8. OIL AND GAS:

Adopt market-based measures to reduce conflict and boost revenues while protecting local environmental values

— Michael Giberson and Shawn Regan

In addition to managing 500 million acres of surface land in the United States, the Interior Department oversees mineral development on vast amounts of federal subsurface lands. These underground resources span more than 700 million acres onshore and more than 1.7 billion acres offshore, all falling under the department's purview.[45] Production of oil and natural gas from these lands generates billions of dollars for national and state treasuries and constitutes 21 percent of U.S. oil production and 16 percent of natural gas production.[46]

The department is charged with responsibly developing energy resources on federal lands to best meet the present and future needs of the public while also ensuring that taxpayers receive a fair return on energy production from federal lands. But uncertainty and delays arising from agency processes, as well as conflicting values with respect to energy extraction and the environment, have contributed to a relative decline in the development of federal oil and gas resources. While oil and gas development on private and state lands has been booming over the last decade, oil production on federal lands has increased only slightly, and natural gas production on such lands has declined.[47]

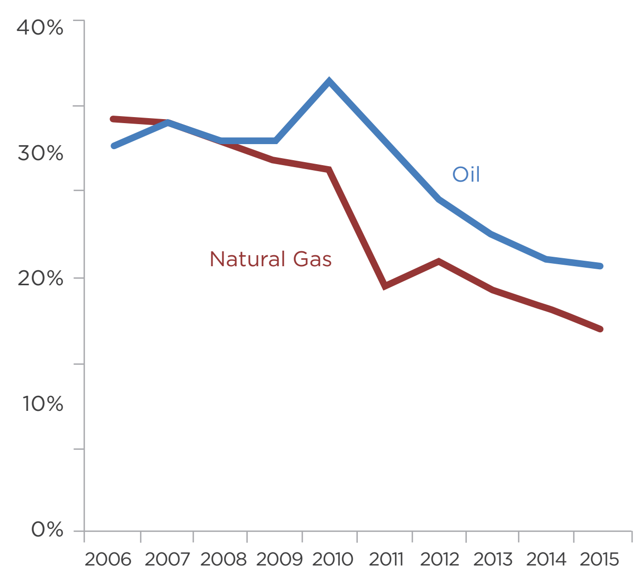
Given that federal lands containing oil and gas sometimes also offer significant grazing, cultural, recreational, and other environmental values, a main cause of the relative slowdown in federal development has been conflicts over resource use.

Market-based approaches, however, offer the promise of reducing such conflicts, bringing local environmental values more directly into the oil and gas leasing process and promoting cooperation between energy developers and environmental groups.

The most direct market-based approach to resolve such competing demands would be to open oil and gas lease auctions to recreational, environmental, and conservation interests.[48] Lease terms could explicitly allow individuals or groups seeking to withhold resources from development to hold a lease on terms similar to those that apply to energy developers.[49] When development threatens local environmental values, such groups could coordinate to purchase and hold the development rights to a given property.

OIL AND NATURAL GAS PRODUCTION ON FEDERAL LANDS

Share of total U.S. production



Source: Congressional Research Service

Current policies discourage this cooperative approach by requiring that leaseholders must intend to develop their energy leases. Consider the recent case of environmentalist-author Terry Tempest Williams, who in 2016 sought to purchase a federal oil and gas lease on 1,120 acres in southern Utah.[50] Williams acquired the lease rights on standard terms at a Bureau of Land Management (BLM) auction but did not intend to develop the oil and gas; instead, she sought to block development.[51] The BLM ultimately denied Williams' lease and returned her money, arguing that since she was not planning to develop the resources, she was in violation of the bureau's lease requirements.[52]

This example illustrates the legal barriers that prevent environmental groups from acquiring federal oil and gas leases and then choosing not to develop them. If a leaseholder does not intend to develop oil and gas, they in essence forfeit their lease rights. This means that under BLM's current policies, environmental and other non-development-related interests have few options but to seek administrative delays and further promote the politicization of public land management.

Enabling such a market-based approach to protect important local environmental values would reduce conflict and help ensure energy resources are developed only when they are likely to be more valuable to the public than other competing values. Moreover, such an approach has some precedent on federal lands. In 2013, the conservation group Trust for Public Land bought out an energy company's federal oil and gas lease rights to 58,000 acres in Wyoming's Hoback Basin for a total of $8.75 million.[53] The deal was possible thanks to a provision in the Wyoming Range Legacy Act that allows groups to purchase and retire federal oil and gas lease rights if the lease rights were voluntarily acquired from willing sellers.[54] The provision, however, currently only applies to certain federal lands in Wyoming.

Challenges to developing oil and gas on federal lands are also motivated by concerns over climate change. Here, however, conflict is seemingly unavoidable as "keep it in the ground" activists seek to halt all fossil-fuel development rather than promote efficient development while respecting local environmental values. In this case, the administration should not accede to what would be a costly, but largely symbolic, way to address climate change.

A supply-side "keep it in the ground" policy for federal minerals would have at most a slight effect on carbon dioxide emissions, and consumers' energy needs would simply be met by resources from state or private lands or imports.[55] Such alternatives may also be worse for the environment overall, as rules governing their development may be less restrictive than those that apply to development on U.S. federal lands. Moreover, to the extent that development of natural gas is discouraged, the result may be higher carbon emissions due to greater use of coal in electric power generation.

Policy Reforms:

- Open federal oil and gas lease auctions to individuals or groups who wish to hold property out of development, including environmental, conservation, or recreation groups.
- Remove the expectation of development as a condition for holding federal energy leases, and make other regulatory changes necessary to allow leaseholders to hold rights out of development on terms comparable to those provided for developers.

- Allow lessees to voluntarily transfer or sell their lease rights to environmental or conservation groups, who could then choose to hold the leases for non-development-related purposes.
- Exercise caution with respect to largely symbolic climate policies related to keeping oil and gas resources in the ground, which are unlikely to result in meaningful or cost-effective reductions in carbon emissions.

Further Reading:

- "Public Interest Comment in response to U.S. Department of Interior's Advanced Notice of Proposed Rulemaking," by Michael Giberson and Shawn Regan. Comment submitted in response to 80 *Federal Register* 22148 (June 5, 2015).
- "DeChristopher case begs question: What if enviros were allowed to bid on oil leases?," by Shawn Regan. *Grist*, July 29, 2011.