nation's climate hotspot, having warmed more than 2 degrees Celsius (nearly 4 degrees Fahrenheit), double the global average. See Map 1 below. Rio Blanco County has warmed the most at 2.4°C, along with Montrose County.[1] The Western Slope has seen some of the most extreme warming in State and the country, and is the source of the majority of the State's water, with 60% of the Front Range's water coming from headwaters located on the Western Slope.

[1] Eilperin, Juliet, "2°C Beyond the Limit: This giant climate hot spot is robbing the West of its water," The Washington Post, August 7, 2020 available at: https://www.washingtonpost.com/graphics/2020/national/climate-environment/climate-change-colorado-utah-hot-spot/



The North Fork Valley in western Colorado, which is surrounded by National Forest and Bureau of Land Management (BLM) lands, is home to the largest concentration of organic farms in the State, prime recreational landscapes offering unparalleled hunting, camping, fishing, hiking, and Nordic skiing, and are the headwaters to the Gunnison River and Colorado River Basin. Our economy—in particular, agriculture, recreation, tourism, and health and wellness—unequivocally depends on water and a thriving and resilient ecological ecosystem. All of which are at risk due to disproportionate warming caused by climate change and fossil fuel emissions.

We are ground zero for climate change impacts on the Western Slope. The Grand Mesa Uncompahgre and Gunnison National Forest, and the BLM Uncompahgre Field Office are experiencing disproportionate warming, having already warmed 1.9 degrees Celsius, nearly double the national and global average as can be seen in the map 2 below.



In February 2023, the Colorado Farm and Food Alliance published *Gunnison River Basin: Ground Zero In The Climate Emergency*.[2] The report describes the signs of climate change in the Gunnison River Basin, including temperature changes and rising atmospheric carbon dioxide. It also highlights the impacts on the region of climate change including, loss in water quantity and quality, extreme weather, wildfire, flooding, human health and impacts to plant, animal and land health. The report finds that the indicators for the Gunnison River Basin are all flashing red, and are ground-zero for climate change impacts on the Western Slope of Colorado.

Greenhouse gas emissions are directly related to Colorado's increasing temperatures.[3] Seventy-six percent of oil and gas producing counties in Colorado (19 of 24 counties) have warmed 1.5°C or more. See Table 1 below. Half of the oil and gas producing counties in western Colorado have warmed more than 2°C, and the remaining half has already warmed more than 1.5°C.[4] Four of the eight counties that make up the Colorado River Basin have warmed more than 1.5°C. The Colorado River Basin is a climate hotspot in the Western United States, having warmed an average of 2.1 degrees Celsius, faster than the global average, resulting in extreme drought, threatening water supplies for seven states. The viability of Lake Mead and Lake Powell, which provide the water necessary to power the Glen Canyon and Hoover hydroelectric dams all depend on the Colorado River. For every degree of Celsius warming, the Colorado River declines nearly 10%.[5] The Colorado River has lost 32 million acre-feet—a 19 percent decline—in the last 22 years, as a result of climate change.[6] Globally, warming greater than 1.5°C will result in irreparable harm to ecosystems around the world.[7] Warming of 2°C or more is considered a point of no return. From a micro-climate perspective, the North Fork Valley and Western Slope already exceed these thresholds.

The Gunnison River Basin, which is the largest tributary to the Colorado River has warmed an average of 2.1°C. Six of the seven counties that make up the Gunnison River Basin have warmed over 1.6°C. With the region's snowpack shrinking and melting earlier, the ground absorbs more heat. In addition, early snowmelt results in more water evaporation and less water availability for agriculture and wildlife later in the season. The impacts of these changes are widespread across forests, wildlife, and human communities, threatening the area's resilience in the face of continued warming. These impacts also have significant impact to local economies that are reliant on consistent snowfall, not only for recreational pursuits, but also for agricultural and residential water supplies. Forty million people downstream of the Colorado River's headwaters rely on the River's water. The Draft 2023 Colorado Water Plan clearly and unequivocally states Colorado's dire water situation due to climate change.[8]

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[2] The Gunnison River Basin: Ground-Zero In The Climate Emergency, Lauren Traylor and Pete Kolbenschlag, The Colorado Farm and Food Alliance, (February 2023), available at: https://www.colofarmfood.org/groundzero

[3] NOAA National Centers for Environmental Information/State Climate Summaries 2022, available at: HTTPS://STATESUMMARIES.NCICS.ORG/CHAPTER/CO/

[4] *Colorado Warming and Gas Production Map* available at: tinyurl.com/COWarming

[5] Udall, B. and J. Overpeck. The twenty-first century Colorado River hot drought and implications for the future, Water Resour. Res., 53, 2404-2418, (2017). https://doi.org/10.1002/2016WR019638

[6] Brad Udall presentation, October 1, 2021 at the Colorado River District 2021 Annual Seminar. https://www.youtube.com/watch?v=JAqFegDhXs4&t=2899s/

[7] IPCC, 2021: Summary for Policymakers. In: *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Masson-Delmotte, V., P. Zhai, A. Pirani, et al. (eds.)]. Cambridge University Press. In Press.

[8] 2023 Draft Colorado Water Plan, available at: https://engagecwcb.org/colorado-water-plan

Table 1: Colorado Counties That Have Warmed 1.5°C (2.7°F) or More Over 125-year period, 1895-2019

Annual Warming (Celsius)	Annual Warming (Fahrenheit)	County
1.5	2.7	Kit Carson County
1.5	2.7	Gunnison County
1.6	2.9	Routt County
1.6	2.9	La Plata County
1.6	2.9	Logan County
1.6	2.9	Adams County
1.6	2.9	Montezuma County
1.6	2.9	Jackson County
1.7	3.1	Hinsdale County
1.7	3.1	Yuma County
1.8	3.2	Washington County
1.9	3.4	Weld County
1.9	3.4	Dolores County
2	3.6	Garfield County
2	3.6	Larimer County
2	3.6	San Juan County
2.1	3.8	Delta County
2.1	3.8	Morgan County
2.1	3.8	Moffat County
2.2	3.8	San Miguel County
2.3	4.1	Ouray County
2.3	4.1	Mesa County
2.4	4.3	Rio Blanco County
2.4	4.3	Montrose County

Red text indicates oil and gas producing counties
19 of 24 counties (79%) that have warmed 1.5 C or more are oil and gas producing counties

Source 2ºC: Beyond the Limit, Washington Post Pulitzer Prize winning series, which analyzed warming between 1895 and 2019. Data available at: https://github.com/washingtonpost/data-2C-beyond-the-limit-usa

A recent peer-reviewed study in the journal Nature Climate Change found that 42% of the 22-year megadrought we are experiencing in the West is attributed to human-caused climate change.[9] Without human-caused climate change, the megadrought *would have ended early* on because 2005 and 2006 would have been wet enough to break it, according to the study's authors.[10] Human-caused climate change is changing the baseline conditions. The current drought is the worst in 1200 years.

Not only are baseline conditions changing, but Western Colorado is warming faster than Colorado's hazard mitigation modeling assumptions. Colorado's Hazard Mitigation Plan modeled the impact of climate change on key hazards including flood, wildfire, drought, heat exhaustion. Climate change impacts were modelled by location, extent/intensity, frequency, and duration.[11] Colorado's model is based on 30-year warming of 2 degrees Fahrenheit (1.1 degrees Celsius), and 50-year warming of 2.5 degrees Fahrenheit (1.4° Celsius).[12] While, on average the State has warmed 1.4°C over a 125-year period, the Western Slope has warmed disproportionately, as mentioned above.[13] Colorado has developed the Future Avoided Cost Explorer: Colorado Hazards, which is an interactive model of projected economic damage by sector due to climate change. The climate scenarios, are current (1.4°C), average state warming of 2.1°C (Moderate) and 2.3°C (More Severe). Hazards mod-

[9] Williams, A.P., Cook, B.I. & Smerdon, J.E. Rapid intensification of the emerging southwestern North American megadrought in 2020-2021. *Nat. Clim. Chang.* (2022). https://doi.org/10.1038/s41558-022-01290-z

[10] Borenstein, Seth, "West megadrought worsens to driest in at least 1,200 years", AP News, February 14, 2022, available at: https://apnews.com/article/climate-science-west-megadrought-f02449c2db4f0ebeb1557bb39504c62d

[11] 2018–2023 Colorado Hazard Mitigation Plan, at 160.

[12] Id. at 48

[13] *2°C: Beyond the Limit*

eled are drought, wildfire and flood, and sectors include agriculture, infrastructure, recreation. The model time period is 2050, and estimated annual damage costs for counties that have warmed 1.4°C or more are between $228.6 million and $555.1 million. See Table 2 below.

A recent example of infrastructure vulnerability is two road collapses in the Spring of 2023 in the North Fork Valley. A 10-foot-wide section of Highway 133 collapsed at Bear Creek Road, between Paonia and Somerset, on May 3, 2023 when high water pushed a failed culvert down the hillside.[14] While the rusty culvert was identified as needing repair in 2020, it was the rapid runoff resulting from climate change, including abnormally high snowfall and rapid melt from early high temperatures that forced rushing water to destroy the roadway. The main access road into the North Fork Valley was closed for 6 weeks, devastating local businesses at the beginning of the tourist season. Sometime in the spring an oil and gas access road collapsed on US Forest land preventing access to remote wellpads for inspection and maintenance.[15] Neither federal land management agency, state regulatory agency for oil and gas, nor the operator were aware of the road collapse until CHC notified them after conducting field work in the area. In addition, according to a Delta County official, a landslide occurred in late April on Hubbard Creek Road, covering the road and closing it indefinitely. According to the US Geological Survey, with climate change and speed of the spring runoff, like we just experienced in 2023, landslide activity will increase.[16]

Table 2: Colorado Future Avoided Cost Estimate*

Hazards: Drought, Flood, Wildfire	Temperature Scenario			Actual warming in Celsius (1895-2019)
	Current (1.4° C)	Moderate (2.1° C) in 2050	More Severe (2.3°C) in 2050	
Adams County	$ 25,000,000	$ 27,000,000	$ 48,000,000	1.5
Delta County	$ 2,900,000	$ 6,000,000	$ 10,000,000	1.5
Dolores County	$ 1,100,000	$ 1,900,000	$ 1,900,000	1.6
Garfield County	$ 17,000,000	$ 42,000,000	$ 53,000,000	1.6
Gunnison County	$ 5,500,000	$ 16,000,000	$ 22,000,000	1.6
Hinsdale County	$ 350,000	$ 420,000	$ 1,300,000	1.6
Jackson County	$ 1,100,000	$ 1,600,000	$ 3,400,000	1.6
Kit Carson County	$ 12,000,000	$ 22,000,000	$ 24,000,000	1.6
La Plata County	$ 19,000,000	$ 40,000,000	$ 61,000,000	1.7
Larimer County	$ 22,000,000	$ 30,000,000	$ 45,000,000	1.7
Logan County	$ 11,000,000	$ 17,000,000	$ 20,000,000	1.8
Mesa County	$ 19,000,000	$ 39,000,000	$ 43,000,000	1.9
Moffat County	$ 4,200,000	$ 5,800,000	$ 8,400,000	1.9
Montezuma County	$ 8,300,000	$ 13,000,000	$ 15,000,000	2
Montrose County	$ 5,200,000	$ 12,000,000	$ 14,000,000	2
Morgan County	$ 12,000,000	$ 19,000,000	$ 26,000,000	2
Ouray County	$ 1,100,000	$ 2,300,000	$ 4,000,000	2.1
Rio Blanco County	$ 4,400,000	$ 7,200,000	$ 8,700,000	2.1
Routt County	$ 6,600,000	$ 16,000,000	$ 19,000,000	2.1
San Juan County	$ 150,000	$ 320,000	$ 1,400,000	2.2
San Miguel County	$ 3,700,000	$ 13,000,000	$ 13,000,000	2.3
Washington County	$ 10,000,000	$ 12,000,000	$ 16,000,000	2.3
Weld County	$ 27,000,000	$ 36,000,000	$ 52,000,000	2.4
Yuma County	$ 10,000,000	$ 32,000,000	$ 45,000,000	2.4
	$ 228,600,000	**$ 411,540,000**	**$ 555,100,000**	

Red text indicates oil and gas producing counties

* Cost estimate is expected annual damage based on equal distribution of damage per year over time and in 1995 dollars.

Source: Future Avoided Cost Explorer: Colorado Hazards, available at: https://storymaps.arcgis.com/stories/4e653ffb2b654ebe95848c9ba8ff316e

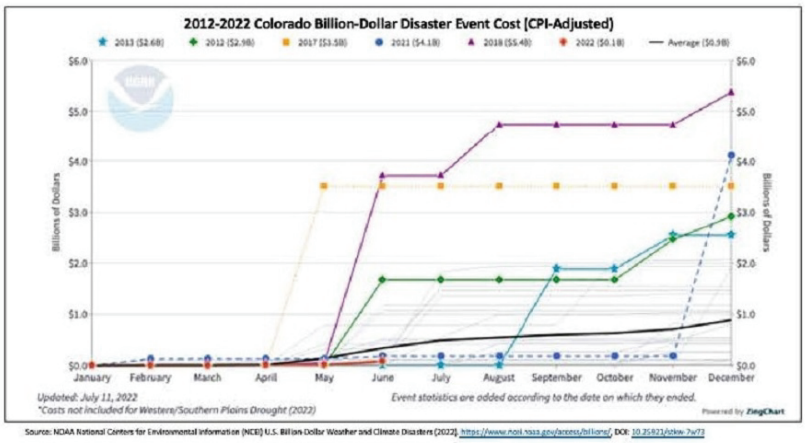
[14] Dave Marston, *Rushing water closes a highway in Western Colorado*, Writers on the Range, (June 5, 2023), available at: https://writersontherange.org/rushing-water-closes-a-highway-in-western-colorado/; Exhibit 1: photos of Highway 133 collapse.

[15] Exhibit 2: photos of oil and gas access road collapse

[16] Dennis Webb, "Speed of spring runoff can affect risk of seasonal landslides," Grand Junction Sentinel, June 1, 2023, available at: https://www.gjsentinel.com/news/speed-of-spring-runoff-can-affect-risk-of-seasonal-landslides/article_7c42e7f4-ff2a-11ed-a662-b3ea2ab9db78.html

The highway closure resulted in a significant drop in patronage of local, small businesses in the North Fork Valley at a critical time for tourism to stimulate the local economy. The road closure had a devastating effect on small, family-owned businesses including ranchers, agricultural and retail businesses at the start of the tourism and agricultural season.[17] For example, the trip between Paonia and Somerset and points between went from a 10-mile drive to a nearly 200-mile drive—detour through Grand Junction.[18] Estimated travel time for the detour through Grand Junction was approximately three hours, more than double the distance of a normal passage along Highway 133. Retailers saw business from tourism drop 50%. Cattle ranchers were forced to choose between moving cow-calf operations on foot, which takes days, and impact the weight of the cattle, or incur the significant cost of hauling them by truck via a 200-mile detour.[19] Normally, the trip costs $350 to $450 per load, but if the haulers have to drive to Grand Junction, Carbondale, over the pass and down to ranches, it could cost $1,500. In addition to the economic impacts, added emissions impacts result from these types of climate change-induced road closures.

Today, in 2022, Western Slope warming has dangerously exceeded the State's moderate, and more severe climate models, to the point that the cost estimates, let alone the human toll, are now likely severely under-estimated. Eleven of the top 20 largest wildfires in Colorado have occurred in the last 7 years (since 2016).[20] Over the last decade, Colorado has experienced billions of dollars in damages due to wildfire, flood and drought.[21] Between 2012 and 2022, Colorado was affected by a number of billion-dollar disaster events totaling $18.6 billion.[22] See Figure 1.



Local warming has already surpassed the modeling assumptions behind the mitigation plans, and the mitigation plans do not include climate change prevention. Cumulative emissions from oil and gas operations, especially in areas that have already exceeded warming thresholds would further stress Colorado's resources and ability to respond to climate change impacts.

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[17] North Fork Valley Creative Coalition, Action Alert, May 26, 2023.

[18] Katharhynn Heidelberg, *Temp fix slated for sinkhole on CO133 as North Fork ag, business worry*, (May 5, 2023), available at: https://www.montrosepress.com/news/temp-fix-slated-for-sinkhole-on-co133-as-north-fork-ag-business-worry/article_347af7c2-eb93-11ed-aa89-4b706880e794.html

[19] Id.

[20] https://dfpc.colorado.gov/wildfire-information-center/historical-wildfire-information

[21] Hazards, Colorado Water Conservation Board, *available at*: https://cwcb.colorado.gov/focus-areas/hazards accessed July 22, 2022. Roberts, Michael, *Marshall Fire Update by the Awful Numbers*, Westword, January 7, 2022, https://www.westword.com/news/marshall-fire-damage-and-cost-boulder-update-13177208

[22] NOAA National Centers for Environmental Information (NCEI) U.S. Billion-Dollar Weather and Climate Disasters (2022). https://www.ncei.noaa.gov/access/billions/, DOI: 10.25921/stkw-7w73

Based on the Delta County Greenhouse Gas Emissions Inventory for the baseline year 2019,[23] the total social cost of greenhouse gases is $436,298,617. The social cost of GHG emissions for natural gas production is $42,486,716, or 10% of the total social cost of GHG emissions for the county. The social cost was calculated based on Colorado's social cost of carbon dioxide and methane at $68 and $1756, respectively, and the federal cost of nitrous oxide at $27,000, and on Colorado's discount rate of 2.5%.[24] Importantly, these social costs are not outweighed by oil and gas revenues.

A new report by the Colorado Fiscal Institute challenges the long-standing industry and policy narrative that the oil and gas sector has a significant impact on the Colorado economy.[25] The report finds that the oil and gas extraction industry, along with the pipeline construction and transportation industries and support industries for oil and gas make up less than 1% of total State employment, 3.3% of State GDP, 1.7% of Colorado State Revenue (from severance tax) and 5.2% of overall property taxes from property taxes on oil and gas property. Specifically, county property tax revenue in 2021 for Delta and Gunnison County in the North Fork Valley from oil and gas were $91,768 and $617,696, respectively.[26] That's less than 1% of Delta County property tax revenue, more specifically, .4%, and 1.2% of Gunnison County property tax revenue.

Conclusion

Frontline communities like ours are suffering from the impacts of local warming. The science is clear that climate change is a cumulative problem resulting from fossil fuel emissions. One quarter of US emissions comes from oil and gas development on public lands and the economic benefits do not outweigh the climate and community impacts. We urge this committee to seriously consider local warming and local community impacts in considering this bill that would strip the Bureau of Land Management of its rulemaking authority that can be used to respond to local community impacts and prevent the permanent impairment, and undue and unnecessary degradation of lands from oil and gas leasing and development.

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[23] Greenhouse Gas Emissions Inventory for Delta County, Colorado 2019, Citizens for a Healthy Community, Jill Hepp, September 2021-Revised, available at: https://www.chc4you.org/delta-ghg-inventory

[24] Social Cost of Carbon Dioxide is $68 per short ton as stated in C.R.S. 10-3.2-106(4). 1 metric ton = 1.10231131 short tons. The metric tons for CO2 and CH4 are adjusted to short tons in the social cost calculations. Social Cost of Methane is $1756 per short ton as stated in C.R.S. 40-3.2-107(2)(a). 1 metric ton = 1.10231131 short tons. The metric tons for CO2 and CH4 are adjusted to short tons in the social cost calculations. Social Cost of Nitrous Oxide is $27,000 per metric ton based on the Interagency Working Group On Social Cost of Greenhouse Gases Interim Estimates under Executive Order 13990. Colorado has not established a social cost of nitrous oxide. Available at: https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf

[25] *Clearing the Air: The Real Costs and Benefits of Oil and Gas for Colorado*, Colorado Fiscal Institute, Chris Stiffler and Pegah Jalali, (January 2023), available at: https://www.coloradofiscal.org/costs-benefits-oil-and-gas-colorado/library/reports/

[26] Id. at 19.

Elisabeth Winslow
CO-03 Grand Valley Constituent

I write to you as a concerned constituent from Colorado's Third Congressional District, specifically the Grand Valley region, to express my profound opposition to Representative Lauren Boebert's draft bill and any potential appropriations riders aimed at repealing the essential leasing and bonding reforms initiated by the Bureau of Land Management (BLM).

The proposed BLM Onshore Oil & Gas Leasing Rule, released in July, addresses long-standing issues within our region. It establishes higher minimum bond amounts for operators, a critical step forward given the woefully inadequate bond amounts of the current rules. Under the existing regulations, reclamation bonds can be as low as $10,000 for all wells on a single lease and a mere $150,000 to cover all wells nationwide. Such outdated amounts fail to ensure that the costs of cleanup are adequately met when operators cease operations.

BLM's proposed rule increases the minimum lease bond amount to $150,000, aligning with modern environmental responsibility and fairness to taxpayers. It rightly acknowledges that the costs of reclamation should be an integral part of doing business for oil and gas companies profiting from our public resources. Additionally, BLM's draft rule includes Surface Owner Protection Bonds, which address the concerns of landowners above federal minerals. Nevertheless, raising the minimum bond amount to $10,000 would provide even better protection for these private lands against potential damages resulting from oil and gas development.

This reform not only sets a vital precedent but also mitigates future liabilities for taxpayers as we transition to renewable energy sources. The International Energy Agency's prediction of peak fossil fuel production by 2030 underscores the urgency of addressing financial assurance for reclamation. Without adequate bonds in place, taxpayers may bear the full brunt of cleanup costs when companies abandon wells as demand diminishes.

Dr. Barbara Vasquez testified in front of you all less than two months ago with the following, accurate, illustration: *Would a landlord rent a house without a cleaning and damage deposit? Would that deposit remain the same as it was in 1960? Certainly not. Similarly, bonding levels must evolve with the times to ensure that taxpayers are not left shouldering the financial burden of reclamation.*

Representative Boebert's draft bill and potential appropriations riders, aimed at repealing these essential leasing and bonding reforms, present a misguided path for Colorado and our nation. While the promise of slightly lower energy prices may seem appealing, the hidden costs of these measures far outweigh any marginal savings. They risk shifting the financial burden of environmental damage from the oil and gas industry to taxpayers. In a time when addressing climate change is indisputably urgent, we cannot afford to take steps backward. We must prioritize responsible reforms and safeguard our environment and the well-being of our communities for generations to come.

In Western Colorado, encompassed by Representative Boebert's district, we pride ourselves on some of the best oil and gas practices in the nation. However, there is still a buildup of orphaned and abandoned wells spewing toxic chemicals into the air. These issues are addressed with operator cleanup or taxpayer funding, which places a massive strain on our financial resources.

It is disheartening to witness Representative Boebert prioritize special interest groups' influence, particularly the Western Slope, Colorado Oil and Gas Association (WSCOGA), and others who hold their cultural identity and personal values as oil-field workers above the interests of our broader community. As someone whose family has relied on the energy industry to make ends meet and provide for others, I deeply resent her lack of foresight.

The paycheck gains are unlikely to outweigh the burdens of marginal energy savings on our monthly bills, not to mention the burden of medical expenses when air pollution contributes to declining lung health and places a perpetual taxpayer burden on cleaning up after oil and gas operators.

If Representative Boebert believes that this commonsense reform will disproportionately affect job opportunities in her district, she should seek alternative solutions that genuinely make a meaningful and lasting difference. Our community, our nation, deserves thoughtful leadership that prioritizes the health, well-being, and economic stability of its constituents over narrow interests.

Thank you for considering my perspective and for your commitment to responsible governance.

Laura Bloom Neilsen
CO-03 Grand Valley Constituent

I write you today as a concerned constituent from Colorado's Third Congressional District, the Grand Valley region, represented by Representative Lauren Boebert. I feel compelled to express my deep reservations about the proposed legislation that seeks to repeal vital bonding reform within our nation's oil and gas industry.

While the motivations behind this bill may be shrouded in uncertainty as I write this, it is imperative that we examine its potential consequences for the people of Western Colorado and the broader United States. As citizens and residents, we must ponder the heavy costs and ramifications of wiping out essential bonding reform, which has long been a safeguard for our environment, public health, and the financial well-being of our communities.

It is crucial to question the true motives behind this repeal effort. Is it truly in the best interests of the constituents in Western Colorado? (Public comments would suggest otherwise.[1]) Or does it serve the interests of special funders whose priorities may not align with the well-being of our region? The proposed legislation leaves us with many unanswered questions and concerns about the potential consequences of dismantling an essential safeguard.

This bill's implications extend beyond our local communities; they reach the very core of our national interests. The notion of blocking all future efforts at reform raises significant alarms. By repealing bonding reform, are we essentially resigning ourselves to a future where the financial hemorrhaging to cover bonding and clean-up costs continues unabated, while the resources we so desperately need for more pressing projects are diverted away? We must think about the long-term consequences of such a decision, not just for the people of Western Colorado but for the entire nation.

The argument in favor of maintaining lower oil and gas prices is certainly enticing. However, we must weigh the allure of lower prices against the cumulative impacts and the ever-mounting burden of abandoned well cleanup. Are we willing to sacrifice the health and safety of our communities and the financial stability of our nation for the promise of slightly cheaper energy? This is a question that should give us all pause.

Moreover, it is disheartening to witness the potential exploitation of international conflicts, such as the recent tragic events in Gaza, to advance the agenda of "energy security." Playing on the suffering of children and families to further a policy that may not even truly serve our nation's best interests is deeply troubling. We must remain vigilant against any attempts to manipulate the narrative for political gain.

Importantly, it is crucial to clarify that embracing bonding reform does not equate to losing the opportunity to develop our oil and gas resources. Rather, it signifies a move toward ensuring that the companies profiting from our public resources pay market rates for the bonds they hold. The savings realized through bonding reform can far outweigh any nominal cost increase on oil and gas products.

It is essential to scrutinize the financial incentives that underlie the legislation in question and potential future appropriation riders proposed by Representative Boebert. While these proposals may be presented as measures to bolster the economic well-being of regions deeply entrenched in the oil and gas industry, we must delve deeper to understand their true implications.

In areas where approximately 25% of the GDP is closely tied to oil and gas, it is undeniable that the industry plays a substantial role in local economies. However, it is crucial to distinguish between the interests of oil and gas companies and the interests of the communities they operate within. While the industry may wield significant influence and tout the benefits of deregulation, we must question whether these supposed gains truly translate to the betterment of our communities.

Economic analyses conducted by local experts and the Bureau of Land Management (BLM) provide valuable insights.[2,3] These analyses suggest that the rule currently under attack, the rule aimed at ensuring responsible land and resource management, would have a relatively small impact on these industry-dependent areas. Moreover, the potential impacts could be effectively mitigated through prudent planning and a thoughtful transition strategy.

It is worth noting that responsible reform and forward-thinking policies have the potential to create new economic opportunities and diversify our local economies.

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[1] https://westernpriorities.org/2023/09/analysis-public-comments-overwhelmingly-support-blm-oil-and-gas-rule/

[2] https://www.coloradomesa.edu/business/economic-newsletter.html?utm_source=newsletter&utm_medium=email&utm_content=Mesa2018Q4&utm_campaign=EconomicNewsletter

[3] https://www.regulations.gov/document/BLM-2023-0005-0002

However, we must ask why Representative Boebert has not championed such efforts or put forth legislation that supports a smooth transition.

We, the residents of Western Colorado and the nation at large, deserve policies that prioritize our long-term well-being over short-term financial gains for a select few. While economic incentives are undoubtedly important, they must not come at the expense of our environment, public health, and the stability of our communities.

In conclusion, I implore the members of this committee to consider the true cost of repealing bonding reform. Let us reflect on the consequences for the people of Western Colorado, our environment, and our nation as a whole. Let us scrutinize the motivations behind this repeal effort and question whether it genuinely serves our constituents' best interests.

I urge you to prioritize responsible policy-making that safeguards our environment, protects public health, and ensures the financial stability of our communities. It is our collective responsibility to make informed decisions that will resonate for generations to come.

Thank you for your time and consideration.