



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: House Committee on Natural Resources Republican Members
From: EMR Subcommittee, Ashley Nichols – Ashley.Nichols@mail.house.gov; ext. 52761
Date: February 8, 2023
Subject: *Unleashing America's Energy and Mineral Potential*

The House Committee on Natural Resources will hold an oversight hearing on *Unleashing America's Energy and Mineral Potential* on Wednesday, February 8, 2023, 10:00 a.m. in room 1324 Longworth House Office Building.

Member offices are requested to notify Ashley Nichols (Ashley.Nichols@mail.house.gov) by 4:30 p.m. on Tuesday, February 7, 2023, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- Stable domestic production of energy and mineral resources is necessary to the economic and national security of the United States.
- Taking an all-of-the-above approach to energy and mining – including oil, natural gas, coal, renewables, and hardrock – is the best way to allow a diversity of energy sources to support our power grid and sufficient production of mined products to meet our technological and national security needs.
- Unfortunately, the actions of the Biden administration from day one have blunted the ability of American producers to produce the energy and mineral resources that our country, and the world, so desperately need.

II. WITNESSES

Panel I

- Kathleen Sgamma, President, Western Energy Alliance, Denver, CO
- Erik Milito, President, National Ocean Industries Association, Washington, DC
- JC Sandberg, Chief Advocacy Officer, American Clean Power, Washington, DC
- Dana Johnson, Senior Director of Strategy and Federal Policy, WE ACT for Environmental Justice, Washington, DC [Minority Witness]

Panel II

- Brian Somers, President, Utah Mining Association, Salt Lake City, UT
- Michael Holloman II, Commercial Director and Member of the Board, U.S. Strategic Metals, St. Louis, MO
- Matthew Adams, Vice President and Senior Tax Counsel, Navajo Transitional Energy Company (NTEC), Broomfield, CO
- Reno Franklin, Chairman, Kashia Band of Pomo Indians & Member, Advisory Council on Historic Preservation, Santa Rosa, CA [Minority Witness]

III. BACKGROUND

Conventional Energy Development on Federal Lands and Waters

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 consumption increases expected as well.¹ Maximizing energy production in America will limit the need to import from other nations, reduce global emissions and high energy costs, create jobs domestically, and help our allies abroad.

In his first days in office, President Biden issued three directives that severely impacted oil and natural gas development on federal lands and drove up energy prices for American families: Secretarial Order 3395, Executive Order 13990, and Executive Order 14008. Of particular note, Executive Order 14008 imposed an indefinite pause on new oil and natural gas leasing on U.S. federal lands and waters “pending completion of a comprehensive review.”² On June 15, 2021, U.S. District Judge Terry A. Doughty placed an injunction on the Department of the Interior (DOI) unlawful moratorium and ordered the agencies to restart the leasing process.³ In response, the Biden administration appealed the decision and continued to delay scheduling lease sales.⁴

Onshore Oil and Natural Gas

The Mineral Leasing Act explicitly states that “lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary.”⁵ Unfortunately, for a year and a half, the Biden administration did not hold a lease sale until June of 2022. To make matters worse, 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.⁶ As a result, only 110 square miles of the 200 square miles received bids.⁷

In response to the administration’s failure to follow the law, Senator Manchin included language into the so-called Inflation Reduction Act (IRA) that requires the Department of the Interior to offer at least two million acres of federal land or 50 percent of the acreage for which expressions of interest have been submitted for lease every year for the next decade as a prerequisite for approving permits for wind-power and solar-power development on federal lands and waters.⁸ In

¹ 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>

² Exec. Order 14008, 86 Fed. Reg. 19, 7619 (Jan. 27, 2021).

³ 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/>

⁴ 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/>

⁵ 30 U.S. Code § 226.

⁶ 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/>

⁷ 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>

⁸ Public Law 117-169, Sec. 50265.

October, the Bureau of Land Management (BLM) announced that it plans to conduct two spring onshore lease sales in New Mexico and Wyoming.⁹

After the 2022 mid-term elections, the Biden administration issued several new regulatory actions related to oil and natural gas production on federal lands. In fact, the day after the 2022 mid-term elections, the BLM issued a supplemental environmental assessment (EA) in response to lawsuits from serial litigants analyzing greenhouse gas emissions that could result from the development of 3,600 oil and natural gas leases sold between 2015-2020.¹⁰ The analysis in the environmental assessment impacts over 3.4 million acres in Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming. Notably, the EA analyzes the “downstream combustion of the fluid minerals developed under these leases.”¹¹ The calculation of the midstream transportation and end use combustion of the natural resources produced in these lease sales causes the greenhouse gas estimates of production to greatly increase.

During the week of Thanksgiving 2022, the BLM announced seven new Instruction Memoranda related to oil and natural gas leasing on federal lands.¹² The regulatory changes made in the Instructional Memoranda aim to restrict the flexibility for domestic operators on existing leases and will limit acreage offered in future lease sales by undercounting submitted expressions of interest. The very next week, the BLM rolled out a proposed rule titled “Waste Prevention, Production Subject to Royalties, and Resource Conservation”¹³ for comment. This rulemaking aims to further regulate natural gas emissions from oil and natural gas production on federal lands.

Offshore Oil and Natural Gas

The Biden administration has held only one offshore oil and natural gas lease sale in the Gulf of Mexico to date, Lease Sale 257.¹⁴ A district court vacated the lease sale in January 2022 in an unprecedented decision¹⁵ and the Biden administration chose not to appeal this case, declining to defend their own work.¹⁶ As a result, no new leases were issued for this sale until the IRA required issuance of the leases from Lease Sale 257. The Biden administration canceled the three remaining sales under the current 5-year plan for offshore leasing¹⁷ and has only resumed planning for these sales at the direction of the IRA. DOI’s Bureau of Ocean Energy Management (BOEM) held Lease Sale 258 in the Cook Inlet of Alaska on December 30, 2022, issued a Final

⁹ Interior Department Moves Forward with Leasing Provisions Mandated in Inflation Reduction Act, 10/6/22,

<https://www.doi.gov/pressreleases/interior-department-moves-forward-leasing-provisions-mandated-inflation-reduction-act>

¹⁰ BLM REQUESTS PUBLIC INPUT ON REVISED GREENHOUSE GAS LEASING ANALYSIS, Nov. 9, 2022, <https://www.blm.gov/press-release/blm-requests-public-input-revised-greenhouse-gas-leasing-analysis>

¹¹ Supplemental Environmental Assessment Analysis for Greenhouse Gas Emissions Related to Oil and Gas Leasing in Seven States from February 2015 to December 2020, November 2022, p.9,

https://eplanning.blm.gov/public_projects/2022218/200537447/20069931/250076113/WEG%20EA.pdf

¹² The BLM issues updated oil and gas leasing guidance, https://www.blm.gov/sites/default/files/docs/2022-11/Fact%20Sheet_Oil%20and%20Gas%20Leasing%20Guidance_%2011.21.22.pdf

¹³ 87 FR 73588, <https://www.federalregister.gov/documents/2022/11/30/2022-25345/waste-prevention-production-subject-to-royalties-and-resource-conservation>

¹⁴ Department of the Interior, Bureau of Ocean Energy Management, Final Notice of Sale, Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 257, <https://www.boem.gov/sites/default/files/documents/oil-gas-energy/leasing/Final-NOS-257.pdf>.

¹⁵ Friends of the Earth, *et al.* vs. Debra Haaland, *et al.*, U.S. District Court for the District of Columbia, Memorandum Opinion, filed January 27, 2022, <https://subscriber.politicopro.com/eenews/f/eenews/?id=0000017e-a065-db8b-ab7f-f2ff5ec00000>.

¹⁶ Rachel Frazin, “Biden administration won’t appeal invalidation of offshore oil leases,” The Hill, March 1, 2022,

<https://thehill.com/policy/energy-environment/596334-biden-administration-declines-to-appeal-invalidation-of-offshore>.

¹⁷ Department of the Interior. Bureau of Ocean Energy Management. 2017-2022 Lease Sale Schedule. <https://www.boem.gov/2017-2022-lease-sale-schedule>

Supplemental Environmental Impact Study for Lease Sale 259 and 261 in the Gulf of Mexico and published a Notice of Sale for Lease Sale 259.¹⁸ The IRA requires that these sales take place before the end of March and September 2023, respectively.¹⁹

The Department issued a draft version of the 2022 to 2027 5-year plan, known as a “proposed program,” on July 1, 2022, after the most recent plan expired on June 30, 2022.²⁰ Publication of a proposed program is the second step in a lengthy interagency process, and many months of public comment and agency deliberation must occur before the final program is published. As a result, future leasing on the OCS remains uncertain under the Biden administration.

Coal Development on Federal Lands

Coal provides energy security and gainful employment for thousands of Americans. Federal coal leasing also continues to be a major source of federal and state revenues. Unfortunately, DOI has spent years taking action to block coal production on federal lands. On January 15, 2016, then-Secretary Jewell initiated a moratorium on new federal coal leases,²¹ which was subsequently lifted in 2017 by then-Secretary Zinke. Unfortunately, the Biden administration issued Secretarial Order 3398 on April 16, 2021, which reversed Secretary Zinke’s decision and directed a new review of the federal coal program.²² On August 12, 2022, a federal judge ordered the BLM to fully reimpose the Obama-era moratorium on new leasing.

Coal demand will continue for many years to come, at home and around the world. By the end of 2022, over one-third of Germany’s power came from coal, 13 percent higher than the previous year.²³ Coal is also the largest source of power in Asia,²⁴ driving about 37 percent of the world’s total power generation.²⁵ Domestic operators should be allowed to produce and export their product to meet that demand, and not be hamstrung by overly burdensome regulations, permitting delays, or moratoria on production at home.

Renewable Energy Development on Federal Lands and Waters

Onshore Renewable Development

Last Congress, the Subcommittee on Energy and Mineral Resources held a hearing titled “Plugging in Public Lands: Transmission Infrastructure for Renewable Energy,”²⁶ which largely focused on the roadblocks to transmission infrastructure and renewable energy on federal lands. As anticipated, most of the issues that were highlighted during the hearing revolved around the National Environmental Policy Act (NEPA). In fact, NEPA has arguably become a bigger issue

¹⁸ Department of the Interior. Bureau of Ocean Energy Management. Lease Sales. <https://www.boem.gov/oil-gas-energy/lease-sales>

¹⁹ Public Law 117-169.

²⁰ Testimony of Secretary Deb Haaland. Senate Committee on Energy and Natural Resources Hearing. May 19, 2022.

²¹ U.S. Department of the Interior, press release, “Secretary Jewell Launches Comprehensive Review of Federal Coal Program,” January 15, 2016, <https://www.doi.gov/pressreleases/secretary-jewell-launches-comprehensive-review-federal-coal-program>

²² U.S. Department of the Interior, ORDER NO. 3398, April 16, 2021, https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3398-508_0.pdf

²³ Fokuhl, Josefine and Gillespie, Todd, “Germany Revives Coal as Energy Security Trumps Climate Goals,” Bloomberg, December 21, 2022, <https://www.bloomberg.com/news/articles/2022-12-22/germany-returns-to-coal-as-energy-security-trumps-climate-goals>.

²⁴ International Energy Agency. Coal factsheet. Updated Oct 12, 2021. <https://www.iea.org/fuels-and-technologies/coal>

²⁵ International Energy Agency. Coal factsheet. Updated Oct 12, 2021. <https://www.iea.org/fuels-and-technologies/coal>

²⁶ <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=410480>

for renewable energy development as compared to conventional energy sources. According to a recent study by the R Street Institute, of all the Department of Energy's active NEPA projects, 42 percent were related to either clean energy, transmission or environmental conservation, while only 15 percent were related to fossil fuel.²⁷ R Street published a similar study for the BLM and found that 24 percent of their active NEPA documents were for renewable energy projects, and only 13 percent were for fossil fuels.²⁸

NEPA has become a significant barrier for energy development of all kinds, including renewable energy and transmission projects. The current permitting process is filled with repetitive, duplicative assessments and prolonged processing, making it difficult for developers to plan, finance, and build projects efficiently.²⁹ The Trump administration took a positive step forward by releasing comprehensive NEPA reforms for the first time in more than 40 years.³⁰ Among other actions, these reforms established time and page limits for environmental reviews, strengthened the role of the lead agency and provided direction to agencies to utilize and create categorical exclusions.³¹ According to the Council on Environmental Quality (CEQ), an agency within the Executive Office of the President that has jurisdiction over NEPA, "the use of categorical exclusions can reduce paperwork and save time and resources."³²

These reforms served as a means of expediting all projects on federal lands, including renewable energy development and transmission. Unfortunately, last April, CEQ finalized its first phase of NEPA reform by undoing some of the major changes put in place by the Trump administration.³³ CEQ plans to issue its phase 2 NEPA regulations that will make broader changes to the Trump administration regulations later this year.³⁴

Offshore Renewable Development

DOI aims to double renewable energy production from offshore wind to a total of 30 gigawatts by 2030.³⁵ Wind energy development on the Outer Continental Shelf (OCS) has the potential to create jobs and diversify the energy sector. However, offshore wind development is hampered by regulatory burdens at multiple levels of government and conflicting federal, state, local, and private interests pose numerous competing priorities that offshore wind developers must balance. For example, the commercial fishing industry, recreational anglers, and fishing-dependent communities are concerned that offshore wind development will hamper access to the OCS.

²⁷ Addressing NEPA-Related Infrastructure Delays, Phil Rossetti, July 7, 2021, <https://www.rstreet.org/2021/07/07/addressing-nepa-related-infrastructure-delays/>

²⁸ *Id.*

²⁹ Geothermal Rising, Letter to Secretary Debra Haaland, March 18, 2021, <https://geothermal.org/resources/geothermal-rising-letter-addressing-geothermal-permitting-public-lands>.

³⁰ Council on Environmental Quality, Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 7/16/2020, <https://www.federalregister.gov/documents/2020/07/16/2020-15179/update-to-the-regulations-implementing-the-procedural-provisions-of-the-national-environmental>.

³¹ *Id.*

³² "Categorical Exclusions." NEPA | National Environmental Policy Act - Categorical Exclusions, Council on Environmental Quality, <https://ceq.doe.gov/nepa-practice/categorical-exclusions.html>

³³ National Environmental Policy Act Implementing Regulations Revisions, April 20, 2022, <https://www.federalregister.gov/documents/2022/04/20/2022-08288/national-environmental-policy-act-implementing-regulations-revisions>

³⁴ <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=0331-AA07>

³⁵ The White House, President Biden Takes Executive Actions to Tackle the Climate Crisis at Home and Abroad, Create Jobs, and Restore Scientific Integrity Across Federal Government, <https://bit.ly/3knbv19>.

New requirements in the IRA may affect the pace of offshore wind leasing going forward. The IRA requires that, during the first 10 years after its enactment, DOI cannot issue a lease for offshore wind development on the OCS unless an offshore oil and gas lease sale has been held in the previous year. This requirement pits the Biden administration's well-documented resistance to regular oil and natural gas leasing directly against their renewable energy goals. It is currently unknown how this new policy will affect offshore wind deployment – or oil and gas development – on the OCS, and oversight of this requirement will be critical going forward.

Hardrock Mineral Development on Federal Lands

The Need for Domestic Hardrock Mining

Hardrock minerals are non-fuel mined commodities – including copper, lithium, cobalt, and dozens of others – that are integral to our modern way of life. They are used in almost all high-tech applications, including smart phones, satellites, and missile defense systems. They are also essential for the function of renewable energy technologies, electric vehicles, and battery storage. Rapid growth in renewable energy technologies is expected to drive mineral demand up by several orders of magnitude, exacerbated by the national goals pledged by the Biden administration and other international organizations. To achieve net-zero emissions globally by 2050, for instance, the world would require a sixfold increase in mining by 2040.³⁶ The United States has the choice of how to respond to that demand – we can support domestic production, where we are certain of our responsible development practices, or we can allow foreign nations with unverified (or definitively unacceptable) labor and environmental standards to dominate the global market. It is in the best interest of the United States to maximize production domestically, so that we can meet our economic and national security needs and ensure sustainable development for decades to come.

Foreign Dependence for Hardrock Minerals

The United States has an alarming reliance on foreign nations to meet our demand for virtually all hardrock minerals. While recycling can provide a certain amount of minerals for reuse, today's recycling technologies cannot supply the massive volume of resources we will need in the near future. As previously stated, demand for many of these minerals is predicted to grow exponentially. Today's mineral supply chains are unquestionably controlled by China.³⁷ This is true for both raw materials and refined products. Hardrock minerals are necessary in everything from laptops to medical equipment to military gear, and relying on one nation for those products has clear economic and national security implications. Further, the labor and environmental standards in the U.S. are among the best in the world, but the same cannot be said for other mineral suppliers. One of the most notorious examples is the Congo, which holds about two-thirds of the world's cobalt, but also has well-documented cases of forced and child labor in the mining sector. Unfortunately, despite the Labor Department's designation of lithium-ion

³⁶ Marshall, James, "Insufficient minerals threaten energy transition —report," E&E News, May 5, 2021, <https://www.eenews.net/greenwire/stories/1063731805>.

³⁷ Scheyder, Ernest, "China set to control rare earth supply for years due to processing dominance," Reuters, May 29, 2019, <https://www.reuters.com/article/us-china-usa-rareearth-refining/china-set-to-control-rare-earth-supply-for-years-due-to-processing-dominance-idUSKCN1T004J>.

batteries as potential products of child or forced labor,³⁸ the Biden administration recently signed a memorandum of understanding to help build an electric vehicle battery supply chain in the Democratic Republic of Congo and Zambia.³⁹

Challenges to Hardrock Development in the U.S.

Meeting this steep demand will be a global challenge. The first obstacle is that hardrock minerals are difficult to find in economically viable quantities, often sparsely scattered across a large area.⁴⁰ Hundreds of millions of dollars in upfront capital costs are often required for exploration alone, and in the United States, exploration is followed by almost a decade of permitting due to environmental review requirements under NEPA and other statutes before production can even begin.⁴¹ It routinely takes over ten years and \$1 billion in start-up capital before a company produces any product in the U.S.⁴² Further, most minerals do not come out of the ground in a useable state and therefore must undergo a lengthy and expensive refining process.

Recent Anti-Development Actions of the Biden Administration

Actions of the Biden administration have only made hardrock mineral development more challenging and uncertain, despite the administration's stated goals to increase domestic mining to meet rising demand. For instance, the administration canceled⁴³ two decades-old mineral leases in the Superior National Forest in Minnesota in January 2022, and simultaneously began the withdrawal process of 225,378 acres of mineral-rich land in the same area.⁴⁴ These actions specifically targeted a prospective copper-nickel-cobalt mine in the region, despite years of environmental review, a pending Mine Plan of Operations at the Bureau of Land Management,⁴⁵ and a myriad of comments and letters from Members of Congress, mineral developers, local residents, union workers, and many other parties stating their support for the project. Unfortunately, the finalized withdrawal was announced on January 26, 2023.⁴⁶

The American people and American energy production are experiencing crisis from rising prices, foreign dependence, and years-long delays due to a fractured and redundant regulatory regime. At this hearing we will hear from witnesses who will speak to the solutions within reach, the progress being made to address challenges, and the potential for returning American back to its place as the world's largest oil and natural gas exporter – for the benefit of all America and our allies.

³⁸ Holzman, Jael and Iaconangelo, David, "U.S. shift on child labor may scramble EV sector," Politico, October 5, 2022, <https://subscriber.politicopro.com/article/eenews/2022/10/05/u-s-shift-on-child-labor-may-scramble-ev-sector-00060305>.

³⁹ Iaconangelo, David, "U.S. strikes at China with EV battery deal," January 20, 2023, <https://subscriber.politicopro.com/article/eenews/2023/01/20/u-s-strikes-at-china-with-ev-battery-deal-00078603>.

⁴⁰ Briefing from the National Mining Association. March 2019.

⁴¹ Briefing from the National Mining Association. March 2019.

⁴² Briefing from the National Mining Association. March 2019.

⁴³ Decision of Tommy Beaudreau, Deputy Secretary of the Interior, January 26, 2022, https://www.blm.gov/sites/blm.gov/files/docs/2022-01/2022.01.26%20Twin%20Metals%20Lease%20Cancellation%20Decision_0.pdf.

⁴⁴ U.S. Department of the Interior, "Biden Administration Takes Action to Complete Study of Boundary Waters Area Watershed," Press Release, October 20, 2021, <https://www.doi.gov/pressreleases/biden-administration-takes-action-complete-study-boundary-waters-area-watershed>.

⁴⁵ Bureau of Land Management. NEPA number: DOI-BLM-Eastern States-0030-2020-0006-EIS. <https://eplanning.blm.gov/eplanning-ui/project/1503233/510>.

⁴⁶ 88 FR 6308