

**Western
Values
Project**



**RIGGED – WHY OIL & GAS
DEVELOPMENT IS ALREADY
THE DOMINANT USE OF
AMERICA’S PUBLIC LANDS**



Executive Summary

America's public lands are supposed to be managed for many uses, including hunting, fishing, camping, and mountain biking, as well as conservation and wildlife protection. The outdoor recreation industry is one of the fastest growing in the country, and it alone generates \$887 billion in consumer spending each year and supports 7.6 million jobs¹. Yet, the oil and gas industry has rigged the system so effectively that development is habitually prioritized above any other use. That is why Secretary Zinke's ongoing efforts to eliminate what common-sense protections do exist for hiking trails, big game herds, and drinking water – in a mindless pursuit for “energy dominance” – is such a grave threat to America's public lands and economy.

This report explores different aspects of the public lands oil and gas program – ranging from access to corporate profits to hidden subsidies – and shows how thoroughly rigged the system is in favor of the oil and gas industry. What modest protections exist for America's public lands and waters are now on the chopping block, as Secretary Zinke looks to provide his allies in the oil and gas industry with an even tighter grip on America's natural heritage.



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Section One:

Access: Oil and Gas Development is Already the Dominant Use of America's Public Lands

Secretary Zinke has already announced that he plans to make oil and gas development the “dominant” use of America’s public lands. One could be forgiven for thinking that this was not already the case. Oil and gas companies have already leased 27.2 million acres of public lands – a land mass nearly equal in size to the State of Tennessee². And there are over 94,000 wells on public lands that can produce oil or gas – almost twice as many as at the end of the Reagan Administration³. It should come as no surprise, then, that record amounts of oil now flow from America’s public lands⁴.

The billions in profits that oil and gas companies are making from drilling on our public lands is not enough for the industry and its allies in this administration⁵. They want even greater access and fewer protections to grow their bloated bottom-lines. And make no mistake – they want to lease and drill every parcel of public land they possibly can, including right next to national park visitor centers⁶.

Access for private developers is indeed a problem – but not in the way that industry wants you to think. The real problem is too much access and the threat that industry’s relentless greed poses to our national parks, hunting and fishing grounds and drinking water supplies.

Drill, Maybe, Drill

Oil and gas companies are currently sitting on a record-number of unused drilling permits – nearly 8,000 are idle⁷. That’s a three-year supply, based on historic drilling rates for public lands⁸. The Bureau of Land Management (BLM) could literally stop issuing drilling permits tomorrow, and industry would be drilling permitted wells until 2022. But that would also require a dramatic and highly unlikely reversal in energy markets, the single biggest factor driving public lands drilling⁹. And even the Administration – despite its fevered rhetoric on energy “dominance” – is quietly projecting an “overall decline” in public lands drilling¹⁰.

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The (F)leasing of American Taxpayers

Oil and gas companies have also stockpiled over 16,000 unused oil and gas leases covering about 14.4 million acres of public lands¹¹. Many of these unused leases are speculative¹². They will never be developed and were purchased by land speculators trying to make a quick buck.

Taxpayers lose no matter how you cut it. Speculative leases are frequently purchased at rock-bottom prices – for as little as \$2.00/acre – which means that taxpayers are likely losing money, when the costs of issuing and administering leases are factored-in¹³. There are also significant opportunity costs to these leases, as BLM frequently foregoes other income-generating activities – like hunting, fishing and outdoor recreation – when oil and gas leases are present¹⁴.

This Land Isn't Your Land

According to one recent analysis, over 90 percent of public lands are open to oil and gas leasing¹⁵. No other industry enjoys so much access to our public lands, as nearly any parcel of publicly-owned land is up for grabs. In recent months, this has included lands surrounding national parks, within farms and ranches and encompassing drinking water wells¹⁶. Opposition to these efforts is growing, including from conservative western officials¹⁷, businesses¹⁸ and ranchers¹⁹. However, given just how much land is now accessible to the industry, the pressure to move forward with leasing, even in the face of widespread public opposition, will only intensify.

The effects of turning our public lands over to the oil and gas industry can be dramatic. For example, in the 1990s, BLM leased significant portions of the landscape surrounding Dinosaur National Monument for oil and gas development. As companies began drilling wells, visitation to the monument declined by more than 40 percent²⁰.

Thousands upon thousands of unused leases and drilling permits certainly doesn't sound like a shortage of access. On the contrary, it shows that the oil and gas industry – to the great detriment of American taxpayers – has more access to our public lands than they know what to do with. Unfortunately, instead of recognizing and acting on this simple truth, the administration is working even harder to turn our iconic landscapes that drive the outdoor economy over to the oil and gas industry.



Section Two:

Access II: Industry Can Already Nominate Any of Our Public Lands for Leasing

In June 2017, in an eleventh-hour decision, the Bureau of Land Management (BLM) bowed to opposition from Governor Herbert of Utah²¹, several communities in southwestern Utah and 25 local businesses²² – not to mention over 40,000 members of the public²³ – and pulled three proposed oil and gas leases on the doorstep of Zion National Park. It was the right decision, but make no mistake – had local officials, businesses and concerned citizens not engaged, this dangerous proposal would likely have gone forward.

But how did we even get to a point where the BLM would even think about offering oil and gas leases on the doorstep of the most visited national park in Utah²⁴, which generated over \$333 million for local communities in 2016, particularly when:²⁵

- Those leases were nominated by a real estate agent from St. George, Utah, with no apparent experience or expertise with oil and gas drilling;²⁶
- Whose company – Utah Drilling and Exploration LLC – is not even recognized as a legitimate driller by the State of Utah;²⁷
- Who explicitly stated he was “not interested [in] developing the land for its oil and gas, but for water”;²⁸
- And when there has not been a producing oil or gas well in Washington County, Utah in over 30 years?²⁹

Because the system is rigged in favor of the oil and gas industry. Oil and gas companies can nominate our public lands for leasing anywhere and anytime they want to – that is an irrefutable fact. They do not need to have the financial or technical wherewithal to drill. They do not need to show that there are actual oil or gas resources beneath the lands they nominate. And they can freely target our communities, water wells, parks, hunting and fishing spots and biking and hiking trails.

It’s a free-for-all that threatens the precious water, wildlife and recreation resources that so many western communities, weary of the boom-and-bust cycles of the oil and gas industry, increasingly depend on for steady revenues and jobs. It also encourages rampant speculation across public lands owned by all Americans and wastes taxpayer dollars. And when industry does nominate these resources for oil and gas leasing, the burden falls on western communities – local officials and business and land owners – to justify why leasing is bad for their ranch, local economy or favorite hunting area.

The Leasing Free-for-All – Coming to An Elementary School, National Park, Grazing Pasture, or Recreation Area Near You!

There was that time industry tried to lease the majestic red-rock country featured on the State of Utah's license plate – that was fun³⁰. Or that other time industry asked to lease most of Palisade, Colorado's municipal watershed³¹. Western Values Project documented several other notorious examples a couple of years ago – of industry nominating cemeteries, farms and schoolyards for oil and gas leasing³².

Little has changed, unfortunately, as industry has already targeted a number of sensitive areas for oil and gas leasing in 2017, including:

- Within town and city limits, and even within a municipal airport boundary;³³
- Next to treasured national parks and monuments, including Utah's Zion National Park³⁴ and Dinosaur National Monument³⁵;
- Near culturally sensitive areas, like Colorado's Sand Creek Massacre National Historic Site;³⁶
- Within farms and ranches;³⁷
- Within drinking water protection zones;³⁸ and
- Within mountain bike trails and other popular recreation areas.³⁹

“I'm Just Here for the Water.”

“I'm just here for the water.” That is the sentiment that drove a Utah real estate agent to sally forth on a quixotic mission to (somehow) turn oil and gas leases into water rights. It's almost quaint, except that it's not an isolated example. Speculation is pervasive and just another by-product of a system rigged in industry's favor. In fact, of the companies that purchased oil and gas leases from BLM over the past decade, over half are “inactive,” according to state oil and gas agencies:

	Companies Issued Leases by BLM (Past 10 Years)	Companies Issued Leases by BLM (Past 10 Years) – Not Recognized as Active	% of Inactive Operators
Colorado	142	89	63%
Montana	103	47	46%
New Mexico	122	84	69%
Utah	106	50	47%
Wyoming	434	209	48%
Total	907	479	53%

While some of these companies may very well partner with legitimate drilling companies, many will not. They are just gambling with our public lands, hoping to flip their leases for a quick buck – and when leases sell for \$2/acre, it's house money they're playing with and taxpayers who are losing. These speculators will never step foot on their leases or bother reaching out to community leaders or property owners. They'll never stake a single well or make even one royalty payment to federal and state taxpayers. Like the Utah real estate agent, they're just here for the water.

Nah, Nevermind

It's an elegant system, if you're an oil and gas company. You don't worry about doing much due diligence, because you've conscripted BLM employees into doing it for you. And, of course, since there are no filing fees for oil and gas nominations, no penalties for nominating lands that don't pass the sniff test and nominations can be made anonymously, you opt for a scattershot approach – a few nominations over here, a few more over there and so on. And then you wait. It's no skin off your back because the heavy lifting falls to BLM – and anyone else who cares about keeping our western rivers clean, wildlife herds robust and national parks majestic.

Some time passes and, well, maybe prices don't come up like you'd hoped, or you've found better opportunities elsewhere. So, on the day of the sale, even though it was you who nominated these lands for leasing, initiating a review

process funded with federal tax dollars, you say – nah, nevermind and don't bother showing up. Sound far-fetched? Nope – in fact, it's so common that in 2015, the oil and gas industry bought less than 24 percent of the leases offered for sale by BLM – leases that the industry itself had asked for.⁴⁰

But, surely, it's different now, given the cozy ties between the administration and the oil and gas industry? Wrong again. Here are results from three of the first lease sales held by BLM during the Trump Administration:

STATE	LEASES OFFERED FOR SALE BY BLM	LEASES PURCHASED BY INDUSTRY	% OF LEASES PURCHASED BY INDUSTRY
Montana <i>June 13, 2017</i>	156	49	31%
Utah <i>June 13, 2017</i>	20	8	40%
Nevada <i>June 14, 2017</i>	106	3	3%
Total	282	60	21%

The problem isn't a lack of opportunities – there's obviously no shortage of those. It's the lack of a rational system for identifying public lands for oil and gas leasing – one that is driven not by the industry's greed, but by what is best for our public lands and western communities.

National parks, national forests, wildlife refuges, and recreation areas, as well as the minerals beneath them, belong to all Americans. The federal government holds these lands and resources in trust and is supposed to manage them for our benefit and the benefit of future generations.

One need look no further than the paychecks of top oil and gas company CEOs to realize who the real beneficiaries of drilling America's public lands are. Over the past ten years, oil and gas companies drilling on public lands – which include some of the largest, most profitable corporations like Exxon Mobil, Chevron, ConocoPhillips, EOG Resources and QEP Resources – have raked over \$500 billion in profits. And because the federal government's fiscal terms for public lands drilling are woefully outdated and extremely favorable to the industry, American taxpayers are only recouping just a fraction of these profits in royalties and taxes even though it's the American people's shared resource.⁴²

Together, Exxon Mobil, Chevron, ConocoPhillips, EOG Resources and QEP Resources hold about 14,300 federal oil and gas leases. This amounts to about 35% of all federal leases, as there were 40,150 at the end of FY 2016.⁴³

Public Lands – Major Oil and Gas Leaseholders

Company	Profits: 2007 – 2016 (Billions)	# of Leases	Acres Leased
Exxon Mobil	\$310.6	3,433	885,202
Chevron	\$170.0	1,495	301,903
ConocoPhillips	\$40.4	3,011	563,171
EOG Resources	\$5.4	5,317	1,066,849
QEP Resources	\$1.6	1,041	375,780
Total	\$528.0 Billion	14,297	3,192,905

CEO Compensation – 2016

COMPANY	CEO	TOTAL COMPENSATION (MILLIONS)
ExxonMobil	R.W. Tillerson	\$25.1
Chevron	J.S. Watson	\$18.8
ConocoPhillips	R.M. Lance	\$15.6
EOG Resources	William R. Thomas	\$10.5
QEP Resources	C.B. Stanley	\$6.4
Total		\$76.4 million

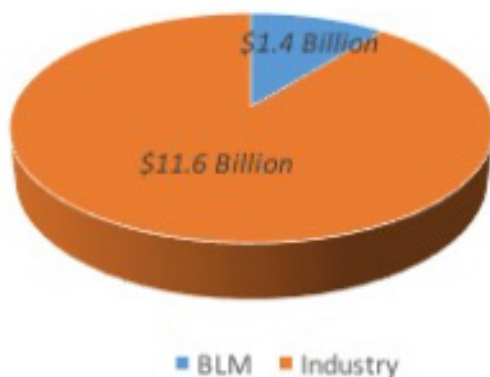
Excessive Executive Pay

Executive pay at these companies is staggering. Among the five corporations, average CEO compensation topped \$15 million in 2016. Last year, Rex Tillerson, then CEO of Exxon Mobil, received \$25.1 million in executive pay, a combination of salary, bonuses, stock and other incentives. J.S. Watson, of Chevron, made a cool \$18.8 million. Profits from public land oil and gas development are making some of the wealthiest corporate executives even richer.

Short-Changing Taxpayers and Local Communities

These corporate windfalls are also coming at the expense of taxpayers and local communities. At a rate of 12.5%, the BLM takes only a small share of federal lands oil and gas royalty revenues, far less than what Western state governments and private leaseholders charge, let alone what the companies themselves collect⁴⁴. In FY 2016, companies operating on federal lands gained some \$11.6 billion selling oil and gas from public lands, but BLM collected only \$1.4 billion in royalties.⁴⁵

Federal Lands Oil and Gas Sale Revenues
FY 2016



BLM shares half of its public land oil and gas revenues with state governments based on where the minerals are extracted. These state governments then devote this money to fund basic and essential services, like schools, libraries, roads, and infrastructure. Inflated corporate profits from public land oil and gas development do more than shortchange taxpayers in the abstract – it comes directly at the expense of local taxpayers and local communities.

In fact, many states that depend on federal oil and gas revenues to fund essential services are struggling to make ends meet. In March, Wyoming, which normally funds 30% of its education spending with federal mineral royalties, cut nearly \$35 million from its K-12 account⁴⁶. In May, New Mexico suspended public works projects and borrowed more than \$70 million to address its deficit⁴⁷. Spending levels for K-12 education in Colorado are also at risk.⁴⁸

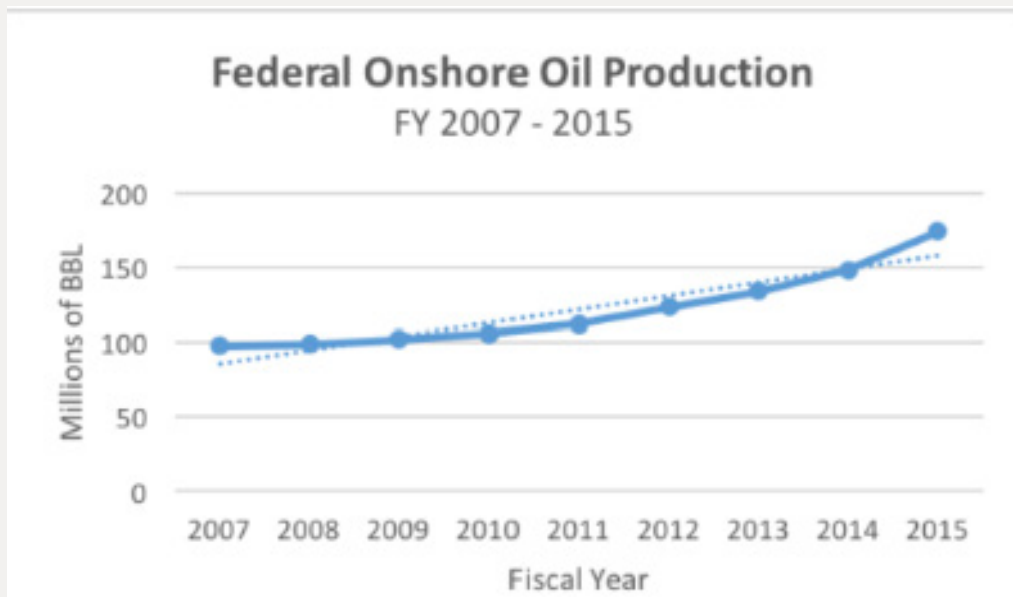
Inadequate royalty rates, huge subsidies and antiquated policies have turned public lands into a playground for corporate profits and excessive executive pay. While many western states are cutting funding for education and other essential programs, top corporate federal leaseholders are making hundreds of billions of dollars. National public lands and resources belong to all Americans, not just oil companies and their executives. Taxpayers and local communities deserve a fair share in return for access to our lands and minerals.

Section Four: Energy Prices: The Oil & Gas Industry's Real Burden

Over the past few years, the oil and gas industry – aided by its army of lobbyists⁴⁹ and millions of dollars in campaign donations⁵⁰ – has spun a fabulous tale of oppressive rules and diminished access to federal lands. Yet, industry:

- Voluntarily passed on over 23 million acres of oil and gas leases offered for sale by BLM between 2009 and 2016;⁵¹
- Requested almost 7,000 fewer drilling permits between 2013 and 2015⁵² than it did between 2007 and 2009⁵³; and
- Stubbornly refused to use the millions of acres of leases⁵⁴ and thousands of drilling permits that it already owns.⁵⁵

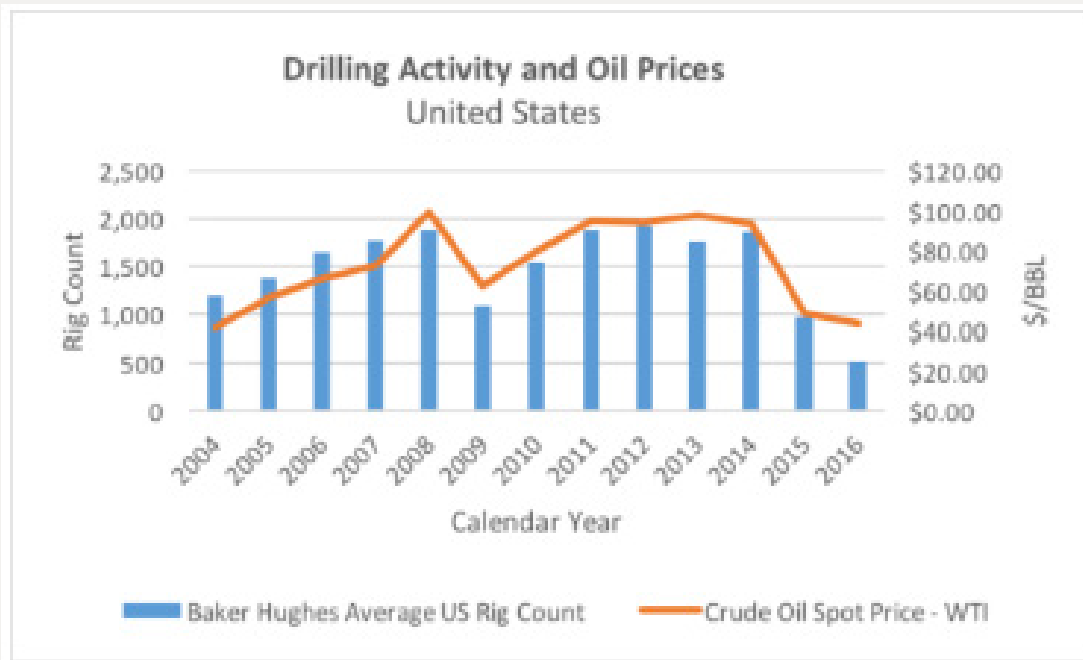
If there were impediments to oil and gas production on federal lands – and it's hard to say with a straight face that there actually were given that oil production on federal lands increased by 77% between 2008 and 2015⁵⁶ – they were related to market forces and the historic declines in oil⁵⁷ and gas⁵⁸ prices over the past few years.



Companies making business decisions in response to market conditions, including by slashing exploration and production budgets, should not be confused with purported onerous federal policies. Yet, that bait-and-switch is at the heart of industry's efforts to undo common-sense protections for our national parks, wildlife, rivers and public lands. Don't believe us? Then listen to what industry is saying when its lobbyists are not on camera. When shareholders and regulators are demanding straight-talk, not rhetoric. What's industry saying? It's the economy, stupid.

It's the Economy, Stupid

It bears repeating, but only because industry likes to ignore this fundamental truth: drilling follows oil and gas prices⁵⁹. When prices go up (or down), drilling follows suit. This bedrock principle cuts across administrations and policy decisions:



While industry reflexively blames federal overreach for the perceived declines in leasing and permitting over the past few years, in truth, it was just industry reacting to the market. Had oil and gas prices not declined precipitously in recent years, then industry would likely have purchased some or all of the 23 million acres of leases that BLM offered, but it chose not to buy. At the very least, it certainly would have applied for more drilling permits. This, in turn, would have allowed leasing and permitting levels to hold steady.

Another important point that underscores the outsized role of the market: as oil and gas prices tanked in recent years, so did leasing and permitting on state lands⁶⁰. In fact, in 2015, western states leased 66 percent fewer lands than they did in 2006 and issued 26 percent fewer drilling permits. If federal overreach were the problem, then we wouldn't expect to see the exact same trend on state lands. But that is, in fact, what we see.

Straight from the Horse's Mouth

As reported earlier this year, our country's biggest oil and gas companies are telling their shareholders that federal policies are not materially affecting their bottom-line⁶¹. So, what is then? If not "red tape," then how is industry explaining to its shareholders that it's passing on thousands of new leases and drilling permits? Let's get it straight from the horse's mouth – from some of the most active drillers on our public lands:

- **EOG Resources:** "[T]he substantial declines in crude oil, natural gas and NGL prices that began in 2014 and continued in 2015 and into 2016 materially and adversely affected the amount of cash flows we had available for our capital expenditures and other operating expenses and our results of operations during fiscal years 2015 and 2016."⁶²

- **Bill Barrett Corporation:** "Oil prices declined significantly in 2014 and 2015 and remained depressed during 2016. In response, we suspended drilling activities in March 2016."⁶³

- **Devon Energy:** "In the second half of 2014, global energy commodity prices began a rapid and significant decline, which continued through 2015 and into 2016. This commodity price decline adversely affected our business and results of operations and led to substantial impairments to our oil and gas properties during 2015 and 2016."⁶⁴

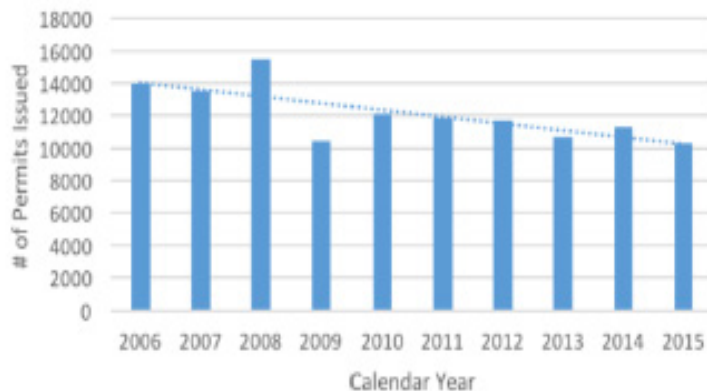
- **Noble Energy:** "Average commodity prices for 2016 fell below the already suppressed 2015 average prices, and, thus, continued to negatively impact our revenues, operating cash flows and profitability and adversely affected the price of our common stock."⁶⁵

- **Halliburton:** "The prolonged reduction in oil and natural gas prices depressed levels of exploration, development, and production activity in 2015 and 2016, and prolonged further reductions could have a material adverse effect on our business, consolidated results of operations, and consolidated financial condition."⁶⁶

State Land Acres Leased
(CO, NM, WY, MT, UT)



State-Issued Oil & Gas Permits
(CO, NM, WY, MT, UT)



These are not hollow statements. Over the past three years, the largest lease-owners on our public lands have slashed – by nearly half – their capital expenditures, the bulk of which typically goes to lease acquisition, exploration and production.

COMPANY	CAPITAL EXPEND. 2014	CAPITAL EXPEND. 2015	CAPITAL EXPEND. 2016	% DECLINE 2014-16
EOG Resources	\$7.5 billion	\$4.7 billion	\$6.3 billion	16%
ConocoPhillips	\$7.6 billion	\$5.1 billion	\$2.1 billion	72%
ExxonMobil	\$9.4 billion	\$7.8 billion	\$3.5 billion	63%
Anadarko Petroleum	\$9.3 billion	\$5.9 billion	\$3.3 billion	65%
BP	\$23.5 billion	\$19.5 billion	\$19.4 billion	17%
Devon Energy	\$5.7 billion	\$4.6 billion	\$1.6 billion	72%
Encana	\$2.5 billion	\$2.2 billion	\$1.1 billion	56%
Chevron	\$35.4 billion	\$29.5 billion	\$18.1 billion	49%
QEP Resources	\$2.7 billion	\$1.2 billion	\$1.2 billion	56%
Chesapeake Energy	\$6.2 billion	\$3.6 billion	\$1.4 billion	77%
Total	\$109.8 billion	\$84.1 billion	\$58.0 billion	47%

While industry's lobbyists continue to intentionally mislead the public about the role of federal policies, away from the spotlight, industry is telling a much different story. The market is, and will always be, the biggest factor that drives development on our public lands.



Section Five: Hidden Subsidies: Taxpayers Propping Up the Most Profitable Industry on Earth

Every year, oil and gas companies make billions of dollars in profits from drilling on America's public lands. Yet, American taxpayers continue to subsidize these companies with bargain-basement royalty and rental rates. Oil and gas companies are passing the buck with minimum lease bids that are well below market value and reclamation bonds that impose significant clean-up costs on taxpayers after oil and gas companies leave town.⁶⁷

The short of it is that while oil and gas executives are taking home \$25 million-dollar paychecks, American taxpayers are getting fleeced – at a time when stagnant oil and gas prices are forcing many western states to reduce spending on basic services and education.⁶⁹

Your Great-Great-Grandfather's Royalty Rates

Royalty rates for onshore oil and gas production were established in 1920 – and have not changed since. They have stayed flat – at 12.5% – for decades, allowing the industry to enjoy billions, perhaps trillions, in windfall profits that rightfully belongs to American taxpayers. According to a report released just a few weeks ago by the Government Accountability Office (GAO), raising royalty rates to levels comparable to those on state and private lands would have a “negligible” impact on oil and gas production, while generating roughly \$80 million per year in new income for federal and state taxpayers. That's why many states charge significantly higher rates for state lands, including as high as 25% in Texas. Even the federal rate for offshore drilling is 18.75%

Outdated oil and gas rental rates and minimum bids are also costing taxpayers at least \$50 million a year, according to a 2016 analysis by the Congressional Budget Office⁷⁰. Rental rates and minimum bids were set in 1987, and while they are supposed to be adjusted to ensure that taxpayer are receiving “fair market value [for] the use of the public lands and their resources”⁷¹ and to “enhance financial returns to the United States,”⁷² they have not been changed since. Oil and gas companies still pay between \$1.50 and \$2.00 per acre in rent, and can still buy an oil and gas lease for about eighty dollars. This allows the industry to engage in widespread speculation and to effectively squat on public lands for a nominal fee.



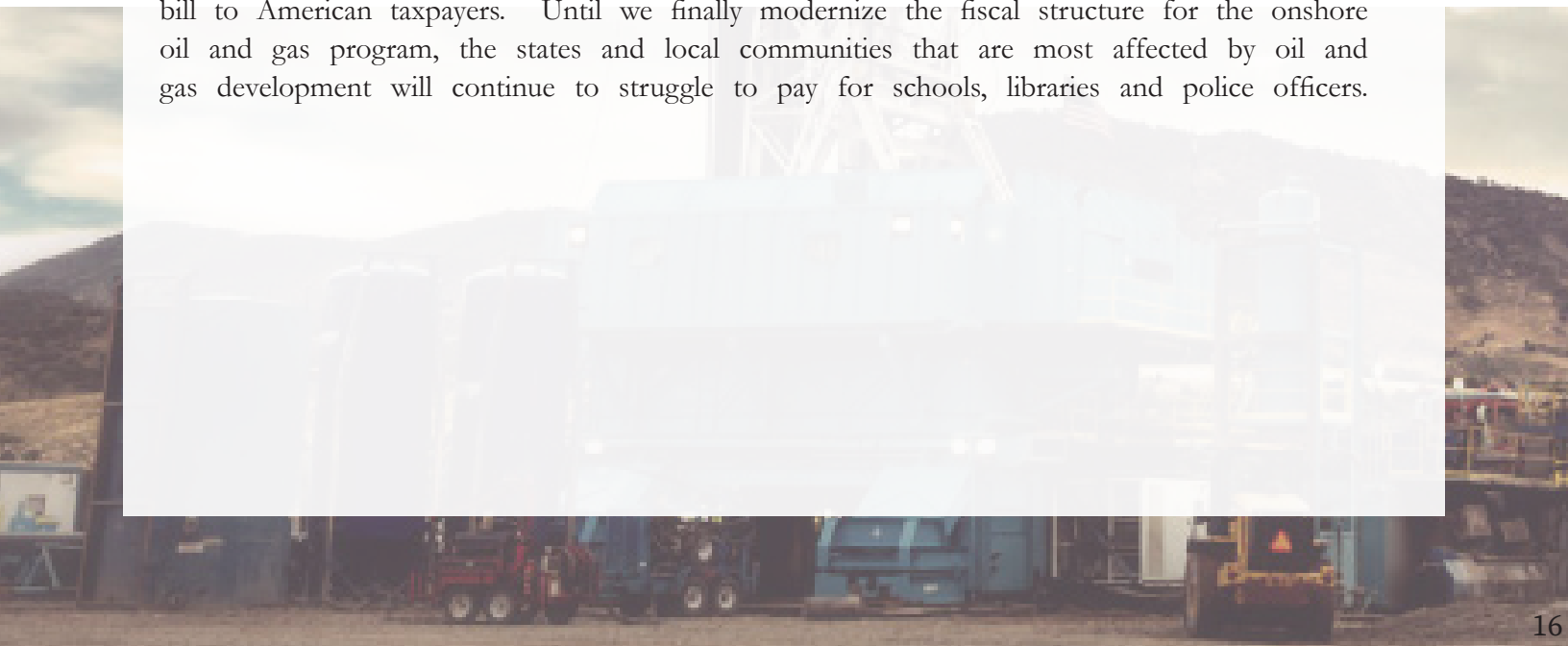
It's Time to Reclaim the Reclamation Bond

Reclamation bonds represent another long-standing subsidy enjoyed by the oil and gas industry. They are supposed to prevent American taxpayers from getting stuck with the bill for cleaning up hazardous waste pits and removing unsightly and dangerous tanks and wellheads when oil and gas companies go bankrupt – an increasingly common occurrence⁷³. But the price of these bonds date to the 1950s and 60s, well before the advent of hydraulic fracturing and modern drilling practices and the expansion of drilling into areas never thought possible seven decades ago. In the years 2001 to 2011 alone, energy development sprawled over 3.8 million additional acres in the American West – a land mass larger than the State of Connecticut⁷⁴. That's an enormous amount of new acreage that will one day have to be reclaimed, but the cost that companies have to put upfront for bonds hasn't increased concurrently.

Current bonds range from \$10,000 for individual leases – about the price of a used car – to \$25,000 for statewide coverage. Companies willing to throw in \$100,000 can get nationwide coverage, no matter how many leases or wells they own and operate. This is a bargain price when you consider that the potential liabilities associated with these woefully outdated bonding rates are astounding. According to GAO, reclaiming a single well can cost taxpayers over half a million dollars⁷⁵, and in 2016, there were over 94,000 producing oil and gas wells on public lands⁷⁶, not to mention thousands more idle and unreclaimed wells.⁷⁷

Yet, as of 2010, BLM had collected just over \$162 million in reclamation bonds from the oil and gas industry⁷⁸. While it is unreasonable to assume that BLM – and by extension, taxpayers – will ultimately be responsible for reclaiming all or even a large percentage of wells currently found on public lands, it is just as unreasonable to assume that current bond amounts are adequate to fully protect taxpayers, particularly in light of the ongoing volatility in oil and gas markets and the increasing number of oil and gas companies filing for bankruptcy. One need look no further than Wyoming – where the state is currently facing \$10 million in unbonded clean-up costs from just one bankrupt operator – to appreciate the risk.⁷⁹

So, while oil and gas executives are laughing all the way to the bank, they are handing the bill to American taxpayers. Until we finally modernize the fiscal structure for the onshore oil and gas program, the states and local communities that are most affected by oil and gas development will continue to struggle to pay for schools, libraries and police officers.



Section Six: Exploiting Loopholes: Gaming the System to Avoid Paying Taxpayers Their Fair Share

Industry loves to complain about regulatory burdens and “red tape” on federal public lands. The reality, however, is that these same companies are systematically exploiting loopholes, subsidies and other special advantages that they enjoy. The system is actually rigged in such a way that allows companies to lease millions of acres of public lands for free, cheating taxpayers out of untold revenues and locking out other public lands users in the process.

Loopholes, Loopholes Everywhere

Normally, to maintain a federal lease, companies have to do one of two things – drill and generate royalty payments or pay rent annually. This requirement ensures that taxpayers are always gaining some revenue and compensation for use of their publicly owned lands and resources.

But through two major loopholes – lease “suspensions” and lease “reinstatements” – oil and gas companies have found clever ways around this requirement. The truth is that companies can squat on federal leases for months, years and even decades, without paying a single dime to taxpayers.

Lease Suspensions – Rent-Free Leasing

Industry uses an obscure loophole called a lease “suspension” to keep oil and gas leases alive well after they would have normally expired – which then relieves them of the obligation to make any payments.⁸⁰ In theory, the Bureau of Land Management (the agency that administers federal lands leases) is only supposed to grant suspensions in “extraordinary” circumstances and “in the interest of conservation of natural resources.”⁸² In practice, BLM liberally grants suspensions for a wide variety of questionable and impermissible reasons.⁸³

For example, when companies file drilling permits just weeks before a lease expires, the BLM typically doesn’t have the time to determine if an endangered species might be harmed or a river might be polluted. Consequently, the BLM often rubber-stamps a suspension “in the interest of conservation.” Of course, companies know that BLM cannot process these applications in a matter of weeks. But that’s why they file permit applications at the 11th hour – it’s a surefire way to extend the life of a federal lease beyond its normal 10-year term, and without any obligation to make rental payments.

Through similar loopholes, oil and gas companies have locked up literally millions of acres of public lands in rent-free leases. At last count, more than 3 million acres of federal leased lands were suspended, over 10% of all lands under lease. These are lands that could have been devoted to other income-generating uses, like hunting, fishing or alternative forms of energy development. This also cheats taxpayers out of tens of millions of dollars. As of December 2015, The Wilderness Society estimated that leases under suspension at that time had cost taxpayers \$80 million in lost rental payments alone (not considering lost production royalties or revenue from other, foregone activities).

Suspensions can lock up lands for months, years, and even decades. A third of leases currently under suspension began their suspensions before 1995, more than 20 years ago. Likewise, a quarter of currently suspended leases entered suspension before 2010.

Lease Reinstatements – Zombie Leases

Another major loophole is the so-called lease “reinstatement.” Through this process, companies can default on their rental payments and then simply reclaim those leases months or more than a year later.

Under current laws, BLM will grant a reinstatement for almost any reason whatsoever. This opens up a broad loophole for abuse. If a company is losing interest in a lease, or if oil and gas prices aren’t what a company hoped it would be, it can simply stop making its rental payments and watch the property. If someone strikes oil nearby, or if prices come back up, it files for a lease reinstatement to get the lease back. Since 2000, BLM has reinstated more than a thousand leases, covering more than a million acres of federal lands. These are lands that, had BLM allowed the leases to expire, could have been devoted to other uses. Instead, through the reinstatement loophole, BLM is allowing companies to speculate on public lands for free.

The Deadbeat Tenants

Of course, in the real world, a landlord would never excuse a missed rental payment, and the tenant would be evicted. And a lender would never allow anyone to indefinitely “suspend” their mortgage payments. So why is the BLM allowing oil and gas companies to do this? And why are taxpayers subsidizing it? We are allowing the oil and gas industry to be deadbeat tenants of our public lands, in yet another example of how the industry has “rigged” the system.

Conclusion

The oil and gas industry has squirreled away thousands upon thousands of leases and drilling permits. Millions and millions of acres of public lands are locked up and waiting for whenever industry decides it wants to pursue leasing. And oil and gas companies are making hundreds of billions in profits from record-setting production and sweetheart royalty rates. If only we were all so burdened.

The truth is, the oil and gas industry dominates the use of America’s public lands like no other. While state and local governments in the West struggle to keep schools open, and the outdoor recreation industry fights for a seat at the table, the oil and gas industry has captured an entire administration, which has elevated the achievement of “energy dominance” over any other consideration. Our public lands and waters – and the millions of westerners who rely on the clean water, wildlife herds and recreation opportunities they provide – have never faced a greater threat.



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