

**Testimony of Tracy Stone-Manning  
Senior Advisor for Conservation Policy, National Wildlife Federation**

**Hearing on “Modernizing Energy Development Laws for the Benefit of Taxpayers,  
Communities, and the Environment.”**

**Before the Subcommittee on Energy and Mineral Resources**

**Natural Resources Committee**

**U.S. House of Representatives**

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Chairman Lowenthal, Ranking Member Stauber, and members of the subcommittee, thank you for inviting me to testify today regarding “Modernizing Energy Development Laws for the Benefit of Taxpayers, Communities, and the Environment.” I sincerely appreciate the opportunity to be here on behalf of National Wildlife Federation’s 6 million members and supporters.

The Federation is 85-years-old and has long advocated for the wise management of our public lands. The nation’s oil and gas program, governed by a law older than the federation, is overdue for an upgrade, and the proposed reforms before the committee can deliver that needed upgrade. The suite of the bills before the committee addresses critical, common-sense needs: safeguarding our clean air, clean water and communities; ensuring we do not leave taxpayers on the hook for future cleanups; demanding a fair return for the resources taken off our public lands; ensuring government action is transparent and includes public input; and eliminating wasteful government practices. These reforms are overdue to address an industry that has had an outsized influence on our public lands, often at the expense of wildlife, the environment, and taxpayers.

The American people own more than 640 million acres of land and water, managed by the federal government to provide natural resources for our country, but also to ensure clean drinking water, habitat for fish and wildlife, and recreation opportunities for all. Our public lands are one of this country’s best ideas—a gift to the future that each generation must caretake and pass along. But our public lands are in trouble: wildlife populations are declining, fire prone

invasive species are exploding across the landscape, rivers are degraded. We must take a broad approach to restoring and managing our public lands, managing for multiple values and uses, to ensure we leave these precious assets better off than we found them. The reforms in the oil and gas program are an important part of that overall task.

The previous administration's approach to managing our public lands has highlighted the importance of these reforms. Under the previous administration's so-called energy dominance agenda, we saw public lands leased at a pace and scale never seen before, and in places that are simply too pristine to drill. Over 26 million acres are now under lease, only 12.7 million of which are currently producing oil and gas. There are 7,600 unused drilling permits.

This backlog of leased lands and approved permits gives the Biden administration the ability to pause leasing activity and allows the Department of the Interior time to review the current state of the leasing program. Though some rhetoric suggests otherwise, this temporary pause is not a moratorium on drilling or an end to energy production on public lands. It is a pause on leasing, not drilling. It does not impact production on current leases—which accounts for 90% of the state and federal funds received from these leases—nor does it impact the ability for oil and gas companies to put under production their existing, unused permits. In short, the pause is a modest and reasonable approach from the administration to assess reforms to the oil and gas program specifically and in the context of the competing needs of our public lands.

In the suite of bills being heard today, Congress considers its own approach to reforming the leasing program. It is long-overdue. Regardless of any administrative actions, the leasing program requires Congressional action to ensure consistent and durable approaches to the program across administrations.

Companies that purchase and develop leases on public lands have for decades gotten a below market deal, at the expense of hunters, anglers, outdoor users, and the American taxpayer.

Multiple inequities plague the current leasing system, which the bills considered today would work to remedy. The 101-year-old Mineral Leasing Act allows speculators to purchase leases

over-the-counter after they receive no competitive bids; it assesses below market rates for royalties; it shields companies who nominate and purchase leases from scrutiny; it fails to protect private landowners; and it puts vastly more land under lease than necessary, forcing the Interior department to manage those lands predominantly for oil and gas development rather than addressing the needs of people and wildlife across millions of acres of public land.

In short, the current leasing system is broken. Fixing it may be difficult, but it is not complicated. It requires only the dedication of a Congress committed to upholding the multiple use and conservation ideals of our forbearers.

What follows is a discussion of the topics the bills address, followed by a brief description of each of the bills.

#### Royalty Rates, Rentals, and Minimum Lease Bids

Onshore oil and gas leasing fiscal policies have not been updated in decades, denying tax payers fair market value for the commercial development of publicly-owned oil and gas resources. Failure to modernize this system means that revenue generating policies have not kept pace with inflation and have fallen well behind the policies of most states. The royalty rate, a percentage of production value paid to the federal government, is 12.5% and has not been updated since 1920—which is to say the price tag for private companies to drill on public lands has not changed in over 100 years. In addition, rental rates, the per-acre fee paid by lease owners, and minimum lease bids, the minimum acceptable bid for BLM oil and gas lease sales, have not been updated since 1987. The value of our public lands is changing. The cost of developing those precious values needs to keep pace.

In contrast, many Western states have kept up with the times, strengthening their fiscal policies in order to provide a fair return to taxpayers, with no significant effect on production on state lands. For example, Texas charges a royalty rate of 25% while both North Dakota and New Mexico charge 18.75%. The nation charges 18.75% for drilling offshore. The GAO has repeatedly raised the alarm about the inadequacies of the Bureau of Land Management's current fiscal policies, and has concluded that improved royalty rates could increase revenues for the

federal government and states by \$20 to \$38 million per year. Put simply, we're leaving money on oil and gas corporate balance sheets, not in the hands of taxpayers, where it belongs.

### Noncompetitive leasing

Oil and gas development is driven by the market, year in and year out. And yet the federal government ignores market signals when it allows non-competitive leasing. In a lease sale, if parcels receive no bid, instead of taking a cue from the market and pulling the parcels from consideration, the government allows them to be purchased on a first come, first served basis. It waives the \$2 per acre bonus bid for these lands. Amounting to little more than a public land give away, this system allows oil and gas companies to legally stockpile leases on public land at prices as low as \$1.50 an acre—less than the current price of a drip coffee at Starbucks. Once under lease, these lands are typically not actively managed for other values, even if they aren't developed. Further, numerous examples exist in resource management plans where the agency precludes conservation designations because the lands are under lease.

In effect, this system puts the needs of wildlife, hunters, ranchers and outdoor enthusiasts in the back seat to oil and gas companies, who use this system as a way to bolster their financial statements in order to appear more attractive to investors and to get better rates on financing.

It is an abusive waste of government resources and denies the public their fair share: In the last decade, about one quarter of all of the acres leased on public lands were leased through the non-competitive process. During a 9-year period, Americans received just 4 million dollars in revenue from leases issued through this process, amounting to just one tenth of 1 percent of the federal government's total leasing program. Americans also don't receive the benefit of oil or the revenues it generates: according to a GAO report from November, only 1% of lands leased non-competitively were developed in a six-year period between 2003 - 2009. In short, this is a paper chase that yields virtually nothing for the American taxpayer. Eliminating non-competitive leasing will not only help ensure Americans get a fair return for their public lands, but it will cut down on wasted time and resources, allowing BLM to go focus on enhancing access to public lands for activities such as hunting, fishing, hiking, and other outdoor recreation opportunities that support jobs, generate revenue for communities, and improve quality of life.

## Bonding

As with other onshore fiscal policies, there is a critical need to modernize onshore oil and gas bonding requirements. A basic tenet is at play here, one that we are taught as children—to clean up after ourselves. If and when oil and gas companies fail to do that, the rest of us are often left to clean up their mess.

The various bonding requirements for public land oil and gas leases has not been adjusted since the 1950s and 1960s, and as a result, the government is woefully underfunded to ensure that wells that have been orphaned can be sufficiently reclaimed (orphaned wells are wells that have not been reclaimed by operators, have no identified liable party, and have bonds that are insufficient to cover the cost of reclamation). A September 2019 GAO report indicates that at least 84% of collected bonds are insufficient to fully recover reclamation costs in a low-cost scenario; the number jumps to 99% in its high-cost scenario. Either way, this leaves a remarkable liability for taxpayers. A recent report by the Center for Western Priorities puts that shortfall in sharper focus. It estimates that it will cost \$6.1 billion to clean up all of the currently producing wells on federal lands, but that as of 2018, BLM had collected just \$208 million in bonds, a shortfall pushing \$6 billion. Importantly, this report did not account for the thousands of non-producing wells that also should be remediated.

If the bonding system is not modernized, the American taxpayer will continue to be responsible for cleaning up orphaned wells. Failure to do so will cause irreparable harm: Uncapped wells not only leak likely carcinogens such as benzene and formaldehyde that can harm nearby communities, but they also emit significant amounts of methane. The EPA estimates unplugged oil and gas wells leaked 7 million metric tons of methane in 2018, roughly equal to 1.5 million cars (although actual emissions are likely far higher due to incomplete data). Additionally, uncapped, or improperly capped wells contaminate ground water by allowing oil, gas, or salty water to leak into freshwater aquifers.

The way to prevent all of this is to levy appropriate bonds on the companies drilling the wells. Westerners completely agree: in a Colorado College poll released this year, 93% of voters

support making companies “pay for all of the clean-up and land restoration costs after drilling is finished.”

### Methane

While bonding can help assure that oil and gas wells are properly capped and closed after production ceases, regulations are also needed to ensure active oil and gas sites do not emit unnecessary methane during production. Methane emissions are the second largest cause of global climate change, and are 80% more potent than carbon dioxide in the short term. Reducing methane emissions is critical to avoid the worst effects of climate change. Nearly 1/3 of all methane released in the United States comes from oil and gas operations as a result of poorly maintained equipment, leaky infrastructure, and venting and flaring practices. Methane gas wasted every year from drilling on public lands is equivalent to the climate pollution from 34 coal-fired power plants, or 28 million cars. Technology is not the issue to fixing this problem; will is.

Addressing methane is also critical to public health, as methane is emitted alongside toxic pollutants such as benzene, a known carcinogen: Nationally, 12.6 million people live within one-half of a mile of oil and gas facilities, including over 240,000 Native Americans. Peer-reviewed science shows that living near oil and gas facilities is associated with negative health impacts, including fetal defects and respiratory ailments. Further, 238 counties in 21 states face cancer risk that exceeds EPA’s one-in-a-million threshold level of concern due to emissions from oil and gas facilities.

### Public Participation and Land Owner Protections

Reforms are also needed to protect both public participation rights and surface owner rights in the oil and gas leasing process. The previous administration attempted to erode public and tribal participation by eliminating or significantly reducing opportunities for public comment and protest during oil and gas lease sales. Legislation is needed to ensure that future administrations cannot take similar detrimental steps towards silencing the public. Similarly, stronger federal protections are needed to for land owners above the federal mineral estate. Landowners need a stronger say in how and where mineral operations are conducted on their land. They also need

financial security to ensure that they will not suffer economic harm during oil and gas development, and that their land will be remediated once operations have ceased.

### The bills

The bills discussed today will go a long way towards addressing the systemic inefficiencies and inequities of the onshore leasing program. Congress is wise to consider necessary reforms as the executive branch assesses necessary changes to the program, as solutions from Congress are likely to be more durable over time.

- H.R. 1492, the Methane Waste Prevention Act of 2021 introduced by Rep. DeGette, will curb methane gas emissions. The previous administration rolled back BLM regulations designed to reduce methane venting, flaring and leaks from oil and gas operations on public and tribal lands and weakened EPA regulations establishing methane leak inspection and repair requirements for oil and gas operations. The Methane Waste Prevention Act of 2021 will reverse these harmful actions and update the 2016 BLM and EPA standards. Without these steps, methane emissions could increase by nearly 1.6 million tons by 2025, and the country could waste over \$1 billion worth of valuable natural gas. Some states have taken steps to curb methane emissions, and we should commend them for their leadership. However, methane gas emission is a national issue, requiring a national response.
- H.R. 1503, The Restoring Community Input and Public Protection in Oil and Gas Leasing Act introduced by Rep Levin, will modernize fiscal policies by eliminating non-competitive leasing, increasing royalty rates, rental fees, and minimum bid amounts. It will also eliminate actions taken by the Trump administration to limit environmental review of oil and gas lease sales and to cut public participation in oil and gas leasing decisions. It is an important step towards preventing future administrations from taking similar actions at the cost of our public lands. Finally, it will improve protections for surface owners, and it will increase needed transparency by notifying the public of the companies that nominate and bid on oil and gas leases.

- H.R. 1505, The Bonding Reform and Taxpayer Protection Act of 2021 introduced by Rep. Lowenthal, will ensure that all wells are properly reclaimed, that the American tax payer is not responsible for these costs, and that local communities do not suffer from the health, safety, and environmental risks posed by un-reclaimed wells.
- H.R. 1506, The Transparency in Energy Production Act of 2021 introduced by Rep. Lowenthal, will give the American people information about emissions that come from drilling on the land or in the water.
- H.R. 1517, The Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021 introduced by Rep. Porter, will also work towards modernizing fiscal policies by raising royalties, rental rates, inspection fees, and penalties on oil and gas companies that extract resources from public lands. The bill will also address issues with methane emissions by requiring natural gas companies to pay for all methane they take out of the ground, including gas burned for fuel on-site, and wasted through leaks, venting, and flaring.

The National Wildlife Federation urges passage for each of these bills and believes we must do all we can to restore balanced management to our public lands and to drive down carbon emissions from them. These common-sense reforms would go a long way to ensuring the oil and gas program catches up to the 21<sup>st</sup> Century.

As these reforms are considered, we believe Congress must also address the economic pain experienced in communities dependent on energy production, and the shortfalls in state budgets brought on by the downturn in fossil fuel markets. Although exacerbated by the pandemic, the workforce for the oil and gas industry has been in decline for years: Since 2014 the industry has lost nearly 20% of its workers.

States dependent on energy production for filling state coffers should of course take steps to diversify their economies and streams of revenue, but economies do not transform quickly. The fiscal reforms addressed in these bills will help bridge gaps in revenue as states undergo these transitions. Congress should also consider job training programs that help guide the transition, as



well as immediate investment in economic stimulus. The opportunity for investments in jobs restoring our public lands and waters in these and other communities is remarkable, and we urge Congress to consider these kinds of jobs in any economic recovery measure it considers. Not only would people be put to work, but we will help nature rebalance its ability to store carbon, deliver clean air and clean water, and provide bountiful wildlife habitat.

The National Wildlife Federation is grateful for the committee's attention to these important issues and for the opportunity to speak to them. Thank you.