Testimony of Joanna Derman, Policy Analyst
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Before the House Appropriations Committee on Interior, Environment, and Related Agencies
On Interior Appropriations Requests Related to Oil & Gas and Hardrock Mining Royalties for the FY23 Appropriations Bill

Chair Pingree, Ranking Member Joyce, and Members of the Subcommittee, thank you for the opportunity to submit testimony on the need to increase royalty rates and overall accountability and transparency for extractive industries at the Department of the Interior.

POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles. For decades, POGO has shed light on the need for the federal government to ensure that extractive industries — like oil, natural gas, and hardrock mining industries — are paying their fair share for the publicly owned resources they extract and profit from.[1]

Currently, the federal government is leaving billions of taxpayer dollars on the table through wasteful practices that indirectly and directly subsidize these industries. Last year's Infrastructure Investment and Jobs Act invested approximately $21 billion to address the environmental degradation that extractive industries cause. These policies unfortunately fall short in holding these industries accountable for their damaging practices, and they leave taxpayers on the hook for cleaning up the mess industries leave behind. But the overwhelming bipartisan support for the bill is cause for hope, and further reforms should build on this momentum. That is why we support Representatives Katie Porter (D-CA) and Raúl Grijalva's (D-AZ) Ending Taxpayer Welfare for Oil and Gas Companies Act (H.R. 1517), which would modernize the onshore leasing system for the first time in a century by increasing royalty rates on publicly owned onshore leases.

Congresswoman Pingree, when POGO testified before this subcommittee in FY21, you recognized that royalties provide critical funding streams for other federal priorities. Referring to an earlier panel on funding for land and water conservation, you said, "so much of it depends on how much we receive on these leases. So, the idea that there would be any

[1] See, for example, "Investigative Series: Drilling Down," Project On Government Oversight, 2018-2019, https://www.pogo.org/series-collections/drilling-down/; *Getting Royalties Right: Recent Recommendations for Improving the Federal Oil & Gas Royalty System*: *Hearing before the Subcommittee on Energy and Mineral Resources*, 110th Cong. 95 (March 11, 2008) (testimony of Danielle Brian, Executive Director, Project On Government Oversight). https://www.govinfo.gov/content/pkg/CHRG-110hhrg41378/html/CHRG-110hhrg41378.htm; "Taxpayers Cold Lose $53 Billion from Oil Leases," Project On Government Oversight, May 28, 2008, https://www.pogo.org/analysis/2008/05/taxpayers-could-lose-53-billion-from-oil-leases/.

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mechanism that would reduce the amount that we receive, and also that there is no transparency, is really unthinkable."[2] We can only agree and add this: An unthinkable lack of accountability and transparency on the part of the extractive industries is exactly why Congress must reform the federal royalty system.

As Congress looks for ways to finance its priorities, I strongly encourage the subcommittee to examine increasing the royalties the federal government collects from the oil, gas, and hardrock mining industries for their use of public lands. The antiquated policies now in place no longer serve the needs of the American people, but they can be easily fixed.

Onshore Oil and Gas Royalties

For over a century, the federal government has failed to ensure that taxpayers receive their fair share in royalties for the oil and gas that companies extract from publicly owned land. For onshore federal oil and gas leases, the government collects a 12.5% royalty[3] — a rate that has remained the same since the Mineral Leasing Act of 1920 was signed into law. A number of states have higher onshore royalty rates than the federal government.[4]

The federal government itself charges a higher royalty rate for offshore leases — 18.75%. According to one estimation, by raising the royalty rate for oil and gas produced on federal lands to match offshore royalties, the Interior Department could have received up to $12.4 billion more in revenue over just one decade.[5]

Raising onshore royalty rates would directly benefit the American taxpayer. Even at current rates, royalties from onshore and offshore resources extracted from federal land provide a significant revenue stream to the federal government. In fiscal year 2020, the federal government received almost $7.6 billion in revenue from onshore and offshore resources, including royalties, and more than $12 billion in fiscal year 2019.[6] These royalties go to the federal treasury, and to state, local, and tribal governments, where that revenue is used to fund key programs such as education.[7] In New Mexico, for example, 83% of royalties from resource extraction on federal public lands in the state goes toward funding public schools and paying teachers.[8]

[2] *Hearings Before a Subcommittee of the Committee on Appropriations, House of Representatives One Hundred Sixteenth Congress Second Session,* (February 6, 2020), https://www.govinfo.gov/content/pkg/CHRG-116hhrg43677/html/CHRG-116hhrg43677.htm.

[3] 30 U.S.C. § 226(b)(1)(A) (2019). https://www.law.cornell.edu/uscode/text/30/226.

[4] Center for Western Priorities, *A Fair Share: The Case for Updating Federal Royalties* (June 20, 2013), 3. http://westernpriorities.org/wp-content/uploads/2013/07/A-Fair-Share.pdf.

[5] Taxpayers for Common Sense, *Royally Losing: Higher Royalty Rates on State and Offshore Oil and Gas Production Reap Billions More than Drilling on Federal Lands* (February 2020), 2. https://www.taxpayer.net/wp-content/uploads/2020/02/TCS-Royally-Losing-2020.pdf.

[6] See revenue data by fiscal year, "Natural Resources Revenue Data," U.S. Department of the Interior (accessed April 7, 2021), https://revenuedata.doi.gov/?tab=tab-revenue.

[7] *Leveraging America's Resources as a Revenue Generator and Job Creator: Hearing before the United States Senate Committee on Energy and Natural Resources,* 113th Cong. (July 22, 2014) (testimony of Greg Gould, Director of the Office of Natural Resources Revenue at the U.S. Department of the Interior). https://www.energy.senate.gov/public/index.cfm/files/serve?File_id=d8c5d5f4-efce-4c0c-ae87-6b3eecd6316f

[8] Senate Testimony of Greg Gould [see note 7].

I urge this committee to require the Interior Department to issue a report that includes estimates on the revenue-raising effect of increasing the onshore royalty rate from its current 12.5% to at least 18.75%. As the Congressional Budget Office has noted, raising the federal onshore royalty rate to 18.75% could increase revenue to the federal government by as much as $200 million over a decade, with little or no impact on levels of production.[9]

I also urge this committee to include report language expressing Congress' displeasure regarding how long it took the Interior Department to release its report on the federal oil and gas leasing program. Shortly after his inauguration in January of 2021, President Biden issued Executive Order 14008, directing the Interior Department to conduct a comprehensive review of the federal oil and gas program. Though administration officials indicated they would release an interim report on that review by early summer, they failed to follow through on this commitment, eventually releasing the final report after much stalling in November 2021.

Offshore Oil and Gas Royalty Procedures

Offshore oil and gas royalty procedures also need reform. Together, offshore drilling and the leasing of publicly owned seafloor tracts brought in nearly $90 billion in federal revenue between 2006 and 2018.[10] The Interior Department's Bureau of Ocean Energy Management (BOEM) sets royalty rates for offshore oil and gas based on market conditions, and it is legally required to ensure that the public receives royalties on "fair market value" for the resources extracted by private industry.[11] However, the bureau also has several options to reduce or waive royalty payments to increase production. The bureau's so-called "royalty relief" procedures often result in forgone royalty payments worth tens of billions of dollars. As the bureau itself has found, its practices often mean the American people lose out on the fair return they're owed.[12]

For example, from 1996 to 2000, the Interior Department leased out tracts of publicly owned seafloor for which it did not collect royalties on the initial volume of oil or gas produced. The Government Accountability Office found that the leases that had been awarded between 1996 and 2000 with a guarantee of no royalties on initial volumes of production resulted in about $18 billion in forgone royalties through 2018.[13]

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[9] Andrew Stocking and Perry Beider, Congressional Budget Office, *Options for Increasing Federal Income From Crude Oil and Natural Gas on Federal Lands*, 51421 (April 2016), 3. http://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51421-oil_and_gas_options.pdf.

[10] Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 1. https://www.gao.gov/assets/710/702062.pdf.

[11] 43. U.S.C. § 1344 (2019), https://www.law.cornell.edu/uscode/text/43/1344.

[12] Bureau of Ocean Energy Management, *Recommended Discount Rates and Policies Regarding Special Case Royalty Relief for Oil and Gas Projects in Shallow Water* (November 2019), 14. https://www.boem.gov/sites/default/files/documents/oil-gas-energy/energy-economics/SW_SCRR_Discount_Rate_Paper.pdf.

[13] Companies tended to submit higher bids for those tracts, resulting in an estimated nearly $2 billion in public revenue the department collected in lieu of the pre-1996 royalty rate. However, that $2 billion pales in comparison to what the government could have earned for the public through royalties had they collected them. See Government

I recommend this committee include report language that expresses Congress' displeasure at the Interior Department's practice of waiving royalties.

Hardrock Mining Royalties

In addition to leaving on the table money the oil and gas industries owe the public, the federal government also neglects to collect royalties for some resources extracted from federal lands altogether. Under the General Mining Act of 1872, taxpayers receive zero royalties for hardrock minerals extracted from public lands throughout the West and Intermountain West.[14] The U.S. lags behind the rest of the world by failing to collect a federal royalty for these minerals.[15] To add insult to injury, mining companies also receive generous tax breaks for extracting our natural resources from federal lands.[16]

This year marks the sesquicentennial of the passage of the General Mining Act, and it is past time for Congress to take concrete steps to modernize this law. One estimate puts the value of the hardrock minerals extracted from western public lands at $300 billion since the law was passed, with no revenues going to the taxpayers who own the land.[17]

I recommend this committee require the Interior Department to issue a report on forgone royalty revenue and the effect a royalty would have on production levels.

Conclusion and Recommendations

POGO recommends that the subcommittee publish report language expressing its displeasure regarding how long it took the Interior Department to release its report on the federal oil and gas leasing system and at the department's practice of waiving offshore oil and gas royalties. This committee should also require the Interior Department to issue a report that includes estimates on the revenue-raising effect of increasing the onshore oil and gas royalty rate from its current 12.5% to at least 18.75% and require the Interior Department to issue a report on forgone hardrock mining royalty revenue and the effect of royalties on production levels.

Thank you for the opportunity to submit this testimony for your consideration today.

Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, *GAO*-19-531 (September 2019), 18. https://www.gao.gov/assets/710/702062.pdf.

[14] 30 U.S.C. § 22 (2020), https://www.law.cornell.edu/uscode/text/30/22.

[15] James Otto et al., The World Bank, *Mining Royalties: A Global Study of Their Impact on Investors, Government, and Civil Society*, 37258 (2006), 40. http://documents1.worldbank.org/curated/en/103171468161636902/pdf/372580Mining0r101OFFICIAL0USE0ONLY1.pdf.

[16] Peter Schroeder and Michelle Price, "U.S. mining lobby in push to preserve tax break repealed by Democrats," Reuters, June 24, 2020, https://www.reuters.com/article/us-health-coronavirus-watchdog-tax-idINKBN23V1KL.

[17] "The 1872 Mining Law: Enriching Foreign Companies at Taxpayer Expense for 150 years," Earthworks, Earthjustice, and the Western Organizations of Resource Councils, March 21, 2019, https://www.earthworks.org/cms/assets/uploads/2019/03/FS_1872MiningLaw_EW-EJ-WORC_201903.pdf.