Subcommittee on Energy and Mineral Resources
Doug Lamborn, Chairman
Hearing Memo

March 24, 2015

To: All Natural Resource Committee Members

From: Subcommittee on Energy and Minerals Staff (x5-9297)

Hearing: Oversight budget hearing titled the *"Effect of the President's FY 2016 Budget and Legislative Proposals for the Bureau of Land Management and the U.S. Forest Service's Energy and Minerals Programs on Private Sector Job Creation, Domestic Energy and Minerals Production and Deficit Reduction."*

The Subcommittee on Energy and Mineral Resources hearing will take place on **Thursday, March 26th at 9:30 A.M. in Room 1324 Longworth House Office Building.** This hearing will focus on the budget proposals put forward by the U.S. Bureau of Land Management and the U.S. Forest Service, with particular focus on each entity's leasing activities, as well as their exploration and production of energy.

Policy Overview

- The regulatory and legislative proposals put forth by the Bureau of Land Management seek to increase fees and further burden energy production on federal lands at a time when oil and gas prices are at record lows.
- The hydraulic fracturing rule finalized on March 20, 2015 is duplicative of existing state regulations and will further discourage and delay production on federal lands.
- Although oil production has increased on *onshore* federal lands, this has occurred despite the actions of this administration, as the BLM currently averages the number amount of new leases for the least amount of acreage compared to the prior three administrations.
- The U.S. Forest Service has decreased by over 50% the amount of mineral applications it has processed since 2009, which in turn has led to a 30% drop in the number of mineral operations it administers.
- The Obama Administration seeks to cut the budget of key programs within the U.S. Forest Service, which will decrease the agency's responsiveness to develop lease plans on national forests and national grasslands – and could lead to a decrease of $42 million in revenue for the U.S. Treasury.
- Since 2009, coal production on federal lands has fallen from approximately 460 million tons produced annually to 400 million tons, while natural gas produced has decreased from 3.167 trillion cubic feet to 2.477 trillion cubic feet.

Witnesses Invited

Neil Kornze
Director, Bureau of Land Management

Tom Tidwell
Chief, U.S. Forest Service

Hearing Focus

This hearing will focus on the spending priorities outlined in the President's FY 2016 budget justifications for the U.S. Bureau of Land Management (BLM) and the U.S. Forest Service (USFS). It will examine how the agencies' projected activities and spending priorities will affect energy production in our nation.

Currently, *onshore* federal production of oil on BLM managed lands has increased from 104 million barrels in FY 2009 to 148 million barrels in FY 2014.[1] That said, the increase in oil production is not indicative of the Obama Administration's policies, but despite them. Indeed, of the 46,183 currently active federal leases only 9,922 **(21.5%)** at most were approved under this Administration.[2] Supporting this is the calculation that the average age of current active leases is at the very least 12.6 years. Therefore, it is conclusive that the majority of the leases currently in effect and producing on federal lands were signed under prior administrations, and that the increase in production is more a testament to those administrations' desire to offer leases and the sheer resilience of those lessees who have achieved production.

The proposed budgets will be used to enforce and implement the costly regulations, such as the BLM's hydraulic fracturing rule and the proposed increase in royalty rates for new onshore leases, which are poised to arrive at a time when oil and natural gas prices are at 5-year lows. BLM's own estimate for compliance with the final hydraulic fracturing rule indicated a cost to industry of over $32 million per year.[3] Independent estimates have suggested the rule could cost over $300 million per year.[4] These regulations could strike a crippling blow to the industry that has been at the heart of the nation's oil and gas boom, helping with recovery from the economic downturn.

---

[1] This number excludes tribal lands. Office of Natural Resources Revenue, Sales Volume by Sales Year from FY 2009 to FY 2014 for Federal Onshore Statistics, http://statistics.onrr.gov/reporttool.aspx.

[2] Bureau of Land Management, Summary of Onshore Oil and Gas Statistics 1988 - 2014, http://www.blm.gov/style/medialib/blm/wo/MINERALS__REALTY__AND_RESOURCE_PROTECTION_/energy/oil___gas_statistics/data_sets.Par.69959.File.dat/summary.pdf.

[3] Bureau of Land Management, Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands, at 328, http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/news_release_attachments.Par.6134.File.tmp/HF-Final-Agency-Draft.pdf.

[4] http://www.westernenergyalliance.org/wp-content/uploads/2013/07/Final-Economic-Analysis-of-the-BLM-Fracing-Rule-Revision.pdf.

This hearing will ensure that the BLM and USFS are held accountable for their funding requests, that this funding is allocated in a way that promotes energy development on federal lands, and that safe operations continue without duplicative and overly bureaucratic new regulations.

Bureau of Land Management (BLM)

FY15 President's Request	$1.113 Billion
FY15 Enacted	$1.212 Billion
FY16 President's Request	**$1.352 Billion**

The BLM and its 9,745 employees exclusively manage over 247.2 million acres of land and nearly 700 million acres (approximately one third) of the nation's on-shore mineral estate.[5] The BLM's jurisdiction allows it to dictate uses of public lands for activities such as recreation, wildlife and open space, but also requires the BLM to ensure the production of energy and minerals, forage, forest products, and other goods to the Nation.

BLM has requested an increase of $140 million for FY 2016 over the FY 2015 enacted amount.[6] This funding increase includes:

- $3 million (+25 full time equivalents (FTEs)) for Oil and Gas Pilot/Project Offices to implement the hydraulic fracturing regulation, and reduce the backlog of applications for permit to drill ("APD").[7]
- $6.874 million (+15 FTEs) for the initiation of new oil and gas inspection fees, which the BLM anticipates to generate $48.0 million in collections at a cost to industry.[8]
- $37 million (+20 FTEs) for the implementation of Sage-Grouse Conservation Plans, which aim to restore and conserve habitat across 27 priority areas in 11 states.[9]

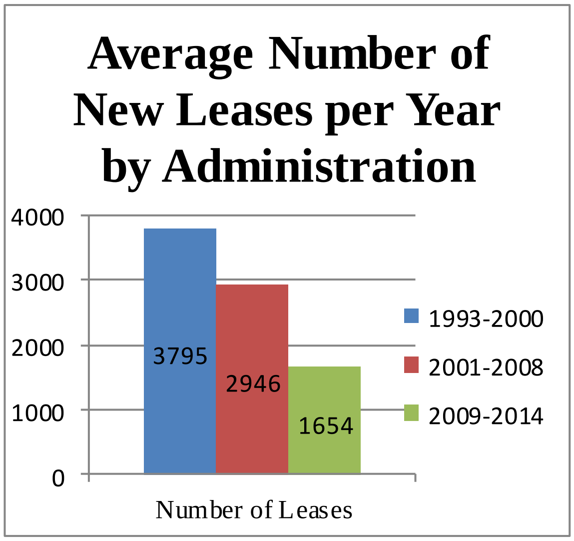
Decreased Leases for Decreased Acreage

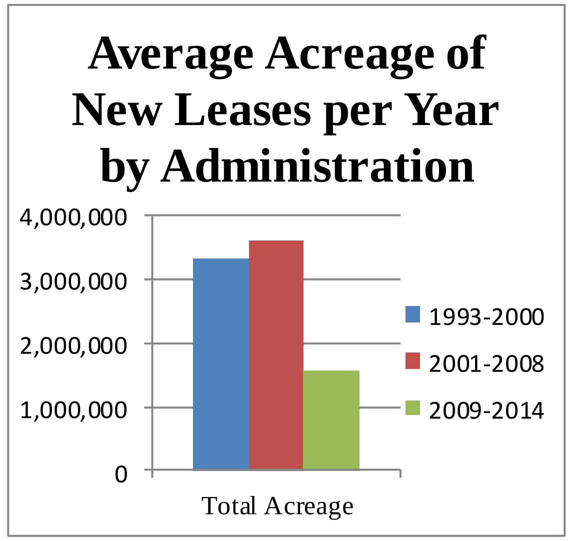
For BLM's *Oil and Gas Management sub-activity*, the BLM seeks total $66.796 million and 372 FTEs.[10] This sub-activity is responsible for oil and gas management, including leasing, and inspections on BLM managed land.

As the charts on the following page demonstrate, the BLM has issued on average **56.4%** fewer leases per year than were issued during the Clinton Administration for **53.0%** less acreage. As evidenced by these percentages BLM has continued to diminish its offerings of leases and available acreage. These limited offerings have led to a decrease from FY 2009 to FY 2014 in

[5] U.S. Bureau of Land Management, FY2016 Budget Justification, at I-2.
[6] *Id.* at I-10.
[7] *Id.* at VII-97.
[8] *Id.* at VII-98, VII-99.
[9] *Id.* at VII-64.
[10] *Id.* at VII-95.

active leases from 53,431 in to 46,183, and a decrease in acreage leased from 45,364,991 to 34,592,450. Likewise, the total number of APDs approved for federal land has fallen from 4,487 to 3,769 and the number of new wells spud each year has fallen from 3,267 in FY 2009 to 2,544 in FY 2014.[11] The budget justification does not propose anything to counter this troubling trend.





Source: Bureau of Land Management, Summary of Onshore Oil and Gas Statistics 1988 - 2014

A common argument forwarded by the Obama Administration in defense of the plunging acreage is that industry is not interested in leasing the land offered; for instance, in FY 2014 only 919,738 acres of a total 5,683,736 received bids.[12] This argument is overly broad and excludes two key considerations: 1) whether those areas available for lease have economically recoverable resources; and 2) whether regulatory certainty exists in the areas available for lease.

For instance, 4,458,146 of the acres offered in FY 2014 were in the "National Petroleum Reserve – Alaska," an area that has yet to produce under any federal regime, despite being offered for lease since 1999. [13] Compared to the acreage in Wyoming that was offered by BLM – a state that has a high potential for economically recoverable resources, and the only approved Greater Sage Grouse management plan – it is understandable why there exists such disparity in the percentage of lands receiving bids. Excluding the NPRA acreage, the BLM in FY 2014 only offered 1,225,590 acres, of which 674,085 (55.0%) received bids.

---

[11] Bureau of Land Management, Summary of Onshore Oil and Gas Statistics 1988 - 2014, http://www.blm.gov/style/medialib/blm/wo/MINERALS__REALTY__AND_RESOURCE_PROTECTION_/energy/oil___gas_statistics/data_sets.Par.69959.File.dat/summary.pdf.

[12] Bureau of Land Management, Oil and Gas Lease Sales, Fiscal Year 2014, http://www.blm.gov/style/medialib/blm/wo/MINERALS__REALTY__AND_RESOURCE_PROTECTION_/energy/oil___gas_statistics/data_sets.Par.97646.File.dat/O&G%20Lease%20Sale%20Results%20FY2014.pdf.

[13] *See* Bureau of Land Management, BLM Approves Greater Mooses Tooth Unit Oil and Gas Development Project in Alaska, http://www.blm.gov/wo/st/en/info/newsroom/2015/february/nr_02_13_2015.html.

BLM Lease Totals for Fiscal Year 2014

BLM State Office	Total Receipts	Acreage Offered	Acreage Receiving Bids	Percentage Receiving Bids
Eastern States	$1,003,773	20,386	20,226	99.2%
Nevada	$2,185,469	595,093	147,363	24.8%
Utah	$6,362,825	185,571	88,610	47.7%
Wyoming	$38,842,312	288,864	287,573	99.6%
New Mexico (+TX and OK)	$126,452,586	63,792	63,792	100.0%
Montana/Dakotas	$24,083,163	53,995	53,195	98.5%
Colorado	$719,102	17,889	13,326	74.5%
Alaska	$2,885,153	4,458,146	245,293	5.5%
TOTAL:	$202,534,383	5,683,736	919,378	16.2%

Source: Bureau of Land Management,
Oil and Gas Lease Sales FY 2014

Furthermore, once a producer has obtained a lease, it takes anywhere from four years (for small to medium sized projects) to nine years (for large projects) to go through the environmental review as required by the National Environmental Policy Act (NEPA). On top of this, the average length of time to obtain an approval for an APD was 227 days in FY 2014 – for comparison, it takes about 30 days for a state to approve an APD.[14] Thus, due to the overly burdensome regulations promoted by the BLM, it can take five years – at a minimum – for a producer to be able to drill a producing well.

More Money for Less Mining

The BLM proposes a $1.273 million increase in its Coal Management sub-activity, bringing the total requested for FY 2016 to $10.868 million.[15] This increase comes despite the decrease in production of coal on federal lands.

Currently, the BLM operates 309 federal coal leases covering 474,025 acres of land, an overall increase in both number of leases and acreage from FY 2009.[16] Despite this uptick, the amount of coal mined on federal land has decreased from 462 million tons of coal in FY 2009 to 402 million tons of coal in FY 2014.

Furthermore, the FY 2016 budget request for Mining Law Administration is $39,696,000 and 319 FTEs.[17] The budget assumes the program's operating cost will be fully offset by revenue from mining claim maintenance and location fees. Claim location and maintenance fees were

[14] Bureau of Land Management, Average Application for Permit to Drill (APD) Approval Timeframes: FY 2005 – FY 2014, http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/statistics/apd_chart.html.
[15] U.S. Bureau of Land Management, FY2016 Budget Justification, at VII-109.
[16] *Id.* at VII-109 to VII-110.
[17] *Id.* at VII-195.

adjusted per law according to the Consumer Price Index for the assessment year beginning September 1, 2014, from $34 - $37 (location) and $140 - $155 (maintenance) per claim. This adjustment led to the dropping of 48,867 claims, at a cost to the federal government of more than $8.5 million in revenue.[18]

Burdensome Legislative Proposals

The BLM has several legislative proposals affecting all areas of its jurisdiction, including: the enactment of *oil and gas inspection fees* and a *hardrock abandoned mine land ("AML") fund*.

The legislative proposal for *oil and gas inspection fees* would require lessees to pay a fee to the BLM for inspection activities. The proposed fee would start at $700 for each lease or unit of land with no active or inactive wells, and increase to $9,800 for those leases that have over 50 active or inactive wells.[19]

The *hardrock abandoned mine land fund* would levy a fee on the production of hardrock minerals on both public and private lands. The revenues from this fee would be split between federal and non-federal land actions, with the non-federal funds being directed at the discretion of the secretary to states and tribes.[20]

These and other legislative proposals should be disregarded until the BLM demonstrates effective implementation of legislation that it has supported. For instance, the Helium Stewardship Act was passed to ensure privatization of the federal government's helium reserve through a *competitive*, market-driven process. BLM held its first helium auction on July 30, 2014, which generated $14.9 million for the U.S. Treasury. This auction represented 10% of the amount to be sold for delivery in FY 2015.[21] Subsequent to this auction, the BLM offered for sale the remaining 90% of the helium to be delivered in FY 2015, but limited its purchase only to a select group of helium users. BLM asserts this limitation was done pursuant to BLM's interpretation of the Act. However, this misinterpretation led to a result in direct conflict with the inherent purpose of the act, which was to promote competition and wider access to the federal helium reserve. Instead, BLM's interpretation cut in half the number of helium purchasers from the prior year.

---

[18] *Id.* at VII-196.
[19] *Id.* at VII-99.
[20] *Id.* at VII-151.
[21] Bureau of Land Management, First Federal Helium Auction Generates Over $14 Million for US Treasury, http://www.blm.gov/nm/st/en/info/news_releases0/2014/july/first_federal_helium.html.

U.S. Forest Service (USFS)

FY15 President's Request	$6.456 Billion
FY15 Enacted	$5.547 Billion
FY16 President's Request	**$6.489 Billion**

The USFS's FY 2016 Budget Justification seeks an increase in $942 million over the FY 2015 enacted amount and an increase of 151 FTEs.[22] Although the USFS manages 10% of the continental land base, and cooperates with the BLM in the development of the resources found thereunder, the overall increase of the USFS's budget is not reflected in the programs charged with managing resource development on national forests and national grasslands.

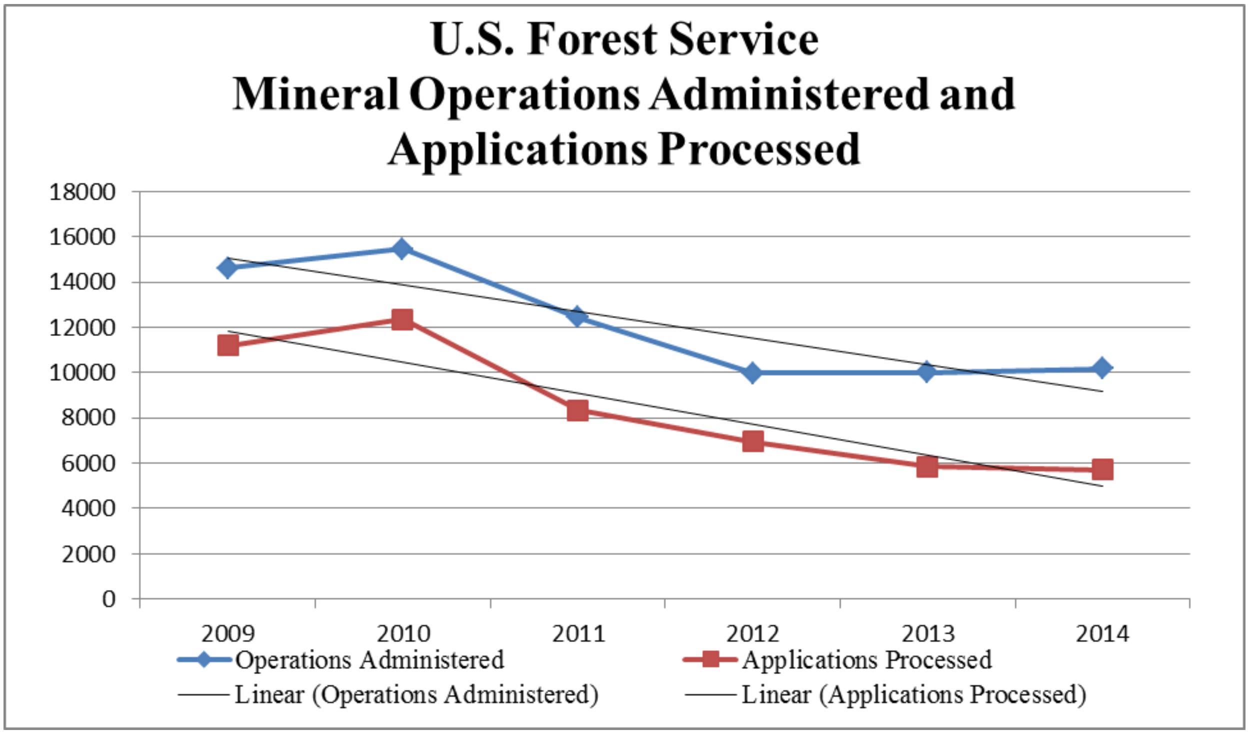
For FY 2016, the USFS seeks an 8% decrease of $5.734 million (and 13 FTEs) for its Minerals and Geology Management budget line item, and an 8% decrease of $6.129 million for the Landownership Management line item.[23] The USFS's budget justification provides that for "every appropriated dollar invested in the Forest Service minerals and geology budget returned $7.35 to the Treasury from leasable mineral revenues alone."[24] Thus, the proposed cuts to these key areas could cost the treasury over $42 million. These calculations do not include the amount of money states will lose due to their 25% or 50% share of resource revenue produced from USFS lands. Finally, natural resource production on USFS lands contributes nearly $8 billion annually to the nation's economy, and provides for 56,000 jobs throughout the country.[25]

In FY 2013, the coal produced from USFS lands comprised 25% of total production in the United States.[26] However, that production is on the decline and under attack. Recent court cases, and the heightened classification of public land as "*No Surface Occupancy*," threatens production of coal on USFS land, and calls into question whether the USFS will continue to provide 25% of all coal production.

Like the BLM, the USFS has seen a stark decrease in the number of mineral operations it administers and the number of mineral applications it processes. As the chart demonstrates, the total number of mineral operations administered has decreased from 14,613 in FY2009 to 10,175 in FY 2014, while the number of mineral applications processed has decreased from 11,187 in FY 2009 to 5,722 in FY 2014.[27] The proposed cuts by the administration will only continue this downward trend and will not clarify the confused state of resource production on federal lands.

---

[22] U.S. Forest Service, FY2016 Budget Justification, at B-1, C-1.
[23] *Id.* at 175, 184.
[24] *Id.* at 180.
[25] *Id.*, at 179.
[26] *Id.* at 180.
[27] *Id.*, at 175.



Source: U.S. Forest Service,
FY 2010, 2011, 2012, 2013, 2014, 2015, 2016 Budget Justifications