Reply to Rep. Huffman's questions following testimony by Dr. Barbara Vasquez on H.R.1555

1. In H.R. 1, passed into law last year, Congress required "replacement" oil and gas lease sales. There are "do-over: sales that the BLM is required to hold whenever the industry doesn't bid on more than a quarter of the acreage offered at a regularly scheduled sale.
We've now seen two of these replacement sales so far under the law. In Wyoming and Colorado, the evidence is clear that it was not a matter of anyone accidentally sleeping in: when public lands were re-offered for leasing, companies bid on less than 1 percent of the re-offered lands.

Do you see any justification for the BLM being required to hold replacement sales, particularly for lands that were literally just offered and passed over for lease the first time?

There is no justification for the BLM being required to hold replacement sales, particularly for lands that were literally just offered and passed over for lease the first time. It's oil and gas companies' choice whether to bid on the parcels offered in a lease sale, and when they choose not to purchase what's been offered to them for as little as $10 per-acre, they are signaling that those lands have no value to them for oil and gas development. There is no sense in the BLM then having to go right back and re-offer those exact same lands to the exact same industry, because 99% percent of the time the lands are, not surprisingly, going to go unsold once again. It's clear that this additional workload placed on the seriously understaffed BLM is unjustified.

As a group of 15 organizations recently noted in a letter (submitted with these answers) to BLM expressing concern for the replacement sale process, the requirement of replacement lease sales undermines the BLM's obligation under the Federal Land Policy and Management Act to manage public lands for their multiple uses and to obtain fair market value. The BLM is required under OBBBA to hold quarterly lease sales in at least nine states every year, which already means that considerable time and resources are being taken away from other land use projects. The additional requirement of "replacement" sales means that even more BLM staff time must be needlessly taken away from other priorities, with hardly any return being generated for the American public.

2. **During the hearing, Chair Stauber asked Mr. Naatz to explain how federal NEPA reviews simply duplicate state permitting processes in cases where oil and gas wells drilled from private lands intersect with federal mineral estates.**

Could you please explain the added benefits of NEPA reviews on wells drilled through federal mineral estates below private surface lands? What additional protections do these reviews afford private landowners, nearby communities, and the environment?

Private landowners rely on the NEPA review process, which is required through the federal permitting process, to engage with lessees and agency representatives around the locations of wells, roads, and facilities, raise concerns related to environmental impacts, and seek conditions of approval of the permit or changes to the reclamation plan. NEPA ensures that private landowners are active participants in the permitting process so that impacts from drilling on private surface land can be limited. NEPA also requires the BLM to have a mandatory 30-day public notification period when an APD is filed, which allows the local community and private landowners the opportunity to weigh in and provide feedback on the process. NEPA requires a robust environmental review process–analysis of critical resources such as water, soil, and air quality to ensure they will be protected throughout the drilling, plugging, and reclamation process. Analysis of these resources is absolutely paramount for private landowners

residing above public minerals, because they would be the most directly impacted by any damages caused to the environment and critical resources during the drilling process.

This responsibility cannot be delegated to state permitting agencies, which do not have the same obligation, authority or resources to ensure that private surface above federal minerals is appropriately protected. And, without a federal permitting process, BLM has no ability to put protections in place. It also introduces uncertainty for operators and split-estate landowners due to the variability of state permitting requirements.

The requirement that BLM provide non-federal surface owners with the same level of protection as federal surface is especially important because the mineral estate is the dominant estate, and private landowners who do not own the minerals beneath their land are largely powerless to stop irresponsible development on their land. While some landowners own at least some minerals beneath their property which gives them more leverage to negotiate with lessees, many do not.