April 15, 2021

The Honorable Deb Haaland
Secretary of the Interior
1849 C Street, NW
Washington, DC 20240

Submitted electronically via: energyreview@ios.doi.gov

Dear Secretary Haaland,

I write in response to the Department of Interior's call for informal public comment concerning the Biden administration's federal fossil fuel program review that is currently underway. Thank you for taking into consideration the State of Wyoming's comments because it is imperative you hear from the states where jobs, livelihoods, and revenue are directly impacted.

You noted in your opening remarks during the fossil fuel program review virtual public forum held on March 24th that the Department of Interior is "continuing to meet with Governors on both sides of the aisle, hearing from Congress, and engaging in consultation with tribal nations" regarding the oil and gas leasing program. Coming from a rural western state, I am confident you appreciate how consultation is and should be a crucial component of any major federal policy change. It is my contention that it should have occurred before any action on the federal leasing program was enacted. Indeed, it is because the heart of enlightened responsible policy lies in fully understanding all its consequences that Governor Lujan-Grisham of New Mexico and I have offered our services and perspectives.

Interior also stated that information gathered at the fossil fuel program review forum would help inform an interim report from the Department that will be completed in early summer of 2021. If the report is to include initial findings on the status of the federal conventional energy programs, it begs the question: who else other than the states is in the best position to provide the information you need to inform these findings? We should have been involved at the get-go.

Instead, on January 20, 2021 the Department issued Secretarial Order 3395, which pulled most decision-making authority regarding existing oil and gas leases to headquarters from the Bureau of Land Management State Directors. Recent pronouncements from the Department of the Interior say the order has expired, but that is not completely so. Headquarters continues to prevent State Directors from making routine decisions such as extensions of Applications for

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Permits to Drill (APDs), as per Interior guidance issued to BLM Directors on March 19, 2021.

In addition, on January 27, 2021 President Biden issued Executive Order 14008, which halted the federal oil and gas leasing program, once again, without any consultation with the governors of the affected states. Consultation does not mean after-the-fact attempts to set up staff-only sessions with associations such as the Western Governors Association. Consultation means direct communication between you, as a decision maker for the Department of Interior, and the governors before the action is taken.

Before I can offer a constructive perspective on what to consider for Interior's federal fossil fuel program review, I must state a clear and present fact: the moratorium on leasing during the review discriminates against the people of Wyoming. First, western states such as Wyoming are disproportionately affected by the freeze because of the amount of federal land and leases within our borders. Other oil and gas producing states consisting of mainly private lands are now seeing an increase in oil and gas interest. What this means in Wyoming is fewer jobs, a decline in the overall economy and less revenue from bonus bids, rentals and royalties, which translate to lower funding for schools, health care, public safety and other essential services. In a study conducted at the University of Wyoming, it was predicted that the eight western states with federal oil and gas leasing programs will have investment losses of $2.3 billion, production value losses of $872 million and tax revenue losses of $345 million in the first year of the moratorium.

Moreover, because Wyoming has taken the lead on many initiatives that are reportedly important to the Biden administration such as, methane regulation, protection for endangered species and migration corridors, the out migration of production to states with more private lands and user standards will impede progress towards the very goals their administration empowers. Rather than promoting responsible development, these changes torpedo it.

The world will continue to need and use fossil fuels for the foreseeable future. The question is, whether it will be produced under the environmental safeguards in place on federal lands in Wyoming, or overseas without equally stringent regulations? President Biden's de-facto ban on oil and gas leasing under Executive Order 14008 will not meet the climate goals of the Administration. As stated above, production will simply shift to private land or other countries.

The oil and gas leasing and development program was working and working well in Wyoming. Due to the Russian/Saudi oil war and COVID-19, production was down significantly, but the state's economy was starting to turn around. The oil and gas industry provides hundreds of millions of dollars to the state and federal treasuries every year. At the beginning of the year, we were just beginning to see an uptick in the market and those corresponding revenues. The moratorium makes that recovery tenuous and more difficult.

On the matter of the claim that the leasing moratorium is not impactful because leases have been stockpiled by the industry: it is not accurate in this state. First, that argument is apparently based on the belief that every lease, if drilled, will provide oil and gas. Even with the great improvements in seismic technology, there is no guarantee that companies will discover hydrocarbons or produce economic quantities of commercial oil and/or gas just by purchasing a lease. Drilling in developed areas yields up to 90 percent success rate, while exploratory wells are generally in the range of 50 percent. Adjoining leases to leases with known discoveries are often the target of companies when they are offered for sale.

Second, in order to develop fields responsibly, with minimal surface disturbance and the least amount of stranded oil and gas, leasing must be thoughtful, strategic, and forward-thinking. It may take a company several years and multiple sales for a successful bidder to gather enough leases to allow the organized development of the entire field to avoid waste and stranding assets. In Wyoming, much of the land is in what we call "the checkerboard," where federal, private and state lands (or minerals) alternate section by section, much like a checkerboard. While it might look like a company is stockpiling leases, it is really attempting to gather enough leases to form a multi-section drilling spacing unit, working out pooling arrangements and verifying who gets rental and royalty payments. When you add the time necessary for environmental reviews and surface use agreements it is often years and the holding of many leases before the actual exploration can begin. Quarterly lease sales allow companies to keep working towards completing their development plans. A pause on leasing can set back development for years.

Third, Wyoming has demonstrated unequaled leadership in mitigation efforts to protect species like Greater sage-grouse and vital habitat components such as migration routes have been established. Much of the work supporting these issues has been funded by the very industries hampered by the moratorium. NGOs, industry, local and state governments are cooperating to the greater good of the environment, society, and people's well-being. But, that progress is undermined when timely scheduled development is uncertain. Whole drilling seasons, where development can occur, can be taken off-line, further crippling activity in our state and that will imperil our local economies significantly and potentially catastrophically.

Lastly, it is important to point out that the companies must pay the federal government while they hold the lease. Those payments come as bonus bids, rentals and royalty payments. Most companies do not have unlimited capital, thus they are not going to pay for leases that do not have the real potential for an eventual return. During the window when a company holds a lease, the lands remain available for other uses not incompatible with the ability to develop a lease.

I also address the misconception that the Federal lands are currently over leased. In Wyoming, the federal government owns approximately 39,008,444 oil and gas mineral acreage (figure 1). Of that amount, approximately, 26,584,584 acres are considered leasable, which does not include national parks, national monuments, national grasslands, wilderness areas, the Wind River Indian

Reservation and geographically unsuitable areas for oil and gas leasing (figure 2). Of those leasable federal mineral rights, only 9,134,584 acres are currently leased (approximately 34 percent) (figure 3). Current available but unleased federal acreage is 17,450,000 (approximately 66 percent) (figure 4). Again, in perspective of the total amount of federal mineral rights acreage, 23 percent, or less than a fourth of the federal mineral estate, is actually leased for oil and gas at this time in Wyoming.

I have attached some exhibits to illustrate the issue.

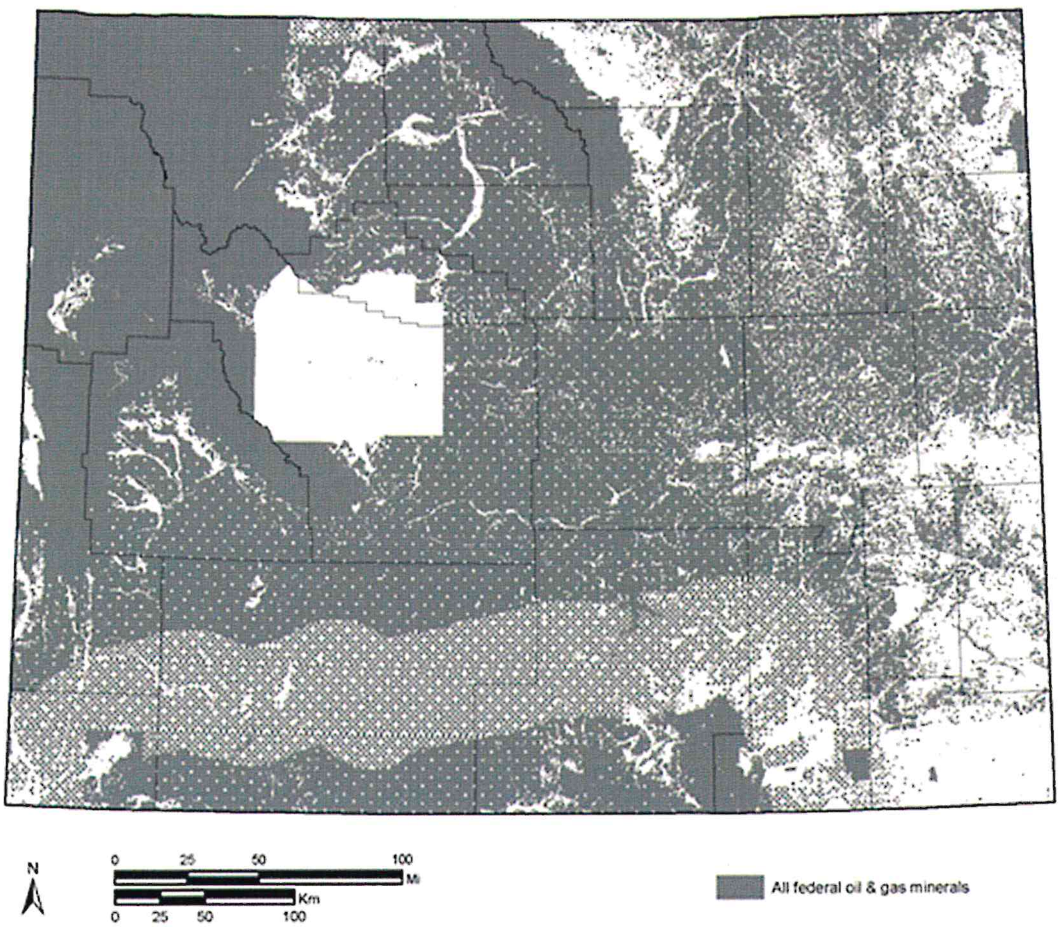

Figure 1. Wyoming oil and gas mineral rights acreage owned by the federal government, not including tribal lands. Source: Wyoming State Geological Survey.

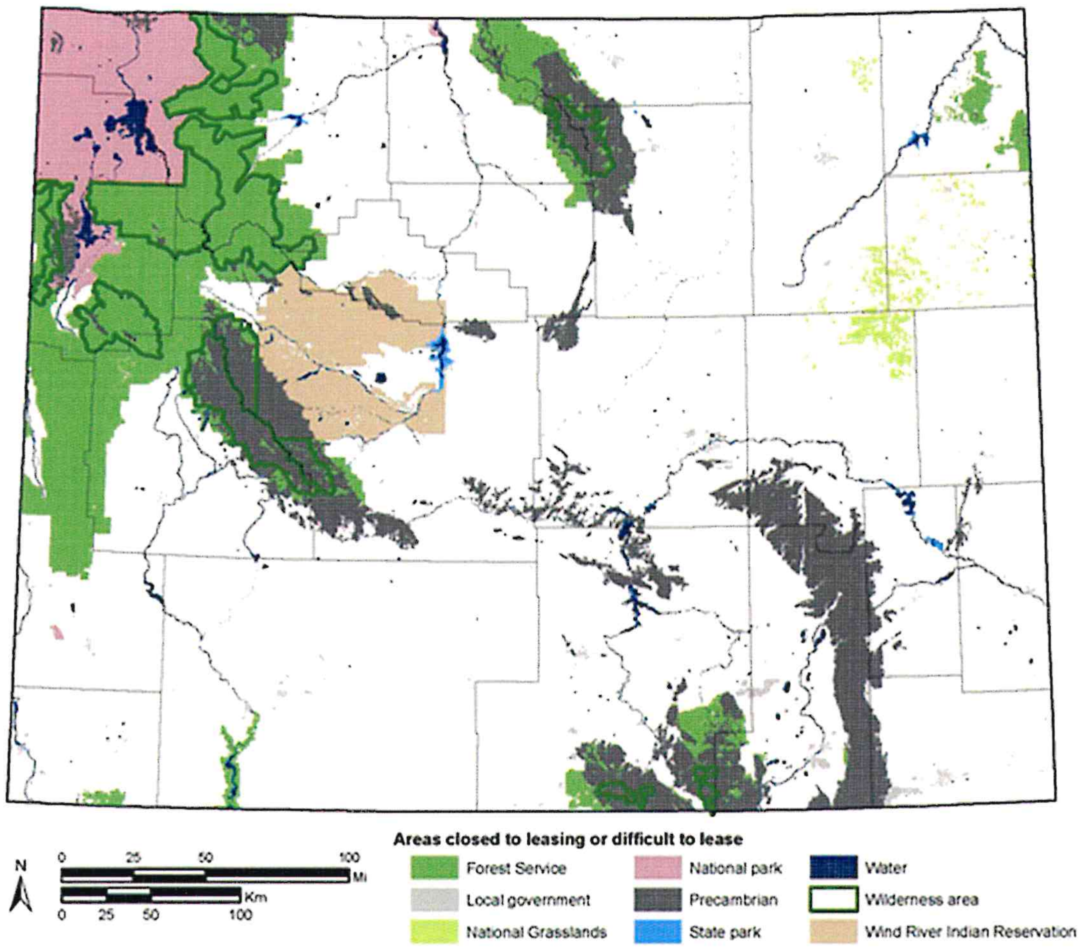

Figure 2. Areas in Wyoming closed to leasing, difficult to lease, or unlikely to be leased. Source: Wyoming State Geological Survey.

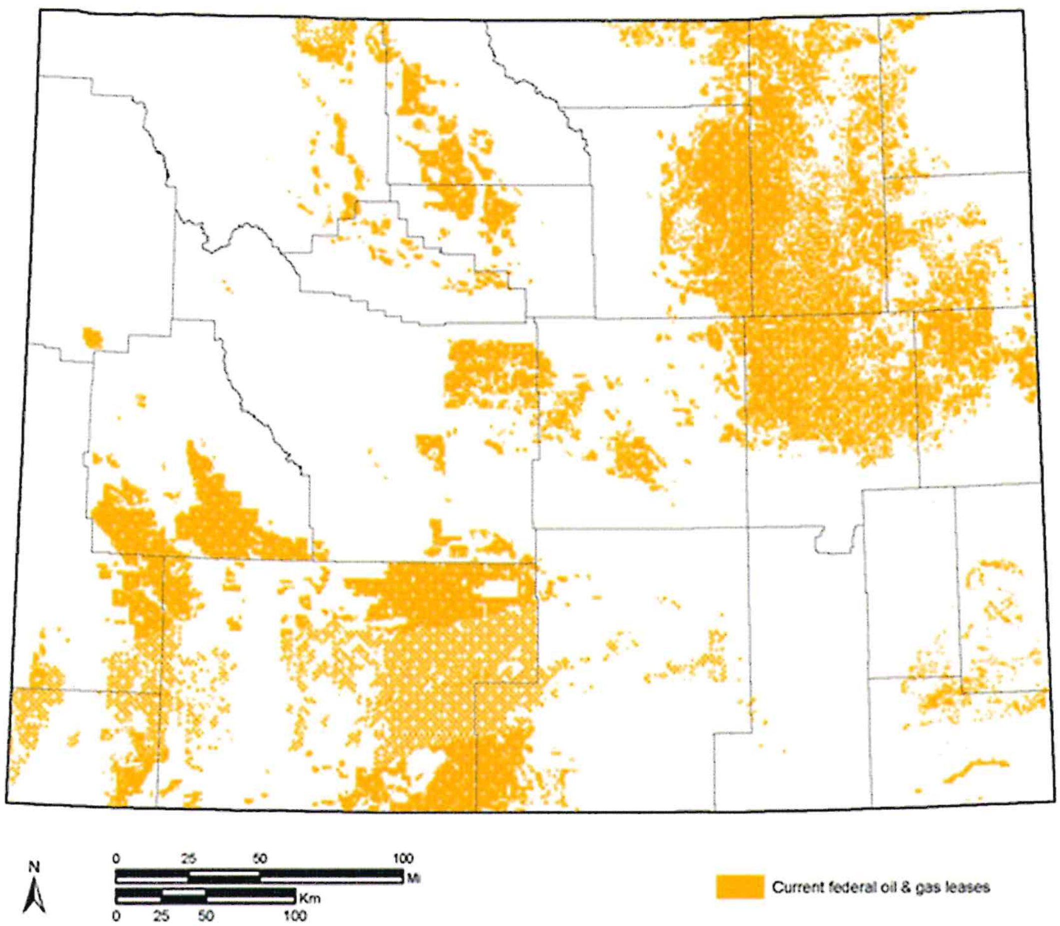

Figure 3. Current Wyoming federal oil and gas leased acreage. Source: Wyoming State Geological Survey

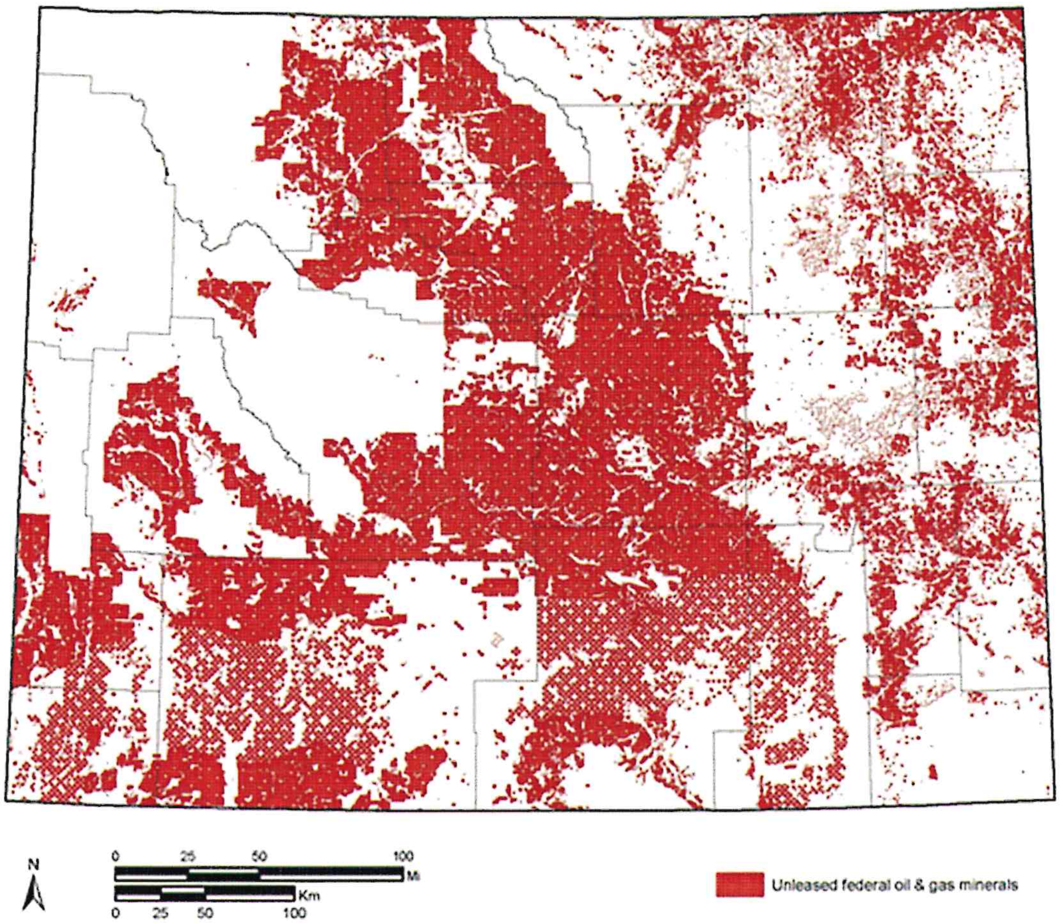

Figure 4. Unleased federal mineral leases in Wyoming, not including areas closed to leasing or difficult to lease Source: Wyoming State Geological Survey

In terms of environmental impact, Wyoming has been a leader in responsible oil and gas development. During the March 24th forum, some groups indicated that states do not have effective standards or enforcement mechanisms to control methane emissions and flaring. I could not disagree more. The Wyoming Oil and Gas Conservation Commission (WOGCC) has stringent rules for flaring for all wells (federal/fee/state). These are long-standing procedures that protect Wyoming's environment. A small volume of flaring is allowed by rule if determined to be uneconomical and for safety reasons during well drilling and completion activities. If operators believe it is necessary to flare volumes in excess of what is allowed by rule, they are required to apply for WOGCC approval. Part of this submission is a gas capture plan that details gas gathering systems, takeaway capacity, and gas treatment systems within the area, other producing and planned wells within the area, gas gathering companies operating within the area and information on the gas gathering line to which the operator proposes to connect. This information, along with detailed information concerning the well to be flared, is examined by the

WOGCC as part of its consideration of approval for flaring. With these stringent rules on flaring, the total gas volumes flared in Wyoming for all wells is very small, less than one percent (typically approximately 0.25 percent) of all gas produced within the state in any given year.

The forum also raised the issue of methane emissions from abandoned/orphan wells and the plugging of abandoned/orphan wells. Again, the Department of Interior would have done well to look before leaping to a moratorium. The WOGCC has a long-standing program to plug orphaned oil and gas wells. This program dates back to the early 1990s, and there are records of the WOGCC and the USGS plugging orphan wells as early as the 1920s in Wyoming. Due to our efforts, there were minimal orphan wells in the state of Wyoming for many decades. However, in approximately 2010, several thousand coalbed methane wells were orphaned due to depressed gas prices. Since 2014, the WOGCC has conducted an accelerated orphan well plugging program to drastically reduce the number of orphan coalbed methane wells and plugged in excess of 1,000 wells in 2020.

In 2018, the WOGCC partnered with the Bureau of Land Management (BLM) Wyoming State Office to plug orphaned wells on federal mineral leases, building on the successful program on state and private land. These wells had been identified by the BLM in Wyoming as orphan, but since funding was not allocated to plug the wells, the BLM was not able to do anything with them. The BLM did have extra funding from other programs available, but was not able to work within the confines of the federal budgeting requirements to reallocate the funding to plug orphan wells. The WOGCC applied for a grant from the BLM to secure funding to plug the orphan federal wells. The WOGCC has extensive experience plugging thousands of orphan fee and state wells, thus bringing knowledge, experience and efficiency to the program by coordinating statewide bids for the plugging contractor, and BLM staff observed the plugging of the wells in the field. The WOGCC and BLM have successfully plugged 82 orphan federal wells and six abandoned produced water reservoirs in Wyoming for the two years this program existed.

Last year, the pace of plugging was picked up dramatically due to wise use of Coronavirus Aid, Relief, and Economic Security (CARES) Act funding. Under current requirements, today's wells are sufficiently bonded to assure plugging and appropriate abandonment activities. Conservation taxes paid by the oil and gas industry provides funding for the plugging of orphan/abandoned wells.

I recognize there are proposals currently being discussed for federal funding to plug more orphan/ abandoned wells. While that would certainly be helpful, Wyoming is not betting on the come of that promise. Our program will continue, but it is important that the federal leasing program continues to provide a steady, consistent stream of federal leases along with leases on state and private lands. Without leases, there are not any conservation taxes.

This aggressive program to plug wells means Wyoming does not have a significant problem with fugitive methane emissions. Abandoned and unplugged oil and gas wells are likely responsible for less than 1 percent of reported methane emissions from the state's oil and gas operations, according to new research published by the University of Wyoming's Enhanced Oil Recovery Institute.

Concerning overall emissions from oil and gas operations, the Wyoming Department of Environmental Quality works closely with the United States Environmental Protection Agency to oversee and regulate those emissions. For the most part, we have a cooperative relationship that recognizes our ability and knowledge to adequately address any emission concerns. This includes one of the most responsible programs for regulating volatile organic compounds emissions from oil and gas active operations. Wyoming stands ready to work on how we can help other states meet our standards and to continue to improve processes.

Another area in which consultation would have, but continues to be most useful is how Wyoming addresses wildlife issues, in particular sage-grouse conservation and the protection of wildlife migration corridors. Wyoming is home to the largest stable population of Greater sage-grouse and we have implemented effective mechanisms to maintain habitat simultaneous to the development of wind, solar, coal and oil and gas resources. Many of the habitat protections are either funded or provided by oil and gas operators. With regards to Wyoming's ungulate migration, the state is home to the longest mule deer and pronghorn migrations on the planet. We also have implemented a corridor policy that focuses on siting surface disturbances outside of the most important habitats in designated corridors, regardless of land ownership status. Wyoming has led in balancing wildlife protections and development for decades. Once more, the review and moratorium puts in jeopardy these multi-use policies and the consequential wildlife protections we have worked so hard to implement in partnership with industries.

Concerning royalty rates, the question came up during Interior's forum about how industry might contribute to account for climate costs in drilling. I agree with the American Petroleum Institute's statement that increasing royalty rates could be a proxy for a cost on carbon for federal lands; a rate that is set too high could incentivize the movement of production to private, state or foreign locations. But, not to belabor the point: without sales, there are no royalties.

The most obvious conclusion for me to make from the leasing moratorium and the information provided from the federal leasing program review forum is that the freeze on new oil and gas leasing on federal lands, in addition to being highly destructive to Wyoming's economy, is absolutely unnecessary. Any comprehensive, thoughtful and meaningful review could be done without tossing the entire leasing program.

This is underscored by the fact that this was not an energy review; it was targeted solely to oil

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and gas. Wyoming has great experience in working with the Department of Interior on the individual sales as they come forward and there was no reason this review could not have been completed without the leasing moratorium. This is particularly evident in the stated estimated time for the review and completion of the report in early summer. Again, prior consultation with governors could have made that possible.

I ask that you immediately end the leasing freeze, free up the ability for State BLM Directors to approve APD extensions and dedicate time for deliberate and thoughtful consultation with Wyoming and other states that have effective regulation of development, solid environmental protections, and whose economies, livelihoods and way of life are dependent upon the federal energy programs that this administration proposes to reform. Policy changes to our bedrock program should not be based on a predetermined outcome without meaningful input from all stakeholders.

The stated goal of the Department of Interior's fossil fuel program review report is to recommend to the agency and Congress possible improvements for stewardship of public lands and waters, to create jobs, and to build a just and equitable energy future. While these are admirable goals that anyone should strive to achieve, the exercise seems to be a solution seeking a problem that does not exist for states like Wyoming. In fact, the sought for cure could actually worsen the issues it seeks to remedy by shifting production elsewhere where regulations are inferior and enforced with much less vigor. There was and continues to be no need for a de facto leasing moratorium. A one-size-fits-all solution to a questionable problem is not a prudent means to conduct public policy reform.

When you choose to engage directly, I will gladly discuss Wyoming's position on what already works well under the program and what aspects of the program could use modernization.

Sincerely,

Mark Gordon
Governor of Wyoming

MG:rl:kh

cc: Senator John Barrasso
Senator Cynthia Lummis
Congresswoman Liz Cheney