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Subcommittee on Energy and Natural Resources

Examining the Department of the Interior's Actions to Eliminate Onshore Energy Burdens

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QEP Resources, Inc. ("QEP") appreciates the opportunity to discuss "Examining the Department of the Interior's Actions to Eliminate Onshore Energy Burdens" with the House Natural Resources Subcommittee on Energy and Natural Resources. We look forward to working with the Committee to discuss enhancing our nation's ability to reduce unnecessary burdens and promote oil and gas development on public lands.

QEP is a publicly traded oil and gas company that is headquartered in Denver, Colorado. QEP is an industry leader in crude oil and natural gas exploration and production. We are focused on some of the most prolific natural resource plays in the United States – including two world-class crude oil provinces, the Permian Basin in Texas and Williston Basin in North Dakota; and two prominent natural gas plays, the Uinta Basin in Utah and Haynesville Shale in Louisiana. With operations located on private lands, state trust lands and federal lands, we have a unique perspective on development and the contrast in corresponding government regulatory programs.

Over the past decade, U.S. onshore oil and gas development has been truly remarkable. The growth in oil production, in states like North Dakota, Texas, New Mexico, Oklahoma and Colorado, is something that many never thought they would see again in this industry. The same can be said for the growth in natural gas production throughout private lands in the U.S., predominately in Louisiana, Texas, Pennsylvania, West Virginia and Ohio. As oil and gas production grew, these states experienced an increase in tax revenues and job development.

Technologies, like horizontal drilling and advances in hydraulic fracturing, have been the keys to the growth in oil and gas. These technologies have enabled industry to increase efficiency while dramatically reducing environmental impact. Although it may go without saying, such technological advancements are equally available on (and applicable to) state trust, private and federal land.

Over this same time period of oil and gas production growth, we did not see equivalent growth on federal lands. Development was underway, but it did not keep pace with development on private lands, where regulatory management is handled by the states. In fact, approximately 96% of the oil

production growth since 2007 has been on private lands, according to the Congressional Research Service.

There are a number of factors that operators consider when allocating capital to projects, such as geology and individual well economics. Another important factor is stability in the regulatory requirements. Where the regulatory landscape is ambiguous, many companies are leery that investment will only turn into stranded capital.

Experiencing significant delays on federal lands in the recent past dissuades companies from wanting to operate on federal lands today because the return on capital may be slower and the risks of delay are all but guaranteed. When companies, such as QEP, look at investments in states like Texas versus investments on federal lands, we know that the Texas regulatory regime provides less risk and more certainty. We can start seeing returns on those investments in a matter of days and months in Texas versus years in the case of working with the Bureau of Land Management ("BLM") and other federal agencies. As an example, with private surface and private minerals, an operator maybe able to drill their first well within months of expending capital on the leases. In the case of leases with the Federal government, not only would it take well over a year to get approval to drill a well, but the risks of appeals and other restrictions are great and result in further delays.

QEP has a strong working relationship with the professionals at the BLM. But, BLM staff are often hamstrung by a number of unnecessary, duplicative and/or misaligned laws and policies. Often times, these same laws and policies create "analysis paralysis." "Analysis paralysis" is when the project and leases are caught in limbo, where the agency review never ends and/or a decision never happens. Analysis paralysis then becomes the "death knell" of a project: project proponents eventually pull the necessary applications, reallocating resources and capital elsewhere.

Note *some* (and not all) of the laws and policies the BLM and other federal agencies must manage in order to issue permits:

- Archeological and Historical Preservation Act
- Bald and Golden Eagles Protection Act
- Federal Land Policy and Management Policy Act
- Changes in the nationwide permits ("NWPs") by the Army Corps of Engineers
- Clean Air Act
- Clean Water Act
- Endangered Species Act
- Energy Policy Acts of 1992 and of 2005
- Migratory Bird Treaty Act
- Mineral Leasing Act
- Lease Stipulations
- Conditions of Approvals ("COAs") for Applications for Permits to Drill ("APDs")
- National Historic Preservation Act
- National Trails System Act

- Safe Drinking Water Act
- Spill Prevention and Control and Countermeasures Act
- Wilderness Study Areas ("WSAs")
- Wild and Scenic Rivers Act
- And many others

The challenge of implementing these laws and policies created strained relationships between the BLM and state /local governments under the previous administration. The resulting BLM/federal permitting delays and regulatory uncertainty created a tough investment climate for companies, which in turn can cost the states and local government's tax revenue and jobs. When taking into account the jobs and tax revenue created by oil and gas development on federal lands, Congress has a duty to ensure the BLM and other federal agencies are fully engaged with the states and communities their decisions impact. The federal government has a duty to maximize its efficiency and provide the regulated community with regulatory certainty.

I offer the following recommendations and solutions to this Committee and the Trump Administration to create a positive investment climate for oil and gas companies:

1) <u>Enhanced Role of States</u>

Continue to evaluate methods to delegate more authority to states where it makes sense. Look at implementation of the Clean Air Act and Clean Water Act through the Environmental Protection Agency to state Department of Environmental Quality ("DEQ") as one example. Additionally, the Surface Mining Control and Reclamation Act helps create a delegation program to states for surface mining operations. These are just a couple of examples where delegated authority is working. In addition to delegation, the federal government must also continue to reform existing programs that are duplicative of adequate state programs. A recent, promising example: BLM's rescission of the 2015 Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands, where the Bureau acknowledged that the rule was unnecessarily duplicative of state and some tribal regulations and imposed burdensome reporting requirements and other unjustified costs on the oil and gas industry. 82 Fed. Reg. 61924 – 61949 (Dec. 29, 2017).

2) <u>Leasing, Protests and Resource Management Plans</u>

<u>The leasing process needs to be more predictable and stable</u>. This means finding ways to shorten the process from nominating, protests periods, as well as competitively offering nominated parcels for lease. This is important because the oil and gas markets change quickly. By allowing the Department of the Interior to move quickly with those changing markets, the federal government could capture more value for those leases. For instance, the BLM should get back to regular lease sales including the elimination of the rotational lease sale process where only certain areas are offered up on an annual basis. The rotational schedule limits development for high interest areas. For example, if the BLM offers up parcels for the Uinta Basin at every lease sale instead of once a year, it could capture more value for those leases during strong market conditions.

Attached to my testimony is a flow chart from leasing to development on federal lands (Please see the last page of my written testimony). It is important to note that not all leases will be developed. There are multiple complex steps taken. First there is exploration and appraisal. This can help an operator decide how much a lease is worth. After an operator successfully obtains a lease, multiple delineation wells are drilled to assist in determining well space and other factors. This process can take years. After those years of investment, if positive results have been achieved, the operator considers full field development. Infrastructure planning is a key component of any long term plan. Permitting both the wells and the infrastructure can take years.

Additionally, it rarely occurs where all the leases a company is pursuing on a federal sale get offered at once. It is not uncommon for operators to wait several years to put together their leased acreage block before they want to go drill a well. If you were to compare that to private lands, the leasing and drilling process could and would likely happen within a year. This gets to my earlier point about the ability to deploy capital and see returns in a more efficient process.

The protesting of leasing also creates challenges. The public has the ability to comment and participate in the decisions. The Resource Management Plan ("RMP") for the area is the first opportunity and then the leasing Environmental Assessment ("EA") of Notice of Competitive Lease Sale. The protest process has morphed into a tool for obstructionists who oppose oil and gas development all together. This is unproductive and strains BLM resources. In the past, environmental groups would submit large protests to challenge all or large portions of the parcels being offered for lease. The protests would rely on broad arguments rather than specific localized issues. These challenges create further uncertainty, which I referenced earlier.

The long-term deferral and failure to lease these parcels can prevent companies from assembling the necessary leasehold to proceed with testing the geology and reservoir and potential development. The federal mineral laws are based on orderly development of resources. Federal units and participating areas are designed to ensure federal resources are not stranded (left in the ground) and the infrastructure consolidated to minimize surface impacts. Current leasing approaches often result in scattered acreage. This practice results in inefficiencies and can actually have more environmental impact by not allowing organized development or organized surface locations, tank batteries or liquids gathering systems. The deferrals and delays not only cost the federal government money but also state governments who share in those royalties. While we appreciate Secretarial Order 3354, which stresses the importance of American energy security and directs the BLM to improve the federal oil and gas leasing program, Congress, in addition to the BLM, needs to develop an organized and efficient response to those protests to get leases out quickly.

In the past, the BLM has deferred parcels in an entire planning area while updating an RMP for that area. This happens despite the existence of an earlier-approved RMP for the area. RMPs take many years to be updated therefore; these parcels are deferred far too long. When the BLM does lease parcels while an RMP is being updated, the Bureau attaches stipulations to those leases which are not specified under the acting RMP. It is as if the stipulations are foretelling what the new RMP will require

before it is finalized. Additionally, when parcels are nominated for lease there is no transparent process as to why they are not being offered up for lease.

Lastly, the development of Master Leasing Plans ("MLP") under the previous administration are unnecessary and cause additional delays with no environmental benefit. The RMPs already designate the areas that are open for leasing, the areas that need special protections and outline the conditions for leasing where it is available. The MLP process creates a multi-year procedure and delays leasing within the area of the MLP. The Trump Administration should abandon all ongoing MLP efforts and respect the current RMPs in place.

3) **National Environmental Policy Act ("NEPA")**

Like other major federal actions, NEPA analysis is required for all oil and gas projects on federal lands. While the intent of the law was for agencies to analyze and disclose potential impacts, it has turned into a litigious tool that doesn't add environmental benefits. Congress needs to address this process to provide more certainty.

The NEPA process can either be an EA or an Environmental Impact Statement, depending on the size and scope of the project. The use of the "federal nexus" dictates to BLM when they should be involved in a project. Sometimes the BLM uses the federal nexus to be involved in oil and gas wells where the surface is owned privately and a majority of the minerals are owned privately. When this happens, an operator still has to get a federal APD and get some initial NEPA review in order to get the APD approved. This also requires a tribal consultation for cultural artifacts on private land which can create issues with private landowners who the companies already have worked with to locate a well. Congress needs to work to help bring NEPA back to its original intentions.

Additionally, the federal agencies could establish criteria what constitutes the circumstances that require NEPA as well as an appeal process to enable project proponents to challenge decisions regarding the level of environmental analysis required for a project prior to it being considered a final agency action. This would provide more certainty in the process while ensuring appropriate disclosure of issues.

Conclusion

Affordable energy is essential to a strong and vibrant economy. Thankfully the United States has vast quantities of oil and gas within our borders and off our coasts. This massive supply of energy is limited only by the government policies we choose to adopt. The reason for the inequality between federal and private lands is simple: the federal government policies and additional bureaucracy make it much more difficult to operate on public lands without providing additional health, safety or environmental benefits.

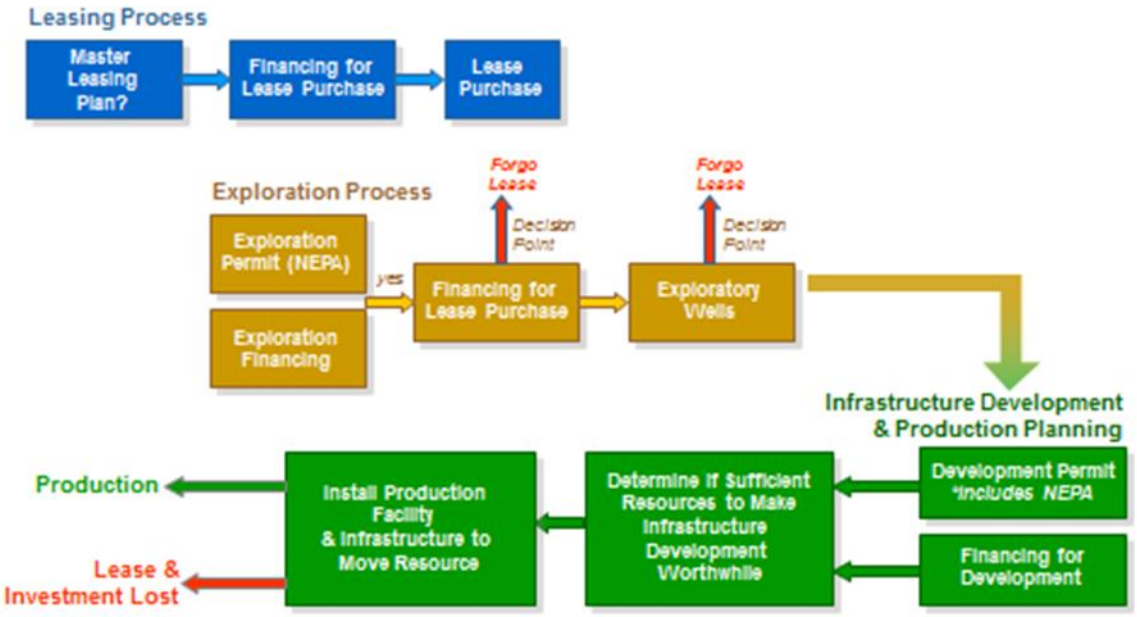
It is clear that there are efforts the Trump Administration could undertake to make federal lands more attractive for investment, which in turn would mean more dollars to the federal treasury in the form of bonus bids, royalties and taxes. Remember that development in the western states where these federal

lands exist also benefits the state and local economies. I know this Administration has energy development and rural development as a focus and is working on making federal policies more efficient. Promoting oil and gas development helps accomplish both of these important goals.

In order to truly seek reforms and efficiencies one question must be answered: Does the U.S. Government want to be in the oil and gas business through leasing and management of federal oil and gas minerals?

Flow charts are on the following page.

Leasing to Development



BLM - APD Approval Process