Congress of the United States
Washington, DC 20510

February 27, 2018

The Honorable Ryan Zinke
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Secretary Zinke:

With the second full meeting of the Royalty Policy Committee (RPC) occurring this week in Houston, we are writing to express our concern with the apparent direction of the RPC and ask that you honor your statutory responsibility and the commitment you expressed at your confirmation hearing that "taxpayers should always get a fair value" for public energy resources managed by the Department. To date, the actions taken under your leadership at the Department have removed important polices that would have fairly valued publicly-owned resources – including reducing methane waste, reforming the outdated coal leasing program, and updating royalty valuations. In addition, the Department's overly aggressive leasing and proposed leasing of oil and gas resources has compounded these unfortunate retreats from sound fiscal policy.

In contrast, many Western states have adopted more modern mineral policies, applying competitive oil and gas royalty rates significantly higher than the federal onshore rate of 12.5 percent – for example, reaching as high as 20 percent in Colorado and New Mexico, 16.67 percent in Montana, and 18.75 percent in North Dakota, Utah, and Wyoming.[1] Several studies have shown that adjusting federal royalty rates to levels consistent with states would generate tens of millions of dollars in additional federal and state revenue each year. In April 2016, CBO found that raising the federal rate to 18.75 percent would increase net federal revenue by $200 million over ten years, with the same net increment going to the states. In a similar study, Enegis, LLC estimated that such a change would produce, at minimum, hundreds of millions of dollars in additional revenue and potentially nearly $1 billion over 25 years.[2]

Unfortunately, the draft recommendations developed by the Planning, Analysis, and Competitiveness (PAC) Subcommittee, as reported in the minutes of its February 2 meeting, seem entirely divorced from the goal of ensuring fair market value for publicly-owned resources.

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[1] GAO, *Oil, Gas, and Coal Royalties: Raising Federal Rates Could Decrease Production on Federal Lands but Increase Federal Revenue*, GAO-17-540 (Washington, D.C.: June 20, 2017).
[2] Enegis, LLC, Benefit-Cost and Economic Impact Analysis of Raising the Onshore Royalty Rates Associated with New Federal Oil and Gas Leasing (Washington, D.C.: April 2011).

One recommendation from that subcommittee is to set the royalty rate for all future offshore oil and gas lease sales to 12.5 percent, down from the current rate of 18.75 percent for deepwater leases. This proposal would amount to a giveaway to some of the most profitable companies in the world and rob taxpayers of potentially billions of dollars of revenues over the life of the leases, and the only reason stated by the subcommittee for that recommendation is, "to bring into parity with new [Gulf of Mexico] shallow water rate." Other recommendations, such as accelerating the oil and gas lease sale in the Arctic National Wildlife Refuge, expanding the amount of acreage available for leasing offshore, reducing timelines for permit approvals, and changing how the Department handles land use planning and approvals under the National Environmental Policy Act, have little or nothing to do with improving revenue collection or ensuring fair market value. Instead, the subcommittee appears to equate increasing oil and gas production with improving royalty collection, which is inappropriate. Simply bringing more revenue in by drilling more–and a lower offshore royalty rate makes even that goal unlikely–is not the same as ensuring that revenue collections are correct. Selling off public land and resources as quickly as possible at fire-sale prices is not good stewardship; it's a shell game where the oil, gas, and coal industries win and the American taxpayers lose.

It is also questionable whether the recommendations from the PAC Subcommittee fall within the charter of the RPC. Section 3 of the charter states that the RPC is to, "provide advice…on the **fair market value of and on the collection of revenues** derived from, the development of energy and mineral resources on Federal and Indian lands." (emphasis added) Section 4 of the charter says the RPC will "advise on current and emerging issues related to the **determination of fair market value**, and the **collection of revenue** from energy and mineral resources on Federal and Indian lands." The RPC may also, on request, "advise on the potential impacts of **proposed policies and regulations related to revenue collection**." The recommendations from the PAC Subcommittee go far beyond this delegation of authority, and should not be adopted by the RPC as a whole. For the Department to adopt any RPC recommendations outside the scope of the charter would be highly inappropriate and a serious breach of public trust.

The scope of the recommendations being made by the PAC Subcommittee is even more egregious when considered alongside the membership of the RPC, which is already woefully stacked with resource extraction interests, misrepresenting the public and the scope of issues at stake for a full and fair evaluation of potential royalty reforms. The membership of the PAC Subcommittee is even more heavily tilted towards industry: of the 14 non-Federal members, 9 come from fossil fuel companies or trade groups. As you know, the authority of the RPC stems from the Federal Advisory Committee Act, established to ensure that advice provided to federal agencies is accessible to the public and is produced under a balanced membership. Before any further actions are taken by the RPC or DOI, the membership of the RPC must be expanded to include public interest groups and other stakeholders that would be affected by the scope of the recommendations that the RPC may report.

The impact of this committee will be felt across the entire nation. The industries leasing taxpayer resources should not be the principal voices deciding the fate and value of those resources. In August, we requested a number of responses detailing your efforts to ensure a fair return, modernization of DOI's fiscal policies, and the work of the RPC to address the fiscal issues. We request that you respond to that letter in whole. In addition, we ask that you make improvements to the RPC meetings in order to achieve transparency, representation of the public interest through their full and thorough participation, and a fair return on public resources. To restore this value and trust, we ask that the RPC:

- Release the full agenda, discussion topics, and policy proposals and research to be discussed at each meeting at least four weeks in advance to allow public participation and travel arrangements where necessary.
- Provide access to the entirety of each of the meetings. At this time it is our understanding that the first day of the Houston meeting is closed, with subgroup meetings on the second day open for public viewing and a partial day of questions and answers. At minimum the public should have access to the meeting in whole, with sufficient time to address questions and further input.
- Provide online access to materials and data presented, including transcript, video, and presentations.
- Provide a period of time, no less than 90 days, for public review and comment on the RPC recommendations before any Department action on the recommendations takes place.

We ask that these matters be addressed immediately to allow for improved opportunities for public participation and a broader representation in the RPC meetings.

Sincerely,

Maria Cantwell
Ranking Member
Senate Committee on Energy and Natural Resources

Raúl M. Grijalva
Ranking Member
House Committee on Natural Resources