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United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510-6150

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December 20, 2021

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

Dear Secretary Haaland,

I am deeply troubled by the Department of the Interior's recommendations in the "Report on the Federal Oil and Gas Leasing Program" (the Report).¹ With American families already facing skyrocketing prices for gasoline, diesel, natural gas, propane, and home heating oil, it is utterly reckless to recommend increasing the costs to explore and produce American oil and natural gas.

I am also troubled by the Department's failure to be transparent about the process used to develop this report and the numerous misleading statements within it. For these reasons, I request a written response to each of the following questions no later than January 20, 2022.

1. When developing this report, the Department failed to conform to its Information Quality Guidelines that requires all information to "maximize objectivity, utility, and integrity."² Further, the Report states that the Bureau of Land Management (BLM) should initiate rulemakings, presumably relying on information contained in the Report. However, in developing the Report, the Department evaded the Administrative Procedure Act's notice and public comment requirements. On March 22, 2021, several Senators sent you a letter, requesting a detailed explanation of the legal and procedural basis and effect of the Department's March 25, 2021 Virtual Forum and any subsequent report. To date, you have not provided a response. Please provide a detailed explanation of the legal and procedural basis for, and effect of, the Virtual Forum and the Report.
2. On May 13, 2021, before the Senate Energy and Natural Resources Committee, Amanda Lefton, Director of the Bureau of Ocean Energy Management, committed to make all the comments in response to or associated with the Department's March 25, 2021 Virtual Forum publically available.³ Likewise, on September 21, 2021, before the Senate Energy and Natural Resources Committee, Laura Daniel-Davis, Principal Deputy Assistant Secretary for Land and Minerals Management, committed, under oath, to make all the

¹ 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>).

² U.S. Department of the Interior, Information Quality Guidelines, (https://www.doi.gov/sites/doi.gov/files/uploads/doi_information_quality_guidelines.pdf).

³ Senate Committee on Energy and Natural Resources; Full Committee Hearing to Examine Offshore Energy Development" 117th Congress, May 13, 2021, Bureau of Ocean Energy Management Director Amanda Lefton.

comments in response to or associated with the Department's March 25, 2021 Virtual Forum publically available.⁴

A. When will you make all the comments in response to or associated with the March 25, 2021 Virtual Forum publically available?

B. Will you release details of all forms of stakeholder engagement regarding the Report, including calendars of meetings and phone calls? If so, when?

3. The Report states “[w]hen land is under contract for potential oil and gas activity, the shared public lands cannot be managed for other purposes, such as conservation and recreation.”⁵ This is misleading information. There are many instances in which federal minerals are leased for oil and gas development while the surface is simultaneously used for grazing, recreation, conservation, and other multiple uses. This is particularly true with split-estate parcels. Why does the Report suggest that leasing federal oil and gas resources precludes any and all use of the surface for grazing, recreation, conservation, and other purposes?
4. The Report compares current royalty rates on oil and gas production on federal land to royalty rates on oil and gas production on state and private land. However, the Report fails to acknowledge the fact that federal land, unlike most state and private land, is subject to extensive regulatory burdens and leasing and permitting delays. These regulatory burdens and leasing and permitting delays significantly increase the risk to and the cost incurred by operators of oil and gas projects on federal land. If the Department raises royalty rates on oil and gas production on federal land, will it reduce the regulatory burdens and leasing and permitting delays for oil and gas projects on federal land to the maximum extent permitted by statute? If not, why not?
5. The Report selectively quotes from paragraph (3) of the Congressional Declaration of Policy under the Outer Continental Shelf Lands Act, stating that the Outer Continental Shelf is a “vital natural resource reserve held by the Federal Government for the public.” The Report fails to provide the full statement of paragraph (3), which reads:

“It is hereby declared to be the policy of the United States that...the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, *which should be made available for expeditious and orderly development*, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs”⁶

How are the Report's recommendations to increase royalty rates, rental rates, minimum bids, and bonding requirements on offshore oil and gas production – without also reducing leasing and permitting delays – compatible with “expeditious and orderly development”?

⁴ Senate Committee on Energy and Natural Resources; “Full Committee Hearing to Consider Pending Nominations,” 117th Congress, September 21, 2021, Principal Deputy Assistant Secretary for Land and Minerals Management Laura Daniel-Davis.

⁵ U.S. Department of the Interior, Report on the Federal Oil and Gas Leasing Program, p.5 (November 2021).

⁶ 43 USC 1332(3), emphasis added.

6. The Report references a Government Accountability Office (GAO) report that says raising royalty rates could “decrease production on federal lands by a small amount or not at all.”
 - A. Did the Department rely on the GAO report alone or other studies to assess the impact of raising royalty rates, rental rates, minimum bids, and bonding requirements on federal land?
 - B. Did the Department conduct its own analysis of the impact of raising royalty rates, rental rates, minimum bids, and bonding requirements on federal oil and gas production? Please provide all analyses and data the Department used to make its recommendations.
7. The Report decries the non-competitive oil and gas leasing process as “speculative.” However, both competitive and non-competitive leasing has allowed operators to discover some of the nation’s most productive oil and gas fields through the use of new technologies – opportunities that operators would otherwise not have been able to pursue economically. The only parcels that BLM includes in a non-competitive lease sale are parcels that were included in a competitive lease, but not receive a bid.⁷
 - A. Do you agree that BLM can only offer parcels non-competitively *after* the agency has included those same parcels in a competitive lease sale?
 - B. How does erecting new regulatory barriers and decreasing existing incentives to explore for unproven oil and gas resources provide a fair return to the American taxpayer?
8. The regulations that govern wind and solar authorizations on federal land have certain provisions for competitive “leasing” (technically, rights-of-way).
 - A. Please provide the total number of wind and solar authorizations (and associated acres) that the Department has approved through competitive procedures.
 - B. Please provide the total number of wind and solar authorizations (and associated acres) that the Department has approved through non-competitive procedures.
 - C. Why does the Report recommend that the Department should cease offering parcels through non-competitive lease sales for oil and gas when the Department continues to offer parcels for solar and wind authorizations through similar, non-competitive procedures?

⁷ 30 U.S.C. 226 (b)(1)(A).

9. In a March 9, 2021 press release associated with the Virtual Forum and the Report, the Department has said that “Fossil fuel extraction on public lands accounts for nearly a quarter of all U.S. greenhouse gas emissions.”⁸ The Department fails to clarify that the figure represents the emissions generated from the *consumption* of oil, natural gas, and coal, which were originally produced on federal land.

A. Are you aware of any evidence to suggest that restricting the production of oil and natural gas on federal land will result in a decrease in the total consumption of oil and natural gas in the U.S.? If so, please provide that evidence.

B. Are you aware of the evidence that in fact indicates that the production of oil on federal land emits fewer greenhouse gases when compared to the production of oil elsewhere in the world?

C. Has the Department estimated and considered the greenhouse gas emissions from transporting oil from foreign countries for consumption in the U.S.? If so, are these estimates taken into consideration when the Department analyzes proposed leasing and permitting activities on federal land? If not, why not?

10. You and other officials at the Department have repeatedly referred to the Report as an “interim report.”

A. Does the Department plan to issue a “final report”? If so, will the Department comply with the Administrative Procedure Act when developing a final report? If not, why not?

B. What is the timeline for developing a final report?

C. If the Department does not plan to issue a “final report,” when will it initiate the rulemakings recommended by the Report?

11. I am very concerned about the impact of the Report and this administration’s continued resistance to proceeding with pending oil and gas lease sales. As of the date of this letter, BLM has not initiated the public scoping period for the 2022 2nd quarter lease sale. This is especially concerning given that BLM unilaterally decided to restart from scratch the environment review process for the 2021 1st quarter lease sale (now the 2022 1st quarter lease sale) and then extended the public comment period for this sale. Please describe in detail the specific actions that BLM has taken to comply with the federal court’s order to hold quarterly oil and gas lease sales under the Mineral Leasing Act.⁹

⁸ U.S. Department of the Interior, “Interior Department Outlines Next Steps in Fossil Fuels Program Review,” March 9, 2021 (<https://www.doi.gov/pressreleases/interior-department-outlines-next-steps-fossil-fuels-program-review>).

⁹ Memorandum Ruling; State of Louisiana et al v. Joseph R. Biden, Jr. et al. Case No. 2:21-CV-00778.

12. On December 3, 2021, the BLM issued a press release soliciting public input on proposed guidance for renewable energy on federal land.¹⁰ This announcement to engage public comment comes just shortly after the Department’s release of the Report, which entirely lacked a public notification for public input and a formal comment period. Notably, the press release “encouraged” the public to “concentrate its review and comment on BLM’s proposed reductions to rent and fee rates” for renewable energy projects. I am troubled by BLM Director Stone-Manning’s attempt to influence the content of public comments by this statement. I also question BLM’s announced “pause” in rental and fee collections for renewable energy authorizations.

A. What are you doing to ensure that BLM provides objective, unbiased venues for the public to offer input?

B. In the BLM press release, Director Stone-Manning referred to pursuing an “environmentally and economically sound strategy in the development of renewable energy resources on public lands.” How is reducing rental and fee rates or pausing rental and fee collections for renewable energy projects an “economically sound strategy”?

C. How do you reconcile plans to *decrease* rental rates and fees for renewable energy projects with the Report’s recommendations to *increase* royalty rates, rental rates, minimum bids, and bonding requirements for oil and gas projects given the fact that renewable energy projects have a much larger surface footprint than oil and gas projects on a per unit of energy-produced basis?

The Department’s decision to delay permitting and its failure to conduct lease sales as required under the Mineral Leasing Act and Outer Continental Shelf Lands Act have contributed to higher energy prices for American families. If the Department decides to significantly raise royalty rates and other fees, it will effectively end future oil and gas production on federal land. While that may be your intention, such a decision will have dire consequences for American families, workers, public school children, and the nation’s energy security with no meaningful benefit to the environment. It is telling that you released the Report – which members of Congress have sought for over six months – on the day after Thanksgiving.

Thank you for your attention to this matter and I look forward to your prompt response.

Sincerely,



John Barrasso, M.D.
Ranking Member

¹⁰ U.S. Department of the Interior, Bureau of Land Management, “BLM Seeks Public Input on Proposed Guidance for Renewable Energy on BLM Public Lands,” December 3, 2021 (<https://www.blm.gov/press-release/blm-seeks-public-input-proposed-guidance-renewable-energy-blm-public-lands>).