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Comments on the Record for the Department of Interior's Review of the Federal Oil & Gas Leasing Program

Submitted on behalf of the Institute for Energy Research

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Note: Submitted as formal comments for the review by the U.S. Department of Interior of the Federal Oil & Gas Leasing Program as called for in Executive Order 14008, solicited through this notice by the DOI dated March 18th, 2021.

The Institute for Energy Research (IER) is a not-for-profit organization that conducts intensive research and analysis on the functions, operations, and government regulation of global energy markets. IER maintains that freely functioning energy markets provide the most efficient and effective solutions to today's global energy and environmental challenges and, as such, are critical to the well-being of individuals and society.

On March 18, 2021, the U.S. Department of Interior (DOI) announced its "public process" for considering views regarding the status of the federal oil and gas leasing program as required by President Biden's Executive Order 14008 of January, 2021.

IER presents its comments today based upon the stated premise of DOI's announcement, which stipulated that the goals of the inquiry were to accept input on the "next steps and recommendations for the Department and Congress to improve stewardship of public lands and waters, create jobs, and build a just and equitable energy future." IER finds those goals laudable.

We also noted with interest Secretary Haaland's comments about the ongoing public review on April 2, 2021, when she said the program is "fundamentally broken" and "the American taxpayers deserve to have a return on their investment."

In our view, something is definitely broken with our federal lands and waters leasing systems, and the numbers prove that. For example:

- Federal oil and gas acreage production that benefits Americans *lags far behind its counterpart State and private lands*.

- *The federal government owns 61% of the combined land and water mineral estate of the United States, with states and private landowners owning 39%. Federal* acres are producing much less energy, fewer jobs and less economic benefits than other lands.
- Federal production makes up just 12% of the nation's natural gas and 22% of the oil produced.
- Federal onshore lands under lease declined by 46% from FY 2008 to FY 2018, according to the Bureau of Land Management's "Acreage in Effect" Statistics, during which time domestic production of energy skyrocketed, allowing the U.S. to become the largest oil and gas producer in the world.
- Public land states where federal lands are predominantly located have significantly lower incomes than private land states – especially in rural areas where federal lands are generally located – and the federal government's failure to make its energy leasing attractive for investment in exploration, development, production and transportation of federal energy resources robs lower income states of the traditionally high-paying jobs produced by the oil and gas and other extractive industries. In many cases, these jobs offer the best compensation, best benefits and best opportunities for advancement within such regions.

If we want a stronger and more energetic America, want to "improve stewardship of public lands and waters, create jobs, and build a just and equitable energy future," the best possible way would be to remove the impediments, the political, regulatory, financial and legal limitations imposed by the federal government on its lands and waters and to instead seek to study the ways in which state and private lands produce so much more energy, jobs and investment on a much smaller landholding. The results of such an approach would meet the stated goals of the Department's request for input.

It would:

- Improve stewardship of public lands and waters, by attracting investment from the most capable energy-producing companies and people in the world right here in America, while providing more revenue for federal, state and local governments;
- Create jobs for Americans, producing energy that makes our nation stronger, and sparking a flow of investment capital through our nation, rather than rewarding foreign nations and creating jobs there that could be performed right here at home, and it would;
- Build a just and equitable energy future, built by Americans – from sea to shining sea – including the direct and indirect job benefits, while lowering energy costs and ensuring a reliable and affordable energy future for those who both produce and consume the energy beneath federal lands and waters.

Additionally, it would provide secure supplies of energy important to our national security, forestalling the need to import increasing amounts of "green energy" materials from unfriendly regimes like China and their supply chains for critical, strategic and rare earth minerals. In 2019, the United States produced more energy than it consumed for the first time since 1957, largely as a consequence of the pioneering application of the combined technologies of horizontal drilling and hydraulic fracturing.

Any attempts to make it harder for Americans to produce energy in America only aids and abets a growing dependence upon unreliable sources from around the world whose workers labor in sometimes horrible conditions to produce essential components for "green energy" sources. Examples abound, including child laborers in Chinese-controlled cobalt mines in the Democratic Republic of the Congo to the polysilicon produced by Uyghur Muslim forced labor in Xinjiang, China. China produces 80% of the world's polysilicon used in solar panels, nearly half of which comes from Xinjiang.

Such a future is neither “just”, nor “equitable,” and turns a blind eye towards extreme inequities abroad while ignoring the plight of Americans who could otherwise make a good career producing energy here at home. It is, quite simply, immoral.

Suggested Approaches for Divining the Roots of Legitimate Problems in Federal Leasing

We have clearly demonstrated that something is awry in the federal energy leasing system. Here are additional numbers for reference, all of which were derived from DOI sources. The onshore federal mineral estate totals 700 million acres, according to the BLM. In addition, the offshore mineral estate of the U.S. managed by DOI is 1.76 billion acres, for a total of 2.46 billion acres. According to Public Land Statistics 1998, the *total land area* of the U.S. is 2,263,222,000 acres. By subtracting the 700 million acres of federal mineral estate we arrive at a total of 1,563,222,000 acres of non-federal mineral estate, which is only 39% of the total onshore and offshore subsurface area of the United States.

Thus, while the federal government owns 61% of the onshore and offshore mineral estate of the U.S., only 22% of the nation’s oil and 12% of our natural gas comes from those federal lands and waters. It is incumbent on the DOI to understand why and to fix whatever is dissuading investors from leasing and developing them.

It cannot be royalties, as some have suggested, since royalties are sometimes higher on state and private lands, yet investors would much rather search for, discover, and produce oil there than on lower royalty federal lands. Also, federal oil and gas leases include “bonus bids,” which represent an auction of the right to explore, develop and produce energy. For example, in 2018, a two-day lease sale in New Mexico brought in more revenue than all BLM oil and gas sales in 2017 combined. Revenue from the sale totaled $972,483,619.50, of which roughly $500 million was returned to New Mexico for its roads, schools, and public services. Royalties are *added on top of these bids*, once a discovery is made and developed, and production begins.

The paltry production numbers from federal lands – in comparison to state and private lands – prove royalties are not the problem. Increasing royalties would simply make federal leasing even more unattractive, since they are already under-performing their counterpart lands owned by states or in private hands. And while it does meet the desire of some to “keep it in the ground,” depriving the federal, state and local governments and the American public the benefits of secure and affordable energy is not consistent with the stated purposes of this review.

It is also highly unlikely to be due to geological differences, since the predominance of federal lands are located in some of the most promising hydrocarbon potential areas in the U.S.

The answer is most likely to be the regulatory environment and uncertainty with the federal processes, which results in investors choosing even higher royalties in areas of less geological potential rather than trusting to the vagaries of a highly regulated and uncertain federal procedural labyrinth. In addition to a rigorous set of environmental conditions, which are generally replicated in conditions for drilling on both state and private lands, the federal leasing agreements also carry the additional burden of multiple entry points for opponents of federal leasing throughout the entire process. It becomes, quite literally, “life by permit,” with each permit contestable by those outside the actual contract between government and private investor.

For someone dedicated to stopping a particular project, objections, appeals and litigation are simple tools to create roadblocks for someone planning to invest in the project. The uncertainty of that process, combined with the certainty of having to meet payroll and loan payments and equipment rental schedules convince many operators to forego investment in federal lands, thus depriving the nation of the substantial energy and revenue federal land production would beneficially provide.

If the Department of Interior and Bureau of Land Management wish to ensure a fair return to the American public, the Department needs to streamline the regulatory environment on federal lands. The current process imposes a massive cost to the American public in the form of dramatically reduced production and economic activity as well as the waste of complying with federal red tape.

Our suggestion to the Department would be to commission an investigation to review the successful oil and gas leasing operations on both state and private lands and attempt to replicate them on the federal estate. An in-depth review of how they successfully protect the environment and the legacy of the land while providing for the needs of their people for both employment and revenue could prove useful to the Administration in fixing the admittedly broken system.

"A Just and Equitable Energy Future."

As previously mentioned, residents of states in which there are significant public lands also suffer from lower incomes than do other states. New Mexico, for example, benefits significantly from federal oil and gas leasing within its borders. The state's highly diverse workforce and largely rural economy has enjoyed an economic renaissance because of the growth in oil and gas production on federal, state and private lands. Once economically moribund rural counties now can afford infrastructure in the form of schools and roads which were once unthinkable. The importance of federal oil and gas leasing to the people of New Mexico is so pronounced that Governor Michelle Lujan Grisham has asked that her state be exempted from DOI's January 20, 2021 order suspending agency decisions on drilling permits for 60 days, and President Biden's Jan. 27 executive order placing an indefinite "pause" on new oil-and-gas leases on federal lands and waters.

Conclusion

The federal government owns 61% of the mineral estate of the United States, yet that area produces only 12% of the natural gas and 22% of the oil which benefit the nation. Increasing the government's share of energy production would benefit our national security, expand the opportunities for a just and equitable energy future, increase revenues at the federal level, and increase employment in locales where federal lands hold promise for energy production. States could increase spending on essential schools and roads and infrastructure, while providing opportunities for young people to secure good jobs in and around their communities.

By increasing the productivity of federal lands, the DOI could help ensure that U.S. dependency upon foreign nations for our energy does not increase, and that wealth will be created for citizens here, rather than exporting those jobs to China, or Russia, or the Democratic Republic of the Congo.

We encourage the department to examine the numbers, be open-minded about what works successfully in our states, and move to adopt those same policies at the federal level.