Testimony Before the Senate Committee on Commerce, Science, and Transportation
in a hearing entitled
Ensuring Transparency in Petroleum Markets

Kathleen Sgamma
President, Western Energy Alliance
April 5, 2022

Since before taking office, President Biden has been clear that his climate change agenda is a zero-sum relationship with the American oil and natural gas industry; action on climate change meant a diminishment of American oil and natural gas. From day one with the cancelation of the Keystone pipeline followed a week later by the leasing ban, this administration was intent on restricting American oil and natural gas. On federal lands and waters where the federal government has the most control, he has pledged eliminating it altogether.

But a funny thing happened. Climate change policies meant to make energy prices "necessarily skyrocket" actually achieved their intentions. Energy prices started to rise last summer and the administration started to feel the heat. The first reaction was to ask Russia and OPEC to increase their production. The policies meant to overregulate American oil and natural gas production continued.

When Russia and OPEC failed to heed that request, we in the American oil and natural gas industry made the case that we'd be happy to increase production, but for policies specifically designed to prevent us from doing so. Still the policies continued.

Fast forward to February of this year when Russian tanks rolled across the border of Ukraine and prices jumped even higher. The reality of how Europe and the United States rely on the stable sources of reliable, 24/7 energy that oil and natural gas provide became crystal clear. The fallacy of an agenda meant to constrain American energy was exposed. Rather than backing down on policies purposefully meant to hinder American oil and natural gas, the White House pivoted to blaming my industry for high energy prices.

One of those lines of attack involves 9,000 outstanding leases/permits. Frankly, I'm going to take it as a positive. After spending the last two years talking about "no federal oil", the president now wanting us to develop on these federal leases and permits is a positive sign. But it's not just a question of rhetoric. Even while blaming us for not moving forward on these leases and permits, his own Interior Department was taking actions which specifically block us from developing on them. Last week as he requested that Congress fine us for unused leases—as if increasing the costs to develop on them would lead to increased development—the Interior Department informed us that it would not be moving forward with the approvals necessary to do so. Please allow me to elaborate.

First the 9,000 leases. There are about 37,496 leases in effect and actually just 12,068 nonproducing leases, which amounts to a 66% utilization rate. That is quite high historically, well above the normal 50% rate. My industry continues to produce more on less federal land. Why aren't we developing on all those "9,000 leases"?

- Many leases are held up in litigation by environmental groups. Western Energy Alliance has been in court for over five years now defending about 5,900 leases representing over 7.3 million acres, or basically every lease sold since 2016 with few exceptions. One case alone in Idaho involves over 2,200 leases. Many of these leases cannot be developed while the cases wind their way through the courts.

- Because of Western Energy Alliance's intervention in these cases, we have enabled some development to move forward. We were victorious in one case in New Mexico, where we helped defend the record $972 million lease sale in the Permian Basin. Yet despite that victory and the lack of a court order requiring it to do so, the Bureau of Land Management (BLM) has colluded with environmental groups to do yet more greenhouse gas (GHG) analysis on the leases. At least 150 permits for wells that companies wish to drill in the near future are being held up as BLM conducts that extraneous analysis.

- Likewise, BLM is doing additional climate change analysis on 64 lease sales covered by litigation and does not intend to approve drilling permits while that analysis takes place. BLM is projecting 90 days to complete it, but rarely meets such deadlines and could take much longer. The analysis involves 3,800 leases.

- Companies must put together a complete leasehold before moving forward, particularly with the long laterals we drill that can cut across multiple leases. Sometimes a new lease is needed to combine with existing leases to make a full unit. Since the Biden leasing ban remains in effect with no onshore lease sales held since 2020, some wells and leases are held up waiting for new leases or for the government to combine them into a formal unit.

- Before allowing development on leases, the government conducts environmental analysis under NEPA (the National Environmental Policy Act), which often takes years to complete. Many leases can be hung up by NEPA for years or awaiting other government approvals.

- Finally, not all leases will be developed because, after conducting exploratory work, companies may determine there are not sufficient quantities of oil and natural gas on them. The country still benefits from the leasing revenue paid on the leases. We do not develop leases for the sake of the numbers; drilling locations are chosen only after complex geological, engineering, financial, environmental, and other analyses that indicate it is prudent to do so.

Turning to the 9,000 permits: there are currently 4,766 permits to drill awaiting approval. The government could approve these permits now, enabling companies to move forward with development they are more likely to do in the near term than permits that were approved years ago. There are 8,825 outstanding approved permits to drill, but there are factors that cause companies to wait to drill those wells, if at all.

- Because of the uncertainty of operating on federal lands, companies must build up a sufficient inventory of permits before rigs can be contracted to ensure the permits stay ahead of the rigs. We drill wells in a matter of days and rigs are very expensive, so it's a delicate balancing act. The federal government's permitting system is much less efficient than state permitting, taking months to years to complete whereas states take generally weeks to a few months. Since the federal process is more bureaucratic and has many more obstacles, there is no certainty that federal permits are forthcoming. For that reason, a large inventory must be acquired on federal lands before proceeding. Were the system more efficient, companies would not have to build such a large inventory with the greater likelihood that many of those permits will not ultimately be drilled.

  - Market conditions can change months to years later. Obviously, if the price of oil and natural gas goes down, many wells on federal lands may become uneconomic.

  - Even with today's high commodity prices, the economics of a federal well can change. Since the cost of operating on federal lands is generally higher than on nonfederal lands, companies with federal permits may decide to invest their capital in nonfederal areas that enable them to increase their production more efficiently in today's marketplace.

  - Each well drilled provides valuable information on where to drill next. With an efficient permitting system, the next permit can be acquired on an as-needed basis. On federal lands where permitting is uncertain and inefficient, drilling a few wells may render many other permits superfluous. Again, it's not about raw numbers; it's about what makes sense to drill given complex engineering, spacing, and geological factors.

- A BLM drilling permit is not the only government approval required. Rights of way (ROW) can take years to acquire before companies can access their leases and put in natural gas gathering systems. With the pressure not to flare from regulators and investors, most companies cannot drill before gathering lines are in place. Timely approvals of ROWs would enable companies to develop sooner.

Fortunately, the country can be very thankful that just under a quarter of oil production is on federal lands and waters where the president has the most control. Most of our production comes on private and state lands. But even here the administration can cause mischief.

- The administration has worked with anti-oil-and-gas activists to slow pipeline infrastructure. Without pipelines to move the oil and natural gas produced, wells cannot be developed.

- Capital must be acquired. Activist investors, encouraged by an administration intent on expanding its financial regulatory powers, have worked to de-bank and de-capitalize the industry. Many companies, particularly the small independents who drill the majority of federal wells, are having difficulty acquiring the credit and capital necessary to develop. By calling off bureaucratic efforts to deny financing to the industry, the president could send a strong signal to the market that investments in oil and natural gas are safe and new production could move forward.

- The Biden Administration has embarked on an agenda of regulatory overreach with extensive new regulations in the works. The uncertainty of all the new red tape puts a damper on new investment and development today, especially on federal lands where the burden is highest.

Western Energy Alliance encourages the administration to work together with our industry to reverse many of these policies. Climate change is not a zero-sum game. We can be partners in both reducing GHG emissions and high energy prices. After all, American oil and natural gas provide a net benefit to the environment. Countries like the United States with greater access to reliable, affordable energy not only have higher standards of living, but also cleaner environments and healthier populations.

Increased use of natural gas electricity generation leads to lower levels of air pollution and decreased GHG emissions. We have enabled the United States to reduce GHG emissions 10.2% below 2005 levels through a market-driven increase in natural gas electricity generation.[1] Intermittent wind and solar energy are not possible without backup, with natural gas being the best backup source. Fuel switching to natural gas in the electricity sector has reduced more GHG emissions than have wind and solar energy combined.[2]

More exports of Liquefied Natural Gas (LNG) to Europe and Asia will likewise export the GHG reductions of natural gas. We applaud the Biden Administration for approving two LNG export licenses recently and backing off Federal Energy Regulatory Commission (FERC) policies on natural gas infrastructure intended to get to an answer of "no." The administration should quickly approve all outstanding LNG export licenses and ensure the FERC policy is not resurrected through rulemaking.

But in order to export LNG, we need pipelines to supply those export terminals. There are numerous natural gas pipelines being held up or already canceled, particularly on the East Coast. Unrealistic energy policies that block pipelines in the name of climate change only block real, tangible GHG reductions made possible by natural gas. Lack of pipelines has led to the absurd result of New England at times importing LNG from Russia. Not only does that increase energy costs for consumers, but it increases GHG emissions from the transport. Likewise, the State of Oregon denied a pipeline permit for the proposed Jordan Cove LNG export facility that would have supplied gas from Colorado, Utah, and Wyoming to Asia. The administration should use its emergency powers to expedite pipelines, thereby helping our allies in Europe and Asia to likewise reduce GHG emissions from their electricity sectors.

The administration should halt the Securities and Exchange Commission proposed rule on climate change disclosure. Like other misguided policies intended to address climate change, it will have the opposite effect. It is designed to elevate climate change measures above material financial factors in investment decisions as a means of denying capital to oil and natural gas projects. Denying access to capital to an industry that provides reliable, affordable energy while being a partner on climate change is simply unrealistic.

Of course, I would urge the administration to move forward with leases sales and back off on policies intended to make it harder for us to develop on those "9,000 leases/permits." Besides ignoring the president's call to fine producers for not developing on their leases, Congress should pass legislation such as Senator Cruz's Energy Freedom Act, which mandates lease sales and pipeline and export approvals; the House Natural Resource minority's six bills introduced last week to move forward with permitting and leasing on federal lands and waters; and Senators Sullivan, Cramer, and Lummis' American Energy, Jobs and Climate Plan.

[1] *Inventory of US Greenhouse Gas Emissions and Sinks,* Environmental Protection Agency (EPA), April 2020, p. ES-4.
[2] *U.S. Energy-Related Carbon Dioxide Emissions, 2018*, U.S. Energy Information Administration (EIA), November 2019, p. 13.