Subcommittee on Energy and Mineral Resources

Doug Lamborn, Chairman

Hearing Memorandum

February 29, 2016

To: All, Subcommittee on Energy and Mineral Resource Committee Members

From: Majority Committee Staff
Subcommittee on Energy and Mineral Resources, x5-9297

Hearing: Oversight Hearing entitled *"The Impact of the President's FY 2017 Budget on the Energy and Mineral Leasing and Production Missions of the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, and the Bureau of Land Management"*

The subcommittee hearing will take place on **Wednesday, March 2nd at 10:00a.m. in Room 1324 Longworth House Office Building.** This hearing will focus on the FY 2017 budget proposals put forward by Bureau of Ocean Energy Management (BOEM), the Bureau of Safety and Environmental Enforcement (BSEE), and the Bureau of Land Management (BLM) – the three major federal agencies at the Department of the Interior charged with overseeing the safe and expedient exploration and production of domestic resources on both offshore and onshore federal lands.

<u>Policy Overview</u>

- Four years ago, President Obama told the American people that "we can't drill our way to lower gas prices." In reality, that is exactly what has happened.

- While energy production has seen a slight increase over the past year, it still pales in comparison to the production growth rates on state and private lands. There is potential to do much better.

- Leasing on federal lands is at an all-time low – especially given the most recent cancelations of both onshore and offshore lease sales. This will only lead to future production shortfalls and lost revenue for the federal government.

- In the current price environment, vast regulatory uncertainty can make or break future energy development on public lands and threatens to pull back the great strides made towards an energy independent future.

- Reducing the burden of onerous and overly prescriptive federal regulations will attract more investment in federal energy resources.

- Federal agencies are failing to meet their statutory duties to continue to lease federal lands to maintain our nation's energy superiority for future generations.

Witnesses Invited

Ms. Abby Hopper
Director, Bureau of Ocean Energy Management
U.S. Department of the Interior
Washington, D.C.

Vice Admiral Brian Salerno (USCG, Ret.)
Director, Bureau of Safety and Environmental Enforcement
U.S. Department of the Interior
Washington, D.C.

Mr. Neil Kornze
Director, Bureau of Land Management
U.S. Department of the Interior
Washington, D.C.

Hearing Focus

This hearing will focus on the spending priorities outlined in the President's FY17 budget for BOEM, BSEE, and the BLM and how their projected activities will impact the safe and efficient development of both oil and gas and renewable energy on our nation's public lands.

Rotary Rig Count
2/26/2016
BAKER HUGHES

Location	Week	+/-	Week Ago	+/-	Year Ago
Land	473	-14	487	-735	1208
Inland Waters	2	0	2	-6	8
Offshore	27	2	25	-24	51
United States Total	502	-12	514	-765	1267
Gulf Of Mexico	27	2	25	-22	49
Canada	175	-31	206	-155	330
North America	677	-43	720	-920	1597

While energy production surges forward on state and private lands, the Administration is holding back leasing on lands that are not being utilized to their full and intended potential. The benefits of surging domestic crude production are undeniable: U.S. crude supplies are nearing a record high[1], dependence on foreign oil is the lowest we have seen in decades,[2] and perhaps most importantly, our boost to the world supply means that American families are paying less at the pump and spending less to pay their energy bills. While the President in years past has stated that we cannot "drill our way to lower prices," indeed that is exactly what has occurred. In 2015, gasoline prices were the lowest they have been since 2009 – and that is due to increased crude supply, lowering the global price of crude.[3]

[1] https://www.eia.gov/petroleum/weekly/archive/2016/160224/includes/analysis_print.cfm
[2] http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mttntus2&f=a
[3] http://www.eia.gov/todayinenergy/detail.cfm?id=24452

The United States' federal energy resources are a critical component of our domestic energy portfolio - yet this production is being far outpaced by energy production on state and private lands. While federal crude production increased in 2015 by 11%, it is still below production in 2010. Since 2010, production on state and private lands has grown by 114%, while production on federal lands has decreased by .1%. (See chart below; data compiled from CRS). Increasingly, companies look to state and private lands for energy development due to the federal government's choice to lease less acreage for energy development and further restrict that development with increased regulatory red tape. This Administration's actions have done little to reinvigorate investment in federal leasing.

U.S. Crude Oil Production: Federal and Non-Federal Areas FY2010-FY2014 (Barrels per day)

Fiscal Year	**U.S. Total**	**Non-Federal**	**Total Federal (% of U.S. Total)**	**Federal Offshore**	**Federal Onshore**
2015	9,415,000	7,437,000	1,978,000 (21)	1,485,000	493,000
2014	8,324,000	6,545,000	1,779,000 (21)	1,372,400	406,200
2013	7,261,200	5,583,300	1,677,900 (23)	1,303,300	374,600
2012	6,249,000	4,603,500	1,645,500 (26)	1,302,800	342,700
2011	5,550,200	3,775,700	1,774,400 (32)	1,454,300	320,100
2010	5,446,500	3,466,300	1,980,200 (36)	1,685,200	295,000

The pending Draft 5-year plan proposes the lowest number of lease sales in history – and recent statements by Department employees cast doubt over whether or not the final plan will actually include areas of the Atlantic that enjoy bipartisan support. The Administration has canceled two Arctic lease sales under the current 5-year plan as well. The BLM has leased over 50% less acreage per year than the Clinton Administration, and canceled or postponed no less than ten onshore lease sales in 2015 alone.

Additionally, the onslaught of regulations promulgated by BOEM, BSEE and the BLM (well-control, venting and flaring, hydraulic fracturing, onshore orders 3, 4, 5, offshore air regulations, offshore bonding, Arctic rule, to name a few) when compiled with the current price environment are preventing private investment in leasing and development on federal lands.

The BSEE's well-control rule is a case study into how prescriptive federal regulations could potentially impair projected federal production increases and future leasing activity. The rule, currently under review at the Office of Management and Budget (OMB) prior to finalization, includes provisions such as setting a strict drilling margin to which companies must adhere. The path by which a company may deviate from this specific provision of the rule is yet unclear – casting greater uncertainty over future projects. According to data submitted by during the public comment period, roughly 110 wells (or 63%) of the 175 deepwater wells drilled in the

Gulf of Mexico since 2010 have deviated from this specific drilling margin contained in the proposed rule[4] and therefore would not have been in compliance with this newly proposed regulation. All wells were drilled safely and without encountering significant well control incidents. These wells, which have contributed to the increased offshore production lauded by DOI, could not have been drilled under the prescriptive requirements of the well-control rule. This is why an independent Quest study[5] found that if enacted, 20 fewer exploration wells and 29 fewer development wells will be drilled annually under the proposed well-control rule, leading to an overall 15% decline in offshore production.

Rather than demonstrating a commitment to reversing this trend in the FY17 budget, the budget put forward by BOEM, BSEE and BLM, clearly show expected shortfalls in revenues derived from leasing – and an increased burden on taxpayers to foot the bill for these shortfalls. This hearing will provide an opportunity to ensure that BOEM, BSEE and BLM are held accountable for their funding requests they have made and that this funding is allocated in such a way that addresses the multiple-use mission of federal lands that allows for the expedient and safe leasing and development of our nation's energy resources.

Bureau of Ocean Energy Management (BOEM)

FY16 President's Request	$171 million
FY16 Enacted	$171million
FY17 President's Request	**$175 million**

BOEM is charged with overseeing the planning for development of our nation's outer continental shelf resources. Its duties include leasing activities, review and approval of exploration and development plans, seismic permitting, environmental studies including NEPA analysis, and resource evaluation. As of February 2016, BOEM oversees 4,985 active leases in the OCS – down from 5,961 in February 2015. This total leased acreage represents less than 2% of our nation's 1.71 billion OCS acreage. The greatest loss in active leases is from those in the Gulf of Mexico, losing 896 active leases over the last year alone (5,311 in 2015; 4,415 in 2016;).

BOEM has requested $175.1 million for FY17, an increase of $4.3 million over FY16's enacted amount; $97 million of this request is from offsetting collections from rental receipts and cost recovery fees. This includes:

As of February 1, 2016

Planning Areas by Region[1]		Total Blocks	Total Acres	Number of Active Leases[2,6]	Acreage of Active Leases	Number of Producing Leases[3]	Acreage of Producing Leases	Number of Non-Producing Leases[3,4]	Acreage of Non-Producing Leases
Gulf of Mexico									
	Western	5,240	28,576,813	899	5,103,082	90	501,434	809	4,601,648
	Central	12,409	66,446,351	3,471	18,390,758	801	3,887,608	2,670	14,503,150
	Eastern	11,526	64,563,679	48	264,030	0	0	48	264,030
Region Subtotal		29,175	159,586,843	4,415	23,757,870	891	4,389,042	3,524	19,368,828
Pacific[6]									
	Southern California	16,164	89,028,609	43	217,669	43	217,669	0	0
Region Subtotal		16,164	89,028,609	43	217,669	43	217,669	0	0
Alaska[5]									
	Beaufort Sea	11,876	65,075,663	77	387,943	3	10,424	74	377,519
	Chukchi sea	11,472	62,594,455	450	2,547,725	0	0	450	2,547,725
	Cook Inlet	1,093	5,356,420	0	0	0	0	0	0
Region Subtotal		24,441	133,026,538	527	2,935,668	3	10,424	524	2,925,244
Totals		69,780	381,641,990	4,985	27,447,976	968	4,752,793	4,048	22,695,183

Updated Monthly

4 http://www.regulations.gov/#!documentDetail;D=BSEE-2015-0002-0154; p. 4.
5 http://www.api.org/~/media/files/news/2015/15-july/bsee%20proposed%20well%20control%20rule%20cost%20and%20economic%20analysis.pdf

- $2,895,000 (+15 FTEs) to administer a new offshore oil and gas and renewable liability program and hire subject matter experts in insurance risk, legal and credit analysis areas – associated with new bonding regulations.

- $867,000 million (+3 FTEs) for resource evaluation and development activities, citing an anticipated increase in workload due to new regulations.

- $1.6 million (+0 FTEs) for special pay authorizations to hire and keep skilled candidates and remain competitive with industry hiring practices.

Projected Rental Revenue Losses covered by Taxpayer Dollars

Currently, a significant portion of BOEM's budget derives from offsetting receipts in the form of offshore rental fees – fees that a company pays to hold an active offshore lease prior to commercial development. Unfortunately, the number of active leases managed by BOEM has fallen by 976 since last year alone which resulted in a net decline in rental receipt revenues which offset appropriations. BOEM's FY17 budget forecasts significant shortfalls in future rental receipts (see chart[6]). While BOEM claims the predominant reason for such shortfalls is current price volatility in the oil market, the onslaught of federal regulations and uncertainty in the offshore arena under this Administration has undoubtedly contributed to these projected revenue shortfalls. A forecast that predicts fewer offshore active leases goes hand-in-hand with a shrinking workload for the bureau and therefore obvious budgetary reductions. Yet, the bureau proposes to maintain funding through greater appropriations of taxpayer dollars to subsidize this loss in offshore activity. Specifically, offsetting revenue in FY17 for BOEM and BSEE is projected to be $15.9 million below FY16 levels and the Department requests taxpayer dollars to fill this void.

Increased Spending for New Red Tape

BOEM also requests a net increase of $4.2 million for management of its conventional energy programs – anticipating that "regulations designed to promote environmentally responsible development"[7] will create additional workload. The number of active leases has significantly fallen since last year. While most of those leases are in the Gulf of Mexico, the figure undoubtedly includes Arctic leases returned by Statoil and Conoco due to a price environment made more difficult by the impending Arctic regulations. BOEM also utilizes this funding for resource assessment activities through the acquisition of seismic data and for the lease sale planning process – though several scheduled lease sales in the Arctic have been canceled reducing the overall lease sale planning workload. Additionally, BOEM has yet to issue one seismic permit of the pending eight applications predominately due to interagency permitting delays with NOAA.

Table 22: Comparison of Offsetting Rental Receipt Projections

Comparison of Offsetting Rental Receipt Projections
(dollars in millions)

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
FY 2016 Baseline	142.36	142.36	142.36	142.36	142.36	142.36	142.36	142.36	142.36	142.36
2016 President's Budget ($78.69/bbl)	142.36	142.86	131.16	112.82	111.00	116.38	110.93	108.36	108.86	98.32
Surplus/Shortfall (vs. 2016 Baseline)	*0.00*	*0.50*	*-11.20*	*-29.54*	*-31.36*	*-25.98*	*-31.43*	*-34.00*	*-33.50*	*-44.04*
2017 President's Budget ($49.08/bbl)	131.94	126.41	109.34	86.27	79.45	79.37	70.05	64.19	61.47	60.06
Surplus/Shortfall (vs. 2016 Baseline)	*-10.42*	*-15.95*	*-33.02*	*-56.09*	*-62.91*	*-62.99*	*-72.31*	*-78.17*	*-80.89*	*-82.30*

FY15 offshore energy leasing activities by BOEM generated revenue to the U.S. Treasury in the form of bonus bids, with oil and gas leasing activities generated $642 million and wind leasing activities generated $9 million.

Bureau of Safety and Environmental Enforcement (BSEE)

FY16 President's Request	$204.7 million
FY16 Enacted	$204.7 million
FY17 President's Request	**$204.9 million**

BSEE is charged with enforcing the safety and environmental regulations which govern production of resources from the OCS. Its duties include permitting review and approvals, research, inspections, and oil spill response. In 2015, BSEE approved 12 applications for permits to drill new wells in shallow water and 69 in deepwater in the Gulf of Mexico.[8] Of the 4,985 active leases on the OCS, 968 producing leases account for 16% of total U.S. crude oil production and 5% of total U.S. natural gas production.[9]

The BSEE request reflects a net increase of roughly $200,000 over FY16 levels; though given projected decreases in offshore rental receipts, BSEE proposes to increase their direct appropriation of taxpayer dollars by $ 7.9 million. Funding priorities include: $3.9 million (+0 FTEs) for continued special pay dispensation to attract and retain highly skilled professionals and remain competitive with industry hiring practices, and $15 million for continued oil spill research conducted at the National Oil Spill Response Research and Renewable Energy Test Facility in New Jersey, which is appropriated from the Oil Spill Liability Trust Fund.

New Regulations on Future Offshore Drilling, Proposals to Eliminate Gulf Revenue Sharing

BSEE's highly contentious well control rule was recently sent to the Office of Management and Budget for final review – and as drafted offers little certainty to private enterprise making investment decisions for future operations in the Gulf of Mexico and beyond. Additionally, the pending Arctic Rule has only compounded existing concerns on price volatility with regulatory uncertainty. A report by Baker Hughes shows that a year ago this week the rig count in the Gulf of Mexico was at 51, today it is at 27.[10] Recent announcements that companies have relinquished their Arctic leases are indicative of the impact that regulatory uncertainty has in the current price environment. BSEE's budget projects fewer companies to invest in offshore leasing in the future – leading to declines in rental revenues in future years. BSEE relies on this revenue to offset budgetary expenses, which is why BSEE's FY17 budget proposes to ask taxpayers to foot the bill for these projected shortfalls.

Elimination of GOMESA Revenue Sharing

Once again in FY17, the Administration proposes to eliminate revenue sharing currently promised to four Gulf states under the Gulf of Mexico Energy Security Act (GOMESA). At the state level, this revenue is dedicated to hurricane protection efforts, coastal restoration, and other

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[8] http://www.bsee.gov/Exploration-and-Production/Permits/Status-of-Gulf-of-Mexico-Well-Permits/
[9] FY16 Bureau of Safety and Environmental Enforcement Budget Justification, page 3.
[10] http://phx.corporate-ir.net/phoenix.zhtml?c=79687&p=irol-reportsother

conservation efforts. The Administration proposes to end this funding and instead direct this revenue towards establishment of a $2 billion Coastal Climate Resilience program. The program would put the federal government in control of allocating funds to states and local governments to adapt to climate change.

<u>Bureau of Land Management (BLM)</u>

FY16 President's Request	$1.35 billion
FY16 Enacted	$1.25 billion
FY17 President's Request	**$1.26 billion**

The BLM and its 9,641 employees manage approximately 245 million acres of land, and 700 million acres of sub-surface mineral estate.[11] The BLM defines its mandate as "manag[ing] the national public lands for multiple use and sustained yield," which "requires the agency to take into consideration the diversity of interests and values associated with the Nation's natural and cultural resources when making land use decisions."[12]

The BLM seeks a $7.1 million increase in spending and an increase of 86 employees – this however does not fully capture the spending BLM is seeking for discrete programs within its jurisdiction, for instance:

- An increase of $15.2 million and 25 FTE to "provide effective oversight of onshore oil and gas operations" and to support implementation of new rules and regulations.[13]
- An increase of $14.2 million for sage grouse conservation, to "implement actions to reduce threats to Greater Sage-Grouse habitats."[14]
- No change in the $11.0 million of funding for the BLM's coal program – despite a secretarial order imposing a moratorium on new leases.[15]

Cost-Prohibitive Regulations will accelerate the Trend of Decreased Leased Acreage

The BLM requests $80.6 million for its Oil and Gas Management sub-activity – the account responsible for leasing, inspections, and regulatory activity on BLM managed land.[16] This request is $20.6 million more than FY16's enacted amount, and would allow for 351 employees.

The BLM currently has 13 final and proposed rulemakings ongoing.[17] However, this list fails to capture regulations that are currently judicially enjoined – such as the federal hydraulic fracturing rule. For FY17, the BLM seeks a $13.1 million increase solely to fund the imposition of its aggressive regulatory agenda, which includes rules such as the "Waste Prevention" rule

[11] BLM 2017 Budget Justification at I-1, I-2.
[12] BLM 2017 Budget Justification at I-1.
[13] BLM 2017 Budget Justification at VII-101.
[14] BLM 2017 Budget Justification at VII-66.
[15] BLM 2017 Budget Justification at VII-114.
[16] BLM 2017 Budget Justification at VII-99.
[17] *See* Agenda Rule List – Fall 2015: Department of the Interior, *available at* http://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=1000&Image58.x=36&Image58.y=12&Image58=Submit/.

estimated by the BLM to cost operators between $117 and $174 million annually.[18] For operators, 5 of the most costly proposed and finalized rules will lead to one-time costs of $156.6 million and annual costs from $222.6 to $279.6 million (*see chart below*).

Five of the More Costly Regulations to be Finalized or Enforced in FY17

Regulation Name	**BLM Estimated Costs**
Onshore Order 3	$121.5 M (one-time) + $13.5 M (annually)[19]
Onshore Order 4	$2.1 M (one-time) + $.6 M (annually)[20]
Onshore Order 5	$33 M (one-time) + $46 M (annually)[21]
Waste Prevention	$117 M to 174 M (annually)[22]
Federal Hydraulic Fracturing	$45.5 M (annually)[23]
TOTAL COSTS	**$156.6 M (one-time) + 222.6 M to 279.6 M (annually)**

In FY15, the BLM held 23 lease sales, offering 1,654 parcels that totaled 5.5 million acres.[24] Of those acres, only 823,763 received bids on a total of 877 parcels. In total, the BLM netted $179 million in bids.[25] This represents a drop in bid upon acres of 95,615, and a corresponding loss of $23 million in revenue.[26] Although these numbers fail to capture those leases that were obtained non-competitively, they do reflect the trend that has continued throughout the Obama administration – a steady annual decrease in leased acreage, as witnessed by the precipitous decline in total leased acreage from 47.2 million to 34.6 million.[27]

Furthermore, the negative trend of the number of active leases and leased acreage will likely continue through FY16. Already, the administration has postponed several lease sales for FY16 due to the erroneous claim that it requires larger venues to accommodate protesters who actively seek the disruption of such sales.[28] These questionable postponements are likely to continue, despite the BLM's authority to seek judicial relief against those who "organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions" of the mineral leasing act.[29] Additionally, there is no need for the BLM to hold

[18] BLM, Regulatory Impact Analysis for Waste Prevention, Production Subject to Royalties, and Resource Conservation, at 4-5.
[19] 80 Fed. Reg. 40792
[20] 80 Fed. Reg. at 58965.
[21] 80 Fed. Reg. at 61685.
[22] BLM, Regulatory Impact Analysis for Waste Prevention, Production Subject to Royalties, and Resource Conservation, at 4-5.
[23] 80 Fed. Reg. at 16208.
[24] BLM, Recent Oil & Gas Lease Sales, *available at* http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/recent_lease_sales.html (numbers obtained by adding the results for the fiscal year ending September 30, 2015).
[25] *Id.*
[26] *Id.* (numbers calculated by adding the results for the fiscal year ending September 30, 2014).
[27] BLM, Total number of Acres Under Leas As of the Last Day of the Fiscal Year, http://www.blm.gov/style/medialib/blm/wo/MINERALS__REALTY__AND_RESOURCE_PROTECTION_/energy/oil___gas_statistics/data_sets.Par.67327.File.dat/numberofacresleasedlastday.pdf.
[28] *See* Dec. 16, 2015 letter from Chairman Rob Bishop, *et al*, to Janice Schneider, Asst. Sec. of the U.S. Dep't of the Interior, *available at* http://naturalresources.house.gov/uploadedfiles/blm_letter_12_16_15.pdf.
[29] 30 U.S.C. § 195.

physical auctions, as they have been authorized to conduct lease sales online.[30] Each of these postponements, and cancelled sales, represent lost revenues for the American people to the tune of $220 per acre bid.[31]

These imposing regulations and questionable leasing practices will continue to dissuade producers from federal land, leading to a decrease in federal royalties returned to American taxpayers. This is a trend that must stop, as the BLM received $366 million less from oil in FY 2015 than the amount returned in FY14.[32]

Same Funding Levels for Coal Management despite Unlawful Ban on New Leases

The current 2016 funding levels for BLM's coal management program represented an increase of $1.3 million over 2015 levels to $11.0 million.[33] For FY17, the BLM requests a maintained funding level despite a "Secretarial Order that place[d] a pause on new [federal coal] leasing."[34] This order is being justified by a BLM review of:

The appropriate leasing mechanisms to determine how, when and where to lease;
How to account for the environmental and public health impacts of the coal program; and
How to ensure the sale of these public resources results in a fair return.[35]

Essentially, the BLM has halted new lease sales indeterminately until it finishes the programmatic environmental impact statement that will review the previous questions.

This unprecedented pause on new lease sales will result in immediate losses on federal revenues. For instance, in FY15, the BLM received $20.9 million in bids for three new leases of federal land for coal.[36]

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[30] *See* Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. No. 113-291, § 3022, 128 Stat. 3292, at 3762.
[31] Calculated by dividing total receipts by acreage receiving bids.
[32] Numbers obtained from Office of Natural Resources Revenue, Statistical Information, *available at* http://statistics.onrr.gov/ReportTool.aspx.
[33] BLM 2017 Budget Justification at VII-113.
[34] BLM 2017 Budget Justification at VII-114.
[35] BLM 2017 Budget Justification at VII-114.
[36] *See* BLM, Successful Competitive Lease Sales Since 1990, Utah, Colorado, Eastern States, *available at* http://www.blm.gov/ut/st/en/prog/energy/coal/coaltables.html; http://www.blm.gov/co/st/en/BLM_Programs/minerals/coal_table.html; http://www.blm.gov/es/st/en/prog/minerals/coal/tables.html.