To: House Committee on Natural Resources Republican Members
From: Subcommittee on Energy and Mineral Resources; Ashley Nichols Ashley.Nichols@mail.house.gov (202-226-3044), Rebecca Konolige – Rebecca.Konolige@mail.house.gov (202-226-1879) and Rob MacGregor – Robert.MacGregor@mail.house.gov (202-424-9615)
Date: September 19, 2022
Subject: Hybrid Legislative Hearing on H.R. 8802 (Grijalva), *Public Lands and Waters Climate Leadership Act*

The Subcommittee on Energy and Mineral Resources will hold a hybrid legislative hearing on H.R. 8802 (Grijalva), the Public Lands and Waters Climate Leadership Act on **Tuesday, September 20, 2022, at 11:00 a.m. EDT**, in room 1324 Longworth House Office Building and online via Cisco WebEx:

Republican Members are encouraged to take advantage of the opportunity to participate in person from the hearing room.

Member offices are requested to notify Ashley Nichols (Ashley.Nichols@mail.house.gov) **no later than Monday, September 19, 2022 at 4:30 p.m. EDT**, if their Member intends to participate in the committee room or remotely from another location. Submissions for the hearing record must be submitted through the Committee's electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- The United States has led the world in reducing emissions since 2005, even as oil and gas production has increased over the same period. This has largely been made possible by voluntary innovations lead by the energy sector. [1]

- H.R. 8802 would require the Secretary of the Interior to manage public lands and waters to minimize and mitigate greenhouse gas emissions to align with the emission reduction goals of the Biden administration. The bill primarily aims to do this by prohibiting new leasing on federal lands, until the Secretary of the Interior and the Chief of the Forest Service develop a plan to ensure that any new leasing and permitting is consistent with the Biden administration's goals.

[1] Institute for Energy Research, "Since 2005, U.S. Has Had Largest Decline in Carbon Dioxide Emissions Globally," October 27, 2021, https://www.instituteforenergyresearch.org/climate-change/since-2005-u-s-has-had-largest-decline-in-carbon-dioxide-emissions-globally/

- Blocking conventional energy development on federal lands for the foreseeable future would jeopardize thousands of good-paying American jobs and further restrict future energy supplies in the middle of a global energy crisis, driving up costs.

- Real emissions reductions – rather than merely outsourcing energy production – are best achieved by incentivizing domestic production, improving energy infrastructure, and empowering private industry to develop innovative solutions to address greenhouse gas emissions.

II. WITNESSES

- Kenny Stein, Policy Director at the Institute for Energy Research *[Republican Witness]*
- The Hon. Rosemary Ahtaungaruak, Mayor of Nuiqsut, Alaska
- Andrew Dessler, Professor of Atmospheric Sciences at Texas A&M University
- Abigail Ross Hopper, President and CEO of the Solar Energy Industries Association

III. BACKGROUND

Biden Administration Emission Reduction Goals: President Biden has set aggressive goals for electric grid decarbonization and renewable energy deployment, aiming to reduce emissions by 50 to 52 percent from 2005 levels by 2030, fully decarbonize the power grid by 2035, and become a net-zero emissions economy by 2050.[2] H.R. 8802 attempts to force these goals into reality by prohibiting new leasing on federal lands until 1) the Department of the Interior (DOI) and the U.S. Forest Service (FS) publish an Emissions Reduction Strategy for Public Lands and Waters to meet the Biden administration's stated targets, and 2) only resume leasing if the agencies jointly determine that new conventional energy production is consistent with such emissions reductions targets. These requirements would arbitrarily force conventional energy out of the market, regardless of whether sufficient alternative sources exist to "replace" such a loss of energy resources. This would result in an enormous shortfall in available power, the loss of hundreds of thousands of good-paying jobs, and millions in forgone state revenues.

Trends in U.S. Emissions: Between 2005 and 2020, the United States decreased its CO2 emissions by 24 percent; over the same 15-year period, CO2 emissions from the global energy sector grew by 14 percent.[3] In fact, the U.S. has had the largest global reductions in CO2 emissions by far since 2005.[4] Importantly, these reductions came at a time when oil production on federally-managed lands and waters reached an all-time high, hitting a record 1 billion barrels in Fiscal Year 2019.[5] The United States' emissions reductions are in stark contrast with trends in other large global economies. For instance, China saw staggering emissions increases over the last 15 years, emitting 23 times more carbon dioxide than the U.S. and all of Europe combined.[6]

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[2] The White House, *President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies*, https://bit.ly/3BZhJO3.
[3] Institute for Energy Research, "Since 2005, U.S. Has Had Largest Decline in Carbon Dioxide Emissions Globally," October 27, 2021, https://www.instituteforenergyresearch.org/climate-change/since-2005-u-s-has-had-largest-decline-in-carbon-dioxide-emissions-globally/.
[4] *Id.*
[5] Institute for Energy Research: Oil Production from U.S.-Managed Lands and Waters Tops a Record 1 Billion Barrels, February 13, 2020
[6] Institute for Energy Research, "Since 2005, U.S. Has Had Largest Decline in Carbon Dioxide Emissions Globally," October 27, 2021, https://www.instituteforenergyresearch.org/climate-change/since-2005-u-s-has-had-largest-decline-in-carbon-dioxide-emissions-globally/.

While the Biden administration has set very aggressive domestic net-zero and decarbonization goals, it is clear that a holistic consideration of global emissions will be necessary to make meaningful greenhouse gas reductions possible.

<u>Global Energy Demand:</u> Conventional energy resources will be a necessary component of the worldwide energy mix for many decades to come. The Energy Information Administration predicts a 50 percent increase in global energy consumption by 2050, with petroleum and other liquid fuels remaining the largest energy source, and natural gas increases expected as well.[7] The need for reliable, inexpensive energy is clearer now than ever in the wake of Russia's invasion of Ukraine and high gas prices continuing in the U.S. and Europe. Proposals by the Biden administration and Committee Democrats to stop conventional energy production on federal lands, such as the requirements laid out in H.R. 8802, will do nothing to stop market forces and will simply outsource energy demand to countries with inferior standards for both emissions and human rights. Instead, maximizing production in America will limit the need to import from other nations, reducing global emissions and high energy costs.

<u>Conflicts Between H.R. 8802 and Current Law:</u> H.R. 8802 is in clear conflict with existing oil and gas statutes. One of the main tenants of H.R. 8802 is a prohibition on new leasing until and unless DOI and FS determine that new leasing will not conflict with the emissions reductions targets of the Biden administration. At the same time, the bill says its provisions "shall [not] preempt or alter other requirements for lease sales and fossil fuel permits, including provisions under the Outer Continental Shelf Lands Act, the Mineral Leasing Act, the National Environmental Policy Act of 1969, and the Federal Land Policy and Management Act of 1976." This brings H.R. 8802 into conflict with several existing statutes. *The Mineral Leasing Act* (MLA; 30 U.S.C. 181 et seq.), for instance, has a requirement to hold quarterly onshore lease sales, which would not be aligned with the prohibition on new leasing laid out under H.R. 8802. The bill is also in conflict with new requirements in the *Inflation Reduction Act of 2022* (IRA),[8] which states that DOI cannot issue leases for renewable energy development unless recent oil and gas lease sales have been held. It is unclear how the provisions under H.R. 8802 would possibly execute, given their contradictions with standing law.

<u>Carbon Emissions from Other Sources:</u> H.R. 8802 fails to take into account emissions from any other sources except those produced from conventional energy on federal lands. For instance, catastrophic wildfires release millions of metric tons of carbon into the atmosphere. In 2021, wildfires in the western U.S. emitted 130 million metric tons of carbon, the equivalent of driving 28.3 million passenger cars for an entire year.[9] In just three months, 75 million metric tons were released from California, and 17 million tons from Oregon, due to fire alone.[10] For comparison, in 2019, California's entire electric power and commercial and residential sectors emitted only 102.6 million metric tons of carbon.[11] When U.S. travel came to a near halt after COVID-19 in 2020, the wildfires in California and Oregon alone wiped out all the resulting U.S. gains in

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[7] U.S. Energy Information Administration, EIA projects nearly 50% increase in world energy use by 2050, led by growth in renewables, Courtney Sourmehi, October 7, 2021, https://www.eia.gov/todayinenergy/detail.php?id=49876

[8] Public Law 117-169.

[9] New York Times, "California's Wildfires Had an Invisible Impact: High Carbon Dioxide Emissions," September 27, 2021, https://www.nytimes.com/2021/09/21/climate/wildfire-emissions-climate-change.html.

[10] New York Times, "California's Wildfires Had an Invisible Impact: High Carbon Dioxide Emissions," September 27, 2021, https://www.nytimes.com/2021/09/21/climate/wildfire-emissions-climate-change.html.

[11] California Air Resources Board, "Current California GHG Emission Inventory Data," https://ww2.arb.ca.gov/ghg-inventory-data.

emissions reductions.[12] Aside from the devastating effects of wildfires, even renewable energy production is not without a carbon footprint. Components for renewable energy technologies, such as solar panels and wind turbines, are largely imported to the United States from overseas;[13] overseas shipping produces approximately 1 billion metric tons of carbon dioxide every year, accounting for about three percent of the world's greenhouse gas emissions.[14]

<u>DOI Oil and Gas Leasing Programs Under the Biden Administration</u>: In his first days in office, President Biden issued three directives that have severely impacted oil and gas development on federal lands and waters and energy prices for American families: Secretarial Order 3395, Executive Order 13990, and Executive Order 14008. Specifically, Executive Order 14008 imposed an indefinite pause on new oil and gas leasing on U.S. federal lands and waters "pending completion of a comprehensive review."[15]

For offshore development, the federal leasing moratorium resulted in the cancellation of Gulf of Mexico Oil and Gas Lease Sale 257 and Planned Lease Sales 259 and 261. On June 15, 2021, U.S. District Judge Terry A. Doughty placed an injunction on DOI's unlawful moratorium and ordered the agencies to restart the leasing process.[16] In response, the Biden administration appealed the decision and continued to delay scheduling lease sales.[17]After an eight-month delay, the Bureau of Ocean Energy Management (BOEM) finally held lease sale 257 in November of 2021,[18] which generated $191 million in bonus bids,[19] indicating significant interest in continued oil and gas development on the Outer Continental Shelf. In January 2022, a federal judge invalidated the lease sale, ruling that the administration failed to do a proper environmental analysis.[20] In a political move, the Biden administration declined to appeal the decision, letting the sale get canceled. However, the recently passed *Inflation Reduction Act* (IRA) required the Biden administration to award the leases, which it finally did on September 14, 2022.[21]

This summer for the first time ever, the Biden administration let the existing Outer Continental Shelf 5-year offshore leasing program expire without having a new plan in place.[22] This casts

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[12] Dormido, Hannah, et al. "Smoke from Wildfires Wiped out the U.S. Pandemic-Related Clean Air Gains in 2020." The Washington Post, WP Company, 17 Mar. 2021, www.washingtonpost.com/climate-environment/2021/03/17/air-pollution-us-wildfires/.

[13] Energy Information Administration, "U.S. solar photovoltaic module shipments up 33% in 2020," September 2, 2021, https://www.eia.gov/todayinenergy/detail.php?id=49396.

[14] Jackie Northam, "Shipping industry is pressured to cut pollution caused by merchant fleet," NPR, December 1, 2021, https://www.npr.org/2021/12/01/1060382176/shipping-industry-is-pressured-to-cut-pollution-caused-by-merchant-fleet#:~:text=Every%20year%2C%20those%20container%20ships,of%20the%20cost%20of%20globalization..

[15] Exec. Order 14008, 86 Fed. Reg. 19, 7619 (Jan. 27, 2021).

[16] Partlow, Joshua and Eilperin, Juliet. Louisiana judge blocks Biden Administration's oil and gas leasing pause. https://www.washingtonpost.com/climate-environment/2021/06/15/louisiana-judge-blocks-biden-administrations-oil-gas-leasing-pause/

[17] Valerie Volcovici. "Biden administration appeals federal court decision to block oil, gas leasing pause." Reuters. August 16, 2021, https://www.reuters.com/world/us/biden-administration-appeals-federal-court-decision-block-oil-gas-leasing-pause-2021-08-16/

[18] Bureau of Ocean Energy Management. BOEM Rescinds Record of Decision for Gulf of Mexico Lease Sale. February 12, 2021, https://www.boem.gov/boem-rescinds-record-decision-gulf-mexico-lease-sale

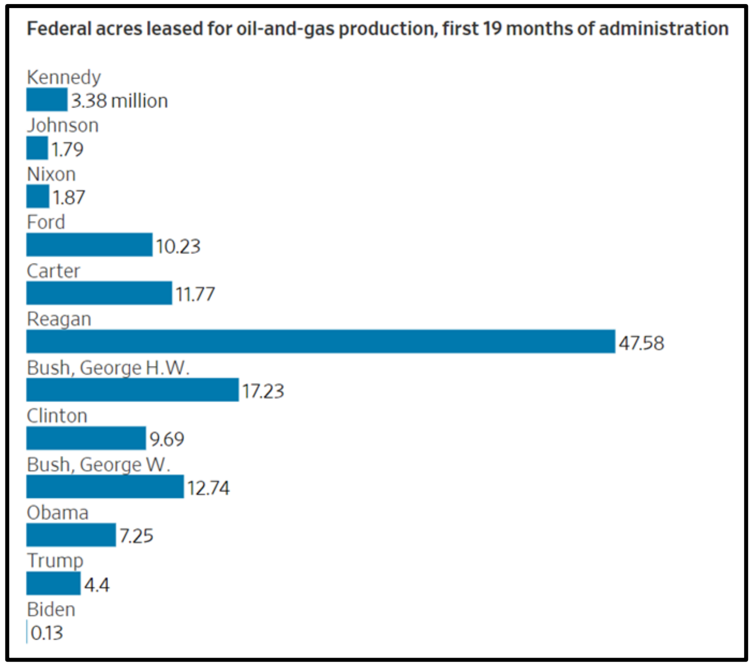
[19] Bureau of Ocean Energy Management. Gulf of Mexico Lease Sale Results Announced. November 17, 2021, https://www.boem.gov/newsroom/press-releases/gulf-mexico-lease-sale-results-announced

[20] The Wall Street Journal, Katy Stech Ferek, *Federal Judge Blocks Gulf of Mexico Drilling Leases, Citing Environmental Concerns: The Interior Department sold the oil-and-gas leases in November, but they had yet to take effect*, January 27, 2022, https://www.wsj.com/articles/federal-judge-blocks-gulf-of-mexico-drilling-leases-citing-environmental-concerns-11643339227?mod=article_inline

[21] The Wall Street Journal, Timothy Puko, Biden Administration Awards Offshore Oil-and-Gas Leases for 1.7 Million Acres in Gulf of Mexico: Sale is mandated by the tax-and-climate spending package approved by Congress, September 14, 2022, https://www.wsj.com/articles/biden-administration-awards-offshore-oil-and-gas-leases-for-1-7-million-acres-in-gulf-of-mexico-11663192635

[22] Energy In Depth, *IT'S 'EARLY SUMMER' PART DEUX: INTERIOR FAILS TO DELIVER 5-YEAR OFFSHORE PLAN*, 7/1/22, https://www.energyindepth.org/its-early-summer-part-deux-interior-fails-to-deliver-5-year-offshore-plan/

doubt on the timeline for the next offshore oil and gas lease sale, which may not be able to occur until late 2023 or 2024 because of this delay.



Source: *The Wall Street Journal*

For onshore development, the Biden administration did not hold a lease sale until June of this year. Unfortunately, this sale was largely watered down as it only offered 20 percent of the parcels that were originally included, and it implemented a 50 percent royalty hike.[23] As a result, only 110 square miles of the 200 square miles offered were bid on.[24]

To date, the Biden administration has leased fewer acres for oil and gas production offshore and on federal land than any presidential administration in its early stages dating back to the end of World War II.[25] Through August 20 of this year, the Biden administration has only leased 126,228 acres for production. No other president since Richard Nixon in 1969-1970 leased out fewer than 4.4 million acres at this stage in his first term.[26] The last president to lease out fewer acres (Harry Truman in 1945-46) didn't even have access to the deep-water leases that have made up the largest part of the federal oil and gas program.[27]

Last month, the U.S. 5th Circuit Court of Appeals temporarily reinstated the leasing moratorium,[28] but the next day, Judge Doughty of the Louisiana District Court ruled that the leasing moratorium was "beyond the authority of the President of the United States."[29] However, in his ruling Judge Doughty clarified that the block only applied to the 13 states that legally challenged the moratorium - Louisiana, Alabama, Alaska, Arkansas, Georgia, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Texas, Utah and West Virginia.[30] Additionally, last week, DOI settled with activist groups and agreed to conduct additional climate reviews, including incorporating the social cost of greenhouse gas emissions, for five

[23] Energy in Depth, FIRST BIDEN ADMINISTRATION ONSHORE LEASE SALES BRING IN NEARLY $22 MILLION, 7/1/22, https://www.energyindepth.org/first-biden-administration-onshore-lease-sales-bring-in-nearly-22-million/

[24] Associated Press, Matthew Brown, First oil sales on public land under Biden bring $22 million, June 30, 2022, https://apnews.com/article/biden-billings-climate-and-environment-government-politics-e2d9bb381672f26ea985c65407c728ae

[25] The Wall Street Journal, Timothy Puko and Anthony DeBarros, September 4, 2022, https://www.wsj.com/articles/federal-oil-leases-slow-to-a-trickle-under-biden-11662230816

[26] *Id*.

[27] *Id*.

[28] Bloomberg Government, Biden Freeze on Oil and Gas Leasing Is Reinstated for Now, August 17, 2022, https://www.bgov.com/next/news/RGRK9XDWLU6C

[29] E&E News Greenwire, Judge Revives Block on Biden Leasing Pause, 8/19/22, https://www.eenews.net/articles/judge-revives-block-on-biden-leasing-pause/

[30] *Id*.

federal oil and gas lease sales held in 2019 and 2020.[31] This settlement will not void the leases, but it will prevent the issuance of APDs and rights-of-way which will restrict development.

Changes to the Federal Leasing Programs: After much delay, on November 26, 2021, DOI released a report on the federal oil and gas leasing programs administered by the Bureau of Land Management (BLM) and BOEM.[32] The DOI report recommended several reforms to the leasing program that would drive up the cost of production on federal lands and waters under the guise of generating greater return to the taxpayer. The report advocated for policies similar to those included in Committee Democrats' tax and spend budget reconciliation package, such as raising rental fees, royalty rates, and bonus bids and bonding requirements – costs which will ultimately be passed onto the consumer in the form of even higher energy prices, which have already hit record highs this year. While DOI's report argued that its recommendations were consistent with fee and royalty requirements on state lands, it ignored the uncertainty, costs and regulatory challenges associated with developing on federal lands and waters.

Unfortunately, several recommendations from the report made it into the IRA, which was signed into law last month. The impacts of these changes will likely reduce the interest in future lease sales, resulting in a long-term decrease in U.S. production which will lead to increased energy costs and decreased energy security for America and its allies. For example, the IRA raised the royalty rate for onshore oil and gas leasing from 12.5 percent to 16.66 percent for ten years, increased bids and rental fees for onshore oil and gas production, imposed a new per-acre fee to nominate lease parcels.[33]

The IRA also requires the Department of the Interior to offer at least 2 million acres of federal land and 60 million offshore acres to oil and gas producers every year for the next decade as a prerequisite for an administration to permit wind-power and solar-power development on federal lands and waters.

IV. MAJOR PROVISIONS

- Establishes that it is the policy of the United States to aggressively reduce greenhouse gases (GHG) emissions to achieve the Biden administration's climate change commitments and that public lands should be managed to meet these goals.
- Requires the Secretary of the Interior to manage public lands and waters to minimize and mitigate greenhouse gas emissions and prohibits the Secretary from holding new lease sales or issuing new permits for fossil fuel development until the Secretary and the Chief of the Forest Service develop and release a report and action plan to ensure that any new leasing and permitting is consistent with reducing GHG emissions by 50 to 52 percent from 2005 levels by 2030, achieving a 100 percent carbon-free electricity grid by 2035 and net-zero emissions by 2050.

[31] The Wall Street Journal Editorial Board, *Biden Freezes Oil and Gas Leases: Calling Joe Manchin: Interior uses 'sue and settle' to suspend Trump-era approvals*, 9/13/22, https://www.wsj.com/articles/biden-freezes-oil-and-gas-leases-joe-manchin-west-virginia-climate-energy-chuck-schumer-11663093146

[32] U.S. Department of the Interior. Report on the Federal Oil and Gas Leasing Program. November 26, 2021. https://www.doi.gov/sites/doi.gov/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf

[33] Public Law No: 117-169.

- Requires the Secretary and the Chief of the Forest Service to develop an Emissions Reduction Strategy for Public Lands and Waters and update it every 3 years.
- Prohibits the Secretary from holding lease sales until the Emissions Reduction Strategy on Public Lands and Waters is finalized unless the Secretary determines that there is progress on developing the strategy and the sales are consistent with reaching climate targets.
- Clarifies that this bill shall not preempt or alter requirements for lease sales in the mineral leasing laws.
- Imposes detailed consultation and public comment requirements for development of the strategy.
- Requires the Secretary to develop a climate screening tool for future lease sales that considers whether such sales are consistent with meeting climate targets and whether resulting production would be economically viable.
- Requires the Secretary to post information online about each fossil fuel operation on federal lands, the level of production, whether and how much gas is vented and flared, and the amount of energy supplied by renewable energy projects on federal lands.
- Directs the Secretary to collect nonrefundable severance fees from operators and provide the revenues to States to diversify their economies to reduce reliance on coal, oil, and gas.

V. COST

This bill has not received a formal Congressional Budget Office (CBO) cost analysis.

VI. ADMINISTRATION POSITION

The Biden administration's position on these bills is unknown at this time.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

None.