September 22, 2023

Tracy Stone-Manning
Director
Bureau of Land Management
U.S. Department of the Interior
1849 C St. NW, Room 5646
Washington, DC 20240

Submitted via *Federal eRulemaking Portal:* https://www.regulations.gov
RIN: 1004–AE80.

Comments to the Department of the Interior, Bureau of Land Management on Fluid Mineral Leases and Leasing Process

Dear Director Stone-Manning:

Taxpayers for Common Sense (TCS) respectfully submits the following comments in response to the Department of the Interior's proposed rule on Fluid Mineral Leases and Leasing Process; RIN 1004-AE80.

TCS is a national nonpartisan budget watchdog that has been working on behalf of the nation's taxpayers since 1995. TCS works to ensure taxpayers receive a fair return on all resources extracted or developed on federal lands and waters. Revenues from resource development serve as an important source of income for the federal government and must be collected, managed, and accounted for in a fair and accurate manner.

Federal lands throughout the Western United States contain vast deposits of valuable oil and gas resources. The U.S. government manages millions of acres of public lands in trust for federal taxpayers, the ultimate landowners. The combined production from federal land and water makes U.S. taxpayers significant market participants – one in 10 cubic feet of all gas produced in the U.S. last fiscal year, and one in five barrels of all oil, was extracted on federal leases. Yet the Department of the Interior (DOI) had been settling for second-rate terms for federal production until the fiscal reforms enacted in the Inflation Reduction Act (IRA, P.L. 117-169).

The Department of the Interior bears a fiduciary responsibility to ensure that taxpayers receive a fair return on the extraction and sale of federal oil and gas. This involves maximizing competition for leases and setting rent, royalty rates, and other lease terms at market rates. Responsible lease management also entails 1) directing oil and gas leasing to lands with development potential, 2) avoiding conflicts with other uses, and 3) holding industry interests accountable for the costs of reclamation and pollution liabilities associated with their extractive activities.

I. Introduction

Taxpayers for Common Sense applauds the Bureau of Land Management's (BLM) proposal to codify reforms in the IRA, increase bonding requirements for the first time in over 60 years, and direct leasing towards areas with a higher potential of oil and gas development and away from important and sensitive wildlife habitat or cultural sites. Prioritizing leasing on lands with existing oil and gas infrastructure or high production potential will help deter speculation and lead to more efficient use of taxpayer resources. In addition to these vital reforms, TCS urges BLM to pursue a higher royalty rate of 18.75 percent post the 10-year IRA window that is more aligned with market rates to ensure a fair return for taxpayers.

To document the financial losses incurred by taxpayers, TCS recently released a series of reports in states with significant oil and gas development including New Mexico, Nevada, Colorado, and Wyoming and will release analyses for Utah, North Dakota, and Montana.

In New Mexico, federal leasing illustrates how outdated policies have resulted in an $8 billion loss of potential revenue due to below-market royalty rates, and millions more in losses from other terms that trail state and private rates. Furthermore, outdated bonding rates could lead to up to $1 billion in future reclamation costs in the state.[1]

In Nevada our analysis found that the current leasing system has allowed private entities to purchase federal leases for pennies on the dollar. Hundreds of thousands of acres of federal land have been locked into non-producing leases, preventing other potential uses, and limiting financial returns to the public. Currently, more than 95% of acres leased for oil and gas production in Nevada remain nonproducing. And only 72 oil and gas leases in the state have entered production since 1953.[2]

In Colorado, TCS found that antiquated leasing terms—including the onshore royalty and rental rates—have cost taxpayers $838 million in lost potential revenue over the last decade. Additionally, taxpayers face $371 million in potential reclamation liabilities from currently producing wells on federal land.[3]

Wyoming contains one third of all federal land (7.7 million acres) leased for oil and gas development in the country and is the 2nd largest producer of oil and gas on federal land. In our recent report, TCS found that over the last decade, outdated leasing policies have resulted in the loss of $3.8 billion in potential revenue and have left taxpayers with $88 million in potential reclamation liabilities from currently producing oil and gas wells on federal land.[4]

II. Updating Fiscal Terms of the Onshore Oil and Gas Program

A. Onshore Royalty Rate

The federal onshore royalty rate of 12.5 percent was set by the Mineral Leasing Act of 1920 (MLA) and remained unchanged until legislative changes in the IRA were enacted in August 2022. Pursuant to the IRA, the onshore royalty rate will be set at 16.67 percent until the close of the 10-year window following the enactment of the bill. Thereafter, the bill sets 16.67 percent as the minimum royalty rate. Like the IRA, the proposed rule would establish a minimum royalty of 16.67 percent

[1] "New Mexico's Boom That Cost Billions II." Taxpayers for Common Sense, May 24, 2023. https://www.taxpayer.net/energy-natural-resources/new-mexicos-boom-that-cost-billions-ii/.
[2] "Gaming the System II." Taxpayers for Common Sense, July 24, 2023. https://www.taxpayer.net/energy-natural-resources/gaming-the-system-ii/.
[3] "Losing on Leasing II." Taxpayers for Common Sense, August 28, 2023. https://www.taxpayer.net/energy-natural-resources/losing-on-leasing-ii/.
[4] "Waste in Wyoming II." Taxpayers for Common Sense, September 5, 2023. https://www.taxpayer.net/energy-natural-resources/waste-in-wyoming-ii/.

after the 10-year IRA window. TCS urges BLM to require a royalty rate of 18.75 percent or higher at the close of the 10-year window.

1. *The Department of the Interior Has the Statutory Authority to Require a Higher Rate at the Close of the Ten-Year IRA Window.*

The Secretary of the Interior possesses the authority to mandate a higher royalty rate and has the opportunity to capture better returns for taxpayers by setting the rate at 18.75 percent or higher. Our reporting has shown that the DOI's failure to apply a higher rate resulted in lost revenue for taxpayers and provided the industry with decades of subsidies. In June 2022, DOI announced that competitive leases sold at auction would require a first-ever increase in the royalty rate to 18.75 percent.[5] Federal rules mandating a more appropriate minimum royalty rate of 18.75 percent would better ensure that federal and state taxpayers receive a fair return from the oil and gas development occurring on federal lands.

2. *18.75 Percent Better Reflects Market Rate and Will Increase Revenues.*

A rate of 18.75 percent better aligns with market rates and matches what certain states and federal waters charge for oil and gas development. This rate also reflects the royalty rate for onshore oil and gas leases included in previous legislative proposals, such as the bipartisan S. 624, Fair Returns for Public Lands Act, introduced by Sens. Rosen (D-NV) and Grassley (R-IA) in March 2021, and H.R. 1517, Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021, introduced by Rep. Katie Porter (D-CA) in March 2021. The Congressional Budget Office (CBO) has previously found that raising the royalty rate for onshore parcels to this level would generate greater revenue in net federal income with negligible impact to production, especially in states that already charge a higher royalty rate than the federal government.[6]

The results of a June 2022 lease sale held by the Bureau of Land Management also indicate that an increased royalty rate of 18.75 percent may not discourage oil and gas companies from acquiring new leases or lead to reduced bid revenue. In five of the six states with significant leasing history—Wyoming, Montana, North Dakota, New Mexico, Nevada, and Colorado (Oklahoma has limited leasing and is excluded) — the average winning bid per acre in the lease sale surpassed the state's average bid per acre in all lease sales between 2016 and 2020.

Higher royalty rates have consistently led to increased revenues without discouraging oil and gas development. The largest oil and gas-producing states now charge companies up to 25 percent on state lands, and the Bureau of Ocean Energy Management charges 18.75 percent for leases in federal waters. The state of Texas began charging a 25 percent royalty for most new oil and gas leases on state lands more than 30 years ago. In 2007, the Bush Administration increased the federal offshore royalty rate to 16.67 percent for leases in waters deeper than 400 meters, and then to 18.75 percent for all offshore leases in 2008. In the same year, the State of Utah's School and Institutional Trust Lands Administration (SITLA) raised their standard royalty

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[5] "Interior Department Announces Significantly Reformed Onshore Oil and Gas Lease Sales." U.S. Department of the Interior, April 15, 2022. https://www.doi.gov/pressreleases/interior-department-announces-significantly-reformed-onshore-oil-and-gas-lease-sales.
[6] "Options for Increasing Federal Income from Crude Oil and Natural Gas on Federal Lands." Congressional Budget Office, April 19, 2016. https://www.cbo.gov/publication/51421.

rate for new leases to 16.67 percent. The state of Colorado has raised its royalty rate for oil and gas leases twice: to 16.67 percent in 2011, and then to 20 percent in 2016.

In each case, the market absorbed the increase in the royalty rate without measurably reducing oil and gas production. The BLM also notes in the supplemental economic analysis of the rule that the 16.67 percent royalty rate is still on the low end of or below prevailing state and private royalty rates, which range from 18.75 percent to 25 percent.[7]

Federal Rate Lagged State Rates

The federal royalty rate remained unchanged from 1920 to 2022 while state rates have risen several times

Leasing Jurisdiction	Oil & Gas Royalty Rate
Texas	**20 - 25 percent**
Pennsylvania	**20 percent**
Alaska	**12.5 or 16.67 percent, typically**
Oklahoma	**18.75 percent**
North Dakota	**16.67 or 18.75 percent**
New Mexico	**18.75 - 20 percent**
Louisiana	**20 - 25 percent**
Colorado	**20 percent**
West Virginia	**20 percent**
Wyoming	**16.67 percent**
California	**Generally, no less than 16.67 percent**
Arkansas	**up to 25 percent**
Utah	**16.67 or 18.75 percent**
Montana	**16.67 percent**
Mississippi	**18.75 percent**
Michigan	**16.67 percent**
Private Lands	**18.75 - 25 percent**
Federal Lands	**previously 12.5 percent, now 16.67 percent**

Notes: States shown are top 20 states ranked by total production of oil and gas from 2018 to 2020. Ohio (9), Kansas (15), Alabama (17) and Virginia (20) are excluded due to either limited data or the lack of leasing on state lands. Private rates are based on 2019 IHS Markit Data from six states.

TAXPAYERS for COMMON SENSE

The 2018 Comparative Analysis of the Federal Oil and Gas Fiscal Systems: Onshore Report commissioned by DOI found that private royalty rates in Colorado, New Mexico, Texas, Montana, Wyoming, and Utah range from 18.75 percent to 25 percent.[8] If the market is bearing higher rates of up to 25 percent in some states, DOI would miss an important opportunity to capture the fair value for the use of our public lands by maintaining the 16.67 percent royalty rate after August 16, 2032.

TCS estimated that taxpayers lost more than $13.1 billion between FY2012 and FY2021 due to BLM charging only the minimum rate of 12.5 percent rather than a more fiscally robust rate of 18.75 percent.[9] By failing to require a higher rate after the 10-year IRA window, BLM is costing taxpayers more in potential revenue.

[7] "Proposed Rule Fluid Mineral Leases Supplemental Economic Analysis." Bureau of Land Management , July 24, 2023. https://www.regulations.gov/document/BLM-2023-0005-0003.

[8] "The 2018 Comparative Analysis of the Federal Oil and Gas Fiscal Systems: Onshore Report." IHS Global, Inc. August 2019. https://www.blm.gov/sites/blm.gov/files/docs/2022-01/2018%20Comparative%20Analysis%20of%20the%20Federal%20Oil%20and%20Gas%20Fiscal%20Systems%20Onshore%20Report_0.pdf

[9] "Royally Losing II." Taxpayers for Common Sense, May 12, 2022. https://www.taxpayer.net/energy-natural-resources/royally-losing-ii/.

For the above reasons, we strongly urge BLM to set a royalty rate of 18.75 percent in the final rule for leases issued after August 16, 2032.

B. Rental Rate and Minimum Bid

The updates to the federal onshore base rental rates and minimum lease bids secured in the IRA are important reforms that will give taxpayers a fair return for the valuable resources we own on public lands. However, without regular review and adjustment for inflation, the new terms will eventually fall below the fair market rate, as was the case with the old rental rates and minimum bids set in 1987. Although DOI has always had the authority to raise rates and require higher minimum lease bids above the statutory minimums, this authority has not been exercised since the rates were last set in 1987. As a result, BLM has historically shortchanged taxpayers by charging outdated and significantly devalued minimum bids and rental rates in the onshore program. TCS estimates that taxpayers would have received an additional $292 million in rental revenue from federal onshore oil and gas leases from FY2013 to FY2022 if the statutory terms set in 1987 had been annually adjusted for inflation.

TCS strongly supports adjusting the updated minimum bids and rental rates annually according to the Implicit Price Deflator for Gross Domestic Product (IPD-GDP), as included in the proposed rule.

C. BLM Processing Fees

TCS supports BLM's proposal to increase its processing fees, such as raising the competitive lease application fee from $185 to $3,100. These increased fees will not apply to existing applications and will only apply to applications submitted after the effective date of the final rule. The Government Accountability Office (GAO) has found that BLM has not reviewed its application fees since 2005 despite changing conditions.[10] BLM has no assurance that all administrative costs can be recovered through its processing fees. BLM concurred with GAO's findings and proposed increased fee amounts. Updating related processing fees will help cover the costs for BLM to administer the federal oil and gas program.

TCS supports raising the competitive lease application fee and other processing fees.

III. Ending Speculative Leasing and Making the Best Use of Our Public Lands

A. Elimination of Noncompetitive Leasing

Prior to the fiscal reforms implemented last year, the practice of noncompetitive leasing – coupled with low bids and no expression of interest fee – resulted in private entities or speculators acquiring leases on federal lands with the intent of profiting from the resale of leasing rights to production companies. Oil and gas companies, either through direct acquisition or by partnering with speculators, sometimes obtain parcels of land without any intention of developing them. This strategy allows them to artificially inflate their reported numbers of undeveloped acreage, thereby enhancing their perceived production prospects. Even though these leased lands may hold minimal to no potential for actual development, this approach provides a cost-effective means for

[10] "Oil and Gas Leasing: BLM Should Update Its Guidance and Review Its Fees." U.S. Government Accountability Office, December 9, 2021. https://www.gao.gov/products/gao-22-103968.

companies to amplify their growth prospects. Public lands leased speculatively almost never enter production. For example, out of the 2,467 leases encompassing 6.2 million acres obtained through noncompetitive means in Nevada since 2000, none have ever entered production. These 6.2 million acres that have remained untapped and inactive represent over 60% of all federal lands leased in Nevada since 2000.

Noncompetitive leasing has shortchanged taxpayers by both lowering the amount of revenue they receive from bonus bids and by keeping valuable federal land from other, more productive uses like other resource development or conservation. In an analysis of federal oil and gas leases that started in FY2003 through FY2009, GAO found that noncompetitive leases comprised about 38% of all acreage leased but only generated 11% of the revenue.[11] From FY2003 to FY2019, competitive leases generated $14.3 billion while noncompetitive leases generated only $1.8 billion. Furthermore, only 1.2% of noncompetitive leases and 1.9% of leases sold for the minimum bid of $2 per acre issued during the analysis timeframe ever entered production.[12] The IRA's elimination of this wasteful and speculative leasing practice is a step towards better stewardship of our public lands. We applaud BLM for updating its leasing regulations to reflect the statutory requirement that all federal oil and gas leases are now to be issued only if purchased at competitive auction by removing all references to and allowances for noncompetitive leasing from the Code of Federal Regulations. The BLM's inclusion of the elimination of noncompetitive leasing as part of its rulemaking is essential for securing this important reform.

<u>TCS supports updating BLM leasing regulations to reflect the elimination of noncompetitive leasing.</u>

B. Establishment of Expressions of Interest Fee

The IRA also established a new $5 per acre fee that must be submitted with all Expressions of Interest (EOIs) for onshore oil and gas leases. This is another important reform to the federal oil and gas program. Since the passage of the Federal Onshore Oil and Gas Leasing Reform Act (FOOGLRA) in 1987, BLM has used an "informal" lease nomination process, which allows any member of the public to nominate any parcel of public land for oil and gas leasing, and, up until last year, do this free of charge and anonymously. This anonymous nomination process has led to a significant amount of speculation within the onshore program. In one particularly egregious example, it took BLM's Nevada office 5 years to review 28 million nominated acres, most of which did not end up getting leased. This fee will discourage companies from nominating lands with little intention of developing them and will alleviate some of the administrative burden on BLM to process these nominations.

<u>Therefore, TCS strongly supports BLM codifying in its regulations that all EOIs must be submitted with a nonrefundable filing fee of $5 per acre to be considered for inclusion in upcoming onshore oil and gas lease sales</u>. We also support the proposal requiring anyone submitting an EOI to provide their name and address, thus facilitating transparency in the EOI process. We further support the proposal to adjust the EOI fee, along with other fixed fees, for inflation on an annual basis based on IPD-GDP.

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[11] "Oil and Gas: Onshore Competitive and Noncompetitive Lease Revenues," Government Accountability Office November 2020. https://www.gao.gov/products/gao-21-138
[12] Ibid.

C. Directing Oil and Gas Leasing to Appropriate Locations

Millions of acres of public lands are locked up under oil and gas leases in areas with little potential for oil and gas development, particularly in states like Nevada. Currently, 11.3 million acres, or 48% of all federal acres leased, sit idle and do not produce any oil and gas resources. The BLM's effort to guide oil and gas development away from important and sensitive wildlife habitats or cultural sites, and instead toward lands with existing oil and gas infrastructure or high production potential will lead to better management of taxpayer owned resources. TCS supports BLM's proposal to incorporate preference criteria into its selection of oil and gas parcels, which is consistent with the recommendations made by the Interior's Report on the Federal Oil and Gas Leasing Program, BLM's recent Instruction Memorandum on evaluating parcels, and recent legislation reintroduced in the Senate by Sen. Cortez Masto (D-NV), S. 1622, End Speculative Oil and Gas Leasing Act.

<u>TCS supports incorporating preference criteria into BLM's selection of oil and gas parcels.</u>

IV. Royalty Relief

A GAO report found that from March through June 2020, BLM offered companies the opportunity to apply for royalty relief for certain oil and gas leases on federal lands. BLM approved reductions from 12.5 percent to an average of less than 1 percent for a period of 60 days.[13] GAO's investigation found that BLM did not establish in advance whether royalty relief was needed to keep applicants' wells operating. Nor did BLM later assess the extent to which the temporary policy kept oil and gas companies from shutting down their wells or the amount of royalty revenues forgone.

<u>TCS believes that royalty relief should not be granted. However, if such relief is granted, BLM must establish a robust process and review each application on a case-by-case basis to prevent fraud and abuse of the system</u>.

V. Holding the Oil and Gas Industry Accountable and Protecting Taxpayers from Cleanup Liabilities

A. Idled & Inactive Wells

Current regulations permit non-producing wells to remain idle and un-reclaimed for years, essentially allowing oil and gas companies to defer closure and reclamation indefinitely. GAO has identified long-inactive wells as those most at risk of becoming orphaned, with potential cleanup costs ranging from $46 to $333 million.[14] Although BLM has recently reported an estimated 15,000 orphaned wells on public lands,[15] many more are at risk of becoming orphaned due to the extended periods of inactivity or abandonment.

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[13] "Federal Oil and Gas Revenue: Actions Needed to Improve BLM's Royalty Relief Policy." U.S. Government Accountability Office, October 6, 2020. https://www.gao.gov/products/gao-21-169t

[14] "Oil and Gas: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells." U.S. Government Accountability Office, September 18, 2019. https://www.gao.gov/products/gao-19-615.

[15] Doyle, Michael. "Feds Open Spigot to Tend Orphaned Wells on Public Lands." E&E News by POLITICO, May 31, 2022. https://www.eenews.net/articles/feds-open-spigot-to-tend-orphaned-wells-on-public-lands/.

Therefore, TCS strongly supports BLM's new reporting and operational requirements for operators of temporarily abandoned and shut-in wells as stipulated in the proposed rule.

B. Bonding

The current bond minimums, set in the 1950s and 1960s, are outdated and no longer provide sufficient incentive for companies to reclaim wells after production ceases. The minimums are currently set at $10,000 for an individual lease bond, $25,000 for a statewide bond, and $150,000 for a nationwide bond. These inadequate minimum bond requirements place taxpayers at risk of bearing cleanup costs of an operator defaults or declares bankruptcy. Low bond minimums incentivize oil and gas operators not to reclaim wells when it is more costly to clean up well sites than to simply forfeit the bonded amount.

According to a GAO report, the average value of bonds held by BLM in 2019 was $2,122 per well. This amount does not reflect the full reclamation costs of the wells, which can range from $20,000 to $145,000 per well.[16] GAO also noted that 84 percent of bonds covering 99.5 percent of wells are insufficient to even meet the lower estimate of reclamation cost at $20,000 per well.[17] GAO estimated the reclamation costs for orphaned wells, and inactive wells at risk of becoming orphaned, was $46.2 million in 2018 and more wells are at risk of becoming orphaned in coming years. The BLM has spent $2.7 million annually on orphaned well cleanup in the last two fiscal years. Without an increase in the bond amounts, BLM expects to continue to incur similar annual costs to address orphaned wells. Additionally, the Infrastructure, Investment and Jobs Act (IIJA, P.L. 117-58) provided $250 million to clean up orphaned oil and gas wells on federal lands.

1. TCS Supports Increasing Bond Minimums and Eliminating Nationwide Bonds

TCS strongly supports BLM's initiative to increase the minimum for an individual lease bond amount to $150,000 and the minimum for a statewide bond to $500,000. TCS also supports BLM's proposal to eliminate nationwide and unit operator bond types to reduce the cost and burden of administering these types of bonds. For nationwide bonds, the state office that is administering a nationwide bond must coordinate with not only the field offices within the state, but also every other state office. Nationwide bonds also put taxpayers at serious risk of having to pay the astronomical costs associated with cleaning up the median of 35 wells that are covered by a single, insufficient nationwide bond. GAO reported that while the average bond value per well held by DOI was $2,122 in 2019, that amount varied greatly depending on the type of bond, with nationwide bonds having the lowest average value at $890 per well.[18] The elimination of nationwide bonding has previously been proposed in S. 2177, Oil and Gas Bonding Reform and Orphaned Well Remediation Act, introduced by Sen. Bennet (D-CO) in June 2021. TCS also supports the proposal to eliminate the unit operator bonding option. Requiring that all unit operator bonds be converted to statewide bonds should simplify program administration.

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[16] Oil and Gas: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells." U.S. Government Accountability Office, September 18, 2019. https://www.gao.gov/products/gao-19-615.

[17]Ibid.

[18] Ibid.

2. Bonding Minimums Must be Adjusted for Inflation

TCS urges BLM to require the new minimum amounts for individual lease and statewide bonds be adjusted annually in the final rule, which will be consistent with inflation adjustment requirement for other onshore oil and gas program fees included in the proposed rule. The inflation adjustment can use the IPD-GDP, similar to the methodology included in the proposed rule for other leasing terms. The BLM's onshore bonds have not been updated for inflation in the more than sixty years since they were each first set in 1951 and 1960, which is why current bond amounts offer significantly devalued coverage that are insufficient to cover reclamation costs. Without the regulatory requirement that the federal bonding minimum be adjusted annually (or at least regularly) for inflation, the increased bond minimums proposed by this rulemaking will eventually fall short once again.

3. Bond Values Should Account for Other Factors

Further, current bond minimums are disconnected from the factors that determine actual reclamation liabilities, like the number of wells on a lease or in a state, well depths, and locations, among other factors. TCS supports BLM's decision to base these sums on the average cost of plugging an orphaned well, which BLM has determined to be $71,000, as well as the median number of wells under each kind of bond. TCS urges BLM to include periodical bond adequacy reviews to determine whether the bond amount should be increased based on various factors like well depths and number of wells covered by the bond**.** Without bond adequacy reviews, the regulatory minimum bond amounts may not accurately account for factors that affect reclamation costs.

Many states have already taken steps to address potential reclamation liabilities by requiring higher bond amounts and accounting for factors like production or well depths. The Colorado Oil and Gas Conservation Commission adopted new rules in March 2022 and operators were required to submit new financial assurance plans by February 1, 2023. COGCC's new financial assurance requirements are on a per-well basis and vary based on the operator's production level. The more wells an operator has and the higher the production of those wells, the lower the financial assurance requirements. Importantly, financial assurances for wells at high risk of abandonment – low producing and inactive wells – are specific to the individual well, with a base location reclamation fee and additional costs according to well depth. In addition to financial assurances for well reclamation, operators must provide additional financial assurances for surface reclamation and for other facilities on the lease (e.g., seismic operations, gas gathering systems, produced water transfer systems).

While there is continued debate over whether Colorado's new financial assurances will be high enough to protect state taxpayers from orphaned wells,[19] it is clear these requirements are much stronger than those on federal lands. The BLM currently requires a minimum bond amount of $25,000 for all wells on federal lands in Colorado. For a similar type of coverage in Colorado, a blanket bond across the state, COGCC would require $40 million in financial assurances. Additionally, COGCC has special financial assurance requirements for low producing wells and inactive wells, which have a high risk of abandonment.

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[19] Chase Woodruff, "Colorado oil and gas regulators approve 'strongest in the nation' financial rules." *Colorado Newsline*, March 2, 2022. https://coloradonewsline.com/2022/03/02/colorado-oil-gas-strongest-financial-rules/

Colorado Oil and Gas Conservation Commission Financial Assurance Requirements

Option	Production Requirements	Financial Assurance Requirements
1	Exceeds 60 BOE or 90 MCFE over the last 12 months	Between $12k and $1.5K per well, depending on the number of wells*
2	Exceeds 15 BOE or 22 MCFE over the last 12 months	Between $18k and $8K per well, depending on the number of wells*
3	Exceeds 2 BOE or 6 MCFE over the last 12 months	Single Well Assurance
4	Zero production over the last 12 months	Single Well Assurance
5	Unique Circumstances	Unique Plan
6	A public company that exceeds 40 BOE or 60 MCFE, or a private company that that exceeds 60 BOE or 90 MCFE over the last 12 months	Blanket bond of $40 million for all wells*

*Single well assurance required for some low producing wells and all inactive/out of service wells, including a location reclamation costs of $100,000 per facility and plugging and abandonment costs of between $10,000 and $40,000 per well, depending on depth.

In 2016, the Wyoming Oil and Gas Conservation Commission (WOGCC) updated requirements for individual well bonds to $10/foot, to be adjusted for inflation every 3 years, or a blanket bond of $100,000 covering all wells on state or private land. The WOGCC may require an additional $10/foot for idle wells under a blanket bond. According to a recent report, the updated bonding requirements did not affect the oil and gas industry negatively. In fact, since the new rule went into effect in 2016, production has since risen to its highest level in 25 years and new wells drilled after the new bonding rule account for over 21% of that production.[20]

<u>TCS urges BLM to include periodical bond adequacy reviews to determine whether the bond amount should be increased</u> based on factors such as well depths, number of wells covered by the bond, number of low-producing or idle wells, risk of default posed by the operator, or the risk to the environment posed by the operations. Without bond adequacy reviews, the regulatory minimum bond amounts may still leave taxpayers vulnerable to potential reclamation liabilities.

VI. Accessibility and Transparency of Data

In addition to reviewing leasing policies and their implementation, <u>TCS strongly urges DOI and BLM to examine their systems for providing transparency into federal oil and gas programs</u>. As owners of federal land and water – as well as the resources they contain – taxpayers deserve to know what is being developed, by whom, the compensation for these resources, the local effects of production operations, and federal efforts to mitigate liabilities associated with development. Current data and notification systems do not meet this standard.

Keeping track of oil and gas leasing and production necessitates extensive documentation. The availability of such documentation and data for offshore leasing is encouraging and demonstrates that

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[20] "Oil & Gas Bonding Reform Is A Common-Sense Solution to A Significant Problem: Just Look At Wyoming." Accountable U.S., September 2023. https://accountable.us/wp-content/uploads/2023/09/20230918-Wyoming-Bonding-Case-Study-FINAL.docx.pdf

achieving such transparency is within the reach of the DOI. While several beneficial steps have been taken in recent years and certain upgrades are underway, the tracking systems for the onshore federal oil and gas program remain fragmented and inefficient.

The National Fluids Lease Sale System (NFLSS) serves as a good initial step toward centralizing lease sale preparation and administration information but falls short in several areas. Historical lease sale information remains dispersed across separate BLM pages, and standardization and aggregation of data are still lacking. Each BLM office should report uniform information—using the Utah Office's current practices as a guide—and statistical summaries of lease sales should be made available at regular intervals. Uploading all lease sale results on dozens of PDFs is highly inefficient. Furthermore, the lack of a requirement for each party nominating parcels for lease to disclose their identity remains unjustifiable.

Once a lease is issued, information about its management and operations is available solely through the Automated Fluid Minerals Support System (AFMSS) and the Legacy Rehost 2000 (LR2000). The AFMSS offers only a rudimentary level of information about drilling permits, and significant improvements are possible. For instance, the State of Utah's Department of Natural Resources - Division of Oil, Gas and Mining provides vastly superior functionality for obtaining comparable information. The production history for each well is easily accessible, and links to digital copies of all associated documentation, including permit applications and approval paperwork, are provided.

Currently, metadata on federal well and lease management are offered through the outdated LR2000 system, which is often inaccessible, inconsistent, inaccurate, and grossly inadequate. Entire sequences of actions are frequently summarized with a single code entered on one date. BLM offices in various regions often use different codes or action remarks to document identical events. The clarity and usefulness of explanatory remarks differ widely from one office to another and from one period in the database to another. Direct examples of technical errors throughout the system are common; some actions that should automatically alter case disposition do not, and some codes that should be accompanied by others stand alone.

We commend BLM for taking steps toward data transparency with the creation of the Mineral and Land Records System (MLRS). However, while MLRS data is viewable on an interactive map, it is not downloadable, rendering it unavailable for independent analysis. The primary concern is making the data accessible, followed by improving data quality, enhancing its content, and facilitating its integration with other data systems.

Often, the sole authoritative source of information about onshore leases appears in the Public Land Statistics and Oil and Gas Statistics. These are annual releases with data that is, at best, six months old. The failure to release leasing data on a monthly or at least quarterly basis shows data collection and processing practices that are woefully outdated.

On the production and revenue side, RevenueData.gov is a continually improving valuable resource. Initiatives to add disposition data and sales value data to the site are crucial for enabling effective oversight of the development of taxpayer resources. However, offering data only at annual intervals severely limits the platform's utility. All major oil and gas-producing states release production data monthly. The DOI should follow their example, particularly that of the Colorado Oil & Gas Conservation Commission and the New Mexico Oil Conservation Division.

Therefore, we strongly recommend that BLM amend the final rule to provide detailed plans for making regularly updated information about oil and gas leasing on public lands publicly available.

VII. Conclusion

Taxpayers deserve a federal oil and gas leasing system that is market-savvy, strategic, transparent, and limits liabilities. TCS welcomes the proposed rule as an opportunity for DOI to address longstanding flawed policies and implement the necessary reforms for the program's future success. These comments are not exhaustive of all aspects requiring attention. TCS eagerly anticipates the chance to contribute to future proposals that will ultimately ensure oil and gas development on federal lands and waters provides a fair return to taxpayers and holds the industry accountable for the costs and liabilities of its operations.