

Testimony of Tim Stretton, Policy Analyst
Project On Government Oversight
before the House Natural Resources Committee, Subcommittee on Oversight and
Investigations
on “Misuse of Taxpayer Dollars and Corporate Welfare in the Oil and Gas Industry”
May 19, 2021

Chair Porter, Ranking Member Gosar, and members of the Subcommittee, thank you for the opportunity to testify today regarding the role extractive industries play in our nation’s economy, and the role the federal government plays in relation to those industries. I’m Tim Stretton, a policy analyst at the Project On Government Oversight (POGO). 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.

The extractive industries receive a number of direct and indirect subsidies from the federal government. These subsidies can range from certain tax preferences to special royalty rates. Additionally, relief programs designed to mitigate the economic impact of the ongoing pandemic have produced subsidies such as the Paycheck Protection Program and the Federal Reserve’s credit lending facilities, which are also greatly benefiting the extractive industries.¹ Today, I will focus on how the extractive industries have exploited the nation’s natural resources royalty regime while simultaneously benefiting from corporate welfare, and why congressional action is needed.

For decades, POGO has shed light on the need for the federal government to ensure the oil and natural gas industries are paying their fair share for the publicly owned resources they extract and profit from.² Chair Porter, this is why we support your bill, the Ending Taxpayer Welfare for Oil and Gas Companies Act of 2021, which would modernize the onshore leasing system for the first time in a century by increasing royalty rates on publicly owned onshore leases. POGO is pleased the full committee approved the bill earlier this month.³ Congressional action is also needed to address similar offshore leasing issues.

¹ A lending facility is a mechanism used by the Federal Reserve and other central banks to provide liquidity to financial institutions and other entities such as businesses and state and local governments.

² 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 and Gas Royalty System*, 110th Cong. 90 (March 11, 2008) (testimony of Danielle Brian, Executive Director, Project On Government Oversight). <https://www.govinfo.gov/content/pkg/CHRG-110hrg41378/html/CHRG-110hrg41378.htm>; “Taxpayers Could 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/>

³ House of Representatives Committee on Natural Resources, “Chair Grijalva: After Today’s Markup, The Democratic Path Forward on Conservation is Clear – Environmental Justice and Taxpayer Fairness are Key,” Press Release, May 5, 2021. https://naturalresources.house.gov/media/press-releases/chair-grijalva-after-todays-markup-the-democratic-path-forward-on-conservation-is-clear_environmental-justice-and-taxpayer-fairness-are-key

As you and your colleagues conduct oversight of our nation’s natural resources, POGO urges you to consider reforms that put taxpayers first rather than industry. Further reforms should increase transparency of public land-related agencies to ensure that the extractive industries are paying their fair share and that the direct and indirect subsidies are achieving their intended objectives. We urge Congress to support the following recommendations:

- Modernize our nation’s onshore leasing system by passing the Ending Taxpayer Welfare for Oil and Gas Companies Act (H.R. 1517).
- Examine the effects of imposing a royalty for hardrock mining in the West.
- Require the Bureau of Ocean Energy Management (BOEM) to disclose accepted bids when it retroactively lowers the initial valuation.
- Require the Bureau of Ocean Energy Management to use a third party to examine the bureau’s delayed valuation system.
- Direct the Office of Management and Budget to ensure that agencies comply with the legal requirement established in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to collect reports on the use of COVID-19 assistance from any recipients that received more than \$150,000.
- Require that reporting on future assistance awards to companies include key information about the recipient including parent company, industry sector, employment, and demographic data on owners.

Oil and Gas Royalties

Because resources such as oil and gas that are extracted from public lands are owned by the American people, the government is legally required to collect royalties for the resources produced from leases on those lands. Since the 1990s, POGO’s investigations into the federal government’s oversight of the oil, gas, and mining industries have uncovered widespread corruption and ethics violations that allowed industry to cheat U.S. taxpayers out of billions of dollars’ worth of potential income.⁴ Given the amounts of money at stake, and the oil and gas industry’s history of deliberately concealing the value of the resources they’ve extracted with the intent of underpaying royalties,⁵ the government should be particularly vigilant in ensuring companies pay their fair share for the resources they extract.

Accordingly, the government should be seeking to collect more, not less, royalties from the oil and gas industry. For onshore federal oil and gas leases, the government collects a 12.5% royalty⁶—this rate has remained the same for the past 100 years, since the Mineral Leasing Act of 1920 was signed into law. In fact, a number of states have higher onshore royalty rates than

⁴ Letter from POGO Executive Director Danielle Brian to U.S. Securities and Exchange Commission Secretary Vanessa A. Countryman in opposition to the SEC’s proposed resource extraction rule, March 13, 2020, 2. <https://www.sec.gov/comments/s7-24-19/s72419-6953255-212536.pdf>

⁵ See, for example: Department of Justice, “United States Recovers Over \$137,000 Resolving Allegations that Federal Gas Lessee Violated the False Claims Act,” Press Release, September 30, 2019. <https://www.justice.gov/usao-mt/pr/united-states-recovers-over-137000-resolving-allegations-federal-gas-lessee-violated>; Department of Justice, “Citation Companies Agree to Pay \$2.25 Million to Settle Civil False Claims Act Allegations,” Press Release, December 19, 2017. <https://www.justice.gov/opa/pr/citation-companies-agree-pay-225-million-settle-civil-false-claims-act-allegations>

⁶ 30 U.S.C. § 226(b)(1)(A) (2019). <https://www.law.cornell.edu/uscode/text/30/226>

the federal government.⁷ The federal government effectively allows extractive industries to underpay for the use of public resources, leaving a significant amount of money owed to the public on the table. As the Congressional Budget Office has pointed out, increasing 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.⁸ When it comes to offshore leases on most seafloor tracts deeper than 200 meters, the government sets the royalty rate at 18.75% in accordance with the law's requirement to "assure receipt of fair market value."⁹

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, including royalties, and more than \$12 billion in fiscal year 2019.¹⁰ 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.¹¹ 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.¹²

During the ongoing pandemic, these royalty payments could be an essential revenue lifeline to state, local, tribal governments. The pandemic has put enormous pressure on various budgets, due not only to the need for increased spending to cover unemployment insurance and coronavirus testing but also to the loss of tax revenue from the many affected industries and the drop in oil prices.¹³ A long overdue increase in the royalties the federal government collects from industries that extract resources from public lands could help address the budgetary shortfalls and raise revenue.

Chair Porter, your bill would finally update the federal onshore royalty rate, bringing it in line with the 18.75% rate for offshore leases deeper than 200 meters.¹⁴ The House should immediately pass your bill to modernize this rate, and the Senate should take up the companion

⁷ 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>

⁸ 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

⁹ 43 U.S.C. § 1344(a)(4) (2020). <https://www.law.cornell.edu/uscode/text/43/1344>

¹⁰ Natural resource revenue data by fiscal year, U.S. Department of the Interior (accessed April 7, 2021). <https://revenuedata.doi.gov/?tab=tab-revenue>

¹¹ *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/services/files/d8c5d5f4-efce-4c0c-ae87-6b3eecd6316f>

¹² *Leveraging America's Resources as a Revenue Generator and Job Creator: Hearing before the Senate Committee on Energy and Natural Resources*, 113th Cong. 3 (July 22, 2014) (testimony of Greg Gould, Director, Office of Natural Resources Revenue). https://www.energy.senate.gov/public/index.cfm/files/serve?File_id=d8c5d5f4-efce-4c0c-ae87-6b3eecd6316f

¹³ Center on Budget and Policy Priorities, *States Grappling With Hit to Tax Collections*, updated November 6, 2020. <https://www.cbpp.org/sites/default/files/atoms/files/4-2-20sfp.pdf>

¹⁴ There is a 12.5% royalty rate for leases in water depths of less than 200 meters and a royalty rate of 18.75% for all other offshore leases. Bureau of Ocean Energy Management, "BOEM Completes Analysis Of Royalty Rates For Offshore Oil And Gas Leases," Press Release, July 6, 2017. <https://www.boem.gov/newsroom/notes-stakeholders/boem-completes-analysis-royalty-rates-offshore-oil-and-gas-leases>

bill introduced by Senators Jacky Rosen (D-NV) and Chuck Grassley (R-IA).

Hardrock Mining Royalties

In addition to leaving money on the table that the oil and gas industry owes to the public, the federal government 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.¹⁵ The U.S. lags behind the rest of the world by failing to collect a federal royalty for these minerals.¹⁶ To add insult to injury, mining companies also receive generous tax breaks for extracting our natural resources from federal lands.¹⁷

As we are approaching the sesquicentennial of the passage of the General Mining Act, Congress needs to examine if the law has fulfilled its mission. While the law was designed to encourage development of western lands by granting generous financial incentives, the West is arguably now well-developed, and companies should not be receiving the incentives they once needed 150 years ago. 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.¹⁸

Billions of Dollars in Forgone Royalties

Since the House Natural Resources Committee has already taken steps to ensure companies pay a larger share of onshore royalties, I'd like to take some time to highlight the need for additional oversight and reform of offshore royalties.

Together, offshore drilling and the leasing of publicly owned seafloor tracts brought in nearly \$90 billion in federal revenue between 2006 and 2018.¹⁹ The Interior Department's Bureau of Ocean Energy Management (BOEM) sets royalty rates for offshore oil and gas based on market conditions, and is legally required to ensure that the public receives royalties on "fair market value" for the resources extracted by private industry.²⁰ However, the bureau also has several options to reduce or waive royalty payments to increase production. The bureau's so-called

¹⁵ 30 U.S.C. § 22 (2020).

<https://www.law.cornell.edu/uscode/text/30/22#:~:text=Except%20as%20otherwise%20provided%2C%20all,those%20who%20have%20declared%20their>

¹⁶ James Otto et al., *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/372580Mining0r101OFFICIAL0USE0ONL Y1.pdf>

¹⁷ 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-idINKBN23V1K1>

¹⁸ "The 1872 Mining Law: Enriching Foreign Companies at Taxpayer Expense for 150 years," Earthworks, Earthjustice, and the Western Organization of Resource Councils, March 21, 2019.

https://www.earthworks.org/cms/assets/uploads/2019/03/FS_1872MiningLaw_EW-EJ-WORC_201903.pdf

¹⁹ 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>

²⁰ 43 U.S.C. § 1344 (2019). <https://www.law.cornell.edu/uscode/text/43/1344>

“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.²¹

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. While companies tended to submit higher bids for those tracts, resulting in an estimated nearly \$2 billion in public revenue the department would not have collected based on the pre-1996 royalty rate, that \$2 billion pales in comparison to what the government could have earned for the public through royalties had they collected them. 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 2018.²²

Lowered Tract Valuations Behind Closed Doors

The GAO also identified two additional procedures the Interior Department has used for decades that may not have resulted in a full fair market value return to the public for offshore oil and gas leases: retroactively lowering its valuations of seafloor tracts in order to accept bids that would be unacceptable under the bureau’s stated procedures; and accepting lower bids because the bureau unreasonably determined the tracts might be worth less in the future.²³

When the bureau auctions off leases for tracts of seafloor, it is supposed to reject bids that are lower than its own estimated value of the tracts’ worth. Instead, the GAO found, when a bid comes in lower than the bureau’s own valuation, the bureau often lowers its initial valuation “to justify accepting bids it otherwise would reject,” and then accepts the bid on the basis of the altered valuation.²⁴

This would be prudent if rejecting bids resulted in tracts not being leased, leading to forgone revenue, but that’s not the case. Rather, when the bureau rejected bids that were too low, companies often submitted higher bids for the same tracts in future lease auctions, resulting in higher revenue for the public.²⁵ As the GAO noted, by resubmitting bids at higher amounts, companies signaled that they viewed certain tracts as more valuable than their initial bids had indicated. In other words, extractive companies often submit lowball bids. And the government frequently accepts them—seemingly ignoring the federal government’s obligation to ensure the American public receives a fair return for resources extracted from public lands.

²¹ 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

²² Government 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>

²³ Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 42. <https://www.gao.gov/assets/710/702062.pdf>

²⁴ Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 27. <https://www.gao.gov/assets/710/702062.pdf>

²⁵ Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 28. <https://www.gao.gov/assets/710/702062.pdf>

The GAO found the bureau’s practice of lowering its valuations “is nearly systematic” in cases where it had originally estimated that tracts were worth up to twice as much as the amount bid.²⁶ The GAO estimated that the bureau could have collected \$567 million more in auction revenue from March 2000 to June 2018 if it had not lowered its own valuations.²⁷ That’s \$567 million the government could have collected on land owned by the American people. In short, the extractive industry made a greater profit than it otherwise would have at the expense of the American people, with the government’s blessing.

As POGO has previously noted, the bureau does not disclose when it awards drilling rights based on reduced valuations, and revising valuations is not part of the bureau’s published procedures.²⁸ This makes your job as congressional overseers much harder to accomplish.

Because the practice of lowering valuations has resulted in the loss of hundreds of millions of dollars in public revenue—which will likely continue—this subcommittee has a vested interest in ensuring that the bureau makes public its revised valuations. Congress and the public should know when and why the government adjusts its valuations to match a company’s bid before accepting a lower bid on a tract that it previously established was worth more. In order to provide more accountability and transparency, this subcommittee should conduct oversight of the bureau and consider reforms to require public notice when the bureau retroactively lowers its valuations.²⁹

Forecasts of “Unreasonably” High Depreciation

The GAO also found problems with how the bureau considers two key measures of the worth of a seafloor tract: the present value and the delayed value. The bureau’s broad calculations and use of delayed valuation may have resulted in more than \$873 million in forgone additional bid revenue from March 2000 to June 2018.³⁰

The present value is supposed to reflect the tract’s value at the time of the auction, and the delayed value should show what it would be worth if it were offered at the next auction. Calculating the delayed value is meant to help the bureau determine the cost of delaying the auction of a lease. If a bid is lower than the present value but higher than the delayed value, the bureau can accept that bid. But, the GAO found, the bureau has been projecting delayed values to be lower than they should be, leading the bureau to accept lower bids.

²⁶ Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 34. <https://www.gao.gov/assets/710/702062.pdf>

²⁷ Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 39. <https://www.gao.gov/assets/710/702062.pdf>

²⁸ David S. Hilzenrath, “Report: Interior Gives Oil Companies Discounts on Drilling Rights,” Project On Government Oversight, November 4, 2019. <https://www.pogo.org/analysis/2019/11/report-interior-gives-oil-companies-discounts-on-drilling-rights/>

²⁹ Note: For fiscal year 2020, the Trump administration requested \$193.4 million for BOEM, an increase of 8% from fiscal year 2019. Laura B. Comay, Congressional Research Service, *Offshore Energy Agency Appropriations, FY2020*, IF11405 (January 10, 2020), 1. <https://crsreports.congress.gov/product/pdf/IF/IF11405>

³⁰ Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 32. <https://www.gao.gov/assets/710/702062.pdf>

Until August 2017, the bureau held auctions once a year and typically forecasted a median loss in value of 23% by the next auction. Although the bureau has since held auctions about every six months, its predicted decline in value has grown to a median of about 27%.³¹ Because the frequency of auctions has doubled, it's surprising that the bureau's predicated cost of delay has increased and not decreased. As the GAO noted, with oil prices generally forecasted to rise, the value of oil and gas resources would be expected to increase over time, not decrease.

The GAO found that the bureau's "unreasonably large forecasts of depreciation have increasingly been the deciding factor in decisions to accept bids." By lowering a tract's predicted future value, the government is unnecessarily passing up hundreds of millions of dollars in potential revenue owed to the American people. According to the GAO, had the bureau rejected 205 bids that it accepted on the basis of delayed values, "it might have subsequently collected more than \$873 million in additional bid revenue for these tracts."³²

The GAO's analysis tracks with POGO's findings in our 2018 report, "Drilling Down: Big Oil's Bidding." POGO reported:

When the Bureau considered bids placed in the August 2017 auction, it determined that the [present value] for one tract was \$17 million and that the delayed value of the tract was \$6.9 million. In other words, BOEM estimated that, over several months, an unusually valuable tract would lose more than half its value. On that basis, the BOEM accepted a bid of \$12.1 million, much less than it said the drilling rights were worth at that time.

... In fact, by the government's own account, rejecting bids and offering the tracts again later "has consistently resulted in higher average returns in subsequent lease sales for the same tracts, even when those tracts not receiving subsequent bids were included in the calculation of the average returns."

In the Gulf of Mexico from 1984 through 2017, BOEM has stated, the Bureau "rejected total high bids of \$638 million, but when the blocks were reoffered, they drew subsequent high bids of \$1.8 billion, for a total net gain of \$1.2 billion, or an increase of 187 percent."³³

In its response to the GAO's report, the Interior Department stated that it did "not concur with how its bid valuation process is characterized." Nor did it agree with the recommendation to have "an independent third party" examine whether its use of delayed valuations delivers fair market value and whether it should stop using those lower valuations.³⁴ POGO believes such an independent examination would bring greater accountability to the bid valuation process. We

³¹ Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 31. <https://www.gao.gov/assets/710/702062.pdf>

³² Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 32. <https://www.gao.gov/assets/710/702062.pdf>

³³ David S. Hilzenrath, "Drilling Down: Big Oil's Bidding," Project On Government Oversight, February 22, 2018. <https://www.pogo.org/investigation/2018/02/drilling-down-big-oils-bidding/>

³⁴ Government Accountability Office, *Offshore Oil and Gas: Opportunities Exist to Better Ensure a Fair Return on Federal Resources*, GAO-19-531 (September 2019), 66. <https://www.gao.gov/assets/710/702062.pdf>

recommend that this subcommittee require that no funds be spent on approving a delayed-value lease that was not evaluated by a third party.

COVID-19 Support

In addition to benefiting from unreasonably low royalty rates and overly favorable leasing procedures, the extractive industries have received significant federal assistance during the ongoing coronavirus pandemic.

To help enable effective oversight of the massive emergency relief spending packages, POGO launched a comprehensive COVID-19 relief spending tracker last year.³⁵ Currently, we have identified \$1.9 trillion in spending that includes almost 20 million transactions across more than 50 agencies and more than 200 federal programs.³⁶ The extractive industries have received roughly \$6.3 billion in Paycheck Protection Program loans, \$774 million of which went to the oil and gas sector.³⁷ As members of this subcommittee are aware, Paycheck Protection Program loans are forgivable loans so long as the companies taking out the loans follow certain criteria, such as job retention. POGO has recently partnered with Good Jobs First to include companies' history of federal violations of workplace safety in our database, which should be updated soon. This new partnership will shine light on companies' occupational safety record to better inform the public about who received federal assistance and whether that assistance was appropriate.

In addition to the Paycheck Protection Program, extractive industries have also benefited from COVID-19 relief programs established by the Federal Reserve. According to BailoutWatch, the Federal Reserve had "backed \$582 million in loans to 37 companies focused on fossil fuel investment, oilfield services, coal support, and extraction" through its Main Street Lending Program as of late last year.³⁸ This lending facility was created for small and medium-sized businesses.³⁹ The Federal Reserve also conducted corporate bond purchases. According to data in our tracker, that included purchasing bonds of at least 36 oil and gas companies to the tune of nearly \$400 million, including \$23 million for Exxon Mobil, more than \$9 million for ConocoPhillips, and \$2.2 million for Colonial Pipeline.

An important condition Congress placed on coronavirus relief programs was the requirement for companies to preserve jobs and limit dividends, executive compensation, and stock buybacks. But Congress exempted securities transactions from these requirements.⁴⁰ The Federal Reserve categorizes bond purchases as "securities transactions" rather than as loans, so it does not require

³⁵ Tim Farnsworth, "POGO to Launch COVID-19 Relief Spending Tracker," Project On Government Oversight, April 28, 2020. <https://www.pogo.org/analysis/2020/04/pogo-to-launch-covid-19-relief-spending-tracker/>

³⁶ COVID-19 Spending Tracker, Project On Government Oversight. <https://covidtracker.pogo.org/>

³⁷ "Mining, Quarrying, and Oil and Gas Extraction," COVID-19 Spending Tracker, Project On Government Oversight. <https://covidtracker.pogo.org/industry/mining-quarrying-and-oil-and-gas-extraction> (Accessed May 18, 2021)

³⁸ "Fed's Fossil Fuel Bailouts Grow To Half Billion As Focus Shifts To Next Steps," BailoutWatch, November 13, 2020. <https://bailoutwatch.org/analysis/fossil-fuel-bailouts-grow-to-half-billion>

³⁹ "Main Street Lending Program," Federal Reserve, updated May 10, 2021. <https://www.federalreserve.gov/monetarypolicy/mainstreetlending.htm> (Accessed May 18, 2021)

⁴⁰ Letter from Americans for Financial Reform and other organizations to congressional leadership urging Congress to include conditions for all companies that receive federal financial support, May 27, 2020, 1. <https://ourfinancialsecurity.org/wp-content/uploads/2020/05/AFREF-CARES-Sign-on-Ltr-NMCR.pdf>

companies that participate in the bond purchases to meet these conditions.⁴¹ As one may suspect, without the requirement, several companies that received support from the Federal Reserve paid large dividends to their shareholders and laid off some workers.⁴² As corporations received large sums of taxpayer-backed funds through the Federal Reserve, Congress should have ensured these funds went to helping those who needed it to boost the economy, and not shareholders. Although these facilities are now closed, if they are reopened or replicated in future crises, Congress should ensure that all Federal Reserve securities transactions are subject to the same loan conditions other relief programs must follow.

It's worth noting that COVID-19 spending data has serious limitations, leaving our insight into the spending incomplete. One particular shortcoming that makes it hard to track the level of assistance reaching each industry sector is the fact that the government does not normally collect the industry sector of assistance recipients. Another major gap is that no data has been collected from the companies on how they used the funds they received, despite specific directives from Congress to collect this information and make it available to the public. In the CARES Act, Congress codified two reporting requirements related to coronavirus relief funds. First, agencies must report to the Pandemic Response Accountability Committee and to Congress any obligation or expenditure of \$150,000 or more, including loans and awards. Second, recipients, including businesses and organizations, of \$150,000 or more in coronavirus relief funding are required to report quarterly the total received from each agency, total obligations to projects, project descriptions, and the number of jobs retained and created using the funds.⁴³ This recipient reporting requirement does not extend to individuals.⁴⁴ Congress included these detailed reporting provisions in the relief package to ensure that the extraordinary level of government spending of taxpayer dollars would get a higher level of transparency and accountability. However, in an April 2020 guidance memo to federal agencies on how to report the allocation of relief funds, the Office of Management and Budget ignored a number of the clear reporting requirements Congress had mandated.

The office told agencies that with just a few slight modifications, they could use the government's USASpending.gov infrastructure to collect the information required by the coronavirus relief package.⁴⁵ However, awards reported on USASpending do not include

⁴¹ Memorandum from House Financial Services Majority Staff to Members on the House Financial Services Committee about June 17, 2020 hearing, "Monetary Policy and the State of the Economy," 5, June 12, 2020. <https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-20200617-sd002.pdf>

⁴² See, for example: Dan L. Wagner, Christopher Kuveke, Alan Zibel, and Lukas Ross, *Bailed Out and Propped Up: U.S. Fossil Fuel Pandemic Bailouts Climb Toward \$15 Billion*, BailoutWatch, Public Citizen, and Friends of the Earth, November 2020. https://mkus3lurbh3lbztg254fzode-wpengine.netdna-ssl.com/wp-content/uploads/BailedOutProppedUp_Final.pdf; and "Fossil Fuels Used \$100M Tax Bailouts To Pay Shareholders While Slashing Jobs," BailoutWatch, April 19, 2021. <https://bailoutwatch.org/analysis/fossil-fuel-tax-bailouts-dividends>

⁴³ Coronavirus Aid, Relief, and Economic Security Act, H.R. 748, 116th Cong., § 15011(2) (2020). <https://www.congress.gov/bill/116th-congress/house-bill/748/text/enr#HAA593B47781C4232B34E69FE434AEA95>

⁴⁴ Coronavirus Aid, Relief, and Economic Security Act, H.R. 748, 116th Cong., § 15010(a)(6) (2020). <https://www.congress.gov/bill/116th-congress/house-bill/748/text/enr#H890C3ABDD0194B4A86A0135D19D000A0>

⁴⁵ Memorandum from Acting Director of the Office of Management and Budget Russell T. Vought to heads of departments and agencies about implementation guidance for supplemental funding provided in response to the

information on jobs created or retained, meaning Congress and the American people are currently getting no data on the jobs supported by the \$2.1 trillion in the CARES Act or the \$3.3 trillion in other coronavirus relief legislation.⁴⁶ More oversight and transparency is needed to ensure relief funds were spent correctly and went to their intended purpose. With preserving jobs, keeping people on payroll, and supporting the economy among the main objectives of the coronavirus relief funding, this is a glaring error that urgently needs to be corrected.

In addition, POGO has found that oil and gas companies have been leasing tracts of federal land during the pandemic at much lower rates per acre than they had been the previous year.⁴⁷ In 2019, a lease sale of 96,000 acres raised \$11.8 million, or an average of almost \$123 per acre.⁴⁸ Almost exactly one year later, on March 19, 2020, the Bureau of Land Management completed a quarterly onshore oil and gas lease of three parcels totaling almost 322 acres in its eastern region that raised around \$13,000.⁴⁹ This means that the bids plus fees from those leases averaged just over \$40 an acre. On March 24, 2020, the bureau held another auction on 71,689 acres of land, which raised \$3.4 million, or an average of just over \$47 per acre.⁵⁰

Moreover, in April 2020, the Interior Department began offering temporary royalty relief to oil and gas producers during the pandemic.⁵¹ Companies could apply for a lower royalty rate or to suspend their lease altogether.⁵² As of October 2020, Interior approved 555 royalty reductions and 422 lease suspensions. Some companies saw the royalty rate they owed reduced to as low as 0.5%.

coronavirus disease 2019 (COVID-19), April 10, 2020, 5. <https://www.whitehouse.gov/wp-content/uploads/2020/04/Implementation-Guidance-for-Supplemental-Funding-Provided-in-Response.pdf>

⁴⁶ See, for example: \$7.8 Billion Coronavirus Preparedness and Response Supplemental Appropriations Act ([Pub. Law 116-123](#)); \$15.4 Billion Families First Coronavirus Response Act ([Pub. Law 116-127](#)); \$2.1 Trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act; \$483 Billion Paycheck Protection Program and Health Care Enhancement Act ([Pub. Law 116-139](#)); \$900 Billion Coronavirus Response and Relief Supplemental Appropriations Act ([Pub. Law 116-260](#)); \$1.9 Trillion The American Rescue Plan Act of 2021 ([Pub. Law 117-7](#)); “Track the Money,” Pandemic Response Accountability Committee. <https://www.pandemicoversight.gov/track-the-money> (accessed May 18, 2021).

⁴⁷ Tim Stretton, “Interior Department Needs More Oversight to Prevent Corruption Amid a Crisis,” Project On Government Oversight, April 8, 2020. <https://www.pogo.org/analysis/2020/04/interior-department-needs-more-oversight-to-prevent-corruption-amid-a-crisis/>

⁴⁸ U.S. Bureau of Land Management, “BLM Wyoming Leases 114 Oil and Gas Parcels in March Sale, Nets Nearly \$12 Million,” Press Release, March 20, 2019.

<https://www.blm.gov/press-release/blm-wyoming-leases-114-oil-and-gas-parcels-march-sale-nets-nearly-12-million>

⁴⁹ U.S. Bureau of Land Management, “BLM-Eastern States Completes Quarterly Oil and Gas Lease Sale March 19, 2020,” Press Release, March 23, 2020.

<https://www.blm.gov/press-release/blm-eastern-states-completes-quarterly-oil-and-gas-lease-sale-march-19-2020>

⁵⁰ U.S. Bureau of Land Management, “BLM Wyoming Leases 75 Oil and Gas Parcels in March Sale, Nets \$3.4 Million,” Press Release, March 25, 2020.

<https://www.blm.gov/press-release/blm-wyoming-leases-75-oil-and-gas-parcels-march-sale-nets-34-million>

⁵¹ Nichola Groom, “U.S. Interior Department says one offshore oil company seeking royalty relief so far,” Reuters, April 8, 2020. <https://www.reuters.com/article/us-global-oil-usa-royalties/u-s-interior-department-says-one-offshore-oil-company-seeking-royalty-relief-so-far-idUSKCN21Q3AL>

⁵² “TRACKER: Trump administration oil and gas handouts during global pandemic,” Center for Western Priorities. https://westernpriorities.org/tracker-trump-administration-oil-and-gas-handouts-during-global-pandemic/?utm_source=Master+Press+List+2.0&utm_campaign=6cd34a805d-EMAIL_CAMPAIGN_2020_06_11_08_37&utm_medium=email&utm_term=0_79fad8be67-6cd34a805d-84273761 (accessed May 17, 2021)

As we consider whether COVID-19 relief should have gone to the extractive industries, it is important to note that this relief comes on the heels of a massive financial windfall to 17 oil and gas companies with the passage of the Tax Cuts and Jobs Act in 2017, which included direct one-time benefit payments that totaled \$25 billion.⁵³ The government should not be constantly subsidizing the oil and gas industry, particularly since it does so at the public's expense. It is particularly egregious that the government is subsidizing this industry at a time when federal, state, local, and tribal budgets are strapped as a result of the pandemic.

Conclusion and Recommendations

Congress should be ensuring that extractive industries pay their fair share for resources extracted from public lands. Unfortunately, for far too long this has not been happening. I commend this subcommittee and the leadership of Chair Porter for taking on this critical issue.

POGO recommends that Congress quickly enact legislation to modernize our nation's onshore oil and gas leasing system by raising the royalty rates companies pay the American people to extract resources from public lands. POGO also encourages this subcommittee to examine the Bureau of Ocean Energy Management's longstanding procedures that have left billions in potential revenue on the table. For example, Congress should require the bureau to disclose accepted bids when it retroactively lowers the initial valuation, and to use a third party to examine the bureau's delayed valuation system.

Congress should also examine the effects of establishing royalties on hardrock mining on public lands in the West.

More broadly, POGO urges this subcommittee to direct the Office of Management and Budget to ensure that agencies comply with the legally mandated recipient reporting requirements for the use of large COVID-19 relief funds, and to support expanding the data collected for all assistance to allow for greater accountability for all federal funds in the future.

Thank you for the opportunity testify today. I am happy to answer any questions.

⁵³ Antonia Juhasz, "Inside the Tax Bill's \$25 Billion Oil Company Bonanza," *Pacific Standard*, March 27, 2018. <https://psmag.com/economics/tax-bill-oil-company-bonanza>