



Institute for  
**Policy Integrity**

NEW YORK UNIVERSITY SCHOOL OF LAW

September 7, 2018

Scott Angelle  
Acting Chairman, Royalty Policy Committee  
c/o Office of Natural Resources Revenue, Attention: RPC  
1849 C. Street NW, MS 5134  
Washington, DC 20240  
Submitted via email to: [rpc@ios.doi.gov](mailto:rpc@ios.doi.gov)

**Re: Public Interest Sector Recommendations to the Royalty Policy Committee**

This letter is submitted on behalf of the undersigned parties. Members of the public and professional experts from the public interest sector and academia have asked the Royalty Policy Committee (“RPC”) to address key issues that should be accounted for in setting royalty policies for energy development from public lands, including the following:

- Existing Department of the Interior (“Interior”) royalty rules and practices often fail to value fossil fuels produced from federal lands fully and fairly.
- Interior can substantially increase royalty payments for the public with only a slight impact, if any, on energy production, as documented by the White House Council of Economic Advisors and Government Accountability Office.
- Fossil fuel production has failed to consistently produce lasting, sustainable economic and social benefits for people living in the areas affected by development.
- Fossil fuel production has often damaged the surrounding land, air, water, wildlife, vegetation, and other resources, adversely affecting public health and the environment.
- Leasing public land for fossil fuel production often forecloses other, equally valid uses of public land, including recreation, conservation, watershed protection, and renewable energy production, among others.
- Leasing public land for fossil fuel development accelerates costly and damaging climate change.

The undersigned parties offer the following suggestions as a constructive means for the RPC to respond to such comments. The RPC should consider recommending that Interior:

1. Establish public participation as a central feature of federal land management, and ensure that special interests do not have greater access to decisionmaking than the general public. Decisions regarding planning and selection of lease tracts, lease terms (including minimum bids, royalty rates, and other fiscal terms), and mitigation measures should be conducted through open procedures and subject to public participation.

2. Increase the transparency of mineral leasing and royalty systems and the scope of public reports on revenues received to ensure that U.S. taxpayers know what they are receiving for specific mineral leases and are able to evaluate the adequacy and accuracy of those receipts.
3. Refrain from leasing energy resources in environmentally, historically and culturally sensitive areas, including the Arctic National Wildlife Refuge and other areas near national parks, national monuments, and wildlife refuges.
4. Support regulations designed to curtail the venting and flaring of methane from fossil fuel production, and apply royalties to methane produced, but wasted because available technology was not used to prevent such releases.
5. Increase royalty rates in order to compensate states and communities for extraction costs and enable them to develop alternative, sustainable economic activities that will avoid the mineral leasing boom and bust cycle.
6. Set the fiscal terms for fossil fuel leases (such as royalty rates) at levels that recoup the social cost of greenhouse gas emissions, based on methods and results developed by the Interagency Working Group's Social Cost of Carbon and Social Cost of Methane.
7. Eliminate or amend Interior's current regulation on discretionary royalty relief in order to strongly curtail such royalty relief, which is an improper subsidy of non-economic energy production. Interior should not lower royalty rates and should not increase the use of discretionary royalty relief.
8. Directly value coal for royalty purposes to ensure that values are consistent with fair market prices and are not subject to undue discretion or manipulation by producers.
9. Replace leasing practices that result in little or no competition for leases—such as area-wide leasing for offshore oil and leasing-by-application for coal—and substitute new policies that will enhance competition for leases. New policies to be considered should include, but are not limited to:
  - a. Calibrating leases offered to not exceed the market demand for leases;
  - b. Increasing minimum bid prices for competitive and noncompetitive leases to dissuade speculative lease stockpiling;
  - c. Increasing rental fees on undeveloped acreage to dissuade speculative lease stockpiling that forecloses other valuable uses of public land;
  - d. Prioritizing leasing parcels with low environmental costs and a reasonable likelihood of economic production;
  - e. Reducing lease extensions and suspensions to encourage competition and diligent development of the existing lease inventory;

- f. Considering alternative models to the lease-by-application process in order to build a more effective, responsive, and transparent coal leasing program;
- g. Considering inter-tract leasing similar to the recommendation by the Linowes Commission<sup>1</sup> instead of BLM's current lease-by-lease consideration that limits the agency's ability to assess the potential environmental impacts beyond a given proposed parcel;
- h. Reinstating the coal production region process improperly reversed in 1991; and
- i. Requesting the U.S. Securities and Exchange Commission to more strongly enforce the SEC's five-year development standards for booked Proved Undeveloped (PUD) reserves.

Sincerely,

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<sup>1</sup> David F. Linowes *et. al.*, Report of the Commission on Fair Market Value Policy for Federal Coal Leasing (Washington: Commission on Fair Market Value Policy for Federal Coal Leasing, 1984).

<sup>2</sup> This document does not purport to present New York University School of Law's views, if any.