The Honorable Deb Haaland
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Tracy Stone-Manning
Director
Bureau of Land Management
U.S. Department of the Interior

December 21, 2022

Further Action on Oil and Gas Reforms Urgently Needed

Dear Secretary Haaland and Director Stone-Manning;

On behalf of our combined memberships, Taxpayers for Common Sense, Project On Government Oversight, and Public Citizen urge you to protect consumer and taxpayer interests by pursuing a rulemaking on fossil fuel leases and the leasing process (CFR Parts 3100 and 3400). To better protect taxpayers and ensure a fair return from our valuable public resources, the Administration must reform oil and gas bonding, solidify a 18.75% minimum royalty rate for onshore oil and gas development, and implement protections that will make it harder for oil and gas companies to lock up federal lands that have little potential for oil and gas drilling.

The federal oil and gas leasing program is in need of reform. For decades, taxpayers have been shortchanged by the Bureau of Land Management (BLM) and oil and gas companies through low royalty and rental rates, low minimum bonus bids, and the noncompetitive leasing process. The fiscal year 2022 budget reconciliation bill (P.L. 117-169, or the [Inflation Reduction Act]), which was signed into law on August 16th, contains several important oil and gas reforms that will help bring the federal oil and gas leasing system into the 21st century. The bill raised the onshore oil and gas royalty rate, rental rates, and minimum bid for the next 10 years and eliminated noncompetitive oil and gas leasing, but the Department of the Interior (DOI) must take further steps to solidify and build upon these initial reforms.

With this momentum, we hope the Administration will take additional steps. First, the **BLM must reform bonding through the rulemaking process to protect taxpayers from future liabilities and ensure we get a fair return for publicly owned natural resources.** Oil and natural gas companies drilling on federal land are required to plug (reclaim) their wells and clean up the surrounding sites after production ends.[1] Wells that are not completely reclaimed in a timely manner pose serious environmental, safety, and public health threats[2], which disproportionately impact low-income communities of color.[3] To guarantee the cleanup of these potentially hazardous and environmentally harmful sites, producers are required to post a bond before they start drilling. If the company abandons its wells on a federal lease, or goes bankrupt, the bond is used to cover the reclamation expenses. But for leases on federal land, the required bond minimums have not been updated in 60 years and do not cover the full cost of cleanup, which means taxpayers must cover these costs.[4] According to the Government Accountability Office, the average value of bonds held by the Bureau of Land Management in 2019 was only $2,122 per well whereas well reclamation costs can range from $20,000 per well to $145,000 per well.[5] In fact, 84 percent of bonds, which cover 99.5 percent of wells on federal lands, are not enough to cover even the lower estimate of $20,000 per well. Egregiously low bond minimums incentivize operators not to reclaim wells since it is often more costly to reclaim their wells than to simply forfeit the minimum bonded amount.

Oil and gas bonding reform will protect taxpayers from the financial, environmental, and public health costs caused by abandoned wells on federal land. Plugging and cleaning up existing producible oil and gas wells on public lands could cost more than $6 billion,[6] and it is crucial that the burden not fall on taxpayers, given that taxpayers have already committed $250 million appropriated by the Infrastructure Investment and Jobs Act.[7]

On Monday, November 21, the Department of the Interior announced plans for two new oil and gas lease sales in 2023. The sales will offer a total of 95,411 acres of federal land for oil and gas development – 63,603.89 acres in Nevada and 31,808 acres in Utah. This is the second federal onshore oil and gas lease sale scheduled for 2023 announced by the Administration; in October, DOI announced plans to offer over 261,200 acres of federal land in Kansas, Nebraska, New Mexico, and Wyoming in the second quarter of 2023.

The sales will include reforms implemented by the Inflation Reduction Act, including the new onshore royalty rate of 16.67%. Although 16.67% is an improvement compared to outdated rate of 12.5% taxpayers were stuck with for over a century, it still lags what states like Texas, Colorado, New Mexico, and Louisiana charge for oil and gas production on state lands. In June, BLM held an auction for oil and gas leases that included a royalty rate of 18.75% specific to those leases. To prevent potential royalty losses and to give taxpayers a fair return on the resources we all own, **DOI must take further steps to solidify the 18.75% rate in a formal rulemaking.**

In the most recent lease sale announcement, BLM issued a series of Instruction Memoranda (IM) updating its oil and gas leasing guidance. Specifically, IM 2023-007, Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales, will evaluate parcels from submitted Expressions of Interest (EOIs) based on preference criteria such as proximity to existing oil and gas development, presence of important fish and wildlife habitats, presence of historical or cultural sites and properties, presence of recreation, and other important uses. Most importantly, it includes potential for development as a selection criterion. This will help curtail speculative leasing, which allows oil and gas companies to lock up federal lands from other important uses and hurts taxpayers as most speculative leases never end up in production. This IM is also consistent with DOI's Report on Federal Oil and Gas Leasing Program, which recommends BLM, "carefully consider what lands make the most sense to lease in terms of expected yields of oil and gas, prospects of earning a fair return for U.S. taxpayers, and conflicts with other uses, such as outdoor recreation and wildlife habitat."[8] This IM is a step in the right direction and will protect taxpayers. **We hope DOI will take further action to codify this preference criteria for evaluating parcels, especially the potential for development, in federal regulations.**

With new lease sales around the corner, time is of the essence. Continuing forward with onshore oil and gas lease sales without implementing needed reforms will lock the federal government into bad deals that continue to shortchange taxpayers. The federal onshore oil and gas leasing system is failing taxpayers and every new lease signed under these terms is a loss.

The rulemaking process is critical to ensure the onshore leasing program better serves everyone and stops undermining taxpayers. DOI must take prompt actions to modernize oil and gas leasing to give taxpayers a fair return on the resources we all own. These actions include reforming oil and gas bonding to reflect the current costs of well reclamation, solidifying the 18.75% royalty rate for onshore oil and gas development used in the BLM's June 2021 auction, and implementing measures to stop speculative leasing on federal lands like offering parcels with the most development potential and the least conflict with other resources and uses.

Thank you for your attention to these important issues.

Sincerely,

Taxpayers for Common Sense

Project On Government Oversight

Public Citizen

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[1] 43 CFR § 3162.5-1
[2] Government Accountability Office (GAO), "Oil and Gas: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells," Sep 18, 2019. https://www.gao.gov/products/gao-19-615
[3] Emma Newburger, "Biden is sending more than $1 billion to states to plug abandoned oil and gas wells," *CNBC,* Jan 31, 2022. https://www.cnbc.com/2022/01/31/biden-helping-states-plug-orphan-oil-gas-wells-cut-methane-emissions.html
[4] Government Accountability Office (GAO), "Oil and Gas: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells," Sep 18, 2019. https://www.gao.gov/products/gao-19-615
[5] Government Accountability Office (GAO), "Oil and Gas: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells," Sep 18, 2019. https://www.gao.gov/products/gao-19-615
[6] Center for Western Priorities, "New analysis: U.S. taxpayers could be on the hook for billions of dollars in oil and gas well cleanup costs," February 26, 2018. https://westernpriorities.org/2018/02/new-analysis-u-s-taxpayers-could-be-on-the-hook-for-billions-of-dollars-in-oil-and-gas-well-cleanup-costs/
[7] P.L. 117–58
[8] U.S. Department of the Interior, "Report on The Federal Oil and Gas Leasing Program," November 2021. https://www.doi.gov/sites/doi.gov/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf