January 23, 2025

Submitted via email

The Hon. Walter Cruickshank
Acting Secretary
U.S. Department of Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: DOI Policy Recommendations on behalf of AXPC

Dear Acting Secretary Cruickshank:

I am writing on behalf of the American Exploration & Production Council (AXPC) to present near-term priorities and actionable recommendations for the Department of Interior (DOI).

AXPC is a national trade association which represents the nation's leading independent oil and gas producers, that collectively contribute more than 50% of America's oil and natural gas production annually. Our membership includes some of the largest oil and natural gas producers of federal minerals, and we understand and promote the importance of ensuring positive environmental and public-welfare outcomes and responsible stewardship of the nation's natural resources. AXPC's members are committed to being good stewards of federal and Indian resources and fulfill our obligation to prudently and responsibly develop oil and gas resources.

Over the past two decades, our member companies have led the American Energy Revolution, fundamentally reshaping global energy markets and establishing the United States as the world leader in both oil and natural gas production, while simultaneously achieving significant emission reductions. We urge the administration to build upon this progress by implementing regulatory frameworks that enhance U.S. energy production while facilitating the government's multiple use mandate for public lands.

Our recommendations focus on policy priorities and actions within the Bureau of Land Management (BLM), the Fish and Wildlife Service (FWS), and some Department-wide that we believe strike this critical balance and directly impact responsible onshore exploration, development, and production of oil and natural gas in the United States. In alignment with the Trump administration's goal to "Unleash American Energy", including expanding oil and natural gas production on federal lands, these recommendations aim to support responsible American energy production while maintaining crucial environmental protections and fostering economic growth here at home.

Recommendations Policy Actions for the DOI

1. **Revoke/Rescind the BLM's Conservation & Landscape Health Rule and its implementing Instructional Memorandums.** This rule warrants revocation because it represents a significant shift in federal land management policy that runs contrary to the program's statutory authority. It imposes conservation priorities that conflict with Federal Land Policy and Management Act's (FLPMA)multiple-use mandate, which requires balanced land use for various purposes and specifically 'productive uses', like energy development. Revoking this rule would restore alignment with FLPMA, ensuring that federal lands are managed to support diverse uses while promoting economic growth and environmental stewardship.

2. **Streamlining APD Permitting.** Processing drilling permits (APDs) are the overwhelming majority of BLM's permitting actions with respect to oil and natural gas development. Therefore, reasonable and modest changes to improve the efficiency of the APD permitting process can substantially decrease BLM's administrative burdens. To decrease unnecessary burdens on BLM resources and improve the administration of APD permitting, BLM should create a permit-by-rule to allow for the issuance of certain routine APD approvals.

3. **Replace Recent Resource Management Plan (RMP) Amendments to Align With Western States' Priorities, Including:**
    - Greater Sage-Grouse RMP Amendments. The BLM published a draft Resource Management Plan (RMP) Amendment and Environmental Impact Statement (EIS) in March 2024. The plan covers lands included within ten western states.

- Rock Springs RMP. The BLM finalized this plan in December 2024, which affects about 3.6 million acres of public land in Wyoming
- North Dakota RMP. The BLM published the final ROD on January 15, 2025 which impacts mineral development in the State of North Dakota

4. **Streamline Permitting for Split Estates with Federal Lands.** BLM should clarify that it does not have jurisdiction to regulate surface use on fee or state-owned lands, consistent with its authority under federal law. To further streamline operations, BLM should develop a simplified and expedited Application for Permit to Drill (APD) process for wells with facilities located on fee or state surface acreage that are drilled horizontally to access federal minerals. This clarification and streamlined permitting approach would reduce unnecessary administrative burdens, improve operational efficiency, and promote responsible development of federal mineral resources while respecting state and private property rights.

5. **Allow Commingling of Oil and Gas Production for Greater Efficiency and Environmental Protection:** BLM should revise its policies to explicitly allow the commingling of oil and gas production at shared facilities to streamline operations, reduce duplication, and minimize environmental footprints. This approach would enable operators to consolidate infrastructure, improve efficiency, and optimize resource recovery while maintaining accurate production accounting and compliance with royalty obligations. Such a policy would promote cost-effective development, enhance resource stewardship, and support the economic competitiveness of U.S. energy production.

6. **Eliminate Mandatory Compensatory Mitigation Requirements Across DOI.** Neither the Mineral Leasing Act (MLA) nor the Federal Land Policy and Management Act (FLPMA) authorizes agencies to require or condition project approvals on compensatory mitigation. Such requirements create unnecessary burdens, delay project development, and increase costs for operators without a clear legal basis. By removing these mandates, DOI can ensure adherence to its statutory authority, promote regulatory certainty, and support timely and efficient development of energy and infrastructure projects, while continuing to encourage voluntary mitigation measures that align with project goals and environmental stewardship.

7. **Rescind BLM's Notice to Lessees No. 5 (NTL).** (BLM) should rescind its Notice to Lessees No. 5 (NTL-5), issued in November 2024, due to its infeasible

implementation timelines and lack of practical readiness. The policy's requirements are unworkable primarily because BLM has failed to develop the necessary systems and processes for approving the required equipment, and to date, no equipment has been approved for use under the policy. Rescinding NTL-5 would provide an opportunity to reassess and implement a more realistic and achievable framework, ensuring regulatory clarity while avoiding unnecessary disruptions to operations.

8. **Modify the BLM Fluid Mineral Leases and Leasing Process Rule.** This rule implements new fiscal lease terms enacted in the Inflation Reduction Act, but it also creates a new leasing process that wasn't authorized under the Mineral Leasing Act. AXPC recommends modifications to this rule that:
    - Remove the subjective leasing prioritization process;
    - Restore quarterly lease sales;
    - Establish clear directives for timing and execution of lease sales;
    - Implement fee refund system for unleased nominated acreage;
    - Enhance NEPA analysis requirements at leasing stage to better enable programmatic NEPA reviews; and
    - Allow tiering of existing NEPA analysis to subsequent approvals.

9. **Modify the BLM Waste Prevention Rule.** This recently issued rule establishes criteria for classifying gas losses from oil and gas operations as avoidable or unavoidable, determining royalty obligations, and enforcing inspection and record-keeping requirements. Certain provisions require revision to align with the Mineral Leasing Act and to eliminate redundancies with Environmental Protection Agency (EPA) regulations. Key modifications would include:
    - Aligning the gas well definitions with state regulations;
    - Creating updated reporting forms to help implement the reporting under the rule with the Office of Natural Resources Revenue (ONRR);
    - Updating the gas sampling provisions; and
    - Creating an exceptions process for those situations when it is uneconomic to capture natural gas, including how to satisfactorily make such a determination.

10. **Revoke FWS's ESA Regulations and <u>Blanket</u> 4(d) Rule.** This rule imposes overly broad, one-size-fits-all regulations that fail to delineate the two different types of protection and account for species-specific needs. This one-size-fits-all method

has resulted in poor recovery rates compared to more customized strategies and leads to unnecessary restrictions, regulatory uncertainty, and increased compliance costs without effectively promoting species recovery.

11. **Repeal and Replace Fish and Wildlife Service's Regulations for Listings and Designating Critical Habitat.** Ensure regulations specify that listing determinations are to be made *with* reference to possible economic or other impacts of such determination, establish a clear definition of "Habitat" as one that contains resources necessary to support life process of the species, and restore objective standards for critical habitat exclusions.

12. **Revoke and Replace FWS's ESA Section 7 Interagency Cooperation Rule.** This rule revises regulations regarding incidental take that reverses a long-held FWS position that compensatory mitigation could not be imposed in the consultation process. In replacement of this rulemaking, AXPC recommends that FWS should issue rules which re-establish reform provisions to streamline Section 7 consultations with more consistent and efficient process, minimizing unnecessary delay and litigation.

13. **Reform the ESA Section 10 HCP and Incidental Take Permit Process**. FWS should issue rules that promote and facilitate increased voluntary conservation efforts, by appropriately interpreting a reasonable scope of intra-Service consultation under ESA for incidental take permits.

14. **Promote Voluntary Conservation Efforts Under the ESA.** FWS should issue rules that promote and facilitate increased voluntary conservation efforts, by appropriately interpreting a reasonable scope of intra-Service consultation under ESA for incidental take permits.

15. **Clarify the Migratory Bird Treaty Act (MBTA) applies only to intentional actions.** The Biden Administration's overly broad interpretation of incidental take represents an overreach in authority, creating regulatory uncertainty and exposing companies to significant legal and financial risks.

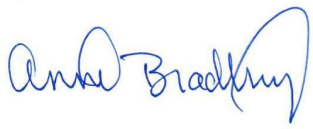
16. **Repeal BLM's NPR-A Rule, which restricts energy development in one of the nation's most resource-rich areas.** This rule treats the NPR-A like wilderness instead of a petroleum reserve, contrary to statute adopted by congress and imposes overly restrictive regulations that limit access to critical energy

resources, increase operational costs, and create regulatory uncertainty to discourage investment. It hinders responsible energy development that has received broad local support, reducing economic opportunities for Alaskan communities.

We urge the Department to consider these policy actions and recommendations to ensure a robust regulatory environment that balances environmental stewardship with the dual goal of U.S. energy dominance. While these recommendations represent our primary concerns, we acknowledge there are numerous other policies and regulatory measures that impact U.S energy production. We encourage ongoing collaboration with other stakeholders for a comprehensive understanding of these interconnected issues.

AXPC remains committed to working collaboratively with your team to advance policies that promote responsible energy development while supporting our nation's economic and environmental objectives. Should you have any questions about these recommendations or if we can be of assistance, please do not hesitate to contact my senior policy staff Wendy Kirchoff at wendy.kirchoff@axpc.org. We appreciate your consideration of these priorities and look forward to engaging with the Department and the transition team to achieve our shared goals.

Sincerely,



Anne Bradbury
CEO
American Exploration & Production Council (AXPC)

Cc: Interior Secretary Nominee Doug Burgum
Interior Deputy Secretary Nominee Katharine MacGregor